

TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

Texas Department of Motor Vehicles
4000 Jackson Avenue
Building 1
Lone Star Room
Austin, Texas 78731

Thursday,
June 27, 2024
9:00 a.m.

BOARD MEMBERS:

Charles Bacarisse, Chair
Christian Alvarado
Stacey Gillman
Brett Graham
Tammy McRae
Sharla Omumu
John Prewitt
Darren Schlosser
Paul R. Scott

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P R O C E E D I N G S

1
2 MR. BACARISSE: Good morning. My name is
3 Charles Bacarisse, and I'm pleased to open the Board
4 meeting of the Texas Department of Motor Vehicles. It is
5 9:01 a.m., and I'm now calling the Board meeting for June
6 27, 2024, to order.

7 I want to note for the record that the public
8 notice of this meeting, containing all items on the
9 agenda, was filed with the Office of Secretary of State on
10 June 19, 2024.

11 Before we begin today's meeting, please place
12 all cell phones and other communication devices in a
13 silent mode. Also, as a courtesy to others, please do not
14 engage in side conversations in this meeting room.

15 I want to welcome those who are with us for
16 today's Board meeting, including Member Sharla Omumu who
17 is joining us from Puerto Rico. We're all very jealous,
18 and I think we want to pass a resolution that one Board
19 meeting a year has to be in Puerto Rico with you.

20 (General laughter.)

21 MR. BACARISSE: Glad you're here, Sharla.

22 If you wish to address the Board or speak on an
23 agenda item during today's meeting, please complete a
24 speaker's sheet at the registration table, as many of you
25 have already done, or send an email to

1 GCO_General@TxDMV.gov. Please identify in your email the
2 specific item you're interested in commenting on, your
3 name and address, and whether you're representing anyone
4 or speaking for yourself. If your comment does not
5 pertain to a specific agenda item, we'll take your comment
6 during the general public comment portion of the meeting.

7 In accordance with the department's
8 administrative rule, comments to the Board will be limited
9 to three minutes. To assist each speaker, a timer has
10 been provided at the podium. The timer light will be
11 green for the first two minutes, yellow when the speaker
12 has one minute left, and then red when the speaker's time
13 is up.

14 Individuals cannot accumulate time from other
15 speakers. Comments should be pertinent to the issues
16 stated on the comment sheet. And when addressing the
17 Board, please state your name and affiliation for the
18 record.

19 There are a few things that will also help make
20 the meeting run more smoothly and assist the court
21 reporter, who is right here in the back, in getting an
22 accurate record: First, please identify yourself before
23 speaking, as I mentioned; speak clearly and slowly; do not
24 speak over others; and ask the chair for permission to
25 speak and be sure to get recognized before speaking.

1 I'd like to thank our court reporter who is
2 working hard to transcribe this meeting.

3 Before we begin today, I'd like to remind all
4 presenters and those in attendance of the rules of conduct
5 at our Board meetings. In the department's administrative
6 rule, the chair has authority to supervise the conduct of
7 meetings. This includes the authority to determine when a
8 speaker is being disruptive of the meeting or is otherwise
9 violating the timing or presentation rules that I just
10 discussed.

11 So with all that out of the way, I'd now like
12 to have a roll call of the Board members. Please respond
13 verbally when I call your name.

14 Member Alvarado, are you here?

15 MR. ALVARADO: Here.

16 MR. BACARISSE: Member Gillman?

17 MS. GILLMAN: Here.

18 MR. BACARISSE: Member Graham?

19 MR. GRAHAM: Here.

20 MR. BACARISSE: Vice Chair McRae?

21 MS. McRAE: Here.

22 MR. BACARISSE: Member Omumu?

23 MS. OMUMU: Present.

24 MR. BACARISSE: Member Prewitt?

25 MR. PREWITT: Here.

1 MR. BACARISSE: Member Schlosser?

2 MR. SCHLOSSER: Here.

3 MR. BACARISSE: And let the record reflect that
4 I, Charles Bacarisse, am here too, so we have a quorum.

5 So agenda item number 2, our pledges to the
6 U.S. and Texas flags. So if we all stand, we'll ask
7 Member Prewitt to lead us in the U.S. Pledge.

8 (The U.S. Pledge of Allegiance was recited.)

9 MR. BACARISSE: Now Member Schlosser for the
10 Texas flag.

11 (The Texas Pledge of Allegiance was recited.)

12 MR. BACARISSE: Under item 3, I do not have any
13 reports today, so we'll not take up that agenda item. And
14 we'll move to agenda item number 4, executive director's
15 reports.

16 Mr. Avitia.

17 MR. AVITIA: Chairman, good morning, and thank
18 you for the opportunity this morning to share a few items
19 with you.

20 The first item I'd like to discuss or mention
21 is our participation in the 90th annual Tax Assessor-
22 Collector Association. The Tax Assessor-Collector
23 Association of Texas held their statewide 90th annual
24 conference in Dallas earlier this month. Staff from
25 across the department participated in multiple ways

1 throughout this great event.

2 The county tax assessor-collectors are one of
3 the department's key stakeholders and our primary partners
4 in providing essential vehicle title and registration
5 services to our customers throughout the state. The
6 department's participation in these events provided an
7 opportunity to speak directly to a large part of our
8 stakeholder population, educate members of the association
9 on policy and operational developments, and more
10 importantly, build on the relationships with local elected
11 officials and their senior staff.

12 Board Member Graham, Deputy Executive Director
13 Luna and I had the opportunity to speak to attendees
14 during a general session, update on the department's
15 current activities, legislative initiatives and ongoing
16 major projects. Staff from the Vehicle Titles and
17 Registration Division, Enforcement Division and IT
18 Division also participated in conference sessions related
19 to the implementation of House Bill 718, webDEALER and
20 updates on technology projects, as well as the technology
21 equipment refresh. The department also staffed an
22 informational booth in the exhibit hall to answer attendee
23 questions directly and provide information about
24 operational projects of interest to county offices.

25 The provision of motor vehicle services

1 throughout the State of Texas is always dependent on the
2 cooperation and actions of all 254 county tax offices.
3 The department and I certainly appreciate TACA allowing us
4 the opportunity to participate in these events. And I'd
5 specifically like to thank our very own vice chair, Member
6 McRae, and outgoing TACA president Kevin Kieschnick as
7 well as incoming TACA president Shay Luedeke for welcoming
8 our team and being so hospitable with us. We appreciate
9 that; we appreciate the partnership.

10 Chairman, members, that concludes my
11 presentation on item 4.A.

12 MR. BACARISSE: Thank you.

13 Any questions, members, on item 4.A?

14 (No response.)

15 MR. BACARISSE: Please continue.

16 MR. AVITIA: Thank you, chairman.

17 Chairman, members, this is the part of the
18 agenda that I appreciate the most, where we get to
19 recognize our staff for outstanding service, and more
20 importantly, their years of service. We have several
21 folks to recognize this morning, and we do this as a show
22 of our appreciation for their years of service and
23 dedication to the citizens of the State of Texas.

24 So I'll start with 20 years. Our first 20-year
25 recipient is no stranger. It is our very own deputy

1 executive director, Mr. Roland Luna, Sr.

2 Next we have Krystal Reed, Vehicle Titles and
3 Registration Division, and Gerri Ries from the Consumer
4 Relations Division. Each of these folks have 20 years of
5 state service.

6 Now we'll have two individuals with 25 years of
7 state service, the first being Mr. Chris Hayden, who is in
8 the room with us today as well, and Suzanne Long from the
9 Vehicle Titles and Registration Division, who has achieved
10 also 25 years of service.

11 And last but not least, Ms. Maureen Vale with
12 30 years of state service, who serves in the Vehicle
13 Titles and Registration Division.

14 Chairman, members, I'd like to say a few words
15 about the recipients that are in the room with us today.
16 I'll start with our deputy executive director, Mr. Roland
17 Luna, Sr.

18 Roland serves as the department's deputy
19 executive director and joined the department in August of
20 2020 as the director for the Motor Vehicle Division and
21 then quickly moved into the director role for the Vehicle
22 Titles and Registration Division. He has been an integral
23 part of enhancing engagement with stakeholders and the law
24 enforcement community. Roland continues to seek
25 opportunities to improve services by understanding our

1 customers and our stakeholder needs. I appreciate
2 Roland's unwavering commitment and dedication to the
3 TxDMV.

4 Your professionalism and partnership are above
5 all else. Roland, congratulations on your 20 years of
6 state service.

7 (Applause.)

8 MR. AVITIA: Next we have Ms. Heather Baxter
9 with 20 years of state service. Heather is the county
10 support liaison in the Vehicle Titles and Registration
11 Operations Section. As the county support liaison, she
12 works closely with both county staff and our Information
13 Technology Services staff to ensure county requests
14 related to department work stations are handled smoothly.

15
16 Heather has forged great relationships in
17 counties across the state and she truly loves being a
18 public servant and appreciate what she does to help our
19 citizens. Before coming to the DMV in 2022, Heather had
20 roles at the Texas Division of Emergency Management,
21 Department of Public Safety and the Texas Education
22 Agency, after starting her career as a high school English
23 teacher. Heather is a great asset to our team; we're
24 lucky to have her.

25 Congratulations, Heather, on your 20 years of

1 service.

2 (Applause.)

3 MR. AVITIA: To conclude, Chairman and members,
4 we have Mr. Chris Hayden. Chris Hayden is celebrating 25
5 years of service. He came to the DMV back in January of
6 2022.

7 He works in the Finance and Operations Division
8 as the deputy chief financial officer, where he supports
9 the CFO doing exceptional work overseeing budget, revenue,
10 forecasting, accounting, procurement, and facilities
11 operations. Chris previously served in financial and
12 budget positions with the Texas Water Development Board
13 and the Texas Commission on Environmental Quality. Chris
14 brings a wealth of accounting and financial reporting
15 experience and we are thrilled to have Chris on our team.

16 Good morning, Chris.

17 (Applause.)

18 MR. AVITIA: Chris, Roland and Heather are
19 assets to the DMV and we appreciate their dedication to
20 the department and to the State of Texas. It is a
21 pleasure to congratulate them on their service milestones.

22 And folks, you only have 30 more years to
23 retire. I look forward to working with you.

24 Congratulations.

25 (General laughter.)

1 MR. AVITIA: Members, if you would join me at
2 the front of the dais so we can have a photo opportunity
3 with those in attendance this morning.

4 (Pause for presentation and photos.)

5 MR. AVITIA: Chairman, members, that concludes
6 the executive director's report. Thank you again for the
7 time this morning.

8 MR. BACARISSE: Thank you, Mr. Avitia. And
9 congratulations to all those wonderful public servants
10 that we honored today.

11 We'll now move to agenda item number 5, which
12 is rule adoption. And we'll hear from Mr. Jimmy Archer
13 with this presentation.

14 So, Mr. Archer, please.

15 MR. ARCHER: Good morning, Chairman Bacarisse,
16 Executive Director Avitia, and members of the Board. For
17 the record, my name is Jimmy Archer and I'm the director
18 of the Motor Carrier Division.

19 This is item number 5 on today's agenda and the
20 materials are found beginning on page 9 of your Board
21 books.

22 For the Board's consideration, I'm presenting
23 amendments to 43 Texas Administrative Code, Chapter 219,
24 relating to oversize and overweight vehicles and loads for
25 adoption and approval for publication in the *Texas*

1 *Register*. The rules were proposed at the February 8,
2 2024, meeting and were published for comment in the *Texas*
3 *Register* on February 23. The department received no
4 comments to the proposed amendments.

5 The amendments, new sections and repeals are
6 necessary to clean up rule text and document the
7 department's processes, requirements and rule, to update
8 language and remove unnecessary or obsolete requirements,
9 delete language that's contained in statute and delete
10 repetitive language, to clarify and update the language to
11 be consistent with the statutory changes and guidance from
12 the Federal Highway Administration, and to organize
13 general provisions in Subchapter A of Chapter 219.

14 The amendments also delete language that's
15 obsolete or unnecessary and for which the department does
16 not have rulemaking authority. In addition, the
17 department proposes amendments which would renumber, re-
18 letter or remove subdivisions within the rules due to the
19 deletions of one or more subdivisions in the rules.

20 Transportation Code Section 623.145 and 623.195
21 require the Board to consult with the Texas Transportation
22 Commission prior to adoption of certain rules related to
23 oversize and overweight permits for the operation of oil
24 well servicing and drilling machinery and unladen lift
25 equipment motor vehicles. The Commission considered the

1 proposed amendments during its meeting on April 25, 2024.

2 And the Commission issued the attached minute order,
3 which is found on page 11, to document compliance with the
4 Transportation Code and indicate that the Texas Department
5 of Transportation staff did not have any comments on the
6 proposed amendments.

7 I ask the Board to approve these rule
8 amendments for publication and adoption. And I'm happy to
9 answer any questions you may have.

10 MR. BACARISSE: Thank you, Mr. Archer.

11 Members, any questions here? I might add that
12 we've got a lot on the agenda today and so I want to make
13 it very clear for those in the audience and anyone who may
14 be listening that we're doing a couple of things regarding
15 rules.

16 We're adopting some and we're also then
17 proposing others. Okay? So this item is a rule adoption,
18 if I'm correct. So I just want to make sure we all know
19 what's going on.

20 So any questions for Mr. Archer on this item?

21 (No response.)

22 MR. BACARISSE: Hearing none, thank you, Mr.
23 Archer, I appreciate it.

24 John, do you have a question? I'm sorry.

25 MR. PREWITT: I have a motion.

1 MR. BACARISSE: Okay, great. The chair would
2 entertain a motion on agenda item 5.

3 MR. PREWITT: Mr. Chairman, I move that the
4 Board approve the adoption of proposed amendments, new
5 rules and repeals in 43 Texas Administrative Code, Chapter
6 219, as recommended by staff, for publication in the *Texas*
7 *Register*. I also move that the Board grant the department
8 the authority to make changes to the Chapter 219 adoption
9 preamble and text that are approved by the department's
10 general counsel as necessary for compliance with state or
11 federal law or for acceptance by the Secretary of State
12 for filing and publication in the *Texas Register*.

13 In addition, I move the Board grant the
14 department the authority to make changes to the Chapter
15 219 adoption preamble and text based on the non-
16 substantive corrections made by the *Texas Register*.

17 MR. BACARISSE: And is there a second to that
18 motion?

19 MS. McRAE: I'll second.

20 MR. BACARISSE: Member McRae seconds.

21 Laura, any public comments on this particular
22 item?

23 MS. MORIATY: No, sir, no public comments.

24 MR. BACARISSE: Okay. Thank you.

25 So we have a motion and a second on the floor.

1 I will now call the roll on this, please. Any further
2 discussion on this motion before we do so?

3 (No response.)

4 MR. BACARISSE: Okay. So I'll call your name.
5 Member Alvarado?

6 MR. ALVARADO: Aye.

7 MR. BACARISSE: Member Gillman?

8 MS. GILLMAN: Aye.

9 MR. BACARISSE: Member Graham?

10 MR. GRAHAM: Aye.

11 MR. BACARISSE: Member McRae?

12 MS. McRAE: Aye.

13 MR. BACARISSE: Member Omumu?

14 MS. OMUMU: Aye.

15 MR. BACARISSE: Member Prewitt?

16 MR. PREWITT: Aye.

17 MR. BACARISSE: Member Schlosser?

18 MR. SCHLOSSER: Aye.

19 MR. BACARISSE: And I, Chair Bacarisse, vote
20 aye as well, so it's unanimous. Thank you.

21 So agenda item 6 now, I will ask that Laura
22 Moriarty come and brief us on that agenda item, Chapter
23 219.

24 MS. MORIARTY: Good morning, Board.

25 So agenda item 6 is the rule review adoption

1 for Chapter 219. That's the chapter regarding
2 Oversize/Overweight Loads.

3 Every state agency is required to do a review
4 of its rules every four years under the Government Code,
5 looking to see if the reasons for initially adopting it
6 continue to exist. The agency has reviewed Chapter 219
7 and we've done the amendments necessary to repeal and
8 amend the provisions that were incorrect or didn't still
9 have statutory authority, and now we're re-adopting the
10 remaining provisions and we will be done with this rule
11 review for four more years. That's a big deal because
12 this was last reviewed in 2019, so this is getting us back
13 on track as part of our incremental progress toward our
14 two-year goal to have all those back on track.

15 So you'll notice that we are not reviewing
16 Section 219.16. That's our provision on fee exemptions
17 for the government and the military. We are still
18 researching our statutory authority on that.

19 We're hopeful that we're going to get some
20 clarification from the legislature this session on our
21 statutory authority for that. So we are not going to
22 review that section now; we'll come back to it after
23 session.

24 With that, I am open to questions.

25 MR. BACARISSE: Thank you.

1 Members, any questions for Ms. Moriatty on this
2 item, agenda item 6?

3 (No response.)

4 MR. BACARISSE: Seeing none, thank you, Ms.
5 Moriatty.

6 The chair would entertain a motion on agenda
7 item 6.

8 MS. McRAE: Chairman, I'd like to make a
9 motion.

10 MR. BACARISSE: I'm sorry, wait a minute. Are
11 there any public comments on this?

12 MS. MORIATY: No, sir, there are not.

13 MR. BACARISSE: Okay, thank you.

14 Sorry, Vice Chair McRae.

15 MS. McRAE: I move that the Board approve the
16 notice of re-adoption of 43 Texas Administrative Code,
17 Chapter 219, excluding 219.16, as recommended by staff,
18 for publication in the *Texas Register*. I also move that
19 the Board grant the department the authority to make
20 changes to the notice of re-adoption of Chapter 219 that
21 are approved by the department's general counsel as
22 necessary for compliance with state or federal law or for
23 acceptance by the Texas Secretary of State for filing and
24 publication in the *Texas Register*.

25 In addition, I move that the Board grant the

1 department the authority to make changes to the notice of
2 re-adoption of Chapter 219 based on non-substantive
3 corrections made by the *Texas Register*.

4 MR. BACARISSE: Thank you.

5 Is there a second for that motion?

6 MS. OMUMU: I second, Mr. Chairman.

7 MR. BACARISSE: Member Omumu has seconded.

8 Thank you.

9 Is there any further discussion on this agenda
10 item?

11 (No response.)

12 MR. BACARISSE: If not, I will call the roll,
13 please.

14 Member Alvarado?

15 MR. ALVARADO: Aye.

16 MR. BACARISSE: Member Gillman?

17 MS. GILLMAN: Aye.

18 MR. BACARISSE: Member Graham?

19 MR. GRAHAM: Aye.

20 MR. BACARISSE: Vice Chair McRae?

21 MS. McRAE: Aye.

22 MR. BACARISSE: Member Omumu?

23 MS. OMUMU: Aye.

24 MR. BACARISSE: Member Prewitt?

25 MR. PREWITT: Aye.

1 MR. BACARISSE: Member Schlosser?

2 MR. SCHLOSSER: Aye.

3 MR. BACARISSE: And I, Charles Bacarisse, vote
4 aye as well. It's unanimous. Thank you.

5 So we move now to another section of the agenda
6 under rule proposals. So this is different in the sense
7 that we are putting forward these rules that will go out
8 for public comment as part of the process of rule
9 adoption, but we're not adopting rules in this part of the
10 agenda. We are proposing them for public comment at this
11 time.

12 I just want to make sure that the public
13 understands this and that we all understand what's
14 happening. Lots happening, so thank you.

15 We'll move to agenda item number 7, and I'll
16 turn it over to Roland Luna, Sr.

17 Mr. Luna.

18 MR. LUNA: Good morning, Chairman, Board
19 members, Executive Director Daniel Avitia. Roland Luna,
20 deputy executive director with the DMV.

21 Today I'm going to be providing an update on
22 three of our notable legislative implementations. One of
23 them is going to be on House Bill 718 that's related to
24 metal plate implementation, the next is going to be a
25 status of our implementation with House Bill 3297 which

1 eliminates safety inspections, and then the last is going
2 to be on Senate Bill 224 related to catalytic converters.

3 Mine is going to be a briefing item only. And
4 it's really going to serve as a precursor to the rule
5 packages that are going to be presented by our various
6 division directors, and then an update on our advisory
7 committee activity by our deputy general counsel, Ashley
8 Healy.

9 I'll start with HB 718. As a reminder, for HB
10 718, what it does is it eliminates various forms of paper
11 tags. It creates three new license plate types. It
12 requires dealers to use webDEALER, it requires that
13 dealers submit a vehicle transfer notification, and then
14 it also requires that the license plates stay with the
15 vehicle upon trade.

16 The other thing that the agency is required to
17 do is we're required to adopt rules by December 1 of this
18 year. Full implementation of the bill is effective on
19 July 1 of 2025, so there's a number of activities that the
20 agency has to complete before July 1 of next year. So
21 what we did as an agency is we created various committees
22 to focus on different activities and deliverables along
23 the way. We have a License Plate Design and Manufacturing
24 Committee, a Technology Committee, a Regulatory Affairs
25 Committee, and a Compliance Committee.

1 I will touch on some of the more notable
2 activities that were completed by our various committees,
3 starting with License Plate Design and Manufacturing. Our
4 License Plate Design and Manufacturing Committee have
5 completed the mockup and design of the three new plate
6 types that are required for the bill. One of the plate
7 types that's required is a temporary registration plate,
8 the other is a dealer temporary plate, and then the last
9 is an out-of-state buyer plate.

10 We recognized that there was a need for a
11 fourth plate type that wasn't specified in the bill. The
12 bill specifically required that we complete these new
13 three plate types, but we recognized that there are going
14 to be circumstances where that plate type is not in
15 inventory for a dealer, so what we have created is a buyer
16 provisional plate. And it's a multi-use plate that could
17 be used by the dealers when they don't have the plate type
18 in stock, that way a sale would not be prevented. We used
19 existing statutory authority to create this fourth plate
20 type.

21 The other notable activity for the License
22 Plate Design and Manufacturing Committee is our work
23 regarding a distribution center. As you know, now we
24 partner with the Texas Department of Criminal Justice for
25 license plate manufacturing. We are going to partner with

1 a third-party distribution center.

2 So upon manufacturing from TDCJ, we will move
3 those plates to the third-party distribution center, such
4 as Amazon. That way we don't have to contend with
5 security incidents that prevent orders from being
6 transported from TDCJ. We are in the final stages of
7 selecting a distribution center and we feel good about
8 having a distribution center identified by the beginning
9 of FY25.

10 With plate distribution, this is another
11 important point for us. Right now we manufacture plates
12 at TDCJ. And Vice Chair McRae, if she were to order
13 plates now, we'd send those plates to the Montgomery
14 County tax office.

15 In the future, because the bill specifies that
16 the dealers are liable for the plates, we have been
17 weighing different options to see how we could deliver
18 plates to each dealer. And there's obviously a cost
19 associated with that and there's costs associated with the
20 tax assessor-collectors if we were to assign the plates to
21 them and then they assign them to the dealers. So we
22 thought it would be more efficient and it would be more
23 cost-effective if we were to deliver plates directly to
24 dealers.

25 While we have been weighing all of these

1 different options, we can say today publicly that that is
2 the option that we're going to be using is dealer direct.

3 So dealers will be able to order, in the future, from our
4 inventory management system that we will procure in the
5 future. They will be able to order, track plates directly
6 from the system and they will receive them directly from
7 the DMV.

8 From the technology standpoint, our Technology
9 Committee has been focusing on the inventory management
10 system. And we have met with a number of states, we have
11 participated in a number of demonstrations with companies
12 that offer inventory management solutions, and we are in
13 the final stages of having a request for offer that is
14 posted publicly so that we can have vendors provide their
15 information so that we can move forward on the selection
16 of an inventory management system.

17 With technology as well, we understand that
18 technology is important for efficient business and
19 commerce in Texas. We have also identified more than 200
20 enhancements to our webDEALER system with recommendations
21 that have been provided by both franchised and independent
22 dealers, as well as tax assessor-collectors, to make sure
23 that webDEALER is in a position come July 1 of 2025 where
24 it has the functionality that is necessary for
25 implementation of HB 718.

1 With compliance, our Compliance Committee has
2 been focused on an internal preliminary risk assessment.
3 And the risk assessment is focused on identifying those
4 risks to stakeholders, evaluating current department
5 policies and procedures, and finding ways for us to reduce
6 these risks associated with the implementation of the
7 bill. The agency has also obtained services from a
8 third-party entity to conduct a risk assessment of our
9 implementation of HB 718 to ensure that we're not missing
10 something along the way.

11 Outreach. Our outreach with 718 has been
12 especially important. We have partnered with a number of
13 associations, the Tax Assessor-Collector Association, the
14 Texas Independent Automobile Dealers Association, and
15 we've participated at conferences. We've also
16 participated at a number of town hall events explaining
17 all of the provisions of HB 718 and answering questions
18 from stakeholders.

19 We understand that webDEALER is going to be a
20 requirement on July 1 of 2025, and we've created a robust
21 training schedule where we're providing webDEALER training
22 to both tax assessor-collectors and dealers in person and
23 virtually. We've trained more than 100 tax assessor-
24 collectors that are not on webDEALER and we continue to
25 increase that number, and we have trained approximately

1 2,000 automobile dealers.

2 Our Regulatory Affairs Committee was tasked
3 with developing the rules associated with HB 718. And I
4 want to thank Ashley Healy, our deputy general counsel,
5 for chairing that committee for us and all of our
6 fantastic staff at DMV that have worked tirelessly on the
7 rule development.

8 Other planned activities that we have for 718
9 include hiring the remaining positions for 718. We were
10 allocated \$35 million and 42 FTEs for the biennium and the
11 remaining positions will be hired at the beginning of
12 FY25.

13 Moving on to HB 3297, which eliminates safety
14 inspection in Texas. The bill is effective on January 1
15 of 2025. So what does this really mean?

16 We have 17 emissions counties here in the State
17 of Texas which means that emissions will still continue to
18 be a requirement and a precursor prior to receiving your
19 registration. It's most of the larger counties, such as
20 Tarrant County, Dallas County, Harris County, Montgomery
21 County and adjacent counties. What does that mean for
22 numbers, though? It's about 60 percent.

23 We have approximately 26 million registered
24 vehicles. Sixty percent of that 26 million will still be
25 required to obtain an emissions inspection prior to

1 receiving their registration.

2 Our Vehicle Titles and Registration Division
3 has been working very closely with the Department of
4 Public Safety and the Texas Commission on Environmental
5 Quality to ensure that we are developing a communication
6 strategy to ensure that we are implementing the bill
7 appropriately and working closely with our partner
8 agencies. We have been participating in monthly meetings
9 with TCEQ and DPS to ensure that we are sharing
10 information regarding the implementation.

11 Specific to DMV, we have some planned
12 activities for the future. We are developing digital and
13 physical posters for regional service centers and tax
14 assessor-collector offices so that they can display them
15 in their offices well in advance of January 1 of 2025. We
16 are working on a registration renewal insert that we will
17 put inside the registration renewal notice that goes out
18 to the public, that way they know what they are required
19 to do.

20 If they're in an emissions county or safety
21 county, they know what they're required to do to obtain
22 their registration. And then we're also going to put some
23 verbiage on the registration renewal notice that goes out
24 to customers.

25 Moving to Senate Bill 224. Senate Bill 224 was

1 also passed during this last legislative session and SB
2 224 created enhanced criminal penalties for criminal
3 conduct involving catalytic converters and administrative
4 penalties related to regulatory provisions for metal
5 recycling entities, MREs.

6 MVCPA was charged with creating a plan of
7 operation and this plan of operation had to work with a
8 few different agencies. MVCPA had to work with DMV, of
9 course, as part of our agency; they had to work with the
10 Department of Public Safety because DPS oversees the metal
11 recycling entities; and TDLR, the Texas Department of
12 Licensing and Regulation.

13 So to create this plan of operation, our MVCPA
14 director, who is here with us today, William Diggs, he
15 worked with these agencies to create the plan of operation
16 and worked with the MVCPA Board. The plan of operation
17 focused on sharing intelligence, sharing information
18 regarding regulatory reports, and ensuring that the
19 effective stream of business and commerce was not
20 interrupted.

21 MVCPA was allocated some money to create
22 various task forces to combat catalytic converter thefts
23 and associated crimes. MVCPA also provided funding to
24 TDLR and the DPS for FTEs and for equipment. Thus far, 37
25 different grant applications have been received by MVCPA

1 for various task forces across the state, and this is in
2 addition to the 28 auto theft task forces that MVCPA
3 funds. This program is off to a great start during the
4 first year of the biennium and we expect this to work very
5 well in FY25.

6 That concludes my briefing and I am available
7 for any questions that you have. I would like to remind
8 the Board that Ms. Healy is going to talk about our
9 activity regarding our advisory committees, and then we
10 are going to have three division directors to talk about
11 the rules associated with SB 224, HB 3297, and House Bill
12 718.

13 That concludes my presentation. Thank you.

14 MR. BACARISSE: Great.

15 Vice Chair McRae, do you have some additional
16 information you'd like to share?

17 MS. McRAE: I would.

18 Roland, I would just like -- on behalf of the
19 Tax Assessor-Collectors Association of Texas, I would like
20 to thank you, our Executive Director Avitia and the entire
21 staff because we had a lot of concerns going in with 718.

