



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

TxDMV Board Meeting

9:00 a.m.

Thursday, October 13, 2022

AGENDA
BOARD MEETING
TEXAS DEPARTMENT OF MOTOR VEHICLES
4000 JACKSON AVE., BUILDING 1, LONE STAR ROOM
AUSTIN, TEXAS 78731
THURSDAY, OCTOBER 13, 2022
9:00 A.M.

Link to October 13, 2022, TxDMV Board Meeting Documents:
<https://www.txdmv.gov/about-us/txdmv-board-meetings>

All agenda items are subject to possible discussion, questions, consideration, and action by the Board of the Texas Department of Motor Vehicles (Board). Agenda item numbers are assigned for ease of reference only and do not necessarily reflect the order of their consideration by the Board. Presentations may be made by the identified staff, Board member, or other personnel as needed. The Board reserves the right to discuss any items in closed session where authorized by the Open Meetings Act.

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1. **Roll Call and Establishment of Quorum**
2. **Pledges of Allegiance - U.S. and Texas**
3. **Chair's Reports - Chairman Bacarisse**
4. **Executive Director's Reports - Daniel Avitia**
 - 6 A. [Introduction of Human Resources Division Director - Cynthia Mendoza](#)
 - 7 B. [Introduction of Chief Information Security Officer - Marlin Craig](#)
 - 8 C. [Introduction of Consumer Relations Division Deputy Director - Veronica Whitaker](#)
 - 9 D. [Joint Budget Hearing Update](#)
 - 10 E. [Fingerprinting Implementation Update](#)
 - 11 F. [American Association of Motor Vehicle Administrators \(AAMVA\) Annual International Conference \(AIC\) Update](#)
 - 12 G. [National Association of Motor Vehicle Boards and Commissions \(NAMVBC\) Fall Workshop Update](#)
 - 13 H. [Awards, Recognition of Years of Service, and Announcements](#)

CONTESTED CASE

- 14 5. **Proposal for Decision, Revocation of General Distinguishing Number and Imposition of Civil Penalty under Transportation Code §§503.038(a), 503.095(a); and Occupations Code §§2301.651, 2301.801(a); SOAH Docket No. 608-22-1186.ENF; Texas Department of Motor Vehicles Docket No. 21-0009871.ENF; [Texas Department of Motor Vehicles v. LVB Automotive, Inc.](#) - Rob Blech; Karen Meisel for Petitioner (ACTION ITEM)**

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RULE ADOPTIONS

56 6. **Chapter 217. Vehicle Titles and Registration** - Clint Thompson (ACTION ITEM)
Amendments, §217.27
(Relating to Personalized License Plates)
(Published 7/15/22 - 47 TexReg 4106)

65 7. **Chapter 217. Vehicle Titles and Registration** - Patricia Ueckert (ACTION ITEM)
Amendments, §§217.122-217.130
New, §§217.131-217.133
(Relating to SB 15, Motor Vehicle Records)
(Published 7/22/22 - 47 TexReg 4297)

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132 8. **Specialty Plate Designs** - Patricia Ueckert (ACTION ITEM)
A. Louisiana Tech University - Redesign proposed under Transportation Code §504.851
B. Arizona State University - Redesign proposed under Transportation Code §504.851
C. Oklahoma State University - Redesign proposed under Transportation Code §504.851
D. University of Nebraska - Redesign proposed under Transportation Code §504.851
E. Tarleton State University - New design proposed under Transportation Code § 504.851
F. Texas Elks - New design proposed under Transportation Code §504.851
G. Folds of Honor - New design proposed under Transportation Code §504.851
H. State of the Arts - Crossover design proposed under Transportation Code §504.6011

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Recommended Statutory Changes for the 88th Legislature under Transportation Code §1001.025 - Keith Yawn (ACTION ITEM)

165 10. **Finance and Audit**
A. **FY 2022 Financial Report (as of August 31, 2022)** - Glenna Bowman (BRIEFING ONLY)

179 B. **Modify Contract Approval Procedures Adopted on February 10, 2022** - Glenna Bowman (ACTION ITEM)

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- 185 C. Internal Audit Division Status Update: Internal and External Engagements, Including webDEALER Advisory Service and the State Auditor's Office Audit Regarding Temporary Tags - Salem Chuah (BRIEFING ONLY)
- 232 11. Delegation of Authority to the Executive Director to Approve and Execute an Amendment to the Innovative Technology Deployment (ITD) Commercial Vehicle Information Exchange Window (CVIEW) Services Contract - Jimmy Archer (ACTION ITEM)

CLOSED SESSION

12. **The Board may enter into closed session under one or more of the following provisions of the Texas Open Meetings Act, Government Code Chapter 551, including briefing, discussion and deliberation regarding temporary tags, the temporary tag system, fingerprinting, webDEALER Advisory Service, and the State Auditor's Office Audit Regarding Temporary Tags:**

Section 551.071 - Consultation with and advice from legal counsel regarding:
- pending or contemplated litigation, or a settlement offer;
- a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Government Code Chapter 551; or
- any item on this agenda.

Section 551.074 - Personnel matters.
- Discussion relating to the appointment, employment, evaluation, reassignment, duties, discipline, and dismissal of personnel.

Section 551.076 - Deliberation Regarding Security Devices or Security Audits.
- the deployment, or specific occasions for implementation, of security personnel or devices; or
- a security audit.

Section 551.089 - Deliberation Regarding Security Devices or Security Audits.
- security assessments or deployments relating to information resources technology;
- network security information as described by Government Code Section 2059.055(b); or
- the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

13. **Action Items from Closed Session**

14. **Public Comment**

15. Adjournment

The Board will allow an open comment period to receive public comment on any agenda item or other matter that is under the jurisdiction of the Board. No action will be taken on matters that are not part of the agenda for the meeting. For subjects that are not otherwise part of the agenda for the meeting, Board members may respond in accordance with Government Code §551.042 and consider the feasibility of placing the matter on the agenda for a future meeting.

If you would like to comment on any agenda item (including an open comment under the agenda item for Public Comment), you must complete a speaker's form at the registration table prior to the agenda item being taken up by the Board or send an email to GCO_General@txdmv.gov to register by providing the required information prior to the agenda item being taken up by the Board:

1. a completed [Public Comment Registration Form](#); or
2. the following information:
 - a. the agenda item you wish to comment on;
 - b. your name;
 - c. your address (optional), including your city, state, and zip code; and
 - d. who you are representing.

Public comment will only be accepted in person. Each speaker will be limited to three minutes, and time allotted to one speaker may not be reassigned to another speaker.

Any individual with a disability who plans to attend this meeting and requires auxiliary aids or services should notify the department as far in advance as possible, but no less than two days in advance, so that appropriate arrangements can be made. Contact David Richards by telephone at (512) 465-1423.

I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements.

CERTIFYING OFFICIAL: Elizabeth Brown Fore, General Counsel, (512) 465-5665.

Board Meeting Date: 10/13/2022
BRIEFING ITEM

To: Texas Department of Motor Vehicles Board
From: Daniel Avitia, Executive Director
Agenda Item: 4.A
Subject: Executive Director's Report - Introduction of Human Resources Division Director - Cynthia Mendoza

RECOMMENDATION

Briefing Only.

PURPOSE AND EXECUTIVE SUMMARY

To introduce the new Human Resources Division Director of the Texas Department of Motor Vehicles, Cynthia Mendoza.

BACKGROUND AND DISCUSSION

Cynthia joined TxDMV from the Texas Department of Agriculture (TDA), where she served as director of Human Resources. During her 23 years with TDA, she focused on streamlining and audit-proofing applicant services processes, ensuring classification and competitive compensation, and adhering to human resources laws and regulations.

Prior to her state service, Cynthia worked at her family's locally owned restaurant chain where she created the Human Resources Department from the ground up to include policy and procedures manuals, compensation equity, and training.

Cynthia is a native Austinite, earning a Bachelor of Business Administration degree in marketing from the University of Texas at Austin and holds a Professional in Human Resources (PHR) certification.



Board Meeting Date: 10/13/2022
BRIEFING ITEM

To: Texas Department of Motor Vehicles Board
From: Daniel Avitia, Executive Director
Agenda Item: 4.B
Subject: Executive Director's Report - Introduction of Chief Information Security Officer Marlin Craig

RECOMMENDATION

Briefing Only.

PURPOSE AND EXECUTIVE SUMMARY

To introduce the new Chief Information Security Officer of the Texas Department of Motor Vehicles, Marlin Craig.

BACKGROUND AND DISCUSSION

Marlin Craig started with the Texas Department of Motor Vehicles as the Chief Information Security Officer (CISO) on August 1, 2022. As the CISO, Marlin's mission is to enhance the department's information security program. His responsibilities include ensuring the confidentiality, integrity, and availability of the TxDMV's data and information systems. He will work with department staff to identify and remediate risks to our information resources while supporting our business functions.

Marlin has worked for the State of Texas for nine years, most recently as the CISO for the Office of the Secretary of State (SOS). At the Office of the Secretary of State, his responsibilities included supporting critical agency operations including elections administration and business filings. Marlin earned a Bachelor of Science degree in Computer Science from Southwest Texas State University. He is a Certified Information Systems Security Professional and is working to earn his Certified Chief Information Security Officer certification.

Marlin is passionate about Texas cyber security and protecting the sensitive data and information of all its citizens. His goal at TxDMV is to work closely with agency stakeholders to support agency operations while managing risk to agency information resources.



Board Meeting Date: 10/13/2022
BRIEFING ITEM

To: Texas Department of Motor Vehicles Board
From: Daniel Avitia, Executive Director
Agenda Item: 4.C
Subject: Executive Director's Report – Introduction of Consumer Relations Division Deputy Director – Veronica Whitaker

RECOMMENDATION

Briefing Only.

PURPOSE AND EXECUTIVE SUMMARY

To introduce the new Deputy Director of the Consumer Relations Division of the Texas Department of Motor Vehicles, Veronica Whitaker.

BACKGROUND AND DISCUSSION

Veronica has served the state of Texas since 2006 in customer service. She started her career with the Texas Department of Public Safety (DPS), where she processed driver licenses and identification cards. She joined TxDMV in 2013 as a customer service representative in CRD and was promoted to quality assurance manager in 2018. In that role, Veronica transitioned and integrated the IT Service Desk to CRD, built the quality assurance program with a focus on the customer experience and quality of the service provided, and organized the division's transition to telework without a disruption in service. She began her new position as CRD deputy director on August 15, 2022.



Board Meeting Date: 10/13/2022
BRIEFING ITEM

To: Texas Department of Motor Vehicles Board
From: Daniel Avitia, Executive Director
Agenda Item: 4.D
Subject: Executive Director's Report - Joint Budget Hearing Update

RECOMMENDATION

Briefing Only.

PURPOSE AND EXECUTIVE SUMMARY

Provide an update on legislative activities related to the department's request for legislative appropriations for fiscal years 2024-25.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

On September 28, 2022, department leadership participated in the Texas Department of Motor Vehicle's Joint Budget Hearing. These hearings provide the first public presentation and discussion of state agency funding needs described in the recently published Legislative Appropriations Request document. The hearings are co-chaired by staff from the Office of the Governor and the Legislative Budget Board and allow an opportunity for public comment.

To: Texas Department of Motor Vehicles Board
From: Daniel Avitia, Executive Director
Agenda Item: 4.E
Subject: Executive Director's Report - Fingerprinting Implementation Update

RECOMMENDATION

Briefing Only.

PURPOSE AND EXECUTIVE SUMMARY

Provide status on implementation of fingerprinting

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

On June 30, 2022, the Texas Department of Motor Vehicles (TxDMV) adopted rules requiring certain new applicants and existing dealer license holders to be fingerprinted effective September 1, 2022 (43 Tex. Admin. Code § 211.6). The new rule was implemented successfully on September 1, 2022.

The fingerprint requirement is a one-time requirement if an active license is maintained and affects new applicants, renewal applicants, and changes to an existing license due to a change in ownership or representative status.

The following dealer applicants and license holders are subject to this requirement:

- Franchised Motor Vehicle Dealer
- Independent Motor Vehicle Dealer
- Wholesale Motor Vehicle Dealer
- Motorcycle Dealer
- House Trailer Dealer (“House Trailer” includes “Travel Trailer” and “Towable Recreational Vehicle”)
- Trailer or Semi-Trailer Dealer
- Independent Mobility Motor Vehicle Dealer

As of September 27, 2022, the Motor Vehicle Division has sent notices to 965 applicants and has received results for 53% of those.

The TxDMV website has also been updated to provide dealer applicants and license holders with detailed information about the fingerprinting process - [Fingerprinting Requirements | TxDMV.gov](https://www.txdmv.gov/requirements) .

Board Meeting Date: 10/13/2022
BRIEFING ITEM

To: Texas Department of Motor Vehicles Board
From: Daniel Avitia, Executive Director
Agenda Item: 4.F
Subject: Executive Director's Report - American Association of Motor Vehicle Administrators (AAMVA) Annual International Conference Update

RECOMMENDATION

Briefing Only.

PURPOSE AND EXECUTIVE SUMMARY

Executive Director Daniel Avitia and Deputy Executive Director Roland D. Luna, Sr., attended the American Association of Motor Vehicle Administrators (AAMVA) Annual International Conference in Baltimore, Maryland, September 12-16, 2022. The AAMVA Annual International Conference is the premier annual conference hosted by the chair of the Board of Directors. Staff from the Consumer Relations, Information Technology Services, and Vehicle Titles and Registration (VTR) divisions also attended.

