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2           TEXAS DEPARTMENT OF MOTOR VEHICLES  
3           MOTOR VEHICLE INDUSTRY REGULATION ADVISORY  
4           COMMITTEE (MViRAC) MEETING

5

6           Open meeting via Microsoft Teams  
7           Public Physical Location  
8           Texas Department of Motor Vehicles  
9           4000 Jackson Avenue,  
10           Building 1  
11           Lone Star Conference Room  
12           Austin, Texas 78731

13

14           Monday, December 8, 2025  
15           1:30 p.m.

16

17           Reporter by:  
18           Amsale Maxwell, CER-1671  
19           Ken Owen & Associates, LP  
20           Proceeding reported by digital recording

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## 1 APPEARANCES

## 2 BOARD MEMBERS:

3 David Blassingame (absent)

4 Michael Bradburn, Sr.

5 Christopher Donnelly

6 Laird Doran

7 Thomas Durant, by videoconference

8 Phil Elam

9 Lloyd Ferguson, by videoconference

10 Elizabeth Garza

11 Tony Hall, by videoconference

12 Russell Hayter

13 Charles Hicks

14 William Murphy

15 Raymond Olah

16 Michael Provost (absent)

17 Nicholas Schnelle, by videoconference

18 F. Sims (absent)

19 Trey Sralla, by videoconference

20 Scott Stark, by videoconference

21 Michael Sullivan

22 Kalien Thomas

23 Laura Moriarty, General Counsel

24 Annette Quintero, Vehicle Titles and Registration

25 Division Director

1 APPEARANCES CONT'D

2 Monique Johnston, Director of Motor Vehicle Division

3 Corrie Thompson, Director of Enforcement Division

4 Terry Vannoy

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1 (Proceeding begins at 1:31 p.m.)

2 MS. MORIATY: My name is Laura Moriarty and I am  
3 pleased to open this meeting of the Motor Vehicle Industry  
4 Regulation Advisory Committee. I am the General Counsel for  
5 this Texas Department of Motor Vehicle and for ease of  
6 reference, I am going to refer to this Advisory Committee as  
7 MVIRAC. It is 1:31 p.m., and I am now calling the MVIRAC  
8 meeting for December 8, 2025 to order.

I want to note for the record that public notice of this meeting containing all items on the agenda was published -- was filed with the Office of the Secretary of State on November 18, 2025. This meeting is being held by telephone conference call in accordance with Texas Government Code Section 551.125. Members of the public may attend the meeting in person at 4000 Jackson Avenue, Austin, Texas 78731 in Building 1, the Lone Star Conference Room, or they may attend by clicking on the attendee link in the posted agenda for this meeting and following the instructions to attend the meeting via Microsoft Teams. In addition, members of the public may attend this meeting remotely by calling the conference dial-in telephone number which is listed in the proposed agenda along with the phone conference ID.

23 At this time, I am asking all attendees to please  
24 mute your phone or computer for the entire duration of this  
25 meeting unless I recognize you to speak. Callers will be

1 removed for any disruption, including background noise. I  
2 would like to remind all participants that this is a conference  
3 call meeting. Because this meeting is being held by conference  
4 call, there are a few things that will help the meeting run  
5 smoothly and assist the court reporter in getting an accurate  
6 record.

7                   First, please identify yourself before speaking.  
8 Speak clearly and slowly. Do not speak over others. Please  
9 ask the presiding officer, that's me, for the moment, to  
10 proceed and be sure to get recognized before you speak. And  
11 for members who are participating in the room, please remember  
12 to push the button on your mic to turn it on before you start  
13 to speak, and then push it again to turn it off once you're  
14 done. I would also like to thank our court reporter who is  
15 transcribing this meeting.

16                   If you are not a member of this Advisory Committee,  
17 but wish to address the Advisory Committee or speak on an  
18 agenda item during today's meeting, please complete speakers  
19 sheet at the registration table prior to the agenda item being  
20 taken up by the Advisory Committee or send an email to  
21 [gco\\_general@txdmv.gov](mailto:gco_general@txdmv.gov) to register by providing the required  
22 information prior to the agenda item being taken up. Please  
23 identify the specific item you are interested in commenting on,  
24 your name and address, and whether you are representing anyone  
25 or speaking for yourself. If your comment does not pertain to

1 a specific agenda item, we will take your comment during the  
2 general public comment portion of the meeting. When addressing  
3 the Advisory Committee, please state your name and affiliation  
4 for the record.

5 Before we begin today, I would like to remind all  
6 presenters and those in attendance of the rules of conduct for  
7 our Advisory Committee. In my role as presiding officer for  
8 this meeting today, I have the authority to supervise the  
9 conduct of this Advisory Committee meeting. This includes the  
10 authority to determine when a speaker is being disruptive.  
11 Disruptive speakers will be muted, given a warning about  
12 disruptive behavior, and then removed from the meeting for any  
13 continued disruption.

14 Advisory Committee members, if you become  
15 disconnected from the call, please rejoin as soon as possible.  
16 If you encounter technical difficulties, please reach out to  
17 our technical support team at Board, B-O-A-R-D dot Tech,  
18 T-E-C-H dot Help @txdmv.gov.

19 Okay. So we will now move on to agenda item 1:  
20 Roll Call and Establishment of Quorum. Members, please  
21 respond verbally when I call your name to indicate that you  
22 are present. Member Blassingame, are you present?

23 (No response)

24 MS. MORIATY: Member Bradburn?

25 (No response)

1 MS. MORIATY: Member Donnelly?

2 MEMBER DONNELLY: Member Donnelly, present.

3 MS. MORIATY: Member Doran?

4 MEMBER DORAN: Member Doran, present.

5 MS. MORIATY: Member Durant?

6 MEMBER DURANT: Member Durant, present.

7 MS. MORIATY: Member Elam?

8 MEMBER ELAM: Member Elam, present.

9 MS. MORIATY: Member Ferguson?

10 MEMBER FERGUSON: Member Ferguson, present.

11 MS. MORIATY: Member Garza?

12 MEMBER GARZA: I guess the pattern is, Member Garza,

13 present.

14 MS. MORIATY: Thank you. Member Hall?

15 MEMBER HALL: Member Hall is present.

16 MS. MORIATY: Member Hayter?

17 (No response)

18 MS. MORIATY: Member Hicks?

19 MEMBER HICKS: Member Hicks, present.

20 MS. MORIATY: Member Murphy?

21 MEMBER MURPHY: Member Murphy, present.

22 MS. MORIATY: Member Olah?

23 (No response)

24 MS. MORIATY: Member Provost?

25 (No response)

1 MS. MORIATY: Member Schnelle?

2 MEMBER SCHNELLE: Member Schnelle is present.

3 MS. MORIATY: Member Sims?

4 (No response)

5 MS. MORIATY: Member Sralla?

6 MEMBER SRALLA: Member Sralla, present.

7 MS. MORIATY: Member Stark?

8 MEMBER STARK: Member Stark is present.

9 MS. MORIATY: Member Sullivan?

10 MEMBER SULLIVAN: Member Sullivan, present.

11 MS. MORIATY: And Member Thomas?

12 (No response)

13 MS. MORIATY: Okay. We have a quorum. I'm going to

14 move on to agenda item 3. I'm actually going to skip agenda

15 item 2 because Shelly Mellott is unable to be here today. She

16 had a personal emergency. So we will be moving on to agenda

17 item 3 where I will provide you with some background

18 information on this committee and its duties before we get

19 started.

20 The Board recently reappointed or appointed everyone

21 on this committee, so we have some new folks joining us today

22 who are going to need some background information. The purpose

23 of this committee is to assist the Department in obtaining

24 feedback regarding important legislation, policymaking, and

25 rulemaking. The MVIRAC provides valuable input for the

1 department by advising on issues related to the regulation of  
2 the motor vehicle industry. No other topics will be discussed  
3 by this committee at this time. The committee provides advice  
4 and recommendations only as requested by the Texas Department  
5 of Motor Vehicles or our Board.

6 I would like to congratulate each of you on your  
7 appointment to this committee. And thank you again for  
8 volunteering your valuable time to assist the Department and  
9 the Board by serving on this committee. As appointed members  
10 of this committee, you are subject to both the Open Meetings  
11 Act and the Public Information Act.

12 The Open Meetings Act provides that all public  
13 business should be done in public view. That means that any  
14 discussions you have regarding the work you perform on this  
15 committee must be done in a properly scheduled and posted open  
16 meeting. It is important that you refrain from discussing  
17 advisory committee matters with other members outside of a  
18 scheduled and posted open meeting. That includes avoiding  
19 meeting with each other outside of an open meeting, not using  
20 social media to discuss Advisory Committee matters, not calling  
21 or texting other Advisory Committee members to discuss meeting  
22 Advisory Committee matters.

23 In addition, the information exchange in your role as  
24 an Advisory Committee member can be subject to public  
25 disclosure, even if that information is on your private email

1 or your private cell phone, because it is subject to Open  
2 Records laws. So please be aware that any communication you  
3 have regarding this committee may be required to be disclosed  
4 in response to an open records request from the public. Are  
5 there any questions about any of that background information?  
6 Terrific.

7 Then I will move on to agenda item 4, which is the  
8 nomination and selection of Advisory Committee presiding  
9 officers. Since this committee was just reappointed and we  
10 have some new folks, we need to elect new officers. In order  
11 to ensure that the Advisory Committee meetings run smoothly,  
12 advisory committees select a presiding officer. The presiding  
13 officer is in charge of making sure Robert's Rules of Order are  
14 followed to keep the decorum of the meeting. The presiding  
15 officer will open the meeting much as I did today, and ensure  
16 that a quorum of members is present. The presiding officer  
17 makes sure that members make a motion and second a motion  
18 before voting, and make sure that no one member has the floor  
19 longer than others wishing to provide input. We will be happy  
20 to provide some overview training on the mechanics of Robert's  
21 Rules to anyone who's willing to volunteer to be a presiding  
22 officer of this Advisory Committee to ensure that it runs  
23 smoothly in carrying out its purpose.

24 Some examples of how Robert's Rules are used to run  
25 meetings include: no member can speak twice on the same issue

1 until everyone else wishing to speak has spoken on it once.  
2 All remarks by members must be directed at the presiding  
3 officer before speaking. You obtain the floor by raising your  
4 hand or asking the presiding officer for the right to speak on  
5 a matter only when the person speaking before has finished.  
6 And it is important not to interrupt others to share the right  
7 to speak with all other members. Remarks must be courteous,  
8 and members must avoid referring to viewpoints by alluding to  
9 other members by name or by suggested motive.

10 You expect the presiding officer to protect your  
11 right to speak even if it turns out that you were a minority of  
12 one in your opinion. The presiding officer helps to ensure  
13 other members hear you out and allow you the same time as  
14 everybody else. This encourages members to give your fellow  
15 members their rightful turn to speak. Listen to them. You may  
16 hear something that affects the way you think as well. Lastly,  
17 we are recording this meeting. Before you speak, please state  
18 your name so we have a record of what each person said. Does  
19 anyone have any questions before we go into nominations?

20 Okay. So Texas law requires an advisory committee to  
21 select a presiding officer from its members. The presiding  
22 officer will preside over the advisory committee and report to  
23 the Department and our Board. But we're also going to be  
24 electing a first vice chair and a second vice chair today so  
25 that we have backups in case somebody can't make it to a

1 meeting.

2                   So let's have each member introduce themselves as I  
3 call you and provide some information on your background and  
4 state whether you're interested in being the presiding officer  
5 or one of the backup presiding officers for the MVIRAC. I will  
6 start with Member Blassingame but I'm not sure he's here. I  
7 should add, if you did this before, you're welcome to do it  
8 again. It's not a one and done. You're welcome to come back  
9 for a second run go-round. So I'm sorry, Mr. Blassingame isn't  
10 here. Member Bradburn?

11                   (No response)

12                   MS. MORIATY: Oh, he can't hear. Oh, dear. Okay. I  
13 hope that our IT folks are reaching out to Member Bradburn  
14 right now. Okay. Member Donnelly?

15                   MEMBER DONNELLY: Background and --

16                   MS. MORIATY: Background and say -- introduce  
17 yourself, tell us your background and whether or not you're  
18 willing to chair this thing.

19                   MEMBER DONNELLY: My name is Chris (inaudible) I'm  
20 President of the Houston Independent Auto Dealers Association.

21                   MS. MORIATY: Oh, push your button. There we go.  
22 Yes, sorry.

23                   MEMBER DONNELLY: Yeah, I wasn't paying attention to  
24 that. My name is Chris Donnelly, and I am President of the  
25 Houston Independent Auto Dealers Association. I was a former

1 dealer, but I'm now a representative of Independent Auto  
2 Dealers Association in Houston as I said. I am happy to do  
3 whatever we can do to have this committee be successful. So if  
4 there's anything needed, I'm happy to do it.

5 MEMBER GARZA: If I could ask a question; this is  
6 Beth Garza. How long have you served on this committee?

7 MEMBER DONNELLY: Four years?

8 MEMBER DORAN: Four years.

9 MEMBER DONNELLY: Four years? Is that right y'all?  
10 When did it -- I think -- because it was right after COVID,  
11 right? '21, right?

12 MEMBER DORAN: I think you were a founding member.

13 MEMBER DONNELLY: Yeah, and yourself too, right?  
14 That's why it's just kind of part of my life now.

15 MS. MORIATY: Thank you. Member Doran?

16 MEMBER DORAN: Hi, good afternoon. Laird Doran,  
17 Senior Vice President of Public and Legal Affairs for the  
18 Friedkin Group which is an umbrella company. We have a number  
19 of companies in the transportation space, including one of the  
20 nation's largest auto haulers as well as Gulf States Toyota,  
21 which is the world's second largest private distributor for  
22 Toyota.

23 I myself, I'm an attorney. I've been practicing in  
24 the motor vehicle franchise space for almost 25 years. And  
25 although I'm in house now, once upon a time I used to come

1 before the Board and litigate cases on behalf of clients. So  
2 honored to be here and looking forward to our work. Thank you.

3 MS. MORIATY: Oh, did you say whether you're willing  
4 to be chair of this thing?

5 MEMBER DORAN: Well, thank you for bringing that up.

6 MEMBER DONNELLY: Welcome to our world.

7 MEMBER DORAN: Yeah. I've served in a presiding  
8 officer role on another committee before, so I would be more  
9 open to the vice chair role or a backup thereby, allowing one  
10 of my peers the opportunity to step into this opportunity for  
11 presiding officer.

12 MS. MORIATY: Thank you. Member Durant?

13 MEMBER DURANT: Hello. My full name is Thomas  
14 Bentley Durant. I'm General Counsel and Chief Operating  
15 Officer for Classic Chevrolet in the classic family of  
16 dealerships. Our main point is in Dallas Fort Worth, but we  
17 have stores in Houston, Galveston Island, Midland and generally  
18 all over Texas. At this time, I'm not interested in pursuing  
19 an officer role in this organization, but I thank you for the  
20 consideration.

21 MS. MORIATY: Thank you. Member Elam?

22 MEMBER ELAM: Good afternoon, Phil Elam, Executive  
23 Director of Texas Recreational Vehicle Association. I've been  
24 in the association management field for over 40 years. At this  
25 time, I'm not interested in participating in a leadership role,

1 but will participate in the community for sure.

2 MS. MORIATY: Thank you. Member Ferguson?

3 MEMBER FERGUSON: Thank you. Member Ferguson. I've  
4 been a licensed attorney in Texas since 1985. I have worked  
5 with clients in the motor vehicle franchise world since 1987.  
6 If that sounds like a long time ago, it's because it is. I  
7 have recently started sliding into retirement. I'm still doing  
8 a little bit of work for some clients cleaning up some  
9 projects. And so, I've been in front of the Board since the  
10 late '80s and its various changes that it has gone through. At  
11 this time, I'm not interested in serving beyond being an active  
12 member, but thank you.

13 MS. MORIATY: Member Garza?

14 MEMBER GARZA: Hi, my name is Beth and I have no  
15 history in the automotive industry, so that makes me different  
16 in a variety of ways as I look around this room. My history is  
17 in electricity and electricity regulations specifically. I  
18 have 40 years of history here in Austin in the ERCOT markets in  
19 a variety of roles, including several years as the Market  
20 Monitor where we were the overseer and brought cases for  
21 enforcement to the Public Utility Commission. So I'm very  
22 familiar with how the rules are written, how they need to be  
23 enforced, that aspect of it. So that's the perspective that I  
24 bring to this. As I said, not involved in the automotive  
25 industry other than I buy my cars and I like my cars, so that's

1 about it.

2 I look forward to participating in this committee. I  
3 am not a good candidate for leadership at this time, but I look  
4 forward to getting to know the work of the committee and  
5 getting to know the other committee members as we go forward.  
6 Thank you.

7 MS. MORIATY: Thank you, Member Garza. We're always  
8 very grateful to the public members and we need more of them.  
9 If anyone knows any public members who want to come hang out.

10 Member Hall?

11 MEMBER HALL: Hey, good morning or afternoon. Well,  
12 I guess afternoon, now. I'm on the West Coast this week. Tony  
13 Hall, I'm on the Carvana Government Affairs team, specifically  
14 Head of Policy for Title Registration Modernization. I also  
15 represent ADESA, which is the second largest used wholesale  
16 auto auction in the country.

17 A little bit by way of background, I've been at  
18 Carvana now almost four years. Prior to the four years at  
19 Carvana, I spent ten and a half as a staff member of the Texas  
20 DMV working a few different roles there. And currently also  
21 serving on the VTR Advisory Committee as Second Vice Chair.  
22 I'm certainly happy to participate as a presiding officer of  
23 some capacity there if it's necessary.

24 MS. MORIATY: Thank you.

25 MEMBER HALL: Yes, ma'am.

1 MS. MORIATY: I believe now -- Member Bradburn, can  
2 you hear us now?

3 MEMBER BRADBURN: Member Bradburn. Yes, I can.  
4 Thank you.

5 MS. MORIATY: Yay. Please introduce yourself, sir,  
6 and tell us whether you would be willing to serve in a chair  
7 capacity for this committee.

8 MEMBER BRADBURN: Member Bradburn. This will be my  
9 third term. I'm in law enforcement, Travis County Constable,  
10 Precinct Three Clean Air Task Force. I have no interest being  
11 the lead, but I would continue it in one of the other chairs  
12 like I did the last term.

13 MS. MORIATY: Thank you, sir.

14 Okay. Member Hayter?

15 (No response)

16 MS. MORIATY: Member Hicks?

17 (No response)

18 MS. MORIATY: Member Murphy?

19 MEMBER HICKS: Oh, sorry. I got disconnected there.

20 Member Hicks, Charlie Hicks; privately held family business,  
21 second generation car dealer. We have five dealerships down in  
22 South Texas. I currently have commitments for serving on  
23 national communities and boards with some of our manufacturers.  
24 And with local volunteer work, I wouldn't have the time to  
25 serve in a leadership role on this committee, but certainly

1 would continue to serve.

2 MS. MORIATY: Thank you.

3 Member Murphy?

4 MEMBER MURPHY: I have served the Independent  
5 Automobile Dealers Association for the last 30 years. I have  
6 been on this committee for four years and would enjoy  
7 continuing to serve in this capacity. Thank you.

8 MS. MORIATY: Thank you, sir.

9 Member Olah?

10 (No response)

11 MS. MORIATY: Member Provost?

12 (No response)

13 MS. MORIATY: Member Schnelle?

14 MEMBER SCHNELLE: Good afternoon. My name is Nick  
15 Schnelle. I'm the president of AutoNation USA. I don't  
16 believe that I would consider leadership -- a leadership role  
17 at this time. Thank you.

18 MS. MORIATY: Thank you. Member Sims?

19 (No response)

20 MS. MORIATY: Member Sralla?

21 MEMBER SRALLA: Howdy, my name's Trey Sralla. I've  
22 been in the power sports business for 34 years. Co-owned a  
23 multiline dealership in Wichita Falls, Texas. I'm currently  
24 the President of Texas Motorcycle Dealer Association. And I've  
25 served on this committee, I believe, since its founding. I've

1 also served on government committees. I was on the school  
2 board for 12 years, president of that, and currently Chairman  
3 of the Clay County Memorial Hospital Board of Managers, so  
4 I can -- I'm happy to serve in any capacity either way. Thank  
5 you.

6 MS. MORIATY: Thank you, sir.

7 Member Stark?

8 MEMBER STARK: Good afternoon. Scott Stark, owner of  
9 South Point Automotive Group right here in Austin, Texas. It's  
10 frightening to say out loud, but I've been in the retail  
11 industry for 40 years; 29 of those here in Central Texas. I  
12 would defer at this particular point to serve as a chairman or  
13 an officer role. Thanks.

14 MS. MORIATY: Thank you.

15 Member Sullivan?

16 MEMBER SULLIVAN: Yes, ma'am. Thank you. Mike  
17 Sullivan, Director of Governmental Affairs for Group 1  
18 Automotive, Fortune 250 company headquartered in Houston. And  
19 I would not be interested in serving in any leadership capacity  
20 at the committee. Thank you.

21 MS. MORIATY: Thank you. Member Thomas?

22 (No response)

23 MS. MORIATY: Okay. MVIRAC will use Robert's Rules  
24 when conducting meetings. To take any action, you must first  
25 raise your hand or ask the presiding officer, which is me at

1 the moment, for the right to speak on a matter. Once the  
2 presiding officer grants you the floor or the right to speak,  
3 you must make a motion and another person must second the  
4 motion. To make a motion to name someone to be the presiding  
5 officer, the motion could be, I make a motion to, name Bob the  
6 Builder to be MVIRAC presiding officer. You can even make a  
7 motion to name yourself to be presiding officer if you're  
8 especially brave.

9 To second a motion, a different member should say  
10 second or I second that motion. A person can't second their  
11 own motion. So all that being said, does anyone want to make a  
12 motion to name someone to be the MVIRAC presiding officer?  
13 Someone, please.

14 MEMBER DORAN: This is Member Doran.

15 MS. MORIATY: Member Doran.

16 MEMBER DORAN: So as we went through the roster  
17 there, I heard two that were not opposed to the idea of being  
18 presiding officer. And I believe that was Member Hall and  
19 Member Sralla.

20 MS. MORIATY: It sounds accurate to me.

21 MEMBER DORAN: If it's possible to nominate both of  
22 them, that'd be great.

23 MS. MORIATY: Let's pick one to start.

24 MEMBER DORAN: Okay. Well, Hall was first, so.

25 MS. MORIATY: Okay. So we have a --

1 MEMBER DORAN: I show no favoritism. I'm just  
2 saying.

3 MS. MORIATY: We have a motion from Member Doran to  
4 nominate Member Hall. Do we have a second?

5 MEMBER SULLIVAN: Member Sullivan, I second the  
6 motion.

7 MS. MORIATY: Member Sullivan seconds. Okay. So I  
8 am going to -- well, is there any further discussion? Does  
9 anyone want to comment?

10 MEMBER DONNELLY: Member Donnelly. Should I go ahead  
11 and nominate members Sralla?

12 MS. MORIATY: Well, hang on, hang on. We got to do  
13 them one at a time. So we got a motion on the floor. Okay.  
14 I'm going to call everybody's name, and I need you to say yes  
15 or no to Member Hall being the chair. So Member Blassingame?

