

TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

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

Thursday,  
October 24, 2024  
8:30 a.m.

BOARD MEMBERS:

Charles Bacarisse, Chair  
Tammy McRae, Vice Chair  
Christian Alvarado  
Stacey Gillman  
Brett Graham  
Mark Jones  
Sharla Omumu  
John Prewitt  
Darren Schlosser

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| 19. | The Board may enter into closed session under<br>one or more provisions of the Texas Open Meetings<br>Act, Government Code, Chapter 551, including<br>briefing, Board Groundbreaking Ceremony but not<br>limited to:<br>Section 551.071<br>Section 551.074<br>Section 551.076<br>Section 551.089 | 121  |
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P R O C E E D I N G S

1  
2 (Groundbreaking Ceremony, Building 1 was held outdoors at  
3 8:30 a.m.)

4 Mr. BACARISSE: It is 9:16 a.m.. My name is  
5 Charles Bacarisse, and I am pleased to open the board  
6 meeting of the Texas Department of Motor Vehicles.

7 I'm now calling the board meeting for October  
8 24, 2024, to order, and I want to note for the record that  
9 the public notice of this meeting, containing all items on  
10 the agenda, was filed with the Office of Secretary of  
11 State on October 16, 2024.

12 Before we begin today's meeting, please place  
13 all cell phones and other communication devices on silent  
14 mode. Also, as a courtesy to others, please do not engage  
15 in side conversations here in the meeting room. You can  
16 step outside if you need to.

17 I want to welcome all those who are with us for  
18 today's board meeting. If you wish to address the board  
19 or speak on an agenda item during today's meeting, please  
20 complete a speaker's sheet at the registration table or  
21 send an email to GCO\_General@TxDMV.gov. Please identify  
22 in your email the specific item you're interested in  
23 commenting on, your name and address, and whether you are  
24 representing anyone or speaking for yourself. If your  
25 comment does not pertain to a specific agenda item, we'll

1 take your comment during the general public comment  
2 portion of the meeting.

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

10 Individuals cannot accumulate time from other  
11 speakers. Comments should be pertinent to the issues  
12 stated on the comment sheet. When addressing the board,  
13 please state your name and affiliation for the record.

14 And there are a few things that will help to  
15 make this meeting run more smoothly and assist the court  
16 reporter, who is seated back here in the back, to get an  
17 accurate record: please identify yourself before  
18 speaking; speak clearly and slowly; do not speak over  
19 others; and ask the chair for permission to speak and be  
20 sure to get recognized before speaking.

21 I would like to thank our court reporter who is  
22 transcribing this meeting.

23 Before we begin today, I'd like to remind all  
24 presenters and those in attendance of the rules of conduct  
25 at our board meetings. In the department's administrative

1 rule, the chair has authority to supervise the conduct of  
2 the meetings. This includes the authority to determine  
3 when a speaker is being disruptive of the meeting or is  
4 otherwise violating the timing and presentation rules that  
5 I just discussed.

6 So with all of that, I would like to now move  
7 to agenda item 2 which is roll call and establishment of a  
8 quorum, so please respond verbally when I call your name.

9 Member Alvarado, are you present?

10 MR. ALVARADO: Present.

11 MR. BACARISSE: Member Gillman?

12 MS. GILLMAN: Present.

13 MR. BACARISSE: Member Graham?

14 MR. GRAHAM: Present.

15 MR. BACARISSE: Member Jones?

16 MR. JONES: Present.

17 MR. BACARISSE: Member McRae?

18 MS. McRAE: Here.

19 MR. BACARISSE: Member Omumu?

20 MS. OMUMU: Present.

21 MR. BACARISSE: Member Prewitt?

22 MR. PREWITT: Here.

23 MR. BACARISSE: Member Schlosser?

24 MR. SCHLOSSER: Present.

25 MR. BACARISSE: And let the record reflect that

1 I, Charles Bacarisse, am here too. Board Member Alvarado  
2 is also with us. Thank you.

3 Let's stand now -- item 3, let's stand to honor  
4 our country and state with the State of Texas pledge and  
5 the Pledge of Allegiance. I'll turn it over to Vice Chair  
6 McRae to lead us in the U.S. Pledge.

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

8 MR. BACARISSE: Member Omumu will lead us in  
9 the Texas Pledge.

10 (The Texas Pledge was recited.)

11 MR. BACARISSE: Thank you. Thank you, Vice  
12 Chair McRae and Member Omumu, for leading our pledges.

13 Agenda item number 4 are chair's reports, and I  
14 would like to -- before I turn it over in the next agenda  
15 item, I want to just take a moment to introduce our newest  
16 Board member, Mark Jones.

17 Governor Abbott appointed him in September to  
18 the position on the board that is reserved for the  
19 independent auto dealers of the state, and Member Jones's  
20 term will expire on February 21, 2029.

21 Member Jones lives in Mansfield, Texas and is  
22 the CEO of Mike Carlson Motor Company. He is a member and  
23 former president of the Texas Independent Auto Dealers  
24 Association, former president of the Fort Worth  
25 Independent Auto Dealers Association, and former trustee



1 of the National Independent Automobile Dealers Association  
2 Foundation. Additionally, he's served in various  
3 volunteer capacities at home for Harmony Baptist Church,  
4 Legacy High School Parent-Teacher Association, Relay for  
5 Life, and the Rotary Club of Arlington. Mr. Jones has  
6 received a bachelor of arts in broadcast communication  
7 from the University of Texas at Arlington.

8 Member Jones has fulfilled the required  
9 training, completed all required paperwork, and has been  
10 duly sworn into office and has received his commission  
11 from the Texas Secretary of State. And you can read more  
12 about him and all of our board members in our department  
13 website About Us section.

14 I want to welcome Mark to the board. Welcome.

15 (Applause.)

16 MR. BACARISSE: Would you like to say anything  
17 briefly?

18 MR. JONES: Just thank you for the kind words,  
19 Mr. Chairman. I really look forward to working with  
20 everyone on this board, and I appreciate all the  
21 hospitality that the DMV has shown me since September 17.

22 So thank you.

23 MR. BACARISSE: You bet. Glad you're here.

24 I will now turn it over, for agenda item 5, to  
25 Executive Director Daniel Avitia for his discussion.

1 Mr. Avitia.

2 MR. AVITIA: Thank you, Chairman. And,  
3 Chairman, members, good morning. For the record, Daniel  
4 Avitia, executive director.

5 The briefing document for agenda item 5 can be  
6 found on page 7 of your board materials.

7 Chairman, members, we have the honor to  
8 recognize our staff for outstanding service, and more  
9 importantly, for their years of service. We celebrate  
10 these employees as a way to show our appreciation for  
11 their years of service and dedication to the citizens of  
12 Texas.

13 I begin with 20 years of state service. First  
14 we have Mr. David George with the Enforcement Division;  
15 Mr. Shawn Williams, also with the Enforcement Division;  
16 and Mr. Justin White with the motor Vehicle Crime  
17 Prevention Authority.

18 Next we celebrate 25 years of service with:  
19 Ms. Juanita Bustos with the Vehicle Title and Registration  
20 Division; Ms. Stephanie Rogers with the Enforcement  
21 Division.

22 Then we'll move on to 30 years of state  
23 service. We have one member today to join that club, Mr.  
24 Donny Ruemke.

25 Then with 35 years of state service we have Ms.

1 Lydia Sahley with the Motor Carrier Division.

2 I'm sorry, I missed one, this is a big one: 45  
3 years of state service, Mr. Earl Pearson with the  
4 Enforcement Division.

5 So now we'll move on to the folks that have  
6 retired from the department: first, with 29 years of  
7 service, Ms. Rachel Vasquez, Vehicle Titles and  
8 Registration Division; 36 years of service, Mr. DuWayne  
9 Murdock, Motor Carrier Division; and finally, 38 years of  
10 service, Ms. Pam Minnick with the Vehicle Titles and  
11 Registration Division.

12 Chairman, members, I'd like to share a few  
13 words about some of the folks that are with us this  
14 morning.

15 First, I'll start with Ms. Juanita Bustos with  
16 the Vehicle Titles and Registration Division. Ms. Bustos  
17 has served in the San Antonio Regional Service Center.  
18 She began her journey at the Texas Department of  
19 Transportation in 1999 and transitioned to the DMV in 2009  
20 when it was created. She has continued her public service  
21 for another 12 years.

22 Juanita retired in 2020 but had the desire to  
23 rejoin public service and rejoined back in 2021. After  
24 retiring, Juanita felt a calling to continue serving her  
25 fellow Texans, and so on April 1 she has now been here

1 three years since she embarked on this new chapter in her  
2 life and enjoys her journey and her role tremendously.  
3 Juanita continues to demonstrate commitment to customer  
4 service and is proud to be in public service.

5 So congratulations, Juanita, to 25 years of  
6 service.

7 (Applause.)

8 MR. AVITIA: Next we have Mr. Donny Ruemke, who  
9 was with us this morning at the groundbreaking ceremony.  
10 He works in the Finance and Operations Division. He  
11 started his career with the Texas Department of Public  
12 Safety, then the Texas Department of Transportation, and  
13 then the DMV in 2010 as the DMV's fleet manager.

14 He has been a true asset to the department.  
15 His recent promotion to asset management, imaging and  
16 mailroom manager position, after 14 years of exceptional  
17 service as the fleet manager, is a testament to his hard  
18 work, dedication and commitment to the DMV.

19 Donny, congratulations on your 30 years of  
20 state service.

21 (Applause.)

22 MR. AVITIA: And then last, but certainly not  
23 least, Ms. Pam Minnick with the Vehicle Titles and  
24 Registration Division. She retired as the Wichita Falls  
25 Regional Service Center manager. Pam began her career

1 with the state in October of 1985 with the Texas  
2 Department of Transportation and transitioned to the DMV  
3 in 2009.

4 Over her career, Pam served in various customer  
5 service representative positions and ultimately promoted  
6 to the Wichita Falls RSC manager. Pam grew and evolved as  
7 a manager and helped implement multiple projects, most  
8 notably, the centralization of certified copy of Title, or  
9 CCO, for processing for all customers. Her hard work and  
10 dedication to the staff, the county partners, the motor  
11 vehicle industry stakeholders, and our general customers  
12 are greatly appreciated.

13 Pam, congratulations on your 38 years of  
14 service.

15 (Applause.)

16 MR. AVITIA: Chairman, members, if you would  
17 join me to the front of the dais for a photo opportunity.

18 (Pause for presentations and photos.)

19 MR. BACARISSE: Congratulations, once again, to  
20 these incredible public servants.

21 I'd like to now move to agenda item number 6  
22 which is a contested case. Before we move to the oral  
23 presentation from the parties to this case, General  
24 Counsel Laura Moriaty will present the procedural history  
25 and summary of the case.

1           So, Ms. Moriaty, the floor is yours.

2           MS. MORIATY: Good morning, Board. I'm Laura  
3 Moriaty, general counsel to the Department of Motor  
4 Vehicles.

5           The contested case you'll be deciding is a  
6 licensee discipline case brought by the Texas Department  
7 of Motor Vehicles against Empire Choice Auto. Empire  
8 Choice Auto is a GDN holder with a general distinguishing  
9 number issued by the department.

10           The questions that the board will decide today  
11 are whether Empire Choice Auto violated the board's rules  
12 and statutes, and if so, whether to revoke Empire's GDN or  
13 otherwise sanction Empire.

14           This case began when the department issued a  
15 notice of department on January 9, 2024. The department  
16 then set the case for hearing at the State Office of  
17 Administrative Hearings -- which is known to its friends  
18 as SOAH -- and the hearing took place on May 14, 2024.  
19 The SOAH administrative law judge issued a proposal for  
20 decision on June 28, 2024.

21           In that proposal for decision, the ALJ found  
22 that Empire Choice Auto had violated the premises  
23 requirements in the board's rules because: Empire Choice  
24 Auto did not have a display area large enough to display  
25 at least five vehicles separated from any other business's

1 display area by a barrier that cannot be readily removed;  
2 Empire Choice did not have a physical office location that  
3 is at least 100 square feet separated from other  
4 businesses by permanent interior walls on all sides;  
5 Empire Choice did not have posted business hours for each  
6 day of the week; it did not have its GDN posted; and it  
7 did not have a dealer or agent present at its location  
8 during posted business hours when our investigator showed  
9 up.

10 The ALJ also found three aggravating factors:  
11 she found a large number of violations; the attempted  
12 concealment of the violation Empire Choice had sent the  
13 department that the ALJ found was misleading; and she also  
14 found that the respondent acted intentionally by  
15 continuing these violations even after being informed by  
16 our investigator that there were violations.

17 The ALJ recommended that the board revoke  
18 Empire Choice Auto's GDN. Neither party has filed  
19 exceptions to that ALJ decision, and both parties have  
20 announced ready to present to you today.

21 So I just want to review one more time your  
22 options as we go into this oral argument. You can take  
23 the proposal for decision -- well, I should start off,  
24 it's important to understand the difference between the  
25 role of SOAH and the role of the board. The role of SOAH

1 is to hear evidence, to make determinations, to give you  
2 findings of fact and conclusions of law, and a  
3 recommendation on a sanction. You as a board cannot  
4 interfere with SOAH's role, you cannot make new findings  
5 of fact, you cannot hear new evidence. In fact, you  
6 cannot rely on anything that is not in the administrative  
7 record.

8 But you do have authority to interpret your  
9 rules and statutes and to determine the correct sanction  
10 in the case. In doing that, you have three choices. We  
11 could just accept the ALJ's PFD and accept the findings of  
12 fact and conclusions of law and the recommended sanction.

13 If you do that, that will result in revoking the GDN for  
14 Empire Choice Auto. Your other choices are to amend  
15 portions of the PFD, adopt the findings of fact and  
16 conclusions of law as amended, or issue a sanction  
17 different from what the ALJ has recommended.

18 If we do that, please remember that under  
19 2001.058(e) of the Government Code, we have to explain why  
20 we're doing that, what law supports us doing that, what  
21 findings of fact support us doing that, and we have to put  
22 all of that in writing, so it needs to be part of your  
23 motion when you make the motion. We need to be able to  
24 say that there's a technical error in a fact, like a typo,  
25 that the ALJ misapplied or misinterpreted the laws, the



1 rules or the policies or prior decisions. And if you're  
2 making a conclusion of law change, we need to say why it's  
3 supported by the findings of fact.

4 We could also, in theory, remand back to SOAH,  
5 but please remember that remanding back to SOAH does not  
6 guarantee that SOAH is going to issue another decision and  
7 we can't remand back on issues that SOAH has already  
8 decided. So we can't ask them to flip and make a  
9 different decision, we can only ask them to consider  
10 issues that they have not yet made findings on.

11 So with all of that said, if there are no  
12 questions for me, I think we're ready to get started with  
13 the presentations.

14 MR. BACARISSE: I'll just remind us, as well,  
15 that under the board's rules, a party that timely  
16 submitted a request to make an oral presentation will be  
17 allowed up to 15 minutes to make that oral presentation.  
18 In this case, both parties submitted a timely request to  
19 make an oral presentation. So during these presentations,  
20 time spent by a party responding to any board questions is  
21 not counted against that party's time. The timer light  
22 will be green for the first 14 minutes, yellow when  
23 there's one minute left, and then red when the party's  
24 time is up.

25 I would also like to remind board members and

1 the parties that the board's decision must be based solely  
2 on evidence contained within the administrative record  
3 from the State Office of Administrative Hearings, as our  
4 counsel has pointed out. If a board member asks a  
5 question about evidence that's not in SOAH's  
6 administrative record for this case, the parties should  
7 respond by saying that the question is about evidence  
8 that's not in the record.

9 Respondent Empire Choice Auto, LLC d/b/a Empire  
10 Choice Auto, is represented by Jamal Ahmad, who will now  
11 make his case, I believe. Right?

12 Is Mr. Ahmad going first, Laura?

13 MS. MORIATY: I believe so.

14 MR. BACARISSE: Yes, he's here.

15 Good morning. Please come on up and we look  
16 forward to hearing from you, Mr. Ahmad.

17 MR. AHMAD: Good morning, everyone.

18 MR. BACARISSE: Good morning. Can you turn  
19 your mic on? Press that button at the base of the mic,  
20 make that little circle turn green. There you go.

21 MR. AHMAD: Thank you.

22 MR. BACARISSE: Yes, sir.

23 MR. AHMAD: Good morning. Thanks, everyone,  
24 for being here, taking time out of your busy schedule to  
25 listen to me today.

1 My name is Jamal Ahmad. I'm the owner and  
2 operator of Empire Choice Auto. I've been operating  
3 nearly five years at the same location, and met all the  
4 requirements and compliance from the DMV. It was approved  
5 back in 2020, May of 2020.

6 I'm a proud father of three kids: eight-year-  
7 old Desmond, who is autistic, non-verbal, I've got a two-  
8 year-old, and I've got a newborn baby about a month ago.  
9 Basically, I'm the sole provider for my family and I've  
10 been doing this for a while and I'm passionate about what  
11 I do. I take care of the community, and basically just  
12 taking care, and that's what I've been doing and I'm  
13 passionate about what I do, and today I'm being forced to  
14 move my office to a new location.

15 And Ms. Evans, when she told me about applying,  
16 amend the application is the way to do it. After I did my  
17 research on all that, it's more than that. So basically I  
18 have to amend the application.

19 In addition to that, I will have to do, get a  
20 new security bond, move all my equipment, take a picture  
21 of a newfound parking spot, new hours of operation. I  
22 have to cancel my existing lease at my location now, and I  
23 have to create new marketing and networking all over  
24 again. So starting from scratch, basically start a new  
25 application, even though I'm existing, been operating

1 nearly five years.

2 Next thing is, next matter, one of the reasons  
3 Empire Choice Auto should not be revoked, canceled,  
4 suspended or be fined. That's one of the things that now  
5 I have to move to a new location and got to go through all  
6 of that even though I've been operating there for a long  
7 time. If it was new, maybe, yes, but I've been operating  
8 for a long time, don't have any issue.

9 I don't have any complaints from anybody. And  
10 I don't have any issue with any of my clients, the size of  
11 the office, they're comfortable when they come in.  
12 Transaction gets done, they don't have any issue at all.

13 The second thing, reason, SOAH failed to  
14 mention any of the stuff that I submitted. Our hearing  
15 was on May 14. I submitted one on May 17 and I submitted  
16 another one on May 21, and the deadline was June 7. None  
17 of that stuff was mentioned in the proposal for decision;  
18 I felt like it was one-sided and treated unequally for  
19 this case.

20 In addition to that, on the proposal for  
21 decision that was submitted on June 28, it didn't have no  
22 deadline so I submitted reply, response to it on July 28  
23 and it wasn't even looked at, and they told me I passed my  
24 deadline. And I do have answer to everything that was in  
25 their position proposal for decision. I have a lot of

1 stuff to respond to everything that was presented early  
2 today.

3 Another thing is for the Admin Code that was  
4 sent out in January 2024 from Ms. Evans, and it was  
5 basically looking at that. The premises requirement is  
6 only basically -- doesn't mention anything about existing  
7 business. All it mentions is about new businesses because  
8 now when the new business, new dealers when they apply for  
9 it, they have to go through a lot of requirements, they  
10 have to get inspected and all that stuff.

11 So with existing, I've been grandfathered in  
12 for a long time and now all of a sudden there's a change  
13 for me that I have to implement. I've been operating  
14 there for a long time. That's unfair to all existing  
15 businesses.

16 And in addition to that, when you look at the  
17 proposal for decision, it looks like the Admin Code 215.14  
18 is not verbatim. It's like it was altered from what  
19 originally was sent to me. When I read it, it was  
20 completely not the same sentence, not the same words, and  
21 I felt like it was like inconsistency with that.

22 And in addition to that, like when you send out  
23 requirements for premises, you send out an email. Not all  
24 the dealers read that; sometimes it goes to spam. If they  
25 included that in the renewal training courses, it makes

1 more sense, then everybody is mandatory to follow. But  
2 when you just send a requirement and you've been operating  
3 this for a long time and all of a sudden now, hey, you've  
4 got to do this

5 But when I took the training on March 31 of  
6 this year for the renewal and it does not mention anything  
7 on specs of the office. The only thing was added was  
8 fingerprint for background check to prevent any fraud or  
9 crimes. That's the only thing was added in the training,  
10 and that link was from the DMV website that I got that I  
11 took that training.

12 Why not include that in a training for  
13 everybody to follow? Why send a separate email and expect  
14 everybody to follow? So for me, I did everything and I  
15 follow by the book.

16 I don't cut any corners. And with that said,  
17 the only thing mentioned in renewal when I took my course,  
18 it mentioned each retail store -- I mean each building  
19 could have up to four retail without any suites or units.

20 And for me, you know, it only says you have to have an  
21 office, a desk, two chairs, internet and phone line to  
22 operate a business.

23 What it has to do with the size? Like what it  
24 has to do with the size? Like I've been operating fine,  
25 why all of a sudden now I have to change? Yeah, for new

1 business, yes, they have to follow the requirement. New  
2 dealers, when they submit their application, they have to  
3 follow the 100 square footage, but why somebody that's  
4 been operating, now I have to follow?

5 In addition to that, for the building and what  
6 I got from the landlord and the management is 300 square  
7 foot, and now somebody came and start measuring stuff  
8 saying, oh, it's not enough. It just doesn't make sense.

9 And when Mr. Schultz came out in June 2023, I  
10 only had four allegations what was sent to me originally.

11 Then when I looked at the proposal for decision, it shows  
12 five allegations. That's inconsistency.

13 And basically I took care of all those  
14 allegations as soon as I found out. One was GDN was not  
15 updated. I didn't know where to go to fill it out.  
16 Finally found it out and as soon as I talked to Mr.  
17 Schultz, I went and took care of all that.

18 And the hours of operation, it was a laminated  
19 paper. Due to the weather, it would fall off, and with  
20 the heat in Texas it's not going to stay there forever.  
21 And my parking spot is the same thing, it's laminated  
22 paper there, it's not going to stay there forever.

23 So as soon as he mentioned that, I went and  
24 took care of it. And my hearing on May 14, he admitted  
25 all those allegations was taken care of permanently except

1 the size of the office.

2 And in addition to that, when he came there,  
3 the conversation that we had afterward, he said, Why  
4 there's not a sign when you step away from the office? If  
5 the door is locked, put a sign on. But the door was open,  
6 somebody was present, and he still wants me to put a sign  
7 that I stepped away for lunch. Come on, let's be real.

8 Any retail, when the door is locked, yes, that  
9 makes sense when the client comes, but if somebody is  
10 present, do I still have to put a sign there? You could  
11 ask the person that knows about my business there every  
12 day, why put a sign on there? But if that's the case, if  
13 that's mandatory, I'm willing to do that going forward.

14 That's not a problem. But the only argument  
15 here today is the size of the office. Everything else has  
16 been taken care of.

17 And in addition to when I had my hearing on May  
18 14, Ms. Pierce -- I don't know what her title is, she  
19 might be director of law enforcement or a director of DMV,  
20 some of the questions that I asked that she couldn't  
21 answer. One of the questions that I asked -- first of all  
22 she answered one of the questions. I said, Hey, look in  
23 your system, what is the requirement for each building to  
24 have for a dealer?

25 She said it could have up to five -- up to four



1 retail at each building without any unit or suite. She  
2 clearly mentioned that if you go back and watch that video  
3 during the hearing.

4 And the other two questions that I asked, I was  
5 like what is -- does the Admin Code 215.14, does it  
6 mention anything about existing. She couldn't answer that  
7 question. And another thing that she mentioned that she  
8 watched the training course, the renewal training course,  
9 and then when I asked her -- I was like, does it mention  
10 anything specification of the size of the office. She  
11 could not answer that.

12 So in a way it's like I'm getting sent an email  
13 and I've been operating for so long that now I have to  
14 make change. Why change the system that's not broken?

15 And my conclusion for today is I'm a proud  
16 father of three kids. I'm a sole provider for them,  
17 that's how I earn my living. And with all these factors,  
18 getting forced to move to a new office, I looked for  
19 another location. I couldn't find it.

20 But the thing is I'm being forced to move to  
21 another location for existing business. That doesn't make  
22 sense.

23 And also for the admin, SOAH failed to mention  
24 any of the stuff that is submitted on May 17, May 21, and  
25 also July 28 -- I submitted a response to that proposal

1 for decision and it was never looked at. It was like, I  
2 feel like, one-sided, my voice was never heard. And also  
3 in the Admin Code it doesn't mention anything about  
4 existing business, all it mentions is about new  
5 businesses, new dealers.

6 And also, for the new training course that I  
7 took, I watched every single thing. Everything that they  
8 mentioned, I followed that and I followed by the book, but  
9 it does not mention anything about the size of the office.

10 If you put that in there, everybody will follow because  
11 every dealer has to take that training or they won't get  
12 their license renewed.