22 As we know, any time we collaborate we get a better work
23 product at the end.

24 And I know that we have spent many hours and we
25 still have many more to go, but I would like to thank you

1 and the entire staff on addressing all of the tax
2 assessor-collectors' concerns on 718, and as well as our
3 concerns with the implementation of House Bill 3297 and
4 addressing the inserts. That's something that Tax
5 Assessor-Collector John Ames in Dallas County -- he led
6 the charge on that. And we appreciate the collaboration
7 with that as well.

8 So thank you to you and your team.

9 MR. LUNA: You're very welcome. Thank you for
10 your partnership.

11 MR. BACARISSE: I'll just pile on and say that
12 as a former county official, I, too, appreciated when the
13 state works collaboratively and cooperatively with county
14 offices. It makes all the difference in the world. And I
15 just echo the conversation here.

16 This is tremendously complex, what we're doing
17 here, and a huge business process reorganization. So my
18 kudos go to you and the team. And thank you for the tax
19 assessors' willingness to work closely with us as well.
20 It's very important, critical.

21 Members, anything else? Member Graham.

22 MR. GRAHAM: Just a couple of questions
23 regarding the plate distribution process. In the current
24 environment that we have today, do we have boots on the
25 ground at TCDS or do we utilize TCDS employees to

1 distribute plates currently?

2 MR. LUNA: For license plate manufacturing?

3 MR. GRAHAM: Well, distribution, actually.

4 MR. LUNA: Right. So what we have now, sir, is
5 once plates are manufactured, they are stored at TDCJ, at
6 Texas Department of Criminal Justice. We do have some
7 employees, we have two employees that work on distribution
8 and we have a contract for transportation.

9 So using an example, if Vice Chair McRae orders
10 an allotment of general issue plates, we receive that
11 request. It's processed and our staff at TDCJ will help
12 fill the order, and then the transportation company that
13 we have a contract with will deliver the plates to Vice
14 Chair McRae in Montgomery County at her specified
15 location.

16 MR. GRAHAM: And currently that process is
17 not -- what's the word that I'm looking for here?

18 MR. LUNA: Not a scaleable process now. So
19 what we envision by having a third-party distribution
20 center is once we have an agreement with that third-party
21 distribution center, we'll be able to leverage the
22 partnerships that they have so that we can realize some
23 efficiencies with transportation and timing.

24 MR. GRAHAM: I was thinking more along the line
25 of fraud and abuse and when plates are -- so under a new

1 kind of the model that you see, the plates would leave
2 TCDS and then be transferred to a distribution center.

3 MR. LUNA: Yes, sir.

4 MR. GRAHAM: Whereby a third party would be --
5 would the third party be responsible for that distribution
6 to dealers and consumers?

7 MR. LUNA: For dealers and tax assessor-
8 collectors. And we would work in conjunction with the
9 third-party entity to ensure that there are the proper
10 quality assurance measures that are in place to make sure
11 that when a tax assessor-collector is ordering plates,
12 what they order is what they receive. Same with the
13 dealers.

14 So this would give us an opportunity to
15 implement further quality control measures that we don't
16 currently have at TDCJ with our limited physical
17 footprint. We would have more of a physical footprint
18 with the third-party distribution center.

19 MR. GRAHAM: I appreciate that. And we're six
20 months on to the multi-year fleet registration program,
21 which we just absolutely love, by the way -- thank you,
22 Jimmy. However, in the cases of the multi-year fleet
23 registration program, those plates go directly to a
24 consumer, not to a tax assessor, not to an RSC.

25 So just my thought here is -- and I'm sure

1 y'all are looking at it, but I've got to say it, right.
2 That's my responsibility to say we need to make absolutely
3 sure that we have a program that is going to know
4 specifically what leaves that distribution point, because
5 in some cases it's going to an end-user and if there were
6 issues with that, then you've got to hope the end-user is
7 a good Texan. We need to know what that looks like and we
8 need to be able to track that.

9 So anyway, you know, you hang around Salem long
10 enough, you wake up thinking fraud, waste and abuse. So I
11 just kind of wanted to walk through that, so I appreciate
12 it.

13 (General laughter.)

14 MR. LUNA: Yes, sir.

15 MS. OMUMU: Mr. Chairman, I have a question,
16 please.

17 MR. BACARISSE: Yes, Member Omumu.

18 And then, Member Gillman, I'll come to you.

19 MS. OMUMU: Okay. And Roland, you mentioned
20 there is training that is taking place. I'm interested in
21 learning when will the training begin for the dealers.

22 Because there will need to be training
23 specifically set up for their distribution of plates and
24 how they'll be able to manage security and whatnot of the
25 distribution of plates directly to dealerships.

1 MR. LUNA: Good to hear from you, Member Omumu.

2 So we have two different trainings that are
3 going to be available. The first one that's available now
4 is webDEALER training so that dealers know how to work
5 within the webDEALER system. We are going to provide
6 training on the inventory management system.

7 Once it's procured and we have the tool in
8 place we will be providing both in-person and virtual
9 training so that dealers and tax assessor-collectors know
10 how to use the tool. Once we have it in place, working
11 with our vendor, we'll be able to develop a training
12 schedule. Yes, ma'am.

13 MS. OMUMU: Thank you.

14 MR. BACARISSE: Member Gillman.

15 MS. GILLMAN: Thank you, Mr. Chairman.

16 Good morning, Roland Luna.

17 MR. LUNA: Good morning.

18 MS. GILLMAN: My question is with respect to
19 the distribution of plates. Who in this system, going
20 from TDCJ to the inventory system, who is going to
21 regulate the number that is sent?

22 MR. LUNA: So if I understand correctly, the
23 number of plates that go from TDCJ to our third-party
24 distribution center?

25 MS. GILLMAN: Right.

1 MR. LUNA: What we envision is taking a six-
2 month amount of inventory and having that readily
3 available at our third-party distribution center, so we
4 would always maintain a reserve of six months at our
5 third-party distribution center.

6 MS. GILLMAN: No. What I mean is as a
7 franchised dealer or independent dealer, if I am supposed
8 to get 100, according to the rules that we are going to
9 adopt eventually, who regulates that? Where is it
10 regulated?

11 MR. LUNA: Who regulates the number?

12 MS. GILLMAN: No. The allocation, the
13 distribution.

14 MR. LUNA: That would be the DMV and our vendor
15 that we work with, it would be the both of us.

16 MS. GILLMAN: So it's from -- I'm just asking
17 from TDCJ and the warehouse, how is it -- who regulates
18 that? There's people here that communicate?

19 MR. LUNA: Right. So it would be a combination
20 of things. The first thing that we would be leveraging is
21 the new technology that we have with the inventory
22 management system where we would be able to track an
23 individual plate or an allotment or a bundle of plates.
24 So it would be using the technology, with permissions,
25 with TDCJ, our distribution center, the DMV, and then

1 whichever stakeholder group that we're working with.

2 We envision controls, we envision reporting, we
3 envision analytics all being a part of the inventory
4 management system where when a dealer orders a certain
5 amount of plates, we want to make sure that what they
6 order is what they receive, and if they don't receive
7 that, then we will have a mechanism built into the
8 inventory management system --

9 (Simultaneous discussion.)

10 MS. GILLMAN: And they're authorized to get
11 those plates.

12 MR. LUNA: Yes, ma'am.

13 MS. GILLMAN: Great. And yeah, I will also
14 echo what Sharla Omumu was saying, that with respect to
15 inspections as well as the plates, the training in the
16 dealerships is essential.

17 MR. LUNA: Yes, ma'am.

18 MS. GILLMAN: We're all a little confused and
19 so we await your training and it will be appreciated.
20 Thank you.

21 MR. LUNA: Yes, ma'am.

22 MS. GILLMAN: The posters, you know, all of
23 that.

24 MR. LUNA: Digital posters, the physical
25 posters, all of it, we're going to share all of it.

1 MS. GILLMAN: We will appreciate that. Thank
2 you.

3 MR. LUNA: Yes, ma'am.

4 MR. BACARISSE: You know, building a complex
5 system like this from the ground up is incredibly
6 challenging. And I think it will put a premium on this
7 agency's ability to work very, very closely with our
8 stakeholder groups, not only tax assessors but also the
9 dealers, franchised dealers. And so we envision that, and
10 I'm sure that we'll be able to continue working towards
11 that as we design what we'll put out for bid eventually,
12 right?

13 MR. LUNA: Yes, sir, Chairman.

14 MR. BACARISSE: So these aspects of that will
15 be in the bid. Right?

16 MR. LUNA: Yes, sir.

17 MR. BACARISSE: Member Avitia -- I mean, Mr.
18 Avitia, do you have a question?

19 MR. AVITIA: I'll be Member Avitia, that's
20 fine.

21 (General laughter.)

22 MR. AVITIA: Chairman. And Roland, thank you
23 for laying this out so well as you did.

24 I want to make sure that the Board is
25 knowledgeable and aware that the last thing this agency or

1 department wants to do is create another opportunity for
2 fraud schemes. We've seen what that looks like and how
3 detrimental it can be to the department, to the staff, to
4 everyone involved. Please know and trust that this
5 department and staff working with you, the Board, and our
6 stakeholders are going to do everything we can to make
7 sure we are not creating another possible fraud scheme out
8 there for folks to be able to take advantage of.

9 All of the things that Roland discussed, the
10 controls, the reporting, the analytics, the training,
11 those are all critical components ensuring that fraud is
12 minimized as we roll out this new program.

13 MR. BACARISSE: Members, any other questions on
14 this point for Mr. Avitia?

15 (No response.)

16 MR. BACARISSE: Thank you. We look forward to
17 this continued collaboration here.

18 As we move now to agenda item 8, I'll turn it
19 over to Deputy General Counsel Ashley Healy and the MVIRAC
20 presiding officer, David Blassingame. So Ashley will go
21 first and we'll hear that presentation. Thank you.

22 MS. HEALY: Good morning, Chairman, members.
23 My name is Ashley Healy. For the record, I'm the deputy
24 general counsel.

25 And I have been told that there is nobody else

1 here today; it is just me presenting on this item.

2 MR. BACARISSE: Great. Thank you.

3 MS. HEALY: So I'm presenting item number 8,
4 advisory committee recommendations.

5 In February and March of 2024, we met with
6 three different advisory committees: the Vehicle Titles
7 and Registration Advisory Committee, the Motor Vehicle
8 Industry Regulation advisory Committee, and the Customer
9 Service and Protection Advisory Committee. We met with
10 them to discuss the rules that you guys are about to hear
11 and get their recommendations, which they could then
12 present to you if they chose to. None of them are
13 attending today because we actually did incorporate all
14 the recommendations that they brought before us.

15 So there were two main recommendations that
16 they brought before us. One was brought by all three of
17 the different advisory committees and it was to modify
18 some of the language in Rule 215 that you're going to hear
19 soon. And that was just to expand the storage options
20 under that rule for these license plates that the dealers
21 will be maintaining physically.

22 Originally we had that it had to be in a locked
23 cabinet or safe, and they said we might have a lot of
24 these so can we have a room or closet, and we said
25 absolutely. So we incorporated that recommendation that

1 was made by each of the three committees and that was the
2 big one.

3 And then the other one was also in Chapter 215
4 and that was to modify to add the word "if applicable"
5 when it talked about VINs. So there was not a whole lot
6 that they asked us to do for these rules that you're about
7 to hear, and we incorporated everything that was asked of
8 us.

9 So I will take any questions if you have them.

10 MR. BACARISSE: Great. Thank you.

11 Members, any questions for Ms. Healy on this
12 particular item?

13 (No response.)

14 MS. HEALY: Thank you.

15 MR. BACARISSE: Thank you very much.

16 So agenda item 9 is next and I will turn this
17 over to Monique Johnston for her briefing. This is a rule
18 proposal for Chapter 215.

19 Monique? Oh, she stepped out briefly. Okay.
20 Anybody got a good joke?

21 (General laughter.)

22 MR. BACARISSE: We'll just move to item 10 and
23 come back to 9, so item 10 is Chapter 217, Vehicle Titles
24 and Registration, and we'll ask Annette Quintero to come
25 forward and brief us on that. Is that going to work? I

1 was just seeing a lot of movement there.

2 So is that good, Annette?

3 I see Monique is here. You tell me what order
4 you'd like to go in. How about that? Everybody is here.

5

6 Monique, are you good, are you okay? Thanks
7 for making the effort.

8 MS. THOMPSON: Corrie Thompson, director of the
9 Enforcement Division. I will speak since I'm the one at
10 the podium.

11 MR. BACARISSE: Great. Thank you, Corrie.

12 MS. THOMPSON: You will see the three of us up
13 here because the next successive agenda items that are up
14 before you have some overlap across divisions. And so for
15 the sake of not playing musical chairs, we decided to all
16 be up here at once.

17 MR. BACARISSE: So you're actually going to
18 speak on?

19 MS. THOMPSON: On my agenda items but Monique
20 is up first with agenda item 9.

21 MR. BACARISSE: Great, no problem. Okay.
22 Thank you.

23 Good morning.

24 MS. JOHNSTON: Good morning, Chairman, members,
25 Director Avitia. For the record, I'm Monique Johnston,

1 director of the Motor Vehicle Division.

2 Today we are asking the Board's permission to
3 begin the formal rulemaking process to make changes to
4 Chapter 215, Motor Vehicle Distribution, in Title 43 of
5 the Texas Administrative Code. This rule item is listed
6 as agenda item number 9 and the details may be found
7 beginning on page 162 of your Board book.

8 This rule package proposes amendments, new
9 rules and repeals to Chapter 215 to implement two bills
10 from the last legislative session, House Bill 718 and
11 Senate Bill 224 which Mr. Luna discussed earlier.

12 House Bill 718 requires a substantial number of
13 rule amendments to responsibly implement the transition
14 from temporary tags to license plates. The transition
15 involves multiple divisions across the department, so
16 joining me today is Annette Quintero, director of the
17 Vehicle Titles and Registration Division, and Corrie
18 Thompson, director of the Enforcement Division.

19 First I will highlight some of the rule
20 package's key provisions, and then my colleagues and I are
21 available to answer any questions you may have.

22 House Bill 718 amendments. Most of Chapter 215
23 proposals are to implement House Bill 718. Our goals in
24 proposing these changes are to allow for a license holder
25 to receive enough of the various types of license plates

1 necessary for the license holder to operate efficiently,
2 to provide for the real-time license plate database to
3 assist the department and law enforcement, and to prevent
4 and deter plate theft and fraud through the life cycle of
5 a license plate. With those goals in mind, I would like
6 to highlight some of the key amendments, especially those
7 related to buyer's license plates.

8 In 215.140, Established and permanent place of
9 business premise requirements, proposed amendments would
10 add secure license plate storage requirements for all
11 dealers and wholesale motor vehicle auctions.

12 In 215.150, Dealer authorization to issue
13 license plates, proposed amendments describe when a dealer
14 may or must issue a license plate and document a dealer's
15 responsibility for all license plates in the dealer's
16 possession and the license plate system use and access.

17 In 215.152, Obtaining dealer-issued buyer
18 plates, proposed amendments contain the department's
19 annual maximum license plate allocation formula and
20 specify that the department will deliver 25 percent, or a
21 quarter of the dealer's annual allocation of buyer plates
22 to the dealer every three months. To accommodate
23 seasonality and unexpected growth, the proposal allows a
24 dealer to get an advance on the next quarter allocation
25 once the dealer issues 50 percent of the current quarter's

1 license plates and allows the dealer to request an
2 increase in the annual license plate allocation once the
3 dealer has issued 50 percent of the annual maximum number
4 of plates.

5 The Vehicle Titles and Registration Division
6 will be responsible for allocating and distributing
7 buyer's license plates and approving related requests.

8 In 215.155, Buyer's license plates, proposed
9 amendments cover the issuance of a buyer's plate that
10 would implement a \$10 fee per transaction.

11 In 215.158, General requirements for general
12 buyer's plates, proposed amendments include dealer
13 requirements to report license plate loss, theft or
14 destruction, to void a license plate, and to destroy,
15 recycle or return voided license plates to the department
16 or county tax assessor-collector.

17 Proposed amendments in other sections add or
18 clarify similar data entry reporting and destruction
19 requirements for industry license plates: 215.120 applies
20 to standard license plates issued to a manufacturer,
21 distributor or converter; 215.138 applies to a dealer's
22 standard personal, prestige or temporary license plate;
23 and 215.143 applies to a drive-away operator's in-transit
24 license plate.

25 Lastly, proposed amendments to two existing

1 sanction rules would add violations related to license
2 plate misuse and failure to report a lost, stolen or
3 damaged license plate: 215.121 applies to manufacturers,
4 distributors, converters and franchised dealers; and
5 215.141 applies to GDN holders and in-transit license
6 holders.

7 Proposed new sections. In addition to rule
8 amendments, the department is also proposing four new
9 sections. Two of these new sections implement HB 718.

10 215.151, License plate general use
11 requirements. This proposed new rule documents when a
12 dealer must attach a buyer's license plate on a vehicle,
13 remove a license plate from a vehicle, and update the
14 license plate database.

15 215.154, Dealer's temporary license plate
16 allocation. This proposed new rule contains provisions
17 for the new dealer's temporary license plates which will
18 replace agent and vehicle temporary tags.

19 New dealers and all existing dealers licensed
20 before the implementation of the new temporary license
21 plate will be eligible to request up to the maximum
22 allocation of the new dealer temporary plate, as outlined
23 in the chart on page 303 of your Board book. Existing
24 dealers will also be able to request additional dealer
25 temporary plates based on sales during the previous 12

1 months, as noted on page 304 of your Board book. And the
2 proposed rule contains similar provisions as to those
3 currently that apply to other types of standard dealer
4 plates, including the opportunity for dealers to request
5 more license plates if needed.

6 The Motor Vehicle Division will be responsible
7 for handling the dealer plate requests and the process
8 will be similar to what our dealers are already used to
9 with their current dealer metal plates, utilizing the
10 division's long-established processes and procedures and
11 managing dealer plate distribution which have a proven
12 success rate. The Motor Vehicle Division was also given
13 six additional FTEs as part of 718 to expand the dealer
14 plate program and ensure seamless implementation and
15 distribution of the new dealer temporary plates.

16 The remaining two new sections are being
17 proposed to implement catalytic converter recordkeeping
18 and records inspection requirements in SB 224, which
19 became effective on May 29, 2023. The new provisions will
20 help in detecting and preventing catalytic converter
21 theft. 215.122 implements these requirements for
22 manufacturers, distributors and converters, and 215.162
23 implements these requirements for dealers.

24 So proposed repeals, four sections are also
25 proposed for repeal to implement HB 718. The following

1 two sections must be repealed to allow the department to
2 propose new language: 215.151, Temporary tags general use
3 requirements and prohibitions, and 215.154, Dealer's
4 temporary tags. Additionally, 215.153, 215.159 will no
5 longer be necessary on July 1, 2025, when temporary tags
6 will no longer exist. 215.153 contains the specifications
7 for all temporary tags, and 215.159 contains the
8 requirements for temporary tags issued and displayed by a
9 converter.

10 In regards to stakeholder input, in February
11 and March 2024, the department provided an early draft of
12 rule changes implementing 718 to three department advisory
13 committees: the Vehicle Titles and Registration Advisory
14 Committee, or VTRAC; the Motor Vehicle Industry
15 Regulations Advisory Committee, or MVIRAC; and the
16 Customer Service and Protection Advisory Committee, or
17 CSPAC. The department considered and incorporated input
18 from all three committees and the tax assessor-collectors
19 in eleven of the proposed sections: Section 215.2,
20 215.138, 215.140, 215.150, 215.152, 215.155, 215.158, and
21 215.178.

22 Additionally, in preparing these proposals,
23 feedback was solicited and considered from multiple
24 associations, including the Texas Automobile Dealers
25 Association, the Texas Independent Automobile Dealers

1 Association, and the Texas Recreational Vehicle
2 Association.

3 Lastly, I would like to note that we posted
4 supplemental materials on the department website for this
5 rule package, a revised proposed package as a reference to
6 Transportation Code Chapters 504 and 520, in three purpose
7 and scope sections: 215.1, 215.101, and 215.131. While
8 these edits were minor, we thought it was important to
9 publish these references to acknowledge the expanded role
10 that the dealers will have regarding license plates.

11 We request your approval to proceed with
12 publication in the *Texas Register* so we may receive public
13 comment and move forward with the formal rulemaking
14 process. Rules implementing House Bill 719 are proposed
15 to be effective July 1, 2025, and rules implementing
16 Senate Bill 224 are proposed to be effective 20 days after
17 filing with the Secretary of State.

18 Members, this concludes my remarks. We are
19 happy to answer any questions the Board may have regarding
20 this package. Thank you.

21 MR. BACARISSE: Thank you, Ms. Johnston, and
22 thank you for being here today. I hope you feel better
23 soon.

24 MS. JOHNSTON: Thank you.

25 MR. BACARISSE: Absolutely.

1 Members, are there any questions for Ms.
2 Johnston?

3 I'm sorry, Member Graham.

4 MR. GRAHAM: On Board book page 304, this just
5 kind of hit me so I just wanted to get clarification.
6 Where you outline the inventory that a dealer will -- or I
7 guess for all intents and purposes, but it doesn't matter
8 if it's a dealer or a TAC or an RSC, based on in this case
9 a dealer's previous 12 months' sales. Number one is a
10 dealer selling 26 to 50 during the previous 12-month
11 period would have a maximum number of plates of 5, right?
12 Which is logical -- one month's supply.

13 MS. JOHNSTON: Uh-huh.

14 MR. GRAHAM: I mean, I just don't want to
15 assume here. Does the distribution model -- when it comes
16 to reorder points or the minimums for a dealer reordering
17 plates, is it daily, weekly, what's that look like?

18 MS. JOHNSTON: It would be following the same
19 process they currently use for their current metal dealer
20 plate, so you would submit a plate application through the
21 eLICENSING system and request additional plates and that
22 is processed by the MVD plate department, which we
23 currently do. We wanted to keep it as similar to what
24 dealers know already with their current dealer plate. And
25 it's the same process, it's just going to be your

1 different plate.

2 So we will distribute the plates in-house and
3 mail them directly to the dealer. As their orders come
4 in, we'll review them, we'll look at their information,
5 see if they qualify for the additional plates. If they
6 do, those will get processed and those plates and stickers
7 will get mailed out to the dealer.

8 MR. GRAHAM: So a dealer with five plates uses
9 one and then reorders one.

10 MS. JOHNSTON: Well, these are the reusable
11 plates. These are replacing the agent and vehicle-
12 specific tags, so these remain in the dealer's possession.
13 They will be using these for the test drives, loaner
14 vehicles, taking to auction. So they won't go with the
15 car anywhere, they will stay with the dealer.

16 MR. GRAHAM: Perfect. Thank you.

17 MR. BACARISSE: Members, any other questions?
18 Member Gillman.

19 MS. GILLMAN: Yes. Thank you, Mr. Chairman.

20 I have appreciated the phone calls and helping
21 me clarify this before this meeting, but because -- kind
22 of like what Member Graham said, this is my opportunity to
23 kind of voice some concerns, and so here I go.

24 Number one, on page 303 of the Board book, it
25 says if a new license applicant is a franchised motor

1 vehicle dealer, 200 is the maximum. This language
2 confused me because I don't consider a franchised dealer
3 that has been in business a long time a new license
4 applicant. And in my conversation prior to this Board
5 meeting, Monique, Annette, Ashley all clarified that that
6 is the -- the 200 would be the number issued to an
7 existing franchised motor vehicle dealer.

8 MS. JOHNSTON: That is correct, because it's a
9 new plate type that was not in existence when any of the
10 previous dealers were licensed so they would be eligible
11 to get those allocations.

12 MS. GILLMAN: So the language there confused me
13 and I asked them if they would look at modifying that.

14 Next, I was thinking that the formula to
15 distribute or allocate the metal buyer's tags is very
16 logical and reasonable and I think it's great. And I want
17 to thank Clint for his contribution to that. And I think
18 my feedback to you guys is it would be much better if we
19 had the dealer's temporary license plates on some sort of
20 formula as well, meaning dealers that sell a lot of cars
21 would get more temporary license plates than dealers that
22 don't sell a lot of cars, and that, frankly, goes for the
23 independent dealers as well.

24 I know there's just a big difference between --
25 Tammy and I were talking that Carvana registered 12,000

1 vehicles last year and that's going to be very different
2 than a dealer that issues -- sells 12 cars a year. So my
3 question is, is it possible to have a formula, relevant
4 like the buyer's plate formula, for the temp tags?

5 MS. JOHNSTON: So the statute and the bill
6 mandated a formula for the buyer's tag, they did not
7 mandate a formula for the dealer temporary plate. The
8 formula used previously for temporary tags was very
9 complex. And as it did successfully on the dealer side of
10 things work, there was a lot of heavy lifting on staff, it
11 was a lot of manual corrections made in the system and
12 just a lot of work went on the back-end for IT and for MVD
13 staff on a daily basis to make sure these were correct.

14 We looked at formulas through the subcommittees
15 and the numbers that came out using certain formulas were
16 very high in some cases for certain dealers. And in
17 discussions with the Enforcement Division that was on that
18 committee, they were kind of uncomfortable with those
19 numbers. So they came up with the number that was
20 comfortable across the board.

21 We do know there are outliers for independent
22 motor vehicle dealers -- there's the CarMaxes. That was
23 the same thing with the temporary tags, we had to make a
24 lot of adjustments for those dealers because those are the
25 outliers. The majority of our independent motor vehicle

1 dealers are smaller, so this is something that our plate
2 room is always used to doing, looking at exceptions.

3 We are talking now about looking at maybe a
4 percentage and seeing if instead of a formula, could there
5 be some sort of percentage we could use. So we are
6 investigating other options of what those ranges could be,
7 without getting into a complicated formula that would
8 cause a lot of programming potential issues and heavy just
9 manual work on the side of staff. So we are looking into
10 seeing if there's an option for kind of a range using a
11 percentage.

12 MS. GILLMAN: I actually think that you're kind
13 of creating more work for yourself by having to review
14 each and every one of the outliers, but I appreciate what
15 you said. And thank you for the continued look, and I
16 would just encourage -- because this is new and we don't
17 know kind of the pitfalls, that you be nimble.

18 In using the word "maximum number" it's maximum
19 number but you have a chance to get more.

20 MS. JOHNSTON: There is --

21 MS. GILLMAN: Is it one at a time, is it -- I
22 can't remember.

23 MS. JOHNSTON: On page 304, if a dealer has
24 been in business and they provide their proof of sales,
25 they can get the additional plates on top of that initial

1 allocation. So if they are selling more than 300 vehicles
2 during the previous 12 months, they can get automatically
3 an additional 30 plates.

4 There's also a waiver process, which we
5 currently use now with the current dealer plate, for
6 dealers who have large loaner programs who want --

7 MS. GILLMAN: I'm sorry, say that again. For
8 dealers that have large loaner programs, what?

9 MS. JOHNSTON: There's a waiver process. They
10 submit an application and request a waiver and submit
11 documentation saying we're putting in 200 cars for this
12 loaner program, we're expanding our loaner program. We
13 see this already with the current dealer plate.

14 MS. GILLMAN: Tell me what page that's on; I
15 missed it.

16 MS. JOHNSTON: That's the waiver, so that's
17 under the waiver requests. It's 279 -- 281 where it talks
18 about the waiver process.

19 MS. GILLMAN: Okay. Well, that's great. I
20 guess I was thinking that maybe a formula would be more
21 beneficial instead of appeals, and we'll see.

22 MS. JOHNSTON: This is how we currently handle
23 the dealer plate process and it's been very successful.
24 And with the expansion of our dealer plate section with
25 six additional FTEs, we are going to have the people to

1 cover and review these to ensure that dealers have the
2 plates they need.

3 And also, we will have dealer plate compliance
4 specialists to ensure that there's no chance of them --
5 you know, they're going to be reviewing these to make sure
6 there's no attempt at fraud or obtaining these plates for
7 fraudulent uses. So we have a whole system that we've
8 developed with the new FTEs that we're putting in place.

9 MS. GILLMAN: May I carry on?

10 MR. BACARISSE: Please.

11 MS. GILLMAN: Another issue I have is in this
12 Chapter 215 it's mixed in here about the catalytic
13 converter theft deterrent, and I'm very interested in
14 that. I have been a victim several times of catalytic
15 converter theft and spent a zillion dollars repairing
16 vehicles. And so I am interested in everything we can do
17 to try and prevent, but I found it really confusing that
18 it's mixed in with new license plate provisions.

19 And so my -- I would like to just make a
20 recommendation -- because I'm really wanting catalytic
21 converter, a focus on it, as well as the buyer's plates --
22 for it to be separate because it's kind of lost in the
23 shuffle. And so that's a comment that I would make if
24 it's possible.

25 MR. BACARISSE: Member Gillman, you're just

1 suggesting that they pull out that important segment and
2 perhaps make it -- just heighten the verbiage in it in
3 terms of the way it reads, right?