16 (No response)

17 MS. MORIATY: He's still not here. Member Bradburn?

18 (No response)

19 He was just there. Member Bradburn?

20 MEMBER BRADBURN: Technical difficulties. Member  
21 Bradburn, yes.

22 MS. MORIATY: Oh, there -- oh, good. Okay. Thank  
23 you, sir.

24 Member Donnelly?

25 MEMBER DONNELLY: Member Donnelly, yes.

1 MS. MORIATY: Member Doran?

2 MEMBER DORAN: Member Doran, yes.

3 MS. MORIATY: Member Durant?

4 MEMBER DURANT: Member Durant, yes.

5 MS. MORIATY: Member Elam?

6 MEMBER ELAM: Member Elam, yes.

7 MS. MORIATY: Member Ferguson?

8 MEMBER FERGUSON: Member Ferguson, yes.

9 MS. MORIATY: Member Garza?

10 MEMBER GARZA: Member Garza, yes.

11 MS. MORIATY: Member Hall?

12 MEMBER HALL: I think it's a yes.

13 MS. MORIATY: If you said no, it would be a problem.

14 That's true.

15 Member Hayter?

16 MEMBER HAYTER: Member Hayter, yes.

17 MS. MORIATY: Member Hicks?

18 MEMBER HICKS: Member Hicks, yes.

19 MS. MORIATY: Member Murphy?

20 MEMBER MURPHY: Member Murphy, yes.

21 MS. MORIATY: Member Olah?

22 (No response)

23 MS. MORIATY: Member Provost?

24 (No response)

25 MS. MORIATY: Member Schnelle?

1 MEMBER SCHNELLE: Member Schnelle, yes.

2 MS. MORIATY: Member Sims?

3 (No response)

4 MS. MORIATY: Member Sralla?

5 MEMBER SRALLA: Member Sralla, yes.

6 MS. MORIATY: Member Stark?

7 MEMBER STARK: Member Stark, yes.

8 MS. MORIATY: Member Sullivan?

9 MEMBER SULLIVAN: Member Sullivan, yes.

10 MS. MORIATY: And Member Thomas?

11 (No response)

12 MS. MORIATY: Okay. So let the record reflect that  
13 there are -- I had 14, 14 votes in favor and none against, so  
14 it's unanimous. Member Hall, congratulations. You are the new  
15 Chair.

16 So we will now move on to item 5, which is  
17 nominations for a vice chair. So this person is going to have  
18 to act as presiding officer when the presiding officer is not  
19 available. Is there anyone willing to make a motion to name  
20 someone to be the first vice chair? And again, you can move to  
21 nominate yourself.

22 MEMBER MURPHY: Member Murphy.

23 MS. MORIATY: Member Murphy, yes, sir?

24 MEMBER MURPHY: I nominate Mr. Sralla?

1 MS. MORIATY: You would nominate Mr. Sralla?

2 MEMBER MURPHY: Yes.

3 MS. MORIATY: Okay. So we have a motion for -- to  
4 nominate Member Sralla as the second -- I'm sorry, as the first  
5 vice chair. Do we have a second?

6 MEMBER DORAN: This is Member Doran. I'll second  
7 that motion.

8 MS. MORIATY: Okay. So we have a motion and a  
9 second. I'm going to go through the roll call one more time.

10 Member Blassingame?

11 (No response)

12 MS. MORIATY: I believe he still isn't here. Member  
13 Donnelly? I'm sorry. Member Bradburn?

14 MEMBER BRADBURN: Member Bradburn, yes.

15 MS. MORIATY: Member Donnelly?

16 MEMBER DONNELLY: Member Donnelly, yes.

17 MS. MORIATY: Member Doran?

18 MEMBER DORAN: Member Doran, yes.

19 MS. MORIATY: Member Durant?

20 MEMBER DURANT: Member Durant, yes.

21 MS. MORIATY: Member Elam?

22 MEMBER ELAM: Elam is a, yes.

23 MS. MORIATY: Member Ferguson?

24 MEMBER FERGUSON: Member Ferguson, yes.

25 MS. MORIATY: Member Garza?

1 MEMBER GARZA: Member Garza, yes.

2 MS. MORIATY: Member Hall?

3 MEMBER HALL: Member Hall, yes.

4 MS. MORIATY: Member Hayter? Member Hicks?

5 MEMBER HAYTER: Member Hayter, yes.

6 MS. MORIATY: Oh, member -- sorry Member Hayter.

7 Member Hicks?

8 MEMBER HICKS: Member Hicks, yes.

9 MS. MORIATY: Member Murphy?

10 MEMBER MURPHY: Member Murphy, yes.

11 MS. MORIATY: Member Olah?

12 (No response)

13 MS. MORIATY: Member Provost?

14 (No response)

15 MS. MORIATY: Member Schnelle?

16 MEMBER SCHNELLE: Member Schnelle, yes.

17 MS. MORIATY: Member Sims?

18 (No response)

19 MS. MORIATY: Member Sralla?

20 MEMBER SRALLA: Member Sralla, yes.

21 MS. MORIATY: Member Stark?

22 MEMBER STARK: Member Stark is a, yes.

23 MS. MORIATY: Member Sullivan?

24 MEMBER SULLIVAN: Member Sullivan, yes.

25 MS. MORIATY: And Member Thomas?

1 (No response)

2 MS. MORIATY: It is unanimous. So we have Member  
3 Sralla as our First Vice Chair.

4 So now we're moving on to agenda item number 6. This  
5 is nominations for a second vice chair. This person only has  
6 to serve as chair if the first -- the chairman and the first  
7 vice chair are both missing in action, so it shouldn't happen  
8 too often, I hope. Would anyone be willing to make a motion to  
9 name someone to be the second vice chair?

10 MEMBER MURPHY: Member Murphy.

11 MS. MORIATY: Member Murphy, thank you.

12 MEMBER MURPHY: I nominate Mr. Donnelly to be the  
13 second vice chair.

14 MS. MORIATY: Okay. We have a motion to nominate  
15 Member Donnelly to be second vice chair. Is there a second?

16 MEMBER DORAN: This is Mr. Doran.

17 MS. MORIATY: Thank you.

18 MEMBER DORAN: Member Doran, I will second that  
19 motion.

20 MS. MORIATY: Thank you, Member Doran. So the motion  
21 on the table is to nominate -- well, is to make Mr. Donnelly  
22 the second vice chair. So I'm going to call roll one more  
23 time. Member Blassingame?

24 (No response)

25 MS. MORIATY: Member Bradburn?

- 1 MEMBER BRADBURN: Member Bradburn, yes.
- 2 MS. MORIATY: Member Donnelly?
- 3 MEMBER DONNELLY: Member Donnelly, yes.
- 4 MS. MORIATY: Member Doran?
- 5 MEMBER DORAN: Member Doran, yes.
- 6 MS. MORIATY: Member Durant?
- 7 MEMBER DURANT: Member Durant, yes.
- 8 MS. MORIATY: Member Elam?
- 9 MEMBER ELAM: Elam is a, yes.
- 10 MS. MORIATY: Member Ferguson?
- 11 MEMBER FERGUSON: Member Ferguson, yes.
- 12 MS. MORIATY: Member Garza?
- 13 MEMBER GARZA: Member Garza, yes.
- 14 MS. MORIATY: Member Hall?
- 15 MEMBER HALL: Member Hall, yes.
- 16 MS. MORIATY: Member Hayter?
- 17 MEMBER HAYTER: Member Hayter, yes.
- 18 MS. MORIATY: Member Hicks?
- 19 MEMBER HICKS: Member Hicks, yes.
- 20 MS. MORIATY: Member Murphy?
- 21 MEMBER MURPHY: Member Murphy, yes.
- 22 MS. MORIATY: Member Olah?
- 23 (No response)
- 24 MS. MORIATY: Member Provost?
- 25 (No response)

1 MS. MORIATY: Member Schnelle?

2 MEMBER SCHNELLE: Member Schnelle, yes.

3 MS. MORIATY: Member Sims?

4 (No response)

5 MS. MORIATY: Member Sralla?

6 MEMBER SRALLA: Member Sralla, yes.

7 MS. MORIATY: Member Stark?

8 MEMBER STARK: Member Stark, yes.

9 MS. MORIATY: Member Sullivan?

10 MEMBER SULLIVAN: Member Sullivan, yes.

11 MS. MORIATY: And Member Thomas?

12 (No response)

13 MS. MORIATY: It is once again unanimous. Member  
14 Donnelly is our Second Vice Chair. Thanks, y'all. I  
15 appreciate everyone being willing to volunteer. We always  
16 appreciate all of your service.

17 Okay. So we are going to move on to agenda item 7,  
18 which is potential proposed amendments and new rules regarding  
19 license plates in Chapter 215, specifically Sections 215.82,  
20 120, 152, 154, and New 215.153 and 159. So for further  
21 details, I'm going to turn it over to Annette Quintero, who is  
22 the Director of the Vehicle Titles and Registration Division,  
23 and Monique Johnston, who is the Director of the Motor Vehicle  
24 Division.

25 MS. JOHNSTON: Thanks, Laura. Monique Johnston,

1 Director of the Motor Vehicle Division. And agenda item 7, we  
2 are covering Sections 25.182, which this section addresses the  
3 replacement of dealer plates and stickers. And this is just  
4 adding some clarifying language to also include the dealer  
5 temporary plate, because right now it just says standard plate  
6 but the policy would apply to both the dealer temporary plate  
7 and the standard plate in regards to replacing those plates and  
8 stickers if they're lost or the dealer did not receive them.

9 215.120 requests for additional plate -- additional  
10 buyer plates from an eligible license holder. We're adding  
11 some clarifying language to the justifications. 215.152 adds  
12 who's not eligible to receive plates. Specifically, if a plate  
13 shipment has been returned undeliverable and can't be delivered  
14 to the dealer. Also, if a dealer -- excuse me, an applicant or  
15 license holder has filed a change of address with the  
16 Department for a license location, and the new location has not  
17 been approved by the Department. This would allow us to hold  
18 any shipments until we can ensure that the dealer is still at  
19 their said location and that they have not already moved to the  
20 new location or that the new location meets the requirements.

21 215.153 use of provisional; this addresses the use of  
22 buyer provisional plates and the responsibilities of the  
23 dealer. 215.154 addresses dealer temporary plate allocations,  
24 increasing the allocation for trailer and semitrailer dealers  
25 and also creating a new subset within the allocations for

1 wholesale dealers who also hold a Wholesale Auction GDN. And  
2 then 215.159 addresses the centralized plate storage option.

3 MS. QUINTERO: Good afternoon. Annette Quintero,  
4 Vehicle Titles and Registration Director. So we have two  
5 questions for the committee. Question 1: Does 215.153, the  
6 draft new rule for buyer provisional license plates adequately  
7 addressed responsibilities for the spire plate type?

8 MS. MORIATY: And you all just raise your hands or --  
9 Member Donnelly?

10 MEMBER DONNELLY: Member Donnelly. Reading it over,  
11 the buyer will buy the car, the dealer will not have the plate  
12 that is necessary so the dealer will attach a provisional  
13 plate, and that's spelled out. I don't know if it would be  
14 necessary, but when the tax office provides the permanent  
15 plate, the tax office will then assign that plate to the retail  
16 buyer, correct?

17 MS. MORIATY: You're asking, will they deliver it  
18 directly to the buyer, or will they --

19 MEMBER DONNELLY: I'm asking more for the computer  
20 scenario, because it stated that if I sell the car, I need to  
21 assign the provisional plate to the customer. So who assigns  
22 the permanent plate to the customer?

23 MS. QUINTERO: It will be the county. When the  
24 transaction is processed -- the title transaction and the  
25 registration are processed by the dealer at the time the

1 provisional plate is assigned, then when the county processes  
2 that and accepts that transaction, they will assign the  
3 permanent plate.

4 MEMBER DONNELLY: Although it probably sounds like  
5 the obvious, I would conclude verbiage saying the tax office  
6 will assign the permanent plate to the customer, or the dealer  
7 does not have to assign the permanent plate to the customer  
8 just --

9 MS. QUINTERO: Thank you for that.

10 MEMBER DONNELLY: -- to avoid the question and --

11 MS. QUINTERO: Absolutely.

12 MEMBER DONNELLY: -- to know what to do.

13 MS. QUINTERO: Thank you.

14 MS. MORIATY: Member Hicks?

15 MEMBER HICKS: Yeah, could I ask -- this is Member  
16 Hicks, can I ask you to place the language of the section we're  
17 speaking of as the display for the group?

18 MS. MORIATY: Absolutely. Yeah, I can do that.

19 MEMBER HICKS: Thank you.

20 MS. MORIATY: What section are we on, y'all?

21 MS. QUINTERO: 215.153, page 49.

22 MS. MORIATY: Okay. Can you all see that now?

23 MEMBER HICKS: Yes, ma'am.

24 MEMBER DONNELLY: Yes.

25 MS. MORIATY: There we go.

1 MEMBER DONNELLY: Member Donnelly.

2 MS. MORIATY: Yes, Member Donnelly.

3 MEMBER DONNELLY: Sorry. I promise I won't be this  
4 annoying. When the provisional plate is destroyed, is it  
5 outlined anywhere where the dealer needs to order another one,  
6 or make you aware that they've used and destroyed that or will  
7 it automatically be sent -- a replacement will be sent to them?

8 MS. QUINTERO: The dealer -- Annette Quintero,  
9 Vehicle Titles and Registration Director. Once -- the dealer  
10 will have to monitor their buyer provisional inventory much  
11 like every other plate type. So as they deplete their overall  
12 inventory, they'll have to ensure that they're ordering to  
13 supplement that inventory. It's not a one-off.

14 MEMBER DONNELLY: I just -- to propose that you might  
15 throw that into the verbiage as well. That says either  
16 everybody -- the dealers I deal with are all hyper-aware of the  
17 sales, the permanent plates. But they don't really have the  
18 purple and the red and such.

19 MS. QUINTERO: They're not monitoring. Okay.

20 MEMBER SULLIVAN: Ms. Moriarty, who do we address if  
21 we want to be recognized?

22 MS. MORIATY: Me, please. Member Sullivan?

23 MEMBER SULLIVAN: Okay. Thank you. May I be  
24 recognized?

25 MS. MORIATY: Yes, please. Please speak.

1 MEMBER SULLIVAN: I may be jumping ahead a little. I  
2 apologize if I am, but looking at the chart on the back page  
3 with the maximum number of dealer temporary license plates  
4 issued during the first license term, I noticed that two boxes  
5 do not have numbers in them; number 6 and number 9.

6 MS. MORIATY: So this is the figure?

7 MEMBER SULLIVAN: Yes, ma'am.

8 MS. MORIATY: 215 --

9 MS. QUINTERO: 154, page 67.

10 MS. MORIATY: -- 154, yes.

11 MS. JOHNSTON: Monique Johnston, Director of Motor  
12 Vehicle Division. Those numbers should be in there. Should be  
13 for the trailer or semitrailer. We're proposing -- it was 5.  
14 We're proposing that that increase to 15 just based on what  
15 we've seen since we started issuing the dealer temporary plate.  
16 For waiver requests, the number one waiver request came from  
17 the wholesale auction dealers in regards to getting a waiver of  
18 the allocation and our trailer dealers. And so, based on that,  
19 15 we came up with is the average of what these trailer dealers  
20 have asked for.

21 And then on the bottom one, that's a new subsection.  
22 It's the wholesale motor vehicle dealer who also holds a  
23 Wholesale Auction GDN. And we are suggesting to create this  
24 new subset for them specifically because it's a unique kind of  
25 business model and they do a lot of transporting of vehicles.

1 And so, we are proposing, based on the average and of what  
2 we've seen for 40, 40 plates for the initial allocation. And  
3 they can always request a waiver if they want more. But this  
4 is just based on what we've seen since May of this year for the  
5 requests.

6 MEMBER SULLIVAN: Thank you. May I ask a follow-up  
7 question?

8 MS. MORIATY: Yes, sir.

9 MEMBER SULLIVAN: Do I have to get back into queue or  
10 can I go ahead?

11 MS. MORIATY: You can ask your follow-up question.

12 MEMBER SULLIVAN: Okay. Thank you.

13 MS. MORIATY: Then Member Hicks.

14 MEMBER SULLIVAN: Yeah. Since Member Hall is on the  
15 call and participating and he represents ADESA, I'd like to see  
16 if he has any comments or objections to these numbers.

17 MEMBER HALL: This is Member Hall. No. To answer  
18 your question specifically, no. No concerns. I think 40 is  
19 probably the good number. ADESA itself really isn't in the  
20 sort of, like, transportation part of that that Ms. Moriarty was  
21 referring to. But from the conversations that I've been  
22 involved with, I've heard, you know, numbers of 20 to 25 would  
23 be good. So I think 40 is probably a really safe number to  
24 start with.

25 MEMBER SULLIVAN: Okay. Thank you, Mr. Hall. Thank

1 you, ma'am.

2 MS. MORIATY: Member Hicks?

3 MEMBER HICKS: Yeah, this is Member Hicks. Back to  
4 Section 215.153; should we be incorporating a language to  
5 expand that to include any provisional plate that's in the  
6 dealer's possession? And I'm thinking of scenarios where the  
7 provisional plate's not available to the dealer; we're being  
8 required to destroy it. What scenario would it be or how could  
9 we incorporate a language that would relieve the dealer that  
10 responsibility if the plate's not available?

11 MS. QUINTERO: Annette Quintero, Vehicle Title  
12 Registration Director. Just to clarify, what you're asking is  
13 if the dealer does not receive the provisional plate from the  
14 customer in order to destroy it, you want -- you're requesting  
15 that we add language stating that if the dealer does not  
16 receive the originally issued provisional plate from the  
17 customer, they're not responsible to destroy it?

18 MEMBER HICKS: Correct. This is Member Hicks.  
19 That's correct. I mean, I can think of scenarios I may -- I'm  
20 on the retail side, so you know, customers are very  
21 unpredictable. Sometimes they're out of market. You know, if  
22 we deliver vehicles to customers outside our market. So just  
23 setting us up for a scenario where a dealer would not be held  
24 responsible for a plate, they cannot secure possession of it  
25 from the customer at the end of a provisional period.

1 MS. QUINTERO: Annette Quintero, Vehicle Titles and  
2 Registration Director. So I just want to be clear about the  
3 use of the provisional plate. So the provisional plate doesn't  
4 have a set expiration time. It expires when the general issue  
5 plate or the permanent plate is assigned. Meaning that the  
6 customer cannot operate the vehicle without its permanent plate  
7 and so, would return to the dealership in theory on the  
8 provisional plate, the provisional plate would be removed by  
9 the dealer and then replaced by the general issue plate.

10 MEMBER HICKS: This is Member Hicks. So in the  
11 system it would be nullified as no longer valid based on that  
12 assignment of the permanent plate. I think most of these  
13 license plate changes that we've had to endure and incur since  
14 July 1st have all been predicated on the fact that we're  
15 worried about the marketability or the invalid use of those  
16 plates. So if a physical plate is out there being used; we  
17 don't know that. And I'd just be concerned that a dealer would  
18 be held responsible if the provisional plate is not available.  
19 Or if we'd be in a position to refuse to issue permanent plates  
20 to that customer if they do not surrender the provisional  
21 plate. Again, this is Member Hicks. I may be taking us down a  
22 rabbit hole, but I'm just -- we've dealt with a lot since July  
23 1st.

24 MEMBER BRADBURN: Can I speak?

25 MEMBER HICKS: It's been pretty frustrating. So I'm

1 just trying to make sure that our committee comes out with some  
2 language that makes it easier for dealers to understand how to  
3 operate under the new rules.

4 MS. MORIATY: Someone just asked to speak, but I'm  
5 not sure who it was.

6 MEMBER BRADBURN: Member Bradburn.

7 MS. MORIATY: Member Bradburn, yes. Feel free to  
8 raise hands too, because I can usually see those. But please,  
9 Member Bradburn.

10 MEMBER BRADBURN: I would actually concur with what  
11 he was saying on a law enforcement standpoint. We're seeing  
12 violations with buyer provisional plates for whatever reason.  
13 But if the person didn't bring back license plates or getting  
14 stolen all the time now that paper tags have gone away, I think  
15 the dealers do need to feel safe to protect them so they're not  
16 in violation.

17 MEMBER HALL: This is Member Hall. Can I speak?

18 MS. MORIATY: Yes. Member Hall, please.

19 MEMBER HALL: So sort of two things along those  
20 lines; I concur with the general discussion about dealers  
21 ultimately being responsible for getting plates back.  
22 Customers will buy vehicles, they'll come in. I mean, you  
23 could have somebody from Florida that's here on vacation in the  
24 state of Texas that's buying one of these vehicles, right?  
25 There's not going to be an expectation that that customer is

1 going to drive their vehicle back to Florida.

2                   The alternative would be that they mail the plates  
3 back, but then they don't have plates they can drive on for  
4 however many days that that exchange occurs. So I would also  
5 suggest not making dealers responsible for recovering those  
6 plates. Or at least providing a way for dealers to report that  
7 those plates were not recovered, you know, in such a way some  
8 of the other provisional plates that are out there.

9                   The second piece to that is on page 51; it limits the  
10 validity of that plate to seven days after the permanent plate  
11 is assigned to that vehicle. You know, let's just use, hey,  
12 that plate gets assigned on December 23rd, right. You're going  
13 to have a lot of county offices that are closed on the 24th,  
14 25th, 26th. Then you've got the Saturday, Sunday. Well, right  
15 there, you've eaten into five days, you know, trying to  
16 coordinate with a customer to come in. Seven days just seems  
17 extremely short in certain windows. I mean, even if it's a  
18 normal week, right, you're talking two of those days is a  
19 weekend trying to coordinate with the customer coming back.

20                   I would just recommend extending that timeline a  
21 little bit. Maybe that becomes moot, you know, with dealers  
22 even needing to recover those plates but I'm just concerned  
23 seven days could arbitrarily get some dealers in a pinch, even  
24 if they are trying to do the right thing with trying to get a  
25 customer their permanent plate.

1 MS. MORIATTY: Okay. Any other comments?

2 MEMBER DORAN: Member Durant.

3 MS. MORIATTY: Member Durant. Member Garza, you'll be  
4 next.

5 MEMBER DURANT: I've got similar concerns as all the  
6 others. This section assigns an affirmative right of the  
7 dealership to have to see the vehicle, physically affix the  
8 plate, and do all this. In the days of paper tags, about half  
9 of the plates that we saw were mailed out. And I see once the  
10 customers left the dealership, it being the same way, it's  
11 difficult to get them back to the store. I give it a 50  
12 percent success rate.

13 I believe the fix here would be if instead of giving  
14 us time limits, because this plate may be mailed out and U.S.  
15 Mail being what it is, it might take longer than seven days if  
16 the dealers could be responsible for deactivating the plate in  
17 the system. Once the customer has received the new plate and  
18 activating the new plate, that seems to be a system that works.

19 I also know for the purposes of the green out-of-  
20 state buyer plates, we're not required to collect those back.  
21 We're not required to do any affirmative action like that.  
22 These buyer provisional plates, we might want to use the same  
23 sort of understanding there and not have to collect them back.  
24 Member Bradburn can certainly speak to this, but, you know,  
25 these different color plates, especially the red and I would

1 say the purple, which I haven't seen a purple on the road yet;  
2 they should be big red flags to law enforcement when a law  
3 enforcement officer is looking at a vehicle with these color  
4 plates, they're probably going to want to check it out. So I  
5 think it might be a safe system if the dealers can just  
6 deactivate these once the new plate is confirmed received.

7 MS. MORIATY: Member Garza?

8 MEMBER GARZA: Just a couple of questions. The first  
9 specific one, I agree that the conversation around seven days  
10 just as a customer that seems really fast. I don't know if in  
11 this industry the concept of business days is a concept that's  
12 used, but that might be something to consider as well to  
13 address some of the -- I'm not trying to introduce something  
14 new, but the concept of business days would address some of the  
15 weekend holiday issues.