13 And another thing, Mr. Schultz with all the  
14 allegations, it was inconsistency from the four that I was  
15 sent originally, then it's five now on the proposal for  
16 decision. That's inconsistency.

17 And last, not least, I took care of all my  
18 stuff that was sent, allegations, three out of the four.  
19 And the fourth, which is the size of the office, it does  
20 not pertain to me because I'm an existing business.

21 At the end, I'm a proud father of three kids  
22 and this is how I provide for my kids, and I follow  
23 everything by the book. I don't cut any corners. I'm an  
24 honest man, I pay all my taxes, and all I'm asking you  
25 guys today to get this dismissed because it does not

1 pertain to me about the size of the office.

2 I'm willing to do it about putting that sign if  
3 I'm not present, which has turned into the fifth  
4 allegation which is a part of, I don't know. And also,  
5 they mentioned about submitting a false picture. That  
6 picture was taken before it was remodeled.

7 If you look at it, I have a picture in here  
8 that has a AC unit there. It's the exact same location,  
9 there's nothing falsified. When she requested, that's the  
10 only picture that I had that I sent to her.

11 But I do have all the pictures if anybody would  
12 like to look at it. I have it here because I submitted  
13 response to the proposal for decision but it was never  
14 accepted within 30 days because it didn't have a deadline  
15 when it was submitted.

16 With that said, that's all I have.

17 MR. BACARISSE: Thank you, Mr. Ahmad,  
18 appreciate it.

19 What we'll do is questions for Mr. Ahmad now.  
20 Members, any questions?

21 MS. OMUMU: I have a question.

22 MR. BACARISSE: Yes, Member Omumu.

23 MS. OMUMU: Mr. Ahmad, thank you for sharing.

24 Do you recognize today that the premise that  
25 you're in does not meet the requirements of the agency?

1 MR. AHMAD: It meets the requirement because of  
2 the 300 square footage. On top of that, whatever they  
3 say, the 130 square footage, I dispute that and it does  
4 meet the requirement. On top of that, my application has  
5 been approved since 2020. Why I have to make a change  
6 now?

7 MS. OMUMU: Mr. Ahmad, do you have anything in  
8 writing from the agency that states you were grandfathered  
9 into previous requirements?

10 MR. AHMAD: When I talked to Mr. Schultz, the  
11 conversation that we had, he said your grandfather clause,  
12 reach out to the DMV, but during our hearing, he denied.

13 MS. OMUMU: So there's nothing in writing from  
14 the agency?

15 MR. AHMAD: No.

16 MS. OMUMU: Thank you, Mr. Ahmad.

17 MR. BACARISSE: Any other questions, members?

18 Mr. Ahmad, thank you for your time -- oh, I'm  
19 sorry, go ahead.

20 MR. SCHLOSSER: Mr. Ahmad, Member Schlosser  
21 here.

22 Do you have any evidence or anything that  
23 shows -- you claim that there have been discrepancies in  
24 what you were provided first and what you were told about  
25 second. Do you have anything in writing that shows that?

1       You said specifically 215, the first version was not  
2       verbatim.

3               MR. AHMAD: Yes, I do have it in here.

4               MR. SCHLOSSER: Okay. Is it something that we  
5       can view?

6               MR. AHMAD: Yes. I can give it to you guys.

7               MS. MORIATY: I'm sorry, Chairman, if I can  
8       interrupt? So we can't look at evidence that's outside  
9       the record. So unless it's an exhibit that was accepted  
10      by the SOAH judge, we can't look at it.

11              MR. SCHLOSSER: You're correct. I'm sorry.

12              MS. MORIATY: We can confirm whether or not it  
13      was an exhibit.

14              MR. BACARISSE: Would you check on that? Thank  
15      you. Let's just take a second for her to look at that.

16              (Pause.)

17              MS. MORIATY: I'm sorry, Board, I can't find  
18      that that document was entered into the SOAH hearing; it's  
19      not an exhibit.

20              MR. BACARISSE: Mr. Ahmad, can you point to  
21      where this -- what you're discussing, can you point to  
22      where it is in an exhibit that was filed to the judge?

23              MR. AHMAD: I would not know what the exact  
24      exhibit is. All I did is I copied exactly what's on Admin  
25      Code 215.14 and was on the proposal for decision, and I

1 kind of read it, both of them. It's altered, it's not the  
2 same.

3 MR. BACARISSE: Do you have what you submitted  
4 to them that was not altered?

5 MR. AHMAD: This is the one right here where it  
6 says a dealer premises requirement, it talks about -- and  
7 then when you look at it, what I copied here and then the  
8 proposal for decision, it's not the same words.

9 MR. BACARISSE: Okay. Just a question for  
10 counsel. I'm sure you looked at that. How would we look  
11 at what Mr. Ahmad is saying?

12 MS. MORIATY: Well, I would recommend we bring  
13 up our opposing counsel here and that we get her to  
14 present her angle on it. And she can answer your  
15 questions about the correspondence that happened and  
16 whether or not it's an exhibit faster than I can fish  
17 through a record to see if it's there. We can certainly  
18 reserve -- respondent will still be here, if we have more  
19 questions, we can bring him back and ask him. But I think  
20 we should talk to the other party and see if she can help  
21 us.

22 MR. BACARISSE: Okay. Thank you.

23 I think we have one more question, Mr. Ahmad,  
24 before you step away.

25 Member Omumu.

1 MS. OMUMU: Member Omumu, for the record.

2 Mr. Ahmad, I have one more question for you.  
3 Would you be willing to settle with Enforcement on the  
4 location of your premises if given another opportunity?

5 MR. AHMAD: I would. I've looked at locations  
6 and based on my financial, does not meet. Right now  
7 especially --

8 MS. OMUMU: Yes or no, Mr. Ahmad?

9 MR. AHMAD: I would, but if you give me a time  
10 frame that I don't meet it, I don't know what the result  
11 will be, like say you have till this time to find a new  
12 location. I've looked at it already, other locations. I  
13 would.

14 MS. OMUMU: So the answer is yes or no?

15 MR. AHMAD: Yes.

16 MS. OMUMU: So yes.

17 MR. AHMAD: Yes, I would.

18 MS. OMUMU: Okay. Thank you, Mr. Ahmad.

19 MR. BACARISSE: Great. Let's hear from the  
20 other counsel, Mr. Ahmad, and then we're going to have  
21 some more questions, I'm sure.

22 MR. AHMAD: Okay.

23 MR. BACARISSE: So can you hang with us for a  
24 few minutes?

25 MR. AHMAD: Yes.

1 MR. BACARISSE: All right. Thank you.  
2 Appreciate your time this morning.

3 MR. AHMAD: Thanks for your time.

4 MR. BACARISSE: Petitioner Texas Department of  
5 Motor Vehicles is represented by Lorelei Evans.

6 Ms. Evans, good morning. You can now make the  
7 department's oral presentation, and we appreciate hearing  
8 from you this morning.

9 MS. EVANS: Thank you.

10 Chairman, board members, good morning. My name  
11 is Lorelei Evans. I'm the Enforcement attorney who tried  
12 this matter at SOAH.

13 The evidence in this case is undisputed and the  
14 ALJ found that the respondent failed to meet five premise  
15 requirements and failed to establish a permanent place of  
16 business during a site inspection on June 22 of 2023.

17 Furthermore, on the date of the hearing, the dealer was  
18 still in violation of two of those five premise  
19 requirements.

20 On the date of hearing, the respondent failed  
21 to have a separate office space consisting of at least 100  
22 square feet of interior space from the other co-located  
23 dealer that was separated by permanent walls and a  
24 separate door. These premise requirements were not  
25 imposed on the respondent at the last minute. Instead,



1 the dealer had 500 days from the date the rule changed to  
2 the date of the hearing to make any necessary changes,  
3 alter the office setup if possible, or find a different  
4 premise location to comply with these requirements.

5 The evidence demonstrates that the department  
6 spent many hours attempting to help assist respondent into  
7 compliance, which included a number of emails about the  
8 rules and the regulations that were applicable to the  
9 dealer, links to resources such as the free dealer  
10 training seminar that goes over these requirements and  
11 tries to help explain it further. But despite these  
12 efforts, the respondent argued that the rules do not apply  
13 to him, and he did that today before the board members.  
14 Respondent picks and chooses what rules he wants to  
15 follow, and during the hearing, repeatedly called some of  
16 the rules he didn't want to follow as pointless.

17 In the PFD the ALJ concluded that the  
18 department had: one, proven all the allegations and that  
19 the respondent did not meet the premise requirements; two,  
20 that the amendments of the Texas Admin Code 215.140 apply  
21 to all dealers, including the respondent; and three, that  
22 the respondent was not exempt from these requirements and  
23 that there was no grandfather clause or other exception  
24 that would apply to the respondent, and Occupations Code  
25 2301.263 states that currently existing dealers, as well

1 as ones that are seeking renewal, need to be in compliance  
2 with amended board rules.

3 The PFD stated that the respondent had enough  
4 time and opportunity to achieve compliance with these new  
5 rules, and that in the end, the respondent bears the  
6 responsibility as the licensee to make sure it maintains  
7 compliance with the department's rules and its amendments.

8 The ALJ also found several aggravating factors  
9 that were present in this case. First, the ALJ found that  
10 the respondent did attempt to conceal the violation. Prior  
11 to even a hearing being discussed, when the notice of  
12 department decision was sent on 9 January, the respondent  
13 and the petitioner had a conversation about two days after  
14 about what is required in order to cure those premise  
15 violations, and if in good standing we'll settle with an  
16 agreed order and you can go about your business.

17 The petitioner made clear that he would need to  
18 provide clear photos that these premise violations had  
19 been cured. The respondent submitted inaccurate images  
20 with the intention of misleading staff into believing the  
21 respondent had cured all the premise requirements. In  
22 doing so, the court found that the respondent sought to  
23 hide the outstanding infractions from the department.

24 The department asked on at least two occasions  
25 whether or not the respondent was currently in compliance

1 with the 100 square foot requirements and the separated  
2 walls, which the respondent said, yes, it had met all of  
3 the requirements. Due to the inaccurate photos and those  
4 assertions, the department sent an investigator out for a  
5 second site inspection, which occurred on March 6 of 2024,  
6 to verify whether or not the respondent was in compliance,  
7 as he had claimed he was.

8           During that inspection, which was unannounced,  
9 the subsequent inspection revealed that the respondent was  
10 still not in compliance. Not only was the respondent not  
11 in compliance, he wasn't at his dealership. It was during  
12 his normal business hours and he failed to have either an  
13 agent present or a sign explaining his absence and when he  
14 intended to be back, which is a requirement under the  
15 rules.

16           You heard from him today that there was someone  
17 present. The individual that he was referring to was  
18 another dealer who was not a bona fide employee of his  
19 dealership or an employee for him, therefore, he would  
20 still need to have a sign or a bona fide employee present  
21 if he was not going to be present.

22           During the hearing, the respondent testified  
23 that he was aware of the rule because during the first  
24 site inspection the investigator had let the respondent  
25 know that if you're going to be absent, you need to post a

1 sign or have an employee present, but that he didn't  
2 follow it, and that rule was pointless. As a result, the  
3 ALJ concluded that the respondent's actions were  
4 intentional. He made a choice to disregard them.  
5 Respondent testified that if he disagrees with a  
6 department rule, he will not comply with it.

7 The respondent brought up several arguments  
8 today which I will address and then answer any questions  
9 after if the board members have any.

10 The new location. The respondent has stated it  
11 would be burdensome to find a new location, especially at  
12 this juncture. But I would like to remind you that 500  
13 days had passed from the date the rule had been created to  
14 the hearing date that would have allowed respondent to  
15 look and search for a new location and 320 days from that  
16 first inspection when he knew that this current premise  
17 requirements were not being met here.

18 But he did not. Instead, and as today, he has  
19 argued that that rule does not apply to him and that he is  
20 grandfathered under some exception. Again, the ALJ found  
21 that no exception applies and that those rules do apply to  
22 him.

23 The respondent also argued that SOAH didn't  
24 consider any of the documents. SOAH states in the PFD  
25 that he didn't timely submit the documents, and then those

1 documents that were submitted, an opportunity for counsel  
2 to make objections after the fact since they weren't  
3 timely submitted granted the opportunity for petitioner to  
4 make those objections and only one of the documents were  
5 submitted, but they were considered by the ALJ.

6           The other argument the respondent made was that  
7 he was never notified of any deadlines in the PFD. The  
8 very first page of the PFD states the code in which the  
9 respondent must file exceptions and petitioner must file  
10 certain exceptions; the deadline is in the code and was  
11 written on that very first page. The respondent either  
12 chose not to review that but he did not submit his  
13 exceptions on time.

14           There is also an audio transcript of the entire  
15 proceedings. And so the respondent has stated that what  
16 was in the PFD was not accurate, however, SOAH often  
17 reviews those audio transcripts when creating the PFD.

18           And then I'm just reviewing the arguments. One  
19 of the board members had asked if he was given the  
20 opportunity to find a new location would he, which he said  
21 if he was given an opportunity. I would like to point out  
22 that the respondent was given multiple opportunities,  
23 multiple opportunities, and has had, again, over 500 days  
24 from the date of hearing, even more so, almost two years  
25 now to find a suitable location and has refused to do so.

1           Furthermore, he contends that that rule doesn't  
2 apply to him. So I do believe that those opportunities  
3 have been exhausted and that further opportunity would not  
4 amount to a different result.

5           Respondent is unfit to operate as a dealer  
6 under the department's standards because he willfully  
7 engages in deceptive behaviors to conceal ongoing  
8 violations and refuses to make the necessary office  
9 modifications or relocation to bring the dealership into  
10 compliance with those regulations. Respondent was  
11 provided with ample opportunity and time to comply with  
12 those rules, but lacks any sense of responsibility and  
13 continues to insist that the rules do not apply to his  
14 dealership.

15           In conclusion, revocation for the premise  
16 violations is authorized by Texas Occupations Code  
17 2301.651 for failing to maintain the qualifications of a  
18 license and Transportation Code 503.038. The board's  
19 rules are not pointless; they are intended to maintain the  
20 integrity of this industry and protect Texas consumers.  
21 The dealer violated five premise requirements on June 22,  
22 2023, and has made no efforts to cure the remaining two  
23 violations. Therefore, I would respectfully request that  
24 the board adopts the ALJ's proposal for decision as  
25 written and revoke the dealer's license.

1 I'll take any questions.

2 MR. BACARISSE: Thank you, Ms. Evans. Hang on  
3 here.

4 Do we have questions for Ms. Evans, board  
5 members? Member Alvarado, do you have a question?

6 MR. ALVARADO: Yes, sir. Thank you, Mr.  
7 Chairman.

8 Thank you, Ms. Evans. I believe I heard Mr.  
9 Ahmad say that he responded on May 17 and May 21 with  
10 documentation or some sort of evidence, and I thought he  
11 said in a timely manner met the deadline. Are you able to  
12 confirm that is not true?

13 MS. EVANS: I can speak to that. The judge had  
14 issued for respondent's exhibits -- since they were not  
15 timely filed, had issued an order allowing myself, the  
16 petitioner, to file exceptions or objections to those  
17 exhibits, which I did. The respondent, on his own behalf,  
18 started to file a bunch of miscellaneous documentation but  
19 it was not anything that was permissible under the rules,  
20 nor did the court, in their order, say that the respondent  
21 could also submit objections.

22 The whole reason for that additional order was  
23 because the respondent did not timely submit exhibits and  
24 she wanted to give him the opportunity to have those come  
25 in, but also provide the petitioner an opportunity to

1 object to them since there wasn't adequate time to review  
2 those documents before the hearing. So the respondent did  
3 submit documentation, but there was no provision provided  
4 by SOAH after the hearing that he could do so.

5 MR. ALVARADO: Thank you.

6 MR. BACARISSE: Members, any other questions  
7 for Ms. Evans? Oh, yes, Member Gillman.

8 MS. GILLMAN: So I think what she said in  
9 response to that is yes, he submitted responses but it's  
10 not permissible.

11 MS. MORIATY: If I may, Chairman?

12 Respondent was able to get one exhibit into  
13 evidence. He has an exhibit, it's a series of emails  
14 between himself and Lorelei -- Ms. Evans, I'm sorry --  
15 regarding the case. So he did present documents to the  
16 SOAH judge, she accepted one of them as an appropriate  
17 exhibit for the hearing, even though he was late.

18 The SOAH judge was trying to give him extra  
19 opportunity to submit. There were several of his exhibits  
20 that the SOAH judge excluded. And again, because the SOAH  
21 judge gets to decide what comes in and comes out, those  
22 excluded exhibits are not something y'all can consider.

23 MS. GILLMAN: Kind of sounds tough.

24 Okay. My question is -- you say he had 500  
25 days from the rule change, so he was given the license in



1 2020 and then I'm working backwards 500 days, about a year  
2 and a half, I guess, sometime in '22 the rule changed?

3 MS. EVANS: It was effective January 1 of 2023.

4 MS. GILLMAN: Oh, okay, January of '23. How  
5 does he know that that rule change happened?

6 MS. EVANS: So one of the exhibits that the  
7 petitioner submitted was an email correspondence, and I  
8 believe it was from the MVD, that notified all the dealers  
9 via email of the rule change and that the board had  
10 adopted this rule change. So it was sent out that way and  
11 then it's also --

12 MS. GILLMAN: I have to tell you, I am unaware  
13 as a dealer of this communication. So every time there's  
14 a rule change, is there an email that goes out to all  
15 dealers?

16 MS. EVANS: I can't speak to that. I don't  
17 know.

18 MR. BACARISSE: Ms. Moriaty, could you --

19 MS. GILLMAN: Because in my experience, that  
20 has not happened.

21 MR. BACARISSE: It's a good question.

22 MS. MORIATY: This may actually be a question  
23 for Mr. Avitia.

24 MR. BACARISSE: Mr. Avitia.

25 MR. AVITIA: Chairman, thank you.

1           Yes, Member Gillman, every time there is a rule  
2 change or adoption by the board -- and you as a board  
3 member approved and adopted this rule, by the way -- an  
4 email is sent out to the person that's on record in the  
5 licensing file.

6           MS. GILLMAN: Very honestly, is it questions or  
7 discussion?

8           MR. BACARISSE: Well, he is providing a fact to  
9 you, Member Gillman. You still have the floor if you wish  
10 to ask a further question, you may. Also, Member McRae  
11 has a question.

12           MS. GILLMAN: Question: is it more typical  
13 that dealers don't really know of the changes until they  
14 have to apply again? Is that really when -- because if  
15 you don't know the rule change, it seems unfair to expect  
16 compliance for 500 days.

17           MS. EVANS: And while I can't speak to that  
18 specific question, what I can say, if you just look at the  
19 period of time where the inspection occurred in this case,  
20 which was on June 22 of 2023 -- at that point the  
21 respondent did know of the change and had over 320 days to  
22 come into compliance before the board hearing. So even if  
23 we didn't go off the date where the rule changed, the  
24 respondent did have actual knowledge on June 22 of 2023  
25 when the investigator brought this to his attention.

1 MS. GILLMAN: My next question is with regard  
2 to the training, Mr. Ahmad said that in the renewal  
3 training, which he took, there's nothing about the size of  
4 the office. Is that true or false?

5 MS. EVANS: I believe this was testified during  
6 the hearing that the renewal training was being updated,  
7 so at the time the renewal training did not have that  
8 information. But the dealer training seminar, which was  
9 provided to him in the links, had those updates, and the  
10 dealer training seminar, since it is live and offered once  
11 a month, is the best source to get a lot of these updates.

12 MS. GILLMAN: And my last question is Mr. Ahmad  
13 says that he was aware of three allegations, but then it  
14 turned to five.

15 MS. EVANS: There were four allegations in the  
16 notification, the notice of department decision. But  
17 during the hearing, when the investigator was testifying,  
18 the ALJ also found that there was additional premise  
19 violation where the respondent failed to have the employee  
20 present during the business hours.

21 MS. GILLMAN: It did change. And has he taken  
22 care of all allegations except the size of the office?

23 MS. EVANS: Yes.

24 MS. GILLMAN: And if his license is revoked,  
25 when can you reapply?

1 MS. EVANS: I'm not aware of a period of time.  
2 I believe it was case-by-case is made on it, and that was  
3 also brought in during the hearing.

4 MR. BACARISSE: May I ask just a point of order  
5 question? Who provides this training? Can we have a  
6 little bit more illumination on how this training is  
7 provided to dealers and frequency?

8 MS. MORIATY: That's the a licensure matter the  
9 MVD would be dealing with, but maybe Mr. Avitia can speak  
10 to that from his prior experience as their director.

11 MR. AVITIA: Chairman, if I may?

12 MR. BACARISSE: Please.

13 MR. AVITIA: Yes, Chairman, we have partnered  
14 with the Texas Independent Automobile Dealer Association  
15 to provide dealer training which is mandatory for all  
16 dealers, so they are the ones who provide the training.  
17 The link to TIADA's website is provided on our website for  
18 that training.

19 MR. BACARISSE: And is this training provided  
20 in an ongoing fashion electronically?

21 MR. AVITIA: Yes, sir.

22 MR. BACARISSE: It's always sort of always  
23 available?

24 MR. AVITIA: Always available, yes, sir.

25 MR. BACARISSE: Okay. Thank you.

1           Members, any other questions? Mr. Jones, did  
2 you have a question, no/yes?

3           MR. JONES: Member Gillman asked it.

4           MR. BACARISSE: All right. Members, any other  
5 questions?

6           MS. GILLMAN: Sorry. What is the answer to  
7 when you can reapply?

8           MR. BACARISSE: Oh, yeah, we didn't hear that.

9           MR. AVITIA: Case-by-case.

10          MR. BACARISSE: And who makes that decision,  
11 General Counsel Office? Who makes that decision?

12          MR. AVITIA: Chairman, if I may?

13          And, Monique, feel free to jump up and correct  
14 me if I'm incorrect. It's been a while since I've been  
15 the Motor Vehicle Division director, it's been a minute.

16          (General laughter.)

17          MR. AVITIA: Anybody who is revoked for a  
18 license has the opportunity to reapply. In this  
19 situation, I want to make sure that I'm minding my Ps and  
20 Qs as well because I'm not the agency's lawyer. But if  
21 the board determines to revoke this individual's license,  
22 he can always reapply, and Monique's group, through their  
23 licensing section, will review his application if he meets  
24 the premise requirements, which is really the only  
25 outstanding issue.

1 MS. JOHNSTON: Yes. Monique Johnston, for the  
2 record, director of the Motor Vehicle Division.

3 Unless there's a specific ban listed in the  
4 order -- because that is sometimes a stipulation of an  
5 order that they are banned from applying for a certain  
6 amount of years -- if there is no ban, they, yes, they can  
7 reapply. There is not specific time frame. And they  
8 would go through the application process.

9 And of course, they would be required to be  
10 reviewed by our Licensing Committee based on just the  
11 disciplinary history to see if they were eligible to have  
12 a new license. And then we would look at the case in  
13 general and then, of course, their premise requirements  
14 would be reviewed at the time of licensing as well.

15 MR. BACARISSE: Thank you.

16 Members, any further questions? Now that Ms.  
17 Johnston is up here, we may want to just make sure.

18 Yes, Member Alvarado.

19 MR. ALVARADO: Thank you. I just want to be  
20 really clear on the specifics of what -- so 300 and how  
21 many days, would you say, since actual notice?

22 MS. EVANS: Three hundred and twenty is what I  
23 calculated.

24 MR. ALVARADO: So he had 320 days to increase  
25 his square footage, put up a permanent wall and a door.

1 Is that what's missing from compliance?

2 MS. EVANS: Correct, so he could conduct  
3 private transactions and secured documentation from other  
4 co-located dealership's business.

5 MR. ALVARADO: Over 300 days to put up a  
6 permanent wall and a door and that would allow him to be  
7 in compliance if he would have met that within that time  
8 frame?

9 MS. EVANS: Correct. The issue, though, in  
10 this case really is that the facility that they were  
11 operating out of had 130 square feet for both of them. So  
12 without putting up another potentially building on that  
13 property, that space is insufficient for two dealers ever  
14 to operate in. Even if you did create permanent walls,  
15 that would leave about 60 square feet per dealer, which  
16 would still not meet the requirements.

17 MR. ALVARADO: So the only solution is for the  
18 dealer to find a new location that's in compliance with  
19 these rules.

20 MS. EVANS: Yes, or if the landlord would allow  
21 another temporary building, yes, or expansion.

22 MR. ALVARADO: Thank you, ma'am.

23 MR. BACARISSE: Members, any further questions?  
24 We have the experts before us here.

25 MS. GILLMAN: Discussion?

1 MR. BACARISSE: Well, we need to either  
2 question or move to a motion, so seeing no more questions,  
3 I would entertain a motion on agenda item 6.