4 MS. GILLMAN: And sort of have its own section.
5 I don't know if it needs to be in Chapter 215, but if you
6 could just sort of mush the language together so that -- I
7 don't know.

8 MR. AVITIA: Chairman, I think Corrie has some
9 thoughts on that.

10 MS. THOMPSON: Yes. Chairman, if I could
11 speak.

12 MR. BACARISSE: Corrie, please.

13 MS. THOMPSON: Corrie Thompson, director of the
14 Enforcement Division.

15 So we will be -- the bulk of the enforcement
16 provisions related to the implementation of Senate Bill
17 224 related to catalytic converter theft prevention and
18 detection. And so what you're seeing as you read through
19 the rules is three new rules both that pertain to the
20 franchised dealers, manufacturers, distributors and
21 converters in their subchapter, and then three new rules
22 that pertain to the GDN holders and their chapter. And so
23 in each of those sections that pertain to those different
24 types of licensees, you'll see information that's added to
25 the application rules.

1 So in each of those subchapters there's an
2 application rule that's laying out all of the requirements
3 and questions and information that somebody applying for
4 one of those types of licenses is going to be asked for.
5 And so that's why that information has been added to the
6 list in that section. And then in each of those
7 subchapters as well for those distinct types of licensees
8 that you see as providing the information, letting those
9 licensed entities know that there's a new recordkeeping
10 requirement, and then again, the last time that it's
11 mentioned in each of those two subchapters pertains to the
12 sanctions.

13 So we're letting you know we're going to be
14 asking a new question on the license application, there's
15 a new license requirement, here's what you have to do to
16 be compliant. And then we're letting you know in the
17 sanctions rule where all of the sanctions are currently
18 listed out so you have that at hand, you know, what could
19 I potentially get in trouble for if I have a violation of
20 department rule. And we've added those requirements to
21 that list there.

22 MS. GILLMAN: I know, but I'd still like
23 catalytic converter to be all in one. Just make all the
24 sentences for catalytic converter be in -- it's not too
25 much. So anyway, that's my suggestion.

1 MS. THOMPSON: Thank you for the comment,
2 Member Gillman.

3 MR. BACARISSE: Mr. Avitia.

4 MR. AVITIA: Thank you, Chairman. For the
5 record, Daniel Avitia, executive director.

6 Director Thompson, thank you for the
7 clarification; I was going to say all of that verbatim.

8 (General laughter.)

9 MR. AVITIA: Great clarification.

10 Member Gillman, I just wanted to remind you and
11 the Board, this is just for proposal. The feedback that
12 you are providing today and the feedback that we will
13 receive once we post this information is going to be
14 equally valuable. We need to hear from all dealers out
15 there with regard to what they think about these rules,
16 and that's the plan and that's why we're at proposal right
17 now.

18 MR. BACARISSE: Member Gillman.

19 MS. GILLMAN: Yes. Thank you, Mr. Chairman.

20 MR. BACARISSE: And then Member Graham has a
21 comment after you.

22 MS. GILLMAN: In the next section after
23 sanctions is drive-away operators. What is a drive-away
24 operator?

25 MS. JOHNSTON: A drive-away operator is someone

1 who has an in-transit license, so they transport vehicles
2 to and from auction or from the auction to the dealer or
3 various things. They can do it by driving the car itself
4 under its own mobility or they can do it by transporting
5 with another vehicle, towing vehicle. So they're doing
6 the transportation of cars from one point to another.

7 MS. GILLMAN: Is it sort of related to -- I was
8 mostly worried about -- I'm thinking about dealer trades.

9 I need a vehicle that that dealership has and he has one
10 of mine and so typically you either hire a subcontractor,
11 a driver that does it for a living or you use one of your
12 own employees. Is that a drive-away operator?

13 MS. JOHNSTON: It depends. If you're hiring a
14 company that's licensed, that has an in-transit license
15 and offers that service and they're moving the vehicle
16 using their in-transit plate from one place to another,
17 yes. However, I know most car dealers will hire
18 contractors and they will use their dealer plates to
19 transport the vehicles themselves. So there's different
20 options in that.

21 So there are in-transit companies who offer
22 those services, but it just depends on if you're using
23 your own employees, a contractor, your own dealer plate.
24 But the in-transit companies can move vehicles and they
25 would use their in-transit place to move those vehicles

1 from one point to another.

2 MS. GILLMAN: There is an in-transit plate?

3 MS. JOHNSTON: Yes, there is an in-transit
4 plate, correct.

5 MS. GILLMAN: Okay. So if I hired a company
6 and they don't have -- they would need to apply for their
7 own.

8 MS. JOHNSTON: If they're an in-transit company
9 and they're going to be transporting vehicles as a company
10 that offers that service, they would need to be licensed,
11 yes, and have in-transit plates to do that. If you're
12 hiring a contractor, a person, an independent person, and
13 that's with your business and you're paying them and
14 you're allowing them to transport the vehicle using your
15 dealer plates from one point to another, that's within
16 your business model, and that's not something we would
17 regulate within your own business.

18 MS. GILLMAN: Okay. I'll pause for a moment.

19 MR. BACARISSE: Okay, great.

20 MS. GILLMAN: Thank you.

21 MR. BACARISSE: Member Graham, the chair
22 recognizes Member Graham.

23 MR. GRAHAM: When you're talking about big
24 trucks, the catalytic system is very drastically different
25 than an automobile. In fact, there are technically two

1 catalytic components on a diesel exhaust system. And so I
2 started into this two weeks ago and then I left for
3 vacation last week and then I came back from vacation, and
4 you know how this week went before I got here, so I did
5 not get back to it, but I will dig back into it and see.

6 But I'm just wondering is there any truck folks
7 represented on your advisory committee that's looking at
8 this to try to weed through this?

9 MS. HEALY: I'm not 100 percent certain but I
10 can get that answer for you probably by the end of this
11 meeting.

12 MR. GRAHAM: I'm seeing a nod over here.
13 Because you know, right now, as I recall, it is just the
14 word "catalytic converter" and I'm not sure, as I recall,
15 it required a tracking of a serial number -- is that
16 right, on the converter?

17 MS. THOMPSON: Corrie Thompson, director of the
18 Enforcement Division again.

19 So for the department this is specifically a
20 recordkeeping requirement and if your business currently
21 repairs catalytic converters in the regular course of
22 business, you're likely already compliant with this
23 provision. Because the requirements in Occupations Code
24 2305 are asking that you include in this record that
25 you're maintaining a description made in accordance with

1 the custom of the trade for the volume of catalytic
2 converters sold or transferred, the date of the
3 transaction, and the name of the person to whom the
4 catalytic converters were sold or transferred to.

5 So if you're obtaining those three bits of
6 information for the catalytic converters that are removed
7 from the vehicles that come through your shop, and you're
8 maintaining those records for the two-year requirement
9 that this calls for, then you would be compliant for the
10 department.

11 MR. GRAHAM: Okay. I thought I remembered some
12 number, tracking number, serial number or identification
13 number, something like that, but I don't know where I got
14 that. So that's good because most of them -- a lot of
15 them don't, some do but not all do.

16 All right. Great. Thank you.

17 MS. OMUMU: Mr. Chairman?

18 MR. BACARISSE: Yes, Member Omumu.

19 MS. OMUMU: I would like to make a motion,
20 please.

21 MR. BACARISSE: Absolutely.

22 MS. OMUMU: If there are no further comments or
23 questions by the other Board members.

24 MR. BACARISSE: I think Member Gillman has one
25 more comment, and then the chair will recognize you for a

1 motion. Okay?

2 MS. OMUMU: Thank you.

3 MR. BACARISSE: Yes, ma'am. Thank you. Will
4 you yield, is that all right?

5 MS. OMUMU: Yes, sir.

6 MR. BACARISSE: Okay. Thank you.

7 Go ahead, Member Gillman.

8 MS. GILLMAN: Thank you, Mr. Chairman.

9 I would say in my review of this section prior
10 to this meeting -- which was very helpful -- one of the
11 things that I thought was going to be very burdensome and
12 that is if a customer comes in and wants to test drive
13 four vehicles, the way it's written, I have to get a key,
14 drive a vehicle, go back inside and -- I'm sorry -- get a
15 key, note in the system -- what is the system going to be
16 called?

17 MS. HEALY: Ashley Healy, deputy general
18 counsel.

19 It is called the license plate system within
20 the rules, but we also refer to it as the inventory
21 management system. That is the one that's currently under
22 procurement, so we don't have the exact name of it yet.

23 MS. GILLMAN: The license plate system, I'll
24 say. For four test drives, which happens quite a bit, you
25 have to input the customer's name, go test drive, come

1 back, input the second vehicle, get a second key, go test
2 drive. It's back and forth, back and forth, and it's 100
3 degrees out there and it would be very burdensome.

4 But in my review with these nice folks, they
5 said that there will be mobile use of that inventory
6 license plate system, and I just wanted to say that's
7 essential. I mean, that's pretty much the only thing that
8 seemed reasonable and logical for the flow of business.
9 So I just wanted to say that that would be super important
10 for technology to be able to do that.

11 MR. BACARISSE: Okay. Thank you, Member
12 Gillman.

13 The chair recognizes Member Omumu for a motion.

14 MS. OMUMU: Thank you, Mr. Chairman.

15 I move that the Board approve the proposed
16 amendments, new rules and repeals in 43 Texas
17 Administrative Code, Chapter 215, as recommended by staff
18 for publication in the *Texas Register*, with the addition
19 of an amendment to 215.102(e)(2)(G). I move that the
20 Board strike the current text of 215.102(e)(2)(G) and
21 replace with the following: If applying for a
22 distributor's license, a completed department provided
23 questionnaire, signed by the applicant and the
24 manufacturer as true and complete, an authorized
25 representative for the manufacturer may sign the

1 questionnaire. The questionnaire shall contain the
2 following information: the legal business name of each
3 party, authorized signature of each party, distribution
4 territory, physical location, mailing address and email
5 address of each party, and motor vehicle lines, makes and
6 vehicle types included in the agreement.

7 I also move that the Board grant the department
8 the authority to make changes to the preamble and text of
9 the proposed Chapter 215 revisions that are approved by
10 the department's general counsel as necessary for
11 compliance with the state or federal law or for acceptance
12 by the Secretary of State for filing and publication in
13 the *Texas Register*. In addition, I move that the Board
14 grant the department the authority to make changes to the
15 preamble and text of the proposed Chapter 215 revisions
16 based on the non-substantive corrections made by the *Texas*
17 *Register*.

18 Thank you.

19 MR. BACARISSE: Thank you, Member Omumu.

20 Is there a second to the motion? I need a
21 second to the motion.

22 MR. GRAHAM: Second.

23 MR. BACARISSE: Member Graham seconds.

24 Now is there any public comment?

25 MS. MORIATY: No, sir, there's no public

1 comment on this item, but I'm afraid I need to speak to
2 the amendment Member Omumu suggested.

3 MR. BACARISSE: All right.

4 MS. MORIATY: So you all may remember that this
5 questionnaire and this obligation on the part of
6 distributors when they're applying for a license came up
7 at our rule review that y'all adopted and you adopted this
8 questionnaire at the last meeting. The changes that
9 Member Omumu is suggesting are going to put us in
10 violation of Texas Occupations Code 2301.260 because,
11 again, you will recall that statute requires that we have
12 specifically the terms of the contract under which the
13 distributor will act for the manufacturer.

14 And in her amendments here she has removed two,
15 at least, key terms which are the terms under which they
16 will handle warranty work and the ways that they will deal
17 with franchised dealer responsibilities. We believe that
18 because those are areas that the DMV regulates that those
19 are terms of the contract that we really, really need to
20 include.

21 The legislature said all of them and we have
22 limited it, frankly, to some. We're no longer asking for
23 the whole agreement. We have this questionnaire, but we
24 do, we believe, need to know about how they're dealing
25 with franchised dealers, if they're dealing with

1 franchised dealers, and how they're going to deal with
2 warranty issues in order to uphold our regulatory
3 responsibilities.

4 If you would like to go into closed session to
5 discuss the ramifications of that further, I'm happy to,
6 but I want to make sure that we're all clear that this is
7 the same conversation we had last meeting. It's the same
8 statute that requires us to have all the terms of the
9 contract, and we're missing some key ones.

10 I would also add that we have been working hard
11 with Gulf States Toyota's representatives on the
12 distributor questionnaire to try to make sure that the
13 specific questions we're asking and the way we're asking
14 them are as amenable to their needs as possible so that
15 we're not asking questions that have gotchas that they
16 feel like are going to require them to disclose
17 confidential information. So we're working hard with them
18 to try to angle it in that area.

19 So anyway, if we want to discuss a lot further
20 on our legal concerns, I'm happy to go into closed
21 session.

22 MR. BACARISSE: Member Gillman, do you still
23 have a question --

24 MS. GILLMAN: I have a --

25 MR. BACARISSE: -- or a comment on this

1 motion? We're actually now considering a motion.

2 MS. GILLMAN: No, sir.

3 MR. BACARISSE: Okay. Member Prewitt.

4 MR. PREWITT: Just a point of information for
5 general counsel. So by being in opposition to an existing
6 state statute, to even talk about it we have to go into
7 closed session, or can I ask a question?

8 MS. MORIATY: Sure, we can ask a question.

9 MR. PREWITT: So the question is why are we --
10 so is your motion, Member Omumu, generated by Gulf States
11 or is it generated by general counsel?

12 MS. MORIATY: So I drafted the motion for
13 Member Omumu, but she can speak to her motion.

14 MR. PREWITT: So the question is for you,
15 General Counsel. So if we're in opposition of Texas
16 Occupations Code 2301.260, by definition should we deny
17 the motion based upon that because we're going against
18 state law?

19 MS. MORIATY: The Board has discretion to do
20 what it wants, but general counsel would definitely advise
21 that we deny this motion. Yes, I'm concerned that I may
22 not even be able to certify this rule because we're
23 missing key elements of the terms of the contract between
24 distributor and manufacturer.

25 MR. PREWITT: Very good. That's what I need to

1 know. Thank you.

2 MR. BACARISSE: Okay. We have a motion and a
3 second on the floor. Is there any further question on
4 this motion, members?

5 Member Gillman.

6 MS. GILLMAN: I'd like to ask Sharla Omumu.

7 MR. BACARISSE: Well, you can't have a question
8 to another member, I don't think.

9 Is that possible, Counsel?

10 MS. MORIATY: Well, perhaps the chair could ask
11 Member Omumu to discuss her motion.

12 MR. BACARISSE: Okay, sure.

13 Member Omumu, I want to give you the floor to
14 walk us through or explain your motion, if you'd like.

15 MS. OMUMU: Sure. Just on behalf of all
16 distributors and manufacturers, I believe there is just
17 proprietary information that shouldn't be available to the
18 DMV. The information that is requested, I think is ample
19 for the DMV and it's ample for what is -- the information
20 that the DMV is requesting is suffice for all distributors
21 and manufacturers as stated in the motion and in the
22 application. The additional information that's requested
23 is proprietary and should be between the manufacturer and
24 distributor only, as it has been historically.

25 MR. BACARISSE: Okay.

1 Counsel, could you point out, just again for my
2 remediation, the areas where what Member Omumu is
3 discussing, where the actual rub is?

4 MS. MORIATY: Right. Let's look at the text,
5 on page 45 of the supplement or page 207 of the original
6 Board book, if we go there, it's subsection (G) there
7 you'll see.

8 MS. GILLMAN: You said what page?

9 MS. MORIATY: I'm sorry.

10 MS. GILLMAN: Of the original proposed.

11 MS. MORIATY: The original is 207, the
12 supplement is 45.

13 MS. GILLMAN: 207, hold on.

14 MR. BACARISSE: That's page 207 in the original
15 Board book. Is that correct?

16 MS. MORIATY: Right, 207 of the original Board
17 book, page 45 of the supplement.

18 MR. BACARISSE: Are we there?

19 MS. MORIATY: I can start narrating what the
20 changes are.

21 MR. BACARISSE: Sure.

22 MS. MORIATY: Member Omumu's motion would
23 strike subsection (G)(i)(IV), the distribution agreement
24 effective date and end date or written confirmation from
25 the distributor or manufacturer that the distribution

1 agreement is expected to be in effect for the entire
2 license period. And she would also strike subsection
3 (VI), distributor responsibilities under the agreement
4 related to warranty matters under Occupations Code 2301
5 and franchised dealer matters under Occupations Code 2301,
6 Subchapter H, Subchapter I, Subchapter J and Subchapter K.
7 And then she's also striking (VII), the party or person
8 responsible for providing warranty services.

9 MR. BACARISSE: And I just have a question.

10 MS. GILLMAN: I don't understand that.

11 MR. BACARISSE: The chair has a question. If
12 these sections have been added, is that because of the
13 statute demanded that they be added?

14 MS. MORIATY: Right. When last we spoke, this
15 was part of our rule review. And we were adding these
16 provisions in order to comply with the statute because we
17 felt that previously we had not enumerated the terms, that
18 we needed to gather all of the terms of the contract that
19 were relevant to the DMV's work.

20 So our rule review caused us to implement these
21 changes at your last meeting. So we're just revisiting
22 that issue that the rule review brought up in order to
23 comply with the statute.

24 MR. BACARISSE: Member Prewitt.

25 MR. PREWITT: So point of information. So

1 we're complying with the statute by virtue of adding these
2 items but at the same time, we're in opposition to
3 Occupations Code 2301.260 because of other things we added
4 or we omitted?

5 MS. MORIATY: So currently you're fine under
6 your current wording, right? Member Omumu, her motion
7 would strike three provisions that are currently in your
8 language.

9 MR. PREWITT: Gotcha.

10 MS. MORIATY: That you just adopted at the rule
11 review of 215.

12 MR. PREWITT: Right. Okay. Thank you.

13 MR. BACARISSE: Member Graham.

14 MR. GRAHAM: And just for clarification on
15 (VII), party or person responsible for providing warranty
16 services, that being struck -- and this is strictly for a
17 distributor's license?

18 MS. MORIATY: Right.

19 MS. GILLMAN: I'm so sorry. Will you tell me
20 what line are you on? Can you help me?

21 MS. MORIATY: Well, in the original Board book
22 we're on 21 and 22.

23 MS. GILLMAN: Page?

24 MR. GRAHAM: Page 207, line 21 is what I'm
25 looking at.

1 MS. GILLMAN: Ashley, can you come help me find
2 it?

3 MR. GRAHAM: My quick question: is this for
4 manufacturers and distributors?

5 MS. MORIATY: It's only distributors. We're
6 just trying to get the terms under which the manufacturer
7 and distributor have agreed to deal with warranty issues,
8 should they come up.

9 MR. GRAHAM: And are distributors authorized to
10 make warranty repairs?

11 MS. MORIATY: No, and that's one of our key
12 issues. We want to make sure that they're working with
13 franchised dealers and that that is what they're doing.

14 MR. GRAHAM: So what would go in that line
15 would be who --

16 MS. MORIATY: Hopefully that line is going to
17 be populated with a description of the franchised dealer
18 network that you will be working through. This is another
19 example of the times when we're asking for information in
20 order to catch people who are potentially doing the wrong
21 thing.

22 MR. GRAHAM: That's right.

23 MS. OMUMU: And, Mr. Chairman, I wish I were
24 there so I could speak to general counsel specifically.

25 MR. BACARISSE: Do we need to take a little

1 break here?

2 MS. MORIATY: We could definitely take a break
3 and I can call Member Omumu.

4 MR. BACARISSE: Okay. So let's do that.

5 Let me just read something here as we go into
6 closed session. We're going to go into a closed session.
7 It is now 10:36.

8 MS. MORIATY: Wait. Are we taking a break or
9 are we going into closed session?

10 MR. BACARISSE: Okay. Well, I guess we just
11 need to take a break.

12 MS. MORIATY: If we take a break and I call
13 Member Omumu, we can do that.

14 MR. BACARISSE: Okay. We don't actually need
15 to do that. Okay, great. So we'll just take a recess
16 here for a few moments and we'll be back shortly. It is
17 now 10:36 a.m. and we are in recess.

18 (Whereupon, a brief recess was taken.)

19 MR. BACARISSE: Good morning again. It is now
20 10:49 a.m., and the Board of the Texas DMV is reconvening
21 in open session; we never really went away from that, we
22 just took a break.

23 So with that clarification, I believe that I
24 could hand it over to Ms. Moriaty.

25 MS. MORIATY: Well, actually, Chairman, I'll

1 hand it right back to you. Let's check with Member Omumu
2 and see if she has clarification of her motion.

3 MR. BACARISSE: Right. Member Omumu, can you
4 hear us, are we good?

5 MS. OMUMU: Yes, I can hear you, you are good?

6 MR. BACARISSE: Yes, ma'am, and we hear you
7 well here too.

8 We left off with your motion on the table with
9 a second, so do you have any additional comments or issues
10 there?

11 MS. OMUMU: Yes. So I'd like to strike the
12 motion and come back with a different motion, if possible,
13 Mr. Chairman.

14 MR. BACARISSE: Okay. So you want to withdraw
15 the motion that's on the table and you're going to
16 substitute it with another motion. Is that correct?

17 MS. OMUMU: Yes. Now, I'm not extremely
18 comfortable with this and I've explained that to General
19 Counsel that, you know, a lot of conversation has been had
20 around Chapter 215, as you can see by Member Brett Graham
21 and Member Gillman. And we're going to have to come back
22 and revisit in December to clean this up, but I know that
23 we need to move forward so I'm going to go ahead and make
24 another motion.

25 MR. BACARISSE: Okay. The chair recognizes you

1 for that purpose.

2 MS. OMUMU: Thank you, Mr. Chairman.

3 I move that the Board approve the proposed
4 amendments, new rules and repeals in 43 Texas
5 Administrative Code, Chapter 215, as recommended by staff,
6 for publication in the *Texas Register*. I also move that
7 the Board grant the department the authority to make
8 changes to the preamble and text of the proposed Chapter
9 215 revisions that are approved by the department's
10 general counsel as necessary for compliance with state or
11 federal law or for acceptance by the Secretary of State
12 for filing and publication in the *Texas Register*. In
13 addition, I move that the Board grant the department the
14 authority to make changes to the preamble and text of the
15 proposed Chapter 215 revisions based on the non-
16 substantive corrections made by the *Texas Register*.

17 MR. BACARISSE: And is there a second for that
18 motion?

19 MS. McRAE: I second.

20 MR. BACARISSE: Member McRae seconds.

21 Let me just make some notes here.

22 MS. GILLMAN: I'd just have a question.

23 MR. BACARISSE: Yeah, sure, one second, hold
24 on.

25 Sure, Member Gillman, you have a question.

1 MS. GILLMAN: I'm a little confused. Is what
2 just happened -- did Member Omumu withdraw her motion and
3 revert back to adoption in full?

4 MS. OMUMU: That is correct, Member Gillman.

5 MS. JOHNSTON: I'd like to clarify, this is not
6 adoption, it's a proposal.

7 MR. BACARISSE: It's a proposal.

8 MS. OMUMU: Proposal, correct.

9 MS. GILLMAN: I would like to make a friendly
10 amendment to the proposal.

11 MS. OMUMU: Member Omumu, would you entertain a
12 friendly amendment? Or you should hear the amendment and
13 then you can decide whether or not you want to accept it
14 or not. Okay?

15 MS. OMUMU: Yes, I'd like to hear it.

16 MR. BACARISSE: Sure.

17 MS. GILLMAN: Hold on, I've lost my motion.

18 Thank you.

19 To remind you, this is simply relating to what
20 I was talking about earlier and it's just language
21 cleanup, that's all.

22 Regarding agenda item 9, I move that the Board
23 approve the proposed amendments, new rules and repeals in
24 43 Texas Administrative Code, Chapter 215, as recommended
25 by staff, with the addition of the following language in

1 proposed 215.154: a person holding a dealer license on
2 July 1, '25, is eligible to receive the following maximum
3 number of dealer temporary license plates, and the number
4 designated for that license type in Subsection (B) and the
5 number designated in Subsection (E) based on vehicle sales
6 in the last 12 months. With this addition of new
7 Subsection (C), I move that the Board renumber the
8 following subsections of proposed new 215.154 to
9 accommodate this new subsection.

10 I also move that the Board grant the department
11 the authority to make changes to the preamble and text of
12 the proposed Chapter 215 revisions that are approved by
13 the department's general counsel as necessary for
14 compliance with state or federal law and for acceptance by
15 the Secretary of State for filing and publication in the
16 *Texas Register*. In addition, I move that the Board grant
17 the department the authority to make changes to the
18 preamble and text of the proposed Chapter 215 revisions
19 based on non-substantive corrections made by the *Texas*
20 *Register*.

21 MR. BACARISSE: Member Omumu, do you accept
22 that friendly amendment?

23 MS. OMUMU: I accept it, Mr. Chairman.

24 MR. BACARISSE: Okay, very good.

25 So we now have a motion with an accepted

1 friendly amendment, and there's been a second. Are there
2 any other questions on the motion as amended?

3 (No response.)

4 MR. BACARISSE: Hearing none, the chair would
5 call for the vote.

6 Member Alvarado?

7 MR. ALVARADO: Aye.

8 MR. BACARISSE: Member Gillman?

9 MS. GILLMAN: Aye.

10 MR. BACARISSE: Member Graham?

11 MR. GRAHAM: Aye.

12 MR. BACARISSE: Vice Chair McRae?

13 MS. McRAE: Aye.

14 MR. BACARISSE: Member Omumu?

15 MS. OMUMU: Aye.

16 MR. BACARISSE: Member Prewitt?

17 MR. PREWITT: Aye.

18 MR. BACARISSE: Member Schlosser?

19 MR. SCHLOSSER: Aye.

20 MS. MORIATY: Mr. Chairman, did we have a
21 second on that?

22 MR. BACARISSE: Yes, we did, Member McRae
23 seconded.

24 MS. MORIATY: Member McRae. Thank you so much
25 for the clarification.

1 MR. BACARISSE: And I, Chair Bacarisse, vote
2 aye as well, so that's unanimous. Your substitute motion
3 has passed, Member Omumu, as amended. Thank you.

4 Okay, that was fun. I'm just trying to find my
5 agenda somewhere. Pardon me while I find my agenda.

6 Okay. So now we move to agenda item number 10,
7 and for that purpose we have Annette -- Corrie, are you
8 still crating things? Annette is going to speak?

9 Okay. Go ahead, Ms. Quintero.

10 MS. QUINTERO: Good morning, Chairman
11 Bacarisse, members, and Executive Director Avitia. For
12 the record, I am Annette Quintero, director of Vehicle
13 Titles and Registration.

14 I am presenting agenda item 10 which starts on
15 page 205 of your Board books. This is an action item for
16 the Board to approve proposed amendments to Chapter 217
17 for public comment. The proposed amendments are needed to
18 implement House Bill 718 and House Bill 3297, and as part
19 of the required rule review of Chapter 217.

20 You will see non-substantive changes throughout
21 as part of the rule review that include removal of
22 definitions not used without the chapter, cleanup of
23 references to statutory definitions, removal of reference
24 to information that is redundant or already clear in
25 statute, or alignment of rule to statute that do not

1 result in any procedural changes.

2 I will cover the substantive changes of the
3 rule review and those necessary to implement House Bill
4 718 and House Bill 3297.

5 As it relates to House Bill 3297 and the
6 elimination of the state safety inspection, Subchapter A
7 was amended under 217.4, Initial Application for Title,
8 which can be found on page 366 of your Board books.

9 Currently, vehicles last registered or titled
10 out of state or the country are required to have a vehicle
11 identification number verification through means of a
12 physical vehicle inspection report resulting from an
13 inspection under Chapter 548. This change will remove the
14 requirement for a physical vehicle inspection report and
15 allow electronic verification of the inspection for
16 applicants subject to an emissions inspection and self-
17 certification of the VIN for those applicants no longer
18 subject to an inspection.

19 Amendments to 217.8, Secondhand Vehicle
20 Transfers, which can be found on page 382 of your Board
21 books, include the requirement for licensed motor vehicle
22 dealers to submit a vehicle transfer notification to the
23 department when a vehicle is sold or traded to the dealer.

24 Currently, a dealer has the option to submit a vehicle
25 transfer notification on the customer's behalf, however,

1 House Bill 718 requires dealers to submit the vehicle
2 transfer notification when they take a vehicle in through
3 retail sale or a whole sale transaction.

4 Amendments to 217.9, Bonded Titles, which can
5 be found on page 383 of your Board books, removes the
6 ability for a surety bond company to certify a lien has
7 been satisfied when a lien less than ten years old exists
8 on the Texas vehicle record at the time of a bond
9 application. Currently, when a title applicant does not
10 have proper ownership evidence and applies to the
11 department for a bonded title, the regional service center
12 verifies whether there is a current Texas record and
13 whether that record has a lien that is less than ten years
14 old. If there is a Texas record and lien less than ten
15 years old but the applicant does not have a release of
16 lien, the surety bond company is able to certify lien
17 satisfaction when the applicant obtains a surety bond.