16 And the challenge that I'm hearing discussed is the  
17 issue of, you know, where does the -- where does the risk and  
18 responsibility between the dealer and the customer lie? And  
19 that's what we're trying to address in this rule.

20 The last comment about allowing the dealer to sort of  
21 deactivate the provisional seems to take on more risk from the  
22 dealer's perspective, but I stand ready to be corrected on  
23 that. I agree with the first comment, you know, that that  
24 Chris made earlier is, you know, dealers can't -- they can't  
25 destroy stuff they don't have. So at a minimum, that would

1 need to be addressed. So I think those are the three points  
2 that I -- that accumulated as part of this discussion.

3 MS. MORIATY: Member Doran.

4 MEMBER DORAN: This is Board Member Doran. Did the  
5 Texas Automobile Dealer Association or the Texas Independent  
6 Automobile Dealer Association submitted any comments in advance  
7 of the hearing today, and if so, where would they be?

8 MS. MORIATY: Not officially, no.

9 MEMBER DORAN: Okay. Nothing for us to consider then  
10 at this point?

11 MS. MORIATY: No, not yet.

12 MEMBER DORAN: Okay. Thank you.

13 MS. MORIATY: Okay. Members, any other questions?

14 MEMBER SULLIVAN: If I may.

15 MS. MORIATY: Member Sullivan.

16 MEMBER SULLIVAN: Yes, ma'am. Thank you. We have  
17 something on the table, so to speak, and we've had discussion  
18 and the agency has heard the comments. But where do we go from  
19 here? I'm not hearing any yes, we'll do that, no, we won't.

20 MS. MORIATY: Well, we can get to -- the next section  
21 is going to be the part where you all make recommendations.

22 MEMBER SULLIVAN: Okay. Thank you.

23 MS. MORIATY: We can have the official recommendation  
24 and decide whether we can accept or not. Does that sound all  
25 right?

1 MEMBER SULLIVAN: Yes, ma'am. Thank you.

2 MS. MORIATY: In the meantime, I think I saw Member  
3 Hicks's hand up. Member Hicks?

4 MEMBER HICKS: Yeah, this Member Hicks. I was really  
5 just asking -- going to ask the same question Member Sullivan  
6 just had. Do you need the feedback we provided today to go  
7 back, Ms. Quintero, and your team to, you know, possibly insert  
8 the necessary language that we're asking for or -- because I  
9 don't know that I'm ready to present it, or maybe another  
10 member is, in the form of a motion with specific language.

11 MS. MORIATY: Let's do it as a motion. Okay. So let  
12 me finish this up, though. Did y'all have any other questions  
13 for the members, Ms. Quintero?

14 MS. QUINTERO: Annette Quintero, Vehicle Titles  
15 Registration Director. We do have one more, however, not  
16 related to 153. So we're okay.

17 MS. MORIATY: Okay. Well, we're not going to move  
18 just on 153. I'm going to go for this whole -- this whole  
19 group all at once. Agenda item 7 is going to move over to  
20 agenda item 8 all at once. So if you have anything else  
21 on --

22 MS. QUINTERO: Yes.

23 MS. MORIATY: -- 82, 120, 152, 154, 153, or 159, this  
24 would be the time.

25 MS. QUINTERO: We have plenty. So the next question

1 is related to 215.159. Does the draft new rule of 215.159  
2 relating to license plate storage away from the licensed  
3 location provide dealers with multiple locations an appropriate  
4 amount of operating flexibility and provide a sufficient  
5 safeguards for managing license plates?

6 MEMBER SULLIVAN: Member Sullivan.

7 MS. MORIATY: Member Sullivan.

8 MEMBER SULLIVAN: Yeah. Thank you for recognizing  
9 me. I think that this is a proposal that will be well received  
10 by franchise dealers in particular. And to give them the  
11 flexibility to store their plates at the appropriate locations  
12 where they meet all the criteria that are lined out in the  
13 proposed rule or in the -- in the comments here. The liability  
14 will be on the dealer still, so the agency will be protected.  
15 Doesn't lessen the liability to store plates in a separate  
16 location, nor does it make it more burdensome or increased  
17 liability either. So I think this is a neutral suggestion that  
18 should be well received. Thank you.

19 MS. MORIATY: Any other comments, members?

20 MEMBER DONNELLY: Member Donnelly.

21 MEMBER DURANT: Member Durant.

22 MS. MORIATY: We'll go with Member Donnelly first and  
23 then I'll get to Member Durant and Member Hicks.

24 MEMBER DONNELLY: So on line 13, "Discloses the  
25 physical address of the license plate storage location." How

1 does the dealer go about disclosing the address, please?

2 MS. JOHNSTON: Monique Johnston, Director of the  
3 Motor Vehicle Division. So what will happen is there's going  
4 to be a new and amendment type specifically that says  
5 centralized plate storage so they would file that and this will  
6 be streamlined to be assigned to a designated specialist and  
7 then that would be reviewed to determine that that's where  
8 they're going to have this location meets the requirements.

9 So if it's the license location, it might be  
10 something as simple as uploading a photo, showing how the  
11 inventory can be separated from the different locations as  
12 what's required and laid out in the rule. If it's an off-site  
13 new location, then it would be, you know, photographic  
14 evidence, like a dealer would do with premise to show that that  
15 off-site locations where they're going to store the plates  
16 meets all of the requirements.

17 And then that would be approved and if the dealer  
18 wants to remove it, they would just submit another thing to  
19 remove the location and we would remove it from their license  
20 if they're no longer going to centralize plates. So those are  
21 the options, kind of what we're looking at. We're working on  
22 the full processes, but that's what we have in mind. So that  
23 way it's added to their license and enforcement will have that  
24 information when they need to go out and do an audit of plate  
25 inventory so they would know where to go.

1 MEMBER DONNELLY: Member Donnelly. So you're saying  
2 that they would add a location to their existing license?

3 MS. JOHNSTON: It's going to be a brand-new amendment  
4 type. So it's not like adding a -- it'd be specifically going  
5 to say centralized plate storage request -- we haven't -- we  
6 haven't thought of the exact name that we're going to call it  
7 yet, but they would submit that and that -- that would be --  
8 that way staff can easily identify that's what the application  
9 is coming in, and then they can have those all -- they're going  
10 to be assigned to all of one designated specialist to handle  
11 and review.

12 MS. MORIATY: Okay. Member Donnelly.

13 MEMBER DONNELLY: One last question.

14 MS. MORIATY: Last one.

15 MEMBER DONNELLY: Yes. I'm just trying to nail down  
16 when that's done. Is it done at renewal, or do they do it  
17 tomorrow or --

18 MS. JOHNSTON: As an amendment, so like, just like  
19 you would do an amendment if you're changing location, changing  
20 ownership, so whenever they decided they wanted to centralize  
21 the plate storage, they would say, yeah, we're looking, we  
22 think it would be better if we move it all here. They would  
23 submit that amendment to us. They could also do it at the  
24 new -- we're going to add it to the new application and they  
25 can designate a centralized plate storage and hopefully we can

1 add it to, you know, renewal if they decide at renewal they  
2 want to do that, they can add it to the renewal time too. So  
3 we're hoping to put it on all the applications so it can be  
4 easily identified.

5 MS. MORIATY: Member Durant.

6 MEMBER DURANT: Member Durant. I just wanted to  
7 thank you for this provision. It's been a big challenge with  
8 some of the auto groups I know and talk to with centralized  
9 accounting systems, they didn't have the processes to have  
10 people in place at the various branches and this will  
11 significantly help their operations. So I thank you very much  
12 for proposing this.

13 MS. MORIATY: Thank you. Member Hicks?

14 MEMBER HICKS: Yeah, Member Hicks. If we could make  
15 sure that the language extends to the fact that the inventory  
16 management system inside webDEALER allows those plates to be  
17 shipped to that centralized location and not have to be shipped  
18 to the license for the -- for the corresponding GDN, that would  
19 make it much more efficient. I just don't want to go down this  
20 path and leave the language out that the shipment of the  
21 initial plates does go to the centralized location.

22 MS. MORIATY: Thank you.

23 MEMBER STARK: Member Stark.

24 MS. MORIATY: Member Stark.

25 MEMBER STARK: Yeah, I've just got a question on

1 215.152, which is if the license plates are undeliverable, have  
2 we established how the dealer will be notified if those plates  
3 are undeliverable? And it's based on my experience with Amazon  
4 and the 500 packages they delivered to my neighbor over the  
5 Christmas holiday so far. So how will the dealer be notified  
6 if those plates are deemed undeliverable?

7 MS. QUINTERO: Annette Quintero, Vehicle Titles and  
8 Registration Director. In most instances, when we have a  
9 shipment that is returned undeliverable to the dealer, we will  
10 contact the department, we'll contact that dealer and arrange  
11 delivery. We will typically attempt multiple times with the  
12 carrier. If still unsuccessful, we will, like I said, contact  
13 the dealer, have that shipment delivered to our regional --  
14 nearest regional service center to that dealer, and then have  
15 the dealer pick up from the regional service center. All that  
16 is coordinated by the local management in that office and the  
17 dealer.

18 MEMBER STARK: Thank you.

19 MEMBER HALL: This is Member Hall.

20 MS. MORIATTY: Member Hall.

21 MEMBER HALL: Sort of two questions or comments.  
22 One: dealers and specifically Carvana, but I know others have,  
23 you know, may have an off-site storage lot where vehicles might  
24 be prepped for delivery and then taken out for delivery.  
25 That's our case, but dealers will have off-site storage lots.

1       But there's part of this rule in 159; specifies that the  
2       location has to be open to the public, has to have office hours  
3       posted, has to have a phone number. It seems like the licensed  
4       premise location requirements are being applied to that, yet  
5       the rule says it doesn't have to be a licensed location, it can  
6       be another location.

7                   So it seems like adding those additional requirements  
8       in there could use some clarification. Maybe to specify, hey,  
9       if it is a licensed location, use to meet all the licensed  
10      location requirements. But if it's not, a site that's going to  
11      be open to the public, right? You're not conducting a public  
12      sale there. Why is there a need for all of those traditionally  
13      licensed locations, you know, requirements to be applied to  
14      that?

15                  The sort of the second nuance is a lot of this,  
16       or at least a conversation has been around centralizing  
17       inventory, but it might be necessary to decentralize  
18       inventory, right? I think the focus should be on making  
19       sure that the department knows where, what plates are at  
20       versus, you know, just saying, hey, if it's not at your  
21       license location, then they can be at this other location.

22                  Again for the same things is, you could have your  
23       primary location which you are doing retail sales from  
24       that is open to the public, but you might have multiple,  
25       you know, logistics facilities that are prepping vehicles

1 for delivery and then going out or have an off-site storage  
2 lot which wouldn't be open to the public, but where you're  
3 also going to need plates so you're not shuttling them back  
4 and forth.

5 I just want to make sure that we're not just  
6 contemplating the centralized, you know, storage of plates,  
7 but that the plates could be at multiple locations and that  
8 the system will facilitate the department knowing that,  
9 hey, this one location's allocation of plates is actually  
10 at these two, three, four different locations. Hopefully  
11 that was clear and made sense.

12 MS. MORIATY: Anyone, do y'all want to comment on  
13 that?

14 Member Hicks.

15 MEMBER HICKS: Yeah. In reference to Member Hall's  
16 comments, I think, you know, there's temp -- there's types of  
17 license plates, temp tags that we use to move vehicles between  
18 prep centers and off-site locations. I mean, we're talking  
19 when we talk about the centralized location, that's where the  
20 general issue plates that will be issued to the retail consumer  
21 upon delivery. So I think it's important. There's too much  
22 value in centralizing the plates and not moving to  
23 decentralized, which we're currently under now. We're required  
24 to keep plates at each retail sales location. But having them  
25 centralized and then parsed out to those retail locations as

1 needed allows a more secure inventory management of those tags.

2 So I think it's important to continue to work towards  
3 centralized with the acceptance that the centralized location  
4 for the storage will also be the centralized location where the  
5 plates can be shipped. But moving vehicles between centers'  
6 off-site storage, that's all done with temp tags. Thank you.

7 MEMBER HALL: This is Member Hall.

8 MS. MORIATY: Member Hall.

9 MEMBER HALL: So just to clarify, so I'm not saying  
10 not to allow the centralized storage because that works. But I  
11 also want to ensure -- so, for example Carvana, we have new car  
12 dealer license and then we also have a used car dealer license.  
13 If we have an off-site prep facility where a customer has  
14 purchased a vehicle and we're going out for delivery, that site  
15 could have both plates from our new car dealer license as well  
16 as plates from our used car dealer license, right? We would  
17 want to have both of those at that off-site location. So that  
18 would be, we would have plates not centralized, but  
19 decentralized, right? We have a subset of that allocation both  
20 at the locations where maybe in-person transactions are  
21 occurring, but also a non-public-facing site.

22 So that's why I say I want to make sure we're  
23 covering both or at least the rules are going to be construed  
24 in such a way that it would ensure that that is also allowed  
25 where you could have, you know, license A's plates at three or

1 four different locations.

2 Now, if dealers want to do the centralized things,  
3 which I think is the primary intent; I don't want to not allow  
4 that as well. I just want to make sure we're talking about  
5 both opportunities and we're covering both. At the end of the  
6 day, the goal being the DMV should know where the plates are  
7 at.

8 MS. QUINTERO: Annette Quintero, Vehicle Titles and  
9 Registration Director. So I want to -- I want to clarify a few  
10 things. So the way that we envision this working is, the  
11 centralized license plate storage is an option. It is not one  
12 or the other. It is -- it is an option. However, based on the  
13 feedback that we've received from dealerships, essentially,  
14 we're hearing that dealers would find a lot of value in being  
15 able to add a location where they -- to their license where  
16 they can store and receive license plates to distribute to  
17 their other licensed locations.

18 When they distribute from one added location to their  
19 license to other licensed locations, you will still use the  
20 Inventory Management System to send those plates to those  
21 specific licensed locations. That will continue the tracking  
22 mechanism built into the Inventory Management System that will  
23 facilitate tracking inventory for the dealerships and for the  
24 department. So I just want to be clear that that's the  
25 intention here.

1 MS. MORIATTY: Member Hicks.

2 MEMBER HICKS: Yeah. Ms. Quintero, this is Member  
3 Hicks. Ms. Quintero, thanks for your comments. I want to make  
4 sure that -- and I've delved into this Inventory Management  
5 System firsthand, so I've spent a lot of frustrating time in  
6 there trying to get my hands around it. Will we be ordering  
7 plates under each Texas DMV unique ID? Because we all have a  
8 GDN and then there's a Texas DMV identifier, six-digit code for  
9 each store. Will you be creating a centralized six-digit Texas  
10 DMV code where all plates will be ordered, or will we continue  
11 to order those under the individual store Texas DMV IDs, and  
12 then have those shipped to a central location?

13 MS. QUINTERO: Annette Quintero, Vehicle Titles and  
14 Registration Director. We envision that working the way it is  
15 working today. So you order based on the allocation that is  
16 assigned to your specific GDN and associated dealer ID number,  
17 and then can select your centralized storage location as the  
18 end point delivery.

19 MS. MORIATTY: Member Garza. I don't have my mic.  
20 Member Garza?

21 MEMBER GARZA: Thank you. Annette, thank you for  
22 going through the explanation of how you envision this working.  
23 And back to one of the member's questions about -- given your  
24 explanation, I'm not understanding the need as drafted in the  
25 rule for why does this -- that location, the central storage

1 location, need to be open to the public? And I didn't hear  
2 that in your explanation. So if there's any other any other  
3 perspective you can offer there, I didn't hear it and would  
4 love to be informed if there's something I'm missing.

5 MS. QUINTERO: Annette Quintero, Vehicles Titles and  
6 Registration Director. I will hand this off to our Enforcement  
7 Director.

8 MS. THOMPSON: Corrie Thompson, Director of  
9 Enforcement. So the point of it -- I think we're specifying  
10 separately in the rule language that enforcement has access.  
11 So Tony relayed appropriately that the goal is to know where  
12 the plates are so when enforcement staff comes out to conduct  
13 inventory, to ensure secure storage requirements that we know  
14 where we're going to look at plates.

15 Tony brought up the point about storage lots that do  
16 not allow access to the public. And so, I think that the item  
17 up for discussion in the group is whether or not the language  
18 as written should remain as to whether or not the requirement  
19 for it to be accessible to the public and additional things  
20 that speak generally to the current license location  
21 requirements should still pertain to the secure -- the new  
22 central location.

23 MEMBER GARZA: And so, as part of your compliance  
24 activities, not really compliance, but enforcement activity,  
25 the idea is that there would be sort of the opportunity for

1 on-site unannounced visits to some location for some reason,  
2 and because of the need for that, then you need to have --  
3 everybody's got to have some specified business hours and so  
4 that you then have the ability.

5 MS. THOMPSON: For access, absolutely. And so again,  
6 that's up for the group to discuss whether or not they want to  
7 refine the languages written here. But I believe the basic  
8 requirements about having the four connecting walls --

9 MEMBER GARZA: Absolutely. And again --

10 MS. THOMPSON: -- and about not being located in a  
11 residence, things like that that do speak to current license  
12 location requirements will likely still remain important for  
13 those locations as well. But I did hear the concern about  
14 whether or not we absolutely needed it to be able to be open to  
15 the public --

16 MEMBER GARZA: There's a difference between -- and  
17 I'm sorry if I should be announcing myself every time --

18 MS. THOMPSON: -- department of staff and the public,  
19 absolutely.

20 MEMBER GARZA: -- but there's a difference between  
21 accessible and open to the public, right?

22 MS. THOMPSON: And I would agree. And I would agree  
23 again, Corrie Thompson, Director of Enforcement. I would agree  
24 that as pointed out by Member Hall, that it is a point if the  
25 group wants to discuss that if accessibility by the Department

1 during certain hours is something that the group wants to lean  
2 towards versus the language as it stands now being open to the  
3 public.

4 MEMBER GARZA: Or the inability to access by  
5 enforcement then becomes another problem.

6 MS. THOMPSON: Exactly.

7 MEMBER GARZA: I mean, there's a couple of different  
8 layers that could be handled there. All right. I'll --

9 MS. MORIATY: Member Hicks.

10 MEMBER HICKS: This is Member Hicks. So my follow-up  
11 is really in regard to Member Stark's comments on 215.152. If  
12 you want to stay on 159 and deal with the language regarding,  
13 you know, access and that type of stuff, we could certainly do  
14 that or I can comment on 152.

15 MS. MORIATY: Oh, let's jump around. It'll be fine.  
16 Let's go to 152.

17 MEMBER HICKS: Okay. Yeah. Keep us all fresh. You  
18 may have answered it, but I wasn't sure that I heard. Will the  
19 dealer be notified in some form of electronically or otherwise  
20 that a delivery has failed to occur? So plates get shipped  
21 out, they attempt to be delivered, and the delivering company  
22 decides it's not deliverable. So will we be notified as that  
23 happens in real time?

24 MS. QUINTERO: Annette Quintero, Vehicle Titles and  
25 Registration Director. I am unsure if in the inventory -- I

1 know in the Inventory Management System there is notification  
2 of shipment going out, but I don't know if that also updates  
3 when the shipment is undeliverable. I can verify for you and  
4 let you know.

5 MEMBER HICKS: This is Member Hicks. Yeah, inside  
6 that system I've seen them when the order has shipped and when  
7 your order has been delivered, but I have not seen anything --  
8 and of course we haven't run into an address issue in our case,  
9 so that would be something we need to check into.

10 The second part of that is in the event a -- this is  
11 Member Hicks, in the event a dealer needs to change an address,  
12 is there a mechanism that would allow it to be quickly updated  
13 in the webDEALER system so we don't run into a problem of will  
14 the original address on file -- we shipped them there, and then  
15 they rejected and the new address takes weeks or months to get  
16 updated; is there some way to create a mechanism inside the  
17 dealer -- webDEALER system that allows that delivery address to  
18 be updated quickly?

19 MS. JOHNSTON: Monique Johnston, Motor Vehicle  
20 Director. The address has to be approved by the Department  
21 because it has to ensure that the new location meets all of the  
22 premises requirements. So we can't just change it in webDEALER  
23 without having the application for location change we actually  
24 approved. We have been prioritizing any location amendments  
25 that we are receiving that have potential, like, plate for

1 dealer temporary plate orders. But we do also prioritize if we  
2 get a request from VTR or something like that, if they have an  
3 order that's pending and there isn't a pending location  
4 request, we try to prioritize those as well.

5 We also have the option of ensuring -- if we can  
6 ensure that the dealer is still at their currently licensed  
7 location and they're still operating from there, that the  
8 shipment can go out and be without the application for a  
9 location change having been approved because they're not at the  
10 new location yet.

11 So it's just more of a matter of confirming, and we  
12 work with enforcement on that; we will send somebody out just  
13 to confirm that the dealer is still at the currently licensed  
14 location and has not already moved to the new location.  
15 Because unfortunately, that tends to happen where a dealer has  
16 moved before they tell us.

17 MEMBER HICKS: Yeah. This is Member Hicks. I'm glad  
18 to hear that. So there is some way of communicating with a  
19 priority --

20 MS. JOHNSTON: Yes.

21 MEMBER HICKS: -- that the address has changed?

22 MS. JOHNSTON: Yes, sir.

23 MEMBER HICKS: Okay. In my specific case, we're  
24 going to be building a new storage next year, so I've got to  
25 move off-site temporarily for one of my locations, but I'll get

1 that address approved. I just want to make sure plates are  
2 going to be delivered -- to deliver to that new temporary  
3 address during that construction period.

4 MS. JOHNSTON: Yes, just notify us through an  
5 amendment application, and we can get that updated in the  
6 system while you're getting the new location built.

7 MEMBER HICKS: Okay. This is Member Hicks, thank  
8 you.

9 MEMBER SULLIVAN: Member Sullivan.

10 MS. MORIATTY: Member Sullivan.

11 MEMBER SULLIVAN: You want to bounce around again?

12 MS. MORIATTY: Sure.

13 MEMBER SULLIVAN: Okay. 159; if approved as proposed  
14 or close to as proposed, would there be any bonding issues on  
15 these second or third locations?

16 MS. QUINTERO: Annette Quintero, VTR Director. I  
17 don't believe so.

18 MEMBER SULLIVAN: Do or do not? Sorry.

19 MS. JOHNSTON: Monique Johnston, Motor Vehicle  
20 Division Director. You're talking about whether it be a bond  
21 requirement for the, like, the used car bond that's required  
22 for the location? No, we haven't proposed any bond. It's just  
23 for the licensed location that the bond is required.

24 MEMBER SULLIVAN: Right. So no additional bonding  
25 requirements --

1 MS. JOHNSTON: No.

2 MEMBER SULLIVAN: -- anticipated at this time?

3 MS. JOHNSTON: No, sir.

4 MEMBER SULLIVAN: Okay. Thank you.

5 MS. MORIATY: Member Doran, your mic looks odd. Can  
6 we pass Member Doran a different mic?

7 MEMBER DORAN: Thank you. This is Member Doran. I'd  
8 like to go back to 215.159. We were talking about whether or  
9 not it's accessible to the public, and I just wanted to point  
10 out -- it sounds like the consensus is to update the rule here,  
11 but just wanted to point out when under 159 on (b), Location  
12 Requirements, under (4), that first sentence where it talks  
13 about, "In a manner and a place accessible to the public," that  
14 seems to contradict what's later said in the rule under (8),  
15 which is talking about the restaurant, gas station or  
16 convenience store example where it says, "Unless the location  
17 has a separate entrance that does not require a person to pass  
18 through the other business." So you're kind of imagining a  
19 situation where, you know, there's a hallway with cardboard  
20 boxes or, you know, parts to vehicles and things where you're  
21 not intending for the public to go. And so, I think you sort  
22 of have to make this change in order to reconcile (8) with (4).