FINANCIAL IMPACT

N/A

BACKGROUND AND DISCUSSION

Department representatives attended a variety of sessions on title and registration-related topics, fraud, and leadership and participated in peer-to-peer discussions with other jurisdiction members on a variety of topics. The conference proved to be an excellent opportunity to network with various entities including other jurisdictions facing similar trends. Networking opportunities allowed staff to discuss best practices and ideas on how to address trends that are seen nationwide.

Staff identified the most impactful sessions to be the peer-to-peer roundtables, Innovation in Government Services, Immersive Learning Tour of the Port, Fraud Sessions, Contact Centers, and the Electronic Title and Vehicle Record Management session that also provided a platform for staff to engage and learn about ongoing national efforts and how Texas processes and developments compare to those in other jurisdictions. VTR Division Deputy Director Clint Thompson presented at the session on Electronic Title and Vehicle Record Management.

On behalf of the department, Deputy Executive Director Roland D. Luna, Sr. accepted the AAMVA Fraud Prevention and Detection Award for programming enhancements to the Motor Carrier Division's oversize/overweight permitting process.

To: Texas Department of Motor Vehicles Board
From: Daniel Avitia, Executive Director
Agenda Item: 4.G
Subject: National Association of Motor Vehicle Boards and Commissions (NAMVBC) Fall Workshop Update

RECOMMENDATION

Briefing Only.

PURPOSE AND EXECUTIVE SUMMARY

Deputy Executive Directors, Roland D. Luna, Sr., and Shelly Mellott attended the National Association of Motor Vehicle Boards and Commission (NAMVBC) 2022 Fall Workshop in Nashville, Tennessee September 21-24, 2022. Additional TxDMV staff who attended were Motor Vehicle Division Director (MVD) Monique Johnston, MVD Licensing Manager Brittney Kruse, and Enforcement Division Director Corrie Thompson.

The NAMVBC workshop offers a platform for various entities representing a variety of government entities and the automobile industry to present and discuss concepts on how to promote interaction and communication between the members of government and the vehicle industry.

FINANCIAL IMPACT

N/A

BACKGROUND AND DISCUSSION

Department representatives attended a variety of sessions on the various matters impacting the motor vehicle industry and the outlook of the industry - electronic titling, electronic liens, Electronic Vehicle (EV) Infrastructure, Distribution and Dealer Laws, laws and regulations surrounding motor vehicle dealer licensing, and warranty repair compensation disputes.

Several roundtable discussions were also included in the workshop. The conference roundtable discussions provided an excellent forum to discuss topics of interest and were an opportunity to network with various entities including other members of government and the vehicle industry.



Board Meeting Date: 10/13/2022
BRIEFING ITEM

To: Texas Department of Motor Vehicles Board
From: Daniel Avitia, Executive Director
Agenda Item: 4.H
Subject: Executive Director's Report – Awards, Recognition of Years of Service, and Announcements

RECOMMENDATION

Board Chair and members offer congratulations to employees receiving recognition for an award, reaching a state service milestone, or retirement.

PURPOSE AND EXECUTIVE SUMMARY

The Executive Director announces the names of individuals who retired from the agency and recognizes employees who have reached a state service milestone of 20 years and every five-year increment thereafter. Recognition at the October 13, 2022, Board Meeting for state service awards and retirements include:

- Jesse Velasco – Motor Carrier Division reached 20 years of state service
- Kristeauffer Phillips – Enforcement Division reached 25 years of state service
- Mary Sedillo-Chacon – Information Technology Services Division reached 30 years of state service

Finally, the following individuals recently retired from the agency:

- Bryan Wilson – Motor Vehicle Crime Prevention Authority
- Kevin Butts – Information Technology Services Division

Board Meeting Date: 10/13/2022
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Elizabeth Brown Fore, General Counsel
Agenda Item: 5
Subject: Proposal for Decision, Revocation of General Distinguishing Number and Imposition of Civil Penalty under Transportation Code §§503.038(a), 503.095(a); and Occupations Code §§2301.651, 2301.801(a); SOAH Docket No. 608-22-1186.ENF; Texas Department of Motor Vehicles Docket No. 21-0009871.ENF; Texas Department of Motor Vehicles v. LVB Automotive, Inc.

RECOMMENDATION

For Board consideration.

PURPOSE AND EXECUTIVE SUMMARY

The State Office of Administrative Hearings (SOAH) issued a Proposal for Decision (PFD) for consideration by the Board of the Texas Department of Motor Vehicles.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

LVB Automotive, Inc. (LVB) currently holds a general distinguishing number (GDN) issued by the Texas Department of Motor Vehicles (Department). Following the Department's investigation of LVB, the Department's Enforcement Division sent LVB a Notice of Department Decision (NODD) on November 16, 2021. Department staff then sent LVB a First Amended NODD on March 30, 2022, alleging that LVB violated statutes and/or rules relating to the following conduct, inter alia:

- the misuse of, failure to comply with the requirements for issuance or recordkeeping of, and/or failure to ensure the safekeeping and distribution of approximately 2,653 buyer's temporary tags issued through LVB's e-tag account;
- failure to keep a complete record of all vehicles purchased or sold; and
- failure to maintain the requirements for a dealer's established and permanent place of business.

The First Amended NODD recommended assessment of a civil penalty of \$15,000 and that LVB's GDN be revoked.

The Department referred the matter to SOAH on or about December 22, 2021. The SOAH Administrative Law Judge (ALJ) conducted the contested case hearing on June 1, 2022, and June 3, 2022, and issued a PFD on August 2, 2022. The ALJ found that LVB committed numerous violations, including a finding that LVB issued over 2,700 buyer's temporary tags without corresponding vehicle sales. The ALJ recommended civil penalties of \$15,000 and revocation of LVB's GDN. No exceptions were filed to the PFD.

SOAH's August 2, 2022, PFD is attached to this Executive Summary for consideration by the Board.



State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

August 2, 2022

Daniel Avitia
Executive Director
Texas Department of Motor Vehicles
4000 Jackson Ave.
Austin, Texas 78731

VIA E-FILE TEXAS

RE: SOAH Docket No. 608-22-1186.ENF; Texas Department of Motor Vehicles No. 21-0009871.ENF; Texas Department of Motor Vehicles v. LVB Automotive, Inc.

Dear Mr. Avitia:

Please find attached a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Texas Administrative Code section 155.507(b), a SOAH rule which may be found at www.soah.texas.gov/agency.

Brent McCabe,
Presiding Administrative Law Judge

Attachment

CC: H. Karen Meisel, Staff Attorney, Enforcement Division, Texas Department of Motor Vehicles, 400 Jackson Ave., Austin, Texas 78731 - **VIA E-FILE TEXAS**
Melinda Moreno, Docket Clerk, Texas Department of Motor Vehicles, 400 Jackson Ave., Austin, TX 78731 (with 1 hearing CD) - **VIA INTERAGENCY MAIL & E-FILE TEXAS**
Azukaego Omesiete, LVB Automotive, Inc., Respondent, 13001 Emmett Rd., Houston, Texas 77041 - **VIA E-FILE TEXAS**

SOAH Docket No. 608-22-1186

Suffix: ENF

MVD No. 21-0009871.ENF

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**TEXAS DEPARTMENT OF MOTOR VEHICLES -
ENFORCEMENT DIVISION,
PETITIONER
V.
LVB AUTOMOTIVE, INC.,
RESPONDENT**

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SOAH Docket No. 608-22-1186

Suffix: ENF

MVD No. 21-0009871.ENF

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**TEXAS DEPARTMENT OF MOTOR VEHICLES -
ENFORCEMENT DIVISION,
PETITIONER
v.
LVB AUTOMOTIVE, INC.,
RESPONDENT**

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Motor Vehicles—Enforcement Division (Department) seeks to have administrative penalties assessed against LVB Automotive, Inc. for violations of the Texas Transportation Code, Texas Occupations Code, and Title 43 of the Texas Administrative Code. Staff seeks an administrative penalty of \$15,000 and revocation of the general distinguishing number (GDN) license P137494 held by LVB Automotive, Inc. (Respondent). The

Administrative Law Judge (ALJ) finds that Staff proved all but one of the alleged violations and recommends that the Department impose the recommended sanctions against Respondent.

I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

There are no contested issues of jurisdiction or notice in this proceeding; therefore, those matters are addressed solely in the Findings of Fact and Conclusions of Law.

The hearing convened on June 1, 2022, via videoconference. The hearing was recessed until June 3, 2022, and was concluded on that day via videoconference. Staff was represented by H. Karen Meisel, Enforcement Division attorney. Respondent appeared through and represented by its owner, Azuka Omesiete.¹ The record closed on June 9, 2022, when the admitted exhibits were filed into the record.

II. APPLICABLE LAW

A dealer is a person, including a corporation, who regularly and actively buys, sells, or exchanges vehicles at an established and permanent location.² A dealer must hold a GDN issued by the Department under Texas Transportation Code chapter 503.³ A dealer must comply with the requirements of Texas

¹ In certain exhibits, Mr. Omesiete is identified as Azukaego Omesiete.

² Tex. Transp. Code § 503.001(4).

³ Tex. Occ. Code § 2301.002(7), (17), (27).

Transportation Code chapter 503, Texas Occupations Code chapter 2301, and 43 Texas Administrative Code chapter 215.⁴

A. BUYER'S TAG REQUIREMENTS

For each vehicle sold, a dealer must issue one temporary buyer tag to the purchaser.⁵ A dealer may only issue one temporary buyer tag for each vehicle sale.⁶ Dealers must enter information into the Department's database on persons to whom temporary tags are issued and obtain a specific number for the tag before a temporary tag may be issued and printed.⁷ A dealer may not misuse or allow the misuse of a temporary tag.⁸ The dealer is responsible for the safekeeping and distribution of each buyer's tag the dealer obtains.⁹

B. DEALERSHIP LOCATION

A dealer must comply with several requirements at its location, including maintaining an office that meets specifications, posting its hours, having an employee present or available to conduct business during those hours, and maintaining a business sign.¹⁰ A retail dealer's office must be open at least four days

⁴ See Tex. Transp. Code ch. 503; Tex. Occ. Code § 2301.351.

⁵ Tex. Transp. Code § 503.063(a). The Texas Legislature amended Texas Transportation Code section 503.063 to be effective September 1, 2021. The amendments are not relevant to this case; therefore, citations to this section will be to the current version.

⁶ See Tex. Transp. Code § 503.063(a).

⁷ Tex. Transp. Code § 503.0631. The Texas Legislature amended Texas Transportation Code section 503.0631 to be effective September 1, 2021. The amendments are not relevant to this case; therefore, citations to this section will be to the current version.

⁸ Tex. Transp. Code § 503.038(a)(12).

⁹ Tex. Transp. Code § 503.063(d).

¹⁰ 43 Tex. Admin. Code § 215.140(1), (3).

per week for at least four consecutive hours per day.¹¹ The business hours for each day of the week must be posted at the main entrance of the dealer's office.¹² The owner or an employee of the dealer must be at the location during the posted hours.¹³ If the owner or employee is not available to conduct business during those hours due to special circumstances, a separate sign must be posted indicating the date and time the dealer will resume operations.¹⁴ A retail dealer must display a conspicuous, permanent sign with letters at least six inches in height showing the retail dealer's business name or assumed name substantially similar to the name reflected on the retail dealer's license under which the retail dealer conducts business.¹⁵

C. RECORDKEEPING

For all vehicle sales and purchases, a dealer must maintain a complete record for at least 48 months.¹⁶ A dealer's complete record for each vehicle must contain: (1) the date of the purchase by the dealer; (2) the date of the sale to a buyer; (3) the Vehicle Identification Number (VIN), (4) the name and address of the person selling the vehicle to the dealer; (5) the name and address of the person purchasing the vehicle from the dealer; (6) the name and address of the consignor if the vehicle is offered for sale by consignment; (7) except for a purchase or sale where the Tax Code does not require payment of motor vehicle sales tax, a copy of the receipt,

¹¹ 43 Tex. Admin. Code § 215.140(1)(A).

¹² 43 Tex. Admin. Code § 215.140(1)(B).

¹³ 43 Tex. Admin. Code § 215.140(1)(B).

¹⁴ 43 Tex. Admin. Code § 215.140(1)(B).

¹⁵ 43 Tex. Admin. Code § 215.140(3).

¹⁶ 43 Tex. Admin. Code § 215.144(a).

titled “Tax Collector’s Receipt for Texas Title Application/Registration/Motor Vehicle Tax”; (8) a copy of all documents, forms, and agreements applicable to a particular sale including a copy of: (A) the title application; (B) the work-up sheet; (C) the front and back of manufacturer’s certificate of origin or manufacturer statement of origin, unless the title is obtained through the electronic title system; (D) the front and back of the title, unless the title is obtained through the electronic title system; (E) the factory invoice; (F) the sales contract; (G) the retail installment agreement; (H) the buyer’s order; (I) the bill of sale; (J) any waiver; (K) any other agreement between the seller and purchaser; and (L) Form VTR-136, relating to County of Title Issuance, completed and signed by the buyer; (9) the original manufacturer’s certificate of origin, original manufacturer’s statement of origin, or original title for motor vehicles offered for sale by a dealer, and a properly stamped original manufacturer’s certificate of origin, original manufacturer’s statement of origin, or original title for motor vehicles sold by a dealer if the title transaction is entered into the electronic system by the dealer; and (10) the dealer’s monthly Motor Vehicle Seller Financed Sales Returns, if any.¹⁷ For out-of-state sales, the dealer must retain a photocopy of the completed sales tax exemption form approved by the Texas Comptroller of Public Accounts.¹⁸

When a representative of the Department requests records from a dealer, the dealer must deliver a copy of the specified records within 15 days of receipt of the request.¹⁹

¹⁷ 43 Tex. Admin. Code § 215.144(e).