4 MS. McRAE: Chairman, I have a motion.

5 MR. BACARISSE: Member McRae.

6 MS. McRAE: Thank you, Chairman.

7 I move that the board accept the administrative  
8 law judge's proposal for decision and adopt findings of  
9 fact 1 through 12 and conclusions of law 1 through 14, as  
10 set forth therein. In keeping with the ALJ's  
11 recommendation, I move that the board revoke Empire Choice  
12 Auto's GDN license.

13 MR. BACARISSE: Is there a second to that  
14 motion?

15 MR. GRAHAM: Second.

16 MR. BACARISSE: Member Graham.

17 Okay. Now, Member Gillman, that we have a  
18 motion and a second on the table, is there any discussion?

19 MS. GILLMAN: My feeling on this is that while,  
20 number one, Mr. Ahmad, I think that as a license holder  
21 myself, I respect very much the privilege of having a  
22 dealer license. And I think it is important that there  
23 are rules and that we comply in order to keep that  
24 license, and I'm a proud car dealer and I respect the  
25 rules of the game.



1           With that said, I also appreciate you defending  
2 your business and it is difficult when rules change and  
3 you feel like you should be grandfathered in. But in this  
4 case, I don't feel like there was harm to the public.  
5 There were no strong customer complaints, and a size of an  
6 office and posting of hours and a parking lot space just  
7 doesn't seem like a major violation to the Great State of  
8 Texas.

9           So I would ask that if this dealer reapplies  
10 and tries to meet all of the requirements of being a  
11 dealer that the department would take these factors into  
12 consideration in reinstating a dealer if he complies.

13           Thank you, Mr. Chairman.

14           MR. BACARISSE: Thank you, Member Gillman.

15           Members, any other comments on this motion?

16           (No response.)

17           MR. BACARISSE: Board Member McRae, Vice Chair  
18 McRae, as the maker of the motion, do you have anything  
19 further that you would like to add in this conversation?

20           MS. McRAE: No. I would just say I appreciate  
21 Member Gillman's comments because she is in that industry.

22           And it is a privilege to be able to do business in the  
23 State of Texas as an automobile dealer, and I know that we  
24 want to be fair and we want to be consistent with all of  
25 our dealers in the state.

1 MR. BACARISSE: Thank you.

2 Any other comments? Member Graham, comment?

3 MR. GRAHAM: I think it's imperative that this  
4 agency enforces the rules that apply to GDN holders in a  
5 consistent and fair manner. And ultimately, this agency  
6 has the incredible responsibility to ensure that the  
7 citizens of Texas are protected and that the people who  
8 are operating as dealers in the marketplace are legitimate  
9 and have the best of the citizens' interests at heart.  
10 It's also clear to me that the respondent committed these  
11 violations. He failed ultimately to correct all of the  
12 violations, and when asked the question by Member Omumu if  
13 he would rectify the situation, stood defiantly and  
14 basically said no.

15 So I think where I come down on it is we have  
16 rules, we have to follow the rules. We have to enforce  
17 the rules fairly and equitably to everyone. And  
18 unfortunately, this is going to be a case that I see, in  
19 my opinion, where we should revoke the license, and  
20 perhaps it will work out down the line.

21 MR. BACARISSE: Members, any other questions  
22 before I call the vote? Member Omumu.

23 MS. OMUMU: Just one other quick comment.

24 MR. BACARISSE: Yes, ma'am.

25 MS. OMUMU: Mr. Ahmad, I think you hear all of

1 us making these comments because we are setting a  
2 precedent here, probably about to move forward with  
3 revoking a license for a premises violation, and I don't  
4 think that this is anything that this board has ever done  
5 before. But as all the previous board members have said,  
6 there are rules for a reason and we do want to protect the  
7 constituents of Texas. We want to protect our business  
8 owners as well, and this is serious, there are rules for a  
9 reason. And we do hope, as Member Gillman stated, that if  
10 you were to reapply that the agency does grant you a  
11 license again.

12 Thank you.

13 MR. BACARISSE: Thank you.

14 I do believe that any applicant is able to  
15 reapply and we are serious about working with any  
16 applicant to get them licensed to do business in the  
17 state. We do not want to be a board that shuts down  
18 opportunities that people have to make a living and serve  
19 the people of Texas.

20 But on the other hand, as the members have  
21 said, and I just join that chorus, we do have rules and  
22 regulations for a reason and a purpose and all of them  
23 have to be abided by. You can't pick and choose, you have  
24 to abide by all of them. And that's challenging but it's  
25 doable.

1           That's just my personal comment. I don't  
2 normally make comments, but that's where I am today.

3           MR. GRAHAM: Mr. Chair?

4           MR. BACARISSE: Any other questions, comments,  
5 Member Graham?

6           MR. GRAHAM: There's been no discussion on the  
7 fines involved. There's been discussion on revocation,  
8 but not fines. Is there no fines associated with this?

9           MS. MORIATY: No fines are recommended by the  
10 ALJ or requested by the attorneys for the department.

11          MS. GILLMAN: Is that normal?

12          MR. GRAHAM: Well, I don't know that answer,  
13 but you know, when we sometimes have these discussions,  
14 the fines to me when there's revocation just feel like  
15 adding insult to injury. You know, the damage is done.  
16 Right?

17                 So in any case, I'm fine with that, I just  
18 wanted to inquire. Thank you.

19          MR. BACARISSE: Okay, members, any other  
20 questions or comments on this agenda item?

21                 (No response.)

22          MR. BACARISSE: I will now like to call for the  
23 vote, please, for the record here.

24                 Member Alvarado?

25          MR. ALVARADO: Aye.

1 MR. BACARISSE: Member Gillman?

2 MS. GILLMAN: Aye.

3 MR. BACARISSE: Member Graham?

4 MR. GRAHAM: Aye.

5 MR. BACARISSE: Member Jones?

6 MR. JONES: 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 the record will reflect  
16 that I, Chair Bacarisse, vote aye as well. It's  
17 unanimous.

18 Mr. Ahmad, I would encourage you to get with  
19 the Licensing Division and reapply and fix the problems  
20 and move forward. Thank you.

21 Member Graham has had to step away for just a  
22 moment. How about if we take about a five-minute recess.  
23 Okay?

24 It's 10:26. We're recessing for about ten  
25 minutes, we'll be back.

1 (Whereupon, a brief recess was taken.)

2 MR. BACARISSE: All right. If I may, it is now  
3 10:40 in the morning, and the DMV Board is reconvening our  
4 meeting. Thank you all for your flexibility in the little  
5 break that we had.

6 We are now at agenda item number 7, rule  
7 adoptions, and I would love to turn this over to Monique  
8 Johnston and she will walk us through some things.

9 So, whenever you are ready, Ms. Johnston. I  
10 know we are getting settled in and that's great, no  
11 problem. And Ms. Quintero is with us as well. Good  
12 morning.

13 So you have the floor when you're ready.

14 MS. JOHNSTON: All right. Chairman, members,  
15 Director Avitia, good morning. For the record, I'm  
16 Monique Johnston, director of the Motor Vehicle Division,  
17 or as we call it, MVD.

18 Today we are asking the board's permission to  
19 adopt changes to Chapter 215, Motor Vehicle Distribution,  
20 in Title 43 of the Texas Administrative Code. This rule  
21 is listed as agenda item number 7, and the details may be  
22 found beginning on page 37 of your board book.

23 This rule package adopts amendments, new rules  
24 and repeals to Chapter 215 to implement two bills from the  
25 last legislative session, House Bill 718 and Senate Bill

1 224. House Bill 718 requires a substantial number of rule  
2 amendments to responsibly implement the transition from  
3 temporary tags to license plates. This transition  
4 involves multiple divisions across the department. First,  
5 I will highlight some of the rule packages key provisions  
6 and then my colleagues and I are available to answer any  
7 questions you may have.

8           House Bill 718 amendments, most of the Chapter  
9 215 adoption proposals are to implement House Bill 718.  
10 By adopting the Chapter 215 amendments and repeals, the  
11 department accomplishes the following three goals:  
12 allowing a license holder to receive enough of the various  
13 types of license plates necessary for the license holder  
14 to operate efficiently; providing a license plate database  
15 to assist the department and law enforcement; and  
16 preventing or deterring license plate theft and fraud  
17 throughout the life cycle of a license plate.

18           With those goals in mind, I would like to  
19 briefly highlight a few of the significant Chapter 215  
20 changes. In 215.138, Use of Dealer's License Plates,  
21 amendments add certain dealer's plates, clarify certain  
22 exemptions, and add recordkeeping and reporting  
23 requirements through the department's electronic license  
24 plate system. This amendment is aimed at preventing fraud  
25 and theft, allowing the department and law enforcement to

1 easily identify and investigate fraud and other illegal  
2 activities. This amendment also allows law enforcement to  
3 identify the dealer and a particular vehicle in the Texas  
4 Law Enforcement Telecommunications System after the dealer  
5 plate has been assigned.

6 As part of the overall IT development efforts  
7 to support HB 718, the department will be working with our  
8 IT vendor to deploy a mobile friendly access to the  
9 license plate system, or as we call it, the inventory  
10 management system as well, to make it easy to record  
11 license plate data for customer test drives.

12 Next, in 215.140, Established and Permanent  
13 Place of Business Premise Requirements, proposed  
14 amendments would add secure license plate storage  
15 requirements for all dealers.

16 In 215.150, Dealer Authorization to Issue  
17 Licensed Plates, proposed amendments describe when a  
18 dealer may or must issue a license plate, the dealer's  
19 responsibility for all license plates in the dealer's  
20 possession, and the requirements for the license plate  
21 system use and access by a dealer.

22 In 215.152, Obtaining Dealer-Issued Buyer's  
23 License Plates, amendments detail the department's annual  
24 maximum license plate allocation formula, specify when the  
25 department will deliver an allocation to a dealer,



1 describe how a dealer may request more plates, and lay out  
2 the criteria the department will use in evaluating those  
3 plate requests.

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

8           In 215.155, Buyer's License Plates, proposed  
9 amendments cover the issuance of buyer's license plates  
10 and implement a \$10 fee per transactions.

11           And in 215.158, General Requirements for  
12 Buyer's License 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 the county tax assessor-collector.

17           Amendments in 215.120, 215.138 and 215.143 add  
18 or clarify similar data entry reporting and destruction  
19 requirements for industry plates.

20           Lastly, amendments to 215.121 and 215.141 add  
21 violations related to license plate misuse and failure to  
22 report a lost, stolen or damaged license plate.

23           Going on to new sections, in addition to  
24 adopting rule amendments, the department recommends  
25 adopting four new sections. Two of these new sections

1 implement 718.

2 215.151, License Plate General Use  
3 Requirements, this new rule documents when a dealer must  
4 attach a buyer's license plate on a vehicle, remove a  
5 license plate from a vehicle, and update the license plate  
6 system.

7 And in 215.154, Dealer's Temporary License  
8 Plate Allocation, this new rule contains provisions for  
9 the new dealer's temporary license plates which will  
10 replace agent and vehicle temporary tags. This rule  
11 contains similar provisions as to those that currently  
12 apply to other types of standard dealer plates, including  
13 the opportunity for dealers to request more license plates  
14 if needed through the waiver process and charts of the  
15 dealer temporary plate allocations can be found on pages  
16 186 and 187 of your board book. Dealers can also use  
17 their existing dealer plate for test drives and taking  
18 vehicles to and from the auctions and other business uses.

19 The Motor Vehicle Division will be responsible  
20 for handling dealer plate requests and distributing the  
21 new dealer temporary plate.

22 The remaining two new sections, 215.122 and  
23 215.162, implement catalytic converter recordkeeping and  
24 records inspection requirements from SB 224. These became  
25 effective on May 29, 2023. These new provisions will help

1 the department collect the necessary information to detect  
2 and prevent catalytic converter theft.

3 Moving on to repeals, additionally, four  
4 sections must be repealed to implement HB 718: 215.151  
5 and 215.154 must be repealed to allow the department to  
6 propose new language, and 215.153 and 215.159 will no  
7 longer be necessary on July 1, 2025, when temporary tags  
8 will no longer exist.

9 Going on to our stakeholder input. In February  
10 and March 2024, the department provided an early draft of  
11 rule changes implementing 718.

12 MR. GRAHAM: Can I interrupt?

13 MS. JOHNSTON: Yes.

14 MR. GRAHAM: I'm sorry. I have been trying to  
15 find the stakeholder input in this 800-page board book.  
16 Could you say what page that might be on because I've been  
17 digging here trying to find it.

18 MS. JOHNSTON: So the changes from the  
19 stakeholder input start on page 38.

20 MR. GRAHAM: Thirty-eight of the board book?

21 MS. JOHNSTON: Of the board book. Yeah, the  
22 changes that were recommended at adoption are highlighted  
23 in an executive summary in your board book starting on  
24 page 38, and then I don't have --

25 MR. GRAHAM: So page 38 of my board book is

1 adoption of revisions to Subchapter A.

2 (General discussion.)

3 MS. JOHNSTON: Thirty-eight was the executive  
4 summary where it highlights the changes.

5 MS. MORIATY: Member Graham, are you asking for  
6 the actual comments, like the letters we received?

7 MR. GRAHAM: Yes.

8 MS. MORIATY: Okay. Let me scroll down; they  
9 are near the end.

10 MR. GRAHAM: Yeah, because that's what you were  
11 just about to touch on. Correct?

12 MS. JOHNSTON: The actual letters with all of  
13 the comments are at the end of the 215 rule package.

14 MR. GRAHAM: I might have almost been there.

15 MS. MORIATY: It's a lot of pages.

16 MS. McRAE: One eighty-eight?

17 MS. OMUMU: Yes, it starts on 188.

18 MR. GRAHAM: Okay, I got it.

19 MS. MORIATY: Yes. It looks like they begin on  
20 188.

21 MR. GRAHAM: Thank you.

22 MR. BACARISSE: May they continue?

23 MR. GRAHAM: Yes.

24 MR. BACARISSE: Please continue.

25 MS. JOHNSTON: Okay. Thank you.

1           In February and March 2024, the department  
2 provided an early draft of rule changes implementing 718  
3 to three department advisory committees and multiple  
4 industry associations. The proposed rules were approved  
5 by the board at the June 2024 board meeting and were  
6 published for public comment in the July 12, 2024, issue  
7 of the *Texas Register*. The department received five  
8 comments which are included in your board book. The  
9 department received two comments from individuals and  
10 comments from the following associations: the National  
11 Auto Auction Association, the Texas Automobile Dealers  
12 Association, and the Texas Independent Auto Dealers  
13 Association.

14           The department considered all written comments  
15 and is recommending a number of changes to the text at  
16 adoption in response to several of these comments,  
17 including substantive changes and non-substantive changes  
18 which will improve consistency and readability.

19           The substantive changes recommended at adoption  
20 are highlighted in the executive summary of your board  
21 book starting on page 38. One of these changes was to  
22 delete a requirement for a wholesale motor vehicle auction  
23 GDN holder to have secured license plates storage for  
24 license plates removed from vehicles sold to out-of-state  
25 buyers or for export. The department will be asking the

1 Motor Vehicle Industry Regulatory Advisory Committee, or  
2 MVIRAC, to review and provide input on a new draft rule  
3 covering auction and consignment sales at its meeting next  
4 month. Staff anticipates bringing a new rule to the board  
5 for consideration at an upcoming board meeting.

6 Another change was to delete the webDEALER  
7 training requirement under 215.133 as part of the license  
8 application requirements. System access will be addressed  
9 in the 217 package that will be presented in the next  
10 agenda item.

11 The department requests your approval to adopt  
12 these amendments, new sections and repeals. If approved  
13 for adoption, rules implementing House Bill 718 would be  
14 effective July 1, 2025, and rules implementing Senate Bill  
15 224 would be effective 20 days after filing with the  
16 Secretary of State.

17 Members, this concludes my remarks, and we are  
18 happy to answer any questions the board may have on this  
19 rule package. Thank you.

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

21 MR. BACARISSE: Yes, Member Moriatty -- Ms.  
22 Moriatty. Sorry, you're not a member.

23 MS. MORIATY: I did become a member, that's  
24 exciting.

25 (General laughter.)

1 MR. BACARISSE: General Counsel, yes.

2 MS. MORIATY: I would like to answer Member  
3 Graham's question with a little bit more detail. If you  
4 want a summary of the comments and staff's responses, that  
5 begins on green page 63, if that's easier than reading  
6 through the whole comment.

7 MR. GRAHAM: Thank you.

8 MR. BACARISSE: Members, if I may, point of  
9 privilege here. We do have public commenters, and I think  
10 there are several. I know of one in particular, Mr. John  
11 Gonzalez, who is working with a tight timeline here.

12 May we take public comment before we begin our  
13 discussions, members? Are you comfortable with that?

14 MR. GRAHAM: Absolutely.

15 MS. GILLMAN: Yes.

16 MR. BACARISSE: Okay. So sensing that that is  
17 good with the board, if I may ask Mr. Gonzalez to come and  
18 offer his comment now, that would be great.

19 You've got two minutes. Is that right? Let me  
20 just remind the speakers.

21 MS. MORIATY: Three minutes, I believe, sir.

22 MR. BACARISSE: Three minutes and the lights  
23 will change. Thank you.

24 MR. GONZALEZ: For the record, my name is John  
25 Gonzalez. I'm a lieutenant with the Harris County

1 Sheriff's Office and am currently the task force commander  
2 for our auto theft and asset Forfeiture units. I've been  
3 employed with the sheriff's office for almost 21 years now  
4 and have had the privilege of working in many different  
5 assignments within my agency and throughout my law  
6 enforcement career. More than half to those 21 years, I  
7 spent out on the streets as a patrolman.

8 While assigned to our patrol bureau, I was  
9 selected to be part of a proactive unit who was tasked  
10 with targeting high crime areas in Harris County. During  
11 this time I can confidently say that I have self-initiated  
12 several thousand traffic stops that yielded various  
13 outcomes. As a veteran law enforcement officer, I can say  
14 that more than half of the criminals that we identify and  
15 apprehend stemmed from the result of a simple traffic  
16 stop.

17 A common perception is that traffic stops tend  
18 to reduce the harmony between law enforcement and the  
19 local community. The truth is traffic stops tend to  
20 reduce crashes, prevent crimes, help solve some specific  
21 crimes, and can reduce harm to both property and citizens  
22 within the community.

23 When a traffic stop is first initiated, the  
24 officer provides the following information on their  
25 dispatch center: location, vehicle description which is



1 the color, make and model, to include the license plate's  
2 state and number. When this information is called in, a  
3 query is ran through TCIC/NCIC which provides the officer  
4 and dispatcher a near instant return for the information  
5 on that vehicle or the license plate currently displayed  
6 on that vehicle. Sometimes the return information is  
7 paramount for both officer and public safety as the  
8 vehicle could be stolen or recently involved in a violent  
9 crime. In addition, Amber and Silver alerts can also be  
10 attached to these license plate returns.

11 But out of all the traffic stops I have made,  
12 there was usually one common denominator, and that was the  
13 abuse of temporary or fictitious paper license plates.  
14 Being in a county with an estimated population of over 4.8  
15 million and over 2,800 automobile dealers, 395 of those  
16 being franchised dealers, we see more than our fair share  
17 of temporary buyer's tags on our roadways. There are  
18 often times where fictitious paper license plates are  
19 affixed to vehicles by criminals looking to mask or  
20 disguise their vehicle before, during or after the  
21 commission of a crime.

22 Another one of the issues that we tend to see  
23 are vehicle owners bypassing their local tax assessor's  
24 office by reprinting their own plates using computer  
25 software or going to non-franchised dealerships who print

1 out their paper plates and change expiration dates and  
2 vehicle information for a small fee. When these license  
3 plates are checked, there are often times where there will  
4 be no information received by the officer. The reason for  
5 this may not be necessarily to cover up a serious crime  
6 but people often use these plates to avoid registering  
7 their vehicle or because they do not possess car  
8 insurance. There have been instances where fictitious  
9 paper license plates were displayed on vehicles that were  
10 not even considered roadworthy and had not passed a safety  
11 or emissions inspection in several years.

12 It is no secret that criminals tend to adapt to  
13 change faster than law enforcement and it seems like we  
14 are merely playing a never-ending game of catch-up,  
15 however, I can testify that reducing the amount of  
16 temporary license plates being distributed out on our  
17 roadways will more than likely deter or cause criminals to  
18 rethink their strategies when it comes to committing their  
19 crimes.

20 I would like to thank the board for the  
21 opportunity to speak before you, as well as your attention  
22 today. Thank you.

23 MR. BACARISSE: Deputy Gonzales, thank you.  
24 I'm a resident of Harris County and we appreciate what you  
25 do every day and I know our board feels the same, perhaps.

1 I don't want to speak for them but I'll speak for myself.

2 Thank you. We appreciate your comments.

3 MR. GONZALEZ: Thank you.

4 MR. BACARISSE: Member Schlosser.

5 MR. SCHLOSSER: Lieutenant Gonzalez, I want to  
6 say, number one, your Harris County unit is amazing. I  
7 know all your squad members, just recently was in Lubbock  
8 with y'all, fantastic situation, fantastic detail.

9 So, me being in law enforcement and me being in  
10 auto theft, a counterpart to the Harris County, I'm on the  
11 Houston Police Auto Crimes Task Force, would you say that  
12 when the DMV enacted procedures to limit the number of  
13 temp tags that were being distributed, has that reduced  
14 the number of temp tags we see on the road?

15 MR. GONZALEZ: I would say marginally reduced.

16 When they made those changes -- as I mentioned at the end  
17 of my statement, you know, criminals adapt. They adapt  
18 readily, sometimes faster than we do. What we did start  
19 to see was the newer style of paper plate with the QR code  
20 and they had implemented dummy website where when law  
21 enforcement would scan these, it would take you to a  
22 fictitious website. So as far as reducing overall, I  
23 mean, I would say it's marginally.

24 MR. SCHLOSSER: So one of the things that I've  
25 been, you know, dealing with the rest of the nation, we

1 were not well received across the nation because all the  
2 temp tags that were being produced and sent across the  
3 nation. I think we have definitely put a dent in that  
4 because I'm not getting those calls about the DMV or Texas  
5 having temp tags in New York and California and across the  
6 different states because the limit for the dealers that  
7 had unlimited printing access has now been denied, so I  
8 think that the outside of Texas has definitely improved.

9 My perception of temporary tags comes from a  
10 couple of different perspectives actually. So one is is  
11 that a temp tag stands out amongst other vehicles. So  
12 when a vehicle is in a limbo state or does not have a  
13 permanent hard plate attached to it, I think law  
14 enforcement looks at those vehicles differently. So I  
15 believe that that is a sign for us to look a little bit  
16 closer at some of these vehicles that are driving around  
17 with a temp tag.

18 With the advent of this new regulations that  
19 we're having to impose, I think that as a car leaves a  
20 dealership with a hard plate on it, I think that's going  
21 to blend in these vehicles that are now going to have a  
22 hard plate from the moment they leave the dealership and  
23 if there has been any type of fraud -- which is my  
24 forte -- or any type of other registration hiccups, lack  
25 of financing, the different areas that we see all the time

1 in these auto theft cases, that they do not have a hard  
2 plate on them. The temporary tag to be used for the  
3 interim time for a vehicle to receive its full  
4 registration, I think the temp tags work outstanding for  
5 that type of scenario.

6 So with the new rules that we're having to  
7 institute, of course, we've got to meet our legislation,  
8 but my personal opinion is that temp tags on a vehicle  
9 prior to full registration all avenues of finance,  
10 registration, the dealership process, should be completed  
11 before a hard plate is issued to a vehicle.

12 For those who are not aware, when you purchase  
13 a vehicle at eight o'clock on a Wednesday night, the deal  
14 is not done, it's not completed, it is called a  
15 conditional financing agreement. So it usually takes  
16 dealerships seven to ten days before the financing is  
17 actually complete, the process is done and a lot of things  
18 can happen in those seven to ten days that with a temp tag  
19 would pressure the purchaser to have to be able to take  
20 care of the situation before they're issued a hard plate.

21 That was one of the good things that a temp tag did.

22 Now, you were saying that the crooks adapt, and  
23 you and I are in complete agreement over this. I think  
24 it's easier for a crook to generate a temp tag to put on  
25 the back of a car which would be spotted by us more easily

1 than a hard plate. I think it's easier for that to happen  
2 than the alternative, because once we go to hard plates as  
3 every vehicle rolling off of a lot, every vehicle rolling  
4 on the road, those hard plates, now we're starting to see  
5 what I call the wraps on the plate.

6 So in essence, you can go to a mall parking  
7 lot, pick the year, make, model, color of the vehicle you  
8 want, order a wrap or print a wrap yourself and put that  
9 over a license plate and it's going to look like it. So  
10 when we take away the temp tags, all we've done is force  
11 them to adapt and go to another method.

12 Now, the problem with that, so when you're  
13 rolling around with a temp tag, they're not going to be  
14 typically copying other vehicles, temp tags, it happens  
15 occasionally. However, if they have to now start because  
16 there's no temp tags rolling on the road, they have to  
17 identify their plate to look like a real plate, all  
18 they're going to do is go to a local mall, take that plate  
19 number off, apply a wrap to any hard license plate, apply  
20 that to the vehicle, and now technically you have two  
21 vehicles rolling around with that same exact plate.