23 And then I would just say also, from an insurance and  
24 liability profile standpoint, when someone goes out and they  
25 sign a lease on a facility, that would be a centralized storage

1 facility, or as Member Hall was talking about kind of satellite  
2 storage facilities, there's a -- just a different insurance  
3 profile between whether you're open to the public versus not  
4 open to the public.

5 So as long as it's safe and accessible for  
6 enforcement personnel, I think that's probably the key test.  
7 But if you have to meet the standard of being open to the  
8 public that presents a much more costly scenario, and it may  
9 radically alter your analysis on whether the site's appropriate  
10 or not. Thank you.

11 MS. MORIATTY: Members, any other questions on this  
12 topic? I think Ms. Quintero may actually have other questions  
13 for you.

14 MS. QUINTERO: I don't.

15 MS. MORIATTY: You don't. That was it. We're good.  
16 Okay. Terrific. All right. So last call for any other  
17 questions here. Our next item will give us an opportunity to  
18 get for y'all to give official feedback, but if we need to  
19 discuss any more, now's the time.

20 Okay. Then I'm going to move on to agenda item 8.  
21 So again, our administrative rule on advisory committees allows  
22 the committee to make recommendations to the Board and the  
23 Department. The recommendations must be in writing and include  
24 any necessary supporting materials. The presiding officer of  
25 MVIRAC, so lucky Member Hall, may appear before the Board to

1 present the committee's advice and recommendations, and MVIRAC  
2 can provide advice and recommendations to our Executive  
3 Director as necessary. The Board will consider MVIRAC written  
4 recommendations and reports that you submit prior to proposing  
5 the rule.

6 So we are now going to move on to the process where  
7 y'all officially tell us what changes you want made. So to  
8 assist the court reporter in getting an accurate record, please  
9 cite to the blue page number at the top right-hand side of your  
10 written materials when discussing a provision. I've also got a  
11 Word version here so that I can try to take dictation and write  
12 out the changes we want made so we can all see them together.

13 All your recommendations need to be made in the form  
14 of a motion that the Advisory Committee votes on, unless  
15 Department staff are willing to accept it as an informal  
16 comment. So you could make a motion, I move that the Advisory  
17 Committee recommend to the Board that the draft proposed new  
18 rule should be modified to add a clause that says whatever you  
19 need to say and we can check with staff to see if they'll  
20 accept it. If they want more time to think on it, we can just  
21 have y'all vote and then we can bring it to the Board and staff  
22 will respond at that point too if we need more time for more  
23 research.

24 So I guess the easiest way to do this would be --  
25 first let me check, Devin, we don't have any public comments on

1 this item, right?

2 (No audible response)

3 MS. MORIATY: Okay. No public comments on this one.

4 So I'll run through them rule by rule since we have six rules  
5 here. So members, do you have any suggestions on 215.82? I  
6 can try to get our text up here so we can know what I'm talking  
7 about. There we go. Any suggestions on 215.82? Okay.

8 Hearing none, I'm going to move on to 215.120. Any suggestions  
9 on 215.120? Okay. So I will next move on to 215.152. We had  
10 some discussions here today. Get to it. Okay. Are there any  
11 recommendations on 215.152? Continuing to hear none, I will  
12 forge onward. 215.154 is our next stop.

13 MEMBER HICKS: This is Member Hicks. I raised my  
14 hand.

15 MS. MORIATY: Okay. Oh, I'm sorry. Member Hicks,  
16 please tell me, did you mean 152 or 154?

17 MEMBER HICKS: 152.

18 MS. MORIATY: 152. Okay. I'm scrolling back.  
19 Please tell us what line and page you're on and then what your  
20 motion for new language would be.

21 MEMBER HICKS: This is Member Hicks. Specifically  
22 related to electronic notification or some form of notification  
23 for a dealer when a delivery has not been made. I know we had  
24 discussion about that. Are you looking for me to reduce that  
25 discussion to the form of a motion or appeal to your staff to

1 draft language that would support the fact that included in  
2 this section needs to be some form of electronic notification  
3 to a dealer that a shipment has been rejected or undeliverable?

4 MS. MORIATY: Okay. So it sounds like the initial  
5 question is, staff, would we accept that we want to add a  
6 provision to require a notification when something is  
7 undeliverable, or do we want time to meditate on that?

8 MS. QUINTERO: Annette Quintero, VTR Director. We  
9 need time.

10 MS. MORIATY: Okay. Then let's do it as a motion.  
11 So Member Hicks, give me a motion that, you know, you move that  
12 you would like included in this text. And you can give me  
13 specific text or we can describe a general concept, either way.

14 MEMBER HICKS: Right. This is Member Hicks. So  
15 there'd be two sections. First amendment -- we'll do one  
16 amendment first.

17 MS. MORIATY: Okay.

18 MEMBER HICKS: That is -- they're both related to  
19 this section. Do you want me -- I can incorporate both. I'll  
20 let you tell me how you'd like to see it or hear it.

21 MS. MORIATY: Okay. If you have specific line and  
22 page numbers that you want to do, we can start there, or if you  
23 want to describe it generally, that's fine, too.

24 MEMBER HICKS: Yeah. So section -- what's the one  
25 you're on right now? I can't see what your page number is.

1 MS. MORIATY: Oh, sorry. I'm on page 46 currently.

2 MEMBER HICKS: Page 46, line -- this would be seven  
3 or eight. Keep going down.

4 MS. MORIATY: Okay.

5 MEMBER HICKS: There you go. Line 8. It reads  
6 currently, "An applicant or license holder has filed a change  
7 of address," -- oh that's not it. I'm sorry. It's line 5. "And  
8 the delivery service has notified the Department that a license  
9 plate shipment is undeliverable," and the dealer would be  
10 notified electronically of that order not being able to be  
11 delivered.

12 MS. MORIATY: Okay.

13 MEMBER HICKS: This is Member Hicks.

14 MS. MORIATY: I am not sure that language goes  
15 specifically here from a rule drafting perspective. So what  
16 would you think of making it a more general motion? That  
17 MVIRAC recommends that the Department add a requirement that  
18 the department inform the dealer if a delivery service has  
19 notified the Department that the license plate shipment is  
20 undeliverable. And we could put a time limit on it, if that's  
21 what you're looking for, within, you know, 48 hours or  
22 whatever.

23 MEMBER HICKS: Thank you. This Member Hicks. Yeah.  
24 Luckily, I got an accounting degree, not a law degree so I'm  
25 probably better at just general statements than I am --

1 MS. MORIATY: I'm glad to help.

2 MEMBER HICKS: -- specifically a language. So I  
3 recommend -- the committee would recommend that the staff  
4 incorporate language into this section, specifically page 46 --  
5 is it 49, line 5?

6 MS. MORIATY: We're back on page 46.

7 MEMBER HICKS: Okay. Yeah, page 46, that would  
8 include a notification to the dealer of a shipment being  
9 undeliverable within 48 hours of that notice being received by  
10 the department.

11 MS. MORIATY: Okay. I'm going to read that back to  
12 make sure I've got it right. So your motion would be that the  
13 Department add new language that would require the Department  
14 to notify a dealer if a license plate shipment is  
15 undelivered -- if a delivery service has notified the  
16 Department that a license plate shipment is undeliverable  
17 within 48 hours. Is that your motion? Is that accurate?

18 MEMBER HICKS: That is correct. Member Hicks, yes.

19 MS. MORIATY: Okay. Do we have a second for that  
20 motion?

21 MEMBER STARK: Member Stark. I'll second that.

22 MS. MORIATY: Okay. Okay. So we have a motion and a  
23 second. I'm going to -- again our language is that we're  
24 incorporating language requiring the Department to notify a  
25 dealer if a delivery service has notified the Department that a

1 license plate shipment is undeliverable and that notification  
2 from the Department to the dealer needs to happen within 48  
3 hours of the delivery service notifying the Department. So I'm  
4 going to call roll now. Please tell me whether you are in  
5 favor or against.

6 Member of Blassingame?

7 (No response)

8 MS. MORIATY: Member Bradburn?

9 MEMBER BRADBURN: Member Bradburn, yes.

10 MS. MORIATY: Member Donnelly?

11 MEMBER DONNELLY: Member Donnelly, yes.

12 MS. MORIATY: Member Doran?

13 MEMBER DORAN: Member Doran, yes.

14 MS. MORIATY: Member Durant?

15 MEMBER DURANT: Member Durant, yes.

16 MS. MORIATY: Member Elam?

17 MEMBER ELAM: Member Elam, in favor.

18 MS. MORIATY: Member Ferguson?

19 MEMBER FERGUSON: Member Ferguson, yes.

20 MS. MORIATY: Member Garza?

21 MEMBER GARZA: Member Garza, yes.

22 MS. MORIATY: Member Hall?

23 MEMBER HALL: Member Hall, yes.

24 MS. MORIATY: Member Hayter?

25 MEMBER HAYTER: Member Hayter, yes.

1 MS. MORIATY: Member Hicks?

2 MEMBER HICKS: Member Hicks, yes.

3 MS. MORIATY: Member Murphy?

4 MEMBER MURPHY: Member Murphy, yes.

5 MS. MORIATY: Member Olah?

6 (No response)

7 MS. MORIATY: Member Provost?

8 (No response)

9 MS. MORIATY: Member Schnelle?

10 MEMBER OLAH: This is Member Olah. I'm sorry. Yes.

11 MS. MORIATY: Oh, I'm sorry. Yes.

12 MEMBER OLAH: And by the way, I am present.

13 MS. MORIATY: Okay. Good. I'm glad. Member Provost

14 is not, though, I believe. Is that right?

15 (No response)

16 MS. MORIATY: Member Schnelle?

17 MEMBER SCHNELLE: Member Schnelle, yes.

18 MS. MORIATY: Member Sims?

19 (No response)

20 MS. MORIATY: Member Sralla?

21 MEMBER SRALLA: Member Sralla, yes.

22 MS. MORIATY: Member Stark?

23 MEMBER STARK: Member Stark, yes.

24 MS. MORIATY: Member Sullivan?

25 MEMBER SULLIVAN: Member Sullivan, yes.

1 MS. MORIATY: And Member Thomas?

2 (No response)

3 MS. MORIATY: So it is unanimous. That was a  
4 recommendation that MVIRAC will take to the Board. Okay. So  
5 we were on -- once again, we are on -- this is 152; is that  
6 accurate? Are there any other motions on 152 for new  
7 suggestions?

8 MEMBER HICKS: Yeah. This is Member Hicks.

9 MS. MORIATY: Member Hicks.

10 MEMBER HICKS: May I be recognized?

11 MS. MORIATY: Yes. Please.

12 MEMBER HICKS: I guess it's a form of a question  
13 before we decide if it's a motion or a recommendation to staff.  
14 Should we look to incorporate language specifically about the  
15 updating of the address information, or do we feel confident  
16 that the updating of an approved address locations will not  
17 result in any form of a delay in dealers receiving plates?

18 MS. QUINTERO: Annette Quintero, Vehicles Titles and  
19 Registration Director. We feel confident that as long as a  
20 designated delivery address is provided that will not delay  
21 delivery of the license plates.

22 MEMBER HICKS: Member Hicks. Thank you.

23 MS. MORIATY: So that's one that staff is accepting  
24 without a vote, so we're good there. Anybody else have  
25 anything on 215.152? Okay. So I will move on to 215.154. Do

1 we have any suggestions on 215.154? Let me get down to the  
2 operative language. Did I miss it? Page 50. Let me underline  
3 it -- oh, it's the graphic. This is our graphic. I'm sorry,  
4 y'all. I got to go all the way to the end. Okay. So we're  
5 here. Does anyone have any suggestions on this language?

6 MEMBER SULLIVAN: Member Sullivan.

7 MS. MORIATY: Member Sullivan.

8 MEMBER SULLIVAN: In light of comments from staff  
9 earlier, I would be happy to make a recommendation for the  
10 numbers.

11 MS. MORIATY: Well, I think staff is recommending  
12 those to you, so I believe we can just accept those without a  
13 vote; is that correct?

14 MS. QUINTERO: Yeah.

15 MS. MORIATY: 15 and 40, I believe are our  
16 recommendations. So as long as y'all are fine with them --

17 MEMBER SULLIVAN: Sure, thank you.

18 MS. MORIATY: -- then those are accepted. Okay. Any  
19 other concerns on this one that we need to address? Okay.  
20 Then I will move on to New 153. Let me get there too. Okay.  
21 New 153, do we have any concerns on this one?

22 MEMBER DURANT: Member Durant.

23 MS. MORIATY: Member Durant.

24 MEMBER DURANT: Yes. Per my comments earlier, I  
25 think the dealers should have the option to void out a plate if

1 it's not physically accessible to them.

2 MS. MORIATY: Staff, I imagine we want time to  
3 meditate on that one, am I right?

4 MS. THOMPSON: Corrie Thompson, Director of the  
5 Enforcement Division. I would say that is an affirmative.  
6 Yes, ma'am, because the rule language is currently stated in  
7 this draft also does impose a requirement of the dealer to  
8 affix the new plate upon return of the purple plate. So if we  
9 are imposing that dealer on the front end to initially apply  
10 the purple plate and to take it off and to swap it for that new  
11 plate on the back end, there's additional amendments that need  
12 to be considered.

13 MS. MORIATY: Member Durant, is there a specific  
14 place where you would like to put that language, or should we  
15 just try to make it a general idea?

16 MEMBER DURANT: Yes, I believe it's Subsection (c)  
17 (2), "Removing the buyer's provisional plate and affixing the  
18 assigned license," -- that would just change to, if the plate  
19 is physically present, removing the buyer's provisional license  
20 plate and affixing the license plate to the vehicle as the  
21 assigned license plate as provided to the dealer, either by  
22 county tax assessor or collector or retail buyer.

23 And then, (d) --

24 MS. MORIATY: Okay. I'm going to switch screens on  
25 y'all and give you the Word version so we can write this

1 together. Hang on just one moment, sir.

2 MEMBER DURANT: Yeah.

3 MS. MORIATY: I'm sorry.

4 MEMBER DURANT: Wait. I might be in the wrong --  
5 yeah, I'm there.

6 MS. MORIATY: Okay. We're looking at --

7 MEMBER DURANT: (2) is us needing to physically affix  
8 the plate so it's going to be present for that. Then where's  
9 the section about destroying the plate?

10 MS. QUINTERO: (e).

11 MS. MORIATY: Okay. Can you all see it yet? You  
12 can't see it yet, right? No. Okay. I got to figure out  
13 what's wrong with my sharing. Sorry for my Team's incompetence  
14 here. Okay. Sharing. There. That did it, right?

15 MEMBER DURANT: Yes.

16 MS. MORIATY: Okay. There we go. All right. So we  
17 were on -- I'm sorry, you said subsection (c) --

18 MEMBER DURANT: (2).

19 MS. MORIATY: -- (2)?

20 MEMBER DURANT: (c)(2), yes.

21 MS. MORIATY: Okay. I'm going to put this into track  
22 changes so we can all watch it go. Okay. Now tell me again,  
23 what was your suggestion?

24 MEMBER DURANT: Right after the parentheses (2), put  
25 in if present.

1 MS. MORIATY: And we're talking about the license  
2 plate here?

3 MEMBER DURANT: Mm-hmm (affirmative).

4 MS. MORIATY: So if the provisional license -- how  
5 about we move it to the end. Well, I guess we can do it this  
6 way. The provisional license plate -- if I could spell, that'd be  
7 easier -- license plate is present. Does that work?

8 MEMBER DURANT: Yep.

9 MEMBER GARZA: How about one?

10 MEMBER DURANT: And then under (e) --

11 MS. MORIATY: Well, I think member -- let me clarify.  
12 So Member Garza, I recognize you to make that comment.

13 MEMBER GARZA: Yeah. Sorry, Member Hall, I'm  
14 wordsmithing along in the room. I would suggest instead of if  
15 the provisional plate is present, once the provision plate is  
16 present.

17 MS. MORIATY: And I think the other members point --  
18 position at least is that sometimes the provisional plate never  
19 comes home.

20 MEMBER GARZA: And so, then that would be take them  
21 off the hook. But I'm not a lawyer, I'm an engineer. So you  
22 may tell me that that I'm not interpreting that correctly.

23 MS. MORIATY: So I think we can stick with "if,"  
24 because I think if it doesn't come home, then we have to --  
25 what the member wants for this motion is for it to be totally

1 optional. Okay. Does that language look accurate?

2 MEMBER DURANT: Yes.

3 MS. MORIATY: Okay. Okay. So this is the motion to  
4 add to section (c) (2), "If the provisional license plate is  
5 present," Do I have a --

6 MEMBER DURANT: We also need to modify (e) at the  
7 same time.

8 MS. MORIATY: Modify (e) at the same time. Okay.

9 MEMBER DURANT: Yes.

10 MS. MORIATY: What's our modification?

11 MEMBER GARZA: If we could do those separately,  
12 because I think I have different opinions on this -- on those  
13 two.

14 MS. MORIATY: Okay. Terrific. Let's take them one  
15 at a time --

16 MEMBER DURANT: Okay.

17 MS. MORIATY: -- if that's okay with you, sir. All  
18 right. So do we have a second on just this language on the  
19 screen on -- on section -- subsection (2),(c) (2)?

20 MEMBER SULLIVAN: Sullivan, second.

21 MS. MORIATY: Okay. Sullivan seconds. Thank you,  
22 Member Sullivan. So I will now call roll once again. Let's  
23 see here. Member Blassingame?

24 (No response)

25 MS. MORIATY: Member Bradburn?

1 MEMBER BRADBURN: Member Bradburn, yes.

2 MS. MORIATY: Member Donnelly?

3 MEMBER DONNELLY: Member Donnelly, yes.

4 MS. MORIATY: Member Doran?

5 MEMBER DORAN: Member Doran, yes.

6 MS. MORIATY: Member Durant?

7 MEMBER DURANT: Member Durant, yes.

8 MS. MORIATY: Member Elam?

9 MEMBER ELAM: Elam is a, yes.

10 MS. MORIATY: Member Ferguson?

11 MEMBER FERGUSON: Member Ferguson, yes.

12 MS. MORIATY: Member Garza?

13 MEMBER GARZA: I'm going to be different and just  
14 vote no.

15 MS. MORIATY: Member Hall?

16 MEMBER HALL: Member Hall, yes.

17 MS. MORIATY: Member Hayter?

18 MEMBER HAYTER: Member Hayter, yes.

19 MS. MORIATY: Member Hicks?

20 MEMBER HICKS: Member Hicks, yes.

21 MS. MORIATY: Member Murphy?

22 MEMBER MURPHY: Member Murphy, yes.

23 MS. MORIATY: Member Olah?

24 MEMBER OLAH: Member Olah, yes.

25 MS. MORIATY: Member Schnelle?

1 MEMBER SCHNELLE: Member Schnelle, yes.

2 MS. MORIATY: Member Sims?

3 (No response)

4 MS. MORIATY: Member Sralla?

5 MEMBER SRALLA: Member Sralla, yes.

6 MS. MORIATY: Member Stark?

7 MEMBER STARK: Member Stark, yes.

8 MS. MORIATY: Member Sullivan?

9 MEMBER SULLIVAN: Member Sullivan, yes.

10 MS. MORIATY: And Member Thomas?

11 (No response)

12 MS. MORIATY: So everyone's in favor except for  
13 Member Garza. So the motion passes. Okay. So the second half  
14 of your motion, sir, was in subsection (e); am I correct about  
15 that?

16 MEMBER DURANT: Yes. A dealer must mark and destroy  
17 an expired provisional license plate if present, or void if not  
18 present. And you can help me with the language, but I believe  
19 in the system you all provided us we can void plates that are  
20 lost/stolen --

21 MS. QUINTERO: Annette Quintero, VTR -- I'm sorry.

22 MS. MORIATY: Go ahead.

23 MS. QUINTERO: -- VTR Director. So the voiding is  
24 not necessary from my perspective because once the general  
25 issue plate -- the permanent plate, is assigned, it will

1 inactivate in our current language in seven -- the provisional  
2 plate in seven days. So voiding is not a necessary function to  
3 accomplish I think what we're trying to accomplish with the  
4 changing of the language.

5 MS. MORIATY: Okay. So your position would be that  
6 that would be sufficient --

7 MS. QUINTERO: Correct.

8 MS. MORIATY: -- to get them off the hook if they did  
9 not have the plate?

10 MS. QUINTERO: Correct.

11 MS. MORIATY: Okay.

12 MEMBER DURANT: We still have the affirmative duty  
13 under this provision to destroy it whether it's present or not.  
14 So just, if present; yeah, that'll work.

15 MS. MORIATY: Okay. And staff, we still want time to  
16 meditate on this one because we believe that they should be  
17 coming back. So we'll go ahead and see if we can get a second.  
18 Do we have a second on this one?

19 MEMBER HICKS: This is Member Hicks.

20 MEMBER HALL: Can I --

21 MS. MORIATY: Oh, I'm sorry. Member Hicks?

22 MEMBER HICKS: Second.

23 MEMBER HALL: This is Member Hall. Can we have a  
24 discussion on --

25 MS. MORIATY: Oh, you seconded. Okay. Member Hicks

1       seconded. I'm so sorry, sir. All right. Great. We have a  
2 motion and a second, so I'm going to call roll once again. And  
3 we have --

4            MEMBER HALL: Can we have -- can we have discussion  
5 on this? This is Member Hall.

6            MS. MORIATY: Oh, yes, I'm sorry. Let's have  
7 discussion. Please, sir.

8            MEMBER HALL: To me, it seems to sort of bifurcate  
9 the process of what's being expected, right? If the plate is  
10 there, then you're going to report something to the Department.  
11 If the plate's not there, you're never going to report anything  
12 to the Department. It seems to me the Department would  
13 actually be more inclined to want to know that a dealer didn't  
14 recover a plate than if a dealer did recover a plate, right?  
15 Because that's where the risk is at. You've got a plate out  
16 there that who knows where it's at, who knows what it's being  
17 used for. Like the Department is just never going to have any  
18 sort of inclination, right? Because a dealer could forget to  
19 report that they actually got a plate back that was expired and  
20 destroyed, right?

21           It seems like we should have consistency there, and  
22 the Department should always know what's happening with the  
23 plate is my thought process on it. So I do think there should  
24 be some -- personally, should be some reporting requirement  
25 particularly when a dealer does not retrieve a plate, not only

1 if they do retrieve a plate.

2 MS. MORIATY: Staff, do we have any thoughts on that?

3 MS. QUINTERO: Annette Quintero, VTR Director. From  
4 our perspective, the plate is invalid seven days after the  
5 permanent plate is assigned. And so, notifying us that you  
6 destroyed it doesn't invalidate the plate further. The plate  
7 is still invalid.

8 Member Donnelly?

9 MEMBER HALL: So this is Member Hall, if I can follow  
10 up. So then what's the point of reporting anything at all? If  
11 the plate's invalid, the plate's invalid. Then making it a  
12 requirement for dealers who get plates back to do additional  
13 reporting to your point, right, doesn't make the plate any more  
14 or any less valid, right? So it seems like then maybe it  
15 should just -- no reporting requirement should be there at all?

16 MS. MORIATY: So I'm sorry to -- I'm -- I guess I'm  
17 confused because, in the section we're looking at, we're just  
18 talking about destruction requirements, right?

19 MS. QUINTERO: Correct. Annette Quintero, VTR  
20 Director. So I think we are misinterpreting, "mark." "The  
21 dealer must mark and destroy." That is the defacing the plate,  
22 not marking the plate in the inventory management system as  
23 destroyed.