¹⁸ 43 Tex. Admin. Code § 215.144(g)(2).

¹⁹ 43 Tex. Admin. Code § 215.144(d).

D. SANCTIONS AND DISCIPLINE

A person who violates chapter 503 of the Texas Transportation Code, or any rule adopted under that chapter, is subject to a penalty of not less than \$50 and not more than \$1,000.²⁰ Each act in violation of chapter 503 of the Texas Transportation Code and each day of a continuing violation is a separate violation.²¹

Further, if after a hearing the Department finds that a person has violated Texas Transportation Code section 503.038(a) (addressing certain violations related to the GDN), the Texas Occupations Code authorizes the Department to impose a penalty not to exceed \$10,000 per violation.²² Each act of violation and each day of a continuing violation is a separate violation.²³

The following factors must be considered in determining the amount of the penalty under the Texas Occupations Code:

1. The seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited act, and the harm or potential harm to the safety of the public;
2. The economic damage to the public caused by the violation;
3. The history of previous violations;

²⁰ Tex. Transp. Code § 503.095(a).

²¹ Tex. Transp. Code § 503.095(b).

²² Tex. Occ. Code § 2301.801(a).

²³ Tex. Occ. Code § 2301.801(a).

4. The amount necessary to deter a future violation;
5. Efforts to correct the violation; and
6. Any other matter that justice may require.²⁴

In addition to these factors, the Department's disciplinary matrix states that the Department will consider the following mitigating factors in determining the amount of civil penalty to assess or whether revocation is appropriate: (1) acknowledgement of wrongdoing, (2) willingness to cooperate with the Department; (3) efforts to correct the violation, and (4) any other matter that justice may require, including rehabilitative potential and present value to the community.²⁵ The Department's disciplinary matrix include the following aggravating factors: (1) history of violations of a similar nature, (2) number of violation or number of consumers harmed by violation, (3) attempted concealment of the violation, (4) intentional, premeditated, knowing, or grossly negligent act constituting a violation, and (5) violation of an order issued by the Department.²⁶ The disciplinary matrix includes suggested "low" and "high" sanction amounts.

The Department may cancel a GDN if the dealer commits any of several acts, including if the dealer "misuses or allows the misuse of a temporary tag authorized under this chapter."²⁷ The Department can revoke a GDN if the dealer

²⁴ Tex. Occ. Code § 2301.801(b).

²⁵ Department's Disciplinary Matrix at 1, available at <https://www.txdmv.gov/sites/default/files/body-files/Motor-Vehicle-Disciplinary-Matrix.pdf> (last visited July 26, 2022).

²⁶ Department's Disciplinary Matrix at 1, available at <https://www.txdmv.gov/sites/default/files/body-files/Motor-Vehicle-Disciplinary-Matrix.pdf> (last visited July 26, 2022).

²⁷ Tex. Transp. Code § 503.038(a)(12).

violates any law relating to the sale and distribution of motor vehicles, chapter 2301 of the Occupations Code, or any rule adopted by the Board of the Department.²⁸ In determining whether revocation is appropriate, the Department's disciplinary matrix states that the Department will consider the following factors:

1. Whether the licensee is unfit under the standards governing the occupation, including the qualifications for a license;
2. Whether the licensee made a material misrepresentation in any information filed according to the Department's statutes or rules;
3. Whether the licensee willfully defrauded a purchaser; and
4. Whether the licensee failed to fulfill a written agreement with a retail purchaser of a motor vehicle.²⁹

Staff has the burden of proving, by a preponderance of the evidence, that Respondent committed the alleged violations and the appropriate sanction for any such violations.³⁰

III. EVIDENCE

Staff had 17 exhibits³¹ that were admitted into evidence and offered the testimony of (1) Derek Holston, trooper for the New Hampshire State Police,

²⁸ Tex. Occ. Code § 2301.651(a)(3)-(4).

²⁹ Department's Disciplinary Matrix at 1, available at <https://www.txdmv.gov/sites/default/files/body-files/Motor-Vehicle-Disciplinary-Matrix.pdf> (last visited July 26, 2022).

³⁰ 1 Tex. Admin. Code § 155.427; *Granek v. Tex. State Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.) (concluding that preponderance of the evidence standard is appropriate for agency proceedings, which are civil in nature).

³¹ See Staff Ex. 1-6, 8-16, 18-19.

(2) Daniel McCue, officer at the Middlesex Borough (New Jersey) Police Department, (3) Kyle Komanich, investigator for the Department, and (4) Kimberly Jaso, Director of Title Services for the Department's Title and Registration Division.

Respondent had two exhibits³² that were admitted into evidence and offered the testimony of its owner, Azuka Omesiete.

A. STAFF'S EVIDENCE

1. Testimony of Derek Holston

Derek Holston is a trooper for the New Hampshire State Police and part of their Motor Carrier Enforcement Unit. He testified that, in May 2021, he conducted an inspection on a 2006 Volvo tractor, VIN 4VANC9THX6N430976 (2006 Volvo Tractor) that had a buyer's temporary tag issued by Respondent. For vehicles of this size, Trooper Holston testified that the motor carrier is required to register for apportionment fees or taxes—motor carriers are required to pay fees or taxes to the states in which they travel. Texas buyer's temporary tags are not enforceable in New Hampshire, and the motor carrier was essentially improperly travelling in New Hampshire for free.

Trooper Holston stated that this was the second temporary tag issued for this vehicle since February 2021. The first temporary tag was issued by Miss Tammy Solutions, Inc., and expired April 25, 2021. The second tag was

³² See Resp. Ex. 1, 3.

issued by Respondent on April 26, 2021.³³ Trooper Holston concluded that the temporary tag was obtained fraudulently and that there was not a transfer of ownership at that time. He acknowledged that the buyer listed for each temporary tag was different but reached the conclusion that the transaction was a sham because the first buyer listed was a driver for the company that was listed as the second buyer. He testified that the buyer's tag was being misused and he reported the issued to the Texas Department of Motor Vehicles.

2. Testimony of Daniel McCue

Detective Daniel McCue is a peace officer for the Middlesex Borough Police Department and was assigned to investigate a stolen 2014 Dodge Ram 150, VIN 1C6RR7HT6ES444541 (2014 Dodge Ram). He testified that, in September 2020, the vehicle was stolen from a New Jersey tow truck company's impound lot after the vehicle was repossessed.³⁴ In March 2021, the vehicle was recovered with a February 2021 temporary buyer's tag issued by Respondent to Kawan Pierce—the owner at the time of repossession and suspect in the theft.³⁵ Det. McCue testified that the Department provided Respondent's address as 6615 Brittmore Road, Houston, Texas.³⁶ His report indicates that the buyer's tag was issued by Innocent Enwere from an IP address located in Irvington, New Jersey.³⁷ Det. McCue testified he filed a complaint with the Department for questionable practices in the

³³ See Staff Ex. 12 at 6-7.

³⁴ Staff Ex. 16 at 1-2.

³⁵ Staff Ex. 16 at 8.

³⁶ Staff Ex. 16 at 9.

³⁷ Staff Ex. 16 at 9.

issuance of buyer's tags in April 2021. Det. McCue concluded that it was not reasonable that the prior owner would have repurchased the vehicle from an out-of-state dealer, especially given that the vehicle was reported as stolen.

3. Testimony of Kyle Komanich

Kyle Komanich is an investigator with the Department and is responsible for investigating complaints against dealers including retail GDN holders like Respondent. He stated that he was familiar with requirements of a dealer to operate. He testified that he is familiar with the eTag system but not familiar with the dealer's access interface in the eTag system.

Mr. Komanich testified that he conducted a site visit of Respondent's dealer location, 13001 Emmett Road, Houston, Texas 77041-2604, on February 22, 2022, and, on his visit, there was no business sign for Respondent.³⁸

Mr. Komanich also testified that neither Respondent nor an employee was present during his visit. He was unable to communicate with any person at the visit. Mr. Komanich stated that the Department did not issue any policy relating to the COVID-19 pandemic that relieved a dealer from the staffing requirements, including the requirement that the dealer sell vehicles from its location. On February 24, 2022, he spoke to Mr. Omesiete, who confirmed that the building

³⁸ Staff Ex. 8 at 7; *see* Staff Ex. 3 at 1. The only posted signs were the names and business hours for the two other dealers that co-resided at the location.

Mr. Komanich visited was Respondent's place of business. Mr. Omesiete told Mr. Komanich that Respondent had no vehicles in its inventory at that time.³⁹

Mr. Komanich testified that, in the course of his investigation, he requested all Respondent's Vehicle Inventory Tax (VIT) statements for the time between January 2021 and January 2022 from the Harris County Tax Assessor-Collector. He explained that a dealer must submit a VIT statement each month and annually that details the vehicle sales that the dealer made. The Harris County Tax Assessor-Collector responded to the request by providing VIT statements for three months: January, March, and April 2021.⁴⁰ The VIT statements identify that Respondent made one vehicle sale over the requested period.⁴¹ The 2006 Volvo Tractor was not identified in Respondent's VIT statements. Mr. Komanich stated that a dealer should have a buyer's tag issued the same day for each vehicle sold as listed in the VIT. He said the number of buyer's temporary tags issued should match the number of sales listed in the VIT statements.

Mr. Komanich testified that a dealer is authorized to issue only one temporary buyer's tag for each sale and that he was unaware of any Department policy, guidance, or rule that altered this limitation during the COVID-19 pandemic. He said that buyer's tags expire after 60 days and dealers are not authorized to reissue buyer's tags. Instead, in response to the COVID-19 disaster,

³⁹ Mr. Komanich also testified about Respondent's display area and concluded that it was not properly set up or separated from a coresident dealer's display area. However, the Department's First Amended Notice of Department Decision does not allege display area violations.

⁴⁰ Staff Ex. 5 at 2-7.

⁴¹ Staff Ex. 5 at 2-7. Staff also introduced its Vehicles Sold by Dealer Report, which identifies 30 vehicles sold under Respondent's GDN. Staff Ex. 18 at 1-2.

the Department temporarily waived title and registration requirements and instructed law enforcement to not ticket expired registration including expired buyer's temporary tags.⁴²

Mr. Komanich testified that the Department sent Respondent requests for records related to the sales of the 2014 Dodge Ram and 2006 Volvo Tractor.⁴³ He stated that the Department did not receive a response to the inquiry into the 2014 Dodge Ram. He added that Respondent did respond to the inquiry into the 2006 Volvo Tractor but the response was deficient and did not contain the documents required by Department rule to be kept by the dealer for each sale.⁴⁴ Documents that Respondent was missing included: (1) documentation on how the vehicle arrived in Respondent's inventory, (2) buyer's guide, (3) the VTR-136 form (county of title issuance), (4) the VTR-130U form (title application), and (5) the VTR-500 form (registration receipt document).⁴⁵ Mr. Komanich acknowledged that a VTR-136, VTR-130U, and VTR-500 would not be required documentation in an out-of-state vehicle sale, but if the sale were an out-of-state sale, Respondent's records are missing the required tax exemption form.⁴⁶ In the documents received from Respondent, the assignment of title page indicates that Express Transporter, Inc. assigned title for the 2006 Volvo Tractor to Maxsteves Enterprise, a Houston resident with a Texas dealer number P153003, on

⁴² See Staff Ex. 19 at 1 (detailing the end of the title and registration waiver period on April 14, 2021).

⁴³ Staff Exs. 9-10.

⁴⁴ Staff Ex. 11.

⁴⁵ See Staff Ex. 11.

⁴⁶ See Staff Ex. 11.

December 15, 2020.⁴⁷ On February 12, 2021, the First Reassignment section indicates that Maxsteves Enterprises assigned title to GGWA Brown Autosales, a New Jersey resident.⁴⁸ On April 1, 2021, Reassignment of Certificate of Ownership from New Jersey indicates that Respondent was the buyer.⁴⁹ The seller's name is not provided but the dealer ID number written is 153003 and matches Maxsteves Enterprise's Texas dealer number.⁵⁰

Mr. Komanich testified that there are several reasons that a dealer may use or issue fake or improper buyer's tags. The primary motive is that dealers can sell them—they are cheap to produce and can be sold for upwards of \$100 each. Buyer's tags may be used to avoid paying tolls or other transportation fees. Fake buyer's tags may also be used in the commission of serious crimes such as theft, homicide, or human trafficking. They may also be used to hide stolen vehicles. Mr. Komanich elaborated that the permanent location requirements are important for dealerships, as a dealership need to be rooted and available during business hours to the public as well as available to police or the Department to investigate a crime.

⁴⁷ Staff Ex. 11 at 2.

⁴⁸ Staff Ex. 11 at 2.

⁴⁹ Staff Ex. 11 at 3.

⁵⁰ Staff Ex. 11 at 3.