18 During the rule review, it was determined
19 statute did not authorize a surety bond company to certify
20 lien satisfaction. As a result, applicants that cannot
21 provide lien satisfaction from the lien holder will be
22 required to obtain title through a court order that awards
23 them ownership.

24 Amendments to Section 217.40, Special
25 Registrations, which can be found on page 415 of your

1 Board books, removed motorcycles from the list of vehicles
2 eligible for a 30-day license plate pursuant to
3 Transportation Code Section 502.095, which explicitly
4 identifies eligible vehicle types. Currently, the
5 department issues 30-day temporary permits to motorcycles.

6 Amendments to 217.274, webDEALER Access, Use
7 and Training, which can be found on page 500 of your Board
8 books and supplemental materials, allows the department to
9 provide dealers access to webDEALER for any licensed
10 dealer that has not obtained access from a county tax
11 assessor-collector as of April 30, 2025. This amendment
12 will allow the department to associate a dealer to the
13 county where the dealer is located in order for the dealer
14 to submit title transactions to the county by the
15 statutory deadline of July 1, 2025, as a result of House
16 Bill 718.

17 Currently, each dealer is required to work
18 directly with the county tax assessor-collector they wish
19 to submit title transactions to begin using webDEALER.
20 This amendment will not prevent dealers from working
21 directly with the county but will allow the department to
22 assist and ensure every dealer has access to submit title
23 transactions as of July 1, 2025.

24 In addition, amendments include mandatory
25 webDEALER training for all licensed dealers and their

1 staff that will use webDEALER. Training will not be
2 required for dealers that have been actively using
3 webDEALER as of October 1, 2024, and have submitted at
4 least 100 transactions. The training is required for new
5 licensees or dealers that are new to webDEALER.

6 The department has been providing virtual
7 training as part of our training efforts and tracking
8 dealer attendance. Dealers and their staff that require
9 access to webDEALER will be required to take the training
10 to gain access to the system.

11 The department has taken a very active role in
12 ensuring dealers and county staff are prepared to submit
13 transactions in webDEALER by July 1, 2025. In four
14 months, we have conducted almost 30 trainings and have ten
15 trainings scheduled in the upcoming months.

16 Amendments to 217.83, Requirements for Non-
17 Repairable or Salvage Vehicle Title, which can be found on
18 page 511 of your Board books, require insurance companies
19 to utilize webDEALER when reporting to the department they
20 paid a claim on a salvage or a non-repairable vehicle that
21 the owner retained. Currently, insurance companies are
22 required to report this information to the department
23 within 30 days after the claim was paid which can be done
24 either through a paper application or through use of
25 webSALVAGE.

1 This amendment will require use of the system
2 to report this information in lieu of submitting a paper
3 application. This is a benefit to the department and
4 insurance companies in that it is a cost savings for
5 insurance companies since they will not incur mailing
6 costs, it streamlines submission and processing, and cuts
7 down on the turnaround time.

8 Amendments to 217.84, Application for Non-
9 Repairable or Salvage Vehicle Title, which can be found on
10 page of your Board books, requires salvage or non-
11 repairable applicants to disclose the major component
12 parts that were damaged and an indication of whether those
13 parts can be repaired or must be replaced.

14 Currently, applicants, such as insurance
15 companies that assess damage, are not required to inform
16 the department of the damage to the major component parts,
17 such as the frame, fender or hood, and the extent of the
18 damage to those parts. As part of the department's fraud
19 initiative, this amendment assists the department in
20 tracking the damage to the component parts that are
21 reported at time of salvage or non-repairable title
22 application. Tracking the repair to these component parts
23 can assist the department in the verification and
24 comparison of those damaged parts at the time of
25 application when the salvage vehicle has been rebuilt.

1 The goal is to reduce rebuilt vehicle fraud and vehicle
2 and parts theft.

3 Amendments to 271.86, Dismantling, Scrapping or
4 Destruction of Motor Vehicles, which can be found on page
5 522 of your Board books, require the owner of a vehicle
6 who transfers the vehicle to a metal recycler for purposes
7 of dismantling, scrapping or destroying to provide the
8 metal recycler a copy of the receipt received from the
9 department that evidences the owner surrendered the
10 ownership evidence to the department.

11 Currently, a dealer or used auto parts recycler
12 is required to submit the ownership evidence and a
13 department form to the regional service center for all
14 vehicles acquired for the purposes of dismantling,
15 scrapping and destroying. A copy of the form is returned
16 to the entity as a receipt for their records when the
17 vehicle is transferred to a metal recycler for final
18 destruction. There is no requirement for an entity to
19 provide proof to the metal recycler that the ownership
20 evidence was properly surrendered to the department. This
21 amendment will ensure salvage entities are following
22 statutory reporting requirements and proper vehicles are
23 being destroyed.

24 Amendments to 217.89, Rebuilt Salvage Motor
25 Vehicles, which can be found on page 530 of your Board

1 books, removes the requirement for the owner of a salvage
2 vehicle that has since been rebuilt to obtain a safety
3 inspection prior to the issuance of registration for the
4 vehicle. Currently, a safety inspection is required for
5 any salvage vehicle that as repaired prior to operation on
6 the road, however, the requirement was removed as a result
7 of HB 3297 and the elimination of the safety inspection.
8 Owners will continue to certify the repairs made on the
9 department's form.

10 Amendments to 217.123, Access to Motor Vehicle
11 Records, which can be found on page 530 of your Board
12 books, require a requester who intends to release motor
13 vehicle record information to third parties to provide:
14 one, copies of any agreements with a third party, and two,
15 any other information the requester provides to a third
16 party related to the release of motor vehicle records to
17 ensure the requester is in compliance with statute,
18 including important limitations on how the motor vehicle
19 information may be used by the third party.

20 Amendment to 217.124, Cost of Motor Vehicle
21 Records, which can be found on page 554 of your Board
22 books, exempts federal government entities from the
23 payment of fees for certain motor vehicle records.

24 Amendment to 217.125, Additional Documentation
25 Related to Certain Permitted Uses, which can be found on

1 page 546 of your Board books, requires that a requester
2 who is seeking to access motor vehicle records, using the
3 statutorily permitted use related to research or the
4 production of statistical reports, must be employed by an
5 entity who is in the business of conducting research and
6 must also prove the employment relationship. This
7 amendment narrows the scope of requesters who would
8 qualify to access motor vehicle records, using the
9 statutorily permitted use.

10 Amendments to 217.144, Identification Number
11 Inspection, which can be found on page 552 of your Board
12 books, clarifies that a vehicle identification number
13 inspection conducted by law enforcement is required to
14 identify the vehicle's year and make of the original
15 manufacturer for the vehicle to be issued title or
16 registration. In addition, a vehicle determined to be a
17 manufactured vehicle cannot be identified as a homemade or
18 assembled when positive identification of the year and
19 make cannot be made.

20 This amendment supports proper identification
21 of a vehicle by law enforcement when statutorily required
22 and allows the department to meet the statutory
23 requirements for issuance of title and identification of
24 a vehicle in department systems.

25 217.166, Dealer Deputies, which can be found on

1 page 554 of your Board books, allows a county tax
2 assessor-collector to set a maximum number of outstanding
3 webDEALER title applications a dealer deputy can have at a
4 given time based on the dealer deputy's bond amount.

5 Currently, webDEALER allows a county to limit
6 the number of title transactions any dealer can have
7 outstanding up to 5,000. As transactions are approved by
8 the county tax assessor-collector, the dealer is able to
9 submit an equal amount of transactions. This amendment is
10 intended to ensure all dealers can adequately submit title
11 transactions to the county tax office with the requirement
12 for dealers to use webDEALER in House Bill 718.

13 Amendments to 217.168, Deputy Fee Amounts,
14 which can be found on page 557 of your Board books,
15 requires a full-service deputy to set their title
16 convenience fee within the Registration and Title System
17 so the fee can be assessed within webDEALER. Full-service
18 deputies are allowed to assess a title convenience fee of
19 up to \$20 for each title transaction they process in
20 accordance with Rule 217.166.

21 They may be given authority by the county tax
22 assessor-collector to review and approve webDEALER
23 transactions on the county's behalf but webDEALER does not
24 currently facilitate collection of the full-service
25 deputy's compensation. Requiring the fee to be set in the

1 Registration and Title System will streamline programming
2 to facilitate webDEALER assessing the fee. This change is
3 necessary to implement House Bill 718 in counties with
4 full-service deputies.

5 Amendments to 217.185, Allocation of Processing
6 and Handling Fee, which can be found on page 562 of your
7 Board books, changed the portion of the processing and
8 handling fee retained by the processing entity in
9 connection with temporary registration.

10 Currently, the processing entity retains 100
11 percent of the fee which is not consistent with statute.
12 The amendments bring the rule into alignment with statute
13 by specifying that \$4.25 may be retained and the remaining
14 must be remitted to the department.

15 This concludes my remarks on this action item.

16 I am available to take any questions.

17 MS. MORIATY: Mr. Chairman, if I may?

18 MR. BACARISSE: Yes, Ms. Moriaty.

19 MS. MORIATY: I just wanted to point out for
20 everybody that Ms. Quintero was referring to your Board
21 book numbers, but there are actually supplemental
22 materials for this that are really the operative materials
23 showing staff's recommendations. So while the text
24 appears in both and the only difference is some
25 underlining showing what is changing, please note that the

1 supplement is the operative one.

2 MR. BACARISSE: Great. Thank you.

3 MS. MORIATY: Thank you.

4 MR. BACARISSE: Thank you, Ms. Quintero, for
5 that overview.

6 Members, any questions of Ms. Quintero on this
7 agenda item 10?

8 (No response.)

9 MR. BACARISSE: Seeing none, I would ask if
10 there any public comments on agenda item 10, Laura.

11 MS. MORIATY: No, sir, no public comments.

12 MR. BACARISSE: Okay. Thank you.

13 If there are no questions and no public
14 comments, the chair would entertain a motion on agenda
15 item 10.

16 MR. ALVARADO: I'd like to make a motion, Mr.
17 Chair.

18 MR. BACARISSE: Member Alvarado.

19 MR. ALVARADO: I move that the Board approve
20 the proposed amendments, new rule and repeal in 43 Texas
21 Administrative Code, Chapter 217, as recommended by staff,
22 for publication in the *Texas Register*. I also move that
23 the Board grant the department the authority to make
24 changes to the preamble and text of the proposed Chapter
25 217 revisions that are approved by the department's

1 general counsel as necessary for compliance with state or
2 federal law or for acceptance by the Secretary of State
3 for filing and publication in the *Texas Register*. In
4 addition, I move that the Board grant the department the
5 authority to make changes to the preamble and text of the
6 proposed Chapter 217 revisions based on non-substantive
7 corrections made by the *Texas Register*.

8 MR. BACARISSE: Thank you, Member Alvarado.

9 Is there a second to this motion?

10 MR. SCHLOSSER: Member Schlosser. I'll second.

11 MR. BACARISSE: Thank you, sir. Second by
12 Member Schlosser.

13 Any further discussion, members?

14 (No response.)

15 MR. BACARISSE: If not, I will call the vote,
16 please.

17 Member Alvarado?

18 MR. ALVARADO: Aye.

19 MR. BACARISSE: Member Gillman?

20 MS. GILLMAN: Aye.

21 MR. BACARISSE: Member Graham?

22 MR. GRAHAM: Aye.

23 MR. BACARISSE: Member McRae?

24 MS. McRAE: Aye.

25 MR. BACARISSE: Member Omumu?

1 MS. OMUMU: Aye.

2 MR. BACARISSE: Member Prewitt?

3 MR. PREWITT: Aye.

4 MR. BACARISSE: Member Schlosser?

5 MR. SCHLOSSER: Aye.

6 MR. BACARISSE: And I, Chair Bacarisse, vote
7 aye as well. It's unanimous. Thank you.

8 Let's move to agenda item number 11, please, if
9 we may, and Corrie is crating this.

10 MS. THOMPSON: Yes. Good morning -- is it
11 still morning hours?

12 MR. BACARISSE: It is.

13 MS. THOMPSON: Chairman, Vice Chair McRae,
14 members of the Board, Director Avitia. Corrie Thompson,
15 director of the Enforcement Division.

16 I'm presenting agenda item 11 for you today,
17 which begins on page 571 in your Board book. And before
18 you is a recommendation to approve the publishing of
19 proposed amendments to 43 Texas Admin Code, Chapter 221.54
20 in the *Texas Register* for public comment. This change is
21 being proposed in support of House Bill 718 implementation
22 from the 88th Legislative Session.

23 Proposed amendments would add to an existing
24 list of items that's currently used by Enforcement
25 investigative staff in order to prioritize site visits.

1 Specifically, these amendments would add to the list of
2 criteria that we're going to consider in determining
3 whether or not we conduct a site visit to a salvage
4 dealer's license in connection with an investigation.

5 We are adding provisions that state we would
6 conduct a site inspection in connection with an
7 investigation if a dealer has failed to remove, timely
8 report or has failed to scrap or destroy license plates or
9 registration insignia from a scrapped or destroyed
10 vehicle. These amendments will allow us to prioritize
11 potential license plate related misuse or fraud consistent
12 with the department's responsibilities under house Bill
13 718.

14 There's no financial impact associated with the
15 proposal, and I would ask that the Board approve
16 publication of this amendment in the *Texas Register* that
17 will allow us to receive public comment.

18 MR. BACARISSE: Thank you, Ms. Thompson.

19 Laura, are there any public comments on this
20 agenda item?

21 MS. MORIATY: No, sir, no public comments.

22 MR. BACARISSE: Okay. Thank you.

23 Members, any questions of Ms. Thompson on this
24 agenda item?

25 (No response.)

1 MR. BACARISSE: Seeing none, the chair would
2 entertain a motion on agenda item 11.

3 MR. SCHLOSSER: Member Schlosser. I'd like to
4 make a motion.

5 MR. BACARISSE: Yes, sir.

6 MR. SCHLOSSER: I move that the Board approve
7 the proposed amendments to 43 Texas Administrative Code,
8 Chapter 221, Section 221.54, as recommended by staff, for
9 publication in the *Texas Register*. I also move that the
10 Board grant the department the authority to make changes
11 to the preamble and text of the proposed section 221.54
12 amendments so that they are approved by the department's
13 general counsel as necessary for compliance with state or
14 federal law or for acceptance by the Secretary of State
15 for filing and publication in the *Texas Register*. In
16 addition, I move that the Board grant the department the
17 authority to make changes to the preamble and text of the
18 proposed section 221.54 amendments based on non-
19 substantive corrections made by the *Texas Register*.

20 MR. BACARISSE: Thank you, Member Schlosser.

21 Is there a second to this motion?

22 MS. OMUMU: I second.

23 MR. BACARISSE: Member Omumu, thank you.

24 So we have a motion and a second. Is there any
25 further discussion on agenda item 11?

1 (No response.)

2 MR. BACARISSE: Hearing none, the chair will
3 call the roll.

4 Member Alvarado?

5 MR. ALVARADO: Aye.

6 MR. BACARISSE: Member Gillman?

7 MS. GILLMAN: Aye.

8 MR. BACARISSE: Member Graham?

9 MR. GRAHAM: Aye.

10 MR. BACARISSE: Vice Chair McRae?

11 MS. McRAE: Aye.

12 MR. BACARISSE: Member Omumu?

13 MS. OMUMU: Aye.

14 MR. BACARISSE: Member Prewitt?

15 MR. PREWITT: Aye.

16 MR. BACARISSE: Member Schlosser?

17 MR. SCHLOSSER: Aye.

18 MR. BACARISSE: And I, Chair Bacarisse, vote
19 aye as well. It's unanimous. Thank you.

20 So we move to agenda item 12, and Corrie.

21 MS. THOMPSON: Yes. Thank you, Chair. You're
22 with me for one more. Corrie Thompson again, director of
23 the Enforcement Division, presenting agenda item 12 for
24 you, which begins on page 577 in your Board book.

25 Now before you is a recommendation to approve

1 the publishing of proposed amendments to 43 Texas
2 Administrative Code, Chapter 224.58 in the *Texas Register*
3 for public comment. These proposed amendments concerning
4 denial of access to the license plate system are necessary
5 to implement House Bill 718 from the 88th Legislative
6 Session.

7 Effective July 1, 2025, Transportation Code
8 503.0633 requires that the department monitor the number
9 of license plates obtained by a dealer and also to deny
10 access to the license plate system if the department
11 determines a dealer is acting fraudulently. Proposed
12 amendments to the title of 224.58 delete "or converter"
13 from the title and add "license plate system" to recognize
14 that under House Bill 718, the purpose of the database
15 will change from tracking and issuing of temporary tags
16 over to the tracking and issuing of license plates
17 effective July 1, 2025. So you'll see in the proposed
18 amendments that we're substituting "license plates" for
19 the existing language that speaks to temporary tags
20 throughout the rule language and we are deleting
21 references to converters.

22 Amendments also delete statutory references
23 that are going to no longer be in existence following that
24 effective date, like 503.0626 regarding the tag database,
25 and they add reference to 503.063 and 503.065 which speak

1 to buyer license plates and out-of-state temporary plates.
2 The provisions authorize the dealer to issue a buyer's
3 license plate or set of license plates to the purchaser of
4 a motor vehicle in Texas under certain circumstances and
5 to issue a buyer's temporary license plate to an out-of-
6 state buyer.

7 The proposed amendments also adds "or issue" to
8 clarify that a dealer misuses the license plate system by
9 fraudulently obtaining or issuing a license plate from the
10 system. The proposed amendment defines license plate
11 system misuse also to include -- so adding to a list of
12 items that we currently use in order to consider whether
13 we're going to deny a dealer access to the license plate
14 database, we are adding another provision that addresses
15 dealers who have placed vehicles that are not permitted to
16 be driven on a public road. So this would cover non-
17 repairable vehicles or salvage vehicles that should not be
18 present on public roads.

19 There's no significant financial impact
20 associated with the proposal, and I would ask the Board to
21 approve publication of these proposed amendments in the
22 *Texas Register* so that we can obtain public comment.

23 MR. BACARISSE: Thank you, Ms. Thompson.

24 Laura, any public comments on this item?

25 MS. MORIATY: No, sir, no public comments.

1 MR. BACARISSE: Okay. The chair would
2 entertain a motion on agenda item 12. Member Graham.

3 MR. GRAHAM: Actually, I don't have that, I
4 just wanted to ask before we had a motion.

5 MR. BACARISSE: Sure.

6 MR. GRAHAM: I haven't heard any -- if there
7 were stakeholders who have provided input specifically on
8 any of these, would we be talking about those or would we
9 have to request that?

10 MS. MORIATY: So we're at proposal right now,
11 Mr. Graham. So we've received stakeholder feedback from
12 the advisory committees that Ms. Healy described at the
13 beginning and it didn't cover any of the provisions we're
14 talking about in 224, and we haven't -- beyond that, we're
15 not yet at the stage where we receive official comment;
16 that's coming once we propose it.

17 MR. GRAHAM: So it's just advisory committees
18 right now. Okay.

19 MR. BACARISSE: Right, right. That's the only
20 input.

21 MR. GRAHAM: Just checking.

22 MR. BACARISSE: I hope that we'll hear
23 something once we put this out.

24 Any other questions, members?

25 Member Gillman.

1 MS. GILLMAN: I have a motion, Mr. Chairman.

2 MR. BACARISSE: Oh, good. Yes, love to hear
3 it.

4 MS. GILLMAN: For agenda item number 12, I move
5 that the Board approve the proposed amendments to 43 Texas
6 Administrative Code, Chapter 224, Section 224.58, as
7 recommended by staff, for publication in the *Texas*
8 *Register*. I also move that the Board grant the department
9 the authority to make changes to the preamble and text of
10 the proposed amendments to Section 224.58 that are
11 approved by the department's general counsel as necessary
12 for compliance with state or federal law or for acceptance
13 by the Secretary of State for filing and publication in
14 the *Texas Register*. In addition, I move that the Board
15 grant the department the authority to make changes to the
16 preamble and text of the proposed amendments to Section
17 224.58 revisions based on non-substantive corrections made
18 by the *Texas Register*.

19 MR. BACARISSE: Thank you, Member Gillman.

20 Is there a second for this motion?

21 MS. McRAE: I would like to second.

22 MR. BACARISSE: Vice Chair McRae, thank you.

23 Is there any further discussion? We have a
24 motion and a second. Any further discussion, members?

25 (No response.)

1 MR. BACARISSE: If not, the chair would ask for
2 your vote, please.

3 Member Alvarado?

4 MR. ALVARADO: Aye.

5 MR. BACARISSE: Member Gillman?

6 MS. GILLMAN: Aye.

7 MR. BACARISSE: Member Graham?

8 MR. GRAHAM: Aye.

9 MR. BACARISSE: Vice Chair McRae?

10 MS. McRAE: Aye.

11 MR. BACARISSE: Member Omumu?

12 MS. OMUMU: Aye.

13 MR. BACARISSE: Member Prewitt?

14 MR. PREWITT: Aye.

15 MR. BACARISSE: Member Schlosser?

16 MR. SCHLOSSER: Aye.

17 MR. BACARISSE: And I, Chair Bacarisse, vote
18 aye as well. It's unanimous. Thank you.

19 So we now move to agenda item 13. Just
20 checking with the members here, do we want to take a break
21 before we go into that since we just had a break a little
22 bit ago? Are we still good, everybody good? This is
23 likely to be a long one, so just wanted to put that out
24 there.

25 So agenda item 13 is now before us, and we'll

1 turn it over to Monique again for her -- hang in there,
2 girl -- for her to lay it out for us. Thank you, Monique.

3 (General laughter.)

4 MS. JOHNSTON: Hello again, members, Chair,
5 Director Avitia. For the record, I'm Monique Johnston,
6 director of the Motor Vehicle Division.

7 Today we are asking the Board's permission to
8 begin the formal rulemaking process to add a new rule to
9 Chapter 215, Motor Vehicle Distribution, in Title 43 of
10 the Texas Administrative Code. This rule is listed on
11 your agenda as item number 13, and the details may be
12 found in your Board book on page 587.

13 On September 1, 2019, the department's
14 responsibilities under Occupations Code 2301.358(a)
15 changed from approving new motor vehicle shows and
16 exhibitions to just receiving license holder participation
17 notices. At the June Board meeting, you requested that
18 the department propose a new rule regarding those
19 requirements.

20 In 215.123(a), the department proposes
21 definitions for key terms. The proposal distinguishes an
22 exhibition from a show by limiting exhibitions to display
23 or demonstration of motor vehicles by a single license
24 holder, and requiring an exhibition to be organized by a
25 person other than a license holder, if the license holder

1 is licensed to sell one of the vehicle types authorized to
2 be sold at the show or exhibition. Additionally, the
3 person organizing the exhibition must own the event space
4 or contract for temporary use of the space.

5 The proposed requirement for an exhibition to
6 be organized by a person other than the license holder is
7 necessary to distinguish a potential lawful sale at an
8 exhibition from an unlawful sale under Occupations Code
9 2301.362. The proposed definition for new motor vehicle
10 show distinguishes a show from exhibition by defining a
11 show to involve multiple license holders at the same
12 location.

13 These proposed definitions would allow license
14 holders to demonstrate new motor vehicles at a show or
15 exhibition, to clarify that all license holders under
16 Occupations Code Chapter 2301 can demonstrate new vehicles
17 at shows and exhibitions consistent with the statutory
18 language in Occupations Code 2301.358(a) and industry
19 practice.

20 Proposed new 215.123(b) describes the
21 information a license holder is required to provide when
22 notifying the department of participation in a show or
23 exhibition and the two methods for notifying the
24 department. This subsection reflects current practice
25 with the addition of requiring information about the event

1 organizer, if the event will include a vehicle type which
2 may be sold. This information would allow the department
3 sufficient information to follow up if a complaint is
4 filed against a license holder participating in an event.

5 Proposed new 215.123(c) specifies four
6 circumstances in which a license holder is not required to
7 provide a written notification before publicly displaying
8 a vehicle because certain types of new vehicles do not
9 have the same potential for unlawful conduct or public
10 harm and certain license holders do not fall under the
11 notification requirement in Occupations Code 2301.358(a).

12 Proposed new 215.123(d) states that a show or
13 exhibition notice is valid for the event dates designated
14 by a license holder up to a maximum event length of two
15 years and would require a license holder to submit a
16 revised notice if the show or exhibition continues after
17 the end date specified in the initial notification. If a
18 show or exhibition continues for longer than two years,
19 the license holder would be required to submit a new
20 notice. The provision would allow for long exhibitions
21 which have become central to some license holders'
22 business models.

23 Proposed new 215.123(e) would remind license
24 holders that a new vehicle may only be sold at a show or
25 exhibition if the sale is allowed under Occupations Code

1 2301.358 or Transportation Code 503.003, if a license
2 holder follows the advertising rules in Subchapter 4 of
3 this chapter, and if the sale is consistent with
4 Transportation Code 728.002 which prohibits sales of new
5 motor vehicles on consecutive Saturdays and Sundays,
6 commonly referred to as the Blue Law.

7 Proposed new 215.123(f) would remind license
8 holders of the requirements that apply when a new motor
9 vehicle cannot be sold at a show or an exhibition.

10 The Texas Automobile Dealers Association, TADA,
11 and the Texas Recreational Vehicles Association, TRVA, and
12 the Texas Motorcycle Dealers Association, TMDA, had the
13 opportunity to provide feedback and input on this rule
14 proposal. Department staff met with representatives from
15 TRVA and TADA twice in person on February 26 and May 20.
16 Following each of those meetings, TxDMV staff provided
17 revised draft rule text based on stakeholder concerns.
18 The draft rule text provided by TRVA and TADA was
19 incorporated into the proposal in front of you today.

20 As directed, the department continued to work
21 with stakeholders to refine the language in the rule
22 proposal and incorporated stakeholder recommendations
23 consistent with our obligation to propose a rule that as
24 not anti-competitive.

25 We request your approval to proceed with

1 publication in the *Texas Register* so we may receive public
2 comment and move forward in the formal rulemaking process.

3 This concludes my remarks and I'm happy to
4 answer any questions the Board has on this rule package.
5 Thank you.

6 MR. BACARISSE: Thank you, Ms. Johnston.

7 Members, are there any questions for Ms.
8 Johnston at this point?

9 Member Gillman.

10 MS. GILLMAN: Yes. Thank you, Mr. Chairman.

11 I certainly appreciate the Board and the staff
12 and stakeholders for getting together and trying hard to
13 have a better understanding in this rule review. I had a
14 problem with it at the Board meeting back in April and I'm
15 not sure that I am still comfortable.

16 So with that, Monique, what I want to
17 understand is -- I appreciate for shows and exhibits words
18 like "temporary," words like "finite" -- because to me
19 that's what it always has been. Like putting a car at a
20 rodeo, putting a car at the Astros stadium, it's a show or
21 exhibit. And I appreciate the time limit outlined here of
22 two years.

23 But I am unclear, and frankly, not
24 understanding why it seems like it can be continuously
25 renewed. Can you speak to that, that participation in a

1 show or exhibit has -- in effect, can become permanent
2 despite the language?

3 MS. JOHNSTON: We no longer have the statutory
4 authority to regulate the show or exhibition, so if they
5 would like to renew for another two years, they have that
6 right. We cannot restrict that and we cannot deny them
7 another. They're just required to notify us, so we have
8 no statutory authority to tell them they cannot have
9 another show or exhibition for a period of two years.

10 MS. GILLMAN: Because what I heard -- so
11 there's no regulation on -- but if you have a new notice
12 and doesn't that just create a loophole for a permanent
13 display? And I'm trying very hard -- I like words like
14 "temporary" and "finite" and "two years," which seem
15 reasonable, but I think that you're creating a situation
16 that is allowing permanent by just renewing the notice.

17 MS. JOHNSTON: We do not have the statutory
18 authority to stop someone from renewing their notice and
19 continuing their show or exhibition. There's nothing we
20 could do in rule to stop that.

21 MS. GILLMAN: I guess I feel like because it's
22 a rule that a show is temporary, you all can say if you're
23 permanent you're then circumventing the intent of the rule
24 or the statute.

25 MS. JOHNSTON: The rule is defining those terms

1 but the statute overrides the rule in the sense that we
2 don't have the authority to regulate those shows. All it
3 requires is to give notice and we are just limiting them
4 to re-notice us every two years that they're having
5 another show for two years. That's the only authority we
6 have under statute.

7 MR. BACARISSE: Member Gillman, could I ask a
8 question?

9 MS. GILLMAN: Yes, sir.

10 MR. BACARISSE: Out of curiosity help me
11 understand. So obviously there's a permit or a form that
12 any entity would fill out and at the end of two years they
13 just fill it out again. They notice us that their show
14 continues or their whatever it is, exhibition. Is there
15 another state agency that actually could govern whether or
16 not any said entity has the right or opportunity to
17 continue or not continue?

18 You know, we're just registering. Is there
19 another state entity that manages the ability for that
20 entity to continue?

21 MS. MORIATY: If I understand your question,
22 sir, I think the only state entity that could control it
23 is the legislature because they haven't given anyone the
24 authority to regulate, to permit shows and exhibitions.
25 And that's why you hear us say we can't make it finite.