24 MEMBER HALL: Got it. Okay. Then maybe I  
25 wouldn't -- this is Member Hall -- maybe consider making the

1 marking language a little clearer, so it's clear that you're  
2 talking about physically marking the plate versus -- so that,  
3 in the future, somebody else doesn't have the same thought of  
4 how do I -- how do I mark this in the system?

5 MS. MORIATY: I think we use that same language  
6 repeatedly throughout this rule. Is that accurate; mark and  
7 destroy? Yeah. Okay. Well, we have a motion, so if the  
8 motion maker wants to accept that as a friendly amendment, we  
9 could do that, or we could -- oh, I'm sorry Mr. Donnelly.

10 MEMBER SRALLA: Member Sralla.

11 MEMBER DONNELLY: I've never done -- I've never done  
12 this before, but I would be curious to see what Member  
13 Bradburn's input is on this from law enforcement as far as  
14 avoided plate and such.

15 MEMBER BRADBURN: Member Bradburn.

16 MS. MORIATY: Member Bradburn.

17 MEMBER BRADBURN: I appreciate the question. I'm  
18 sitting back here thinking in the RTS system which is going to  
19 confuse you all, because right now a lot of cops are getting  
20 confused. Your customers are getting cited inappropriately.  
21 And I'm seeing where I can see both sides work. It's going to  
22 say -- or seven days, it's going to go away, and on the bottom  
23 of the return it's going to say voided, et cetera on that part.  
24 And on this part, mark and destroy; that seems legit. So I  
25 don't know if I'm giving you a good answer, because right now

1 there's so much confusion out there with the returns that  
2 honestly leaving it the way it is, it's probably the way to go  
3 on the return so that way someday the officers are going to get --  
4 to get it.

5 MS. MORIATY: Member Donnelly.

6 MEMBER DONNELLY: So to clarify, Member Bradburn,  
7 from a law enforcement perspective, the automatic voiding of  
8 the plate after seven days -- seven days after the issuing of a  
9 permanent plate is sufficient for law enforcement?

10 MEMBER BRADBURN: I would think so, because it  
11 automatically shows up on the return. So it's more of an  
12 education issue, so why add more to it?

13 MEMBER DONNELLY: Thank you.

14 MS. MORIATY: Member Hicks.

15 MEMBER SRALLA: Member Sralla. May I have the floor?

16 MS. MORIATY: Sure. Let me -- Member Hicks has had  
17 his hand up and then I'll go to you Member Sralla. I'm sorry.

18 MEMBER HICKS: Thank you. This is Member Hicks.  
19 Yeah. I think to stay in the spirit of this section, it's  
20 specifically related to the dealer's responsibility to mark and  
21 destroy, which we cannot do that if the plate's not present.  
22 So I think the "if present" simple language does clarify that  
23 so the dealer's liability is clearly defined. Thank you.

24 MS. MORIATY: Okay. Member Sralla.

25 MEMBER SRALLA: Yeah. The other side of that is,

1 instead of using the word "mark," can we use the word "deface"?

2 MS. MORIATY: Well, my concern on touching this mark  
3 language is that we've used it consistently in other places.  
4 So since we've used it consistently, I would like to continue  
5 to use it consistently, but staff can certainly take it under  
6 advisement that y'all feel like we need to educate people as to  
7 what "mark" means.

8 Member Donnelly.

9 MEMBER DONNELLY: As an alternative, I'm good with it  
10 as it is, but could you put the word "physically" before the  
11 word "mark," and would that be more palatable for the rest of  
12 the rules.

13 MS. MORIATY: Well, the problem is that, again, this  
14 language occurs throughout the rules, right, so if we're going  
15 to make a change here, we need to make it consistently  
16 throughout. Now, y'all could recommend a change here, but  
17 staff -- I just want to give y'all the context that this  
18 doesn't just happen in this place, it's happening throughout  
19 these rules.

20 MEMBER DONNELLY: So if we add the word physically  
21 before mark, you'd have to do that throughout the rules?

22 MS. MORIATY: We would need to be consistent so it  
23 didn't become more confusing.

24 MEMBER DONNELLY: Then never mind.

25 MEMBER HALL: This is Member Hall. Quick question:

1 is 215.158, which is referenced, is that the section that has  
2 the language in there about how to mark a plate? I don't have  
3 the language -- the rule language in front of me, so I'm just  
4 trying to recall, because if that's -- if that is the case,  
5 then I think that clarifies all of this.

6 MS. MORIATY: You read it out loud. Annette Quintero  
7 is going to answer your question because she just pulled it up.

8 MS. QUINTERO: Annette Quintero. So 215.158 (b),  
9 "When a dealer is required to void a previously signed buyer's  
10 license plate or other type of license plate from a vehicle,  
11 the dealer shall render a void plate unusable by permanently  
12 marking the front of the plate with the word "void" or a large  
13 "X" and within 10 days; destroy the plate, recycle the license  
14 plate using metal recycler, return the license plates to the  
15 department or county tax assessor-collector," would be the  
16 other language.

17 MS. MORIATY: So you're right. It's referencing  
18 215.158, which more fully explains the process. If we would  
19 like to remove "mark" here so it just says destroy in  
20 accordance with 215.158, I mean, it's making a real drafter  
21 shudder because she wants them to be consistent. But this is  
22 your motion, sir, so I defer.

23 MEMBER HALL: This is Member Hall. I'm good with it.  
24 Yeah. Understanding that 150 is the reference to how to mark  
25 those plates, I'm good. So I withdraw the comment about that,

1 about putting physically in it.

2 MS. MORIATY: Okay. Any other discussion on this  
3 item? This is again; we're just talking about subsection (e).

4 MEMBER DURANT: This is Member Durant.

5 MS. MORIATY: Member Durant.

6 MEMBER DURANT: Just to further discuss these two  
7 amendments, if we got to get these back, we're going to have to  
8 start charging security fees, \$200 unless you return your plate,  
9 or something. And imposing the requirement to get plates back  
10 that we don't have with the out-of-state buyer plate or the  
11 other plates just seems like an undue burden at this point, and  
12 that's why I'm pushing this amendment.

13 MS. MORIATY: Thank you, sir. Any other discussion  
14 before I call roll? Okay. I'm going to do it.

15 Member Blassingame?

16 (No response)

17 MS. MORIATY: Member Bradburn?

18 MEMBER BRADBURN: Member Bradburn, yes.

19 MS. MORIATY: Member Donnelly?

20 MEMBER DONNELLY: Member Donnelly, yes.

21 MS. MORIATY: Member Doran?

22 MEMBER DORAN: Member Doran, yes.

23 MS. MORIATY: Member Durant?

24 MEMBER DURANT: Member Durant, yes.

25 MS. MORIATY: Member Elam?

1 MEMBER ELAM: Elam is a, yes.

2 MS. MORIATY: Member Ferguson?

3 MEMBER FERGUSON: Member Ferguson, yes.

4 MS. MORIATY: Member Garza?

5 MEMBER GARZA: Member Garza is a, yes.

6 MS. MORIATY: Member Hall?

7 MEMBER HALL: Member Hall, yes.

8 MS. MORIATY: Member Hayter?

9 MEMBER HAYTER: Member Hayter, yes.

10 MS. MORIATY: Member Hicks?

11 MEMBER HICKS: Member Hicks, yes.

12 MS. MORIATY: Member Murphy?

13 MEMBER MURPHY: Member Murphy, yes.

14 MS. MORIATY: Member Olah?

15 MEMBER OLAH: Member Olah, yes.

16 MS. MORIATY: Member Provost?

17 (No response)

18 MS. MORIATY: Member Schnelle?

19 MEMBER SCHNELLE: Member Schnelle, yes.

20 MS. MORIATY: Member Sims?

21 (No response)

22 MS. MORIATY: Member Sralla?

23 MEMBER SRALLA: Member Sralla, yes.

24 MS. MORIATY: Member Stark?

25 MEMBER STARK: Member Stark, yes.

1 MS. MORIATY: Member Sullivan?

2 MEMBER SULLIVAN: Member Sullivan, yes.

3 MS. MORIATY: Member Thomas?

4 (No response)

5 MS. MORIATY: It is unanimous for all present, so  
6 that recommendation passes. Okay. Let me remember where we  
7 were. We were on -- we were on 215.153.

8 MEMBER GARZA: Member Garza.

9 MS. MORIATY: Yes, Member Garza.

10 MEMBER GARZA: On in that same section, subsection  
11 (d), there was some -- we had some earlier discussion about the  
12 seven days, and I didn't want to zoom past that unless we  
13 wanted -- it sounded like there was some desire to potentially  
14 lengthen that time, and the length of time came up in other  
15 discussions around this -- around this provision. I didn't  
16 want us to zoom past it. And if other people had thoughts or  
17 opinions on that subsection.

18 MS. MORIATY: Is there a member --

19 MEMBER HALL: This is Member Hall.

20 MS. MORIATY: Oh, Member Hall.

21 MEMBER HALL: Yeah, I'd like to make a motion for  
22 staff to consider extending the 7 days to at least 10 business  
23 days or longer.

24 MEMBER GARZA: And I'd second that motion.

25 MS. MORIATY: Well, why don't we just make it an

1 official request unless, staff, you want to accept that or you  
2 want time to think on it?

3 (No audible response)

4 MS. MORIATY: Okay. So I'm just going to make it an  
5 official motion to make that change. And I'm going to show it  
6 here as track changes so that we can all think on it. Okay.  
7 So we're looking at subsection (d) now, and we are changing 7  
8 to 10. So the motion would be to replace 7 with 10 in  
9 subsection (d). And I believe we had a second from Member  
10 Garza.

11 MEMBER GARZA: You had a second from Member Garza. I  
12 also think Member Hall said 10 business days.

13 MS. MORIATY: Oh, I'm sorry, Member Hall.

14 MEMBER GARZA: But I may not -- I may have missed --  
15 he can speak for himself.

16 MEMBER HALL: This is Member Hall. That's correct,  
17 10 business days.

18 MS. MORIATY: Okay. Is there any discussion on this  
19 item or anyone on staff who wants to weigh in?

20 MEMBER GARZA: I mean, is there -- because I raised  
21 the question earlier, is there an issue with business days? Is  
22 that -- you don't like it, you know, not common --

23 MS. THOMPSON: Corrie Thompson, Director of the  
24 Enforcement Division. No issue with business days per se in  
25 terms of counting, but we have made an effort over the past

1 year or so, for consistency's sake, to move away from the use  
2 of business days, and we're using calendar days.

3 MEMBER GARZA: Okay. Then I would offer a  
4 suggestion, if you would, that maybe it's -- instead of 10 days,  
5 it's 12 days or 14 days.

6 MS. MORIATY: Member Hall, would you accept that as a  
7 friendly amendment or want to clarify?

8 MEMBER HALL: Yeah, I would go with 14 calendar days  
9 then, if not 10 business days.

10 MEMBER GARZA: There we go. We'll get there.

11 MS. MORIATY: Okay.

12 MEMBER GARZA: We'll get there. And I'd just like to  
13 say as a consumer in this industry, I think 14 is a reasonable  
14 and rational amount of time, and 7 seems really fast to be able  
15 to make that turnaround in many circumstances.

16 MS. MORIATY: Okay. So to clarify the motion that is  
17 on the table, it is to -- in subsection (d), we are changing 7  
18 to 14. Member Garza, does your second still change -- still  
19 stand? I'm sorry.

20 MEMBER GARZA: Yes, it still stands, yes.

21 MS. MORIATY: Okay. Okay. Do we have any discussion  
22 on this? I don't see on my screen right now. Okay. I don't  
23 see anybody's hand up, so I'm going to call the question.

24 Member Blassingame?

25 (No response)

1 MS. MORIATY: Member Bradburn?

2 MEMBER BRADBURN: Member Bradburn, yes.

3 MS. MORIATY: Member Donnelly?

4 MEMBER DONNELLY: Member Donnelly, yes.

5 MS. MORIATY: Member Doran?

6 MEMBER DORAN: Member Doran, yes.

7 MS. MORIATY: Member Durant?

8 MEMBER DURANT: Member Durant, yes.

9 MS. MORIATY: Member Elam?

10 MEMBER ELAM: Elam is a, yes.

11 MS. MORIATY: Member Ferguson?

12 MEMBER FERGUSON: Member Ferguson, yes.

13 MS. MORIATY: Member Garza?

14 MEMBER GARZA: Garza is a, yes.

15 MS. MORIATY: Member Hall?

16 MEMBER HALL: Member Hall, yes.

17 MS. MORIATY: Member Hayter?

18 MEMBER HAYTER: Member Hayter, yes.

19 MS. MORIATY: Member Hicks? Member Hicks, were

20 you --

21 MEMBER HICKS: Sorry, I was on mute. Member Hicks,

22 yes. Sorry.

23 MS. MORIATY: Member Murphy?

24 MEMBER MURPHY: Member Murphy, yes.

25 MS. MORIATY: Member Olah?

1 MEMBER OLAH: Member Olah, yes.

2 MS. MORIATY: Member Provost?

3 (No response)

4 MS. MORIATY: Member Schnelle?

5 MEMBER SCHNELLE: Member Schnelle, yes.

6 MS. MORIATY: Member Sims?

7 (No response)

8 MS. MORIATY: Member Sralla?

9 MEMBER SRALLA: Member Sralla, yes.

10 MS. MORIATY: Member Stark?

11 MEMBER STARK: Member Stark is a, yes.

12 MS. MORIATY: Member Sullivan?

13 MEMBER SULLIVAN: Member Sullivan, yes.

14 MS. MORIATY: And Member Thomas?

15 (No response)

16 MS. MORIATY: It is unanimous. So that  
17 recommendation passes as well. Okay. So any other suggestions  
18 on proposed new 215.153?

19 MEMBER DONNELLY: Member Donnelly.

20 MS. MORIATY: Member Donnelly.

21 MEMBER DONNELLY: I can make the motion if you want,  
22 but do you feel like it would be necessary to say something  
23 like, dealer will need to monitor provisional plate inventory  
24 and order additional plates as needed at the end of this. And  
25 the reason why I refer to that is the tax office assigning the

1 plate to their -- the customer to the permanent plate, I can  
2 see where a dealer might think, okay, well, they'll know that  
3 that I used that plate, so they'll send me more.

4 MS. MORIATY: What do you all think? Do we have  
5 existing rules that already require them to do that?

6 MS. QUINTERO: Annette Quintero, VTR Director. We  
7 like -- I cannot think of specifically the rule that we have,  
8 but we do have rule language that provides guidance to the  
9 dealers for ordering their inventory allocation and when they  
10 can order, and how much of their allocation they have to  
11 utilize before depletion and before they're able to order. So  
12 if we were to make that change, it would probably be more  
13 appropriate there, but it's pretty clear that if you -- once  
14 you get to 50 percent of your inventory, you can order again.

15 MEMBER DONNELLY: Member Donnelly. Yes, it's clear.  
16 It just I'm getting -- I get the calls; I turn around and  
17 contact you all in this scenario. So I just wanted to know if  
18 it'd be appropriate to put it in there, but if you don't think  
19 it's necessary.

20 MS. MORIATY: If you'd be comfortable with it, sir,  
21 staff is willing to look at the other rule and see if we feel  
22 like it's covered, and if it's not, try to address it further.  
23 Would that be sufficient, or do you -- would you feel like a  
24 motion would be more appropriate?

25 MEMBER DONNELLY: That would be sufficient, I guess.

1 MS. MORIATY: Okay. Any other suggestions or motions  
2 on this?

3 MEMBER HICKS: This is Member Hicks.

4 MS. MORIATY: Member Hicks.

5 MEMBER HICKS: Yeah. Just a follow-up to Member  
6 Donnelly's comments. I mean, I think we're all learning at the  
7 dealer level that, you know, plate management is our  
8 responsibility now. So anything that would have been  
9 automatically replenished is not a system we can rely on. So  
10 we're all -- we're all having to take full responsibility for  
11 that. The issue is the allocation of plates and the speed by  
12 which those allocations can be replenished. But that's --  
13 that's a discussion for another time. Thank you.

14 MS. MORIATY: Thank you, sir. Did you have a --  
15 Member Hicks, do you have a follow-up comment or is that it?

16 MEMBER HICKS: No, ma'am. I'm trying to take that  
17 hand down. Sorry.

18 MS. MORIATY: Okay. Okay. Any other members with  
19 anything on 153? Okay. Terrific. Then I will try to move on  
20 to 159. Let me get down there.

21 MEMBER HALL: This is Member Hall when you get down  
22 there.

23 MS. MORIATY: Okay. Here we are. We are down there.  
24 Member Hall.

25 MEMBER HALL: On the location -- sorry, I'm trying to

1 scroll there myself, on the location requirements, so I believe  
2 that's page -- so page 54, subsection -- let's see, that's (b)  
3 (4), page -- blue page 54. Okay. Yep. Right there. I'm not  
4 quite sure how you're going to want to word this, but I would  
5 make a motion to remove the references to business hours being  
6 posted and the place being accessible to the public and instead  
7 focus the language on that DMV staff shall have access during a  
8 certain set of hours.

9 So I don't know if you want, like, us to, like,  
10 hammer out specific language or if we can just make a motion  
11 for staff to go back and review that with the intent being  
12 removing any sort of implication that the location where plates  
13 are stored have to be open to the public, but rather have to be  
14 accessible to the agency during reasonable business hours.

15 MS. MORIATY: Okay. How about if I try to draft  
16 languages so we're all on the same page right now. So it would  
17 be something like -- sure, Member Donnelly.

18 MEMBER DONNELLY: Member Donnelly. I would -- I like  
19 how you wiped out everything up to, "the owner," possibly  
20 replace it with location must be accessible to DMV personnel  
21 during business hours.

22 MS. MORIATY: Well, we don't have business hours  
23 anymore, right? Because we just said it's not really business  
24 location. So accessible to Department --

25 MEMBER DONNELLY: No, no, not there. After -- right

1 after four.

2 MS. MORIATY: Right. Well, this is all -- the red  
3 part is gone now --

4 MEMBER DONNELLY: Okay. Got you.

5 MS. MORIATY: -- so I'm trying to add it --

6 MEMBER DONNELLY: Got you.

7 MS. MORIATY: -- the Department inspectors -- what do  
8 you call yourself, something --

9 (Inaudible response)

10 MS. MORIATY: -- Department staff, okay, for -- but  
11 we need -- we need you all to inform us too, right? That's the  
12 other half of this. Because we would need to know what four  
13 hours of the day you're picking for us to show up in.

14 MEMBER DONNELLY: Isn't business hours kind of a  
15 universal term, though?

16 MS. MORIATY: Well, you're allowed to assign them.  
17 You're allowed to declare what your business hours are as a  
18 dealer. That's one of your fun powers.

19 MEMBER DONNELLY: If the dealer declared their  
20 business hours elsewhere, wouldn't business hours work for DMV  
21 personnel?

22 MEMBER HALL: This is Member Hall. Could you  
23 structure it in a way to say, hey, this location where you're  
24 storing plates has to be accessible during the same time period  
25 as your licensed business hours for which those plates are

1 being stored at that location? Right so, if your hours are,  
2 you know, 6:00 a.m. to 3:00 p.m., then the expectation is if  
3 you're storing plates at that other location, it needs to be  
4 accessible to the Department between, you know, 6:00 a.m. and  
5 3:00 p.m. And if it's, you know, 12:00 to 9:00, then, you  
6 know, that's the expectation. That way it's not -- you're not  
7 getting a differentiation.

8 Now, that's just my thought. I don't know how others  
9 that are in the dealer space would feel if maybe it makes more  
10 sense to have specific reported hours that differ from their  
11 license location, but that's just kind of my first crack at it.

12 MEMBER DONNELLY: Member Donnelly.

13 MS. MORIATY: Yes, sir, Member Donnelly.

14 MEMBER DONNELLY: How about during DMV business  
15 hours?

16 MS. MORIATY: I don't think you all would -- well, so  
17 when our inspectors are on the road, they -- the point of  
18 their -- the flexibility of them being on the road is that they  
19 get to come to you and cater to your business's hours. The  
20 same hours as, "The retail dealer's licensed" -- I guess I  
21 should say, "The posted business hours for the retail dealer's  
22 licensed location." Does that sound right?

23 MEMBER HALL: Yeah, I think you could probably kill,  
24 "for the purposes of processing license plates," because  
25 structurally, staff doesn't need access to the location for

1 processing plates; they need access to location to audit the  
2 plates.

3 MS. THOMPSON: Yeah. Corrie Thompson, Director of  
4 the Enforcement Division. Just for consideration, we want to  
5 make sure too that we're not imposing an unduly burdensome  
6 requirement on a compliance specialist who would be showing up,  
7 potentially unannounced, having to then call -- locate, and  
8 call the licensed premise where sales are conducted in order to  
9 see what the business hours are so that they can get access to  
10 the plate storage location.

11 MEMBER DORAN: This is Member Doran. May I just ask  
12 a question?

13 MS. MORIATY: Sure.

14 MEMBER DORAN: And this is really directed to the  
15 dealers on the committee. I'm trying to understand in what  
16 coordination the storage facility is going to be manned,  
17 staffed, versus your primary license location? Because I'm  
18 thinking, you know, some dealers are open till 9 o'clock at  
19 night on a Saturday. And, you know, are we really going to  
20 have, you know, Joe Bob at the storage site on a Saturday  
21 night, you know, just sitting there, and then you have to pay  
22 that person.

23 So I don't know. I guess I'm just listening to all  
24 this thinking maybe we do want to just dial this into a very  
25 set range of times if it's not handcuffing you all as an agency

1 from an enforcement standpoint, because it does sound like it  
2 could be burdensome for some business's of a certain size to  
3 have to have somebody, a staff member at that facility at the  
4 same time as their primary business.

5 MS. THOMPSON: Absolutely. Corrie Thompson, Director  
6 of Enforcement. And I would like to say that I have heard from  
7 dealers too that if they have title clerks at locations where  
8 they want to be doing additional processing outside of just  
9 doing plate work, like linking plate workup to processing  
10 transactions, they might have them there at very different  
11 hours. I don't have issue with the language as written where  
12 in that location has business hours that works for current  
13 license location requirements where we don't necessarily have  
14 those business hours stored for staff to see in advance in the  
15 system. But we know the location we're going to, the business  
16 hours are readily visible to us when we get onsite at that  
17 location, so that if we do need to return at a different time,  
18 we have that awareness from just approaching that location.

19 MEMBER SRALLA: Member Sralla.

20 MS. MORIATTY: Yes, Member Sralla.

21 MEMBER SRALLA: Could we -- given what Ms. Thompson  
22 just said, can we make it to where those hours must be posted  
23 on the exterior of that store -- that storage facility, so  
24 therefore, the people could -- the inspectors would know if  
25 they showed up and it was locked or not available, then they

1 would know that posted hours?

2 MS. MORIATY: Yes, sir. So I've got some draft  
3 language on the screen for y'all's consideration. "The  
4 location shall be accessible to department staff at least four  
5 days per week for at least four consecutive hours per day, and  
6 may not be available to department staff solely by appointment.  
7 The accessible hours must be posted at the main entrance in a  
8 manner and place accessible to department staff." Does that  
9 seem to capture that concept?

10 MEMBER SRALLA: It does for me. Thank you.

11 MS. MORIATY: Okay. I don't remember who was  
12 originally making this motion.

13 MEMBER HALL: This is Member Hall.

14 MS. MORIATY: Is it Member Hall?

15 MEMBER HALL: Yes.

16 MS. MORIATY: Okay. Member Hall, does this seem like  
17 a motion -- is this your motion I've got on the screen here?  
18 Does that sound okay to you?