22 MR. BACARISSE: Member Schlosser, if I may  
23 interrupt. Do you have a question for the speaker?

24 MR. SCHLOSSER: Oh, I'm so sorry. I was taking  
25 this opportunity to comment.

1 MR. BACARISSE: The challenge here is that we  
2 are here to take testimony, ask questions.

3 MR. SCHLOSSER: Yes, sir, you are correct.

4 MR. BACARISSE: And we have to approve a  
5 rule --

6 MR. SCHLOSSER: I'm very sorry about that.

7 MR. BACARISSE: That's all right. We've got a  
8 lot on the plate here.

9 MR. SCHLOSSER: Do you have any suggestions for  
10 how a temp tag system could be revamped and used, as  
11 opposed to what we're applying for rule regulations now?

12 MR. GONZALEZ: Permission to respond?

13 MR. BACARISSE: Certainly.

14 MR. GONZALEZ: For the record, John Gonzalez,  
15 lieutenant, Harris County Sheriff's Office.

16 So as far as the out-of-state comment regarding  
17 the paper license plate, I can't comment on that. I'm  
18 looking at this from a law enforcement perspective within  
19 the jurisdiction that I serve which is Harris County.  
20 With that being said, yes, I do agree with you, paper  
21 plates tend to stick out more often than a standard metal  
22 plate.

23 With that being said, you're familiar with the  
24 process within Harris County of filing charges. A lot of  
25 times when do stop these vehicles with fictitious license

1 plates, in order to get that charge, we have to prove  
2 beyond a reasonable doubt that the operator of that  
3 vehicle knowingly knew that that plate was fictitious and  
4 affixed it to the vehicle prior to charges being filed. A  
5 lot of times with these fictitious paper plates, they go  
6 to the dealer, they can deny any plausibility. If they do  
7 go to the mall and print out the vinyl ones -- which we  
8 have seen -- that increases the case for them knowingly  
9 knowing that it was a fictitious license plate and then  
10 putting it on their vehicle.

11 So as far as recommendations for the temp tags,  
12 you know, I believe there's a purpose for them but I  
13 believe right now, you know, we're just seeing a lot of  
14 them. Mostly the 30-day is the ones that we see that are  
15 fictitious in nature; they sometimes come back to a  
16 totally opposite vehicle, sometimes they come back to  
17 nothing. But as far as that, that's all I can comment on.

18 MR. SCHLOSSER: Would you say that when you  
19 check a license plate as law enforcement and it does not  
20 register in the system, would you say that that is a  
21 benefit to law enforcement to be able to pull over that  
22 vehicle and conduct a further investigation, as opposed to  
23 a plate that could be manufactured to resemble a  
24 legitimate one that would be more difficult to identify?  
25 Would you say the temp tag aspect of that not coming back



1 to a vehicle would be a better scenario for follow-up  
2 investigation?

3 MR. GONZALEZ: I would say that would just be  
4 depending on the mission I have at the moment. If I'm  
5 doing just selective traffic enforcement, yes, definitely  
6 the non-return would be definite probable cause to  
7 initiate a stop. But if I'm also in a high crime area  
8 looking for a vehicle that fits the description of one  
9 being involved in a recent crime or a violent crime, paper  
10 tag or not, when we call out -- and you know this --  
11 color, make and model of the vehicle. We are aware that  
12 plates can change, sometimes they remove the plate in  
13 general and go commit a crime and then go slap another one  
14 back on once they're around the corner.

15 I apologize, I didn't get the last part of your  
16 question.

17 MR. SCHLOSSER: Basically that the temporary  
18 plates with a non-return would benefit and do you believe  
19 that that would be a better -- that is a way to identify a  
20 potential criminal as opposed to a plate that has been  
21 mirrored to look like another one?

22 MR. GONZALEZ: I would say both. You run a  
23 fictitious metal plate and it mirrors another vehicle or it  
24 comes back -- this is just from my own personal  
25 experience -- I would usually have several forms of

1     probable cause before initiating a stop, not just  
2     necessarily the plate return alone. I am aware that TLETS  
3     and TCIC/NCIC, they are human entry which is subject to  
4     human error. That is just me basically saying what I do,  
5     but as far as just running a plate and having no return,  
6     yes, I would say that would be grounds for an advantage,  
7     especially if I was in a high crime area looking for  
8     potential criminals or would-be criminals.

9             MR. SCHLOSSER: Okay. That's all.

10            MR. BACARISSE: Thank you.

11            Members, any other questions for Mr. Gonzalez,  
12     Lieutenant Gonzalez?

13            (No response.)

14            MR. BACARISSE: Thank you for your service.  
15     Appreciate you. Thank you.

16            MR. GONZALEZ: Thank you.

17            MR. BACARISSE: There are other speakers. Let  
18     me just level set things for the board. I think you all  
19     know this but I think it bears to be repeated.

20            We have before us today a rule adoption. We  
21     have sent it to the Governor's Legislative Police Office,  
22     it's come back. It's here for adoption today.

23            The other challenge is the calendar is not our  
24     friend. This particular rule needs to be acted on today  
25     or we will be -- calendar doesn't help us, we will fall

1 out of compliance with this rule in terms of the  
2 legislature.

3 So I recognize that this conversation will be  
4 continued in the next session of the legislature, without  
5 a doubt, but today we are making rules. So let's stay  
6 focused on our mission, if I may ask the board to do that.  
7 Thank you.

8 Ms. Moriatty, who is the next public commenter?

9 MS. MORIATY: Excellent question, sir. Earl  
10 Cooke from TIADA.

11 MR. BACARISSE: You bet. Good morning, Earl.

12 MR. COOKE: Thank you, Mr. Chairman and members  
13 of the committee. My name is Earl Cooke, I'm with the  
14 Texas Independent Auto Dealers Association.

15 As you all know, this has been a long process.  
16 I'd like to take a moment to thank everyone involved in  
17 it. We submitted comments on it and I want to talk about  
18 something on green page 107, Section 215.138.

19 The first part of that section is (h). This  
20 would require vehicle info to be entered on a test drive.  
21 That's very burdensome for the dealer.

22 You have customers sometimes who drive six  
23 different vehicles, wanting to try them out. And in  
24 Texas, as you know, it's hot out there on the lot, so  
25 speed -- and the number one complaint every consumer has

1 about buying a car is the amount of time it takes to  
2 purchase a car.

3 The other thing, and this is unique, on page  
4 109, line 14, the rule includes a suggestion. Rules, as  
5 you saw, can be very confusing for a dealer, can be very  
6 confusing to an individual. And to add a suggestion to  
7 the rule -- which is uncommon, I mean, these are  
8 obligations, rules should be obligations -- the rule  
9 suggests a dealer is encouraged to immediately alert law  
10 enforcement.

11 Why are we encouraging? There's other forms of  
12 avenues to do that encouragement, the rule is not the  
13 appropriate place, so I ask that you strike that from the  
14 rule and to put that in guidance. I do think it's good  
15 guidance but it should be guidance, not a rule. It's not  
16 law or rule that should be there.

17 Thank you guys for the opportunity to comment,  
18 thank everybody for their hard work on this. I know some  
19 of us want it, some of us didn't, but we're here. I think  
20 we've done as best as we can and I appreciate all that.  
21 Thank you.

22 MR. BACARISSE: Any questions, members? Yes,  
23 Member Jones.

24 MR. JONES: Mr. Chairman, this is really more  
25 of a comment than it is a question in regards to what Mr.

1 Cooke just spoke about. I can tell you, as a dealer, the  
2 thought of having every single car that a customer wants  
3 to test drive, once you've assigned their information to a  
4 plate that you're going to allow them to use, to have to  
5 come back in, change all the vehicle information, submit  
6 it, I feel like that's pretty burdensome on dealers,  
7 especially those dealers that have high volume operations.  
8 I would believe that as long as the plate has the  
9 customer's information on it, that switching that plate  
10 from vehicle to vehicle that they test drive feels to me  
11 like that would be very cooperative with law enforcement,  
12 save lots of time for the dealer, but also save consumers'  
13 time.

14 And I think the thought process in that, if I  
15 read correctly, was that the law enforcement would like to  
16 be able to tell whether or not the vehicle was a stolen  
17 vehicle, that's why they would like to have that VIN  
18 number in there.

19 But as a dealer, when we buy the vehicles, one  
20 of the first things that we have to do if we're purchasing  
21 anything from an auction, the auctions are required to  
22 verify that there's no stolen report or they can't offer  
23 the vehicle for sale to us. And anytime we purchase a  
24 vehicle from an individual or a non-auction facility, we  
25 have to verify by pulling what's called a TWIX that the

1 title that we have in our hands is the most current title  
2 issued on the vehicle. And on a TWIX, if you ever have a  
3 vehicle that has any type of legal issues, it will either  
4 say legal restraint or it will say stolen, reported  
5 stolen.

6 So I'm not sure that's a benefit for law  
7 enforcement to have the VIN number. I mean, they want to  
8 know the person, obviously, we want them to know the  
9 person that's driving the car. But these cars are not  
10 even going to be titled in the dealership's name if it's a  
11 used car because the back of the titles are open with the  
12 reassignment boxes, and until we sell the car, we don't  
13 reassign the title until we have a buyer.

14 So I don't know if that made any sense or not,  
15 but those are my comments.

16 MR. BACARISSE: Thank you.

17 Ms. Thompson, do you want to try to address  
18 some of the comments here?

19 MS. THOMPSON: Corrie Thompson, director of the  
20 Enforcement Division. I apologize for my voice, I will  
21 try to survive through my comment.

22 In response to the encouragement on the  
23 dealer's part to file that report with law enforcement  
24 when plates go lost, missing or stolen, that's also going  
25 to be a benefit to our dealer compliance staff who are

1 going to be using risk-based factors to determine who to  
2 conduct inventory reviews on, and so not to indicate that  
3 all of our dealer community are dishonest but it lends  
4 legitimacy to the report of issuing those plates as lost  
5 or stolen in the system to that act actually having  
6 occurred by following through and filing that report with  
7 law enforcement. And so we could have a staff that want  
8 to engage in nefarious acts, taken inventory off the  
9 bottom, hope that it might not be noticed for a number of  
10 months, things like that. And so adding that additional  
11 requirement where we are encouraging them to file that  
12 report with law enforcement helps us as well internally.

13 MR. BACARISSE: I think Mr. Cooke had a problem  
14 not with the action but with the word. We're either going  
15 to mandate it or we're not, but encouraging is subjective,  
16 it's too subjective.

17 Is that your point, Earl?

18 MR. COOKE: Yeah, that's my point. Even there  
19 seems to be confusion in this room: is it mandatory or  
20 not?

21 MR. BACARISSE: Right. I think that was the  
22 question there.

23 MS. THOMPSON: There was discussion during the  
24 drafting of the rule language that OJC may be better able  
25 to speak on as to why it was changed from a mandatory act

1 to an encouraged act.

2 MR. BACARISSE: And I don't know if you had any  
3 thoughts on what Member Jones was discussing with the  
4 challenge of managing plates switching or plate connecting  
5 to cars as they are demo'd off the lot. Any thoughts  
6 there?

7 MS. THOMPSON: I don't know that I have  
8 anything to add there. I mean, dealers are currently  
9 required to remove plates that come into inventory and  
10 things like that. I know that these new rule requirements  
11 do add that you're inputting some various information into  
12 the system with regard to the use of those plates. And  
13 again, that all goes back to law enforcement protection so  
14 that they can identify the person who's operating that  
15 vehicle while the plate is in use.

16 MR. BACARISSE: Okay. Thank you.

17 General Counsel, do you have anything to add to  
18 the language issue?

19 MS. MORIATY: I don't. I don't see any problem  
20 with removing the permissive language; it is, as you point  
21 out, permissive and therefore unenforceable.

22 MR. BACARISSE: Right. You're either going to  
23 do it or you're not.

24 So thank you for bringing that to our  
25 attention, Member Jones.



1           MR. JONES: To Director Thompson's comments  
2 there. So you understand I'm not at all opposed, we want  
3 law enforcement to know who these plates are assigned to  
4 when they're test driving the vehicles, but my concern or  
5 issue is it's just over-burdensome, in my opinion, that  
6 every single time. Because it's not unusual for one  
7 consumer to come in and they don't want to necessarily  
8 drive just one car, they would like to try four or five  
9 different models. And so every single time switching out  
10 the VIN number, the make, the model, the color, I'm just  
11 asking is that really necessary to still be compliant with  
12 enforcing House Bill 718.

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

15           I can let the Motor Vehicle Division director,  
16 Monique Johnston, speak to the plate allocations. But  
17 dealers are allotted, we're assuming, a sufficient number  
18 of plates that would allow them in that particular  
19 scenario that you propose to go in and assign a number of  
20 plates at that time. So when the customer wants to test  
21 drive multiple vehicles, you can set that all up in one  
22 transaction and then run out with the plates. But Monique  
23 may have some follow-up to that.

24           MR. BACARISSE: Mr. Avitia, did you have  
25 something to weigh in on this too?

1 MR. AVITIA: I do, Chairman, thank you. For  
2 the record, Daniel Avitia, executive director.

3 Corrie, could you walk us through the process  
4 of what dealers have to do today versus what we're asking  
5 them to do in the future through the rule? I believe  
6 staff went through the process of itemizing the amount of  
7 time it takes, if a dealer is doing things correctly and  
8 by the law, issuing temporary plates versus what the new  
9 license plate requirement and time commitment might be  
10 there.

11 MS. THOMPSON: Sure. Again, Motor Vehicle  
12 Division might have more specific information on that, but  
13 right now dealers are required if they're issuing an agent  
14 tag to go into the system, generate that number that would  
15 populate through the eTAG system, assign an agent to that  
16 particular tag, if they're issuing a vehicle-specific tag  
17 at the time of the test drive to go in, put that vehicle-  
18 specific VIN indicator on that particular tag to take it  
19 out for use on a test drive, and that's present date with  
20 the temporary tag use.

21 MS. JOHNSTON: That's correct, yes.

22 MR. JONES: And present day, though, if you do  
23 the vehicle-specific tag, you're not attaching who's  
24 actually driving that vehicle. The law enforcement just  
25 knows what car it is, they don't know who's actually

1 driving it. Is that correct?

2 MS. THOMPSON: That's correct. And the  
3 indication in the system going forward would make that a  
4 seamless process so where you'd be going into eTAG now, we  
5 anticipate that you would go into that same portion where  
6 you're entering the VIN, you would just enter that  
7 additional information at that time.

8 MR. JONES: And then if the consumer wanted to  
9 test drive a second vehicle, since you've already got  
10 their information assigned to that plate, then you'd have  
11 to get back into the system and change which vehicle  
12 they're now going to go test drive for five minutes, ten  
13 minutes.

14 MS. THOMPSON: So again, Vehicle Titles and  
15 Registration and Motor Vehicle may want to follow up on  
16 that, but I believe that there could be a mechanism built  
17 in the system that would allow issuance of multiple dealer  
18 plates for that same individual should they have the  
19 scenario where they wanted to drive multiple vehicles.

20 MR. BACARISSE: Monique, do you want to speak  
21 to that?

22 MS. JOHNSTON: Monique Johnston, Motor Vehicle  
23 Division.

24 That is correct. If someone wanted to drive  
25 four vehicles, you could assign one plate to each vehicle

1 with that information so you wouldn't have to go in and  
2 change for that specific plate, they would have four  
3 plates ready, so when they get back from the first drive,  
4 the other test drive would be ready to go, and so on.

5 MR. JONES: Oftentimes, though, we don't know  
6 in advance because you may come in and say this is the car  
7 I've been dreaming about, I'm going to go drive it. You  
8 drive it and come back and say, you know, it wasn't  
9 exactly what I thought it would be. Hey, how can I try  
10 this car, and here we go down the rabbit hole. I  
11 appreciate what you're saying there, but sometimes it's  
12 very hard to tell a customer, okay, pick which four cars  
13 you're going to test drive so I can go ahead and get them  
14 prepared.

15 It just seems to me since we're going to have  
16 the hard metal plates, that if I have a plate that I've  
17 got assigned to you, that if you test drive the first car,  
18 you want to drive another one, I can just move it.  
19 Because I think law enforcement's main purpose here is  
20 they would just like to know who is driving -- if they  
21 have to pull the car over, who is supposed to be behind  
22 the wheel of that car. I believe in my heart that's the  
23 gist of what they're trying to accomplish.

24 MR. BACARISSE: Thank you.

25 Member Gillman.

1 MS. GILLMAN: I also agree with Mr. Cooke and  
2 Mr. Jones that when a vehicle that is in the dealer's  
3 possession is out for test drive which may take five  
4 minutes, 15 minutes, and they may have one car or they may  
5 have five, it is unreasonable and very burdensome to  
6 expect a representative from the dealership to input each  
7 one. Whether you have four plates or you take that one  
8 and take it off and enter a new VIN, it's completely  
9 burdensome and it's wrong. It hinders business and it  
10 slows down and I don't think the citizens of Texas want  
11 that.

12 So it's my opinion that while the vehicle is  
13 still in the possession of the dealer and they're on a  
14 demo plate, that for purposes of test drive that we should  
15 not have to put in any information at all. And rather, if  
16 the vehicle is going to leave the premises without a  
17 dealership employee -- let's say you want to take it home  
18 and show the color of this vehicle to your spouse, or you  
19 want to see if it fits in your garage, or you just want to  
20 see if it's comfortable and you take it, if it leaves the  
21 premises and it does not have a dealership employee, then  
22 I would agree that it should be assigned to a specific  
23 customer.

24 But for purposes of a test drive, it is  
25 unreasonable to expect the dealership, or for that matter,

1 the customer to sit and wait for all of that. It's too  
2 much procedure.

3 MR. BACARISSE: Member Gillman, would you like  
4 to make a motion on that?

5 MS. GILLMAN: I would.

6 MS. MORIATY: We have some more public comment,  
7 sir.

8 MR. BACARISSE: Well, okay, let's hear some  
9 more public comments.

10 Hold the thought, Member Gillman. Thank you.

11 Thank you, Mr. Cooke.

12 Who's next, Laura?

13 MS. MORIATY: Laird Doran from Gulf States  
14 Toyota, sir.

15 MR. BACARISSE: Mr. Doran, welcome this  
16 morning.

17 MR. DORAN: Mr. Chairman, Ms. Moriatty, I'm  
18 going to refrain from providing comment at this time, so  
19 thank you for the opportunity.

20 MR. BACARISSE: Certainly. If you change your  
21 mind, let us know.

22 MR. DORAN: I will. Thank you.

23 MR. BACARISSE: Yes. Thank you.

24 Let the record reflect Mr. Doran has refrained  
25 from commenting at this time. Thank you.

1 MS. MORIATY: Then it's Karen Phillips from  
2 TADA.

3 MR. BACARISSE: Great. Good morning, Ms.  
4 Phillips. It's always good to see you.

5 MS. PHILLIPS: Good morning. Karen Philips  
6 with TADA.

7 There are five rules that I want to just very  
8 briefly discuss, two have to do with catalytic converters,  
9 .102 and .122. This session the legislature passed a  
10 bill, SB 224, with respect to the unauthorized use of  
11 catalytic converters, which have been an issue for my  
12 industry and for customers now. And we've been working  
13 with law enforcement as well as DPS on this issue at least  
14 since 2012.

15 With respect to the proposed rules -- excuse  
16 me, my allergies are getting to me.

17 MR. BACARISSE: We are all in that bucket, yes,  
18 ma'am.

19 MS. PHILLIPS: With respect to the proposed  
20 recordkeeping rules, because they are limited in  
21 Subchapter D to a description of the cat sold or  
22 transferred, the name of the buyer transferee and the date  
23 of the transaction, and also because the statute itself is  
24 very clear as to what these recordkeeping requirements  
25 are, TADA does not believe that you need to adopt either

1 .102 or .122.

2 With respect to .138, which has just recently  
3 been discussed as to the test drive issue, I don't  
4 disagree with that. I would also like to add that in lieu  
5 of perhaps the total VIN, maybe the last four digits of  
6 the VIN could be input instead of the entire VIN to  
7 hopefully decrease the unnecessary problems that we might  
8 have entering an entire VIN.

9 In addition to that, if the electronic system  
10 is not available -- and as we know, we've had issues with  
11 internet as well as electronic systems -- then I would  
12 suggest that we need to have something within the rule  
13 that says if the electronic system is not available that  
14 the dealer update the system when it becomes available so  
15 that we don't have a violation of the rule when the system  
16 itself is not available.

17 As far as the replacement plates, which is  
18 .151, I would request that instead of the rule stating  
19 that the dealer is to provide the plates to the buyer,  
20 that the rules state that the buyer may request -- which  
21 is what the statute says -- and that the dealer can offer  
22 the plates because there's no requirement that the buyer  
23 actually take those plates that are off the used vehicle  
24 that they're going to be purchasing.

25 Finally, on .157, again I would ask that



1 language be brought back in that has been proposed to be  
2 deleted that says that the dealer has access to the  
3 internet so that it would read "the next business day" so  
4 that after the sale occurs and we're not able to input  
5 that information into the internet or into the system,  
6 that instead of saying that we have to input it the next  
7 business day, that the rules state that the next business  
8 day that the dealer has access to the internet. That  
9 language is currently in there and it's being proposed  
10 that it be stricken, so I would ask that it be brought  
11 back in.

12 Thank you.

13 MR. BACARISSE: Anything further? Member  
14 Graham has a question. Thank you.

15 MR. GRAHAM: Regarding the rule on exhaust  
16 catalytic converters -- in our case DPFs -- are you  
17 comfortable with the content of what needs to be reported?

18 I mean, do you feel like dealers are going to be able to  
19 satisfy the requirement of what needs to be recorded  
20 without any trouble?

21 MS. PHILLIPS: Yes, because typically on your  
22 purchase order or when a customer comes in and purchases a  
23 catalytic converter or if it's going to be repaired, then  
24 it's going to be in the RO. So that description of the  
25 cat is going to be in the RO. You're going to have the

1 name of the buyer on the RO, and you're going to have the  
2 date of the repair.

3 So that is all going to be included within your  
4 general business repair orders or on the purchase order if  
5 I come in and just purchase the cat myself.

6 MR. GRAHAM: What about the case where a  
7 customer has a severely damaged converter that's not  
8 repairable and has to be replaced and there's no core on  
9 the converter, in which case the converter must be  
10 disposed of, that doesn't create any issues?

11 MS. PHILLIPS: Well, if it does, then I will  
12 certainly let the dealers know that if you have a  
13 destroyed cat and you're sending it to the metal recycling  
14 facility, that these are the three things that need to be  
15 given to that metal recycling facility.

16 MR. GRAHAM: Okay. I just kind of wanted to  
17 walk through that just to make sure we're comfortable  
18 there.

19 MS. PHILLIPS: And it's a good question, and if  
20 indeed we have a vehicle that comes in that the cat is  
21 totally destroyed, then I don't think it's going to be a  
22 problem to get that information to the metal recycling  
23 facility.

24 MR. GRAHAM: Okay. And lastly, I'd maybe just  
25 ask for -- I presume since Ms. Phillips is here on these

1 things she listed, there's a reason we didn't incorporate  
2 them into the rule. Is that correct?

3 MR. BACARISSE: Does anyone at the table want  
4 to answer Member Graham's question? I'm not sure who I'd  
5 ask. I think she's making some linguistic suggestions  
6 that maybe will clarify the rule. That's your intent?

7 MS. PHILLIPS: Yes, sir.

8 MR. BACARISSE: So are you all comfortable with  
9 the suggestions that Ms. Phillips was making? Is that  
10 your question, Member Graham?

11 MR. GRAHAM: Sure. I've heard what she stated.  
12 I don't know that any of that sounds egregious.

13 MR. BACARISSE: No.

14 MR. GRAHAM: And I would have thought that  
15 would have been worked through before we are sitting here  
16 today, so I'm just kind of curious what staff felt like  
17 shouldn't be adopted.

18 MR. BACARISSE: Ms. Moriaty?

19 MS. MORIATY: So these are really questions for  
20 program. We can go through each of these things line by  
21 line, if you would like, but our response to her comments  
22 previously are summarized in the board materials. But if  
23 you have a specific issue that she raised or you want to  
24 walk through them one by one, we should talk with Monique  
25 and Annette and Corrie on that.

1 MR. BACARISSE: Member Gillman.

2 MS. GILLMAN: Thank you.

3 Member Graham, one thing that Karen said about  
4 catalytic converters was to -- and I want to clarify,  
5 Karen, that you said you'd like to strike 215.102. Is  
6 that correct?