1 The only thing we have a right to do is to receive notice
2 that it's happening.

3 MR. BACARISSE: Right. Understand that and I
4 understand that the previous legislation was repealed, and
5 you know, that's that. But is there another state agency
6 that regulates any sort of commerce in this state where if
7 someone who wanted to protest the notice could go? Does
8 that make sense?

9 MS. MORIATY: I'm sorry, sir, I can't think of
10 one off the top of my head.

11 MR. BACARISSE: I'd like to know that.

12 MS. MORIATY: Okay. We can definitely research
13 that.

14 MR. BACARISSE: Just curious. If all we're
15 doing is gathering paper, then why should we do it? I
16 mean, I think that there's a point here where we don't
17 have the statutory authority.

18 We don't, but the question is does any other
19 state agency have the statutory authority to in some way
20 or another regulate or approve or not approve any sort of
21 commerce that goes on after due notice is made to this
22 agency, because that's where we receive it. So just
23 curious.

24 MS. MORIATY: So if there were sales at
25 these -- so the question of what commerce happens at these

1 shows is regulated by our entity because we talk about we
2 get to regulate what you can or can't do from a licensed
3 location, and that differs by the type of dealer you are.

4 That's why you see different opinions on this from the RV
5 dealers versus the franchised dealers, the RV dealers can
6 sell from a show or exhibition. So we can and do regulate
7 it from that angle. If you were selling from an area that
8 is not your licensed location, unless you are an RV
9 dealer, we can and do come for you if we get a complaint.
10 But no, I don't know of another entity that regulates
11 shows or exhibitions themselves.

12 MR. BACARISSE: Would you imagine a scenario
13 where, say, this particular statute goes into -- I mean,
14 this rule goes into approval and we have an Enforcement
15 Division in this office, does Enforcement go out to look
16 and see what goes on at these various locations? And if
17 they find someone who is doing more than just showing and
18 exhibiting, then what?

19 MS. MORIATY: Right. So as Corrie will be
20 happy to step up and tell you, I'm sure we are a
21 complaint-based enforcement team. So if we do receive a
22 complaint about a show or exhibition gone wrong with a
23 franchised dealer selling, we can investigate. I'll kick
24 to Corrie, though, because I don't want to misspeak.

25 MR. BACARISSE: I'm just curious to know

1 because I'm going to plead ignorance on where that process
2 goes.

3 MS. THOMPSON: So where I thought you were
4 going with your question -- Corrie Thompson, director of
5 the Enforcement Division -- was whether or not we gather
6 up these forms that Monique's division, the Motor Vehicle
7 Division obtains and then go out to all those shows and
8 look to see whether anything nefarious is occurring. No,
9 that is not the case. I wish we had enough staff in the
10 Enforcement Division to be able to do something proactive
11 like that.

12 So as General Counsel said, we are complaint-
13 based. So any written complaint that we do receive, if we
14 received an indicator that somebody said, hey, there was a
15 franchised dealer at this show at this location on this
16 date and they were selling offsite that day, we can go in,
17 we can check that licensee's records. If we get a
18 complaint in response to that, we can investigate and we
19 would potentially sanction the dealer for that offsite
20 sale.

21 MR. BACARISSE: Thank you for clarifying for me
22 in that sense. And so what is a sanction, what does that
23 look like? What do we do, what can we do?

24 MS. THOMPSON: So we're talking about monetary
25 sanctions. So outlined in our disciplinary matrices that

1 we have for both motor carriers and then motor vehicle
2 dealers, we would have what we call a curbstoning
3 violation. So in our system it's a CB violation, selling
4 off of your licensed premises, and so that could be
5 something as little as \$500 all the way up to revocation
6 of a license if you're curbstoning as a licensed dealer.
7 There's also the possibility that you're curbstoning
8 vehicles but you don't hold a license with the department.

9 MR. BACARISSE: Great. Thank you. That helps
10 me.

11 Member Gillman, I yield back to you. You have
12 further questions?

13 MS. GILLMAN: Yes, I do. Thank you, Mr.
14 Chairman.

15 Monique said that after your temporary show and
16 your finite show and you've been there two years, all you
17 have to do is put in a new notice. And you said that may
18 be central to their business, and I am having a hard time
19 with that because a show, an exhibit is supposed to be
20 temporary. You also said it was anti-competitive. Can
21 you tell me what is anti-competitive?

22 MS. JOHNSTON: By not allowing certain entities
23 to renew these notifications and allow to continue their
24 exhibits, it would pretty much shut down certain
25 businesses and can be considered anti-competitive by our

1 legislature. And should we put a limit on that and then
2 tell them they can no longer do it, I would imagine this
3 rule, if there was something that would restrict people
4 from renewing these notifications, would not get past the
5 Governor's Office.

6 MS. GILLMAN: I have car dealerships and it's
7 always been important to build large facilities and invest
8 in employees. And there's always been this 15-mile rule
9 that two Chevrolet dealerships shouldn't be right next
10 door to each other. The DMV, I thought, has always
11 regulated that.

12 And if there is ever a time where one Chevrolet
13 dealership wants to move closer to another within that 15
14 miles, then you have the right to protest, and that the
15 DMV is the entity that regulates that. And the two
16 parties come together. Often there is an ALJ, and you
17 fight it out.

18 So to me, this show and exhibit and constant
19 renewing absolutely violates that existing law and it
20 confuses me so much. Because I know that dealers compete
21 against each other, understanding the rules of a 15-mile
22 distance. And if everyone participates under those same
23 rules that have existed for a long, long time, to me that
24 is competition and everyone has to play by the same rules.

25 But if this -- if the DMV allows a show and

1 exhibit right next door within the 15 miles, it just seems
2 to me that the competitive environment, which has always
3 been created, that you're providing a loophole and that
4 the investment that I've made and the big wonderful
5 dealership, another Chevy dealer could just set up a tent
6 or lease a building and the DMV that is supposed to help
7 me and protect me in that 15 miles is aiding and abetting
8 to allow this temporary show to continue forever. And I
9 feel like I'm confused about this anti-competitiveness.

10 MS. JOHNSTON: They can't sell at these shows
11 and exhibitions. They're not allowed to sell vehicles.
12 They're not allowed to --

13 MS. GILLMAN: But they can set up shop.

14 MS. JOHNSTON: -- they can display the
15 vehicles and they can provide information. They cannot
16 sell vehicles. So they cannot set up a pseudo-dealership
17 next to a thing without going through the proper
18 application process and going through protest.

19 So they're not allowed to sell vehicles at any
20 kind of show or exhibition for motor vehicles.

21 MS. GILLMAN: They might be able to allow
22 leasing vehicles.

23 MS. JOHNSTON: No.

24 MS. GILLMAN: They might be allowed to --

25 MS. JOHNSTON: They would have to have a

1 leasing license in order to do that.

2 MS. GILLMAN: But again, it is the point of
3 this particular agenda item is, I feel like, it's in
4 conflict, to me, with the rules and regulations that we
5 have lived under for so long. And I think that it's
6 inappropriate for the DMV to have constant renewing.

7 MS. JOHNSTON: Unfortunately --

8 MS. GILLMAN: Is there any other alternative?

9 MS. JOHNSTON: Unfortunately --

10 MS. GILLMAN: Is the DMV saying that you think
11 this is a good idea?

12 MS. JOHNSTON: I'm just saying we don't have
13 the statutory authority. And without specific statutory
14 authority allowing us to regulate these, all we can do is
15 receive notification. We cannot tell them how long, that
16 they cannot continue to do a show or exhibition. We do
17 not have the authority, so there would have to be a change
18 in statute.

19 MS. GILLMAN: I think --

20 MR. BACARISSE: We're hung up on this and we're
21 going in circles. Are there other questions?

22 Do you have other questions, Member Gillman,
23 about other elements of this as laid out?

24 MS. GILLMAN: Maybe, maybe later.

25 MR. BACARISSE: Okay. Other members with

1 questions?

2 Member Graham.

3 MR. GRAHAM: I'll just take a short moment here
4 and say I'll try anyway and say I feel Member Gillman's
5 pain. There's no logic to this whatsoever. I don't even
6 know why we are -- if we can do nothing about it, then it
7 seems kind of silly to be even setting up guidelines
8 around things that we have no authority to do anything
9 about.

10 I understand what you're saying about the
11 legislative change which came from the Sunset review
12 occurred, and until -- my understanding is until somebody
13 can interpret this -- I'm not an attorney so there's
14 nothing -- I don't know what that entails. But either the
15 legislature has to change it or somebody has to interpret
16 it differently, I think, is where we are. And until
17 something changes there, then it's just wide open for
18 shows and exhibitions, you know, according to how this is
19 laid out.

20 So anyway, that's my two cents and I'm good.

21 MR. BACARISSE: Well, I'll pile on and just
22 say, as one of two public members, I find it silly that
23 you're going to give me a gun without bullets, so we
24 either regulate something or we don't. But I don't think
25 any of y'all in this agency have free time to be

1 processing applications for nothing. It's meaningless.

2 So the answer is you go back to the legislature
3 and you get the permission to either regulate this thing
4 or not. But why fill out an application for something
5 that you can't do a damn thing about? It makes no sense
6 to me at all. That's just me as a public member.

7 So that's neither here nor there. I'm just
8 suggesting that, you know, the fix lies at the Pink
9 Building.

10 Let me go to Member Schlosser and then I'll
11 come back to you, Member Gillman.

12 MR. SCHLOSSER: Just real quick, if they do not
13 renew that notification, what ramification is there?

14 MS. JOHNSTON: I mean, if we got a complaint
15 asking for their form to see if they have a current form
16 on file, then Enforcement would be in play, but we would
17 have to make sure they notify us, and if they didn't do
18 proper notification.

19 MR. BACARISSE: But what are you enforcing?

20 MR. SCHLOSSER: That's what I'm saying.

21 MS. JOHNSTON: It's just the notification,
22 making sure we have notification.

23 MR. SCHLOSSER: If they violate the
24 notification clause, there's nothing there.

25 MS. JOHNSTON: And I'd have to defer to Corrie

1 if they've ever issued anything for violating a
2 notification.

3 MS. MORIATY: If I may, Mr. Chairman? Yeah, we
4 can enforce the notification requirement, for what it's
5 worth. So if they fail to file their paperwork --

6 MR. SCHLOSSER: You just say file it and you're
7 okay.

8 MS. MORIATY: Well, we can enforce a violation
9 of our rules, for whatever that's worth.

10 MR. BACARISSE: And what is that worth?

11 MR. SCHLOSSER: That's what I'm asking.

12 MS. MORIATY: It's going to vary.

13 MR. BACARISSE: What is the remedy?

14 MS. MORIATY: It depends is what she's going to
15 answer. But let's bring Ms. Thompson up here and make her
16 answer that one.

17 MR. BACARISSE: Right. I'm curious to know
18 what the remedy is, and I think that's what Member
19 Schlosser is saying.

20 MR. SCHLOSSER: I'm just trying to figure out
21 what will happen to them if they don't. Is it just, hey,
22 give us a piece of paper saying you need to do it, or is
23 there an actual penalty?

24 MS. THOMPSON: Corrie Thompson, director of the
25 Enforcement Division. This podium is my friend today. I

1 thought I was escaping it but I'm back.

2 (General laughter.)

3 MS. THOMPSON: So for us, one, we've never
4 received a complaint on failure to provide notice where
5 somebody has come back and said, hey, this person was here
6 at this show or exhibition and can I check all your
7 notices and I checked and they don't have them -- hasn't
8 happened yet to date. But what would that look like in
9 terms of our ability to enforce and how we would try to
10 remedy that?

11 We would try to remedy that by getting
12 compliance which would mean to ensure that they filed the
13 form with us to participate in that show. So we could do
14 something like issue them a warning, letting them know
15 that the notice is required if they're going to be
16 participating in a show or exhibition so that if that
17 occurred again, hopefully they would be compliant.

18 MR. BACARISSE: Member Gillman.

19 I'm sorry. Member Schlosser, do you have
20 additional questions?

21 MR. SCHLOSSER: I'm good, thank you.

22 MR. BACARISSE: Member Gillman.

23 Thank you, Ms. Thompson.

24 MS. GILLMAN: I appreciate the language about
25 the two years but isn't a dealer license two years?

1 MS. JOHNSTON: Yes, they renew every two years.

2 MS. GILLMAN: And so I'm just hoping that you
3 don't have a license that's expiring and a renewal of a
4 show and exhibit also. I'm just saying there's a
5 potential there.

6 MS. JOHNSTON: The notifications are not
7 attached to a specific license renewal. They have to put
8 their license number but it's not attached to their dates
9 of renewal at all.

10 MS. GILLMAN: But you wouldn't approve an
11 extension of a two-year show and exhibit if their license
12 expired in six months.

13 MS. MORIATY: We can't approve a show or
14 exhibition at all.

15 MS. JOHNSTON: Yeah, it's just notification, so
16 we don't give them the checkmark at all. It's just
17 notification. They have a current license at the time
18 they submit notification, we receive the notification.

19 MS. GILLMAN: Thank you.

20 I have this that I have to mention one more
21 time and that is in the shows and exhibits, another reason
22 why I have a stomachache about it is because the
23 manufacturers also want shows and exhibits in order to
24 show their vehicles and have the same rights as a dealer.
25 They are wanting to show and demonstrate and act in the

1 capacity of a dealer, and that's against statute.

2 So that is why I feel like this should be
3 tabled. And again, I'm concerned that this exact proposal
4 of having show and exhibit is exactly what the Lucid
5 litigation is about.

6 Lucid currently is suing the Texas DMV in order
7 to sell and demonstrate new vehicles. That's what the
8 whole lawsuit is about. They want to act as a dealer, and
9 this is a vehicle for them to do that.

10 MS. MORIATY: Mr. Chairman, if I may?

11 MR. BACARISSE: Sure, Ms. Moriaty.

12 MS. MORIATY: Thank you.

13 This is unrelated to the Lucid litigation. The
14 Lucid litigation is because a manufacturer cannot sell at
15 a show or exhibition and that's why Lucid is suing us
16 because they want to be able to sell without having to get
17 franchised dealers. The whole premise here is that you
18 cannot -- if you are a manufacturer or anyone other than
19 the specific dealers like RV dealers, you cannot sell at a
20 show or exhibition. That's how it differs from a licensed
21 location for a franchised dealer.

22 So these are not related at all. And there is
23 no issue in the Lucid litigation about shows and
24 exhibitions because, again, their interest is in selling
25 without franchised dealers and they cannot do that.

1 MR. BACARISSE: Any other questions or
2 comments? I think we'll be hearing -- well, that's my
3 opinion, it doesn't matter.

4 Go ahead. Any other questions or comments?
5 (No response.)

6 MR. BACARISSE: Seeing none, are there any
7 public comments on this?

8 MS. MORIATY: Why, yes, we have two public
9 commenters, sir.

10 MR. BACARISSE: I'm sure. Fabulous.

11 MS. MORIATY: First up is Mark Borskey from
12 TRVA.

13 MR. BACARISSE: Great. Mr. Borskey, glad
14 you're here. Good to see you, and please come and talk
15 with us. You have three minutes, for the record, sir.

16 MR. BORSKEY: Mr. Chairman, members --

17 MR. BACARISSE: I'm sorry. Turn your mic on,
18 that button there, and then state your name for the
19 record.

20 MR. BORSKEY: Mr. Chairman, members, Executive
21 Director Avitia, my name is Mark Borskey and I'm here
22 today representing the Texas Recreational Vehicle
23 Association. I'm substituting for our executive director,
24 Phil Elam, who is conducting his own board meeting this
25 morning.

1 Thank you for allowing me to make a brief
2 statement on behalf of the members of TRVA with respect to
3 the proposed new rule Section 215.123 relating to new
4 vehicle shows and exhibitions. At your last meeting, the
5 Board directed staff to work with the industry to find
6 some common ground from which we might be able to proceed
7 with restoring some regulatory clarity for vehicle shows
8 and exhibitions, and specifically for us, motor home
9 shows. We appreciate the Board's consideration as this is
10 an important issue for us.

11 Since that time, we have exchanged rule drafts
12 and met in person, as Monique has mentioned, at DMV to
13 discuss language. While the proposal you have before you
14 has made some agreed-to changes, we believe it can be
15 further improved to the benefit of both industry and the
16 consumers. To that end, Mr. Avitia has communicated to us
17 his and his staff's willingness to continue our
18 discussions and collaboration, so we look forward to
19 continuing that work with them on this proposal.

20 Again, we'd like to express our appreciation to
21 the Board, DMV leadership and staff for continuing to work
22 with us.

23 That's my comment. Thank you.

24 MR. BACARISSE: Thank you, Mr. Borskey.

25 Members, any questions for Mr. Borskey?

1 Member Graham.

2 MR. GRAHAM: So for your folks, they can sell
3 at a show and exhibition.

4 MR. BORSKEY: Correct, yes, sir.

5 MR. GRAHAM: So the result of whatever the
6 conclusion of what this looks like impacts your folks
7 heavily.

8 MR. BORSKEY: Yes.

9 MR. GRAHAM: Just in regards to the length of
10 time or how often it has to be filed. Right?

11 MR. BORSKEY: As far as motor homes go, I think
12 everybody has seen motor home shows and when they occur.
13 They tend to be over weekends, you know, three, four days.
14 There was some regulations in the prior rule that doesn't
15 exist anymore that this is attempting to put some broad
16 guidelines on which dealers can participate, their
17 distance from each other, that sort of thing.

18 But I will say, I also want to back up if I
19 could, and just mention as far as enforcement on this, and
20 I know there's a larger question as to why we're even
21 giving notice, we liked the old rule. If it was up to us
22 during the Sunset rules -- and we did, we asked that they
23 retain it. Basically the argument was, well, there's no
24 complaints in your industry of these motor home shows, so
25 why are we regulating them, why do we have people going to

1 these shows. Our contention at the time was, well, you
2 don't have any complaints because you do have enforcement.

3 And so at this point, that being neither here
4 nor there, we did ask that there at least be notification
5 of the shows. And the thinking behind that at the time
6 was we like enforcement, we would love for Corrie to come
7 to all the shows -- I know they don't have the resources
8 to do that -- but as an association, our members are the
9 good guys. We want to make sure that they're on the up
10 and up. We want you there to make the bad guys -- not
11 that they would necessarily be at our shows -- but to give
12 people pause and do the right thing for the consumers.

13 MR. GRAHAM: Sure.

14 MR. BORSKEY: So the thinking was at least with
15 the notification, perhaps Enforcement could pick a show or
16 two to go to -- I know they can't go to all of them -- and
17 we would welcome that.

18 MR. GRAHAM: And one last question. Do you
19 have any -- is the two years relevant?

20 MR. BORSKEY: Doesn't really impact us per se
21 because our shows are -- you know, it's a big thing to put
22 together. Hopefully -- and this is something that we will
23 continue to talk about -- you have multiple dealers that
24 have to be at the show. This may create an instance where
25 individuals can have shows and I think that's confusing

1 for the consumer.

2 When you go to a motor home show, you expect
3 there to be numerous dealers there because we can sell
4 there. You might be going, Member Graham, to go work a
5 deal on a new big Class A vehicle. And so that's one of
6 the things we want to continue working with DMV staff on
7 to make sure that there is true competition, and we think
8 that benefits not just us but certainly Texas consumers as
9 well.

10 MR. BACARISSE: Mr. Borskey, Vice Chair McRae
11 has a question for you.

12 MR. BORSKEY: Yes, ma'am.

13 MS. McRAE: You mentioned that in the prior
14 rule there was regulation authority.

15 MR. BORSKEY: Yes.

16 MS. McRAE: What was that regulation authority?

17 MR. BORSKEY: Well, there were a number -- oh,
18 you're going to have to make me look for this.

19 MS. McRAE: Just summarize.

20 MR. BORSKEY: Well, the big thing is it had to
21 be approved, right? I mean, that was the number issue,
22 and that was to make sure you had legitimate dealers
23 there, that you were within the space parameters, time
24 parameters, all that sort of thing.

25 Like I said, we wish it had not gone away.

1 That's not the cards we were dealt here, and so we're
2 working diligently with staff, and Executive Director
3 Avitia has been very forthcoming with the time of your
4 staff, which we appreciate. We're somewhat limited as to
5 what we can do, obviously.

6 Because of the statutory change, DMV is very
7 limited as to what they can do. So we are trying to find
8 those magic words, if you will, to try to rescue something
9 because we think it's important for the consumers, as well
10 as our industry.

11 MS. McRAE: Thank you.

12 MR. BORSKEY: Certainly.

13 MR. BACARISSE: Members, any other questions of
14 Mr. Borskey while he's up here?

15 MS. GILLMAN: Yes. Thank you, Mr. Chairman.

16 MR. BACARISSE: Member Gillman.

17 MS. GILLMAN: But would you -- kind of asking
18 you what Member Graham was asking you, what about the
19 two-year time frame, is that a sufficient number, a good
20 number?

21 MR. BORSKEY: Our concern on that, I guess,
22 would be that there's not an opportunity, for instance,
23 for somebody to set up a show next to a dealership and
24 have a never-ending show. As far as what we're talking
25 about, motor home shows -- and of course towables you can

1 sell basically at any time. But for the motor home shows,
2 I can't think of a specific instance.

3 Our shows are over weekends and I know this is
4 an issue for franchised dealers, for automobiles, for
5 instance. I'm not sure I'm the right guy to ask
6 specifically on that.

7 MR. BACARISSE: Thanks.

8 MR. BORSKEY: I think you might have testimony
9 from somebody else that can speak to that more
10 specifically, Member Gillman.

11 MR. BACARISSE: Yes, we do.

12 MS. McRAE: Thank you, sir.

13 MR. BORSKEY: Thank you.

14 MR. BACARISSE: Members, any other questions of
15 Mr. Borskey on this item?

16 (No response.)

17 MR. BORSKEY: Great. Thank you so much.

18 MR. BACARISSE: Thank you, sir, appreciate your
19 time.

20 Laura, who's next?

21 MS. MORIATY: Next is Karen Phillips from TADA.

22 MR. BACARISSE: Ms. Phillips, great. We're
23 glad you're here, welcome.

24 MS. PHILLIPS: Thank you. Good morning. Karen
25 Phillips with TADA, and I think we're still in the morning

1 period, we may not be.

2 MR. BACARISSE: 12:01.

3 MS. PHILLIPS: All right, 12:01.

4 First of all, I appreciate the opportunity to
5 have worked with staff here and I would suggest maybe we
6 need to look at a different way of going about having a
7 rule going forward. And that is in order to try to bring
8 some organization going forward and not conflate the
9 statutory requirements that various entities have and
10 licensees have, such as your RV dealers, your franchised
11 dealers, maybe even your used car dealers, and then your
12 OEMs, your original equipment manufacturers.

13 It might be best for us to maybe have a
14 separated rule for RV dealers, those entities who can sell
15 at a show, and then a rule for dealers who can have
16 dealership personnel present at a show or exhibition,
17 which is specifically allowed for in the statute, and then
18 a separate rule for manufacturers and distributors, i.e.,
19 OEMs, so that there's no conflating of the various
20 responsibilities, the various statutory provisions that we
21 all have to deal with and which are separated so that we
22 each stay in our own lane.

23 I would also suggest to you that there are two
24 provisions within the Occupations Code which require that
25 dealers, as well as OEMs, cannot use false, misleading or

1 deceptive advertising. The one for dealers is in 2301.351
2 and for OEMs it's 2301.456, and this is just for an
3 example. And basically the statute says that these
4 entities cannot use false, misleading or deceptive
5 advertising.

6 Well, how many advertising rules do we have,
7 over 20? Corrie can probably give you the exact number.
8 How many definitions do we have within those advertising
9 rules? Probably equal to about the same amount.

10 So you have the authority to expand and to
11 declare what is a show, what is an exhibit, and you have
12 the capability to define these things. If you can define
13 advertising as false, misleading and deceptive with
14 approximately 30 advertising rules that we have to live
15 with, then I would suggest you can probably do the same
16 for shows and exhibits.

17 Happy to answer any questions.

18 MR. BACARISSE: Thank you, Ms. Phillips.

19 Members, any questions for Ms. Phillips?

20 I just want a clarification, if I may, Ms.
21 Phillips. Are you suggesting that the existing statutes
22 and rules governing advertisement could -- or we should
23 look at or maybe consider application of those penalties
24 towards this statute, or are you just saying create a
25 whole new rule with mirroring that language? I just got

1 lost, I'm sorry.

2 MS. PHILLIPS: I'm using that as a
3 clarification and as an example that you can define what a
4 show is, you can define what an exhibit is. If you can
5 define what false, misleading and deceptive advertising is
6 with approximately 30-some-odd rules and definitions, then
7 you can certainly have definitions within the show and
8 exhibit statute.

9 MS. MORIATY: If I may, Mr. Chairman, just to
10 clarify.

11 MR. BACARISSE: Sure, Ms. Moriatty.

12 MS. MORIATY: The difference between our
13 authority in advertising and our authority for shows and
14 exhibitions --

15 MR. BACARISSE: Is that it exists in statute.

16 MS. MORIATY: -- the legislature has given us
17 full authority to regulate advertising, particularly false
18 and misleading advertising. We have no authority to
19 regulate shows and exhibitions beyond getting a notice.

20 MR. BACARISSE: Yeah.

21 MS. MORIATY: Ms. Phillips is absolutely right,
22 we can make rules to define terms in statute but when we
23 are not given the authority to regulate that arena, we
24 still can't regulate that arena.

25 MR. BACARISSE: It goes back to having the

1 statute.

2 MS. MORIATY: Right.

3 MR. BACARISSE: Okay. In your opinion. Thank
4 you. And you're our attorney, by the way. Thank you.

5 Member Graham.

6 MR. GRAHAM: Well, I mean, I'm just trying to
7 think through all this. I mean, I'm not an attorney so
8 I'm caught in the middle here trying to figure this out.
9 Is there any purpose -- I mean, obviously there's
10 apparently limitations on our ability to regulate it.

11 Is there purpose behind -- I mean, we can
12 define it as much as we want, right? Which, of course,
13 we're all sitting here asking ourselves why would we
14 define it if we can't regulate it.

15 MR. BACARISSE: That's my thinking.

16 MR. GRAHAM: And that's really the bigger
17 question. So that's just kind of I'm just sitting here
18 kind of letting -- it really has me wondering, it seems
19 like we should consider asking staff to either to bring us
20 a legislative recommendation.

21 Do we just ask the legislature to take this off
22 our plate or do we ask them to re-engage the authority to
23 regulate it if they're going to make us do the paperwork?

24 I don't know. Anyway, I know that wasn't a question.
25 I'm just sort of taking it around here.

1 Thank you. That's all.

2 MR. BACARISSE: Member Gillman, yes, ma'am.

3 MS. GILLMAN: Thank you, Mr. Chairman.

4 Karen, can you speak to this? Your proposal,
5 if I heard it correctly, is because RV dealers, franchised
6 dealers, and maybe used car dealers -- I don't know -- and
7 OEMs all have different rules relating to what activity
8 they can do in a show and exhibit, your proposal is to
9 break all three or four out and define those rules. Is
10 that your proposal, and why?

11 MS. PHILLIPS: The statute itself, 2301.358,
12 gives RV dealers, firefighting vehicles, towables, et
13 cetera, the capability to sell at a show or exhibition,
14 franchised dealers, used car dealers, et cetera, cannot
15 sell at a show or exhibition. We can have dealership
16 personnel present, and that is specifically stated within
17 the statute. And so OEMs can, obviously, as a licensee
18 have a show or exhibit but may not have personnel present
19 because the statute specifically says dealership personnel
20 may be a present at a show or exhibit.

21 So because there are in the statute different
22 requirements and different definitions, if you want to put
23 it that way, as to what these particular licensees can
24 perform or do at a show or exhibit in order to not
25 conflate the various requirements that are within the

1 statute and to have a more clear defined regulatory
2 understanding for the industry as to what you can do at a
3 show or exhibit. That's why I'm suggesting that it might
4 be preferable for industry to understand what it is they
5 can and cannot do at a show or exhibit.

6 For example, the Blue Law obviously is going to
7 be applying to the RV industry because they can't violate
8 the Blue Law at their shows and exhibits in which they
9 sell. So that's the reason why I think it might be better
10 for industry to have a better understanding as to what
11 each licensee type can do at a show or exhibit.

12 MR. BACARISSE: Ms. Phillips, I would hope that
13 you would certainly submit these ideas to us during this
14 comment period. It would be helpful. Thank you for doing
15 that.

16 Are there any other questions?

17 You have a question, Member Gillman, more
18 questions?

19 MS. GILLMAN: Yes. So I'm agreeing with Mr.
20 Borskey, I liked it the way it was. I like the DMV having
21 some authority to regulate and I like a show and exhibit
22 being a temporary, finite thing. Do you have any comments
23 relating to either the agency's authority? Well, I'll
24 start with that.

25 MS. PHILLIPS: Well, obviously the agency has

1 authority under 2301.358.