19 MEMBER HALL: I mean, I'm not going to not make the  
20 motion. Just kind of further conversation; my only concern  
21 with posting hours is if it's not a location that's open to the  
22 public, posting hours might give the public the impression that  
23 it's open. To me, it's -- I don't know, like, it almost seems  
24 to make more sense that, you know, either the Department's  
25 notified or it's related to the license. The Department staff

1 should have access to the license information. That seems less  
2 inconvenient than potentially confusing a customer that might  
3 Google search a location. I mean, you can Google search  
4 Carvana and you're going to get the locations that are not open  
5 to the public. Last thing you want to do is have somebody show  
6 up at 9 p.m., see business hours, show back up the next day at  
7 8 o'clock and then realize oh this location isn't open to the  
8 public.

9 I guess my question -- maybe it's a question for  
10 staff, in terms of the storage locations, are there hour  
11 posting requirements for the storage locations that are not  
12 accessible to the public? Like, how does enforcement staff  
13 handle going out to those locations?

14 MS. THOMPSON: Corrie Thompson, Director of the  
15 Enforcement Division. I don't have that rule regarding storage  
16 lots present before me, but I do not believe that there are any  
17 specific hour requirements that pertain to that location. If  
18 we were to need access to a storage lot, we would most likely  
19 work that out with a dealer. That's different from us showing  
20 up unannounced to conduct a premises inspection.

21 MEMBER HALL: Okay. That's fine.

22 MS. MORIATY: And to clarify, you would want to be  
23 able to show up unannounced to --

24 MEMBER HALL: Yeah.

25 MS. MORIATY: -- inspect plate storage, right?

1                   MS. THOMPSON: Yes, and I was on the matter that  
2 Member Hall has posed. I was looking to see if there was any  
3 specific signage requirements. I don't think that I have seen  
4 that pertaining to this location. And so, if there is not  
5 dealership signage that is required as part of this, then I  
6 would pose the question as to how public would have awareness  
7 about it being a potential location they would want to access  
8 in connection with the dealership.

9                   MS. MORIATY: Member Hall, this is your motion  
10 however, so if you want to cut that last sentence and make the  
11 motion without it, you know, it's your motion. What would you  
12 like to do, sir?

13                  MEMBER HALL: I'll leave the motion with the language  
14 that you have up there. I think it's better to be deferential  
15 to staff needs and ensure plates are being handled properly  
16 than the latter point.

17                  MS. MORIATY: Okay. Okay. So you are making this  
18 motion that's on the screen as subsection (4)?

19                  MEMBER HALL: Yes. Do you want me to, like, formally  
20 make it and read it out to you?

21                  MS. MORIATY: No, I can read it out one more time as  
22 it stands.

23                  MEMBER HALL: Okay.

24                  MS. MORIATY: "The location shall be accessible to  
25 department staff at least four days per week for at least four

1 consecutive hours per day, and may not be available to  
2 department staff solely by appointment. The accessible hours  
3 must be posted at the main entrance in a manner and place  
4 accessible to department staff." Is there a second to that  
5 motion?

6 MEMBER DONNELLY: Member Donnelly. Second.

7 MS. MORIATY: Member Donnelly. Do we have any  
8 discussion on that motion?

9 MEMBER SULLIVAN: Yes, ma'am. Member Sullivan.

10 MS. MORIATY: Member Sullivan?

11 MEMBER SULLIVAN: Excuse me. Two things. One -- and  
12 forgive me for asking it this way, but what are we really  
13 trying to solve? The Advisory Committee is supposed to offer  
14 reasonable recommendations to the agency that they can then  
15 send to the Board. So I'm lost in what the real problem here  
16 is and what this amendment -- motion, excuse me, is trying to  
17 solve.

18 Second, from a -- I might not get this right. I'm  
19 not being passive aggressive here. Second: if a dealership has  
20 a location where plates are stored, do you really want the  
21 hours on the door for people that are not -- that don't have  
22 good intentions where you have something valuable. Does it  
23 make sense? In other words, if it's 8:00 to 5:00, okay, well  
24 then if I want to access these plates through the back door,  
25 I'll come by later. I think they're maybe, you know, we have a

1 law enforcement rep on the committee if he's -- if he's  
2 listening to this vibrant discussion, he could offer his  
3 perspective on --

4 MS. MORIATY: Member Bradburn, do you have thoughts  
5 on this?

6 MEMBER BRADBURN: Member Bradburn. Yes, I've been  
7 listening. I see both sides of the business hours. But having  
8 worked at DMV and now I go to dealers in law enforcement, for  
9 them to do unannounced inspection, they need to know the hours.  
10 They shouldn't have to look into a computer. Computers fail  
11 when you're out in the field.

12 As far as the breaking into that, you can go any day  
13 of the week to these little rinky-dink dealers; no disrespect  
14 to any dealers in here, but there's some really, really bad  
15 areas where the dealers don't keep anything onsite, whether  
16 it's right or wrong because they know they're going to get  
17 broken into. So having the hours on the door, I don't think  
18 that's going to hurt anything, personally.

19 MEMBER SULLIVAN: Thank you.

20 MS. MORIATY: Any other discussion on this motion?

21 Member Doran.

22 MEMBER DORAN: This is Member Doran. Just another  
23 question for the dealers on the committee. Is anyone  
24 contemplating utilizing the storage facility as a place for a  
25 customer to come and return their plate and pick up their new

1 plate? Because that could change this analysis a little bit.  
2 I know I've been operating under the presumption that this is  
3 not going to be a customer facing facility, hands down, full  
4 stop, period. But maybe there's a geographic convenience  
5 aspect that comes into play, given the dealer's footprint. I  
6 could see this particularly relevant, maybe in the RV context  
7 where, you know, somebody bought a vehicle in Dallas and they  
8 live in Houston, and there's a storage facility in Waco or  
9 whatnot. So just throwing it out there before we pass the die  
10 here. Thank you.

11 MS. MORIATY: Any other discussion?

12 MEMBER HICKS: Yeah. This is Member Hicks.

13 MS. MORIATY: Member Hicks.

14 MEMBER HICKS: I think we've kind of gone down a  
15 rabbit hole here, I think. Just to provide some dealer  
16 perspective, realizing most individual dealers are going to  
17 store their plates in their dealership, right? They're  
18 individually owned. That's how they operate. I'm not sure how  
19 the publics operate. Maybe the committee public held members  
20 could speak to that, but from a dealership group like ours, one  
21 of our locations, one of our established business location is  
22 where we're going to warehouse all of the plates for our five  
23 stores. They'll be passed out to each store as needed. So I  
24 think that is an established business with business hours. The  
25 accounting department is where the plates are stored; the title

1 department. So those hours are a little more restricted than  
2 our typical close at 7:00 or 8:00 p.m. at night.

3 So I think most dealers will have them onsite. This  
4 is those dealers that choose to elect as you mentioned earlier,  
5 this is optional for dealers to choose a centralized location  
6 which I think is valuable. But that's going to vary dealer by  
7 dealer, and I think most of us will store them in one of our  
8 existing dealer locations, not off-site or in some other. And  
9 I know our Member Hall is representing Carvana, so he's got  
10 different challenges inside, managing logistics that he has  
11 versus those of us in the regular franchised environment.

12 Thank you.

13 MS. MORIATY: Thank you, sir. Any other comments?  
14 Okay. I believe we have a motion and a second on this, so we  
15 are ready to call the question.

16 Member Blassingame?

17 (No response)

18 MS. MORIATY: Member Bradburn?

19 MEMBER BRADBURN: Member Bradburn, yes.

20 MS. MORIATY: Member Donnelly?

21 MEMBER DONNELLY: Member Donnelly, yes.

22 MS. MORIATY: Member Doran?

23 MEMBER DORAN: Member Doran, yes.

24 MS. MORIATY: Member Durant?

25 MEMBER DURANT: Member Durant, yes.

1 MS. MORIATY: Member Elam?  
2 (No response)  
3 MS. MORIATY: Member Elam?  
4 MEMBER ELAM: Elam is a, yes.  
5 MS. MORIATY: Oh, sorry. Thank you.  
6 Member Ferguson?  
7 MEMBER FERGUSON: Member Ferguson, yes.  
8 MS. MORIATY: Member Garza?  
9 MEMBER GARZA: Garza is a, yes.  
10 MS. MORIATY: Member Hall?  
11 MEMBER HALL: Member Hall, yes.  
12 MS. MORIATY: Member Hayter?  
13 MEMBER HAYTER: Member Hayter, yes.  
14 MS. MORIATY: Member Hicks?  
15 MEMBER HICKS: Member Hicks, yes.  
16 MS. MORIATY: Member Murphy?  
17 (No response)  
18 MS. MORIATY: Member Murphy?  
19 (No response)  
20 MS. MORIATY: Member Olah?  
21 (No response)  
22 MS. MORIATY: Member Provost?  
23 (No response)  
24 MS. MORIATY: Member Schnelle?  
25 MEMBER SCHNELLE: Member Schnelle, yes.

1 MS. MORIATY: Member Sims?

2 (No response)

3 MS. MORIATY: Member Sralla?

4 MEMBER SRALLA: Member Sralla, yes.

5 MS. MORIATY: Member Stark?

6 MEMBER STARK: Member Stark, yes.

7 MS. MORIATY: Member Sullivan?

8 MEMBER SULLIVAN: Member Sullivan, yes.

9 MS. MORIATY: Thank you. So it's unanimous for those  
10 who voted. Oh, Member Thomas. He hasn't been here. I'm  
11 sorry.

12 Okay. Anyway, that one passed. It's unanimous. So  
13 I believe -- are there any other motions on -- what number are  
14 we on; 159? Hearing none, I am going to move on to the rest of  
15 our agenda. Okay. Let me stop sharing that since we are  
16 moving on.

17 Next up is agenda item number 9. So agenda item  
18 number 9 are the potential proposed new rules for 215.104, 140,  
19 145 and New 215.107. So I will pass it back to Monique  
20 Johnston, our Motor Vehicle Division Director.

21 MS. JOHNSTON: Thank you, Laura. Monique Johnston,  
22 Director of the Motor Vehicle Division. So this agenda item  
23 covers 215.104, which involves adding that a dealer must notify  
24 the Department through a change, which would be an amendment  
25 application in management due to bankruptcy. And this includes

1 naming a receiver who's been appointed as part of that  
2 bankruptcy.

3 215.107 is a new section and it discusses the sale  
4 and transfer of a line make between manufacturers or  
5 distributors. And 215.140, under little (a) adds language to  
6 allow for signage to include permanently etched or mounted  
7 signs on a glass window or door. It also has added the  
8 language about centralized storage being an option under  
9 (a)(5)(f), and then under (a)(11). It removes the barrier  
10 requirements for display areas and allows permanent signage  
11 identifying the area as a reserve display area for the dealer's  
12 inventory to be sufficient. And then 215.145 also addresses  
13 the notifying the department of change and management due to  
14 bankruptcy again.

15 And I have one specific question we wanted to ask the  
16 committee. Does the new potential rule 215.107 address all of  
17 the key issues affecting a Texas dealer or consumer when a  
18 manufacturer or distributor transfers an existing line make to  
19 a new manufacturer or distributor? So that's our main question  
20 for you today under this agenda item.

21 MEMBER DORAN: This is Board Member Doran. Can I ask  
22 a couple more questions, please?

23 MS. MORIATY: Member Doran, yes.

24 MEMBER DORAN: So can you all lay out a little bit  
25 about the context for 107? Like what exactly is -- what are

1 some of these examples are of manufacturers and distributors  
2 that are essentially selling or transferring line makes?

3 MS. JOHNSTON: Yes. Monique Johnston, Director of  
4 the Motor Vehicle Division. So what we're seeing or have been  
5 seeing are cases where a manufacturer might sell to another  
6 manufacturer and then the line makes it their manufacturing get  
7 transferred to them. And there's been questions whether the --  
8 how the warranty is going to go; is that manufacturer going to  
9 take on the warranty for the customers?

10 So specifically in the RV industry, for instance, you  
11 know, this happens, there's many different kind of line makes,  
12 but you have -- might have a manufacturer who went bankrupt and  
13 is being assumed by another manufacturer or sold, and who now  
14 takes on those line makes and the responsibility of the  
15 warranty of those line makes if they're maybe even not going to  
16 manufacture them anymore, or, you know, who's responsible for  
17 ensuring that the franchise dealers have that transfer made.

18 So there's been some instances where we have seen  
19 this, and so it has come up. So we are addressing it now  
20 because we want to make sure that the public is covered when  
21 they do purchase something from a dealer, and then ultimately,  
22 that manufacturer gets sold to another manufacturer and making  
23 sure that the warranty and the responsibilities of that  
24 manufacturer are still there.

25 MEMBER GARZA: Or not?

1 MS. MORIATTY: Member Garza.

2 MS. JOHNSTON: Correct, yes.

3 MEMBER GARZA: Sorry. Member Garza. Or not?

4 MS. JOHNSTON: Or not, correct.

5 MEMBER GARZA: You're right, so. Okay.

6 MEMBER HICKS: Yeah. This is Member Hicks.

7 MS. MORIATTY: Member Hicks.

8 MEMBER HICKS: I guess the question is, your process  
9 for approving a dealers General Distinguishing Number includes  
10 a form that's required by the manufacture to submit on behalf  
11 of that dealer basically acknowledging they have right to  
12 represent and sell their products, correct?

13 MS. JOHNSTON: That is correct.

14 MEMBER HICKS: Okay. So I'm not clear why this --  
15 which is referencing Franchise Dealer License would do anything  
16 to either clarify that or make that an additional requirement.  
17 I get it if a manufacturer files bankruptcy, but then that  
18 dealer would have to reapply either the new dealer holding the  
19 franchise license for the manufacturer that purchased the  
20 assets and now defunct manufacturer.

21 But you know, I look at everything from a dealer's  
22 perspective. I just have a hard time seeing how this -- really  
23 sounds like an OEM manufacturer conversation of liquidity and  
24 bankruptcy and insolvency that's trickling down to a franchise  
25 dealer's license. So I'm a little unclear about what the

1 endgame -- what are we trying to accomplish.

2 MS. JOHNSTON: So Monique Johnston, Director of the  
3 Motor Vehicle Division. So in one instance, you know, the  
4 manufacturer, yes, does have the responsibility. The new  
5 manufacturer does have the responsibility to submit an  
6 application to add that line make to their line. So if it's  
7 something that they've acquired from another manufacturer, they  
8 do have that. It is the manufacturer's responsibility.

9 However, if the franchise dealer -- if that  
10 manufacturer that they had, you know, associated with their  
11 license is no longer -- no longer manufacturing that line make,  
12 and now it's moved over to that manufacturer/dealer, this is  
13 where we would collect the information from the manufacturer at  
14 the time that they've notified us that the changes happen. And  
15 then they have to do a list of franchise dealers because it's  
16 up to that manufacturer and those franchise dealers to  
17 determine if they're going to have that relationship now with  
18 the new manufacturer.

19 And so, that's the responsibility on kind of both  
20 sides of either the line make would fall off the franchise  
21 dealer's license if they're no longer going to have that  
22 relationship with the new manufacturer. Or the new  
23 manufacturer can say, yes, you know, I'm going to provide the  
24 documentation showing, and it would go through the amendment  
25 process. But this is kind of ensuring the responsibilities

1 under the manufacturer requirements outlined in, I believe,  
2 it's 23 --

3 MEMBER HICKS: 013.56?

4 MS. JOHNSTON: Yeah. Yes, correct.

5 MEMBER HICKS: Thank you. This is Member Hicks. But  
6 that's specifically -- that section applies to the  
7 manufacturers, correct?

8 MS. JOHNSTON: Yes, that's correct.

9 MEMBER HICKS: The application has got to -- yeah,  
10 I'm unclear about the role of the franchise dealer and all of  
11 what you're just referenced. I get it. If the only example --  
12 and I'll date myself here, Isuzu no longer sells and delivers  
13 vehicles in the state of Texas, but there were Isuzu franchise  
14 dealers in Texas at one time. So at some point, Isuzu stopped  
15 building vehicles, and those dealers no longer had a franchise  
16 to represent. I don't know that, you know, what bearing that  
17 had on the dealer other than they lost the ability to be an  
18 authorized dealer to hold a franchise for Isuzu.

19 So I'm just not sure -- I look at this thing; what's  
20 the role of the franchise dealer in this? We're going to  
21 simply reapply with the new manufacturer and ask for an  
22 approval as a dealer to represent them with a franchise in  
23 Texas. And I'm not sure if you need language in this section  
24 to give you enforcement for that or put requirements that a  
25 dealer has to do things within a certain time frame once that

1 notice is given to them that they are no -- the manufacturer  
2 they're representing is no longer going to be manufacturing  
3 vehicles in Texas or to be sold in Texas. Thank you.

4 MS. MORIATY: Any other members have anything to add  
5 here?

6 MS. JOHNSTON: And just to point, this is really  
7 directed more at the manufacturer/distributor requirements of  
8 what they're required to do. Should they acquire another  
9 manufacturer or distributor or in that -- and who is -- and  
10 they're making sure that the responsibilities of the  
11 manufacturer and distributor, are they still there for the  
12 warranty on that?

13 So in most cases, in something like a -- I would say  
14 in like a Ford or a Toyota, you know, you're not going to  
15 necessarily have that situation. It's kind of more -- and when  
16 there's multiple different manufacturers of different products  
17 and one might go under and they've acquired it, but they're --  
18 they might say, no, we're not going to take that line make or  
19 we're going to take -- yes, we're going to take this line make.  
20 And how those warranties, you know, whose responsibility is it  
21 now for the warranties that are left on the products that that  
22 manufacturer did.

23 So it really doesn't necessarily put any  
24 responsibility in the -- the franchise dealer's process is  
25 still the same. This is more of the manufacturer being

1 addressed -- addressing who can -- who's going to be able to  
2 sell their product, who's going to be managing the -- handling  
3 the warranties and things like that. Just because that's what  
4 we've seen in the manufacturer world recently; we've had some  
5 cases.

6 And this is kind of to cover the consumer if, you  
7 know, they know where to go if that manufacturer is no longer  
8 in existence, but someone might have acquired them because  
9 there are products that maybe only one manufacturer or only one  
10 distributor handle or produce. They might, you know, that  
11 there are cases like that. So it's -- I think in the  
12 situations we've seen, it doesn't necessarily always apply to,  
13 you know, the motor vehicle industry as much in the sense of  
14 car -- passenger cars and trucks and things like that. We've  
15 seen it more recently in the RV industry, power sports  
16 industry, things like that.

17 MEMBER HICKS: This is Member Hicks.

18 MS. MORIATY: Member Hicks.

19 MEMBER HICKS: Again, could I have you pull up page  
20 11, Section (c), subset (6).

21 MS. MORIATY: Sure.

22 MEMBER HICKS: Which specifically relates -- it's in  
23 the section, but it relates to the change of management  
24 control. And I'm -- I'm unclear. Is that referencing a change  
25 in management control at the dealer level?

1 MS. MORIATY: Zach, can you share my screen, please?

2 MEMBER HICKS: We can see it. This is Member Hicks.

3 MS. MORIATY: We're having technical difficulties.

4 There we go. Thank you. Okay. I'm sorry, sir. What page  
5 were you referencing? 11?

6 MEMBER HICKS: That's page 11, yeah. Line 9 at  
7 number 6.

8 MS. MORIATY: Got it.

9 MEMBER HICKS: Again, this is Member Hicks. The  
10 question is, is that change in management control relate --  
11 that referencing at the dealership level, or at the  
12 manufacturer level?

13 MS. MORIATY: Staff? Yes.

14 MS. QUINTERO: At the dealer level.

15 MEMBER HICKS: Okay. So I would ask, is there a  
16 definition of what management control is? Is that related to  
17 ownership? Is that related to a change in general manager? Is  
18 that related to a sales manager change? And how is that  
19 interpreted at the public dealer level and at the private  
20 dealer level?

21 MS. QUINTERO: We can look into adding some  
22 clarifying language to that to make it more clear. This is  
23 mainly to ensure that the person -- if there is a change in  
24 management control due to a bankruptcy, that we know who to  
25 contact, like, who enforcement can contact, who can be

1 contacted in regards to protest into the variety of other  
2 things because we have seen when there's been bankruptcy that  
3 there's a receiver name, but we're not aware of who that is.  
4 So certain notices go to the contact we have on file and then  
5 they're not received by the correct person due to that  
6 bankruptcy. So we can definitely add clarifying language to  
7 that to define that better. We can look into that.

8 MEMBER HICKS: Thank you. I think there's another  
9 reference -- this is Member Hicks again, sorry; with -- in  
10 section 215.145 unless we want to do the hop around again or  
11 you want to stay here?

12 MS. JOHNSTON: That's correct. It's in that section  
13 as well.

14 MEMBER HICKS: Yeah. So it'd be the same language  
15 and needing clarification for management control.

16 MS. JOHNSTON: Okay. Yes.

17 MEMBER HICKS: Thank you.

18 MS. JOHNSTON: Thank you.

19 MS. MORIATY: Member Sullivan.

20 MEMBER SULLIVAN: Yes, ma'am. Thank you. So earlier  
21 today, we talked about the consistency throughout rules for  
22 business hours and hours, and I understand that. I noticed in  
23 reviewing the materials over the last couple of days, the  
24 addition of bankruptcy and receiver which had not been listed  
25 before. Now we're talking about -- the discussion and not the

1 agency; the discussion is about manufacturers, and I'm going to  
2 ask this and forgive me if it's inappropriate, if it's not  
3 allowed, then just let me know. Is this an RV issue or is this  
4 a car issue? Because I can see where people would be confused,  
5 talking about distributors, manufacturers, multiple warranties.  
6 Well, when I hear multiple warranties, I'm thinking of the 58  
7 different manufacturers that supply parts to an RV. Is that  
8 what this is? Or is this Ford and Mustang or Genesis, Honda, I  
9 mean, Hyundai? I mean, can you give some layman background to  
10 this?

11 MS. JOHNSTON: It's not specifically. It's just --  
12 I guess it's kind of some situations that have come up in  
13 regards to, I guess the one example though -- I'm not going to  
14 name specifics, but there was a RV manufacturer that was  
15 filing -- was going into bankruptcy, and was bought out by  
16 another manufacturer. And there was questions that we had --  
17 there was some issues with who's going to honor the warranty  
18 for the RVs. And what about the remaining products with the  
19 franchise dealers? Who's responsible for buying those out?  
20 Because the manufacturer that went into bankruptcy is like, no,  
21 we're selling. We're going to bankruptcies. And now it's  
22 their problem, the problem of the new -- of the people who are  
23 buying them out. However, they were like, no, we're not making  
24 that line make anymore. So therefore, they didn't want to own  
25 the responsibility as well. So it's trying to resolve

1 situations like that. So that's one of the examples that  
2 specifically I can give you. I can't say it's not going to  
3 happen in other areas, but that's specifically what we've kind  
4 of seen.

5 MEMBER SULLIVAN: Right. May I be recognized again,  
6 please?

7 MS. MORIATY: Absolutely.

8 MEMBER SULLIVAN: Thank you. Then in my eyes, this  
9 is an RV example. I don't see the relationship with  
10 manufacturers and distributors for franchise auto dealers. And  
11 I think, in a way, I'm not speaking for Mr. Hicks, because we  
12 haven't spoken, but I think his concern may be the same; and  
13 that's that this is really murky on trying to apply this to  
14 franchise auto dealers. I just think it is. And if it could  
15 be broken out to apply to either non-franchise dealers --  
16 non-franchise dealers that within -- would that catch all the  
17 other industries?