7 MS. PHILLIPS: 215.102(c)(1)(K)(iv).

8 MS. GILLMAN: And if I'm correct, that is the  
9 fact that there's a requirement that a manufacturer or  
10 distributor discloses where repairs are going to be made  
11 to the motor vehicle. And from her comments, the issue is  
12 that manufacturers don't repair the vehicles, that  
13 catalytic converter repair is done by dealers, not  
14 manufacturers/distributors. And so for that reason,  
15 there's no need to have this portion in the rule because  
16 manufacturers don't perform the repairs, distributors  
17 don't perform the repairs.

18 MS. OMUMU: Mr. Chairman, may I make a comment  
19 related to Member Gillman's comment?

20 MR. BACARISSE: Sure, Member Omumu.

21 MS. OMUMU: So it is true that manufacturers  
22 and distributors don't typically make repairs, but  
23 hypothetically in this case, if there were vehicles that  
24 rolled off of the manufacturer's line misbuilt, for  
25 instance, distributors may have the authority at their

1 processing center to correct a misbuilt vehicle in their  
2 certified repair center before the vehicles arrive to the  
3 dealerships. This is a hypothetical. Right?

4 So I don't necessarily agree with that verbiage  
5 being stricken from the rule. Hypothetical situation,  
6 rarely ever happens, but I don't necessarily agree with  
7 that being stricken.

8 MS. PHILLIPS: May I comment?

9 MS. OMUMU: Sure.

10 MS. PHILLIPS: First and foremost, the  
11 recordkeeping requirement in Subchapter D of 2305 of this  
12 Senate Bill 224 specifically sets out what the  
13 recordkeeping requirements are and repairs are not  
14 included within that recordkeeping requirement of  
15 2305.153(b), which is why it really does not need to be a  
16 part of y'all's rulemaking. Similar with respect to  
17 215.122.

18 MR. BACARISSE: I have a question of General  
19 Counsel, if I may. Is it possible for this board to --  
20 this is a bigger macro question, not specific to this  
21 particular rule -- is it possible for us to adopt rules  
22 today and then come back and work with stakeholders in a  
23 continuous fashion to amend the rules as needed and  
24 necessary and so forth, bring them back to the board  
25 certain pieces? Right?

1 MS. MORIATY: Certainly, Chairman. And I think  
2 as staff anticipate, because we're being forced to make  
3 the rules by December 1, and yet the whole system will not  
4 go online until July 1, that there will probably be things  
5 that happen as the actual system is procured and becomes  
6 manifest that will require additional rulemaking. So,  
7 yes, I would not anticipate that this is the end of our  
8 implementation of House Bill 718.

9 MR. BACARISSE: I was hoping that this board  
10 would feel a little comfort in the idea that we don't have  
11 to bake the whole souffle today and that's it, you know,  
12 that what we have to put forward today can certainly be  
13 worked on as we go and it's a dynamic process until final  
14 adoption. Right?

15 MS. MORIATY: Right. If I may, sir, I would  
16 just like to address the question of whether repair is in  
17 the statute.

18 MR. BACARISSE: Yeah, sure, go ahead.

19 MS. MORIATY: Because that does feel like  
20 something staff can talk about.

21 So the answer is yes, Senate Bill 224 expressly  
22 involves a manufacturer, distributor, converter or dealer  
23 licensed under Chapter 2301, including any department of a  
24 dealer or converter that repairs or services motor  
25 vehicles. So it talks about dealers and converters

1 potentially repairing or servicing motor vehicles  
2 involving catalytic converters.

3 MS. PHILLIPS: And I'd like to make a comment  
4 to that. The repairs have to do with Subchapter A, the  
5 recordkeeping that I referenced has to do with Subchapter  
6 D. Subchapter A references the owner of a garage or  
7 repair shop that sells or transfers vehicles, as well as a  
8 person who sells used motor vehicles, so that's what  
9 Subchapter A has to deal with when it has to do with  
10 repairs.

11 MS. MORIATY: So if I may, sir? I'm sorry  
12 you're going to have to have this legal dispute.

13 MR. BACARISSE: That's fine.

14 MS. MORIATY: Subchapter D, which is what Ms.  
15 Phillips is referring to, expressly under 2305.152, refers  
16 back to Section 1956.123 of Occupations Code, sections  
17 (1) (a) through (g), and what I just read you a second ago  
18 about including the repairs for manufacturers and  
19 distributors is section (c) of that provision to which it  
20 is referring back to. So section (c) is within (a)  
21 through (g) and is therefore incorporated specifically  
22 into Subchapter D, the recordkeeping requirement.

23 MR. BACARISSE: Okay. This is a good reason  
24 why we need to keep in mind that we can approve a rule  
25 today, we can adopt a rule, and then continue to work on

1 language and come to an agreement in the very finer points  
2 that are all important, definitely. So thank you.

3 Ms. Phillips, anything else?

4 MS. PHILLIPS: No. Thank you very much.

5 MR. BACARISSE: Thank you. I appreciate your  
6 time, thank you.

7 MS. GILLMAN: Can I ask a clarifying question  
8 for Ms. Phillips?

9 MR. BACARISSE: Ms. Phillips, hold on. Sorry.  
10 Thank you.

11 Member Gillman.

12 MS. GILLMAN: So to clarify, can you tell me  
13 what (a) through (g) is the portion that you have an  
14 argument against?

15 MS. PHILLIPS: (a) through (g) of which rule?

16 MS. GILLMAN: 215.102.

17 MS. PHILLIPS: Okay. My concern has to do  
18 with -- let's see, 215, did you say, 215.102, is that the  
19 one?

20 MS. GILLMAN: The catalytic converter.

21 MS. PHILLIPS: Okay. Obviously, in my opinion,  
22 (e) (1) (K) (iv) should not be adopted. Number one, it's  
23 outside of the recordkeeping requirements that are covered  
24 in Senate Bill 224, that's number one.

25 And number two, it goes beyond and outside of



1 Chapter 2301 as only licensed and franchised dealers may  
2 perform warranty repairs.

3 MS. GILLMAN: Okay. I just wanted to make sure  
4 I had the (e) (1) (K) (iv).

5 MS. PHILLIPS: That's little Roman Numeral  
6 four.

7 MS. GILLMAN: Little four. Thank you.

8 MS. PHILLIPS: Thank you.

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

10 MR. BACARISSE: Thank you, Ms. Phillips, I  
11 appreciate it.

12 Who is our next public speaker, Ms. Moriatty?

13 MS. MORIATY: Nancy Laudermilk of Mecum  
14 Auctions, sir.

15 MR. BACARISSE: Great.

16 Good morning, Ms. Laudermilk. Welcome.

17 MS. LAUDERMILK: Good morning. It is very nice  
18 to be here. I bring you greetings from Walworth,  
19 Wisconsin, the home of Mecum Auctions.

20 I am here just to say thank you and to express  
21 our gratefulness on the collaboration and all the  
22 communication that went back and forth with the assigned  
23 or allotted number of metal plates. I want to give you an  
24 example.

25 In Dallas, recently we held our annual auction

1 there and we sold around 1,200 vehicles and we would have  
2 been in a mess if you all had not been so agreeable and  
3 understanding of our situation. We realize that we aren't  
4 the typical business model for a motor vehicle dealer  
5 license so it puts us kind of in -- we're still under the  
6 regulation but we certainly we would not make it with five  
7 or ten plates.

8 So we really appreciate the fact that everyone  
9 that we talked to listened and made suggestions and  
10 allowed us to make suggestions back, and so I just really  
11 wanted to come and say thank you for that, because I deal  
12 with a lot of agencies around the country for Mecum, and  
13 it's not always so wonderful.

14 So thank you so much and thank you for allowing  
15 me to speak.

16 MR. BACARISSE: We're glad you're here. We  
17 want you to bring some Wisconsin weather with you when you  
18 come back next time.

19 MS. LAUDERMILK: Well, I live in Nashville.

20 MR. BACARISSE: We'll even take that, we're  
21 waiting for fall.

22 I think it's important for this agency and all  
23 of state government to be responsive to its citizens and  
24 to businesses as well, so that's our posture. I'm glad to  
25 hear we are maintaining that.

1 I think Member Graham might have a comment.

2 MR. GRAHAM: Yes. Thank you for taking the  
3 time to actually bring kudos, that doesn't always happen.

4 And I would also just like to say that I have  
5 been involved in a couple of situations very much like  
6 yours where folks just in unusual circumstances where they  
7 get caught up in a trap, and Director Avitia and the  
8 staff, I think, recognizes this board's position that this  
9 agency is here to serve Texas and Texans and anyone doing  
10 business here. And I, too, would agree that they expend a  
11 lot of effort trying to make those situations right. As  
12 you said, there's many agencies that will slam the door in  
13 your face and say, sorry, rules are rules, but that's not  
14 always exactly as clean as we would like to think.

15 Anyway, I, too, would like to thank the agency  
16 for that work because I've seen it in action.

17 MR. AVITIA: Thank you, Member Graham.

18 MR. BACARISSE: Thank you.

19 MS. LAUDERMILK: Thank you.

20 MR. BACARISSE: Thank you.

21 Yes, ma'am, Member Gillman.

22 MS. GILLMAN: I have a question and it's really  
23 for Monique. What I heard you say is regarding auctions  
24 and going to and from, we're deleting it for now and  
25 waiting for a new draft rule. Is that correct? Is that

1 what you said?

2 MS. JOHNSTON: We're deleting the storage  
3 requirement in 215 for wholesale auctions in regard to  
4 having to store plates and have secure storage. At the  
5 time they can store them in the vehicle securely when they  
6 come in, that's what they do now. But we're going to have  
7 an MVIRAC meeting in November where we're going to hear a  
8 new draft rule proposal for this area.

9 MS. GILLMAN: Thank you.

10 MR. BACARISSE: Members, any other questions?  
11 I'm sorry, do we still have public comment, Ms.  
12 Moriarty?

13 MS. MORIATY: No, sir. That was the last one.

14 MR. BACARISSE: That was the last one. All  
15 right, thank you.

16 We're still on agenda item number 7, members.  
17 Is there any other discussion, or the chair would  
18 entertain a motion.

19 MS. OMUMU: I do have a question.

20 MR. BACARISSE: Yes, Member Omumu.

21 MS. OMUMU: I'm sorry to beat a dead horse on  
22 this.

23 MR. BACARISSE: No, that's fine. Go ahead.

24 MS. OMUMU: As it relates to distributors and  
25 manufacturers on entering all of the customer information

1 into the new designated system that is to come, the way  
2 distributors and manufacturers rotate license plates and  
3 vehicles, let's say in the event of an auto show or when  
4 they go to activate events, that could be one plate that  
5 floats on multiple vehicles. Can you please explain how  
6 having to enter in VIN number information in the system  
7 real-time could work on the distributor/manufacturer  
8 level?

9 Because that could definitely be an  
10 administrative burden as well, just logistically trying to  
11 understand how that would work. When you're under time  
12 constraints in those type of situations, you may not even  
13 have access to internet to make such transactions.

14 MS. JOHNSTON: So the inventory management  
15 system, IT is working with the vendor where there would be  
16 a mobile option. That's what they're looking into to  
17 where you would actually be able to utilize your cell  
18 phone to enter that information real-time as you're doing  
19 it if you're, like you said, at a show or something like  
20 that, so if you're having to change the plate. That's  
21 what is the goal for the inventory management system that  
22 it's going to be a mobile thing, so if someone is on the  
23 car lot, if they're at a show, they can be moving those  
24 plates around and entering that information through that  
25 mobile app.

1 MR. BACARISSE: And, Member Omumu, I think  
2 perhaps Mr. Luna might be able to amplify that a little  
3 bit more.

4 Is that possible, Roland? If you would come  
5 help speak to this issue.

6 MR. LUNA: Hello, board members. Roland Luna,  
7 deputy executive director for the Texas DMV.

8 What Monique Johnston is referring to is new  
9 technology that we have acquired at the Department of  
10 Motor Vehicles. And, Member Omumu, as you know today,  
11 paper logs are used in a number of transactions. And what  
12 we are trying to do is implement this inventory management  
13 system that would be a sole source where all plates can be  
14 tracked, whether it's general issue plates, or farm plates  
15 that are used at a tax assessor-collector's office, or if  
16 it's the new dealer plate that is replacing the agent and  
17 vehicle-specific tag, that this system would be real-time.

18 And it would be tied into our Registration and Title  
19 System which is then tied into the Texas Law Enforcement  
20 Telecommunication System.

21 And what Monique is talking about with internet  
22 capability is we need the system and this is one of the  
23 requirements in the system that it be mobile-friendly so  
24 you can access it from a tablet or you can access it from  
25 a laptop computer or your mobile phone so that you can

1 enter the information, the VIN and then the vehicle  
2 information associated with that.

3 We have procured this system in response to  
4 concerns from law enforcement to be able to identify the  
5 vehicle. And what we're trying to do is implement a tool  
6 that works for all of our stakeholder groups, that helps  
7 promote public safety for law enforcement, that helps  
8 dealers be the most efficient tool possible so that they  
9 can quickly enter the information, and then for  
10 manufacturers and distributors as well so that they can  
11 access the system any time, 24 hours a day, real-time.

12 Part of the requirements with the system, as  
13 well, is ensuring that administrative rights can be built  
14 into the system so that you as the business owner get to  
15 determine who can access the system for employees.

16 MR. BACARISSE: I'm sorry, Mr. Avitia.

17 MR. AVITIA: Chairman, thank you. For the  
18 record, Daniel Avitia.

19 Roland, could you expand on the type of  
20 technology that we're looking at to try to ease the burden  
21 of what we've been talking about with regard to data entry  
22 and manual errors?

23 MR. LUNA: Yes, sir. So one of the features  
24 with the new inventory management system, we're hoping to  
25 be able to use scanning capability where we have a number

1 of bar codes on general issue plates that would return to  
2 a certain vehicle so that you could enter -- that plate  
3 number would be associated with that plate so that when  
4 you scan it, it populates in the inventory management  
5 system. That is a feature. We are not there yet with the  
6 implementation, but it is a feature that we hope to be  
7 able to deploy to help ease for business owners.

8 MR. BACARISSE: Member Gillman, did you have a  
9 question?

10 MS. GILLMAN: I appreciate what you're trying  
11 to do, but I feel that until this technology and this  
12 inventory management system exist that it is at this time  
13 unreasonable to expect us to do that.

14 And with regard to moving vehicles to a show  
15 when they're in the possession of the dealer or  
16 manufacturer, I feel like it needs to just be on a demo  
17 plate and not have the requirement of assignment, as long  
18 as it's in the control of the dealership or manufacturer  
19 and in control with a dealer representative or  
20 manufacturer. The inventory management system, while I  
21 understand the intent, doesn't exist today and it should  
22 not be -- I feel like the recordkeeping requirements  
23 should for test drives be excluded of this assignment  
24 responsibility.

25 MR. BACARISSE: Members, are there any other



1 questions on this particular?

2 Member Schlosser, yes.

3 MR. SCHLOSSER: I understand that the  
4 dealerships want to create this record to be able to put  
5 on the plate. Would your system potentially have the  
6 ability to scan the barcodes on the door frames to add a  
7 more easier implementation of the VIN number into this  
8 system?

9 Because we use that in some of our technology  
10 in law enforcement. We can go into the door and be able  
11 to scan it and it auto populates. Is that potentially a  
12 feature that could help them speed up their time to do  
13 what's going on?

14 MR. LUNA: Member Schlosser, yes, sir. Roland  
15 Luna.

16 That's certainly something that we can explore  
17 with our vendor as we implement the tool. These first few  
18 weeks of the implementation are focused on getting the  
19 tool integrated into our other systems at the DMV, but  
20 certainly that is something that we can explore heavily.

21 MR. SCHLOSSER: Okay.

22 MR. BACARISSE: Any other questions, members,  
23 on this particular agenda item?

24 (No response.)

25 MR. BACARISSE: Seeing none, the chair would

1 entertain a motion on agenda item number 7.

2 MS. GILLMAN: I have a motion.

3 MR. BACARISSE: Member Gillman.

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

5 This motion, because item number 7 discusses  
6 two or three different things, I have one related to  
7 catalytic converters and a second related to test drives.

8 I'll just say I move to strike proposed  
9 subsection 215.102(e)(1)(K)(iv) to remove the requirement  
10 that an applicant for a manufacturer, distributor or  
11 converter license disclose whether the applicant repairs a  
12 motor vehicle in Texas, and if so, the physical address  
13 where the repair is performed. I further move to strike  
14 proposed new 215.122 to avoid potentially misleading  
15 language and redundancy with statute.

16 Now I have a motion with regard to test drives.

17 I also move to add a new subsection (m) to the proposed  
18 amended 215.138 to read: The recordkeeping requirements  
19 in 215.138(h) do not apply when a vehicle is being  
20 operated solely for the purpose of demonstration and a  
21 bona fide employee of the dealer is in the vehicle with  
22 the potential purchaser during the demonstration.

23 In addition, I move that the board grant the  
24 department the authority to make changes to the text or  
25 preamble of the Chapter 215 revisions as necessary to

1 align with these changes at adoption, and I move that the  
2 board adopt the remaining proposed revisions to 46 Texas  
3 Administrative Code, Chapter 215, as recommended by staff,  
4 for publication in the *Texas Register*. And I further move  
5 that the board grant the department the authority to make  
6 non-substantive changes to the preamble and text, as  
7 recommended by the Office of Secretary of State, for  
8 purposes of filing in the *Texas Register*.

9 MR. BACARISSE: Thank you, Member Gillman.

10 Is there a second to that motion?

11 MR. JONES: I'll second.

12 MR. BACARISSE: Member Jones seconds that  
13 motion.

14 Now we can have some discussion. Members, do  
15 you have any questions of Ms. Gillman on this particular  
16 motion?

17 Member Prewitt.

18 MR. PREWITT: Mr. Chairman and Board Member  
19 Gillman, so are these changes consistent with HB 718 and  
20 SB 224 would be my only question. Are we still in  
21 compliance with the House and the Senate on their  
22 legislation by passing these changes?

23 MR. BACARISSE: Put that question to this group  
24 out here.

25 MR. PREWITT: Oh, to the group?

1 MR. BACARISSE: Corrie can answer, I think Ms.  
2 Thompson can answer.

3 MS. THOMPSON: Corrie Thompson, director of the  
4 Enforcement Division. I can address the SB 224 questions  
5 related to 215.102 and 215.122 being struck as they relate  
6 to manufacturers, distributors, converters, franchised  
7 dealers.

8 So the removal of 215.102 pertains to the two  
9 application questions that were proposed to be asked going  
10 forward: Do you repair vehicles that have catalytic  
11 converters? If so, at what location?

12 215.122 asks that those licensees that do  
13 conduct those types of repairs maintain a record for the  
14 period of two years regarding the date of the transaction  
15 where a catalytic converter had been repaired, the name of  
16 the individual or entity to whom it was transferred to,  
17 and then a description of the item that was transferred.  
18 That information does exist in statute in 2305 and other  
19 pertinent statutes that relate to implementation of SB  
20 224, so the record requirement would still exist and the  
21 licensees in our chapter in 215 would still be required to  
22 maintain those records and that would be directly pursuant  
23 to the statute.

24 MR. PREWITT: So we would stay consistent with  
25 legislation if we did pass what Member Gillman is

1 proposing?

2 MS. THOMPSON: That's correct.

3 MR. PREWITT: Okay. Thank you.

4 MR. BACARISSE: Members, any other questions?

5 MS. OMUMU: Yes.

6 MR. BACARISSE: Member Omumu.

7 MS. OMUMU: I would like to make an amendment,  
8 Mr. Chairman, but I'm going to need some help.

9 MR. BACARISSE: Okay. Member Gillman, listen  
10 up, she's going to make a friendly amendment to your  
11 motion, so I just wanted to warn you.

12 MS. OMUMU: We're going to need to take a  
13 break.

14 MR. BACARISSE: Oh, yes, all right. Members,  
15 may we have literally, don't go anywhere, about a three-  
16 minute break, five-minute break, just really quick. All  
17 right? Thank you.

18 It is now 11:54 and the DMV is in recess for  
19 just a few moments.

20 (Whereupon, a brief recess was taken.)

21 MR. BACARISSE: Let the record reflect that it  
22 is now 12:14 in the afternoon, and the DMV Board is now  
23 back in session.

24 We are working on agenda item number 7, and  
25 Member Gillman has a motion that has been let out.

1 Member Omumu, did you --

2 MS. OMUMU: I think Mark is going to read it.

3 MR. BACARISSE: Sorry, Member Jones. Sorry.

4 Go ahead.

5 MR. JONES: Thank you, Mr. Chairman.

6 I would like to move to amend the motion that's  
7 currently on the floor to strike the last sentence of the  
8 proposed subsection (m) to read: The recordkeeping  
9 requirements in Section 215.138(h) do not apply when a  
10 vehicle is being operated solely for the purpose of  
11 demonstration.

12 Additionally, I would further move to strike  
13 the sentences used in code encouraging licensees to  
14 immediately alert law enforcement by reporting a stolen  
15 plate to a local law enforcement agency from Section  
16 215.138(j), Section 215.143(e), Section 215.158(a), and  
17 Section 215.120(f).

18 Thank you, Mr. Chairman.

19 MR. BACARISSE: Member Gillman, do you accept  
20 that friendly amendment?

21 MS. GILLMAN: Can I ask a clarifying question?

22 MR. BACARISSE: Certainly.

23 MS. GILLMAN: So I moved to eliminate  
24 requirements for recordkeeping for demonstration purposes  
25 but I had in there that an employee needs to be in the

1 vehicle during the demo, and your amendment has  
2 recommended to strike that portion. Is that correct?

3 MR. JONES: Correct. My amendment stops at the  
4 word "purpose of demonstration." It does not require an  
5 employee or representative to have to be in the vehicle  
6 while the demonstration is taking place.

7 MS. GILLMAN: And the second part of your  
8 amendment is -- I'm unclear just because I didn't hear  
9 it -- the words "alert immediately law enforcement" you  
10 are recommending to do what?

11 MR. JONES: The way the wording is currently  
12 written it says that: Licensees are encouraged -- with  
13 the word "encouraged" -- to alert local law enforcement by  
14 reporting any stolen plates to local law enforcement  
15 agencies. But it says it's encouraged, it's not part of  
16 the law, so I just think taking that out in the four  
17 places.

18 MS. GILLMAN: So you want the licensee to alert  
19 immediately.

20 MR. JONES: No. I'm saying that the language  
21 should not be in there saying that the DMV is encouraging  
22 people to notify local law enforcement if a plate becomes  
23 missing.

24 MR. BACARISSE: And your justification is, Mr.  
25 Jones, that it's not in the law. Right?

1 MR. JONES: It's not in the law. I do agree,  
2 as a dealer, if we have plates missing, it is in our best  
3 interests to report those plates are missing. However,  
4 the way that it's written in Section 215.138(j),  
5 215.143(e), 215.158(a) and 215.120(f) the wording is --  
6 Laura, could you possibly help me with the exact wording  
7 on those?

8 MS. MORIATY: Sure. It occurs in several  
9 places with different license holders, but the concept is:  
10 A license holder is encouraged to immediately alert law  
11 enforcement by reporting a stolen license plate to a local  
12 law enforcement agency. And the concern is that this is  
13 not enforceable language because it's merely an  
14 encouragement.

15 MR. JONES: Since it's not enforceable, I just  
16 feel like it shouldn't be in there at all.

17 Does that answer your question?

18 MR. BACARISSE: Do you accept the friendly  
19 amendment, Member Gillman?

20 MS. GILLMAN: Yes, but can we have discussion  
21 about it? Is that before or after?

22 MR. BACARISSE: Well, help me out with that,  
23 Laura.

24 MS. MORIATY: Well, so, Member Gillman, if you  
25 want to say no, he could make it a motion. We could get a



1 second on the friendly amendment and then y'all could  
2 discuss the friendly amendment -- unfriendly amendment,  
3 the regular moved amendment. The friendliness is an  
4 effort to avoid having to do a second and a vote, but you  
5 could discuss.

6 MS. GILLMAN: I didn't understand a word she  
7 said.

8 MR. BACARISSE: Well, there's two options here.  
9 You can accept his friendly amendment as he read it in  
10 whole, or if you have a problem with part of it, you can  
11 say I reject the friendly amendment and then we would go  
12 through the normal process of an amendment, making an  
13 amendment, getting a second, and having a vote as to  
14 whether or not that amendment applies to what you're  
15 doing. Do you see?

16 So it's either you accept what he said, or we  
17 put the board to vote to what he said goes into your  
18 amendment. It's Robert's Rules of Order. So that's your  
19 choice. You may choose to not accept the friendly, in  
20 which case I would ask for a motion and a second and we'd  
21 vote on whether or not that amendment goes into your  
22 amendment.

23 MS. MORIATY: Alternatively, Member Gillman,  
24 you could accept parts of his amendment and put the other  
25 parts to a vote. Feel free to ask questions if we can

1 help.