2 MS. GILLMAN: I'm sorry, say again.

3 MS. PHILLIPS: The agency obviously has
4 authority with respect to having an understanding and
5 giving an understanding to the various licensees what they
6 can and cannot do at a show or exhibit under 2301.358.
7 Now, obviously there are other statutes that go into what
8 dealers and OEMs and various licensees can do; it's not
9 standing alone and it's not in a vacuum. For example,
10 again, the Blue Law issue.

11 MR. BACARISSE: I think Member McRae has a
12 question too. Is that all right?

13 MS. GILLMAN: Go right ahead.

14 MR. BACARISSE: Go ahead.

15 MS. McRAE: My question is for Laura. In
16 listening to what Karen is asking is really, to me,
17 further defining. We still don't have regulatory
18 authority but it's defining what each one can and cannot
19 do. Is there a problem with that in us doing that, in
20 further defining them?

21 MS. MORIATY: Well, so as Chair Bacarisse has
22 pointed out, we're making rules that -- all of these
23 requirements that Ms. Phillips is mentioning right now are
24 already either in statute or in rule. They already exist.
25 So we would just be consolidating it for ease of

1 reference on something that is really just a paperwork
2 phenomena. So it feels to me like a massive waste of
3 resources and energy by all of us to split one rule into
4 three, all to just get notice.

5 Again, because Blue Laws exist separately, it's
6 a separate statute; separate rules implement that.
7 Advertising is a separate statute; separate rules
8 implement that. Sales by franchised dealers, separate
9 statute; separate rules implement when they can and can't
10 sell. Same with RV dealers, they are allowed by statute,
11 they don't need a rule.

12 So this, to me, feels like -- there are things
13 that are good in this proposed rule. There is the
14 opportunity to put the ad hoc rules that Ms. Phillips had
15 pointed out that were on our website about folks who do
16 not need to send us notice because we do not consider
17 those to be shows and exhibitions. If you're putting a
18 car unattended in a mall, we don't need to hear about it.

19
20 Those are useful rules that I think would be
21 good and are a good exercise of our authority to define
22 shows and exhibitions and clarify who needs to spend their
23 time doing the paperwork. But beyond that, because we
24 really lack authority, I don't see how we gain more. The
25 original rule that we had was for RV shows and exhibitions

1 and I do see a use for that because, again, they're able
2 to sell.

3 And so it's important to define the difference
4 between a single RV dealer who has sent in a notice and a
5 single RV dealer who is selling from an unlicensed
6 location, right? They would be the same if we didn't have
7 some sort of definition around that.

8 So I do see that the RV dealers have a need,
9 but parsing it beyond that, we have statutes and rules in
10 existence that already take care of this.

11 MS. GILLMAN: Yes. Thank you, Mr. Chairman.

12 MR. BACARISSE: Member Gillman.

13 MS. GILLMAN: Karen, can you tell me why -- or
14 what is your position regarding an entity making show and
15 exhibit central to their business? As I've stated, I like
16 having a two-year limit. I like having the words
17 "temporary" and "finite." Can you speak to that?

18 MS. PHILLIPS: Well, again, I think that you
19 can make those definitions. I would also have a real
20 concern about this two years as well as the renewal that
21 you have an establishment of a de facto dealership. And a
22 de facto dealership I think would be a prohibition of a
23 statute because dealerships have to be an established
24 place with a license.

25 And if you allow these tents to crop up for two

1 years and then you allow for entities to renew ad
2 infinitum, then all you've done is allowed an entity to
3 get around the established and permanent place of business
4 as well as the licensee. So you, in essence, have allowed
5 the establishment of a de facto dealership.

6 MS. GILLMAN: And what are the consequences of
7 that?

8 MS. PHILLIPS: Well, it depends upon what is
9 being done at that particular location. If we're talking
10 about an RV dealership, which can sell at a show or
11 exhibit, then I would suggest that they would continue to
12 say, I'm just showing and exhibiting.

13 MS. GILLMAN: So is it your position that
14 renewing ad infinitum is against statute?

15 MS. PHILLIPS: I think it is against the intent
16 of the statute, correct. It was never the intent that de
17 facto dealerships be allowed to be set up.

18 MS. GILLMAN: And while the DMV says -- and I'm
19 upset by this -- that they don't have the authority to --
20 give me the words --

21 MS. McRAE: Regulate.

22 MS. GILLMAN: -- regulate -- thank you -- by
23 accepting renewals they are violating statute.

24 MS. PHILLIPS: I think it's in opposition to
25 what the legislative intent is, if you look at 2301.001

1 with respect to the distribution and sale of motor
2 vehicles, as well as the security and safety of the
3 consuming public.

4 MS. GILLMAN: Thank you.

5 MR. BACARISSE: Members, any other questions
6 for Ms. Phillips?

7 (No response.)

8 MR. BACARISSE: Thank you. Appreciate your
9 time.

10 MS. PHILLIPS: Thank you.

11 MR. BACARISSE: Any other public speakers,
12 Laura?

13 MS. MORIATY: No, sir, no other public comment.

14 MR. BACARISSE: Okay. The chair would
15 entertain a motion on agenda item 13, please.

16 MS. GILLMAN: I have a motion, Mr. Chairman.

17 MR. BACARISSE: Yes, Member Gillman.

18 MS. GILLMAN: For agenda item number 13, I move
19 that the Board reject the proposed new section in 43 Texas
20 Administrative Code, Chapter 215, Section 215.123.

21 MR. BACARISSE: Okay. Is there a second for
22 that motion?

23 MS. OMUMU: I second, Mr. Chairman.

24 MR. BACARISSE: Member Omumu seconds.

25 Okay. And now it's time for discussion. Would

1 you like to explain, Member Gillman? Do you want to
2 elucidate that just a little bit more, fill it in for us?

3 MS. GILLMAN: I have -- I would like to
4 continue to work with staff and stakeholders to try and
5 work on language that we can come to agreement in the
6 future.

7 MR. BACARISSE: Okay.

8 MS. GILLMAN: Either that or -- yeah.

9 MR. BACARISSE: And you've been working with
10 them since our last Board meeting. Right?

11 MS. GILLMAN: They have not come together as
12 I'd like.

13 MR. BACARISSE: Well, what's your definition of
14 coming together?

15 MS. GILLMAN: I feel like that there needs to
16 be stronger language that, number one, would restrict
17 renewal over and over, ad infinitum.

18 MR. BACARISSE: That gets into the challenge of
19 we don't have statutory authority, right?

20 MS. GILLMAN: Well, I think that you can have
21 language that says you can have a show and exhibition for
22 two years, a temporary, a not permanent. What is a show,
23 what is an exhibition?

24 MR. BACARISSE: Right.

25 MS. GILLMAN: And that is why I'm rejecting

1 this language today.

2 MR. BACARISSE: And this language contains
3 those two definitions, does it not?

4 MS. GILLMAN: But what it omits is the --
5 doesn't explicitly say, the automatic renewal. And I
6 think that the DMV has a responsibility to uphold the
7 intent and other provisions in our code such as dealers
8 making significant investments and having a show and
9 exhibit that can take place anywhere, anytime, ad
10 infinitum. I think it's unfair.

11 MR. BACARISSE: Well, we've discussed that for
12 sure.

13 MS. GILLMAN: That's why I made the motion.

14 MR. BACARISSE: Good. Thank you.

15 Member Alvarado, did you have a question or
16 comment?

17 MR. ALVARADO: Yes, sir. Thank you.

18 I'm wondering -- so one of our duties, as Board
19 members, is to create a predictable regulatory environment
20 and I don't feel like we have that right now. And if it's
21 appropriate, if I could ask Ms. Gillman to further
22 supplement her motion with kind of the description that
23 she provided after the fact, continuing to work together
24 to find a resolution, then I think that's something I
25 could get behind.

1 MR. BACARISSE: And so you're offering a
2 friendly amendment to Member Gillman's motion. Is that
3 right?

4 MS. GILLMAN: Or offering to just work with
5 stakeholders and staff to further improve this language.

6 MR. ALVARADO: Right, instead of a blanket
7 rejection citing that language. That's the spirit of what
8 we're trying to accomplish, I believe, is a solution, not
9 just shutting the door.

10 MS. GILLMAN: I'm very happy to add language to
11 this motion that says to continue working with agency and
12 stakeholders to improve the language. I'm very happy to
13 make an amendment with that.

14 MR. BACARISSE: Okay. And so could I restate
15 what I think I'm hearing just so we're all clear?

16 MS. GILLMAN: Yes, sir.

17 MR. BACARISSE: Okay. You would move -- and
18 with Member Alvarado's support and you've accepted his
19 friendly amendment -- you would move that we reject this
20 language that's before us today and turn it back to staff
21 so that the Board and the staff can work together to
22 formulate additional language, better language before --
23 and also we'll get public comment, I hope we do, I really
24 do -- before we move towards approval. Is that the spirit
25 of what you're --

1 MS. GILLMAN: It's exactly the spirit. Thank
2 you.

3 MR. BACARISSE: Okay. Anyone else? Any other
4 members? Any other questions?

5 (No response.)

6 MR. BACARISSE: So on the floor we have a
7 motion and a second.

8 MS. MORIATY: Mr. Chairman, if I could just
9 clarify?

10 MR. BACARISSE: Yes, please.

11 MS. MORIATY: If we reject this today, we will
12 not get public comment because it won't be proposed.
13 We'll only get whatever stakeholders would engage with us.

14 MR. BACARISSE: Okay. And we'd be starting
15 over.

16 MS. MORIATY: We'll start over. And I just
17 want to clarify that there's not going to be a way that we
18 can get to finite shows and exhibitions.

19 MR. BACARISSE: Right, because they have
20 different statutes.

21 MS. MORIATY: Even when the statute was
22 different, the Sunset Commission pointed out that we
23 cannot outlaw the electric vehicle manufacturers' business
24 model because it's anti-competitive. So even if we tried
25 to pass that rule, we would get knocked back by RCD. So

1 if the intent is to try to force us to negotiate to that
2 point, we're never going to get there.

3 MR. BACARISSE: Right.

4 MS. MORIATY: So I just want to make that
5 clear, make the expectations clear. We'll be starting
6 over without the benefit of stakeholder input beyond
7 whoever is willing to talk to us, and we are never going
8 to be able to get to finite shows and exhibitions.

9 MR. BACARISSE: Good point, well made. Thank
10 you.

11 To that point, what would you hope, as our
12 general counsel, what would you hope to have -- well,
13 never mind. I'm sorry. I don't want to go too far.

14 We have a motion and a second. Sorry.

15 Mr. Avitia.

16 MR. AVITIA: Chairman, if I may, just to add
17 some clarity to what Laura just said. The hope from today
18 was that staff would be allowed by moving this motion
19 forward so that we could continue working with TADA and
20 TRVA. Now, failure for this motion to proceed means we
21 start all over again, that is very clear. And then we
22 bring something back to you that may be looking very
23 similar, but to Laura's point, we will never, as a
24 department, get to a point where we are anti-competitive.

25 The other thing for Board members to remember

1 is any time we propose a rule and the rule is adopted, it
2 then has to go to the Regulatory Compliance Division
3 within the Governor's Office. And if we put forward
4 something that is, in any form or shape, anti-competitive,
5 it will automatically get rejected and then we start all
6 over yet again. So this may just be a vicious circle that
7 we're in. My hope is that it isn't, and we can get to a
8 fruitful resolution with regard to shows and exhibitions.

9 And that was staff's hope today was to be able
10 to continue the work that we are doing with TRVA and TADA
11 as we have been doing. And again, we've met with both
12 associations twice in person, exchanged various
13 communications to try to get to the point where we are
14 today, knowing that there's still more work to be done on
15 shows and exhibitions.

16 But Chairman, members, I will yield to your
17 decision. If you want us to start all over again, then we
18 will absolutely do what the Board has directed staff to
19 do, as we did in this last Board meeting.

20 Chairman, members, thank you.

21 MR. BACARISSE: Thank you.

22 Let me recognize Vice Chair McRae.

23 MS. McRAE: I appreciate all the comments.
24 Obviously, our stakeholders are very, very important.
25 That's the reason we exist.

1 And I agree that it doesn't -- we've done this
2 at our last Board meeting and again at this one, and I
3 think it is in everyone's best interest that we move this
4 forward so that we can get to the public comment portion
5 of that. My question is if we were to move that forward
6 today, could we -- and I may not word this correctly --
7 could we ask Keith and his group to take this as a
8 legislative item for regulatory authority in this area?

9 MS. MORIATY: Well, Keith may have to speak to
10 this more specifically, but my concern would be that the
11 legislature explicitly took this away from us back in
12 2019 --

13 MS. McRAE: I know.

14 MS. MORIATY: -- as a result of our Sunset
15 review. So it seems somewhat inappropriate for us to now
16 ask for it back.

17 MS. McRAE: Okay.

18 MS. MORIATY: Though we could, as Member Graham
19 said, ask to have the whole thing removed from us so that
20 we don't even have to talk about getting notices, right.
21 Because why do we have notices if we don't have authority?

22 But I yield to Mr. Yawn on the details of that.

23 MR. BACARISSE: Keith, would you mind coming
24 up, please?

25 Mr. Yawn. Thank you.

1 MR. YAWN: Good afternoon.

2 MR. BACARISSE: Good afternoon.

3 MR. YAWN: Keith Yawn. I'm director of
4 Government and Strategic Communications.

5 I would agree with what Ms. Moriaty just
6 commented on. This starts us down a kind of tricky path
7 as far as legislative recommendations go. The Board does
8 have authority under Transportation Code 1001.025 to offer
9 the legislature recommendations on improvements to the
10 department's operations. It's generally considered more
11 in the administrative areas than what we actually have the
12 authority to regulate.

13 You know, Ms. Moriaty discussed the fact that
14 what is considered legislatively -- very recently the
15 legislature took explicit action. As you heard from a
16 speaker earlier, it wasn't something that we would look at
17 and consider an oversight because there was deliberate
18 deliberations on that item and discussion about the
19 potential impacts. And it was coming from a specific
20 recommendation made by another state agency.

21 The other issue that we would consider when
22 making recommendations to the legislature and I would
23 advise the Board on is when we have a recommendation that
24 we know there are parties on multiple sides of and that
25 will have opposition as it moves through the legislative

1 process, we try, when possible, to avoid putting
2 legislators in that position. But sometimes it's
3 unavoidable. And then we would work to make them aware of
4 the opposition to recommendations that we're making which
5 increases the difficulty of us finding someone that will
6 be interested in working with us on it.

7 MR. BACARISSE: I'm sorry, go ahead.

8 MS. McRAE: On the flipside of that then, with
9 what Member Graham has suggested, could you take this item
10 and then to have it removed altogether legislatively? Is
11 that appropriate for us to do?

12 MR. YAWN: We'd have to look at that, I think,
13 in more detail. And we could -- I'm not sure I can make a
14 comment on it right now. It may still get into that same
15 area of the legislature has made an explicit decision on
16 an area of our regulation, and for whatever reason, they
17 decided that they wanted a notice process related to this,
18 but not that full regulation.

19 MS. McRAE: Right. And I think, from what I've
20 heard today from both TADA and TRVA, is that there are
21 portions of this that they both like. I mean, I don't
22 think I'm putting words in their mouth. I think I've
23 heard that today, so I just was wanting to ask those
24 questions.

25 MR. YAWN: The other thing I would mention is

1 that the Board's and the Department of Motor Vehicle's
2 recommendations to the legislature are by no means the
3 only recommendations made to the legislature as far as
4 statutory changes in the motor vehicle industry. And so
5 anyone can work with, and representatives from the
6 associations and the industry regularly work with
7 legislative members on changes. And then we, as a
8 department, can support those processes by providing the
9 legislature information on our current processes, where
10 our statutory authorizations lie, how we use them and what
11 that looks like operationally to contribute to that
12 process if it was proposed by an outside party.

13 MS. McRAE: Thank you.

14 MR. BACARISSE: Member Omumu, do you have a
15 question or a comment? I'm sorry. Go ahead.

16 MS. OMUMU: I do, I have a quick question.
17 Without having to kick this back to the legislature, could
18 we not, without having to start completely over, just
19 break this rule out by dealer, OE and RV, as Karen
20 Phillips suggested? Is that an option?

21 MR. BACARISSE: Ms. Moriaty, can you answer
22 that?

23 MS. MORIATY: We can certainly attempt to draft
24 three rules, yes.

25 MR. BACARISSE: I'm sorry, Member Gillman.

1 MS. GILLMAN: To piggyback and support what
2 Member Omumu just said, I guess I'm feeling like breaking
3 it out is possibly a very good idea to address the
4 concerns and perspectives of each stakeholder. Because
5 RVs have the ability to sell, they may have different
6 perspectives than the OEM. I think that in coming up with
7 new language that it sounds like a good idea to me, so
8 I'll say that.

9 May I also address counsel?

10 MR. BACARISSE: Sure.

11 MS. GILLMAN: Laura, you said something about
12 electric vehicles and being anti-competitive. Can you
13 restate what you said?

14 MS. MORIATY: The industry -- I'll just
15 describe the elephant that's in the room. The industry
16 that uses exhibitions over the long term is the electric
17 vehicle industry, which does not use franchised dealers
18 and does not sell in the state of Texas, but instead holds
19 long-term exhibitions where they have their vehicles
20 available for the public to investigate. It has been an
21 interest of the franchised dealers for a long time, since
22 before Sunset, to not have the electric vehicle
23 manufacturers able to use exhibitions in this way.
24 They've been seeking to close that opportunity.

25 The problem is that the electric vehicle

1 manufacturers have established their industry business
2 model and there is nothing specific in our statute that
3 outlaws it. So if we try to make some rule that outlaws
4 it, we will be acting in excess of our authority and anti-
5 competitively, which is when the Regulatory Compliance
6 Division tells us no, and also when we are subject to
7 lawsuit, both for being in excess of our statutory
8 authority and for anti-trust violations. So that's the
9 problem.

10 MS. GILLMAN: So to address that, I just wanted
11 to say every dealership I have sells an electric vehicle.

12 The great news is that dealers have more electric
13 vehicles to sell, and so the old was to carve out these
14 special rules for electric vehicle manufacturers but now,
15 guess what, they're all going electric in part or in full.

16 And over the next ten years, I think we may see a wildly
17 different landscape, and I don't want a different rule for
18 that guy versus that guy.

19 I like the word "competitive" environment."
20 It's great for dealers as long as they all are on the
21 same -- have the same rules. So I would challenge the
22 notion that having electric vehicles in a show or
23 exhibition of years and years and years is anti-
24 competitive. I feel like dealers are competitive and we
25 all have electric vehicles.

1 MR. BACARISSE: I would remind everybody that
2 we have a motion and a second on the floor, and I think
3 we've had robust and lengthy discussion. I would like to
4 call the vote, please, if I may.

5 MR. SCHLOSSER: Can you remind what that motion
6 is?

7 MR. BACARISSE: Yeah. Can anybody remind us
8 what the motion actually was? Go ahead, Member Gillman.

9 MS. GILLMAN: Unless you want to help me with
10 the language.

11 MS. MORIATY: I'll help, yes.

12 MS. GILLMAN: I move that the Board not reject
13 but instead --

14 MS. MORIATY: I think you're still rejecting,
15 you're rejecting the current language on the table.

16 MS. GILLMAN: Continue to work with the Board
17 and agency and stakeholders to improve the Section
18 215.123, agenda item number 13.

19 MS. MORIATY: If I could restate the motion.

20 MR. BACARISSE: Yes.

21 MS. MORIATY: I believe Member Gillman is
22 moving to reject the language as presented by staff and to
23 direct staff to continue to engage in discussions with
24 stakeholders regarding possible replacement language.

25 MR. BACARISSE: Okay. So that is the motion.

1 We have a second and we've had discussion. I'll call the
2 vote, please.

3 Member Alvarado?

4 MR. ALVARADO: Aye.

5 MR. BACARISSE: Member Gillman?

6 MS. GILLMAN: It's a motion to?

7 MR. BACARISSE: You're going to reject or
8 approve your motion.

9 MS. GILLMAN: Aye.

10 MR. BACARISSE: Okay.

11 Member Graham?

12 MR. GRAHAM: Aye.

13 MR. BACARISSE: Member McRae?

14 MS. McRAE: Nay.

15 MR. BACARISSE: Member Omumu?

16 MS. OMUMU: Aye.

17 MR. BACARISSE: Member Prewitt?

18 MR. PREWITT: Aye.

19 MR. BACARISSE: Member Schlosser?

20 MR. SCHLOSSER: Aye.

21 MR. BACARISSE: And I, Chair Bacarisse, vote
22 aye as well. Okay. So that passed with one no.

23 MR. GRAHAM: Looks like more to come.

24 MR. BACARISSE: This one is sticky, guys.

25 So we move to agenda item 14 which is Chapter

1 215, Motor Vehicle Distribution. Monique is going to walk
2 us through that one as well.

3 MS. JOHNSTON: Hello again. For the record,
4 I'm Monique Johnston, director of the Motor Vehicle
5 Division.

6 Today we are asking the Board's permission to
7 begin the formal rulemaking process to add a new rule to
8 Chapter 215, Motor Vehicle Distribution, in Title 43 of
9 the Texas Administrative Code. This rule is listed on
10 your agenda as item 14 and the details may be found
11 beginning on page 599 of your Board book.

12 At the April 11, 2024, Board meeting, the Board
13 adopted changes to 215.103, the Service-Only Facility
14 rule, to make the rule language align with statute. Those
15 amendments provided franchised dealers with the
16 flexibility, allowed by statute, to perform mobile
17 services managed out of a licensed location. The
18 Regulatory Compliance Division of the Office of the
19 Governor concurred, recognizing that the amended 215.103
20 grants more flexibility to franchised dealers to perform
21 warranty work and provides additional options for
22 consumers seeking repair services. The division also
23 confirmed that the provision is consistent with state
24 policy.

25 At the April 11, 2024, meeting, the Board

1 requested that remote or mobile services be more fully
2 described in rule because some franchised dealers already
3 provided these services. Also, without a rule, franchised
4 dealers who choose to provide remote warranty or recall
5 repair services would be left to guess how the department
6 and the courts will interpret "engaged in business" in
7 Occupations Code 2301.002(16)(b).

8 Proposed new 215.124(b) defines three
9 circumstances in which the department considers mobile
10 warranty and recall repair services to be managed at a
11 licensed location: if a franchised dealer at a licensed
12 location either authorizes a mobile warranty or recall
13 repair, dispatches personnel, parts or tools to perform a
14 warranty or recall repair at the location of a motor
15 vehicle under warranty, or maintains warranty or recall
16 repair records.

17 These options are intended to provide
18 flexibility for a franchised dealer to determine the best
19 operational model for that dealership if the franchised
20 dealer chooses to provide mobile warranty or recall repair
21 services. The remaining proposed sections are consistent
22 with the current provisions in 215.103, as amended
23 effective Jun 1, 2024.

24 The department worked with stakeholders to
25 refine the language in the rule proposal and incorporated

1 comments consistent with their obligation of the proposed
2 rule that it was not anti-competitive. Staff reached out
3 to the Texas Automobile Dealers Association, TADA, the
4 Texas Recreational Vehicle Association, TRVA, General
5 Motors, GM, Gulf States Toyota, and Ford Motors, seeking
6 feedback on the draft rule text. TADA, GM and Gulf States
7 Toyota responded.

8 GM supported the draft language and suggested
9 that staff clarify the draft text by including recall
10 repairs. TADA and Gulf States Toyota were against the
11 proposed language. TADA did not provide any suggestions
12 on the rule text. Gulf States Toyota recommended removing
13 the provisions that would allow dealers to subcontract
14 mobile warranty repairs.

15 Staff incorporated recall repairs into the
16 draft text to allow the Board to consider this language
17 and kept subcontract language in the proposed rule for
18 Board consideration because dealers are able to
19 subcontract warranty repair work at a service-only
20 facility under 215.103.

21 We request your approval to proceed with
22 publication in the *Texas Register* so we may receive public
23 comment and move forward in the formal rulemaking process.

24 Members, this concludes my remarks and I'm
25 happy to answer any questions the Board may have on this

1 package. Thank you.

2 MR. BACARISSE: Thank you, Ms. Johnston.

3 Members, any questions for Ms. Johnston on this
4 item?

5 Member Graham.

6 MR. GRAHAM: So just a couple of comments and
7 questions. First of all -- and I know that this impacts
8 several different segments of several different
9 industries -- I'll say from the trucking side, the
10 trucking dealers very much support the mobile warranty for
11 the simple reason that when you have customers with
12 hundreds of vehicles and a manufacturer comes out with a
13 simple electronic recall, they do not want to bring dozens
14 of vehicles to you when you can just pull up, plug in,
15 five minutes later you move to the next one.

16 So you know, there's just a lot of variations
17 to that that would be, I think, good for truck dealers and
18 for their customers, understanding that that may or may
19 not be the case with other segments, but that's just kind
20 of where we're at there.

21 Now, I have some questions. Regarding
22 subcontractors -- and I've just been trying to think
23 through all the variations of this of kind of where it
24 could end up, and I'm a little hazy on -- well, let me
25 just ask a couple that may sound like crazy questions, but

1 I'm trying to understand like what would be allowed or not
2 allowed under certain circumstances. Such as could the
3 consumer or the customer, owner of the vehicle ever be
4 considered the subcontractor performing warranty?

5 MS. JOHNSTON: Not that I'm aware. So the
6 franchised dealer that has the service location would have
7 to have a contract with a third-party contractor repair,
8 so if they weren't going to perform repair services at
9 their location, they would have to have another repair
10 shop of that. So I guess if that repair shop, the person
11 who owned it owned one of the vehicles, technically they
12 could perform the warranty work on their own vehicle. But
13 it would have to be a contract, a subcontract with another
14 facility that performs vehicle repairs, that is authorized
15 to perform vehicle repairs.

16 MR. GRAHAM: Okay. So I think the key word
17 is -- well, is that really laid out? Clearly it says
18 they're a subcontractor. Is there some assumption that
19 there is a contract with a subcontractor?

20 MS. JOHNSTON: Yes. They would have to have an
21 official contract.

22 MR. GRAHAM: An official contract.

23 MS. JOHNSTON: Between the franchised dealer
24 and then the third-party contractor.

25 MR. GRAHAM: Okay. That's good. I'm just

1 asking questions.

2 Along those same lines with the subcontractor,
3 it's likely -- so just thinking about my world, the
4 manufacturer lays out the things that I must do to perform
5 their warranty services. So if I am now contracting to a
6 subcontractor, is there anything written or assumed about
7 who governs that? Like does that just fall on the dealer
8 to -- it's on the dealer?

9 MS. JOHNSTON: I mean, I could not speak --
10 that would be between the manufacturer and dealer
11 agreement. So there could be in the manufacturer-dealer
12 agreement that they do not allow a third party. You know,
13 it could be the manufacturer says no, you must have
14 service facilities, you can't subcontract with a third-
15 party contractor.

16 It could be that the manufacturer allows it and
17 they might have some sort of, you know, stipulations.
18 It's just whatever is in that agreement. Yeah, we, as the
19 DMV, would not be privy to that.

20 MR. GRAHAM: I was just thinking statutorily.
21 There's nothing there, right? So I guess that just says
22 that is between the dealer and the manufacturer. Okay.

23 And specifically lays out that the
24 reimbursement to the subcontractor must come through the
25 dealer and not the manufacturer.

1 MS. JOHNSTON: Yes, that's my understanding.

2 MR. GRAHAM: That's as clean and clear as it
3 looks.

4 MS. JOHNSTON: That's my understanding, yes,
5 sir.

6 MR. GRAHAM: Okay. I didn't know if there were
7 provisions that allowed variations of that depending on if
8 a dealer agrees with the manufacturer to let the
9 manufacturer deal directly. I mean, if it states that,
10 then that's in stone, right?

11 MS. JOHNSTON: I'd have to go back and look
12 specifically, but I don't think -- yeah, I don't believe
13 that that would be an opportunity. Because the
14 manufacturer can't provide, you know, service work, so it
15 would need to go through the franchised dealer and the
16 franchised dealer would have to contract with that, so as
17 far as I'm aware, they would have to do the reimbursement.

18 MR. GRAHAM: Gotcha. Okay. I'm just making
19 sure, so thank you.

20 I think that's all I've got for now. Thank
21 you.

22 MS. OMUMU: Mr. Chairman, I have a question,
23 please, sir.

24 MR. BACARISSE: Yes, Member Omumu.

25 MS. OMUMU: So all things relating to warranty,

1 vehicle warranties, the manufacturer or the OE is
2 responsible for. So I need to understand if the dealer
3 will be the one subcontracting but yet the manufacturer is
4 the one that's responsible for warranty in the event that
5 something goes awry. I don't understand why the
6 manufacturer or the distributor wouldn't be the one to
7 allocate the resources to allow a dealer or be the one to
8 assign which parties are responsible to repair vehicles
9 that are under warranty.

10 I don't understand why that would be the sole
11 responsibility of the dealer. I believe that the verbiage
12 should be updated to state that the manufacturer or the
13 distributor should be the one responsible to provide the
14 parties who would be in charge of repairing vehicles or
15 the ones to do the warranty work on the vehicle, any type
16 of warranty work. I don't believe that it should be the
17 sole responsibility of the dealer to subcontract as it
18 relates to warranty work; other work, okay, but not
19 warranty work.