4. Buyer's Tag Records

Mr. Komanich testified that the Department generated a buyer's tag report organized by vehicle VIN.⁵¹ The Department records indicate that Respondent issued 2,998 buyer's tags during from January 2021 to April 2022, when Respondent's access to the eTag system was restricted by the Department.⁵² Three individuals issued buyer's tags under Respondent's GDN in the following quantities:

| Individual | Buyer's Tags Issued |
|-----------------|---------------------------|
| Innocent Enwere | 2,710 |
| Azuka Omesiete | 254 |
| Jonathan Fabeyo | 34 |
| Total | 2,998⁵³ |

Of these issued tags, 94 were issued to buyers in Texas.⁵⁴ The remainder were to out-of-state buyers.⁵⁵ Respondent reissued approximately 1,500 buyer's tags to vehicles for which Respondent had previously issued a buyer's tag.⁵⁶ As for

⁵¹ See Staff Ex. 13.

⁵² Staff Ex. 13 at 1-94.

⁵³ Staff Ex. 13 at 1-94.

⁵⁴ Staff Ex. 13 at 1-94.

⁵⁵ Staff Ex. 13 at 1-94.

⁵⁶ Staff Ex. 13 at 1-94.

Mr. Omesiete's activity, he reissued approximately 100 buyer's tags to vehicles for which he had previously issued buyer's tags, including eight tags to one individual for a 2003 GMC, VIN 1GKEK63U43J332618, beginning February 2021 through April 2022.⁵⁷ For each of these reissued buyer's tags by Mr. Omesiete, the date of sale is listed as the date that each new buyer's tag was issued.⁵⁸

In his testimony, Mr. Komanich identified several of the entries in this buyer's tag report, including:

- Line 112, which is the entry related to the 2014 Dodge Ram investigated by Det. McCue.⁵⁹ The entry indicates that Mr. Enwere issued the buyer's tag to Kawan Pierce, the individual identified by Det. McCue as the prior owner.⁶⁰ It also indicates that there were 28 days between the listed sale date and the tag's issuance date.⁶¹
- Lines 384-398, which are 15 buyer's tags issued by Mr. Enwere to the same buyer for the same vehicle, VIN 1FUJGLDRXCLBW0346.⁶² These tags were issued approximately once a month from January 2021 through February 2022.⁶³ Additionally, each indicates that the buyer's tag was issued approximately 30 days after date of sale listed by Mr. Enwere.⁶⁴
- Lines 620-626, which are seven buyer's tags issued by Mr. Enwere to one individual for one vehicle.⁶⁵ Additionally, Mr. Komanich testified that

⁵⁷ Staff Ex. 13 at 18; *see* Staff Ex. 13 at 1-94.

⁵⁸ Staff Ex. 13 at 18.

⁵⁹ Staff Ex. 13 at 4.

⁶⁰ Staff Ex. 13 at 4.

⁶¹ Staff Ex. 13 at 4.

⁶² Staff Ex. 13 at 13.

⁶³ Staff Ex. 13 at 13.

⁶⁴ Staff Ex. 13 at 13.

⁶⁵ Staff Ex. 13 at 20.

this vehicle was designated as salvage when the buyer's tags were issued, and a dealer is prohibited from issuing a buyer's tag to a salvage vehicle.⁶⁶

- Line 1876, which is the entry related to the 2006 Volvo Tractor.⁶⁷ The entry indicates that Mr. Omesiete issued the buyer's tag on April 26, 2021, which is also the listed sale date.⁶⁸

5. Testimony of Kimberly Jaso

Kimberly Jaso is the Director of Title Services with the Department's Vehicle Titles and Registration division. She is familiar with the eTag system and the requirements for issuing a buyer's tag. She stated that the eTag system will alert a dealer if a vehicle is listed as a salvage vehicle in Texas, but it does not currently alert or prevent a dealer from issuing a buyer's tag for a vehicle listed for salvage in another jurisdiction. For out-of-state purchases, Ms. Jaso said, ownership should be established to the dealer and the title provided should identify the vehicle as salvage. She testified that when a dealer moves locations in a different city, the dealer is issued a new GDN and the old GDN is inactivated. After that point, the dealer has the ability to add users who are authorized to issue buyer's tags. When a buyer's tag is issued, a dealer and buyer receipt is generated as well as the buyer's tag. Ms. Jaso said the eTag system is not able to edit the dealer address because the dealer's information is managed in the eLicensing system—a different system. She testified that Respondent would not be able to

⁶⁶ Staff Ex. 13 at 20; Staff Ex. 15 at 1.

⁶⁷ Staff Ex. 13 at 59.

⁶⁸ Staff Ex. 13 at 59. Mr. Komanich also identified the buyer's tag issued to LVB Logistics, LLC. Staff Ex. 13 at 12. While there are multiple buyer's tags issued for the same vehicles, Mr. Komanich acknowledged that there is no prohibition against a dealer selling a vehicle to another corporate entity also owned by Mr. Omesiete.

issue tags associated with its former address. She added that buyer's tags or receipts are not printed with the dealer's address on them but contain the dealer's name and license number.⁶⁹

B. RESPONDENT'S EVIDENCE

1. Testimony of Azuka Omesiete

Azuka Omesiete is the owner of Respondent. He said that Respondent has been a Texas dealer for six years, and he had 12 years' experience at a used car dealership prior to moving to Texas and forming Respondent. He testified that his primary business is a logistics company, LVB Logistics LLC, and Respondent is a side venture. He testified that he sold most of the vehicles in New York and New Jersey, and Respondent ceased operations when its access to the eTag system was restricted.

With regard to the Department's request for records, he testified that Respondent answered both inquiries. For the 2006 Volvo Tractor, he said that Respondent responded but it never heard anything further from the Department, so he was unaware that there was any issue with the documentation until the Amended Notice of Department Decision. For the 2014 Dodge Ram, he testified that Respondent answered that it was unable to locate any documents relating to this sale.

⁶⁹ See, e.g., Staff Ex. 12 at 6-8 (copy of buyer's tag and buyer's tag receipts).

Mr. Omesiete maintained that he responded to or answered the allegations contained in the Department's Notice of Department Decision.⁷⁰ He testified that Respondent had a consignment partner in New Jersey who located buyers in New Jersey for Respondent.⁷¹ The partner was tasked with completing the paperwork relating to a sale that it arranged. Mr. Omesiete explained that Respondent periodically performed audits on the partner, but the 2014 Dodge Ram transaction fell through the cracks. It was beyond Respondent's control. He testified that once he became aware of the issue, Respondent terminated the relationship with this partner. He later determined the reason that the transaction fell through the cracks was because individuals were able to issue buyer's tags under Respondent's GDN that were erroneously associated with Respondent's previous business location.

Mr. Omesiete testified that Respondent moved locations in late 2018. Prior to this move, Respondent had two employees, Innocent Enwere and Jonathan Fabeyo, that were authorized users in the eTag system and were able to issue temporary buyer's tags. Mr. Omesiete confirmed that he was the master user in the eTag system. When he relocated, he went into the eTag system and authorized himself and his two employees to issue buyer's tags for his new location. According to Mr. Omesiete, despite Respondent moving locations and authorizing the employees to issue buyer's tags from the new address, Mr. Enwere and Mr. Fabeyo were still able to issue tags associated with the former address. Mr. Omesiete explained that temporary tags issued from his former location would not appear in his eTag report and that his eTag report only included buyer's tags issued from his

⁷⁰ See Staff Ex. 14. In responding to a prior allegation of a site visit, he contended that he had an appropriate business sign. Staff Ex. 14 at 2; Resp. Ex. 1 at 1.

⁷¹ Staff Ex. 14 at 1.

new location. Because of this, Mr. Omesiete said, Respondent's employees were issuing buyer's tags without his knowledge. He testified that he did not become aware of this issue until he received the Department's notice of suspension in November 2021. He said that he made a call inquiring about this potential eTag issued and received an email that the issue had been resolved. He testified that Mr. Enwere was an employee until Respondent ceased operations. Mr. Omesiete stated that he considered Mr. Enwere more like a partner than an employee. Outside of the call to the Department, he took no action to restrict Mr. Enwere's access to the eTag system because Mr. Enwere was still completing sales and needed to issue buyer's tags. Mr. Omesiete acknowledged that he had the ability in the eTag system to cancel or restrict any employee's authorization to issue buyer's tags.

As for the VIT statements, Mr. Omesiete stated that, in May 2022, he filed Respondent's annual VIT declaration listing that it had sold 76 vehicles in 2021.⁷² He explained that Respondent sold approximately 110-120 vehicles between January 2021 and March 2022, but he was unable to file or list the vehicles because the vehicles could not be registered, which is required in the monthly VIT statements.

As for the dealer location, Mr. Omesiete said no one had been going to Respondent's location for approximately a year and a half because he did not want to put himself at risk for COVID-19. He testified that Respondent's business hours are Monday through Saturday from 9:00 a.m. to 5:00 p.m., and the business hours

⁷² Resp. Ex. 3 at 2.

are posted at his location.⁷³ Respondent has not been observing business hours since Mr. Omasiete started working out of his home about 18 months ago. Mr. Enwere resides in New Jersey and primarily works from New Jersey but will travel back and forth.

Mr. Omesiete stated that he understood from conversations at the Harris County courthouse that dealers were allowed to reissue buyer's tags because of the COVID-19 pandemic. In his testimony, he confirmed that he reissued a buyer's tag to an individual for the same vehicle (VIN 1HGES26701L059177) on January 29, 2021, and March 29, 2021.⁷⁴ He also confirmed that he reissued buyer's tags to LVB Logistics, LLC (his primary business) for two vehicles (VINs 1FUJGLDR1CLBE9568 and 1FUJGLDR4CSBE9781).⁷⁵

IV. ANALYSIS

Staff alleges that Respondent (1) misused buyer's tags; (2) failed to keep a complete record of all vehicles purchased or sold; and (3) operated as a dealer from a location that does not meet the requirements of an established and permanent place of business.

⁷³ See Staff Ex. 8 at 7.

⁷⁴ Staff Ex. 13 at 24.

⁷⁵ Staff Ex. 13 at 12.

A. BUYER'S TAG MISUSE

Staff alleges that Respondent violated the Texas Transportation Code and Department rules when it issued buyer's tags for the 2014 Dodge Ram and the 2006 Volvo Tractor as well as issuing over 2,600 temporary buyer's tags despite only one reported vehicle sale. Respondent argues that the vast majority of the buyer's tags were issued by its employee without Respondent's knowledge and facilitated by an error in the eTag system. Respondent also asserts that its vehicle sales were underreported due to inability to register sold vehicles, and it was under the impression that dealers were authorized to reissue buyer's tags if the buyer could not register the vehicle during the COVID-19 pandemic.

The evidence establishes that Respondent substantially abused the buyer's tag and eTag system. Even accepting Respondent's sales figures, over a 16-month period, it sold less than 150 vehicles but issued nearly 3,000 buyer's tags. The Texas Transportation Code mandates that a dealer issue "one temporary buyer's tag for the vehicle." For every vehicle sold, Respondent issued an average of 19 additional buyer's tags. Respondent argues that it should not be held responsible for the actions of its employee, Mr. Enwere, because Mr. Omesiete was unaware of the buyer's tags that Mr. Enwere issued.

That argument is unpersuasive. First, it is undisputed Mr. Enwere was Respondent's employee and authorized to issue buyer's tags. Mr. Omesiete described Mr. Enwere as more a partner than an employee. Mr. Enwere resided in and primarily worked from New Jersey. There is little evidence of any efforts by

Respondent to oversee or manage Mr. Enwere. Even after the Department contacted Mr. Omesiete to request records and then give notice of the alleged violations, Mr. Omesiete took no action to remove Mr. Enwere's authority to issue buyer tags in the eTag system, and Mr. Enwere continued to issue buyer's tags until the Department restricted Respondent's access to the eTag system. Mr. Omesiete stated that he took no action, in part, because Mr. Enwere was still completing sales. Even after the Department's allegations came to Mr. Omesiete's attention, Respondent failed to manage, oversee, or supervise Mr. Enwere's duties. To the extent that Respondent was unaware of Mr. Enwere's actions, it was put on notice and failed in its responsibility for the safekeeping and distribution of buyer's tags.

Second, as for the argument that Respondent should not be held responsible for Mr. Enwere's action (because the buyer's tags he issued were from the account associated with Respondent's former address and did not appear in the reports generated from Respondent's eTag account), that contention is not supported by the evidence. Only Respondent's testimony that he could not view the buyer's tags issued by Mr. Enwere supports Respondent's argument. Ms. Jaso disputes this and testified that an account based on a former address would be deactivated and unable to issue buyer's tags. Respondent offers no documentation supporting its claim. It offers no screenshots or printouts of the reports it viewed to demonstrate which buyer's tags were shown. Additionally, Mr. Omesiete's behavior does not support the argument that Respondent was unaware. If all of Mr. Enwere's buyer's tags were issued under the former address, there is no evidence as to why Mr. Omesiete did not question Mr. Enwere's lack of sales or buyer's tags.

Mr. Omesiete testified that he did not restrict Mr. Enwere's access because he was making sales and required access. If some but not all buyer's tags issued by Mr. Enwere appeared on the buyer's tag report, there is no testimony or documentation demonstrating which buyer's tags were appropriately issued versus the phantom abusive tags.