2 MR. BACARISSE: If we really want to get fun.

3 MS. GILLMAN: My head is sort of swimming. I'd  
4 like to allow the board to vote on what they would like,  
5 on what they want.

6 MR. BACARISSE: Well, but that doesn't comport  
7 with the rules on which we run this meeting. So the idea  
8 is you either accept his friendly amendment as it is in  
9 total, or if you don't like some of it, you'll say I  
10 reject the friendly amendment and then we put his  
11 amendment to a vote with a motion and a second.

12 MS. GILLMAN: I'll accept his friendly  
13 amendment and put it to a vote.

14 MR. BACARISSE: Well, no. If you accept it, we  
15 don't need to vote.

16 MS. GILLMAN: We don't?

17 MR. BACARISSE: Not on the amendment. You can  
18 accept his amendment as part of yours. Okay?

19 MS. GILLMAN: I'll accept it.

20 MR. ALVARADO: Live with the consequences.

21 MS. GILLMAN: Live with the consequences.

22 MS. OMUMU: Mr. Chairman?

23 MR. BACARISSE: Member Omumu.

24 MS. OMUMU: I have a friendly amendment to the  
25 friendly amendment that's been recently accepted.

1 (General laughter.)

2 MR. BACARISSE: Do we just pile on here, Laura,  
3 is that it?

4 MS. MORIATY: Absolutely. We can continue  
5 amending as long as it goes on.

6 MR. BACARISSE: So, Member Gillman, stay tuned  
7 because you need to listen to what Member Omumu is going  
8 to say and decide whether or not you want to accept her  
9 friendly amendment. You've already been generous and  
10 accepted one, so here comes another one.

11 Go ahead, Member Omumu.

12 MS. OMUMU: Okay. So hopefully this is not out  
13 of order, Mr. Chairman, but first I wanted to confirm that  
14 what Member Gillman struck in the original motion did not  
15 in any way impede distributors and manufacturers from  
16 repairing vehicles in the event that they needed to, and  
17 confirm that that is not the case. The second phase of  
18 her motion and the friendly amendment, I believe, that was  
19 accepted by Member Gillman, seems to be okay.

20 The friendly amendment that I have to the  
21 friendly amendment is I move to amend the motion on the  
22 floor by adding the phrase "either in the license holder's  
23 recordkeeping system or" before "in the department's  
24 designated system" in the proposed amendments 215.120(d),  
25 so that it reads: "A manufacturer, distributor, or

1 converter shall maintain a record of each standard license  
2 plate issued to the manufacturer, distributor or converter  
3 by the department either in the license holder's  
4 recordkeeping system or in the department designated  
5 system."

6 In addition, I move that the board grant the  
7 department the authority to make changes to the preamble  
8 of the Chapter 215 revisions as necessary to align with  
9 these changes at adoption.

10 Thank you.

11 MR. BACARISSE: So now, Member Gillman, it goes  
12 back to you and you may accept or reject that friendly  
13 amendment.

14 MS. GILLMAN: May I ask a clarifying question,  
15 Member Omumu?

16 MS. OMUMU: Yes.

17 MS. GILLMAN: Because I don't have your  
18 language in front of me and I was just listening, what I  
19 think you said was I'd like manufacturers -- the license  
20 plates that have been issued to the manufacturer for you  
21 to not have any recordkeeping responsibilities.

22 MS. OMUMU: That is not true.

23 MS. GILLMAN: What does it say?

24 MS. OMUMU: Due to the nature of the business,  
25 we would like to be compliant with entering that

1 information, but in the event of auto shows or having to  
2 move vehicles around at a rapid pace, we may not be able  
3 to do that in real time, maybe at the end of the day,  
4 maybe the beginning of the next day. So the ask is we  
5 will maintain the records as we do today; going forward,  
6 when the new system that is yet to be built rolls out,  
7 that we have the flexibility to enter maybe plus whatever  
8 hours or the next day or within a particular time frame  
9 that the verbiage "or" is added in here.

10 Now, I'm just paying specific attention to the  
11 word "converter." Really this language should be specific  
12 to manufacturers and distributors who specifically are  
13 truthfully excluded from House Bill 718. House Bill 718  
14 is for dealer license plates only, but within our  
15 rulemaking process, distributors and manufacturers have  
16 been enveloped in all of this, somewhat unfairly.

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

18 MR. BACARISSE: Yes.

19 MS. MORIATY: I just want to clarify what the  
20 change is in 215.120. So at proposal, the only language  
21 that's being added to this is "in the department  
22 designated system." The manufacturers, distributors and  
23 converters are currently required to keep license plate  
24 records, they can just keep them in their own systems.

25 Member Omumu's motion would allow flexibility

1 for manufacturers, converters and distributors by allowing  
2 them to either keep it in the department designated system  
3 or in their own system if the department designated  
4 system's requirements of real-time upkeep and  
5 responsiveness are prohibitive. It's important to note  
6 that this system is not actually a specific requirement of  
7 718, it's just that we're implementing this new system and  
8 law enforcement has requested that we make as much  
9 information available as possible.

10 So while this may not be a specific statutory  
11 requirement, that was the concept behind it to get as many  
12 folks reporting as much information as possible. Member  
13 Omumu's point has been that that is prohibitive for folks  
14 in her line of work, and so she's trying to give  
15 flexibility on this. And the language is within the  
16 statute either way, whether you go with what's in the  
17 amendment or what Member Omumu is offering.

18 MS. GILLMAN: I agree with you, Member Omumu,  
19 that House Bill 718 is about dealer licensees and not  
20 about manufacturers and distributors. I don't understand  
21 why it's in here either. And furthermore, I believe let's  
22 not have a rule without the tool. I made that up, by the  
23 way.

24 (General laughter.)

25 MS. GILLMAN: Let's not have a rule without the

1 tool. Frankly, I wouldn't mind striking stuff about the  
2 manufacturer/distributor.

3 MR. BACARISSE: Well, the question is do you  
4 accept the friendly amendment.

5 MS. GILLMAN: Yes, I'll accept the friendly  
6 amendment.

7 MR. BACARISSE: Thank you. All right. Thank  
8 you. That's what we need.

9 All right. Now, remind me where we are.

10 MS. MORIATY: So you have a motion.

11 MR. BACARISSE: We have a motion with several  
12 friendly amendments.

13 MS. MORIATY: With all these amendments. We  
14 need a second.

15 MR. BACARISSE: We have a motion, we need a  
16 second. Would anybody like to second the motion?

17 MR. GRAHAM: I'll second.

18 MR. BACARISSE: Thank you, Member Graham.

19 So now we have a motion and a second on the  
20 floor for agenda item number 7, with the friendly  
21 amendments included. And the chair would entertain a  
22 motion -- well, we already have a motion -- the chair  
23 would entertain any further discussion on the motion  
24 that's before us.

25 (No response.)

1 MR. BACARISSE: Hearing none, seeing none, I  
2 will call the vote. So we are voting on agenda item  
3 number 7, for the record now.

4 Member Alvarado?

5 MR. ALVARADO: I assume as amended?

6 MR. BACARISSE: Yes, the motion is as amended  
7 with the friendlies and everything.

8 MR. ALVARADO: Aye.

9 MR. BACARISSE: Member Gillman?

10 MS. GILLMAN: Aye.

11 MR. BACARISSE: Member Graham?

12 MR. GRAHAM: Aye.

13 MR. BACARISSE: Member Jones?

14 MR. JONES: Aye.

15 MR. BACARISSE: Vice Chair McRae?

16 MS. McRAE: Aye.

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: Aye.

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

25 Okay. So now -- this is so exciting -- now we



1 are going to take a recess for lunch for approximately one  
2 hour. Is that right, or what? Hour and a half, Mr.  
3 Avitia says.

4 MS. MORIATY: Are we going into closed session?

5 MR. BACARISSE: Sorry. It's closed session.

6 MS. MORIATY: Let's read that closed session  
7 language, please, sir.

8 MR. BACARISSE: Oh, do I have to do that?

9 MS. MORIATY: Yep, by statute, please, sir.

10 MR. BACARISSE: All right, very good, I'll do  
11 it. Sorry. I'm getting a little punchy up here. That's  
12 what the blue folder is for.

13 (General talking and laughter.)

14 MR. BACARISSE: We're now going to go into  
15 closed session. It is now 12:29 in the afternoon on  
16 October 24, 2024. We will go into closed session under  
17 Texas Government Code Section 551.071. For those of you  
18 in the audience, I anticipate being in closed session for  
19 approximately an hour and a half. We'll reconvene in open  
20 session after that.

21 With that, we are now recessed from the public  
22 meeting and we're going into closed session.

23 (Whereupon, at 12:29 p.m., the meeting was  
24 recessed, to reconvene this same day, Thursday, October  
25 24, 2024, following conclusion of the closed session.)

1 MR. BACARISSE: It is 1:59 p.m., and the Board  
2 of the Texas DMV is now back in open session.

3 No vote or action was taken during closed  
4 session. The chair would entertain a motion, though,  
5 on --

6 MS. MORIATY: I'm sorry, sir. Which agenda  
7 item are we on?

8 MR. BACARISSE: I'm sorry. Yes, I'm going to  
9 get to that number, it's magic number 20. We're going to  
10 take item 20 out of order and do it now. That was any  
11 potential items coming out of closed session.

12 So this is item 20, and the chair would  
13 entertain a motion, if any member has a motion, on the  
14 business that was discussed in the closed session.

15 MR. GRAHAM: Mr. Chair, I have a motion.

16 MR. BACARISSE: Member Graham.

17 MR. GRAHAM: I move the board approve the  
18 appointment of Jason Gonzalez as Internal Audit director  
19 for the Texas Department of Motor Vehicles, at a salary of  
20 \$151,893.63 per year, with an effective date of October  
21 25, 2024.

22 MR. BACARISSE: Is there a second to that  
23 motion?

24 MS. McRAE: I second.

25 MS. OMUMU: I second.

1 MR. BACARISSE: All in favor say aye.

2 (A chorus of ayes.)

3 MR. BACARISSE: It's unanimous. Thank you.

4 MS. McRAE: Congratulations, Jason.

5 (Applause.)

6 MR. BACARISSE: Now the hard work begins,  
7 Jason. Congratulations.

8 All right. Getting back to the regular agenda  
9 now, sorry, guys. That was fun, wasn't it? We're on  
10 agenda item number 8, and I think we have Annette.

11 Are you going lay that out for us, or is  
12 Monique?

13 MS. QUINTERO: I am.

14 MR. BACARISSE: Okay, great. Please, go right  
15 ahead.

16 MS. QUINTERO: Good afternoon, Chairman,  
17 members, Executive Director Avitia. Thank you for having  
18 me today. My name is Annette Quintero. I am the Vehicle  
19 Titles and Registration Division director.

20 Agenda item number 8 starts on page 278 of your  
21 board book, and it is an action item for the board to  
22 approve adoption of amendments to Chapter 217 for  
23 publication in the *Texas Register*. The amendments before  
24 you are needed to implement our required rule review of  
25 Chapter 217, House Bill 718 and House Bill 3297.

1           The rules were presented to the board in June  
2 and were published for public comment in the July 12 issue  
3 of the *Texas Register*. The public comment period closed  
4 August 12, during which we received comments from five  
5 entities: Carvana, Texas Auto Dealers Association, Texas  
6 Independent Auto Dealers Association, and the Coalition  
7 for Sensible Public Records Access. I will be walking you  
8 through the major changes made to our proposed rules in  
9 response to the comments we received.

10           First, the definition for current photo  
11 identification in 217.2 and 217.22 was revised.  
12 Originally it read "within 12 months of the expiration  
13 date" but we updated it to "expired not more than 12  
14 months" to clarify the definition and make the rule easier  
15 to understand.

16           Moving on to 217.27(a)(2) was amended to  
17 replace the phrase "the symbol, tab or other device  
18 prescribed by and issued by the department" with "the  
19 vehicle registration insignia," a defined term in 217.22,  
20 to create better alignment and consistency in the rule.

21           217.53 was amended as a result of a comment  
22 received from the National Auto Auction Authority related  
23 to the impact 217.53 has on auto auctions' normal  
24 operations. You heard a little bit about this earlier  
25 from Ms. Monique Johnston. As a result of the concern

1 raised and the extensive work by the department staff and  
2 auction industry leaders, we expect to circulate newly  
3 drafted rule language to the Motor Vehicle Industry  
4 Regulation Advisory Committee members and any interested  
5 stakeholders by November 1, and also present the language  
6 during the November 18 MVIRAC meeting, and therefore,  
7 expect to return to the board with future rulemaking prior  
8 to July 1, 2025, to clarify the procedures for secure  
9 transfer of general issue license plates in the context of  
10 auction sales.

11 A comment was received against the proposed  
12 change to 217.166 to set a maximum number of transactions  
13 on dealer deputies in webDEALER based on the bond amount.

14 Staff recommends that the board withdraw the proposed  
15 amendment to allow time for further research into the  
16 issues surrounding limitations on the number of webDEALER  
17 transactions submitted by dealer deputies.

18 Now shifting focus, HB 718 requires that all  
19 motor vehicle dealers use webDEALER to submit title  
20 transactions effective July 1, 2025, therefore, 217.74 is  
21 being amended to require dealers and their users accessing  
22 webDEALER to complete webDEALER training prior to April  
23 30, 2025. The rule does contain an exemption for dealers  
24 and their users who have had access to webDEALER for six  
25 months or more and have submitted more than 100

1 transactions as of October 1 of this year.

2 Two comments were received requesting webDEALER  
3 training be removed completely or not required for new  
4 users. The department has worked extensively on this  
5 initiative. We have developed five training modules  
6 dealers can choose from, each one to two hours long.

7 They're available in English and Spanish, and  
8 if the dealer opts for webDEALER 102, they will receive a  
9 live walk-through of the transaction submission process.  
10 We offer six live virtual trainings and one to two in-  
11 person trainings per month. We've conducted 65 trainings  
12 thus far and trained 2,848 attendees.

13 We've built an extensive plan to ensure we are  
14 offering dealers every opportunity to complete their  
15 training requirement by the April 30, 2025, deadline. We  
16 send GDN holders routine communication announcing upcoming  
17 dealer trainings. We've partnered with tax assessor-  
18 collectors who are dedicated to reaching out to dealers in  
19 their counties that we've identified as not having  
20 completed the training or as currently using webDEALER.

21 Yesterday we launched 24/7 webDEALER training,  
22 which is available in English and Spanish to dealers from  
23 our website any time day or night. We've had a total of  
24 388 registrants complete this training in just the 24  
25 hours since it's been live.

1           In the coming weeks, we will also send direct  
2 communication to dealers identified as neither on  
3 webDEALER or having participated in webDEALER training.  
4 In our communication we'll offer a multitude of options  
5 that I just laid out for the board. Once a user in a  
6 dealership completes their webDEALER training using any of  
7 these options, they can present their training certificate  
8 to their webDEALER administrator for immediate access to  
9 webDEALER.

10           This concludes my remarks. I'm happy to answer  
11 any questions.

12           MR. BACARISSE: Great. Thank you, Ms.  
13 Quintero.

14           Members, any questions? Member Gillman.

15           MS. GILLMAN: I applaud the training being  
16 offered 24/7; I didn't know that. And thank you, it's in  
17 either English or Spanish.

18           If I was going to do the training, what is  
19 the -- and I hate to ask this -- what is the minimum  
20 training required? How long will it take?

21           MS. QUINTERO: Our introductory course,  
22 webDEALER 101, is an hour long. It's offered also in  
23 English and in Spanish.

24           MS. GILLMAN: So one hour.

25           MS. QUINTERO: Now, the 24/7 available

1 webDEALER training is much shorter. I do not exactly the  
2 time frame; it looks like Executive Director Avitia knows.

3 MR. BACARISSE: Yeah, sure. Go ahead, Daniel.

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

6 I actually took the training the other night  
7 and got my certificate yesterday -- thank you for that --  
8 and the training took me a whole of 27 minutes to get  
9 this.

10 MS. GILLMAN: Outstanding.

11 MR. BACARISSE: Yeah, one would suggest that  
12 you might have had some prior knowledge of the system.

13 MR. AVITIA: I was a blank sheet of paper, I  
14 promise.

15 MS. QUINTERO: I love that. Thank you.

16 MR. BACARISSE: It might take the chairman 27  
17 days.

18 (General laughter.)

19 MS. GILLMAN: So if I was a holder, an account  
20 holder needing my webDEALER certification, I could go on  
21 and get training 24/7, and in approximately 27 minutes, I  
22 could get a certificate and be allowed access.

23 MR. AVITIA: Yes, ma'am. For the record,  
24 Daniel Avitia.

25 And as Ms. Quintero mentioned, or Director



1 Quintero mentioned, your administrator can turn that user  
2 on immediately.

3 MS. QUINTERO: Correct.

4 MS. GILLMAN: Thank you.

5 MS. QUINTERO: Absolutely.

6 MR. BACARISSE: Any other questions, members,  
7 on this item?

8 MR. BACARISSE: Seeing none, the chairman  
9 would -- I'm sorry. Member Prewitt. Oh, I'm sorry.  
10 Member Gillman.

11 MS. GILLMAN: Go right ahead.

12 MR. PREWITT: Well, I'd be glad to make a  
13 motion.

14 MS. GILLMAN: I have another question.

15 MR. BACARISSE: You have a question?

16 MR. PREWITT: Do you have a friendly amendment?

17 MS. GILLMAN: I have a question, and that is  
18 within Chapter 217 it requires the holder of the  
19 account -- and I think that that generally means dealer --  
20 to be certified and also each user to be certified. And I  
21 feel that it is unreasonable to ask each user -- and in my  
22 world I am calling them title clerks because title clerks  
23 are the ones in the dealership that process the  
24 registration for my customers. And title clerks come and  
25 go.

1           They get promoted, they quit. They go out on  
2 leave, sick leave, and there are multiple people that have  
3 to step in and do the work. And so my issue is with each  
4 user.

5           Would you -- do you have a suggestion or an  
6 objection, actually, to having every dealership be  
7 responsible by having someone trained at the dealership  
8 and because someone is trained, thereby, they can also  
9 train the title clerks or whoever is stepping in to do the  
10 job. Is that reasonable?

11           MS. QUINTERO: Member Gillman, Annette  
12 Quintero, for the record.

13           This is a requirement that we have for all  
14 Registration and Title System users. Every county  
15 employee, every one of my regional service staff members  
16 who process transactions every day are required to  
17 complete training before we give them RTS access. It  
18 helps us ensure that there is consistency across processes  
19 and consistency and integrity in the data that we're  
20 submitting into our RTS system.

21           So your question is do I have an objection to  
22 removing the requirement that individual users of  
23 webDEALER be required to complete webDEALER training  
24 before the department will grant them access, and my  
25 answer is yes, I have an objection to that. Like I said,

1 it is currently a requirement that we have of all county  
2 staff and of all DMV staff who have access to RTS today.

3 MS. GILLMAN: The good news is that the system,  
4 because it's pretty straightforward and strict -- but the  
5 system won't allow you to advance or complete your  
6 transaction unless it's filled in properly. It kicks it  
7 back. And so for the last few years -- how long has  
8 webDEALER been around?

9 MS. QUINTERO: Ten years.

10 MS. GILLMAN: Ten years. For ten years no one  
11 has been required to do the training. For ten years we've  
12 been on webDEALER and no one has required us to train and  
13 we have successfully done thousands and thousands and  
14 thousands of transactions.

15 So it's certainly possible and successful, I  
16 would say, that we can sell cars without the training at  
17 all, and implement this process.

18 MR. BACARISSE: I think Vice Chair McRae has a  
19 question.

20 MS. McRAE: Member Gillman, we at the county  
21 level have been required for years to have this training  
22 or we are not able to access webDEALER. And it's been  
23 mandatory for several years that the county tax assessor-  
24 collectors and their staff have to offer webDEALER. We  
25 have to do that for any dealer that is wanting to provide

1 that service, and like I said, it's been a requirement for  
2 us for several, several years.

3 MS. GILLMAN: But the dealers have not been  
4 required and for ten years we've been using it.

5 MS. QUINTERO: Member Gillman --

6 MR. BACARISSE: If I may make a comment as  
7 well. I feel like we're trying to professionalize and  
8 bring up the safety and security and operation of this  
9 system that we're putting more and more centrality of  
10 business focus on. If it takes one hour to be trained on  
11 the system, I think we can all give one hour to be  
12 trained.

13 And I understand that everybody is running a  
14 business, but how about if we ran things more  
15 professionally and with better operational capability.  
16 That's my comment.

17 Mr. Jones.

18 MR. JONES: Director Quintero, did I hear you  
19 say that if a dealer or a dealership had performed more  
20 than 100 transfers in the last six months, so what Member  
21 Gillman is talking about here, would that even apply to a  
22 dealer who has done 10,000 transactions? Or would those  
23 title clerks that work for her now, would they need to  
24 still go in and do the training?

25 MS. QUINTERO: So her existing dealerships that

1 currently use webDEALER and have submitted more than 100  
2 transactions and are using webDEALER in the last six  
3 months would be exempt from the training requirement.  
4 Only the new users that come into the dealership would be  
5 required to complete the training.

6 MR. BACARISSE: Any other questions, members?

7 (No response.)

8 MR. BACARISSE: Seeing none, the chair would  
9 entertain a motion on item 8.

10 MS. MORIATY: Wait, you have public comment,  
11 sir.

12 MR. BACARISSE: Oh, public comment. Are there  
13 any people to publicly comment, Laura?

14 MS. MORIATY: Yes, sir.

15 MS. MORIATY: Yes, sir. Karen Phillips from  
16 TADA.

17 MR. BACARISSE: Okay. Ms. Phillips, you've  
18 been waiting patiently. Sorry about the long day.

19 MS. PHILLIPS: Good afternoon. Karen Phillips  
20 with TADA.

21 Really just one comment, and I just would ask  
22 for some clarification. 217.74 states that the proposal  
23 uses the description of holder. In other words, holder is  
24 defined as a motor vehicle dealer who holds a GDN, which  
25 is a holder.

1           New (g) requires webDEALER training for a  
2 holder, and so we go back to (c) which is the GDN holder.  
3       New (g) (2) uses holder, as does (g) (3) which says failure  
4 of holders and users to have the training be denied  
5 access. I'm simply requesting that we have more  
6 clarification as to who is the holder for purposes of  
7 webDEALER training.

8           The reason for that is I don't think that we're  
9 going to be asking -- I don't think the agency is asking  
10 that Carl Sewell go through webDEALER training because  
11 he's never going to be doing titling and registering of  
12 vehicles. I think that we might suggest that Brett Graham  
13 is not going to be doing titling and registering of his  
14 vehicles, so the requirement should be placed upon those  
15 users, not necessarily the GDN holder. Now, I understand  
16 that some GDN holders may actually be doing their own  
17 titling and registering, and I can appreciate that they  
18 would need the training. But it seems if we could have  
19 some clarification that it's the actual entity or person  
20 or user that's actually doing the titling and registering  
21 that has to have the training.

22           Just for some clarification purposes, I would  
23 appreciate it, because the words on the page are the  
24 holder has to go through the training and a holder will be  
25 denied access. That's my concern.

1 Thank you.

2 MR. BACARISSE: Very good. Thank you.

3 Laura, any other commenters on this item?

4 MS. MORIATY: No, sir. That was our only  
5 public comment.

6 MR. BACARISSE: Were there any questions for  
7 Karen on that on her point?

8 Okay, Tammy, go ahead, Vice Chair McRae.

9 MS. McRAE: Annette, in response to what Ms.  
10 Phillips was asking, holder, I know sometimes  
11 administrator, can you define the difference between  
12 those? Because I'm of the same opinion, I don't think  
13 it's the GDN holder. Can you clarify that for us?

14 MS. QUINTERO: Yes. Annette Quintero, Vehicle  
15 Titles and Registration director.

16 So the GDN holder is the person that Monique's  
17 division issues the license to. Now, the thing I need  
18 some help on clarifying is: is the holder also classified  
19 as the administrator in webDEALER, and I believe they are.

20 MS. JOHNSTON: There are some, yes. It just  
21 depends. It varies on the size of the dealership, so  
22 there are going to be license holders who are also the  
23 administrator.

24 MS. QUINTERO: And then the administrator, just  
25 to further clarify, the administrator is the person who's

1 given access to webDEALER that also then is able to  
2 provide access to other users.

3 MR. BACARISSE: Mr. Avitia, did you have a  
4 question?

5 MR. AVITIA: Yes, Chairman. For the record,  
6 Daniel Avitia, executive director.

7 I want to make sure that Ms. Phillips's point  
8 is clearly understood. And the answer for Ms. Phillips  
9 is no, it is not intended for folks like Stacey Gillman,  
10 Member Gillman -- my apologies -- or Mr. Sewell to be  
11 taking this training. It is meant for the individuals  
12 that have their fingers in the state system doing the  
13 processing every day. And many times -- as Ms. Phillips  
14 accurately stated, many times the holder is the user.