18 MS. JOHNSTON: Monique Johnston, Motor Vehicle  
19 Director. The RV dealers are -- they do have a franchise  
20 dealers --

21 MEMBER SULLIVAN: Okay.

22 MS. JOHNSTON: -- that they send to. The  
23 manufacturers actually have franchised dealers that sell  
24 motorhomes and RVs.

25 MEMBER SULLIVAN: Yes, ma'am. Franchise automotive

1 dealers?

2 MS. JOHNSTON: So, I -- I don't know.

3 MEMBER SULLIVAN: Am I going down a rabbit hole?

4 MEMBER DORAN: May I?

5 MS. MORIATY: Member Doran.

6 MEMBER DORAN: Let me just jump in here and maybe I  
7 can -- so we're talking 215.104 with this additional language  
8 in (6), which is on page 11, that talks about change in  
9 management control due to a receiver being appointed because of  
10 the dealers filing bankruptcy, which is separate and apart  
11 from, I think, what Mr. Sullivan was talking about which  
12 pertains more towards the who's going to pick up essentially  
13 the responsibilities when there's a sale or transfer of a line  
14 make. So my thought, and I defer to you all, but in reading  
15 the language about management control due to a receiver or a  
16 dealer filing bankruptcy, I thought this was a Reagor-Dykes-  
17 driven kind of change, if -- if that makes sense.

18 MS. JOHNSTON: It does make sense. Yes.

19 MEMBER DORAN: Okay. But I mean, for the dealers on  
20 the call, that -- that'll probably make sense for them too.

21 MS. JOHNSTON: Okay. Yeah, for the bankruptcy, yes,  
22 it's to address situations like that. For 215.107, which I  
23 think is what you were discussing --

24 MEMBER DORAN: Yes.

25 MS. JOHNSTON: -- regarding the sale and transfer of

1 line make, that's specifically the example I was -- for the RV,  
2 yeah.

3 MEMBER DORAN: That's helpful. Thank you.

4 MS. JOHNSTON: Okay.

5 MEMBER DURANT: Member Durant.

6 MS. MORIATY: Member Durant.

7 MEMBER DURANT: This is probably my confusion about  
8 this one section we're looking at, but if a dealer is placed  
9 into a receivership, a court-ordered receivership, isn't the  
10 receiver the only one that can notify the Department of that,  
11 or is to do any type of change in the dealer's licensing?

12 MS. JOHNSTON: Monique Johnston, Director of Motor  
13 Vehicle Division. I'm not an expert on bankruptcy; I'll tell  
14 you that. I know that the receiver can make those changes when  
15 they send us, like -- we've had situations where there's been a  
16 bankruptcy and of course no one's responded because obviously,  
17 maybe the dealer just, you know, disappeared or has closed the  
18 doors, and the receiver then reaches out, you know, to us is  
19 how we found out there is a receiver. And they've then sent us  
20 the documentation. So if they did send something like that,  
21 then we would allow them to make those changes if we have the  
22 documentation to support that. Then they could make the  
23 changes in the -- I guess, in the role of the dealer.

24 MEMBER DURANT: Okay.

25 MS. MORIATY: As an agent?

1 MS. JOHNSTON: As an agent, yes, correct.

2 MEMBER DURANT: Okay. Thank you. I understood that  
3 the receiver stepped into the shoes of the dealer at that point  
4 and that the previous administration of the dealer may be  
5 completely barred from making this type of announcement.

6 MS. MORIATY: Well, requirements of the bankrupt  
7 party will still apply to whoever assumes their legal position,  
8 like a -- like a receiver. So it should still apply to the  
9 receiver.

10 MEMBER DURANT: Very good.

11 MEMBER FERGUSON: Member Ferguson.

12 MS. MORIATY: Member Ferguson.

13 MEMBER FERGUSON: Member Ferguson with a question,  
14 yes.

15 MS. MORIATY: Yes sir.

16 MEMBER FERGUSON: On the changing in management  
17 control there's a side of this -- I think we need -- I think  
18 you guys need to know who -- who's running the dealership so if  
19 there's a question, you can deal with them. Let me say that  
20 straight up. But when you have a receiver appointed, that may  
21 not be that because there's a bankruptcy. It may simply be a  
22 dealer that's not paying their bills or something else. And a  
23 state district judge appoints a receiver for the dealership.  
24 Then you get into the question, does the receiver even know  
25 anything about this industry? And then it's regulated and what

1 they're required to do. That issue is sitting out there and  
2 I've had recent experience where the answer was no, not really.

3                   Then other issue that's out there is, the  
4 manufacturer has a franchise agreement with a dealer. Say,  
5 I've got one with Mr. Durant. Well, probably in that franchise  
6 agreement, it's going to talk about what Mr. Durant has to do  
7 to change the management. And invariably in all of this, when  
8 a receiver gets appointed, the receiver just ignores the  
9 manufacturing runs roughshod over there, right, to know who's  
10 representing their brand, are they qualified, have they had  
11 other issues or not, et cetera and all that. So that gets lost  
12 in the wash somewhere.

13                  I want to make sure we don't do anything that impedes  
14 upon a manufacturer's right to say, we didn't approve them,  
15 they haven't come to us judge, this receiver doesn't even  
16 answer our phone calls. But should they let the agency know  
17 that a receiver has been appointed? Yes. And if they're in  
18 bankruptcy, it's not really going to be the dealer that has  
19 control anymore. It's going to be the trustee and/or the  
20 bankruptcy judge who are going to dictate who buys the  
21 dealership or who is approved to buy it.

22                  So there's a lot of -- there's a lot of issues around  
23 this that I think we need to back up and kind of think about.  
24 And when we get down to 107, I'm not sure why we need 107 when  
25 my understanding is that if I'm going to be a manufacturer and

1 have my product sold in this state by dealers in this state,  
2 then I'm going to need a manufacturer or distributor's license  
3 to do so regardless of how I got the line make, whether I --  
4 it's my own that I made or whether I bought it from someone  
5 else.

6 I think the provisions of the statute had already  
7 covered that or am I -- I may be missing something, Monique, I  
8 apologize, but that's -- that's kind of my question on 107 as  
9 well. Do we need something beyond the current statute?

10 MS. JOHNSTON: Monique Johnston, Director of the  
11 Motor Vehicle Division. Based on the example I kind of  
12 presented to you is why this is up for you because the statute  
13 was not inclusive enough to cover this specific, you know, kind  
14 of area that we're seeing that we're getting into here. So  
15 this is why it's being proposed as part of the rule package.

16 MEMBER FERGUSON: Okay. Okay. I'll take your word  
17 on that.

18 MS. MORIATY: Okay. Members, any other discussion on  
19 this? Monique, did you have any other questions that we need  
20 to ask?

21 MS. JOHNSTON: Nope. That was it for this section.

22 MS. MORIATY: Okay. Well, then I am going to try to  
23 move on to agenda item 10, which is the opportunity for the  
24 committee to give recommendations to the board on 251.104, 140,  
25 145 and proposed new 107. Are there any public comments on

1 this one?

2 (No audible response)

3 MS. MORIATY: No, there are no public comments. So  
4 please tell me, members, is there anyone who would like to make  
5 a motion on any of those provisions we've just been discussing?

6 MEMBER HICKS: This is Member Hicks. I think I've  
7 reached my limit of raising my hand because it won't let me  
8 raise it anymore.

9 MS. MORIATY: Oh, Member Hicks, come on.

10 MEMBER HICKS: Yeah. So I think I may have a simple  
11 solution to the management control part. Back to that  
12 subsection (6) -- (c), number 6 on page 11.

13 MS. MORIATY: Okay. This one.

14 MEMBER HICKS: I think if we simply remove the,  
15 "including a management change" verbiage, then it reduces that  
16 scope to, "a change in management control due to a receiver  
17 being appointed or a dealer filing bankruptcy."

18 MS. MORIATY: Okay. I'm going to switch versions on  
19 you all to pull up the Word version, so excuse me for just a  
20 moment. Switched to the Word version. That one. Okay. So we  
21 were in --

22 MEMBER HICKS: Page 11.

23 MS. MORIATY: There's one -- remind me again, what  
24 were we in? 107?

25 MEMBER HICKS: Page 11, way back up top.

1 MS. MORIATY: Okay. There we go. All right. So  
2 tell me one more time, sir. I'm sorry.

3 MEMBER HICKS: I think just simply redacting the  
4 "including a management change," -- no, leave the word "due."

5 MS. MORIATY: Oh, sorry. Come back to that.

6 MEMBER HICKS: That's okay. This is Member Hicks.  
7 And again, I think the reason there was just that reduces the  
8 scope to -- that notification being requirement simply in the  
9 case of a receiver being appointed or a dealer filing  
10 bankruptcy. And that would satisfy my perspective of not  
11 having to be required to submit changes in general management  
12 or other positions within the store that are not involved in  
13 receiver being appointed or a bankruptcy situations.

14 MS. MORIATY: Monique, do you have any thoughts on  
15 that suggestion or is staff willing to consider that one  
16 without a motion, or do you want more time to consider?

17 MS. JOHNSTON: More time to consider, please.

18 MS. MORIATY: Okay.

19 MEMBER HICKS: And that same -- this is Member Hicks,  
20 that same recommendation would apply to page 41 in that  
21 subsection in 215, I think it's 140 or 145, page 41.

22 MS. MORIATY: I'm sorry. We're in the Word version  
23 now, so everything is different.

24 MEMBER HICKS: Yeah.

25 MS. MORIATY: Was it 140?

1 MEMBER HICKS: 145.

2 MS. MORIATY: 145. Okay.

3 MEMBER HICKS: (g) -- I'm sorry, (h).

4 MS. MORIATY: Right. Okay. So you would -- we cut  
5 the same --

6 MEMBER HICKS: Yeah, we're trying to eliminate the  
7 "management control" part. So I'd say we would be redacting  
8 "including a management control change," take those words out.

9 MS. MORIATY: Right. You just want it to be  
10 "resulting from a receiver." There we go.

11 MEMBER HICKS: Correct. Correct.

12 MS. MORIATY: Okay. Okay. So the motion is applying  
13 to both 145 and 140, correct?

14 MS. JOHNSTON: 104.

15 MS. MORIATY: 104. I'm sorry.

16 MEMBER HICKS: 104.

17 MS. MORIATY: It's late in the day and I'm becoming  
18 dyslexic. So 145 and 104, we're removing the same language,  
19 "including a management control change." So it becomes "a  
20 change in management control resulting from a receiver being  
21 appointed." It's more limited.

22 Do we have a second for that?

23 MEMBER DORAN: Well, we have an -- this is Member  
24 Doran, will we have an opportunity to discuss this?

25 MS. MORIATY: If we get the second, sure, we'll move

1 into discussion.

2 MEMBER DORAN: Okay.

3 MEMBER STARK: Member Stark, second it.

4 MS. MORIATY: Member Stark seconds. All right. Now  
5 we're in discussion.

6 Member Doran?

7 MEMBER DORAN: Yes. So further to what Mr. -- Member  
8 Ferguson was saying, I want to better understand what staff's  
9 intent was because if the franchise agreement says that the  
10 dealer has to promptly inform the manufacturer or distributor  
11 about any change in control, and then now we have a statute --  
12 I'm sorry, a rule that is -- because of this change limiting  
13 the obligation, arguably, of the dealer to notify the  
14 manufacturer or distributor about a change. Unless it fits  
15 into the narrow category of resulting from a receivership, then  
16 that's going to be a problem for the manufacturers and  
17 distributors.

18 MS. JOHNSTON: And Monique Johnston, Director of the  
19 Motor Vehicle Division. And correct me if I'm wrong, this is  
20 specifically for bankruptcy areas where they have to notify us  
21 for the -- yeah, it's only notifying the Department because  
22 it's mainly in the point of who can we -- who do we contact now  
23 that this dealer went belly up, it's bankrupt, you know, who's  
24 going to be the person? And so, this is just letting us know  
25 that it's required to let us know that this is happening.

1                   There's still the same provisions in the rules in  
2 this statute that require dealers to notify the manufacturer  
3 when there's any kind of ownership or management change.  
4 That's completely separate. And this doesn't affect that.  
5 This is specifically in regards to this area of the bankruptcy  
6 should a dealer go into bankruptcy.

7                   MEMBER DORAN: Okay. Just a quick follow-up then.  
8 So as it relates to their obligation to amend their license to  
9 ensure that the Department has accurate information, there is  
10 no obligation that they have today to as part of the  
11 information on their license to have anything on there about  
12 who's got management and control? I mean, I thought that was  
13 part of the license application.

14                  MS. JOHNSTON: There is. There is still, yes,  
15 there's still that section in the rules that -- the statute  
16 that requires them to notify us and the manufacturer for  
17 ownership changes, management control changes, anything like  
18 that. And so, that's a separate thing. It's just, this is  
19 specifically calling out a change in control specifically due  
20 to the receiver situation when there's a bankruptcy. So we  
21 have a person to contact, because in certain situations, the  
22 people who were associated with that license are no longer --  
23 they're gone, you know, in some of those situations. And we  
24 have no idea who -- who now to contact for things that, you  
25 know, to discuss with the license, like for enforcement to know

1 who to go out to, who to reach out to when they need to have  
2 access to the locations to retrieve plates just for things like  
3 that.

4                   But as for the change in ownership and stuff, that's  
5 still required and we still require that documentation from the  
6 manufacturer confirming that they approved the change in  
7 ownership in regards to, like, any kind of ownership changes,  
8 management changes, things like that.

9                   MEMBER DORAN: So last follow-up here. So it would  
10 be staff's position and this does not water down that  
11 obligation at all if we make this change here?

12                   MS. JOHNSTON: I didn't -- will look at my legal  
13 counsel and she says, no.

14                   MEMBER DORAN: Okay. No. Thank you. I appreciate  
15 that.

16                   MS. MORIATY: Okay. Any other discussion, members?  
17 Okay. Then I'm going to call the question. We're looking at  
18 this same change in both 251.104 and 145 to remove "including a  
19 management control change." So we'll start at the top.

20                   Member Blassingame?

21                   (No response)

22                   MS. MORIATY: Member Bradburn?

23                   MEMBER BRADBURN: Member Bradburn, no.

24                   MS. MORIATY: Member Donnelly?

25                   MEMBER DONNELLY: Member Donnelly, yes.

1 MS. MORIATY: Member Doran?

2 MEMBER DORAN: Abstain.

3 MS. MORIATY: Member Durant?

4 MEMBER DURANT: Member Durant, yes.

5 MS. MORIATY: Member Elam?

6 (No response)

7 MS. MORIATY: Member Ferguson?

8 MEMBER FERGUSON: Member Ferguson, yes.

9 MS. MORIATY: Member Garza?

10 MEMBER GARZA: Garza is, yes.

11 MS. MORIATY: Member Hall?

12 (No response)

13 MS. MORIATY: Member Hayter?

14 MEMBER HALL: Sorry. I was trying to get myself off

15 of mute. Member Hall is, yes.

16 MS. MORIATY: Sorry. Okay. Member Hayter?

17 (No response)

18 MS. MORIATY: Member Hicks?

19 MEMBER HICKS: Member Hicks, yes.

20 MS. MORIATY: Member Murphy?

21 MEMBER MURPHY: Member Murphy, yes.

22 MS. MORIATY: Member Olah?

23 MEMBER OLAH: Member Olah, yes.

24 MS. MORIATY: Member Provost?

25 (No response)

1 MS. MORIATY: Member Schnelle?

2 MEMBER SCHNELLE: Member Schnelle, yes.

3 MS. MORIATY: Member Sims?

4 (No response)

5 MS. MORIATY: Member Sralla?

6 MEMBER SRALLA: Member Sralla, yes.

7 MS. MORIATY: Member Stark?

8 MEMBER STARK: Member Stark, yes.

9 MS. MORIATY: Member Sullivan?

10 MEMBER SULLIVAN: Member Sullivan, yes.

11 MS. MORIATY: And Member Thomas is not here. So we  
12 have one vote against, one abstention, and 1, 2, 3, 4, 5, 6, 7,  
13 8, 9, 10, 11, 12 yeses. So the motion passes.

14 Okay. So do we have any other recommendations on  
15 215.104, 140, 145 or 107? Last call. Okay. I'm going to move  
16 on, then.

17 We're going to move on now to agenda item 11. This  
18 is a proposed amendments to Chapter 215; specifically 215.244  
19 and 215.270. And now I'm turning it over to Corey Thompson,  
20 Director of Enforcement Division.

21 MS. THOMPSON: Yes. Corrie Thompson, Director of  
22 Enforcement. Longtime coming at you both in the last meeting  
23 that -- and we were not able to be together for and now I'm  
24 bringing it to the end of this meeting hopefully. So as Laura  
25 mentioned, we are discussing proposed amendments to advertising

1 rules in Chapter 215, namely 215.244 and 215.270.

2 So we are here today because Occupations Code  
3 2301.203(c) requires that a license holder be notified of an  
4 alleged advertising violation and then be given an opportunity  
5 to cure that violation without further proceedings or  
6 liability. So with that provision in mind, we are asking for  
7 the committee's feedback on some definitions that we're  
8 proposing for the term "cure" and the term "subsequent  
9 violation" in 215.244 and in 215.270.

10 So the way this works today is the same as we have it  
11 in the proposed rule. So this is an action that the Department  
12 uses to evaluate advertising violations. And we will identify  
13 an advertising violation and send a cure or a warning letter,  
14 if you will, to the dealer that is affected by the violation  
15 and give the dealer an opportunity to be on notice that that  
16 violation has occurred pursuant to the advertising rules, and  
17 so, that there's awareness to not commit that violation in the  
18 future.

19 So these amendments seek to define what "cure" means,  
20 which is, after receiving that notice, that warning letter,  
21 that you not violate the advertising rules. Again, for the  
22 subsequent two-year period following that notice. And then a  
23 subsequent violation is defined as such; if you have been  
24 previously given that notice of a particular advertising  
25 violation rule, and then you commit a subsequent violation by

1 committing the same rule infraction within that two-year  
2 period, then the Department would send you a Notice of  
3 Department Decision which for all other non-advertising  
4 violations is how a sanctioned action regularly initiates.

5 Advertising violations are the only violation that  
6 require the Department to issue this subsequent cure to a  
7 dealer instead of sending a NOD right out of the gate. So  
8 again, the NOD process works as follows: After the cure, if the  
9 violation occurs within a two-year period, we would send a  
10 Notice of Department Decision which gives the dealer 26 days to  
11 respond to the Department and then either request a hearing or  
12 work out a settlement with the assigned attorney. So the case  
13 mainly concludes at that point. There is obviously an  
14 opportunity to take the case to SOAH if the Department and the  
15 dealer cannot come to an agreement on that violation. So  
16 again, we're asking for feedback on those definitions and then  
17 the addition of that provision in the proposed rules.

18 MS. MORIATY: Member Garza.

19 MEMBER GARZA: So in my other groups, we put our tent  
20 up and you didn't recognize me before, so sorry if I do that.

21 MEMBER DORAN: I was wondering.

22 MEMBER GARZA: Yeah, that's what that was.

23 MS. MORIATY: Oh, I see.

24 MEMBER GARZA: Our other groups, we use our tent to  
25 indicate that we're ready to talk. Talk a little bit -- again,

1 sorry, new member. Violation: Is the determination of a  
2 violation unilateral by the Department, or is it a proposed  
3 violation that then a party gets to argue about?

4 MS. THOMPSON: So it's an -- late in the day -- yes,  
5 an allegation. Corrie Thompson, Director of the Enforcement  
6 Division. So there's an allegation that a violation has  
7 occurred. So let's just say a best price violation. Like, I  
8 have the best deal in all of the land, no one else. And so,  
9 that's a specific rule in the Department Administrative Code.  
10 And so, what we're saying is, here is -- we would send you that  
11 warning letter on that specific rule provision. So we're not  
12 talking about the subchapter pertaining to advertising in its  
13 entirety. It would be that specific rule that you would  
14 receive the cure, and then you would say, okay, hey, no best  
15 deal claims going forward. Then if within a two-year period  
16 you did another best deal claim in violation of the same exact  
17 rule provision, then the Department could send you that Notice  
18 of Department Decision and in the Administrative Procedure Act,  
19 there's a notice and opportunity to respond.

20 MEMBER GARZA: I get that. I'm with it.

21 MS. THOMPSON: Yes.

22 MEMBER GARZA: I'm with you after that. It's that --  
23 again my bias in other forums, it starts with a notice of --  
24 it's a proposed violation. And what I'm hearing here is in  
25 this context, no, it's a violation. We have found you to

1 violate this rule and I'll defer to other lawyers, you said you  
2 practiced in front of the Board, but other lawyers that does --  
3 do parties then get to say, no, that's not a violation. That's  
4 not what I did. You have misinterpreted, blah, blah -- the  
5 Department has misinterpreted.

6 MS. THOMPSON: Sure. So in response to a cure, we  
7 have not had that situation occur since I have been here since  
8 March of 2013. But should it occur, yes, we would engage the  
9 dealer in a discussion about that, and we would have an  
10 opportunity to make note of that in the file. And of course,  
11 if a NOD has been issued, that there are many times that an  
12 allegation could be negated based on additional information  
13 received from the dealer.

14 MEMBER GARZA: Okay. All right. And thank you for  
15 accommodating me --

16 MS. THOMPSON: Absolutely.

17 MEMBER GARZA: -- as I pick this up.

18 What were the thought -- I also had thoughts on the  
19 two-year period. Do you have any perspective that you can  
20 provide to us on that? Why not six months? Why not a year?  
21 Why not three years? Why not five? Was it just picked a  
22 number and that sounded good?

23 MS. THOMPSON: We picked a two-year period because  
24 that seems like a fair period to go back. So advertisements  
25 are quick running obviously, so it will take us a while to both

1 sometimes catch the violation. Many advertising violations are  
2 reported by other dealers who don't want to compete with  
3 dealers who are not being compliant with the advertising  
4 provisions. And so, the advertising rules are very helpful to  
5 the dealer community in that respect.

6                   But for us to then get to the case, to work the case,  
7 we do try to make them a priority, but we have to put them  
8 behind our consumer harm cases. And so, we're trying to allow  
9 a sufficient period of time to get that dealer notice, also to  
10 just give them awareness to correct any advertisements that  
11 they might already have in the works. And so, we felt like two  
12 years is a fair period.

13                   MEMBER GARZA: One last -- I told you guys at my  
14 introduction; I was engaged in enforcement and oversight and  
15 activities in other markets. So this is why this one has  
16 caught my interest. Is there a cumulative effect? So you see  
17 a violation, you say you got two-year cure period. They  
18 failed -- they do something again within that period. That  
19 then is -- and I'm using the wrong words, sorry, that's a  
20 violation. You've issued your NOD; your decision that's a  
21 violation. Is there a cumulative penalty or taking into  
22 account that, hey, maybe we're now in year four and I'd issued  
23 you, you know, opportunity for cure. In two years, you were  
24 fine. Do I get to take into account the fact that that -- that  
25 you had an alleged violation or opportunity?

1 MS. THOMPSON: In order to increase the penalty?

2 MEMBER GARZA: Yeah.

3 MS. THOMPSON: So I would say yes, and I would make  
4 the argument that, yes, that we could use that in that prior  
5 enforcement history as evidence of the subsequent violation  
6 within that time period still.

7 MEMBER GARZA: Okay. All right. Thank you.

8 MS. MORIATY: Member Donnelly? He had his tent up.

9 MEMBER DONNELLY: I'm putting up --

10 MEMBER GARZA: I like that.

11 MEMBER DONNELLY: Discussion for Director Thompson,  
12 Corrie. On number 6, "Displayed on an internet website or  
13 social media platform," which would be on page 59, line 4.  
14 Yeah, I'm that guy.