Finally, in April 2021, the Department inquired about the 2014 Dodge Ram and requested documentation. Respondent argues that this issuance was tied to the former address because the Detective testified that he received Respondent's former address from the Department. However, Mr. Omesiete testified that he responded to the Department request for documentation on this vehicle by stating that Respondent did not have any documentation. There is no testimony or evidence that Mr. Omesiete questioned why Respondent was asked for records relating to a previous business address. Based on Respondent's argument, it should be unaware and unable to determine that it issued a buyer's tag to the 2014 Dodge Ram. Nothing in the record suggests that Respondent had this response at that time. Respondent was either complicit in or willfully ignorant of the actions and abuse of buyer's tags by Mr. Enwere. It failed in its duty to safekeep and properly distribute buyer's tags. It is appropriate to hold Respondent accountable for the actions of its employee, Mr. Enwere. Respondent misused or allowed the misuse of over 2,700 buyer tags issued by Mr. Enwere without any evidence of a corresponding vehicle sale.

As for buyer's tags issued directly by Mr. Omesiete, he reissued approximately 100 buyer's tags to a previous purchaser for a single vehicle. A

dealer is only authorized to issue one buyer's tag for each vehicle sale. Respondent argues that it understood that it was authorized to reissue buyer's tags in light of COVID-19 and difficulties with reregistering vehicles. However, Respondent presented no evidence that the Department exempted dealers from the statutory one-tag-per-vehicle limit. Instead, the evidence establishes that the Department waived title and registration requirements for buyers and did not require buyers to register or obtain a reissued temporary tag. Respondent's misunderstanding of the requirements for the issuance of buyer's tag does not excuse Respondent from the one-tag-per-vehicle limit. Respondent violated Texas Transportation Code section 503.063(a) when Mr. Omesiete issued more than one buyer's tag for each vehicle sold.

As for the issuance of a buyer's tag for the 2014 Dodge Ram, the Staff met its burden to demonstrate that Respondent misused the buyer's tag. The 2014 Dodge Ram was reported stolen following a repossession. Respondent issued a buyer's tag to the previous owner and suspected thief. Respondent presented no documentation on how it acquired the vehicle or sold the vehicle. Respondent presented no evidence or explanation that justifies the issuance of a buyer's tag for this vehicle. Respondent misused or allowed the misuse of the buyer's tag when it issued a buyer's tag for the 2014 Dodge Ram, a stolen vehicle.

As for the 2006 Volvo Tractor, Staff met its burden to demonstrate that Respondent misused or allowed misuse of the buyer's temporary tag. Trooper Holston testified that motor carriers may use temporary tags as a method of avoiding apportionment fees or taxes. He noted that the buyer's tag issued by

Respondent was issued the day after the previous tag expired. The transaction appears to be a sham as the seller was a driver employed by the carrier who purportedly bought the vehicle. Respondent's documentation also appears inconsistent, giving rise to questions about the validity of any transfer. On the assignment of title paperwork, it indicates that Maxsteves Enterprises, a Texas dealer, reassigned title to GGWA Brown Autosales, a New Jersey entity. However, the New Jersey Reassignment of Certificate of Title, dated April 1, 2021, listed the buyer as Respondent, but the seller is not identified except the dealer number is Maxsteves Enterprise's GDN. There is nothing in the documentation or evidence that explains the discrepancy or identifies the dealer, Miss Tammy Solutions, Inc., who issued the first buyer's tag in February 2021. Given the discrepancies and questionable circumstances with the transfer, Respondent—if not complicit—should have been aware of the risk of misuse. Staff met its burden to demonstrate that Respondent violated Texas Transportation Code provisions and Department rules in issuing the buyer's temporary tag.

B. FAILURE TO KEEP COMPLETE RECORDS FOR VEHICLES PURCHASED OR SOLD

Staff alleges that, for two vehicles—the 2014 Dodge Ram and 2006 Volvo Tractor—Respondent failed to maintain a complete record of vehicles purchased or sold as required by 43 Texas Administrative Code section 215.144. Staff has met its burden to demonstrate these violations.

Respondent acknowledged that it had no records for the sale of the 2014 Dodge Ram. A dealer is required to maintain complete documentation for

each vehicle sale and purchase. Respondent argues that this was the failure of its former consignment partner. However, even accepting Respondent's argument, Respondent provides no authority to suggest that it is relieved of its obligation to collect and retain the appropriate records. Additionally, the buyer's tag was issued by Respondent's employee, who could have collected the records but did not. Respondent violated the recordkeeping requirements with regard to the 2014 Dodge Ram.

As for the 2006 Volvo Tractor, Respondent provided the records it possessed in response to a request for records by the Department. The Department investigator testified that the response does not contain all the documents required to be maintained, specifically a completed sales tax exemption form approved by the Texas Comptroller of Public Accounts that is required for an out-of-state sale. Also, there are no documents that explain how the vehicle was obtained by Respondent. Respondent argues that it provided a response to the request and no one, prior to the issuance of the Notice of Department Decision, replied that the documentation was insufficient. However, there is no evidence that any additional documents for this transaction exist, and the documentation submitted to the Department fails to contain all the records required by 43 Texas Administrative Code section 215.144. Respondent violated its recordkeeping duty with regard to the 2006 Volvo Tractor.

Therefore, Staff demonstrated by a preponderance of the evidence that, for these two vehicles, Respondent failed to meet the requirements to maintain a

complete record of the purchase and sale as required by 43 Texas Administrative Code section 215.144(a), (e), and (g)(2).

C. DEALER LOCATION REQUIREMENTS

Staff allege that on two occasions, a Department investigator visited Respondent's business location, which failed to meet the requirements of Texas Transportation Code and Title 43 of the Texas Administrative Code.

For the first visit, alleged to be April 28, 2021, Staff offered no evidence of a site visit to support its allegation. While Respondent did offer a photograph that may have been from this site visit, there was no testimony from a Department investigator that identified the photograph or what they observed at the location. Therefore, Staff did not meet its burden to establish any violations alleged to have occurred on an April 28, 2021 site visit.

As to the second visit on February 22, 2022, Staff met its burden to establish that Respondent failed to be present during business hours and did not have a permanent business sign as required. The evidence is largely undisputed that a Department investigator visited the location on this date during Respondent's business hours, no representative or employee of Respondent was present at the location during the visit, and there was no business sign present that contained the business's name or its business hours.⁷⁶ Respondent's evidence fails to address this

⁷⁶ Respondent argues that the business hours are posted on the wall of the building. However, the posted business hours relate to one of the other dealers at the location, as it is the same type of sign and font as the that dealer's sign for its business name.

visit as there is no evidence that the photograph offered by Respondent was taken at or near the time of this site visit. As for Respondent's presence at the location, Mr. Omesiete acknowledged that he had been working from home for around 18 months in response to the pandemic, and there is no evidence that any other employee had been present at the location or that a "be back" sign had been posted.

Therefore, Staff demonstrated by a preponderance of the evidence that Respondent failed to meet the requirements of 43 Texas Administrative Code section 215.140(1)(B) and (3) on February 22, 2022. Staff failed to meet its burden to show any violations related to the alleged visit on April 28, 2021.

D. SANCTIONS AND RECOMMENDATION

Staff requests that Respondent be assessed a civil penalty of \$15,000 and that its license be revoked. Respondent, during closing argument, stated that if violations were found, an appropriate sanction would be \$5,000 and no revocation, because Staff's request was "too harsh." Having considered the violations proven by Staff and the factors to be considered, the ALJ finds that a civil penalty of \$15,000 and revocation of Respondent's license is the appropriate sanction.

1. Civil Penalty

As noted above, Respondent's actions constitute a substantial abuse of the eTag and buyer's temporary tag systems. There is no direct evidence that Respondent's owner, Mr. Omesiete, directed Mr. Enwere to issue approximately

2,700 buyer's tags over 16 months, but at best, Respondent was willfully unaware and failed to supervise its employees. Given his location and the lack of oversight, Mr. Enwere should not have been authorized to issue temporary tags. The misuse and violations are serious and underscored by the lack of a proper and permanent business location and missing documentation for the vehicles identified by the Department. While Respondent in closing argument seemed to acknowledge some wrongdoing, there is little evidence of efforts that Respondent took to correct its violations or to cooperate with the Department. Respondent took no actions to limit Mr. Enwere's access to the eTag system, and Mr. Enwere continued to issue tags until Respondent's access to the eTag system was restricted.

Respondent currently offers little present value to the community. Mr. Omesiete testified that he has worked from home and Respondent's business location has been unoccupied for over a year. He testified that Respondent ceased operations once its access to the eTag system was restricted. When operating, most of Respondent's operations were wholesale sales out-of-state and not within the local, or even state, community.

Respondent's acts harmed or had the potential to harm the public. Fake or misused buyer's tags are used in the commission of serious crimes. At least on one occasion, Respondent issued a buyer's tag for a vehicle reported as stolen. Issuing temporary tags to stolen vehicles assists with obfuscating the crime and undercuts public confidence in vehicle titles. This confidence is further eroded by Respondent issuing multiple temporary tags for a salvage vehicle.

Staff requested a total civil penalty of \$15,000, but it did not provide any analysis on how it arrived at the requested sanction and did not demonstrate that it applied the Department's disciplinary matrix or recommended sanctions to any specific violation. In its own analysis and in consideration of the applicable statutes, Department rules, and disciplinary matrix, the ALJ finds the total sanction requested by Staff to be reasonable, and the following civil penalty is appropriate for each of the following violations:

- **Civil penalty of \$10,000** for the approximately 2,700 temporary tags issued by Respondent's employee, Innocent Enwere, that were not connected to any identified sales. Under Texas Occupations Code section 2301.801(a), a civil penalty not to exceed \$10,000 may be imposed when a dealer misuses a temporary tag under chapter 503 of the Texas Transportation Code. As discussed above, the number and nature of the violation warrants an imposition of this penalty and is aggravated by Respondent's inaction and lack of oversight. These violations are not just an isolated event but a concerted effort or scheme resulting in thousands of improperly issued buyer's tags being available for use to deceive members of the public as well as law enforcement.
- **Civil Penalty of \$2,500** for the violations relating to the issuance of a buyer's tag for the 2014 Dodge Ram. Respondent misused a temporary tag when it issued a temporary tag to a vehicle reported as stolen and failed to maintain any documentation related to the transaction. Issuing a temporary tag to a stolen vehicle is a serious violation that carries a true risk of harm for the public. Under Texas Occupations Code section 2301.801(a), an appropriate civil penalty for the misuse of a temporary tag is \$2,000. For the failure to maintain documentation, the appropriate civil penalty is \$500 pursuant to Texas Transportation Code section 503.095(a).
- **Civil Penalty of \$1,000** for the violations relating to the issuance of buyer's tag for the 2006 Volvo Tractor. Respondent misused a buyer's tag when it issued the tag to a vehicle where the previous title was unclear

and was later used to avoid apportionment fees or taxes. While misusing a temporary tag in this matter is a serious violation, it is less egregious than the temporary tag issued to the stolen vehicle. Respondent maintained partial documentation for the transaction and there are some indicia of a genuine transaction unlike with the 2014 Dodge Ram. Therefore, under Texas Occupations Code section 2301.801(a), an appropriate civil penalty for the misuse of a temporary tag is \$750. For the failure to maintain documentation, the appropriate civil penalty is \$250 pursuant to Texas Transportation Code section 503.095(a).

- **Civil Penalty of \$500** for the approximately 100 temporary tags reissued by Mr. Omesiete resulting in more than one buyer's tag for each vehicle. Despite the rather consistent and numerous acts of reissuing temporary tags, there are some mitigating factors given Respondent's confusion over the statutes and rules in effect during the COVID-19 pandemic and buyers' inability to register their new vehicles. There is also little evidence as to the potential harm to the public when a prior buyer is reissued a 60-day temporary tag if there was an inability to register the vehicle. However, given the volume of reissued temporary tags, an appropriate civil penalty for the issuance of more than one temporary tag⁷⁷ is \$500 pursuant to Texas Transportation Code section 503.095(a).
- **Civil Penalty of \$1000** for the failure to maintain an established and permanent place of business. Department rules require a dealer to be present at the business and to have a permanent business sign. Despite being notified of and responding to an allegation of a failure to meet these requirements, Respondent took no action to correct the violation or be present at the location during business hours. Therefore, an appropriate civil penalty for failing to be present at the location during business hours is \$500, and for failing to have a permanent business sign with the required information is \$500 pursuant to Texas Transportation Code section 503.095(a).

⁷⁷ Tex. Transp. Code § 503.063(a).

For all these reasons, the ALJ recommend that the Department impose a civil penalty of \$15,000 for the violations discussed above.

2. Revocation

Revocation of Respondent's GDN is appropriate in this case. The Department may revoke a dealer's GDN if the dealer misuses or allows the misuse of a temporary tag and/or violates any law relating to the sale and distribution of motor vehicles or any rule adopted by the Board. As detailed above, Respondent significantly misused and abused the buyer's temporary tag and eTag system. It issued nearly 3,000 temporary tags during a period where, at best, it made fewer than 150 sales. Respondent took little to no action to prevent or remedy the issues even after it was made aware. Ultimately, a dealer is responsible for the safekeeping and distribution of temporary tags. Respondent failed to meet this responsibility, resulting in the consistent abuse and misuse of temporary tags over a 16-month period. In addition to these serious breaches of its duties, Respondent failed to make itself available to the public during posted business hours, which is required by the Department rules and necessary to demonstrate a licensee's fitness under the standards governing dealers. For these reasons and the reasons above, the ALJ recommends that Respondent's GDN be revoked.