15 For example, when you have a small GDN that has  
16 two or three people in it, that holder may be also the  
17 user. So the intent of this rule is to make sure that  
18 anybody that is using our system, the state system, has  
19 the access to the training they need -- and again, it's 27  
20 minutes to an hour, depending on which one you take -- and  
21 make sure that they have all the information necessary to  
22 be able to process a transaction correctly. As we all  
23 know, sometimes transaction errors can be very costly for  
24 a dealer if it's not done right.

25 MR. BACARISSE: Any other questions? Any other



1 public speakers on this item, Ms. Moriatty?

2 MS. MORIATY: No, sir, no further public  
3 speakers.

4 MR. BACARISSE: Okay, Member Gillman.

5 MS. GILLMAN: I just want to be clear that  
6 there's words being used like the holder and the user, and  
7 I fear that you're going to have -- if you require each  
8 user, what's going to happen is you're going to have one  
9 person that's done the training and you just use their  
10 password for the other ten people that may come through.  
11 I think it's inviting abuse. And so I'm honestly trying  
12 to reduce the abuse and yes, require training -- thank you  
13 for the 24/7 and it being accessible all the time -- but  
14 have the holder's representative do the training, not the  
15 dealer, and eliminate the each user.

16 And with that, I have a motion, if you would  
17 like to hear it, Mr. Chairman.

18 MR. BACARISSE: Staff, do you wish to respond  
19 to that question? Or it really wasn't a question, it was  
20 a statement. Anybody?

21 Mr. Avitia.

22 MR. AVITIA: Yes, Chairman. For the record,  
23 Daniel Avitia, executive director.

24 Member Gillman, I respectfully disagree with  
25 the fraud statement that you made, quite the opposite, in

1 fact. Staff is trying to identify everybody that's in the  
2 system and using the system in an effort to mitigate  
3 fraud. As we saw with eLICENSING when we had dealers that  
4 weren't even really dealers accessing the system, we did  
5 not know who was in the system.

6 So this is an effort to mitigate fraud, not  
7 create more fraud. And we think that knowing who is in  
8 our systems will certainly mitigate the amount of fraud,  
9 if any, that is occurring within that system.

10 MR. BACARISSE: Do we have a motion on this  
11 item? Is there any more discussion?

12 Mr. Prewitt.

13 MR. PREWITT: I do have a motion, but I want to  
14 make sure it's an appropriate time to make it.

15 MR. BACARISSE: I think it is.

16 MR. PREWITT: If so, I make a motion and move  
17 the board approve the adoption of 43 Texas Administrative  
18 Code, Chapter 217, as recommended by staff, for  
19 publication in the *Texas Register*. In addition, I move  
20 that the board grant the department the authority to make  
21 non-substantive changes to the preamble and text, as  
22 recommended by the Office of Secretary of State, for  
23 purposes of filing in the *Texas Register*.

24 MR. BACARISSE: Is there a second to this  
25 motion?

1 MS. McRAE: Second.

2 MR. BACARISSE: Vice Chair McRae.

3 Is there any discussion on this motion?

4 MR. GRAHAM: Quick clarification.

5 MR. BACARISSE: Yes, Member Graham.

6 MR. GRAHAM: Thank you.

7 So I listened to all this and I heard y'all say  
8 holder is not intended to mean the GDN holder, but it  
9 still says holder. Right? I mean, is there any simple  
10 cleanup for that?

11 MS. GILLMAN: I've got a friendly amendment as  
12 a cleanup for that.

13 MR. BACARISSE: Well, let me see if there's an  
14 answer from staff first, Member Gillman, before we  
15 entertain the motion.

16 MR. GRAHAM: Yes, thank you.

17 MS. MORIATY: So we could flip this language  
18 around. So holder is used throughout this section is the  
19 challenge here. But we could flip this language around  
20 easily in that first clause to say each user accessing  
21 webDEALER under the account of a holder described in  
22 subsection (c), blah-blah-blah, do it that way, and then  
23 take out holder from the other section.

24 So we could easily make this correction and  
25 just take it down to the user level so that every user

1 under a holder's account, but not necessarily the holder  
2 itself if he is not using would need to take in the  
3 training, but not necessarily loop in folks who are way at  
4 the top and never touch webDEALER.

5 MR. GRAHAM: Yeah. How do we do that?

6 MS. MORIATY: I just need a second to write it  
7 down.

8 (General laughter.)

9 MR. ALVARADO: You don't have liability issues  
10 at that point, user versus holder, who is responsible?

11 MS. MORIATY: Well, we're making it clear that  
12 they're happening under the holder's -- it has to be a  
13 user who is under a holder's auspices, so it's not all  
14 users.

15 MR. ALVARADO: The buck stops with the holder.

16 MS. MORIATY: Right, it's only with the holder.

17 MS. GILLMAN: Does the buck stop with the  
18 holder? The holder doesn't have to take the training, or  
19 any representative of the holder.

20 MR. BACARISSE: It's just the user.

21 MS. GILLMAN: It's the user, so your life  
22 depends on the title clerk.

23 MS. THOMPSON: I have a comment, Chairman, if I  
24 may?

25 MR. BACARISSE: Yes, go ahead, Ms. Thompson.

1 MS. THOMPSON: Corrie Thompson, director of  
2 Enforcement.

3 So I believe when we're talking about the  
4 liability falling on the holder, we're speaking to  
5 violations that may be incurred by users in the system,  
6 and yes, that would lie with the license holder.

7 MS. GILLMAN: Violations are for the holder but  
8 the agents have to take the training. I just feel like  
9 the holder's representative, whether it be an office  
10 manager, someone that could be a leader and train -- let's  
11 just call it the office manager could take the training  
12 and be responsible and accountable for webDEALER and train  
13 each user, whether it's the billing clerk, the title  
14 clerk, the accounts payable person, you know. Demanding  
15 each user when we have so much turnover is a big ask, and  
16 instead we should have the holder's representative, the  
17 dealer's representative, whether it be an office manager  
18 or a controller, they should be accountable for webDEALER  
19 training and then train their people.

20 MR. BACARISSE: Well, what's the point of  
21 having a system where everybody can go online 24/7 and  
22 take an hour out of their time and be trained directly  
23 themselves? That way you ensure that every piece of  
24 training is done the same way. If you pass it off to  
25 other people, you're not going to have uniformity of

1 understanding.

2 MS. GILLMAN: Well, right now we have no  
3 training and there's uniformity.

4 MR. BACARISSE: That's why this is an  
5 improvement. That's why we're trying to pass this.  
6 That's why we're trying to move forward and build a system  
7 where everybody is trained appropriately and properly,  
8 rather than having this person trained in that way, this  
9 person trained in that way. You're not improving things  
10 by making it more diffuse, you're improving it by making  
11 it more unified.

12 Member Schlosser.

13 MR. SCHLOSSER: Member Schlosser, for the  
14 record.

15 As being part of an organization that has over  
16 5,000 employees, on a regular basis there's training  
17 that's pushed out to us that is done online. We're  
18 required to watch it. As we watch it, it signs us off  
19 that we now know the policies, the procedures. It's all  
20 on us as a user to use it appropriately.

21 I do not think it's a big ask for somebody to  
22 do 20 minutes to an hour to access a state-run system that  
23 is going to potentially cause a lot of havoc if you don't  
24 do it correctly. And at least then, by taking the  
25 training they are now acknowledging that they have been

1 told and now if they violate, it's on the user.

2 That's all I have to say about that.

3 MR. BACARISSE: Are we about ready with the  
4 language there?

5 MS. MORIATY: Yes, just about.

6 MS. GILLMAN: Are we defining who the holder  
7 is?

8 MS. MORIATY: The motion would be to revise the  
9 first paragraph of 217.174(g) to read: "Required  
10 webDEALER training. Each user accessing webDEALER under  
11 the account of a holder that is described under subsection  
12 (c) and required to process title and registration  
13 transactions through webDEALER in accordance with  
14 Transportation Code Section 502.0055, must:" And then we  
15 would revise subsection 217.74(g)(2) to remove "holder or"  
16 so it just becomes "user".

17 MR. BACARISSE: Mr. Prewitt, are you in  
18 agreement with that?

19 MR. PREWITT: Well, let me ask the staff at the  
20 table, are you in agreement with that? Is that  
21 acceptable?

22 MR. BACARISSE: There are head nods yes.

23 MR. PREWITT: If that is acceptable, then, yes,  
24 I'm okay with that as a friendly amendment from Member  
25 Gillman, as drafted by General Counsel.

1 MR. BACARISSE: So we have a motion and an  
2 amendment. Is there a second?

3 MS. McRAE: Second.

4 MR. BACARISSE: There's a second by Vice Chair  
5 McRae.

6 Any further discussion of this revised motion  
7 that was read? Any further discussion?

8 (No response.)

9 MR. BACARISSE: Seeing none, I will call the  
10 vote, please.

11 Member Alvarado?

12 MR. ALVARADO: Aye.

13 MR. BACARISSE: Member Gillman?

14 MS. GILLMAN: Nay.

15 MR. BACARISSE: Member Graham?

16 MR. GRAHAM: Aye.

17 MR. BACARISSE: Member Jones?

18 MR. JONES: Aye.

19 MR. BACARISSE: Member McRae?

20 MS. McRAE: Aye.

21 MR. BACARISSE: Member Omumu?

22 MS. OMUMU: Aye.

23 MR. BACARISSE: Member Prewitt?

24 MR. PREWITT: Aye.

25 MR. BACARISSE: Member Schlosser?



1 MR. SCHLOSSER: Aye.

2 MR. BACARISSE: And I, Chair Bacarisse, vote  
3 aye as well. Eight for, one no. Thank you.

4 Now we move to agenda item 9 which is salvage  
5 vehicle dealers, and for that, Ms. Thompson will lay this  
6 out for us.

7 MS. THOMPSON: Good afternoon, Chairman, Vice  
8 Chair McRae, board members, Director Avitia. Corrie  
9 Thompson, director of the Enforcement Division.

10 I'm presenting agenda item 9 for you today  
11 which begins on page 623 in your board books. And before  
12 you is a recommendation to approve the adoption of  
13 amendments to 43 Texas Administrative Code 221.54, with an  
14 effective date of July 1, 2025. This change is being  
15 proposed in support of implementation of House Bill 718  
16 from the 88th Legislative Session.

17 And specifically, these amendments that we are  
18 proposing adoption for would add to the list of criteria  
19 that the department would be able to consider when  
20 determining whether to conduct a site inspection at a  
21 salvage dealer's premises. And so we're adding whether  
22 the salvage dealer failed to remove, report or scrap or  
23 destroy license plates and registration insignia from a  
24 scrapped or destroyed vehicle, and those amendments will  
25 allow us to prioritize those potential license plate

1 related misuse actions by our salvage licensees.

2           These proposed changes were proposed in the  
3 *Texas Register* for public comment following our June board  
4 meeting, and we received no comments in response. There's  
5 also no fiscal impact associated with implementation of  
6 this rule amendment. And if you adopt the rule as  
7 proposed today, we anticipate publication in the November  
8 8 version of the *Texas Register*.

9           So if there are no comments from the board, I  
10 would ask that the board adopt the amendments to 221.54.

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

12           Laura, are there any public comments on this  
13 item, agenda item 8?

14           MS. MORIATY: We're on item 9 now. Is that  
15 right?

16           MR. BACARISSE: Nine. Sorry.

17           MS. MORIATY: Okay, good. Yes, no public  
18 comments, sir.

19           MR. BACARISSE: Okay. Thank you.

20           Members, is there a motion on this?

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

22           MR. BACARISSE: Yes, ma'am, Member Gillman.

23           MS. GILLMAN: Shocking, I know.

24           I move that the board approve the adoption of  
25 43 Texas Administrative Code, Chapter 221, as recommended

1 by staff, for publication in the *Texas Register*. In  
2 addition, I move that the board grant the department the  
3 authority to make non-substantive changes to the preamble  
4 and text, as recommended by the Office of the Texas  
5 Secretary of State, for purposes of filing in the *Texas*  
6 *Register*.

7 MR. BACARISSE: Is there a second to this  
8 motion?

9 MS. McRAE: I'll second.

10 MR. BACARISSE: Member McRae, thank you.

11 Is there discussion on this agenda item,  
12 members? Any further discussion?

13 (No response.)

14 MR. BACARISSE: Seeing none, the chair will  
15 call the vote, please.

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: Member Jones?

23 MR. JONES: Aye.

24 MR. BACARISSE: Vice Chair McRae?

25 MS. McRAE: Aye.

1 MR. BACARISSE: Member Omumu?

2 MS. OMUMU: Aye.

3 MR. BACARISSE: Member Prewitt?

4 MR. PREWITT: Aye.

5 MR. BACARISSE: Member Schlosser?

6 MR. SCHLOSSER: Aye.

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

9 Okay. Agenda item number 10, and Corrie will  
10 lay this out for us as well.

11 MS. THOMPSON: Yes, sir, stuck with me again  
12 for one more.

13 MR. BACARISSE: Fabulous, fabulous.

14 MS. THOMPSON: Corrie Thompson, director of the  
15 Enforcement Division, now for agenda item 10 which begins  
16 on page 628 in your board books.

17 And now before you is a recommendation to adopt  
18 amendments to 43 Texas Administrative Code, Chapter 224,  
19 with an effective date of July 1, 2025. These amendments  
20 concerning denial of access to the license plate system  
21 are necessary to implement House Bill 718 from the 88th  
22 Legislative Session.

23 Effective July 1, 2025, Transportation Code  
24 503.0633 requires the department to monitor the number of  
25 license plates that are obtained by a dealer and to deny

1 access to the license plate system if the department  
2 determines that the dealer is acting fraudulently. The  
3 proposed amendments to 224.58 delete references to  
4 converter and add license plate system to the rule  
5 language to recognize that the purpose of the database  
6 will change from the tracking and issuance of temporary  
7 tags to the tracking and issuance of license plates, metal  
8 plates, going forward, effective July 1 of next year.

9 The proposed amendments also substitute terms  
10 "license plate" for "temporary tags" throughout and delete  
11 references to converters. We're also deleting statutory  
12 references that no longer exist and adding in pertinent  
13 new statutory references into the rule language as well.

14 A proposed amendment would define license plate  
15 system misuse to include obtaining or issuing a license  
16 plate for a vehicle that's not titled or permitted by law  
17 to be operated on a public highway. And this would  
18 address dealers who are issuing plates for vehicles that  
19 are not titled for highway use or for vehicles that  
20 haven't passed proper emissions requirements.

21 Additional amendments to 224.27 and 224.54 make  
22 minor conforming changes by deleting the term "temporary  
23 tag database" and substituting "license plate system" and  
24 by deleting references to temporary tags and internet down  
25 tags, as well as converters.

1           The proposed amendments to 224.58 were  
2 published for comment July 12 in the *Texas Register* and  
3 that comment period closed August 12. And then  
4 separately, the amendments to 224.27 and 224.54 were then  
5 published in the August 23 issue of the *Texas Register* and  
6 that period closed for comment on September 23.

7           The department did receive two comments in  
8 response to these proposals.

9           One from an individual who noted the increasing  
10 complexity of the use of our electronic systems for  
11 issuance of tags and made reference back to the ease of  
12 use of our former cardboard tags that dealers used to  
13 issue by writing the numbering on those tags with markers.

14           A second was made by the Texas Automobile  
15 Dealers Association, noting instances that would be proper  
16 for dealers to experience in the regular course of  
17 business where their sales might not align with metal  
18 plate issuance and the concern would be that we would then  
19 deny them access to the license plate system.

20           And we did not make any changes in response to  
21 either of these comments. In response to TADA's concern,  
22 we anticipate that our inventory management system that's  
23 being developed will cover those instances where dealers  
24 experience buyer's remorse, for example, and somebody is  
25 returning the vehicle back to the dealer. And there would

1 be an allowance for that plate to go back into the system,  
2 and that would, of course, not constitute fraud on the  
3 part of the dealer.

4 The department again considered all of these  
5 written comments that were received but did not make any  
6 changes to the proposed language. And if the board adopts  
7 these amendments, we anticipate publication in the  
8 November 8 issue of the *Texas Register*. Again, no  
9 significant fiscal impact associated with this change.

10 And if there are no questions, I would ask the  
11 board to adopt the amendments to Chapter 224.

12 MR. BACARISSE: Thank you, Ms. Thompson,  
13 appreciate it.

14 Is there any public comment on this item?

15 MS. MORIATY: Yes, sir. Karen Phillips from  
16 TADA.

17 MR. BACARISSE: Great. Ms. Phillips, we're  
18 going to have to get a chair closer for you.

19 MS. PHILLIPS: I can get my steps in.

20 MR. BACARISSE: Oh, good, steps. Okay, good.

21 (General laughter.)

22 MS. PHILLIPS: Good afternoon. Karen Phillips.

23 Really this is a comment more than anything,  
24 and I really appreciate what Corrie had said with respect  
25 to the inventory management system having to do with

1 returns, et cetera. And I noted that the department made  
2 a statement on page 634 -- that's the little green 634 --  
3 that the department is going to be providing system  
4 training to dealers which will include examples of how to  
5 properly void a plate assignment, and I very much  
6 appreciate that. And if I could know when you're doing  
7 that or if it's available, I'd like to be able to send  
8 that out to the members.

9 One thing that I just want to mention, and that  
10 is in (a)(4) there's a discussion about misuse of a plate  
11 if it's issued for a vehicle or motor vehicle not located  
12 on the dealer's licensed location or storage lot. We  
13 frequently have drop-ships that we make, drop-ship  
14 vehicles. It may be a few vehicles or there may be  
15 several hundred vehicles, depending upon the purchaser,  
16 and those drop-ship vehicles do not come in contact with  
17 that selling dealer's lot, storage lot or licensed  
18 facility. So I just wanted to make certain that there was  
19 an understanding about drop-shipments and that that would  
20 not be considered a misuse of the plate system.

21 And that is what I have today. And again, I  
22 want to thank staff and you all for what you've done  
23 because this was a terrible task, in my opinion, very  
24 difficult and monumental, and thank you for your work on  
25 it.



1 MR. BACARISSE: Thank you, Ms. Phillips. We  
2 agree it's been monumental and certainly quite a  
3 challenge.

4 Any further questions on this, members, before  
5 the chair asks for a motion?

6 (No response.)

7 MR. BACARISSE: Is that the only public comment  
8 we have?

9 MS. MORIATY: No further public comment, sir.

10 MR. BACARISSE: The chair would entertain a  
11 motion on this agenda item number 10.

12 MR. SCHLOSSER: I have a motion.

13 MR. BACARISSE: Yes, Member Schlosser.

14 MR. SCHLOSSER: I move that the board approve  
15 the adoption of 43 Texas Administrative Code, Chapter 224,  
16 as recommended by staff, for publication in the *Texas*  
17 *Register*. In addition, I move that the board grant the  
18 department the authority to make non-substantive changes  
19 to the preamble and text, as recommended by the Office of  
20 the Texas Secretary of State, for purposes of filing in  
21 the *Texas Register*.

22 MR. BACARISSE: Thank you.

23 Is there a second to this motion?

24 MR. PREWITT: Second.

25 MR. BACARISSE: Was that Member Prewitt?

1 MR. PREWITT: Yes.

2 MR. BACARISSE: Okay. Thank you.

3 Any further discussion now that we have a  
4 motion and a second on this agenda item?

5 (No response.)

6 MR. BACARISSE: Seeing none, the chair would  
7 entertain a vote, please. I'll call the roll.

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 Jones?

15 MR. JONES: Aye.

16 MR. BACARISSE: Vice Chair McRae?

17 MS. McRAE: Aye.

18 MR. BACARISSE: Member Omumu?

19 MS. OMUMU: Aye.

20 MR. BACARISSE: Member Prewitt?

21 MR. PREWITT: Aye.

22 MR. BACARISSE: Member Schlosser?

23 MR. SCHLOSSER: Aye.

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

1                   And we're now on agenda item number 11. Chris  
2 Hayden will lay this one out for us.

3                   Mr. Hayden, good afternoon.

4                   MR. HAYDEN: Good afternoon, Chairman  
5 Bacarisse, board members, Director Avitia. For the  
6 record, I am Chris Hayden, the deputy chief financial  
7 officer for the department.

8                   The materials begin on page 713 of your board  
9 book. This is an action item.

10                  I am recommending that the board adopt the  
11 proposed revisions to sections in Chapter 209 of the  
12 department's Administrative Code to clean up rule text.  
13 Eric Horn laid this rule proposal out in the June board  
14 meeting.

15                  Chapter 209 deals with the collection of debts,  
16 payments of fees to the department, and donations or  
17 contributions to the board. The proposed amendments will  
18 make the rules consistent with statute, remove unnecessary  
19 language, and make the rules consistent with current  
20 processes, procedures and terminology.

21                  The department published the proposed revisions  
22 in the *Texas Register* and did not receive any comments to  
23 this proposal.

24                  This concludes my remarks and I'm happy to  
25 answer any questions you may have.

1 MR. BACARISSE: Thank you, Mr. Hayden.

2 Any questions for him on this agenda item?

3 (No response.)

4 MR. BACARISSE: Seeing none, the chair would  
5 entertain a motion.

6 Are there any public comments, Laura? Sorry.

7 MS. MORIATY: No, sir, no further public  
8 comments.

9 MR. BACARISSE: Thank you.

10 The chair would entertain a motion on this  
11 agenda item.

12 MS. OMUMU: I'd like to make a motion, Mr.  
13 Chairman.

14 MR. BACARISSE: Member Omumu.

15 MS. OMUMU: I move that the board approve the  
16 adoption of the proposed revisions to 43 Texas  
17 Administrative Code, Chapter 209, as recommended by staff,  
18 for publication in the *Texas Register*. In addition, I  
19 move that the board grant the department the authority to  
20 make non-substantive changes to the preamble and text, as  
21 recommended by the Office of the Texas Secretary of State,  
22 for purposes of filing in the *Texas Register*.

23 MR. BACARISSE: Thank you.

24 Is there a second to this motion?

25 MR. GRAHAM: I second.

1 MR. BACARISSE: Member Graham.  
2 Great. Any further discussion, members?  
3 (No response.)  
4 MR. BACARISSE: Seeing none, the chair would  
5 call the roll for the vote, please.

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: Member Jones?

13 MR. JONES: Aye.

14 MR. BACARISSE: Vice Chair 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 And moving now to agenda item 12 which is rule  
25 review, this is Code 2001.039, and Laura is going to lay

1 this out for us, if she will.

2 The floor is yours.

3 MS. MORIATY: Good afternoon, board. Laura  
4 Moriatty, general counsel for the DMV.

5 We're here to adopt the rule review of Chapter  
6 209. Again, rule reviews are required under Texas  
7 Government Code 2001.039 for every state agency every four  
8 years, and we're going in to see if the reasons for  
9 initially adopting the rules continue to exist. In this  
10 case, the department last reviewed Chapter 209 in 2019, so  
11 we're actually pretty much on time on this one.

12 We published our notice of intent to review in  
13 the *Texas Register* and we did not receive any comments.  
14 As you know, we went through the rule review process, we  
15 identified the amendments we needed to make, you guys just  
16 voted them through on item 11. So this next motion and  
17 vote will be your opportunity to re-adopt the remaining  
18 provisions of Chapter 209 and set us up for another four  
19 years before we have to come back and do another rule  
20 review of 209.

21 So with that, I'm open to questions.

22 MR. BACARISSE: Any questions for Ms. Moriatty  
23 on this agenda item number 12?

24 (No response.)

25 MR. BACARISSE: Seeing none, thank you, Ms.

1 Moriaty. And no public comment?

2 MS. MORIATY: There is no public comment, sir.

3 MR. BACARISSE: Very good. Thank you.

4 The chair would entertain a motion on agenda  
5 item 12.

6 MR. PREWITT: Mr. Chairman?

7 MR. BACARISSE: Yes, Mr. Prewitt.

8 MR. PREWITT: I would like to make a motion,  
9 please.

10 MR. BACARISSE: Please.

11 MR. PREWITT: I move that the board approve the  
12 notice of re-adoption of 43 Texas Administrative Code,  
13 Chapter 209, as recommended by staff, for publication in  
14 the *Texas Register*. In addition, I move that the board  
15 grant the department the authority to make non-substantive  
16 changes to the notice of re-adoption, as recommended by  
17 the Office of the Texas Secretary of State, for purposes  
18 of filing in the *Texas Register*.

19 MR. BACARISSE: Thank you.

20 Is there a second to this motion?

21 MS. OMUMU: Second, Mr. Chairman.

22 MR. BACARISSE: Member Omumu, thank you.

23 Any further discussion, members, on this  
24 motion?

25 (No response.)

1 MR. BACARISSE: Seeing none, I would call for  
2 the 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: Member Jones?