20 So I don't agree with the verbiage. I think
21 that the verbiage should be updated in this proposal and
22 it would be hard to support this verbiage as it is stated
23 today.

24 MS. MORIATY: If I may, Mr. Chairman?

25 MR. BACARISSE: Please, Laura.

1 MS. MORIATY: This subcontracting language is
2 duplicated from the current existing 215, I believe it's
3 130. Is that right?

4 MS. JOHNSTON: 215.103.

5 MS. MORIATY: 103. Sorry, dyslexia.

6 Yes, so this language already exists for
7 service-only facilities, so there is already the right by
8 rule for a franchised dealer to subcontract at a service-
9 only facility to perform this work. Now, if we don't want
10 to put this subcontractor language into this new frontier
11 of mobile work, we can strike it and you could add it back
12 in later once we see how this develops. Since it also
13 exists in 215.103, I don't think it's worth trying to
14 create minute changes in this language here since it's
15 duplicated there. I think we should either try it here or
16 not try it here and strike the whole thing.

17 MR. BACARISSE: All right. Member Gillman,
18 question?

19 MS. GILLMAN: Yes, I do.

20 I am sort of confused altogether about a
21 subcontractor performing warranty work. I have never
22 heard of that or having a manufacturer allow that, so I'm
23 very confused on why it's even in here. And I say that
24 because I've been in the business for 37 years and my
25 manufacturers have always insisted on technicians that

1 were trained and authorized using equipment in-house and
2 expensive diagnostic, so I'm sure a subcontractor -- I
3 feel like a subcontractor would actually harm the public
4 and so I would be for striking everything to do with a
5 subcontractor.

6 Also, on that same note, I feel like mobile
7 warranty service, it just lends itself -- and I have
8 consulted with my manufacturers in preparing for this,
9 I've called. And some of the comments that I received
10 were when it's offsite, when performance, warranty,
11 specifically, performance is done, there's going to be a
12 lot less regulation using genuine OEM parts, there will be
13 more significant risk that a customer on a warranty would
14 get non-genuine parts.

15 Also, there's a risk of time abuse. You know,
16 in the dealership when a warranty is performed, there's
17 very specific time parameters to do a repair and I feel
18 like that is also an opportunity for abuse.

19 I feel like the offsite also lends itself to --
20 I don't understand how we're going to do workman's
21 compensation and protections there for our employees.

22 And so amongst other reasons, I feel like that
23 there's more harm to the industry with opening a window
24 for mobile warranty and recall repairs. Recall can happen
25 outside of the warranty period. So I feel like there's

1 more harm that can happen to the citizens of Texas, and
2 leaving it regulated as it is is more beneficial.

3 MR. BACARISSE: Okay. Just to remind the Board
4 that we're in this section of the agenda where we are
5 proposing, we're not adopting. So these are all great
6 comments that should be folded into the process of a rule
7 proposal when it goes out for comment.

8 So let's try to keep this train on the track.
9 We are constrained by the calendar a bit.

10 So I think, Member Gillman, everything you said
11 needs to be folded into and taken by this staff -- you
12 just laid out some great points -- and fold it into the
13 process that will come after we take an action today to
14 approve or disapprove this proposal for comment. Let's
15 not lose sight of what we're doing here.

16 MS. MORIATY: If I may, Mr. Chairman? I'm
17 sorry.

18 I just wanted to point out that at the
19 beginning of Subsection (c) it says, "Upon the
20 manufacturer's or distributor's prior written approval,
21 which cannot be unreasonably withheld." So the
22 manufacturer does have a role in allowing the
23 subcontracting to happen.

24 MR. BACARISSE: Right, but all of this
25 conversation needs to happen in the 30-day period that's

1 to come after we take action, hopefully, to approve or
2 disapprove this item. Okay? Let's just not lose sight of
3 where we are in the process.

4 This is not final approval; this is proposal.
5 Okay?

6 MS. GILLMAN: My last is that I do thank staff
7 for reaching out to the stakeholders and I think that TADA
8 and Gulf States have rejected the proposed, and so I'm
9 supporting the stakeholders' opinions in that regard.

10 MR. BACARISSE: Do we have any public comments
11 on this, Laura?

12 MS. MORIATY: Why, yes, sir, we do.

13 MR. BACARISSE: Okay, great.

14 MS. MORIATY: Okay. I'm sorry. Bob Krapes,
15 from General Motors, is our first commenter.

16 MR. BACARISSE: Okay, great.

17 Mr. Krapes.

18 MR. KRAPES: Good afternoon.

19 MR. BACARISSE: Turn on your mic, pleas, sir.
20 It's just that button right there. Hit it harder, it's
21 got to go green.

22 There you go. Thank you.

23 MR. KRAPES: Thank you.

24 Good afternoon, Mr. Chairman, members of the
25 committee. Thank you for the opportunity to speak to you

1 today. My name is Bob Krapes. I'm speaking to you today
2 on behalf of General Motors in support of the rule
3 proposal relating to mobile warranty and recall repair by
4 franchised dealers.

5 We believe the proposed rule adds helpful
6 clarification to the recently adopted rule allowing mobile
7 warranty repair by franchised dealers in the State of
8 Texas, effective June 1 of 2024. This was an important
9 rule change to modernize the motor vehicle warranty
10 service industry and has been met with great interest and
11 excitement by our General Motors dealers as mobile service
12 allows.

13 This proposed rule before you today further
14 supports this exciting new business opportunity for our GM
15 dealers and customers across Texas, and we ask that you
16 adopt the proposal.

17 Thank you for your time today. I'm happy to
18 answer any questions.

19 MR. BACARISSE: Members, any questions?

20 MS. GILLMAN: I have a question.

21 MR. BACARISSE: Member Gillman.

22 MS. GILLMAN: I think, because I've talked to a
23 dealer and he's in California, and California, I think,
24 has allowed mobile warranty service, although I don't know
25 legislatively when that happened. But -- and this dealer

1 has told me a little bit about your program, and is it
2 where the dealer needs to invest in a truck that is
3 provided by General Motors? Is that true?

4 MR. KRAPES: So we have a --

5 MS. GILLMAN: Mobile unit.

6 MR. KRAPES: -- so we are proposing and
7 recommending to all of our dealers a voluntary program,
8 and it's called Mobile Service Plus. And part of that
9 program is the customer would get this opportunity to be
10 added to their vehicle at time of order. They would
11 purchase the program, and then part of the requirements
12 are for this voluntary program for the dealer to purchase
13 the truck that we recommend.

14 We did a 15-month pilot in the state of
15 California with five Chevrolet dealers and five mobile
16 service vans that we provided with the tools and the
17 equipment. So our entire program comes with an enrollment
18 process, it comes with requirements, it comes with a
19 training program, just like we do with any type of
20 maintenance and warranty in our dealerships' repair shops.

21 MS. GILLMAN: And tell me is it the intention
22 for the dealers to pay for the truck?

23 MR. KRAPES: Yes, it is.

24 MS. GILLMAN: Is it the intention for the
25 dealers to pay for the tools?

1 MR. KRAPES: Yes, it is.

2 MS. GILLMAN: Is it the intention for the
3 dealers to pay for the equipment?

4 MR. KRAPES: Yes, it is.

5 MS. GILLMAN: And the training at our expense?

6 MR. KRAPES: Yes.

7 MS. GILLMAN: And how much that does that come
8 to, approximately?

9 MR. KRAPES: The price of the vehicle is
10 approximately \$95,000 to \$120,000, very similar to the
11 Ford program. And our training program, we got great
12 dealer feedback from the dealers in California. We
13 reduced that to 105 training hours for a technician and
14 all of that training can be done in-shop with the
15 exception of three classes they would need to send their
16 technician to a training center for those fundamental
17 trainings.

18 MS. GILLMAN: Does the tools and equipment come
19 with the truck?

20 MR. KRAPES: Yes, it does.

21 MS. GILLMAN: Okay. And how many dealers have
22 taken advantage -- or is it open to all?

23 MR. KRAPES: So currently we just on June 3
24 rolled it out -- we have five regions across the country
25 for General Motors, we rolled it out to the Western

1 Region. So up until June we just had it in the state of
2 California, we've had 74 Chevrolet, Buick, GMC and
3 Cadillac dealers enroll in the program; 55 of them have
4 received their vans so far.

5 MS. GILLMAN: Thank you very much.

6 MR. KRAPES: You're welcome.

7 MR. BACARISSE: Members, any other questions?

8 MR. GRAHAM: But not for him.

9 MR. BACARISSE: All right. Great. Thank you,
10 appreciate your time.

11 MR. KRAPES: Thank you.

12 MR. BACARISSE: Thank you.

13 Members, any other questions on this item?

14 MS. MORIATY: We have one more public
15 commenter.

16 MR. BACARISSE: No more public comments?

17 MS. MORIATY: One more.

18 MR. BACARISSE: One more. Sorry.

19 MS. MORIATY: Karen Phillips from TADA.

20 MS. PHILLIPS: Good afternoon, members and
21 Director.

22 First of all, the statute hasn't changed and
23 TADA does regret that it's not in agreement on the Board's
24 authority with respect to its recent rule that you adopted
25 with respect to 215.103.

1 A dealership, again, is the physical premises
2 and business facilities on which a franchised dealer
3 operates and repairs motor vehicles. That's in
4 2301.002(8). Mobile repairs are not discussed in the
5 statute as an option or to be managed at the dealership.

6 In addition, a franchised dealership buys,
7 sells and exchanges or services and repairs at an
8 established and permanent place of business. The statute
9 is not ambiguous. The rule contradicts the plain language
10 of the statute.

11 In addition that, of course, we have protest
12 rights with respect to service-only facilities as well as
13 dealerships. Those protest rights are done away with if
14 you look at the mobile service issue.

15 There is no need for the legislature to state
16 that warranty work cannot be conducted offsite, even
17 though there's an offsite prohibition on sales which must
18 be conducted at an established and permanent place of
19 business. We also look at the GDN which discusses
20 established and permanent places of business.

21 TADA is not opposed to mobile services. What
22 we are opposed to is the fact that you don't have the
23 authority to change what is not ambiguous in the statute,
24 which is that warranty work is to be conducted in an
25 established and permanent facility. A mobile service is

1 not an established and permanent place of business.

2 And so if, indeed, we need mobile service, we
3 need to go back to the legislature and ask for amendment
4 to the statute to allow for mobile service. That's where
5 we need to go. That is a policy decision that's one for
6 the legislature to determine because there are so many
7 reasons why we need to have an open discussion about this
8 issue.

9 Some of them have already been addressed here
10 and alluded to. Safety issues are certainly one. We have
11 got safety issues for offsite mobile services for not only
12 our technicians but for the consumer. If we're in their
13 driveway or on the side of the road, we have concerns with
14 respect to the safety for all parties in that particular
15 entity.

16 We also need to look at insurance issues. It's
17 been alluded to with respect to workers' compensation. We
18 have concerns about garage policy. What is our garage
19 policy going to look like with respect to the costs?

20 Are we going to be able to have technicians?
21 Are technicians going to even want to do mobile service
22 reports?

23 So there are several issues that have to be, I
24 think, vetted and discussed openly for everybody if we go
25 down this road.

1 Thank you.

2 MR. BACARISSE: Thank you.

3 Members, any questions for Ms. Phillips?

4 MS. GILLMAN: Yes, I've got one question.

5 MR. BACARISSE: Member Gillman.

6 MS. GILLMAN: So your position is that the
7 statute, as is, is not vague. It is not ambiguous, and
8 therefore, we, as a Board and an agency, have to work
9 within the statute as is.

10 MS. PHILLIPS: Correct. The statute says that
11 work is to be performed under warranty at an established
12 permanent facility.

13 MS. GILLMAN: And that if any party, dealers,
14 manufacturers, Mr. Krapes, want to change that, the only
15 way to change that is through the legislature.

16 MS. PHILLIPS: That's correct, because this is
17 really a real policy issue. And I can certainly
18 understand that commercial issues may be something that
19 needs to be discussed. Recalls need to be discussed.

20 There's lots of moving parts in doing a mobile
21 service besides the safety issues, the technician issues,
22 the insurance issues. Where do we need to limit it, how
23 far does it need to be expanded? These are issues for a
24 legislature to determine.

25 MS. GILLMAN: Tell me, can you expand on that

1 this may violate your protest rights? I'm referring to,
2 once again, I'm building a gazillion dollar Chevy
3 dealership and I don't want mobile warranty service next
4 door to me. Tell me about that.

5 MS. PHILLIPS: Because warranty service is
6 supposed to be conducted in an established and permanent
7 place of business. If an entity, i.e., Gillman, decides
8 to have a service-only facility and you decide that that's
9 what you want, then we have protest rights with respect to
10 dealers within that 15-mile area or the same county who
11 can protest that particular new facility that you're
12 wanting to build because of the fact that the statute
13 allows, under 2301.652, anyone within the same county or
14 the 15-mile radius in general can protest you being able
15 to conduct business at a new service-only facility at
16 which warranty work is conducted.

17 Now, if mobile service is allowed, then that
18 mobile service van may be going all over the state of
19 Texas. It may be going three and four different counties,
20 I don't know. There's no limitation at all, which is
21 another reason why the legislature is the entity that
22 needs to be vetting this issue, discussing this issue,
23 deciding whether or not there are parameters to be placed
24 on mobile service.

25 That is not something that you have the

1 authority to do, I'm sorry to say, but you don't.

2 MR. BACARISSE: It's not personal.

3 (General laughter.)

4 MS. GILLMAN: Thank you.

5 MS. PHILLIPS: Thank you.

6 MS. GILLMAN: I think I have to ask, Counsel
7 and Mr. Chairman. If our stakeholder says that we don't
8 have the authority to change this, what do we do now?

9 MS. MORIATY: Well, your stakeholder is not
10 your lawyer, fortunately. And the answer is that the
11 actual statute she's referring to, the root of the clause
12 is engaged in the business of buying, selling, doing
13 repair at an established and permanent place of business.

14 So engaged in the business is actually what you need to
15 be doing at the established and permanent place of
16 business.

17 And certainly dealers buy vehicles offsite when
18 they go to an auction, they deliver vehicles and get
19 paperwork signed at someone's residence. So they are
20 engaged in the business at the established and permanent
21 place of business, but they deliver or buy offsite. And
22 as long as they are maintaining their records and managing
23 from that place of business, your attorney's
24 interpretation of this statute is that they are engaged in
25 the business.

1 But frankly, we have removed the provision of
2 your rules that was in violation of that statute. If you
3 do not want to adopt these clarifications, we can reject
4 this proposed rule and wait for the legislature to weigh
5 in.

6 MR. BACARISSE: Well, we're not adopting today,
7 we're putting it out for public comment.

8 MS. MORIATY: Oh, certainly. I'm so sorry.
9 You're right.

10 MR. BACARISSE: Let's not lose sight of what
11 we're doing here.

12 MS. MORIATY: You're right. Thank you for
13 clarifying. Sorry, sir. Low blood sugar.

14 (General laughter.)

15 MR. BACARISSE: No, that's all right.

16 MR. GRAHAM: I did it earlier.

17 MR. BACARISSE: We'll fix that soon too.

18 But let's just keep in mind we're going to put
19 something out for comment. And all of these comments that
20 we're hearing today could well be taken into consideration
21 by this Board and the staff.

22 Any other questions for Ms. Phillips?

23 (No response.)

24 MS. PHILLIPS: Thank you.

25 MR. BACARISSE: Thank you, Ms. Phillips.

1 Okay, we have an item before us. The chair
2 would entertain a motion.

3 MS. GILLMAN: I'm happy to make a motion, Mr.
4 Chairman.

5 MR. BACARISSE: Okay, Member Gillman.

6 MS. GILLMAN: With regard to agenda item number
7 14, I move that the Board reject the proposed new section
8 of 43 Texas Administrative Code, Chapter 215, Section
9 215.124.

10 MR. BACARISSE: Is there a second?

11 MS. OMUMU: I second, Mr. Chairman.

12 MR. BACARISSE: Member Omumu seconds.

13 Is there any discussion on this motion?
14 Essentially, if we reject this motion, what happens then,
15 Counsel?

16 MS. MORIATY: It goes away, sir. We don't
17 propose it to the *Texas Register* and that's the end of the
18 matter. The statute stands as it does now and parties are
19 welcome to interpret it. And it will become further
20 interpreted through our enforcement process and the
21 courts, and that's what will happen.

22 MR. BACARISSE: Okay. Thanks for that
23 clarification, appreciate it.

24 All right. So we have a motion and a second.
25 Is there any further discussion on this agenda item?

1 Member Schlosser, I see you moving for the
2 button there, go ahead.

3 MR. SCHLOSSER: I'm just waiting for roll call.

4 MR. BACARISSE: Oh, okay. All right, okay.

5 Any other discussion members?

6 (No response.)

7 MR. BACARISSE: Seeing none, I'll call the
8 vote, please.

9 Member Alvarado?

10 MR. ALVARADO: Nay.

11 MR. BACARISSE: Member Gillman?

12 MS. GILLMAN: Aye.

13 MR. BACARISSE: Member Graham?

14 MR. GRAHAM: Nay.

15 MR. BACARISSE: Member McRae?

16 MS. McRAE: Nay.

17 MR. BACARISSE: Member Omumu?

18 MS. OMUMU: Aye.

19 MR. BACARISSE: Member Prewitt?

20 MR. PREWITT: Aye.

21 MR. BACARISSE: Member Schlosser?

22 MR. SCHLOSSER: Nay.

23 MR. BACARISSE: And I, Chair Bacarisse, vote
24 nay as well. It fails, the motion fails.

25 So the chair would entertain, I guess, a new

1 motion at this point. Do we need a motion? I suppose we
2 do.

3 So the chair would entertain a new motion.

4 MS. McRAE: I'll make a motion, Chairman.

5 MR. BACARISSE: Vice Chair McRae.

6 MS. McRAE: And I may need help from General
7 Counsel, but I would like to make a motion to approve the
8 rules, as presented by staff, and to publish them in the
9 *Texas Register*. And that's the best I have right now,
10 Laura.

11 MS. MORIATY: So Member Prewitt has a piece of
12 paper in his hand.

13 MS. McRAE: Okay. I'm sorry. I defer to
14 Member Prewitt.

15 MR. BACARISSE: Okay. Vice Chair McRae, you're
16 deferring. Okay. Thank you.

17 Vice Chair McRae.

18 MS. McRAE: I move that the Board approve the
19 proposed new section of 43 Texas Administrative Code,
20 Chapter 215, Section 215.124 concerning mobile warranty
21 and recall repair by franchised dealers, as recommended by
22 staff, for publication in the *Texas Register*. I also move
23 that the Board grant the department the authority to make
24 changes to the preamble and text for proposed new Section
25 215.124 that are approved by the department's general

1 counsel as necessary for compliance with state or federal
2 law or for acceptance by the Secretary of State for filing
3 and publication in the *Texas Register*. In addition, I
4 move that the Board grant the department the authority to
5 make changes to the preamble and text for proposed new
6 Section 215.124 revisions based on non-substantive
7 corrections made by the *Texas Register*.

8 MR. BACARISSE: Is there a second for this
9 motion?

10 MR. ALVARADO: Second.

11 MR. BACARISSE: Member Alvarado seconds.
12 Any other discussion here?

13 (No response.)

14 MR. BACARISSE: Seeing none, I'll call the
15 vote, please.

16 Member Alvarado?

17 MR. ALVARADO: Aye.

18 MR. BACARISSE: Member Gillman?

19 MS. GILLMAN: Nay.

20 MR. BACARISSE: Member Graham?

21 MR. GRAHAM: Aye.

22 MR. BACARISSE: Member McRae?

23 MS. McRAE: Aye.

24 MR. BACARISSE: Member Omumu?

25 MS. OMUMU: Nay.

1 MR. BACARISSE: Member Prewitt?

2 MR. PREWITT: Nay.

3 MR. BACARISSE: Member Schlosser?

4 MR. SCHLOSSER: Aye.

5 MR. BACARISSE: And Bacarisse, aye. It passes.

6 Thank you. We'll have something to put out for public
7 comment.

8 At this point here's what I'm thinking, and you
9 guys let me know. We will continue through item 17, at
10 which point we will break for lunch and executive session,
11 and we will pick up on the briefing and action items part
12 of the agenda after executive session. Does that float
13 with people?

14 (General agreement among Board members.)

15 MR. BACARISSE: Okay. So now we are on agenda
16 item 15, and I think I need to turn that over to Ms.
17 Moriarty to lay that out for us. It's rule review.

18 MS. MORIATY: Good afternoon, Board. Laura
19 Moriarty, general counsel.

20 I'm here now to present the rule review of
21 Chapter 217 which covers Vehicle Titles and Registration.

22 Again, this is one of our four-year rule reviews where
23 we're looking to see if the reasons for initially adopting
24 the rules continue to exist. And they would no longer
25 exist if either our statutory authority has changed or we

1 don't have statutory authority, or if current practice and
2 procedures changed and our rule no longer reflects the
3 current processes.

4 We will make amendments and repeals; you
5 already proposed those earlier today for Chapter 217 so we
6 are well on our way. And then we will have the
7 opportunity to re-adopt for another four years and have
8 one more of these chapters done.

9 If you vote today, then we will publish this in
10 the *Texas Register* for public comment. And we will bring
11 it back to you in October for your final approval and the
12 re-adoption of the provisions that are not addressed by
13 the amendments and repeals.

14 So with that, I guess I should note Chapter 217
15 was last reviewed in 2015. So this is one of the ones
16 we've really been needing to tackle for a while, so I'm
17 glad we get the chance today.

18 And with that, I will yield to questions.

19 MR. BACARISSE: Members, any questions for Ms.
20 Moriarty on this agenda item?

21 MS. MORIATY: Oh, you know, Chairman, I forgot
22 one thing in my speed reading there. There is an
23 exception; we are not reviewing 217.27. We will be
24 reviewing that later.

25 It has a provision on two-year registrations

1 that is tied to the inspection statute, and we're seeking
2 legislative clarification on that inspection statute. So
3 I'm sorry I overlooked that. We will not be reviewing
4 217.27.

5 MR. BACARISSE: Okay. Is there any public
6 comment on this?

7 MS. MORIATY: There is not, sir.

8 MR. BACARISSE: Okay, great. In this case,
9 members, any questions on this item for Ms. Moriatty?

10 (No response.)

11 MR. BACARISSE: Okay. I see no questions so I
12 will call for a motion.

13 Is there a motion on this item, agenda item 15?

14 The chair is looking for a motion.

15 MR. GRAHAM: I'll make a motion, Mr. Chairman.

16 MR. BACARISSE: Member Graham.

17 MR. GRAHAM: I move that the Board approve the
18 proposed notice of intention to review 43 Texas
19 Administrative Code, Chapter 217, excluding 217.27, as
20 recommended by staff, for publication in the *Texas*
21 *Register*. I also move the Board grant the department the
22 authority to make changes to the proposed notice of
23 intention to review Chapter 217 that are approved by the
24 department's general counsel as necessary for compliance
25 with state and federal law or for acceptance by the

1 Secretary of State for filing and publication in the *Texas*
2 *Register*. In addition, I move the Board grant the
3 department the authority to make changes to the proposed
4 notice of intention to review Chapter 217 based on
5 non-substantive corrections made by the *Texas Register*.

6 MR. BACARISSE: Thank you, Member Graham.

7 Is there a second to this motion?

8 MR. ALVARADO: Second.

9 MR. BACARISSE: Member Alvarado, thank you.

10 Any further discussion on this motion?

11 (No response.)

12 MR. BACARISSE: I see none so I will call the
13 vote, please.

14 Member Alvarado?

15 MR. ALVARADO: Aye.

16 MR. BACARISSE: Member Gillman?

17 MS. GILLMAN: Aye.

18 MR. BACARISSE: Member Graham?

19 MR. GRAHAM: Aye.

20 MR. BACARISSE: Vice Chair McRae?

21 MS. McRAE: Aye.

22 MR. BACARISSE: Member Omumu?

23 MS. OMUMU: Aye.

24 MR. BACARISSE: Member Prewitt?

25 MR. PREWITT: Aye.

1 MR. BACARISSE: Member Schlosser?

2 MR. SCHLOSSER: Aye.

3 MR. BACARISSE: And I, Chair Bacarisse, vote
4 aye as well. It's unanimous. Thank you.

5 We now move to agenda item 16, another rule
6 review, and I'll turn it back over to Laura.

7 MS. MORIATY: Yes, sir. So this is Laura
8 Moriatty, general counsel, again with the Chapter 209 rule
9 review. Chapter 209 is the internal finance rules for the
10 DMV, so those cover how we deal with gifts of money to the
11 agency, how we deal with late debts or bad debts to the
12 agency.

13 Again, this is a four-year rule review process.
14 The last time we did it for 209 was in 2019. We will be
15 looking for things that are no longer in alignment with
16 statute or with process.

17 In this case we are looking at the rules of the
18 other agencies that deal with our financial issues. The
19 Attorney General's Office and the Comptroller's Office
20 both influence how we have to do our rules, so their rules
21 will impact what ours need to look at.

22 Again, if you vote to approve this today, we
23 will send it out in the *Texas Register* for public comment.

24 We will come back at a later meeting and bring you any
25 comments we get, along with the opportunity to re-adopt

1 the provisions that we have not repealed or amended
2 otherwise.

3 So with that, I yield to questions.

4 MR. BACARISSE: Thank you, Ms. Moriaty.

5 Any questions on this item, agenda item 16 and
6 the motion that's on the floor?

7 (No response.)

8 MR. BACARISSE: No? I see no questions. Okay.
9 Thank you. And any further discussion?

10 (No response.)

11 MR. BACARISSE: No?

12 Does any member wish to make a motion on item
13 16?

14 MR. SCHLOSSER: Member Schlosser. I'd like to
15 make a motion.

16 MR. BACARISSE: Yes, sir.

17 MR. SCHLOSSER: I move that the Board approve
18 the proposed notice of intention to review 43 Texas
19 Administrative Code, Chapter 209, as recommended by staff,
20 for publication in the *Texas Register*. I also move that
21 the Board grant the department the authority to make
22 changes to the proposed notice of intention to review
23 Chapter 209 that are approved by the department's general
24 counsel as necessary for compliance with state or federal
25 law or for acceptance by the Secretary of State for filing

1 and publication in the *Texas Register*. In addition, I
2 move that the Board grant the department the authority to
3 make changes to the proposed notice of intention to review
4 Chapter 209 based on non-substantive corrections made by
5 the *Texas Register*.

6 MR. BACARISSE: Thank you.

7 Is there a second for this motion?

8 MR. PREWITT: I'll second.

9 MR. BACARISSE: Member Prewitt, thank you.

10 Okay. Any further discussion, members, on this
11 motion?

12 (No response.)

13 MR. BACARISSE: Seeing one, I'll call the vote.

14 Member Alvarado?

15 MR. ALVARADO: Aye.

16 MR. BACARISSE: Member Gillman?

17 MS. GILLMAN: Aye.

18 MR. BACARISSE: Member Graham?

19 MR. GRAHAM: Aye.

20 MR. BACARISSE: Member McRae?

21 MS. McRAE: Aye.

22 MR. BACARISSE: Vice Chair McRae. Sorry.

23 Member Omumu?

24 MS. OMUMU: Aye.

25 MR. BACARISSE: Member Prewitt?

1 MR. PREWITT: Aye.

2 MR. BACARISSE: Member Schlosser?

3 MR. SCHLOSSER: Aye.

4 MR. BACARISSE: And I, Chair Bacarisse, vote
5 aye as well. It's unanimous. Thank you.

6 So we now move to item 17, Chapter 209,
7 Finance, and we're going to have Eric.

8 MR. HORN: Yes, sir.

9 MR. BACARISSE: How are you?

10 MR. HORN: Doing well, sir.

11 MR. BACARISSE: Great. Sorry about that, curve
12 ball. Glad you're here. Walk us through it.

13 MR. HORN: Happy to be here.

14 Good afternoon, Mr. Chairman, Executive
15 Director Avitia, members of the Board. For the record, my
16 name is Eric Horn. I'm the director of Accounting
17 Operations for TxDMV.

18 Today I will be discussing the proposed
19 amendments to Subchapters A, B and C in Chapter 209 of
20 Title 43 of the Texas Administrative Code, as well as the
21 repeal of Rule 209.34. Materials that support my
22 discussion can be found in your Board book on page 611.

23 Chapter 209 relates to the collection of debt,
24 payment of fees for department goods and services, and
25 donations or contributions. The proposed amendments will

1 add context and clarity to the existing language, remove
2 unnecessary language, and ensure consistency and
3 compliance with statutory requirements. In addition to
4 the proposed amendments, TxDMV is proposing to repeal Rule
5 209.34 to consolidate that existing language into Rule
6 209.33.

7 The proposed amendments and repeal will not
8 change any current accounting practices of the department,
9 nor will it result in any significant fiscal implications.