V. FINDINGS OF FACT

1. LVB Automotive, Inc. (Respondent) holds General Distinguishing Number (GDN) P137494, a license issued by the Texas Department of Motor Vehicles (Department) Motor Vehicle Division on December 19, 2016. Respondent's current business address is 13001 Emmett Road, Houston, Texas 77041-2604.

2. Respondent is owned by Azuka Omesiete.
3. The Department received complaints that buyer's temporary tags issued by Respondent were being misused.
4. On Tuesday, February 22, 2022, a Department investigator performed a site visit on Respondent's business location at 13001 Emmett Road, Houston, Texas 77041-2604.
5. No employee of Respondent was on site when the Department investigator arrived. No sign was posted stating when the dealership would reopen for business.
6. No sign listing Respondent's name or business hours was posted when the Department investigator visited.
7. A dealer is allowed to create only one buyer's tag per sale.
8. Department records of buyer's tags created by Respondent list approximately 2,998 buyer's tags issued between January 1, 2021, and April 30, 2022.
9. Respondent's employee, Innocent Enwere, was authorized by Respondent to issue buyer's tags on behalf of Respondent. Between January 1, 2021, and April 30, 2022, Mr. Enwere issued approximately 2,710 buyer's tags.
10. Respondent's owner, Mr. Omesiete, issued approximately 254 buyer's tags between January 1, 2021, and April 30, 2022.
11. Mr. Omesiete admitted that he issued more than one buyer's tag per vehicle sale. Mr. Omesiete reissued buyer's tag approximately 100 times between January 1, 2021, and April 30, 2022.
12. Respondent sold, at most, 120 vehicles between January 1, 2021, and March 30, 2022.
13. Respondent issued a buyer's tag to Kawan Pierce, a North Carolina resident, for a 2014 Dodge Ram 150, Vehicle Identification Number (VIN) 1C6RR7HT6ES444541 (2014 Dodge Ram) in February 2021.

14. The 2014 Dodge Ram was reported stolen in September 2020 in New Jersey. Mr. Pierce was a suspect in the theft.
15. Respondent issuing a buyer's tag for the 2014 Dodge Ram was a misuse or allowance of a misuse of a buyer's tag.
16. Respondent maintained no documentation relating to the purchase, sale, or buyer's tag issuance of the 2014 Dodge Ram.
17. Respondent issued a buyer's tag for a 2006 Volvo tractor, VIN 4VANC9THX6N430976 (2006 Volvo Tractor) in April 2021.
18. The 2006 Volvo Tractor had received a buyer's tag from a different Texas dealer, which expired the day before Respondent issued its buyer's tag.
19. The 2006 Volvo Tractor, displaying Respondent's buyer's tag, was cited by New Hampshire state police in May 2021 for motor carrier violations.
20. Motor carriers may improperly use buyer's tags to avoid paying apportionment fees or taxes to states through which they travel.
21. Respondent knew or should have known that it was issuing a buyer's tag that was going to be misused.
22. Respondent issuing a buyer's tag for the 2006 Volvo Tractor was a misuse or allowance of a misuse of a buyer's tag.
23. Respondent did not maintain complete documentation relating to the purchase, sale, and buyer's tag issuance of the 2006 Volvo Tractor, including failing to have documentation on how it acquired the vehicle and a tax exemption form required for sales to out-of-state buyers.
24. Respondent took no action to correct violations or allegations of violations.
25. Issuing a buyer's tag to assist in the commission of a crime is harmful to the public or a potential risk to harm the public.
26. The Department issued a First Amended Notice of Department Decision dated on March 30, 2022. The Notice alleged that Respondent violated statutes and rules relating to a dealer's permanent place of business on

- April 28, 2021, and February 22, 2022, and regarding the use of and issuance and recordkeeping for buyer's tags from on or about January 1, 2021, through February 14, 2022.
27. By letter dated March 31, 2022, Staff of the Department's Enforcement Division sent a Notice of Hearing to Respondent. The notice of hearing provided the date, time, and place of a preliminary hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters asserted or an attachment that incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.
 28. On June 1 and June 3, 2022, Administrative Law Judge Brent McCabe with the State Office of Administrative Hearings (SOAH) convened the hearing on the merits via videoconference. Attorney H. Karen Meisel represented Staff. Respondent was represented by its owner, Azuka Omesiete. The record closed on June 9, 2022.

VI. CONCLUSIONS OF LAW

1. The Department has jurisdiction and authority to revoke, probate, or suspend a license to sell a motor vehicle, and to reprimand and/or impose a civil penalty against a license holder. Tex. Transp. Code §§ 503.038(a), .095(a); Tex. Occ. Code §§ 2301.651, .801(a).
2. SOAH has jurisdiction over all matters relating to the conduct of a hearing in this case, including the preparation of a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Occ. Code § 2301.704.
3. Respondent received proper notice of the Department Decision and of the hearing on the merits. Tex. Occ. Code §2301.705; Tex. Gov't Code §§ 2001.051-.052.
4. Respondent should be assessed a penalty of \$10,000 for issuing over 2,700 buyer's tags without corresponding vehicle sales. Tex. Transp. Code § 503.038(a)(12); Tex. Occ. Code § 2301.801(a).

5. Respondent should be assessed a penalty of \$2,000 for issuing a buyer's tag for the 2014 Dodge Ram, which was reported as stolen. Tex. Transp. Code § 503.038(a)(12); Tex. Occ. Code § 2301.801(a).
6. Respondent should be assessed a penalty of \$500 for failing to maintain a complete record of the purchase and sale of the 2014 Dodge Ram. Tex. Transp. Code § 503.095(a); 43 Tex. Admin. Code § 215.144.
7. Respondent should be assessed a penalty of \$500 for issuing a buyer's tag for the 2006 Volvo Tractor. Tex. Transp. Code § 503.038(a)(12); Tex. Occ. Code § 2301.801(a).
8. Respondent should be assessed a penalty of \$500 for failing to maintain a complete record of the purchase and sale of the 2006 Volvo Tractor. Tex. Transp. Code § 503.095(a); 43 Tex. Admin. Code § 215.144.
9. Respondent should be assessed a penalty of \$500 for the instances where Mr. Omesiete, the owner, issued more than one buyer's tag for vehicles sold by Respondent. Tex. Transp. Code § 503.063(a).
10. Respondent should be assessed a penalty of \$500 for its failure to post a permanent business sign with the name of the business and its business hours for each day of the week at the main entrance of the retail dealer's office that is accessible to the public. Tex. Transp. Code § 503.095(a); 43 Tex. Admin. Code § 215.140.
11. Respondent should be assessed a penalty of \$500 for its failure, in the absence of having an employee on site, to post a sign stating when the dealer would resume operations. Tex. Transp. Code § 503.095(a); 43 Tex. Admin. Code § 215.140.
12. Respondent's GDN should be canceled or revoked. Tex. Transp. Code § 503.038(a)(12); Tex. Occ. Code § 2301.651(a)(3)-(4).

SIGNED AUGUST 2, 2022



Brent McCabe,
Presiding Administrative Law Judge

Board Meeting Date: 10/13/2022
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Clint Thompson, Vehicle Titles and Registration Division Deputy Director
Agenda Item: 6
Subject: Chapter 217. Vehicle Titles and Registration
Amendments, §217.27
(Relating to Personalized License Plates)
(Published 7/15/22 - 47 TexReg 4106)

RECOMMENDATION

Action Item. Adopt the amendments and approve publication in the Texas Register.

PURPOSE AND EXECUTIVE SUMMARY

The adopted amendments are necessary to clarify and modify the criteria for determining whether a personalized alphanumeric pattern is potentially objectionable under Transportation Code §504.008(e). The amendments are necessary to allow personalized alphanumeric patterns that are not objectionable.

FINANCIAL IMPACT

The department has determined that for each year of the first five years the adopted amendments are in effect, there will be no fiscal impact to the state or local governments as a result of the enforcement or administration of the amendments.

BACKGROUND AND DISCUSSION

The purpose of the amendments is to clarify and modify the criteria for determining whether a personalized alphanumeric pattern is potentially objectionable. The amendments will make the current rule less restrictive.

Transportation Code §504.008(e) authorizes the department to refuse to issue a specialty license plate with a personalized alphanumeric pattern that the director or the director's designee determines to be potentially objectionable to one or more members of the public. Section 217.27 implements §504.008(e) by setting out criteria for identifying alphanumeric patterns that may be potentially objectionable.

The department has determined that the current rule restricts patterns that are not objectionable, such as "1969" and patterns that refer to the military. The adopted amendments would allow these patterns.

The current rule allows an individual whose application has been denied to appeal that decision within 30 days from the date the individual submits the appeal. An amendment changes the date at which the 30-day count begins from the date the individual submits the appeal to the date the department receives the appeal.

After an application for a personalized alphanumeric pattern is denied, if the applicant does not timely appeal, the current rule allows the applicant to select a new alphanumeric pattern. An amendment removes the selection of a new

alphanumeric pattern, and instead specifies that the applicant will receive a refund. The applicant may submit a new application for a new alphanumeric pattern.

COMMENTS

The department received no comments on the proposed amendments.

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Chapter 217 - Vehicle Titles and Registration

1 **ADOPTION OF**

2 **SUBCHAPTER B. MOTOR VEHICLE REGISTRATION**

3 **43 TAC §217.27**

4 **INTRODUCTION.** The Texas Department of Motor Vehicles adopts amendments to Title 43 Texas
5 Administrative Code, Subchapter B, §217.27, concerning personalized license plates. The department
6 adopts amendments to §217.27 without changes to the proposed text as published in the July 15, 2022,
7 issue of the *Texas Register* (47 TexReg 4106). The rule will not be republished.

8 The department adopts substantive and non-substantive changes to amended §217.27.

9 The non-substantive changes renumber current subsections (e) - (g) as subsections (f) - (h) to
10 accommodate renumbered subsection (e), correct spelling and grammar, revise for consistency in terms,
11 and revise for plain English readability.

12 **REASONED JUSTIFICATION.** The amendments are necessary to clarify and modify the criteria for
13 determining whether a personalized alphanumeric pattern is potentially objectionable under
14 Transportation Code §504.008(e).

15 Section 504.008(e) authorizes the department to refuse to issue a specialty license plate with a
16 personalized alphanumeric pattern that the director or the director's designee determines to be
17 potentially objectionable to one or more members of the public. Section 217.27 implements §504.008(e)
18 by setting out criteria for identifying alphanumeric patterns that may be potentially objectionable. The
19 department has determined that the current rule needs to be less restrictive to allow personalized
20 alphanumeric patterns that are not objectionable.

21 **SUMMARY OF COMMENTS.**

22 No comments on the proposed amendments were received.

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Chapter 217 - Vehicle Titles and Registration

1 **STATUTORY AUTHORITY.** The department adopts amendments to §217.27 in accordance with
2 Transportation Code §504.0011 and §1002.001.

3 -- Transportation Code §504.0011 authorizes the board to adopt rules to implement and
4 administer Transportation Code Chapter 504.

5 -- Transportation Code §1002.001 authorizes the board to adopt rules that are necessary and
6 appropriate to implement the powers and the duties of the department.

7 **CROSS REFERENCE TO STATUTE.** Transportation Code §504.008.

8 **TEXT.**

9 **SUBCHAPTER B. MOTOR VEHICLE REGISTRATION**

10 **43 TAC §217.27**

11 §217.27. Vehicle Registration Insignia.

12 (a) On receipt of a complete initial application for registration with the accompanying documents
13 and fees, the department will issue vehicle registration insignia to be displayed on or kept in the vehicle
14 for which the registration was issued for the current registration period.

15 (1) If the vehicle has a windshield, the symbol, tab, or other device prescribed by and
16 issued by the department shall be attached to the inside lower left corner of the vehicle's front windshield
17 in a manner that will not obstruct the vision of the driver, unless the vehicle is registered under
18 Transportation Code, Chapter 504, Subchapter B-1.

19 (2) If the vehicle has no windshield, the symbol, tab, or other device prescribed by and
20 issued by the department shall be attached to the rear license plate unless the vehicle is registered under
21 Transportation Code, Chapter 504, Subchapter B-1, except that registration receipts, retained inside the
22 vehicle, may provide the record of registration for vehicles with permanent trailer plates.

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1 (3) If the vehicle is registered under Transportation Code, Chapter 504, Subchapter B-1,
2 the registration receipt, symbol, tab, or other device prescribed by and issued by the department must be
3 retained with the vehicle and may provide the record of registration for vehicles with a digital license
4 plate. The expiration month and year must appear digitally on the electronic visual display of the rear
5 digital license plate.

6 (4) If the vehicle is registered as a former military vehicle as prescribed by Transportation
7 Code, §504.502, the vehicle's registration number shall be displayed instead of displaying a symbol, tab,
8 or license plate.

9 (A) Former military vehicle registration numbers shall be displayed on a
10 prominent location on the vehicle in numbers and letters of at least two inches in height.

11 (B) To the extent possible, the location and design of the former military vehicle
12 registration number must conform to the vehicle's original military registration number.

13 (b) Unless otherwise prescribed by law, each vehicle registered under this subchapter:

14 (1) must display two license plates that are clearly visible, readable, and legible, one at
15 the exterior front and one at the exterior rear of the vehicle that are securely fastened at the exterior
16 front and rear of the vehicle in an upright horizontal position of not less than 12 inches from the ground,
17 measuring from the bottom, except that a vehicle described by Transportation Code, §621.2061 may place
18 the rear plate so that it is clearly visible, readable, and legible; or

19 (2) must display one plate that is securely fastened at or as close as practical to the
20 exterior rear of the vehicle in a position not less than 12 inches from the ground, measuring from the
21 bottom if the vehicle is a road tractor, motorcycle, trailer or semitrailer.