10 MR. JONES: Aye.

11 MR. BACARISSE: Vice Chair 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. It's unanimous. Thank you.

21 Agenda item number 13 is where we are now, and  
22 I'll turn it back over to Laura, please.

23 MS. MORIATY: Laura Moriaty, general counsel of  
24 the DMV again. This time we're looking at Chapter 217's  
25 rule review. You all just adopted the amendments for this



1 in item 8 earlier. Again, this is our opportunity to look  
2 at it every four years, but this one we last did in 2015,  
3 so as you saw, we had a lot to clean up.

4 We published our notice of intent to review and  
5 again we didn't receive any public comments. So your  
6 motion here would be to re-adopt the provisions with the  
7 exception, you'll notice, of 217.27, which is not  
8 included. We are still examining our legal authority for  
9 that and hoping for more insight from the legislature this  
10 session on that, so I will come back after session with  
11 more news on that front. But everything but 217.27 and we  
12 will be set for another four years.

13 MR. BACARISSE: Thank you.

14 Members, any questions for Ms. Moriatty on this  
15 item?

16 (No response.)

17 MR. BACARISSE: Seeing none, there are no  
18 public comments, I'm assuming. Right?

19 MS. MORIATY: No public comments, sir.

20 MR. BACARISSE: Very good. The chair would  
21 entertain a motion on agenda item 13.

22 MR. GRAHAM: Mr. Chair?

23 MR. BACARISSE: Member Graham.

24 MR. GRAHAM: I move the board approve the  
25 notice of read option of 43 Texas Administrative Code,

1 Chapter 217, excluding 217.27, as recommended by staff,  
2 for publication in the *Texas Register*. In addition, I  
3 move the board grant the department the authority to make  
4 non-substantive changes to the notice of re-adoption, as  
5 recommended by the Office of the Texas Secretary of State,  
6 for purposes of filing in the *Texas Register*.

7 MR. BACARISSE: Thank you, Member Graham.

8 Is there a second from someone?

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

10 MR. BACARISSE: Member Schlosser, thank you.

11 We have a motion and a second. Is there any  
12 further discussion on this agenda item?

13 (No response.)

14 MR. BACARISSE: Seeing none, the chair would  
15 call the vote, please.

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: Member Jones?

23 MR. JONES: Aye.

24 MR. BACARISSE: Vice Chair McRae?

25 MS. McRAE: Aye.

1 MR. BACARISSE: Member Omumu?

2 MS. OMUMU: Aye.

3 MR. BACARISSE: Member Prewitt?

4 MR. PREWITT: Aye.

5 MR. BACARISSE: Member Schlosser?

6 MR. SCHLOSSER: Aye.

7 MR. BACARISSE: And I, Bacarisse, vote aye as  
8 well. It's unanimous. Thank you very much.

9 And we are moving to agenda item 14, rule  
10 proposals, and Laura will lay this out for us as well.

11 MS. MORIATY: Laura Moriaty, general counsel of  
12 the DMV, one more time, back this time for proposals of  
13 rule reviews on Chapter 210 which is our internal contract  
14 management chapter, and Chapter 211 which handles our  
15 criminal history offenses that we will take action on a  
16 license or deny a license for. These are the last two  
17 full reviews of this massive onslaught that we've done.  
18 Yay, it's almost over.

19 So again, we're looking at these to see if  
20 anything has changed, if we still have legal authority for  
21 them, if the reasons we initially adopted them continue to  
22 exist. Chapter 210 was last reviewed in 2019 and Chapter  
23 211 has actually never been reviewed because it was just  
24 adopted in 2020 so it's just barely coming up on its need  
25 for rule review.

1           The reasons for initially adopting a rule  
2 wouldn't exist if we no longer had authority or if it's no  
3 longer supported by our current practices. You'll see  
4 that we have amendments to clean up Chapters 210 and 211  
5 in items 15 and 16 that are going to follow me here, so we  
6 are taking those steps to clean them up. But we will  
7 separately, if you vote to approve, publish the rule  
8 review in the *Texas Register* and get any comments on  
9 whether the reasons for initially adopting continue to  
10 exist, and I will bring those back to you and we can have  
11 an opportunity that will be the February meeting to adopt  
12 these.

13           And then we really will have done all of our  
14 rules in two years, so it will be great. And then we can  
15 slow way down and it will be a much easier haul from  
16 there, I hope.

17           And with that, I'm open to questions.

18           MR. BACARISSE: We all hope, yes.

19           Are there any questions of Laura on this item,  
20 members?

21           (No response.)

22           MR. BACARISSE: No public comment, I'm  
23 assuming?

24           MS. MORIATY: No public comment.

25           MR. BACARISSE: Thank you.

1           The chair would entertain a motion on agenda  
2 item 14.

3           MR. JONES: Sorry, Mr. Chair. I have a motion.

4           MR. BACARISSE: Yes. Go ahead, Mr. Jones.

5           MR. JONES: I move that the board approve the  
6 proposed notice of intention to review 43 Texas  
7 Administrative Code, Chapters 210 and 211, as recommended  
8 by staff, for publication in the *Texas Register*. I also  
9 move that the board grant the department to make changes  
10 to the proposed notice of intention to review, as  
11 recommended by the Office of the Texas Secretary of State,  
12 for purposes of filing in the *Texas Register*.

13           MR. BACARISSE: Thank you.

14           Is there a second to this motion?

15           MS. GILLMAN: Second.

16           MR. PREWITT: Second.

17           MR. BACARISSE: Okay. I'll give Gillman that  
18 one.

19           (General laughter.)

20           MR. BACARISSE: Thank you, Member Gillman.

21           Any further discussion on this item?

22           (No response.)

23           MR. BACARISSE: Seeing none, the chair would  
24 call the roll vote, please.

25           Member Alvarado?

1 MR. ALVARADO: Aye.

2 MR. BACARISSE: Member Gillman?

3 MS. GILLMAN: Aye.

4 MR. BACARISSE: Member Graham?

5 MR. GRAHAM: Aye.

6 MR. BACARISSE: Member Jones?

7 MR. JONES: 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, Chair Bacarisse, vote  
17 aye as well. It's unanimous. Thank you.

18 So agenda item 15 now is some more, I guess,  
19 rule proposal at this point, and Chris Hayden is back to  
20 walk us through.

21 Chris.

22 MR. HAYDEN: Thank you. Again, good afternoon,  
23 Chairman Bacarisse, board members and Direct Avitia. For  
24 the record, I am Chris Hayden, the deputy chief financial  
25 officer for the department.

1           The materials for this item begin on page 754  
2 of your board books. This is an action item. I am  
3 recommending that the board approve to publish the  
4 proposed revisions to sections in Chapter 210 of the  
5 department's administrative rules in the *Texas Register*  
6 for public comment.

7           Chapter 210 deals with the contract management  
8 and delegation of signature authority for the department.

9           The proposed amendments will make the rules consistent  
10 with statute, remove unnecessary language, organize the  
11 rules in a clear manner and make the rules consistent with  
12 current processes, procedures and terminology. These  
13 proposed revisions will not change any current practices  
14 of the department nor will it result in a significant  
15 fiscal impact.

16           This concludes my remarks, and I'm happy to  
17 answer any questions you may have on this item.

18           MR. BACARISSE: Thank you, Mr. Hayden.

19           Members, are there any questions for Mr. Hayden  
20 on this item?

21           (No response.)

22           MR. BACARISSE: And I'm assuming no public  
23 comments. Right, Laura?

24           MS. MORIATY: No public comments, sir.

25           MR. BACARISSE: Okay. Seeing no questions, the

1 chair would entertain a motion on this agenda item 15.

2 MR. ALVARADO: I'll make a motion, Mr.  
3 Chairman.

4 MR. BACARISSE: Mr. Alvarado.

5 MR. ALVARADO: I move that the board approve  
6 the proposed new sections and repeal in 43 Texas  
7 Administrative Code, Chapter 210, as recommended by staff,  
8 for publication in the *Texas Register*. In addition, I  
9 move that the board grant the department the authority to  
10 make non-substantive changes to the preamble and text, as  
11 recommended by the Office of the Texas Secretary of State,  
12 for purposes of filing in the *Texas Register*.

13 MR. BACARISSE: Thank you, Member Alvarado.

14 Is there a second for this motion?

15 MS. GILLMAN: I second.

16 MR. BACARISSE: Member Gillman, thank you.

17 Is there any further discussion on this item,  
18 members?

19 (No response.)

20 MR. BACARISSE: Seeing none, I would call for  
21 the vote, please.

22 Member Alvarado?

23 MR. ALVARADO: Aye.

24 MR. BACARISSE: Member Gillman?

25 MS. GILLMAN: Aye.



1 MR. BACARISSE: Member Graham?

2 MR. GRAHAM: Aye.

3 MR. BACARISSE: Member Jones?

4 MR. JONES: Aye.

5 MR. BACARISSE: Vice Chair McRae?

6 MS. McRAE: Aye.

7 MR. BACARISSE: Member Omumu?

8 MS. OMUMU: Aye.

9 MR. BACARISSE: Member Prewitt?

10 MR. PREWITT: Aye.

11 MR. BACARISSE: Member Schlosser?

12 MR. SCHLOSSER: Aye.

13 MR. BACARISSE: And I, Chair Bacarisse, vote  
14 aye as well. Unanimous. Thank you.

15 So we move now to agenda item 16, and we'll  
16 turn it over to Monique to walk us through this.

17 So, Ms. Johnston.

18 MS. JOHNSTON: Hello again, members, Chair,  
19 Director Avitia. I'm Monique Johnston, for the record,  
20 director of the Motor Vehicle Division.

21 Today we are asking the board's permission to  
22 begin the formal rulemaking process to make changes to  
23 Chapter 211, Criminal History Offense and Action on  
24 License, in Title 43 of the Texas Administrative Code.

25 This rule item is listed on your agenda as item

1 16 and the details may be found beginning on page 781 of  
2 your board book. The rule package proposes amendments,  
3 new sections, and repeals to Chapter 211, and is proposed  
4 in conjunction with a notice of intent to rule review in  
5 compliance with Government Code 2001.039, presented to the  
6 board this morning as agenda item 16 -- which I already  
7 said. Chapter 211 was first adopted in 2020 and was  
8 significantly amended in 2022 to add the fingerprinting  
9 requirement.

10 In proposing these amendments, repeals and new  
11 sections, the department has the following seven goals:  
12 to organize the rules into two subchapters for consistency  
13 with other chapters in Title 43; to clarify that these  
14 guidelines apply to licenses issued by the department and  
15 not registrations or authorizations; to clarify which  
16 crimes the department considers as crimes related to the  
17 duties and responsibilities of these license holders,  
18 including the addition of certain crimes related to child  
19 trafficking and crimes related to the using of a firearm  
20 to intimidate or harm another; to conform rule language  
21 with statutory language in SB 224 which added crimes  
22 related to damage, destruction or tampering of a motor  
23 vehicle during the removal or attempted removal of a  
24 catalytic converter; to delete duplicative language found  
25 in the statute; to clarify existing requirements regarding

1 fingerprinting of trust beneficiaries; and to modernize  
2 language and improve readability.

3 MVD requests your approval to proceed with  
4 publication in the *Texas Register* so we may receive public  
5 comment and move forward with the formal rulemaking  
6 process.

7 Members, this concludes my remarks, and I'm  
8 happy to answer any questions you may have on this rule  
9 package. Thank you.

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

11 Members, any questions for Ms. Johnston on this  
12 agenda item?

13 (No response.)

14 MR. BACARISSE: Member Schlosser.

15 MR. SCHLOSSER: I've got a motion.

16 MR. BACARISSE: Oh, great, sure.

17 No public comments, Laura. Right?

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

19 MR. BACARISSE: Great.

20 Member Schlosser, please, we'll entertain a  
21 motion.

22 MR. SCHLOSSER: I move that the Board approve  
23 the proposed amendment, new sections and repeal in 43  
24 Texas Administrative Code, Chapter 211, as recommended by  
25 staff, for publication in the *Texas Register*. In

1 addition, I move that the board grant the department the  
2 authority to make non-substantive changes to the preamble  
3 and text, as recommended by the Office of the Texas  
4 Secretary of State, for purposes of filing in the *Texas*  
5 *Register*.

6 MR. BACARISSE: Is there a second to this  
7 motion?

8 MR. JONES: Second.

9 MR. BACARISSE: Mr. Jones, thank you.

10 All right. We have a second on the motion.  
11 Any further discussion, members?

12 (No response.)

13 MR. BACARISSE: Seeing none, the chair would  
14 call for the vote, please.

15 Member Alvarado?

16 MR. ALVARADO: Aye.

17 MR. BACARISSE: Member Gillman?

18 MS. GILLMAN: Aye.

19 MR. BACARISSE: Member Graham?

20 MR. GRAHAM: Aye.

21 MR. BACARISSE: Member Jones?

22 MR. JONES: Aye.

23 MR. BACARISSE: Vice Chair 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, Bacarisse, vote aye.

7 Agenda item 17 now, specialty plates, and the  
8 magnificent Carrie is going to exhibit those for us. Well  
9 done, I'd have wrecked that thing. Well done. The wheels  
10 aren't very good, are they?

11 (General laughter.)

12 MR. BACARISSE: Annette, please roll this out  
13 for us.

14 MS. QUINTERO: Good afternoon, Chairman,  
15 members, Executive Director Avitia. Again, my name is  
16 Annette Quintero, Vehicle Titles and Registration  
17 director.

18 This is agenda item number 17 which can be  
19 found on page 812 of your board book. The action item  
20 before you is a request for board approval or denial of  
21 three specialty plate designs in accordance with the  
22 board's statutory authority. The designs are being  
23 offered in flat and embossed versions.

24 The following proposed plate designs are from  
25 My Plates, the state's specialty license plate marketing

1 vendor, and were posted for public comment in September of  
2 2024.

3 Lone Star Badge Black, the top plate, is a new  
4 plate design, proposed under Transportation Code 504.851;  
5 984 people liked this design, 240 did not.

6 Lone Star Flag, a new plate design as well, is  
7 proposed under Transportation Code 504.851; 712 liked this  
8 design and 305 did not.

9 The Sand Dollar new plate design, 512 people  
10 liked this design and 450 did not.

11 This concludes my presentation on this action  
12 item, and I'm available to take any questions.

13 MR. BACARISSE: A lot of sand dollar haters out  
14 there.

15 MS. QUINTERO: It was not as popular.

16 (General talking and laughter.)

17 MR. BACARISSE: Hey, is it just my eye or is  
18 the Lone Star plate bluer, truer blue on the embossed than  
19 on the printed? It seems like the flag is a little  
20 lighter blue, I don't know. Is that just my eye? I'm  
21 just curious.

22 MS. QUINTERO: You can see a little bit of blue  
23 from this angle.

24 MR. BACARISSE: Yeah. It's just a little  
25 lighter. Send it back. No, just kidding, just kidding.

1 Members, any questions on this item?

2 (No response.)

3 MR. BACARISSE: Okay. I'd entertain a motion  
4 to approve it.

5 Thank you, Ms. Quintero.

6 No public comments, Ms. Moriatty?

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

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

10 MR. BACARISSE: Yes, Member McRae.

11 MS. McRAE: I move that the board approve the  
12 specialty license plate designs, as presented by staff.

13 MR. BACARISSE: Thank you.

14 Is there a second to that motion?

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

16 MR. BACARISSE: Member Omumu, thank you.

17 Any further discussion about the sand dollar  
18 haters?

19 (General laughter.)

20 MR. BACARISSE: Seeing one, hearing none, the  
21 chair would call the roll.

22 Member Alvarado?

23 MR. ALVARADO: Aye.

24 MR. BACARISSE: Member Gillman?

25 MS. GILLMAN: Aye.

1 MR. BACARISSE: Member Graham?

2 MR. GRAHAM: Aye.

3 MR. BACARISSE: Member Jones?

4 MR. JONES: Aye.

5 MR. BACARISSE: Vice Chair McRae?

6 MS. McRAE: Aye.

7 MR. BACARISSE: Member Omumu?

8 MS. OMUMU: Aye.

9 MR. BACARISSE: Member Prewitt?

10 MR. PREWITT: Aye.

11 MR. BACARISSE: Member Schlosser?

12 MR. SCHLOSSER: Aye.

13 MR. BACARISSE: And I, Bacarisse, vote aye as  
14 well. It's unanimous. Thank you.

15 We are now at agenda item 18 which is finance  
16 and audit, and John is up here, Mr. Ralston, to bring us  
17 our briefing.

18 Please continue.

19 MR. RALSTON: Good afternoon, Chairman  
20 Bacarisse, board members, and Executive Director Avitia.  
21 For the record, my name is John Ralston, and I'm the  
22 budget and forecasting director within the Finance and  
23 Operations Division.

24 In your board materials starting on page 817 is  
25 item 18.A and this is our FY 2024 financial report, and



1 this is a briefing item only. This report includes  
2 financial information for the period from September 1,  
3 2023, through August 31, 2024, which represents our fiscal  
4 year 2024. The report contains information on actual  
5 revenues, as well as budgeted and actual expenditures for  
6 the fiscal year. It also includes a standalone report on  
7 the TxDMV Fund 10 and information on statistics that may  
8 have an impact on revenues and the status of some of our  
9 capital projects.

10 The key highlights from the report that I'm  
11 going to bring to your attention: on the revenues, TxDMV  
12 collected \$2.1 billion in revenue in all funds as of  
13 August 31, 2024, which is a 2.2 percent increase over  
14 collections made in the prior year. Within that \$2.1  
15 billion number, in narrower focus, the TxDMV Fund 10  
16 revenue collections totaled \$188.4 million and this amount  
17 is consistent with what had been projected for FY 2024.  
18 The TxDMV Fund 10 is the fund that covers all TxDMV  
19 operations, with the exception of the Motor Vehicle Crime  
20 Prevention Authority.

21 On the expenditure side, total expenditures, as  
22 of August 31, were \$175.9 million for all funds. Within  
23 that total, \$167.3 million is within the TxDMV Fund 10,  
24 with the remaining expenditures funded by the General  
25 Revenue Fund for the Motor Vehicle Crime Prevention

1 Authority. Our major expenditure categories are generally  
2 payroll, postage, license plate production, and charges  
3 for Data Center services.

4 Overall, in FY 2024, the department collected  
5 sufficient revenues to support its year-to-date actual  
6 expenditures and obligations. There were no major  
7 surprises or unexpected issues from a financial  
8 standpoint, and amounts did grow through the end of FY  
9 2024. We continue to maintain a strong financial position  
10 and we look forward to what will be accomplished in FY  
11 2025.

12 This concludes my formal remarks, and I'm happy  
13 to answer any questions you may have.

14 MR. BACARISSE: Thank you, Mr. Ralston.

15 Questions, members, on any of this? It's  
16 really amazing numbers when you look at it.

17 (No response.)

18 MR. BACARISSE: Thank you very much, appreciate  
19 it.

20 Our internal auditor, Jason Gonzalez, tomorrow,  
21 tomorrow. I will call you that now. Congratulations.

22 MR. GONZALEZ: Thank you.

23 Good afternoon, Chairman Bacarisse, board  
24 members, Executive Director Avitia. For the record, I'm  
25 Jason Gonzalez, director of the Internal Audit Division.

1 (Applause.)

2 MR. GONZALEZ: Thank you.

3 So item 18.B is a briefing item to provide you  
4 with information on the Internal Audit Division's  
5 engagements, recently completed engagements. I'll keep  
6 this short and sweet. They're all really positive and I  
7 know it's been a long day.

8 The first is the inventory management audit.  
9 We were looking at fiscal year 2023 so we were looking at  
10 old processes. 2024, the finance operations had  
11 identified a lot of inefficiencies already and made a lot  
12 of improvements to the inventory process.

13 So the first thing we found was that the  
14 department was segregating duties as far as purchasing and  
15 receiving inventory, so that was a positive, no  
16 recommendations there. The second things we reported is  
17 that onsite inventory verifications were being conducted  
18 but there were some opportunities to improve the  
19 verification and reporting process.

20 We made a recommendation that the department  
21 utilize more timely reports to improve accuracy in  
22 inventory verification. Historically they were using  
23 reports printed in the previous fiscal year and then they  
24 were verifying inventory use, so there was some disconnect  
25 in timing. An office could have received new inventory so

1 their reports weren't matching.

2 We also looked at a sample of inventory items  
3 that were reported as missing during inventory counts and  
4 you're required to report that in the state property  
5 accounting system. And what we found was some of those  
6 were not being reported timely. There was some disconnect  
7 as far as like when we identified versus when we were  
8 reporting it, so we just recommended to analyze that and  
9 look at the timeliness of the reporting.

10 We looked at 35 assets that were ready for  
11 disposal due to end-of-life or because they were damaged,  
12 and all 35 assets were reported accurately on this.

13 Finally, we looked at the reconciliation  
14 process between the SPAA system and CAPPS system, and what  
15 we found as that monthly reconciliations were routinely  
16 performed but adjustments weren't made till the end of the  
17 fiscal year. In my opinion, that's not a problem but we  
18 did ask management to consider making adjustments  
19 throughout the year versus at year-end.

20 And then finally, we found that the department  
21 is moving toward a more efficient way of conducting annual  
22 inventory and that verifications -- they're using  
23 technology to verify the assets that are out in the field,  
24 specifically at the tax assessor-collector offices. But  
25 we did recommend that the department continue using

1 electronic verification but to consider using available  
2 technology to verify network devices.

3           Currently we're not doing that verification of  
4 network devices. We wanted them just to evaluate it  
5 because we're not sure if there's security issues so maybe  
6 that's part of the consideration. We asked them to look  
7 at that.

8           Management did agree with all recommendations.

9           Our second complete engagement is the Internal  
10 Audit Division's quality assurance improvement program.  
11 That's required. That's kind of the age-old question:  
12 who audits the auditors. Well, we're looking at ourselves  
13 annually.

14           We had several findings, but the first is that  
15 we met compliance performance standards. We met four of  
16 five key performance metrics. We did not meet our metric  
17 of having 20 percent or less open audit recommendations.  
18 I think we've discussed that in the past.

19           There's some long term recommendations. We  
20 don't feel that there's a red flag as far as those  
21 recommendations not being implemented.

22           Next we maintained a Level 4 on the Institute  
23 of Internal Auditors Capability Model. We'll never  
24 achieve a 5 unless the department implements an enterprise  
25 risk management program, but we will maintain and do our

1 best to maintain at a Level 4. And honestly, most audit  
2 shops don't reach Level 5. There's not a ton of  
3 organizations that have an enterprise risk management  
4 program, especially in the government.

5 Our final finding was that we tracked 65 fraud,  
6 waste and abuse allegations and 55 were referred and ten  
7 were reviewed and closed.

8 We made two recommendations to ourselves, and  
9 that was, first, that we should continue tracking audit  
10 recommendations to ensure implementation, and secondly, we  
11 recommended tracking and monitoring all fraud, waste or  
12 abuse allegations. So just kind of continue what we're  
13 doing, but maybe step it up a little bit.

14 The third engagement is the fiscal year  
15 internal audit report. The report was completed to meet  
16 the annual reporting requirements of the Texas Government  
17 Code. And in fiscal year 2024, the Internal Audit  
18 Division completed seven engagements which consisted of  
19 three audits, two follow-up engagements, audit  
20 recommendation follow-up, and two required annual reports,  
21 the Internal Audit Plan and the annual internal audit  
22 report.

23 That's the end of my presentation. I know that  
24 went quickly so if you have any questions, I'd be happy to  
25 answer.

1 MS. McRAE: Great job.

2 MR. BACARISSE: Members, any questions for Mr.  
3 Gonzalez?

4 MR. GRAHAM: Mr. Chairman?

5 MR. BACARISSE: Oh, yeah, Mr. Graham, sure.

6 MR. GRAHAM: Just a thank you to Jason for,  
7 again, stepping in and filling the role as interim until  
8 we figured out what direction we were going to go. So  
9 thank you for doing that, and I'm glad it worked out.

10 MR. GONZALEZ: Thank you.

11 MR. BACARISSE: That's great. Thank you,  
12 Jason, I appreciate it.

13 Ms. Moriarty, any public comment left?

14 MS. MORIATY: No, sir, no public comment.

15 MR. GRAHAM: Motion to adjourn.

16 MR. BACARISSE: Is there a motion to adjourn?  
17 Member Graham.

18 MS. McRAE: Second.

19 MR. BACARISSE: Seconded by Ms. McRae. All in  
20 favor aye.

21 (A chorus of ayes.)

22 MR. BACARISSE: Opposed nay.

23 (No response.)

24 MR. BACARISSE: Thank you. We are adjourned at  
25 3:08.

1                   (Whereupon, at 3:08 p.m., the meeting was  
2 adjourned.)



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C E R T I F I C A T E

MEETING OF: TxDMV Board  
LOCATION: Austin, Texas  
DATE: October 24, 2024

I do hereby certify that the foregoing pages, numbers 1 through 185, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy King before the Texas Department of Motor Vehicles.

DATE: November 5, 2024

/s/ Nancy King  
(Transcriber)

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