15 MS. THOMPSON: Yes.

16 MEMBER DONNELLY: On that scenario; and this is from  
17 a previous life, "Displayed on an internet website or social  
18 media platform," the dealers, as I understand is responsible  
19 for their employees putting something on their social media  
20 platform as well. Does that need to be specified that the  
21 dealer is responsible for, not only their own, for lack of a  
22 better -- on Facebook page, but every Facebook page that works  
23 for them as well?

24 MS. THOMPSON: I appreciate your confidence in the  
25 Department and our ability to scour the internet to that level

1 of detail. Thank you. I don't know that I'm necessarily  
2 concerned about going into that level of detail. I think that  
3 we would be able to make the argument if it reached out to an  
4 employee that we were alleging in connection with the dealer's  
5 license, we would do that as part of the NOD, and we would make  
6 the allegations specifically tailored to that because we would  
7 have to identify where the allegation was found.

8 And again, as Member Garza pointed out, there would  
9 be an opportunity for the dealer to engage in discussions with  
10 Department staff about whether or not that violation was going  
11 to stick based on who it was and what was posted and where.

12 MEMBER BRADBURN: In a previous -- that previous  
13 life, it was in the state of Oklahoma, and the state was  
14 notified based on a competitor complaining about a dealership's  
15 postings on Facebook that was done by their employees.

16 MS. MORIATY: Member Doran.

17 MEMBER DORAN: Yeah, this is Member Doran. I  
18 actually think this addition is probably one of the most  
19 significant changes that you all are proposing here because you  
20 could get on Facebook Marketplace right now and find dozens of  
21 dealership employees that are marketing units that are actually  
22 for sale at these dealerships that they work for, and they will  
23 routinely say, you know, \$5,000 for a 2022 Chevy Suburban,  
24 knowing full well that that is not the actual transaction price  
25 that one could buy that vehicle for. And so, this is going to

1 give you all the tools, should you choose to use them, to  
2 explore that area of enforcement that you otherwise haven't.

3                   And I actually -- let me just for a minute, from  
4 putting an OEM hat on here, I think, you know, in terms of  
5 policing for the protecting the public and protecting the brand  
6 that the manufacturer/distributor has, this is a very important  
7 tool that you all need in your toolbox. It should be  
8 unequivocal that you have this authority to go after and  
9 obviously sit down with the dealer and counsel them. I mean,  
10 you know, the idea is to rectify the behavior, not to hammer  
11 them over the head. But this is a tool I think the agency  
12 definitely needs explicitly spelled out in the rule, so.

13                   And then last part of this question. I would love to  
14 hear from staff as to what they envision "cure" means, because  
15 I think historically and based upon the language that's being  
16 stricken here, it included a retraction of the published  
17 advertisement. And so, now we've got a reference to refund,  
18 and that's -- it's a pretty big change. So I would love to  
19 hear what the Department's thinking in terms of how you want to  
20 go about -- what is cure designed to do.

21                   MS. THOMPSON: I thought my microphone was giving up  
22 on me. Corey Thompson, Director of the Enforcement Division.  
23 I wouldn't be surprised if it was trying to. So what we would  
24 envision this as; it will be dependent upon the particular  
25 violation. So if it's a pricing violation about how you're

1 laying out discounts, that you don't lay out the discounts the  
2 same way in future advertisements.

3 And I think with the quick nature of advertisements  
4 and how, by the time we're notifying the dealer that a  
5 violation has occurred, that car is long gone. And I think  
6 that the anticipated behavior is that we just don't see that  
7 happen again in future advertisements for different types of  
8 vehicles.

9 So if you're offering a best deal claim, that you  
10 don't offer a best deal claim. If you're offering wholesale  
11 prices and you're not a wholesale dealer, you don't offer  
12 wholesale prices going forward again. So we would just say  
13 that as across the board, on any of your platforms, we don't  
14 see that type of behavior that's specific to that rule going  
15 forward.

16 MEMBER SCHNELLE: This is Member Schnelle. I have a  
17 concern on that because many of the franchise stores are really  
18 dependent upon our third parties on how we illustrate discounts  
19 and send those to the consumer. So I would be concerned that  
20 even though price-wise it may be in alignment, it's not  
21 uncommon for us to have a problem that is created on our  
22 websites by the provider of our OEs.

23 MS. THOMPSON: I'm very familiar with that problem.  
24 Corey Thompson, Director of the Enforcement Division. Yes.  
25 And so, in the past -- I am not here to provide guidance on how

1 the franchise dealer community interacts with their  
2 manufacturers, but we have seen dealers in the past have  
3 success notifying the manufacturer of any potential issues  
4 being created with advertising provisions that are being pushed  
5 onto dealers' websites. Same thing with third-party entities  
6 that are non-manufacturers.

7 It is the dealer's responsibility to ensure that  
8 advertising in Texas is compliant with Texas law. And so, if  
9 the dealer is utilizing a third party to put advertisements out  
10 into the world for vehicles being sold in Texas through their  
11 license, then it's their responsibility to inform that third  
12 party that they are compliant.

13 MS. MORIATY: Member Doran, did you have a follow-up  
14 question?

15 MEMBER DORAN: (No audible response).

16 MS. MORIATY: No. Okay. Any other members have any  
17 other questions for discussion on this?

18 MEMBER HICKS: Yes. Member Hicks. May I be  
19 recognized?

20 MS. MORIATY: Member Hicks?

21 MEMBER HICKS: Thank you. Yeah. If you could scroll  
22 up to the top of page 59. I'm curious if the language in  
23 subsection (4) and subsection (6), should those be combined? I  
24 mean, we have "broadcast on the internet or television," and  
25 below, "displayed on an internet website or social media

1 platform." Does broadcast on the internet incorporate internet  
2 website or social media platform?

3 MS. THOMPSON: I don't have a preference. I'm not  
4 sure if the General Counsel's Office has a preference as to how  
5 the language is spelled out in rule.

6 MEMBER HICKS: They just seem like a duplication.

7 This is Member Hicks.

8 MS. MORIATY: Terry Vannoy, please.

9 MS. VANNOY: So the reason why they're separated is,  
10 there are things that can be broadcast on social media or  
11 internet websites. For example, you can have a live session, a  
12 question and answer, and that's really different than a  
13 display; a display out on a website or social media platform.  
14 So we did -- I did -- I did think about that when drafting (4) or  
15 (5) and (6) and decided there was reason to do that. If it's not  
16 clear, please let me know.

17 MEMBER HICKS: I see the distinction. I just --  
18 I'm -- the older I get, the more simplified I want things.  
19 This is Member Hicks. So I'm just trying to -- if we can get  
20 it done in one sentence instead of two, it's always better.

21 A follow-up question to that is; "sent  
22 electronically," how -- does that extend to, you know, one-to-  
23 one communication with a customer via email, telephone calls;  
24 how does sent electronically interpret?

25 MS. THOMPSON: Yes. Corey Thompson, Director of the

1 Enforcement Division. Yes, so if a consumer were to file a  
2 complaint about an electronic communication that they received  
3 from the dealer offering the vehicle for sale for a certain  
4 price or with specific discounts laid out a certain way, then  
5 we would review that for compliance. And yes, communication  
6 sent that way could be deemed in violation of Department rule.

7 MS. MORIATY: Member --

8 MEMBER HICKS: This is Member Hicks.

9 MS. MORIATY: Oh, sorry Member Hicks.

10 MEMBER HICKS: Sorry. Another follow-up is, so is  
11 electronically; would that include telephone conversations or  
12 not?

13 MS. THOMPSON: I would not specifically say it would  
14 include a telephone conversation. I have yet to see a consumer  
15 we know in Texas, like, if somebody knows that the conversation  
16 is being recorded, a conversation could be recorded. But I've  
17 never had somebody present me with an audio recording as part  
18 of an advertising complaint. So I will have to say I could  
19 make the argument that it is covered and I would have to wait  
20 to receive such a complaint to see how that worked out in terms  
21 of the Department having the violation stick.

22 MEMBER HICKS: Okay. Thank you.

23 MS. MORIATY: Any other members have comments?

24 MEMBER DURANT: Member Durant.

25 MS. MORIATY: Member Durant.

1 MEMBER DURANT: My question is about this exact same  
2 section. I'm really struggling. First of all, you know,  
3 generally, free speech is free, but this advertising speech is  
4 heavily regulated. And so, adding these expansive definitions  
5 to definition of what advertising is, there should be some  
6 reason behind it. And I cannot understand why (6) -- (5) and (6) are  
7 being or (6) and (7) -- excuse me, I never learned Latin numerals;  
8 I can't understand whether it be an added here because they  
9 seem incorporated in all the above. Can you identify specific  
10 situations where (6) and (7) need to be added to effectively  
11 regulate this advertising?

12 MS. THOMPSON: I think that we are adding -- Corey  
13 Thompson, Director of Enforcement. I believe that we are  
14 adding the provisions to ensure that the Department is covered  
15 should a situation that arises in any sort of online platform  
16 arise, that the Department has the coverage and that we have  
17 less of an uphill battle having to make the argument that the  
18 platform is covered given the definitions in the rule.

19 MS. MORIATY: In addition, there are formats like  
20 text message and email that also exist and are more easily  
21 captured here. Anybody else?

22 MEMBER STARK: Member Stark.

23 MS. MORIATY: Member Stark.

24 MEMBER STARK: Yes. I guess the question I have is  
25 as we're talking about text message or emails and I understand

1 advertising or if they're mass produced or things of that  
2 nature. But right below that, it seems like it contradicts  
3 itself. On line 6, "Advertisement does not include direct  
4 communication between a person or person's representative and a  
5 perspective purchaser." So how do you square that circle for  
6 me if you're saying electronically, which could be a text,  
7 could be a phone call, could be an email between a sales  
8 representative and a consumer? And then the language right  
9 below it says that it is not covered under direct  
10 communication.

11 MS. THOMPSON: Sure. So when we're talking about a  
12 direct communication -- Corey Thompson, Director of the  
13 Enforcement Division -- we're talking about when you are  
14 starting to engage in negotiations pertaining to the sale of  
15 the vehicle with that specific consumer. So when you are  
16 engaging in a back-and-forth communication, negotiating the  
17 price of a vehicle, negotiating the terms of that sale  
18 transaction, we're not saying that the Department is regulating  
19 that part of the conversation.

20 MS. MORIATY: Any other members with questions?

21 MEMBER FERGUSON: Member Ferguson.

22 MS. MORIATY: Member Ferguson.

23 MEMBER FERGUSON: May I be recognized? Thank you. I  
24 think at the end of Roman numeral little I, little V; four  
25 there, I think there's an "or" that you need to strike --

1 MS. MORIATY: You're absolutely right.

2 MEMBER FERGUSON: -- after television.

3 MS. MORIATY: Accepts that one, I can tell you that  
4 right now. Thank you.

5 MEMBER FERGUSON: Yes, I can never find my own, but I  
6 can see others.

7 And a question for Ms. Thompson. Do you think that  
8 if the facts presented itself that you could require a dealer  
9 to issue a public retraction, apology or otherwise? Just  
10 because it's being stricken in this other section, I'm not sure  
11 I read that as saying that you couldn't require that if the  
12 facts merited such a response.

13 MS. THOMPSON: Again, I would say that would be very  
14 fact specific. If I found us presented with something like  
15 that and we wanted to make a go of it, we would attempt it  
16 based on the specific facts of the situation at that time. And  
17 again, it would depend on if it's stuck at that time or not as  
18 to whether or not it was precedent for us going forward. I  
19 have not seen a need for us to do that during my time  
20 regulating advertising with the department, but anything can  
21 happen.

22 MEMBER FERGUSON: Okay. I just wanted to make  
23 sure -- it was my understanding that you still had that tool,  
24 whether you use it or not is left to your discretion, but thank  
25 you.

1 MS. THOMPSON: Yes, thank you. We have not utilized  
2 it during the time that I've been here regulating advertising.

3 MS. MORIATY: Okay. Members, any other questions?  
4 All right. Hearing none -- and Ms. Thompson, you don't have  
5 any questions for them, right?

6 MS. THOMPSON: We've covered everything.

7 MS. MORIATY: Terrific. Then I am going to --

8 MEMBER FERGUSON: I'm sorry --

9 MS. MORIATY: Oh, I'm sorry.

10 MEMBER FERGUSON: I'm sorry.

11 MS. MORIATY: Member Ferguson.

12 MEMBER FERGUSON: Yeah, Member Ferguson. I'm sorry.  
13 I got another little hyper-technical deal here. On the  
14 definition of MSRP, it references subparagraph (d) and  
15 paragraph 13, and I think that should be in paragraph Monroney  
16 14.

17 MS. MORIATY: Oh, right here. I see. So your  
18 concern is about this citation here? Okay.

19 MEMBER FERGUSON: Yeah. No, maybe I was looking at  
20 an older version. I'm sorry. I may have been going from an  
21 older version. But no, it says --

22 MS. MORIATY: I'm happy to take that under advisement  
23 and figure it out. Thank you for pointing it out.

24 MEMBER FERGUSON: Yeah. Okay. Thank you.

25 MS. MORIATY: Okay. Members, any other questions

1 here? Member Doran.

2 MEMBER DORAN: So this is Member Doran. Along the  
3 lines of what Mr. Ferguson was saying, that same correction  
4 would likely need to be made on 10 as well --

5 MS. MORIATY: Okay.

6 MEMBER DORAN: -- because that refers to paragraph  
7 13 and it should refer to the Monroney 14.

8 MS. MORIATY: Right. Thank you. We will do a check  
9 throughout this section.

10 MEMBER DORAN: Thanks.

11 MS. MORIATY: Member Donnelly, did you have a --

12 MEMBER DONNELLY: No.

13 MS. MORIATY: No. Okay. Any other comments from  
14 members? Let make sure I can see everybody.

15 All right. I'm going to desperately try to move to  
16 item 12. So this is where you all get the opportunity to give  
17 us comments for presentation to the Board on these sections.  
18 So again, we're talking just about 215.244 and 215.270. Are  
19 there any comments that members would like to bring to the  
20 Board's attention in the form of a motion? Anybody? Okay.  
21 Hearing none, we will -- the feedback that we've received,  
22 like, on getting our citations to line up we were happy to  
23 accept and we'll go do it on our own.

24 MEMBER GARZA: Is the --

25 MS. MORIATY: Member Garza.

1 MEMBER GARZA: Member Garza. Sorry. I'll get it.  
2 No, I won't, because in my other forums, I speak out of turn  
3 all the time. Is the practice to just offer comments for  
4 change, or is this board able to offer, you know, a voice of  
5 support, you know, is silence means support?

6 MS. MORIATY: Generally, silence means support, yeah.

7 MEMBER GARZA: Okay. Thank you.

8 MS. MORIATY: Okay. I'm going to move on to item 13.  
9 These are the proposed -- the potential proposed new rules,  
10 specifically, 215.121, 141, and 175. And I will once again  
11 toss back to Corey Thompson.

12 MS. THOMPSON: Yes. So we do have three rule  
13 proposals up for consideration. It is the same rule language  
14 in different sections. So one pertains to manufacturers,  
15 distributors and converters, franchise dealers. The next one  
16 to GDN holders. The last one to lessors and lease  
17 facilitators.

18 So this pertains to Transportation Code Chapter 730,  
19 which contains the Motor Vehicle Records Disclosure Act and  
20 730.014 authorizes the state agency to adopt roles to implement  
21 the Act. The purpose of the Act -- the purposes of the Act are  
22 to prevent unauthorized disclosures that would allow drivers to  
23 be targeted to receive unsolicited junk mail or other unwanted  
24 marketing and to prevent more serious threats such as to  
25 identify theft and stalking.

1                   So besides adding a new sanction in each of these  
2 rules for a violation of that Act, should the department  
3 consider proposing any other rule amendments or any new rules  
4 to implement the Motor Vehicle Records Disclosure Act?

5                   MS. MORIATY: Members, any thoughts?

6                   MEMBER DORAN: This is Member Doran.

7                   MS. MORIATY: Member Doran.

8                   MEMBER DORAN: I'm looking for the right page here.

9 Well, I'm actually --

10                  MS. MORIATY: So as she said, there's three separate  
11 sections that are all doing the same thing.

12                  MEMBER DORAN: So you've got a couple of sections  
13 that are referring now they're adding new language that talks  
14 about a violation of Texas Transportation Code Chapter 730.  
15 And my point can be kind of applied globally, I think, to the  
16 multiple times that this occurs. But if you go up -- so I'm  
17 on, for example, page -- I think it's 57.

18                  MS. MORIATY: Okay. Let me get there.

19                  MEMBER DORAN: I'm not sure if this is the right  
20 place to be looking, but my point is, you've got somewhere in  
21 here where you're talking about any violation of Texas or U.S.  
22 federal law. And so, it sort of begs the question, which has  
23 come up a couple times today of isn't this already baked into  
24 the agency's authority already, right? So I mean, certainly a  
25 violation of this specific provision in Texas law, one could

1 make the argument that that's already covered by the reference  
2 that's throughout a couple of these sections that refers to the  
3 Department having the authority.

4 MS. MORIATY: So you'd be referring to something  
5 like --

6 MEMBER DORAN: Yes.

7 MS. MORIATY: -- subsection (9) here?

8 MEMBER DORAN: Yes. That's right. Thank you.

9 MS. THOMPSON: So if we were going to look at --  
10 let's look at page 18. I'm going to look at 18. That's one in  
11 front of my face right now.

12 MS. MORIATY: And I'll be happy to bring it up.

13 MEMBER DORAN: And the reason I bring it up is, you  
14 know, we're sort of at a time when we're doing a lot of things,  
15 and this looks like you might already have that power and  
16 authority, but if the agency feels like they need it to be more  
17 clear, then as an advisory committee, you know, we want to hear  
18 that, I think.

19 MS. THOMPSON: Yeah. So in each of these sections,  
20 with the addition of the rule language, it's the same for each  
21 section, but these are the lists of sanctions for these  
22 particular types of licensees. And so, if we're in the first  
23 one, the section that pertains to franchise dealers,  
24 manufacturers, distributors, converters. 15; you'd be speaking  
25 about the provision on line 6, number 15: violates any state or

1 federal law or regulation. So then it says that's specific to  
2 relating to the manufacturer, distribution, modification, or  
3 sale of a motor vehicle.

4 So I think that the intent was to make this very  
5 specific to the Records Disclosure Act. But again, if OGC  
6 wants to pipe up on that, then you're welcome to do so. But  
7 the way I read that for that one in particular, and I think it  
8 might be different in the dealer subchapter, but at least in  
9 this one, since we're saying about the manufacturer,  
10 distribution, modification, or sale of the motor vehicle, if  
11 you were to violate the Records Disclosure Act by utilizing  
12 data that you obtained through a data management contract to  
13 send out an advertisement or something like that that would  
14 ostensibly pertain to the sale of a motor vehicle, but there  
15 could be some other type of disclosure that wouldn't be covered  
16 by those particular specifications there.

17 MEMBER DORAN: This is Member Doran. Such as  
18 soliciting a customer for an extended warranty? Because I  
19 guess you could argue that would be outside of the -- I could  
20 argue it either way, but okay.

21 MS. MORIATY: Using your mailing list for any form of  
22 outside --

23 MEMBER DORAN: Yeah. Okay. Thank you.

24 MS. MORIATY: Okay. Members, any other points of  
25 discussion on this? Questions? Okay. Well, then hearing

1 none, I am going to try to move on to item 14, which are the  
2 recommendations for the Advisory Committees for these two --  
3 these three specific rules 215.121, 141 and 175. Board  
4 members, do we have any recommendations? And I should check,  
5 Devin, there is no public comment on this section. Is that  
6 accurate?

7 (No audible response)

8 MS. MORIATY: Terrific. Thank you. Any  
9 recommendations, Board members? Okay. I am not hearing any.  
10 So that means that we will consider that you all are okay with  
11 it. And we will move on to item 15; public comment. Devin, do  
12 we have any public comment today for this section?

13 (No audible response)

14 MS. MORIATY: Oh, I'm sorry. I moved too fast,  
15 Mr. Sullivan.

16 MEMBER SULLIVAN: No, you didn't move too fast. I  
17 moved too slow.

18 MS. MORIATY: We are back on item 14. Sorry.

19 MEMBER SULLIVAN: I hope this is an appropriate place  
20 to ask this question, but it came up earlier today whether or  
21 not you would receive public comments and you said, not at this  
22 time, I think.

23 MS. MORIATY: On?

24 MEMBER SULLIVAN: TIDA reference or something, I'm  
25 not sure.

1 MS. MORIATY: Oh, no. So we have not received any  
2 public comments at any point today.

3 MEMBER SULLIVAN: Right. So as a layman --

4 MS. MORIATY: So nothing has changed.

5 MEMBER SULLIVAN: -- as a layman sitting here, what  
6 if you get comments tomorrow? How does --

7 MS. MORIATY: So let me talk through the process from  
8 here.

9 MEMBER SULLIVAN: Yes, ma'am.

10 MS. MORIATY: Maybe that'll be helpful. Let me stop  
11 sharing this rule text because we're -- perhaps we are done  
12 with that. So from here, the process will be that we will take  
13 all of the input we've gotten today under advisement, produce a  
14 new draft, recirculate that, and then it will go to proposal at  
15 the board, we think in February. So that will -- if the Board  
16 votes to propose it, then that will open it up for public  
17 comment, publication at the Texas Register and public comment.  
18 Then we will come back at the June Board meeting -- I guess not  
19 April, but June to consider adoption. So we'll have a full  
20 public comment period in between, public comment at that Board  
21 meeting in February. This is just the beginning of --

22 MEMBER SULLIVAN: Okay.

23 MS. MORIATY: -- a long, long road of public  
24 comments.

25 MEMBER SULLIVAN: Okay. And no other opportunity for

1 this Advisory Committee then to offer input other than just  
2 direct communication after today?

3 MS. MORIATY: Well, and y'all are welcome to --

4 MEMBER SULLIVAN: More meetings --

5 MS. MORIATY: -- every member of you is welcome to  
6 publicly comment at any part. But yes, this committee will not  
7 reconvene on these items.

8 MEMBER SULLIVAN: Okay. Thank you.

9 MS. MORIATY: Okay. Are we -- is there any other  
10 comments on item 14? Hearing none, I will once again move to  
11 item 15; public comment. Devin, we still don't have any public  
12 comment on anything outside the agenda. Is that accurate?

13 (No audible responses)

14 MS. MORIATY: But they did not show up, yeah. Okay.  
15 No one has shown up to publicly comment for item 15, so that  
16 takes us to item 16. And that is adjournment. Do I have a  
17 motion to adjourn?

18 MEMBER DONNELLY: I make a motion. Member Donnelly.

19 MS. MORIATY: Member Donnelly moves. Can I have a  
20 second, please?

21 MEMBER DORAN: Member Doran seconds.

22 MS. MORIATY: Member Doran seconds. I'm just going  
23 to call it. All in favor, you all can all just yell for me,  
24 please.

25 (A chorus of ayes)

1 MS. MORIATY: It sounds unanimous. Thank you.

2 MEMBER DORAN: It is.

3 MS. MORIATY: The meeting is completed at 4:37 p.m.

4 Thank you, everyone, for enduring this long meeting. And thank  
5 you for all the help. We really appreciate it. Thank you so  
6 much.

7 (Proceeding concluded at 4:37 p.m.)

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Ken Owen & Associates, LP

19

2525 Wallingwood Drive

20

Building 6, Suite A

21

Austin, Texas 78746

22

(512) 472-0880

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