22 (c) Each vehicle registered under this subchapter must display license plates:

23 (1) assigned by the department for the period; or

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1 (2) validated by a registration insignia issued by the department for a registration period
2 consisting of 12 consecutive months at the time of application for registration, except that:

3 (A) trailers, semitrailers, or pole trailers not subject to inspection under
4 §548.052(3) may obtain a registration insignia for a period consisting of 12, 24, 36, 48 or 60 consecutive
5 months on payment of all fees for each full year of registration; and

6 (B) vehicles may be registered for 24 consecutive months in accordance with
7 Transportation Code, §548.102 on payment of all fees for each year of registration, regardless of the
8 number of months remaining on the inspection at the time of registration, provided:

9 (i) the vehicle receives a two-year inspection under Transportation Code,
10 §548.102; and

11 (ii) the application for registration is made in the name of the purchaser
12 under Transportation Code, §501.0234.

13 (d) The department may cancel any license plate issued with a personalized alphanumeric [~~alpha-~~
14 ~~numeric~~] pattern [~~that was issued~~] if the department subsequently determines or discovers that the
15 personalized alphanumeric pattern did not comply [~~license plate was not in compliance~~] with this section
16 [~~these guidelines~~] when the license plate was issued, or if due to changing language usage, meaning, or
17 interpretation, the personalized alphanumeric pattern no longer complies [~~license plate has become non-~~
18 ~~compliant~~] with this section [~~these guidelines~~]. When reviewing a personalized alphanumeric [~~alpha-~~
19 ~~numeric~~] pattern, the department need not consider the applicant's subjective intent or declared
20 meaning. The department will not issue any license plate containing a personalized alphanumeric [~~an~~
21 ~~alpha-numeric~~] pattern that meets one or more of the following criteria: [-]

22 (1) The alphanumeric [~~alpha-numeric~~] pattern conflicts with the department's current or
23 proposed regular license plate numbering system.

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1 (2) The director ~~[of the department's Vehicle Titles and Registration Division]~~ or the
2 director's designee finds that the personalized alphanumeric ~~[alpha-numeric]~~ pattern may be considered
3 objectionable. An objectionable alphanumeric pattern may include ~~[, including plate patterns that feature~~
4 ~~foreign or slang]~~ words, ~~[or]~~ phrases, or slang in any language; ~~[use]~~ phonetic, numeric, or reverse spelling;
5 ~~[;]~~ acronyms; ~~[;]~~ patterns viewed in mirror image; ~~[;]~~ or ~~[use a]~~ code that ~~[which]~~ only a small segment of
6 the community may be able to readily decipher. An ~~[, that may be considered]~~ objectionable ~~[or~~
7 ~~misleading, including that the]~~ pattern may be viewed as ~~[, directly or indirectly,];~~

8 (A) indecent (defined as including a direct reference or connotation to a sexual
9 act, sexual body parts, excreta ~~[excrement]~~, or sexual bodily fluids or functions. Additionally, the
10 alphanumeric pattern "69" is ~~[formats are]~~ prohibited unless used with the full year (1969) or in
11 combination with a reference to a ~~[the]~~ vehicle ~~[make, for example, "69 CHEV".];~~

12 (B) vulgar, directly or indirectly ~~[a vulgarity]~~ (defined as profane, swear, or curse
13 words);

14 (C) derogatory, directly or indirectly (defined as an expression that is demeaning
15 to, belittles, or disparages any person, group, race, ethnicity, nationality, gender, or sexual orientation.
16 "Derogatory" may also include a reference ~~[, or refers]~~ to an organization that advocates the ~~[such]~~
17 expressions described in this subparagraph);

18 (D) a direct or indirect negative instruction or command directed at another
19 individual related to the operation of a motor vehicle ~~[reference to race, ethnicity, gender or sexual~~
20 ~~orientation whether the reference is derogatory or not];~~

21 (E) a direct or indirect reference to gangs, illegal activities, ~~[violence,]~~ implied
22 threats of harm, or expressions that describe, advertise, advocate, promote, encourage, glorify, or
23 condone violence, crime, or unlawful conduct;

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1 (F) a direct or indirect reference to ~~illegal drugs,~~ controlled substances or ~~the~~
2 physiological state produced by such substances, intoxicated states, or a direct or indirect reference
3 ~~references~~ that may express, describe, advertise, advocate, promote, encourage, or glorify such
4 substances ~~items~~ or states;

5 (G) a direct representation of ~~or reference to,~~ law enforcement ~~or military~~
6 ~~branches,~~ or other governmental entities ~~and their titles~~, including any reference to a public office or
7 position exclusive to government ~~or military or law enforcement rank or status, or any other official~~
8 ~~government position or status~~; or

9 (H) a pattern that could be misread by law enforcement ~~deceptively similar to a~~
10 ~~military, restricted distribution, or other specialty plate~~.

11 (3) The alphanumeric ~~alpha-numeric~~ pattern is currently on a license plate issued to
12 another owner.

13 (e) ~~(4)~~ Notwithstanding the provisions of ~~limitations on issuance of plate patterns in~~ this section,
14 ~~subsection,~~ the department may issue license plates with personalized alphanumeric patterns that refer
15 to:

16 (1) military branches, military rank, military units, military equipment, or status; or

17 (2) ~~publicly and privately funded~~ institutions of higher education, including military
18 academies, whether funded privately, by the state, or by the federal government ~~by state or federal~~
19 ~~sources, or both~~.

20 (f) ~~(e)~~ A decision to cancel or not to issue a license plate with a personalized alphanumeric ~~alpha-~~
21 ~~numeric~~ pattern under subsection (d) of this section may be appealed to the executive director of the
22 department or the executive director's designee within 20 days of notification of the cancellation or non-
23 issuance. All appeals must be in writing, and the requesting party may include any written arguments, but

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1 shall not be entitled to a contested case hearing. The executive director or the executive director's
2 designee will ~~[consider the requesting party's arguments and]~~ issue a decision no later than 30 days after
3 the department receives ~~[submission of]~~ the appeal, unless additional information is sought from the
4 requestor, in which case the time for decision is tolled until the additional information is provided. The
5 decision of the executive director or the executive director's designee is final and may not be appealed to
6 the board. An appeal to the executive director or the executive director's designee is denied by operation
7 of law 31 days from the receipt ~~[submission]~~ of the appeal, or if the requestor does not provide additional
8 requested information within ten days of the request.

9 ~~(g)~~~~(f)~~ The provisions of subsection (a) of this section do not apply to vehicles registered with
10 annual license plates issued by the department.

11 ~~(h)~~~~(g)~~ A person whose initial application has been denied will ~~[may either]~~ receive a refund if the
12 denial is not appealed in accordance with subsection (f) of this section ~~[or select a new alpha-numeric~~
13 ~~pattern]~~. If an existing license plate with a personalized alphanumeric ~~[alpha-numeric]~~ pattern has been
14 canceled ~~[cancelled]~~, the person may choose a new personalized alphanumeric ~~[alpha-numeric]~~ pattern
15 that ~~[which]~~ will be valid for the remainder of the term, or the remaining term of the canceled license
16 plate will be forfeited ~~[forfeit the remaining term purchased]~~.

17
18 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the adoption and found it to be a
19 valid exercise of the agency's legal authority.

20 Issued at Austin, Texas, on M DD, YYYY.

21
22 _____
23 Elizabeth Brown Fore, General Counsel

24

To: Texas Department of Motor Vehicles Board
From: Patricia Ueckert, Vehicle Titles and Registration Division Operations Section Director
Agenda Item: 7
Subject: Chapter 217. Vehicle Titles and Registration
Amendments, §§217.122–217.130
New, §§217.131–217.133
(Relating to SB 15, Motor Vehicle Records)
(Published 7/22/22 - 47 TexReg 4297)

RECOMMENDATION

Action Item. Adopt the amendments and new sections. Also, approve publication in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The amendments and new sections are necessary to: (i) implement amended Transportation Code §§730.003, 730.006, 730.007, 730.013, 730.014, and 730.016 and new §§730.0121, 730.0122, and 730.0123 in accordance with Senate Bill (SB) 15, 87th Legislature, Regular Session (2021), also known as the Texas Consumer Privacy Act Phase I (SB 15); and (ii) make other changes necessary as determined by the department for clarity and effective implementation of Transportation Code Chapter 730.

FINANCIAL IMPACT

The department has determined that for the first five years there will be an insignificant fiscal impact to state and local governments as a result of the enforcement or administration of the adopted amendments and new sections. There will also be insignificant costs to the public—including small businesses, microbusinesses, and rural communities—that are incidental to costs required by SB 15 and are necessary to protect the public's interest in the privacy of personal information contained in the department's motor vehicle records.

BACKGROUND AND DISCUSSION

Senate Bill 15 amended Transportation Code Chapter 730, the Motor Vehicle Records Disclosure Act. Transportation Code Chapter 730 implements 18 U.S.C. Chapter 123, the Driver's Privacy Protection Act, and protects the interest of an individual by limiting the disclosure and use of personal information contained in motor vehicle records. Senate Bill 15 amended multiple sections of Transportation Code Chapter 730 and created three new sections, including creating additional criminal offenses and increasing the punishment for an existing criminal offense.

The existing 43 TAC Chapter 217, Subchapter F, regulates how a person can access personal information from the department's motor vehicle records, the responsibilities associated with possessing that information, and the repercussions for misusing that information. The amendments and new sections (i) modify the subchapter's defined terms; (ii) clarify the process for requesting personal information from the department's motor vehicle records; (iii) create additional processes for requests from law enforcement agencies; (iv) establish processes for accessing motor vehicle records in bulk under a contract; (v) establish a process for submitting annual reports required in Transportation Code §730.014(c)(7); (vi) address requirements for providing reasonable assurances regarding the requestor's permitted

use; (vii) remove the term "resale" to conform with SB 15's amendments to Transportation Code §730.013; (vii) establish processes for ceasing the disclosure of personal information under Transportation Code §730.014; (ix) establish requirements for the deletion of information under Transportation Code §730.0121; and (x) clarify existing rules to improve processes and facilitate compliance.

COMMENTS

The proposed amendments and new sections were published for comment in the July 22, 2022, issue of the *Texas Register*. The comment period closed on August 22, 2022.

The department received four written comments on the proposal from Auto Data Direct, Inc., Experian Information Solutions, Inc., North Texas Tollway Authority, and R.L. Polk & Co. The comments are attached. The department does not recommend making any changes to the rule text in response to the comments.

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ADOPTION OF
CHAPTER 217 VEHICLE TITLES AND REGISTRATION
SUBCHAPTER F. MOTOR VEHICLE RECORDS
43 TAC §§217.122 – 217.133

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to Title 43 Texas Administrative Code §§217.122-217.130 and new §§217.131-217.133, concerning the disclosure of personal information from the department's motor vehicle records. The department adopts §§217.122-217.133 without changes to the proposed text as published in the July 22, 2022, issue of the *Texas Register* (47 TexReg 4297). The rules will not be republished.

REASONED JUSTIFICATION. The department adopts substantive and nonsubstantive changes to amended §§217.122-217.130 and adopts new §§217.131-217.133. The amendments and new sections are necessary to implement amended Transportation Code §§730.003, 730.006, 730.007, 730.013, 730.014, and 730.016 and new §§730.0121, 730.0122, and 730.0123 under Senate Bill 15, 87th Legislature, Regular Session (2021), also known as the Texas Consumer Privacy Act Phase I (SB 15). The nonsubstantive changes revise for consistency, clarify existing requirements, redesignate subsections and paragraphs when subsections or paragraphs have been added or deleted, and revise for plain English readability.

Section 217.122. The amendments to §217.122 add new subsections (a) and (b)(5) through (14); remove existing paragraphs (1), (3), and (4); and renumber existing paragraphs (2), (5), (6), and (7).

New §217.122(a) incorporates all definitions found in Transportation Code Chapter 730 for consistent interpretations between the corresponding statutes and rules. To be consistent and avoid conflict with the statutory definitions, duplicative terms have been removed in existing paragraphs (1), (3), and (4) of subsection (b). The remaining existing definitions have been renumbered.

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1 The amendments to renumbered §217.122(b)(2) clarify the definition of "requestor" to include "this
2 state" and "an agency of this state," to conform to the definition of "person" in Transportation Code
3 §730.003(5), which specifically excludes "this state or an agency of this state." The amendment to
4 renumbered §217.122(b)(2) clarifies that the incorporation of the statutory definition of "person" does
5 not modify who is permitted to submit a request for personal information to the department. The term
6 "requestors" continues to apply to people, states, and agencies of this state unless specifically stated
7 otherwise.

8 The amendments to renumbered §217.122(b)(3) clarify the definition of "service agreement." A service
9 agreement is a contract between the department and a "requestor," replacing "individuals, businesses or
10 governmental entities or institutions" in accordance with its amended definition. Service agreements
11 always provide electronic access to motor vehicle records, so for clarity the term "electronic" is added to
12 the definition and removed from §217.123, which includes regulations related to service agreements. The
13 amendment changing "the department's" to "department" clarifies that a service agreement may provide
14 access to some but not all the department's motor vehicle records, depending on the terms and conditions
15 of the service agreement. A service agreement is one type of contract for access to department motor
16 vehicle records. SB 15 created another type of contract for access to department motor vehicle records
17 in Transportation Code §730.014, where the department provides a requestor access to personal
18 information in motor vehicle records in bulk. The requirements in Transportation Code §730.014 do not
19 apply to service agreements, because service agreements do not provide access to information in bulk.
20 Service agreements are contracts to receive access to records under §217.123 (relating to Access to Motor
21 Vehicle Records) where the department discloses personal information based upon requests for specific,
22 individual motor vehicle records.