10 This concludes my remarks. I'm available for
11 any questions may you have.

12 MR. BACARISSE: Thank you, Mr. Horn.

13 Questions, members, any questions on this one?

14 (No response.)

15 MR. BACARISSE: I think it's fascinating. I'm
16 a full-time major gifts officer. I'd love to know if
17 anybody ever makes a gift to the DMV. Let me know. I'd
18 be curious, I'd want to meet that person.

19 (General laughter.)

20 MR. BACARISSE: Any other questions, members?

21 (No response.)

22 MR. BACARISSE: If not, any public comments on
23 this item, Laura?

24 MS. MORIATY: No, sir, no public comments.

25 MR. BACARISSE: Okay. I'd entertain a motion

1 on agenda item 17.

2 Member Gillman.

3 MS. GILLMAN: I move that the Board approve the
4 proposed amendments and repeal in 43 Texas Administrative
5 Code, Chapter 209, as recommended by staff, for
6 publication in the *Texas Register*. I also move that the
7 Board grant the department the authority to make changes
8 to the preamble and text of the proposed Chapter 209
9 revisions that are approved by the department's general
10 counsel as necessary for compliance with state or federal
11 law or for acceptance by the Secretary of State for filing
12 and publication in the *Texas Register*. In addition, I
13 move that the Board grant the department the authority to
14 make changes to the preamble and text for the proposed
15 Chapter 2019 revisions based on non-substantive
16 corrections made by the *Texas Register*.

17 MR. BACARISSE: Thank you.

18 Is there a second to this motion?

19 MR. SCHLOSSER: I'll second it. Member
20 Schlosser.

21 MR. BACARISSE: Okay. Thank you.

22 Any further discussion on this item, members?

23 (No response.)

24 MR. BACARISSE: No? I don't see any. Okay,
25 I'll call the vote, please.

1 Member Alvarado?

2 MR. ALVARADO: Aye.

3 MR. BACARISSE: Member Gillman?

4 MS. GILLMAN: Aye.

5 MR. BACARISSE: Member Graham?

6 MR. GRAHAM: Aye.

7 MR. BACARISSE: Vice Chair McRae?

8 MS. McRAE: Aye.

9 MR. BACARISSE: Member Omumu?

10 MS. OMUMU: Aye.

11 MR. BACARISSE: Member Prewitt?

12 MR. PREWITT: Aye.

13 MR. BACARISSE: Member Schlosser?

14 MR. SCHLOSSER: Aye.

15 MR. BACARISSE: And I, Chair Bacarisse, vote

16 aye as well. It's unanimous. Thank you.

17 All right. So now at this point we're going to

18 deviate from the agenda a bit. I'd now like to move

19 agenda item number 21 up to now -- that's the closed

20 session item. And we'll pick up with agenda item 18 after

21 we come out of closed session.

22 So we're now going to go into closed session.

23 It is now 1:23 p.m. on June 27, 2024. We'll go into

24 closed session under Texas Government Code Sections

25 551.071, 551.074, 551.076, and 551.089.

1 For those of you in the audience, I anticipate
2 being in this closed session for approximately one hour,
3 and we'll reconvene in open session after that.

4 With that, we are now recessed from the public
5 meeting and we're going into closed session.

6 (Whereupon, at 1:23 p.m., the meeting was
7 recessed, to reconvene this same day, Thursday, June 27,
8 2024, following conclusion of the closed session.)

9 MR. BACARISSE: It's now 3:08 p.m. and the
10 Board of the TxDMV is now back in open session. No action
11 items will be taken up from the closed session.

12 And we'll now move on to agenda item 24 -- no,
13 we won't -- 18. I want to adjourn right away. Something
14 is tripping me up here, but it's agenda item 18.

15 (General laughter.)

16 MR. BACARISSE: Annette, thank you.

17 MS. QUINTERO: Absolutely.

18 Good afternoon, Chairman Bacarisse, members,
19 Executive Avitia. My name is Annette Quintero, director
20 of Vehicle Titles and Registration.

21 This is agenda item 18, which can be found on
22 page 645 of your Board book. The action before you is a
23 request for approval or denial of four specialty plate
24 designs in accordance with the Board's statutory
25 authority.

1 The three embossed plate designs are proposed
2 by My Plates, the state's specialty license plate
3 marketing vendor, and the Guadalupe Mountains National
4 Park design is proposed by the El Paso Community
5 Foundation, a nonprofit organization. All were posted for
6 public comment in April 2024.

7 The premium embossed gold and black plate, 740
8 people liked this design, 1,489 did not. The premium
9 embossed black and white, 1,683 like this design and 552
10 did not. The premium embossed carbon fiber plate, 1,146
11 people liked this design and 940 did not. Guadalupe
12 Mountains National Park, 1,905 people liked this design
13 and 552 did not.

14 The El Paso Community Foundation is a nonprofit
15 organization who proposed this plate design. The proceeds
16 from the sale of this plate will go to the Texas Parks and
17 Wildlife Department for trails, park improvements, youth
18 programs, site and species recovery and natural
19 conservation and historic preservation. Of the \$30 plate
20 fee, \$22 will go to credit the Texas Parks and Wildlife
21 Department and the department will retain an \$8
22 administrative fee.

23 This concludes my presentation on this action
24 item. I am available to take any questions you have.

25 MR. BACARISSE: Members, any questions for Ms.

1 Quintero?

2 (No response.)

3 MR. BACARISSE: No? Stacey.

4 MS. GILLMAN: No, thanks.

5 MR. BACARISSE: Okay. I saw you leaning
6 forward, I thought maybe there's a question.

7 (General laughter.)

8 MR. BACARISSE: Great. I think everybody is
9 good with it. Thank you.

10 Oh, we're going to vote on this, it's an action
11 item. Okay, great.

12 MS. McRAE: I'd like to make a motion,
13 Chairman.

14 MR. BACARISSE: Okay, Member McRae.

15 MS. McRAE: I move that the Board approve the
16 specialty plate designs as presented by staff.

17 MR. BACARISSE: And is there a second for that?

18 MS. GILLMAN: Second.

19 MR. BACARISSE: Okay. Let me get over here to
20 the right page. And who seconded? Member Gillman?

21 MS. McRAE: Stacey.

22 MR. BACARISSE: Great. Thank you.

23 So any further discussion on these plates?

24 (No response.)

25 MR. BACARISSE: None. I'll call the roll,

1 please.

2 Member Alvarado?

3 MR. ALVARADO: Aye.

4 MR. BACARISSE: Member Gillman?

5 MS. GILLMAN: Aye.

6 MR. BACARISSE: Member Graham?

7 MR. GRAHAM: Aye.

8 MR. BACARISSE: Vice Chair McRae?

9 MS. McRAE: Aye.

10 MR. BACARISSE: Member Omumu?

11 MS. OMUMU: Aye.

12 MR. BACARISSE: Member Prewitt?

13 MR. PREWITT: Aye.

14 MR. BACARISSE: Member Schlosser?

15 MR. SCHLOSSER: Aye.

16 MR. BACARISSE: And I, Bacarisse, vote aye as
17 well. It's unanimous. Thank you.

18 So now we go to agenda item 19, and this is a
19 briefing, so I'll turn it over to Chairman Alvarado to
20 give us a summary of what happened in the Legislative and
21 Public Affairs Committee meeting that was held yesterday
22 afternoon. And if members have any questions on any of
23 these items from the Legislative and Public Affairs
24 Committee update, I'll ask the staff to please come up,
25 Keith or whomever, to the presenter podium to answer any

1 questions from the Board.

2 So, Chairman Alvarado, let me turn it over to
3 you.

4 MR. ALVARADO: Thank you.

5 Mr. Chairman, members, good afternoon. The
6 Legislative and Public Affairs Committee met yesterday
7 afternoon, June 26, to receive briefings on a number of
8 legislative updates and project reviews for activities of
9 considerable interest to this Board, the department's
10 stakeholder communities and members of the public. Vice
11 Chair McRae and Members Omumu and Schlosser joined me for
12 the meeting.

13 We have the meeting presenters here with us
14 today so let us know if you have any questions and we'll
15 move through the summary as quickly as we can and we'll
16 call them up to respond.

17 Agenda item 19.A is a briefing item only, 88th
18 Legislature bill implementation updates.

19 Director of Government and Strategic
20 Communications, Keith Yawn, began the meeting by reviewing
21 the status of bill implementation projects. Department
22 staff have been using both the LPA Committee and the
23 Projects and Operations Committee to provide the Board
24 updates on this work regularly throughout the year. And
25 they have continued making progress on these items since

1 our last briefings.

2 As of the end of May, the department had
3 completed 42 implementation projects, leaving eleven
4 projects remaining. These projects are listed in your
5 Board book materials for this item and include major
6 initiatives we have been discussing for the last year,
7 such as House Bill 718, eliminating paper temporary tags,
8 House Bill 3297, eliminating vehicle safety inspections,
9 work to modernize the Registration and Title System, and
10 construction of the Camp Hubbard renewal project. We have
11 heard details about many of these projects during earlier
12 agenda items today.

13 The staff is available if members have further
14 questions about this agenda item.

15 Any questions?

16 MR. BACARISSE: Any questions, members?

17 (No response.)

18 MR. BACARISSE: No? Thank you. Please
19 continue.

20 MR. ALVARADO: Thank you.

21 Moving on to agenda item 19.B, Interim
22 legislative activity. This is also a briefing only.

23 On item 19.B, Mr. Yawn briefed the committee on
24 legislative activity since our last LPA Committee meeting
25 in December of 2023. In the last several months,

1 leadership in both House and Senate chambers have released
2 legislative interim charge assignments to the respective
3 committees. Interim charges are research topics the House
4 speaker and lieutenant governor assign to standing
5 legislative committees for work during the interim between
6 regular sessions. The research and discussion held on
7 these topics often lead to high profile or priority
8 legislation the next regular session or provide
9 legislative oversight of how agencies are progressing with
10 implementation of past legislation.

11 The Senate Transportation Committee was
12 assigned three interim charges that could involve
13 department operations. They will be reviewing autonomous
14 vehicle regulations to ensure public safety, the impact of
15 electric vehicle use on the state economy, and the status
16 of legislation enacted in past sessions. That final
17 charge is likely to involve a public discussion of the
18 department's progress implementing House Bill 718.

19 The Senate Transportation Committee is
20 scheduled to meet in mid September on these items. The
21 House Committee on Transportation was assigned several
22 interim charges and only one appears to overlap with
23 department operations. That is a general oversight item
24 that is also likely to review the department's progress
25 implementing House Bill 718. The House Committee has not

1 yet scheduled interim hearings.

2 Any questions related to this agenda item?

3 (No response.)

4 MR. ALVARADO: Hearing none, I'll move forward,
5 Mr. Chairman.

6 MR. BACARISSE: Yes, thank you.

7 MR. ALVARADO: Agenda item 19.C, Consideration
8 of proposed recommendations to the 89th Legislature,
9 briefing item only.

10 The third item on the committee's agenda
11 yesterday was the layout of staff proposed statutory
12 recommendations for the upcoming 89th Legislative Session.

13 Texas Transportation Code 1001.025 authorizes the Board
14 to recommend to the legislature statutory changes that
15 would improve department operations. The Board has made
16 recommendations for statutory change prior to each
17 legislative session since the department was created.

18 You may recall that prior to the last
19 legislative session, staff presented us with a large
20 packet of broadly ranging recommendations to improve or
21 clarify state statute. In preparation for the upcoming
22 session, staff has prepared a smaller list of items that
23 focused on the needs that potentially have the best impact
24 on department operations and our ability to serve customer
25 populations.

1 The packet of proposed recommendations begins
2 on page 655 of your Board book. The recommendations are
3 grouped into three sections: one, amendments to Title Act
4 requirements; two, amendments to registration and license
5 plate requirements; and three, amendments to
6 oversize/overweight permitting requirements. These
7 include twelve general recommendations, several of which
8 have multiple parts.

9 Half of the items have been approved by the
10 Board for recommendation to past legislatures. These
11 items are grouped in each section after any new proposals.

12 I encourage each of you to review these items
13 in the coming days and let staff know of any questions you
14 identified. Staff has already provided the draft items
15 for review by stakeholder groups and the items are
16 publicly posted as part of the Board meeting materials for
17 general review by interested parties. Department staff
18 will collect any comments over the next several weeks and
19 adjust them as necessary to address identified concerns,
20 much like the rule review and public comment process.

21 The hope is to bring a final packet of
22 recommendations back to us in August for approval. That
23 timeline will allow staff the opportunity to communicate
24 the department's needs to legislative offices throughout
25 the fall and work with them to prepare necessary

1 legislation for consideration during the next legislative
2 session.

3 With the chair's approval, I'd like to call up
4 Mr. Yawn to provide the Board with highlights of the new
5 items included in the packet.

6 MR. BACARISSE: You bet. Thank you.

7 Mr. Yawn.

8 MR. YAWN: Good afternoon again. Keith Yawn,
9 director of Government and Strategic Communications. I've
10 been asked to walk you through the new recommendations.
11 As Chairman Alvarado mentioned, half the recommendations
12 in the packet, six of them, are new; the others the Board
13 has previously approved in past sessions.

14 Beginning on page 656 of your packet,
15 recommendation 1 addresses potential opportunities for
16 fraud and vehicle theft in the bonded title process and
17 seeks to reduce the time and resources spent by the
18 department on related lawsuits. The revisions set
19 requirements for notice to recorded owners and lien
20 holders when bonded title applications are filed and
21 create a 30-day window before the bonded title would be
22 issued.

23 Any questions on this item?

24 (No response.)

25 MR. YAWN: Recommendation 2, following that,

1 would provide the department authority to expand the types
2 of instance in which 68-A, or vehicle identification
3 number inspections, are required. Currently these
4 inspections are required when the department does not have
5 record of the vehicle, the vehicle was last titled outside
6 the United States, or the owner requires an assignment or
7 reassignment of the VIN. However, there are other titling
8 processes where it is possible additional inspection
9 requirements could prevent fraud. The recommended
10 revision would allow the department to set such
11 requirements by rule when a need was identified.

12 Moving on to page 659, item number 6, this is
13 under the registration and license plate section of your
14 packet. Item 6 would address issues related to House Bill
15 3297 and the repeal of state safety inspection statutes.
16 There have been two identified impacts to the repeal of
17 these statutes.

18 The first is that the recently implemented
19 Senate Bill 505, which is the electric vehicle special
20 registration fee of \$200 per year, was tied to those
21 inspection statutes. So the repeal of those creates
22 confusion over the authority for that fee. Similarly, the
23 inspection statutes were tied to the authority for the
24 department to issue two-year initial registrations on
25 vehicles. And so the proposal that staff is providing you

1 would solve both of those problems and reset the statute
2 so that it was clear that all of those processes would
3 continue moving forward.

4 Item number 7 on page 660 relates to House Bill
5 718 implementation, and as you may recall, the Board has
6 asked staff to identify any issues that were remaining
7 cleanup needed for this legislation. In this case, this
8 deals with the statute that sets dealer temporary license
9 plate fees. During the development and deliberations of
10 House Bill 718, it was the department's understanding, as
11 well as our stakeholders, that the dealer temporary
12 license plate fee would be a one-time fee of \$10.

13 As we got into the implementation and further
14 reviewed the language, we realized that the way it had
15 been finally passed was a recurring fee in that case. And
16 so this very simple revision would return that to a
17 one-time fee if that is the legislature's intent.

18 Item 8, also on page 660, would allow for a
19 denial of access to the dealer-issued license plate
20 database for use of fraudulent vehicle inspection reports.

21 So as you're aware, we currently have a denial of access
22 process related to identification of temporary tag fraud
23 that was put in place several years ago. This would add
24 an option under that for the denial of access to that
25 database moving forward in a similar instance of a dealer

1 obtaining or using fraudulent vehicle inspection reports.

2 And then recommendation 9 would modify the
3 procedure under which the department is able to revoke a
4 vehicle registration. The recommended revision would add
5 vehicle registrations to the list of exemptions to state
6 requirements for contested cases in the Government Code,
7 allowing for an expedited process of enforcement. The
8 revision would also replace the current hearing process
9 with a process of notice and opportunity to respond.

10 Those are the new items in your packet. I'm
11 happy to answer any questions on those or any of the other
12 items in the packet, if you have any at this time.

13 MR. BACARISSE: Members, any questions for Mr.
14 Yawn?

15 (No response.)

16 MR. BACARISSE: Okay. Thank you, Keith,
17 appreciate that.

18 Go ahead, Chairman.

19 MR. ALVARADO: Okay. Thank you.

20 Let's move on to agenda item 19.D. This is an
21 action item. This is FY 2026-27 legislative
22 appropriations update.

23 I'll turn now to item 19.D. At the LPA
24 Committee meeting, Ms. Glenna Bowman, chief financial
25 officer, and Chris Hayden, deputy CFO, provided

1 information related to the preparation of the department's
2 Legislative Appropriations Request. The current LAR will
3 provide funding for the fiscal year 2026-27 biennium which
4 begins September 1, 2025, and ends August 31, 2027, and
5 has two basic components.

6 Baseline funding is the first to maintain
7 existing operations and capital projects, plus adjustments
8 for essential operational needs that can be supported by
9 revenues and available balances within the TxDMV Fund
10 0010. Second is exceptional items for requests that
11 exceed General Revenue baseline limit, only applies to
12 MVCPA, or that promote transparency and provide visibility
13 with the legislature into the department's highest
14 priority needs that are funded from TxDMV Fund 0010.

15 The LAR also includes requests to establish,
16 update or amend various appropriation riders that govern
17 how the department may spend funds within its larger
18 appropriations. For example, capital budget authority,
19 performance measure targets, unexpended balance authority,
20 and special project directives. The LAR is expected to be
21 due in early August.

22 So the baseline request -- departments are
23 currently identifying potential increases to baseline
24 funding and are working to ensure the items in the
25 proposed baseline budget are essential to the efficient

1 operation of TxDMV and are well within the projected
2 revenue levels and available cash balances in TxDMV Fund
3 0010. The total of any baseline increase is expected to
4 be less than 5 percent of the FY 2024-25 baseline amount.

5 As for exceptional items, this time staff
6 proposes to submit two exceptional items. Registration
7 and Title System Modernization Phase II -- this
8 exceptional item will request appropriation authority for
9 Phase 2 of the RTS modernization effort. The 88th Texas
10 Legislature appropriated \$6.75 million in the current
11 biennium to implement RTS Replacement Phase 1, which
12 includes assessment of both the internal and external
13 system environments, definition of future system
14 specifications, and projected costs.

15 Phase 1 will continue into fiscal year 2026 and
16 the information gathered will be used to refine the cost
17 estimate for Phase 2. The current estimated cost for this
18 project is \$125 million.

19 Enhance and improve core services and customer
20 support. As the population of Texas continues to grow, so
21 does the number of customers served by the Texas DMV. At
22 the same time, the department has taken on new
23 responsibilities and adjusted operating procedures and
24 systems to adapt to changing needs and customer
25 expectations. This exceptional item will address ongoing

1 operational needs to enhance and improve the core services
2 and customer support provided by the department, including
3 additional compliance activities and investigations,
4 license processing and background checks, revenue
5 processing, customer relations, information technology,
6 administrative hearings, and customer support in the
7 regional service centers. This exceptional item is
8 currently estimated at \$8.7 million and would support 50
9 full-time equivalent positions.

10 I'm happy to answer any questions you may have.

11 Ms. Bowman and Mr. Hayden are also here and available if
12 you'd like more detailed information. Are there any
13 questions?

14 MR. BACARISSE: Members, any questions for
15 Chairman Alvarado or for Chris Hayden?

16 (No response.)

17 MR. BACARISSE: If not, the chair would
18 entertain a motion on item 19.D.

19 MR. GRAHAM: Mr. Chairman, I'll make a motion.

20 MR. BACARISSE: Yes, sir, Member Graham.

21 MR. GRAHAM: I move the Board direct staff to
22 prepare the fiscal year '26-27 Legislative Appropriations
23 Request, to include the LAR items presented by staff and
24 all reports and schedules required by the Legislative
25 Budget Board in its LAR instructions, subject to any

1 technical corrections that are approved by the
2 department's chief financial officer and executive
3 director to comply with the instructions from the
4 Legislative Budget Board.

5 MR. BACARISSE: Great. Is there a second to
6 this motion?

7 MS. McRAE: I second.

8 MR. BACARISSE: Vice Chair McRae.

9 Any further questions or discussion on this
10 motion?

11 Yes, Member Gillman.

12 MS. GILLMAN: I don't see Glenna here.

13 MR. BACARISSE: She is out.

14 MR. AVITIA: We have Chris Hayden.

15 MS. GILLMAN: When is the accounts receivable
16 system getting installed?

17 MR. HAYDEN: We are in the process of working
18 with the vendor. We are building a place for it to reside
19 in the cloud, and the current plan is to have it fully
20 operational by April of next year. We're in the
21 implementation phase. We actually have a vendor selected
22 and they're working on developing the system.

23 MS. GILLMAN: Okay. That's great. Keep
24 updating us, please.

25 MR. HAYDEN: I will, and I know that we'll

1 provide another update at the next Board meeting.

2 MS. GILLMAN: Okay. Thanks.

3 MR. BACARISSE: Any other questions, members,
4 of Mr. Hayden?

5 (No response.)

6 MR. BACARISSE: No? Okay. We have a motion
7 and a second and I'll call the roll for the vote, please.

8 Member Alvarado?

9 MR. ALVARADO: Aye.

10 MR. BACARISSE: Member Gillman?

11 MS. GILLMAN: Aye.

12 MR. BACARISSE: Member Graham?

13 MR. GRAHAM: Aye.

14 MR. BACARISSE: Member McRae?

15 MS. McRAE: Aye.

16 MR. BACARISSE: Member Omumu?

17 MS. OMUMU: Aye.

18 MR. BACARISSE: Member Prewitt?

19 MR. PREWITT: Aye.

20 MR. BACARISSE: Member Schlosser?

21 MR. SCHLOSSER: Aye.

22 MR. BACARISSE: And I, Chair Bacarisse, vote
23 aye as well. It's unanimous. Thank you.

24 Okay. That is 19. Item number 20, and Chris
25 is still here. Thank you. Please carry forward; we have

1 a briefing on Finance and Audit.

2 MR. HAYDEN: Good afternoon, Chairman
3 Bacarisse, Board members and Director Avitia. For the
4 record, I'm Chris Hayden, deputy CFO for the Texas DMV.

5 I am presenting to you today on two pending
6 House Bill 718 procurements which can be found on page 671
7 of your Board book. This is a briefing item.

8 Texas Government Code 2261.255 requires that
9 the department submit information to the Board on the
10 solicitation process for any contract that has a value
11 exceeding \$5 million. This agenda item will provide the
12 Board with the information about these two procurements
13 related to House Bill 718 which have an estimated value
14 exceeding that \$5 million.

15 The two pending procurements to award
16 multi-year contracts are for: one, an inventory
17 management system; and two, a warehousing and distribution
18 services contract. Both are related to House Bill 718.
19 Each of these contracts is anticipated to have a lifetime
20 value exceeding \$5 million over the term of the contract
21 if any extension or renewal options are exercised. The
22 director of purchasing has reviewed and verified that the
23 solicitations and purchases methods used in the contractor
24 selection process comply with state law and agency policy,
25 as required by the Government Code.

1 At this time, staff do not anticipate any
2 potential issues arising from the procurement of these two
3 contracts and do not have any issues we're foreseeing.

4 This concludes my presentation on this item and
5 I'm happy to answer any questions you may have.

6 MR. BACARISSE: Great. Members, any questions
7 for Mr. Hayden on this item?

8 (No response.)

9 MR. BACARISSE: Hearing none, thank you very
10 much.

11 MR. HAYDEN: Thank you.

12 MR. BACARISSE: Yes, sir.

13 Agenda item 20.B is our Internal Audit Division
14 status update from Salem Chuah.

15 Good afternoon, Mr. Chuah. Glad you're here
16 still.

17 MR. CHUAH: Good afternoon, Chairman Bacarisse,
18 Board members, Executive Director Avitia. For the record,
19 my name is Salem Chuah. I'm the director of the Internal
20 Audit Division for the department.

21 Item 20.B is a briefing item to provide you
22 with information on the Internal Audit Division's
23 activities. We have three current engagements and
24 recently completed one engagement.

25 The first current engagement is our risk

1 assessment. And our objective is to identify risk areas
2 within the department to complete the fiscal year 2025
3 Internal Audit Plan.

4 We have met with each division director to
5 discuss risks and have met with additional staff within
6 the larger divisions. We are continuing the risk
7 assessment process, and we'll meet with the Executive
8 Director's Office, as well as reaching out to you all,
9 Board members, to go over our proposed plan. Our proposed
10 fiscal year 2025 Internal Audit Plan will be presented in
11 the August Board meeting for your approval.

12 Our second current engagement is the
13 investigation processes audit, which is in the reporting
14 phase. The audit report is currently with the Enforcement
15 Division for management responses and we will relay those
16 results to you when that has been finalized.

17 The third engagement is the inventory
18 management audit which is also in the reporting phase. We
19 are drafting the report now and expect that we will
20 transmit that report for management responses in the
21 coming weeks in July.

22 Finally, we have one completed engagement,
23 which is the license plate inventory process risk
24 memorandum. The memo is included in your Board materials
25 starting on page 674. The purpose of this memo was to

1 provide timely information and insight for the department.

2 By mapping out the current process from
3 ordering to shipping to receiving, we've identified risks
4 in the current state, identifying opportunities in three
5 major areas for the department to consider as it
6 implements a new model and an inventory management system.

7 This includes: first, ensuring availability of real-time
8 inventory information; second, integrating the various
9 systems used and reducing reliance on manual inputs and
10 controls; and third, establishing a more proactive
11 monitoring approach.

12 While the process we outlined in our memo is
13 applicable to the current environment -- so that is the
14 shipping process and with the tax assessor-collector
15 offices at this time -- the risks and opportunities are
16 also applicable as the department transitions to the new
17 model that you heard about from the department staff
18 earlier.

19 We appreciate the time that staff from the
20 Vehicle Titles and Registration Division and the
21 Enforcement Division spent with us in explaining and
22 showing us the detailed steps of the license plate
23 process.

24 This concludes my updates and I'm happy to
25 answer any questions.

1 MR. BACARISSE: Members, any questions for Mr.
2 Chuah on his work?

3 (No response.)

4 MR. BACARISSE: Salem, you and your team are
5 doing really great work. We appreciate it very much.
6 Thank you.

7 MR. CHUAH: Thank you.

8 MR. BACARISSE: Mr. Avitia.

9 MR. AVITIA: Chairman, thank you.

10 Chairman, members, I want to thank Salem and
11 his team for the cooperation and their partnership on this
12 risk review. It's only going to make sure that our House
13 Bill 718 implementation is even much stronger when we go
14 through the process.

15 Thank you, Salem.

16 MR. BACARISSE: Absolutely.

17 All right. Before we adjourn, I want to thank
18 Member Omumu for making the effort to join us from her
19 paradise, and hopefully you're going to get back to your
20 vacation here very quickly.

21 MR. GRAHAM: Mr. Chairman?

22 MR. BACARISSE: Oh, yes, Member Graham.

23 MR. GRAHAM: I don't know that she should get a
24 kudos. I keep seeing the frozen drink. I think she
25 should be congratulating us for attending this meeting.

1 MS. OMUMU: That was coffee, that was espresso.

2 MR. BACARISSE: We're just going to have to
3 trust you on that one, Member Omumu.

4 (General laughter.)

5 MR. BACARISSE: Laura, are there any public
6 speakers that are still here?

7 MS. MORIATY: There sure aren't, sir.

8 MR. BACARISSE: Congratulations.

9 Unless there's any further business, I'd like
10 to entertain a motion to adjourn.

11 MR. GRAHAM: So moved.

12 MS. McRAE: I'll make the motion.

13 MR. BACARISSE: Okay. Well, I'll let Vice
14 Chair McRae make it and Graham will second it, and I need
15 to call the roll on this, please. Sorry about that.

16 Member Alvarado?

17 MR. ALVARADO: Aye.

18 MR. BACARISSE: Member Gillman?

19 MS. GILLMAN: Aye.

20 MR. BACARISSE: Member Graham?

21 MR. GRAHAM: Aye.

22 MR. BACARISSE: Vice Chair McRae?

23 MS. McRAE: Aye.

24 MR. BACARISSE: Member Omumu?

25 MS. OMUMU: Aye.

1 MR. BACARISSE: Member Prewitt?

2 MR. PREWITT: Aye.

3 MR. BACARISSE: Member Schlosser?

4 MR. SCHLOSSER: Aye.

5 MR. BACARISSE: And I, Bacarisse, vote aye as
6 well.

7 We are now adjourned. It is 3:36 p.m.

8 (Whereupon, at 3:36 p.m., the meeting was
9 adjourned.)

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C E R T I F I C A T E

MEETING OF: TxDMV Board

LOCATION: Austin, Texas

DATE: June 27, 2024

I do hereby certify that the foregoing pages, numbers 1 through 218, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Motor Vehicles.

DATE: July 11, 2024

/s/ Nancy H. King
(Transcriber)

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