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- 1 The amendments to renumbered §217.122(b)(4) change the term "made" to "submitted" for consistency
2 within the subchapter and to specify that a request can be submitted by mail as well as the listed
3 electronic methods.
- 4 New §217.122(b)(5) defines the term "signature" to establish that any signature requirement in this
5 subchapter can be met using an electronic signature, as defined by Transportation Code §501.172. The
6 definition includes "to the extent the department accepts such electronic signature" to recognize that
7 there may be subsets of or advancements in these types of electronic signatures that the department's
8 technology may not be able to accept at the time of submission.
- 9 New §217.122(b)(6) defines the term "Batch Inquiry" to identify one of the department's information
10 products that provides a requestor access to non-bulk motor vehicle records. Entering into a service
11 agreement to submit Batch Inquiries allows the requestor to submit requests for multiple, specific motor
12 vehicle records simultaneously and receive the responses in a batch format. A Batch Inquiry is
13 distinguishable from a request for information in bulk—a Batch Inquiry is a method of sending multiple
14 requests for individual records simultaneously and then receiving the response associated with each
15 request simultaneously; whereas a request for information in bulk is one request that will require the
16 disclosure of bulk information. In a Batch Inquiry, each motor vehicle record that is disclosed is a separate
17 disclosure.
- 18 New §217.122(b)(7) defines the term "MVInet Access," to identify one of the department's information
19 products that provides a requestor access to non-bulk motor vehicle records. MVInet Access provides the
20 requestor access to query the department's motor vehicle registration and title database. To run a query
21 in MVInet, the requestor must enter data associated with a specific motor vehicle record--a Texas license
22 plate number, vehicle identification number, placard number, or document number. The MVInet system
23 is not designed to return information from multiple motor vehicle records from a single search of the

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1 system, and therefore does not disclose personal information in bulk. Each search made in MVInet is a
2 separate disclosure. To gain access to MVInet, a requestor must apply for and enter into a service
3 agreement.

4 New §217.122(b)(8) defines the term "bulk" to implement SB 15's amendments to Transportation Code
5 §730.014. SB 15 established required contract terms when the department provides a requestor access
6 to personal information in motor vehicle records in bulk under a contract under Transportation Code
7 §730.007. SB 15 also established a requirement that the department include at least two records that are
8 created solely for monitoring compliance with Transportation Code Chapter 730 in any bulk disclosure.
9 The new definition of "bulk" in §217.122(b)(8) establishes what types of disclosures are subject to the
10 requirements for disclosures of personal information in bulk under Transportation Code §730.014.

11 New §217.122(b)(8) establishes that a disclosure of at least 250 motor vehicle records containing personal
12 information is "bulk." The minimum amount of 250 motor vehicle records coincides with Business and
13 Commerce Code §521.053(i), which requires a person to provide notice to the Texas Attorney General of
14 any breach of system security that involves at least 250 residents of this state. The "bulk" definition goes
15 on to include examples of department information products that disclose records in bulk.

16 New §217.122(b)(9) defines the term "bulk contract" to implement SB 15's amendments to
17 Transportation Code §730.014 that establish required contract terms when the department provides a
18 requestor access to personal information in motor vehicle records in bulk under a contract under
19 Transportation Code §730.007. The new definition clarifies the types of contracts that will contain the
20 contract terms required by Transportation Code §730.014.

21 New §217.122(b)(10) defines the term "Master File" to identify one of the department's information
22 products that provides a requestor access to personal information in department motor vehicle records
23 in bulk. The Master File contains all the department's active and inactive registration and title records.

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1 New §217.122(b)(11) defines the term "Weekly Updates" to identify one of the department's information
2 products that provides a requestor access to personal information in department motor vehicle records
3 in bulk. The Weekly Updates contains any new and renewed registrations and title records from the
4 previous week.

5 New §217.122(b)(12) defines the term "Specialty Plates File" to identify one of the department's
6 information products that provides a requestor access to personal information in department motor
7 vehicle records in bulk. The Specialty Plates File contains records on issued Texas specialty license plates.

8 New §217.122(b)(13) defines the term "eTAG File" to identify one of the department's information
9 products that provides a requestor access to personal information in department motor vehicle records
10 in bulk. The eTAG File contains records of new or updated eTAGs, vehicle transfer notifications, and plate-
11 to-owner records.

12 New §217.122(b)(14) defines the term "Dealer/Supplemental File" to identify one of the department's
13 information products that provides a requestor access to department motor vehicle records. The
14 Dealer/Supplemental File is a pair of files that are disclosed jointly. One of the files contains information
15 on licensed dealers and the other contains information from registration and title transactions processed
16 by dealers with the department during the previous week. The Dealer/Supplemental File does not contain
17 personal information protected under Transportation Code Chapter 730. The Dealer/Supplemental File is
18 not a standalone information product; a requestor who wants to receive the Dealer/Supplemental File
19 must also contract for the Weekly Updates, which is a bulk contract.

20 **Section 217.123.** The amendments to §217.123 improve readability and clarify the requirements for a
21 request for motor vehicle records, for proof of a requestor's identity, and for an application for a service
22 agreement. New subsections to §217.123 add new processes for law enforcement requestors, establish
23 processes regarding bulk requests, and clarify that other regulated methods of legal compulsion are

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1 exempt from the section's form requirements. The amendments insert new subsections (c) and (d)
2 between the existing subsections (b) and (c). The amendments also remove existing subsection (d), move
3 the content from existing subsection (e) to new subsection (e)(2), and add new subsections (f), (g), (h),
4 and (i). To accommodate the new subsections, existing subsection (c) is redesignated as subsection (e).
5 The amendments to §217.123(a) improve readability and clarify the general requirements for a request
6 for personal information in department motor vehicle records. The amendments start by distinguishing
7 requests made under §217.123(a) from requests made to access motor vehicle records in bulk, under the
8 new §217.123(f). The amendments broaden the language from "on the form" to "in a form," to clarify the
9 department's processes, which provide for one general request form and a second request form that is
10 tailored to the permitted uses afforded to law enforcement agencies under Transportation Code Chapter
11 730. Amendments to §217.123(a) also include the following amendments that improve readability and
12 are nonsubstantive: the removal of "Request for records," which is unnecessary; the relocation of the
13 requirement that information be released only in accordance with the DPPA, Transportation Code Chapter
14 730, Government Code §552.130, and 43 Texas Administrative Code Chapter 217, Subchapter F from
15 subsection (a) to subsection (i); and the removal of "at a minimum," which is unnecessary.
16 The amendments to §217.123(a)(2) improve readability and clarify the requirement that the requestor
17 specifically identify the requested motor vehicle records on the request form. For the department to
18 properly evaluate the request under Transportation Code Chapter 730 and provide a prompt, responsive
19 disclosure, the requestor must clearly identify the motor vehicle record they are seeking. If a request is
20 unclear, then the department may ask the requestor for clarification under Government Code §552.222.
21 The amendments to subsection (a)(2) specify a nonexclusive list of common data points that the
22 department often needs to locate a requested motor vehicle record. The amendments also add "plate"
23 to the "Texas license plate number" data point, to make the term consistent with Transportation Code

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1 Chapter 504 and to avoid any confusion with a driver's license number issued under Transportation Code
2 Chapter 521.

3 The amendments to §217.123(a)(3) modify the existing requirement for proof of identity to conform with
4 statutory language more closely and to incorporate amended §217.123(b) and new §217.123(c).
5 Subsections (b) and (c) allow for different types of proof of identity, depending on the requestor's
6 permitted use under Transportation Code Chapter 730.

7 The amendments to §217.123(a)(4) improve the readability of the existing requirement that the requestor
8 inform the department how the requestor qualifies to receive the requested personal information under
9 Transportation Code Chapter 730. The nonsubstantive amendments change the language to conform with
10 the Transportation Code §730.006 and §730.007 more closely. The amendments clarify that the requestor
11 must establish the requestor's authorized use on the request form. The amendments establish
12 subparagraphs (A) through (C) of subsection (a)(4) to clarify that the requestor is required to meet only
13 one of the existing authorized use options.

14 The amendments to §217.123(b) and the insertion of new §217.123(c) improve readability and specify
15 the acceptable forms of proof of identity for this subchapter. Transportation Code Chapter 730 requires
16 the department to protect personal information contained in its motor vehicle records and authorizes
17 disclosure of personal information only under certain circumstances. To determine whether a request
18 qualifies for disclosure, the department must verify the identity of the requestor. For most requestors,
19 this proof is provided using standard photo identifications. But the department recognizes that requestors
20 seeking information for a law enforcement agency's use often possess other reliable means of
21 identification that are unique to law enforcement. Therefore, the amendments remove law enforcement
22 requestors from existing subsection (b) and establish separate proof of identity requirements for requests
23 from law enforcement agencies in the new subsection (c).

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1 The amendments to §217.123(b) exempt requests that meet the requirements of new subsection (c), to
2 establish the separate proofs of identity available to law enforcement requestors. The amendments
3 improve the readability of subsection (b) by affirmatively stating the requirements and removing the
4 surplus "Identification required" and "document." The amendments to subsection (b) add allowances for
5 "Texas Department of Public Safety Identification" and "North Atlantic Treaty Organization identification
6 or identification issued under a Status of Forces Agreement" to better conform with other Texas laws that
7 require proof of identity. The amendments remove the allowance for a "copy of current law enforcement
8 credentials if the requestor is a law enforcement officer" as those requests are addressed by the new
9 subsection (c).

10 New §217.123(c) establishes proof of identity requirements for requests for personal information for use
11 by law enforcement agencies. Law enforcement agencies have commented on §217.123's existing
12 limitation to accept only law enforcement credentials as proof of identity from law enforcement
13 requestors. Considering the time-sensitivity and public interest in law enforcement investigations, new
14 §217.123(c) includes two new options for proof of identity for law enforcement requestors. The new
15 options for law enforcement requestors increase flexibility for the requestors while continuing to allow
16 the department to meet its obligations under Transportation Code Chapter 730 to confirm that a
17 requestor has a permitted use for the requested personal information and is not falsely holding
18 themselves out to be associated with a law enforcement agency.

19 The first of the three options, new §217.123(c)(1), continues the existing allowance for a law enforcement
20 requestor to provide the requestor's law enforcement credentials as proof of identity. This option
21 provides consistency for those that wish to continue following the existing processes. The second option,
22 new §217.123(c)(2), allows law enforcement agencies to "electronically submit the request in a manner
23 that the department can verify that the requestor is acting on behalf of a law enforcement agency." This

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1 option provides for multiple electronic submission methods--including methods that are currently
2 available, such as submission using an email address issued and controlled by a law enforcement agency,
3 and future methods that may be accomplished through technological advancements at the department.
4 The third option, new §217.123(c)(3), provides the ability for the requestor's superior or commanding
5 officer to affirm the requestor's identity. Unlike subsection (c)(2), subsection (c)(3) establishes a new
6 option that can be used for in-person requests, if an officer wishes to request records at a Regional Service
7 Center without presenting the officer's credentials.

8 New §217.123(d) establishes an exception for law enforcement requestors to the requirement in
9 §127.123(a) that requests be made in writing. The department recognizes the public benefit of providing
10 law enforcement requestors prompt assistance with their requests over the phone. New subsection (d)
11 establishes a process for law enforcement agencies to provide required proof of identity for the people
12 authorized to submit requests on behalf of the law enforcement agency before a request is made. The
13 department will create a vetting form that law enforcement agencies can use to provide proof of identity.
14 The department will review the submitted form and track which forms are complete and accepted. To
15 ensure the information provided on the forms does not become inaccurate over time, a law enforcement
16 requestor will be required to file a new form every 12 months, which must be approved by the department
17 if the law enforcement requestor would like to continue submitting requests to the department verbally.

18 New §217.123(d) also establishes that the department may require the law enforcement requestor to
19 confirm a verbal request in writing. If the department requires the law enforcement requestor to confirm
20 the request in writing, the department will not disclose any personal information related to the request
21 until confirmation in writing is received.

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1 The amendments reletter the existing §217.123(c) to §217.123(e), improve the readability of the existing
2 text, and clarify that a requestor must submit an application to enter into a service agreement. The
3 content from existing subsection (e) was relocated to subsection (e)(2).
4 Relettered §217.123(e) addresses the process of entering into a service agreement. A service agreement
5 is a contract that provides electronic access to department motor vehicle records through a method that
6 does not disclose personal information in bulk. The amendments to relettered subsection (e) remove
7 "Electronic access" because it restates an element of a service agreement.
8 The amendments to relettered §217.123(e)(1) improve readability and specify that a requestor must
9 submit an application to enter into a service agreement with the department. Before the department will
10 begin the process of drafting a service agreement, the requestor must provide reasonable assurances that
11 the requestor's identity is accurate and that the use of the personal information will be used only as
12 authorized, under Transportation Code §730.007(a) and §730.012. The amendments to relettered
13 §217.123(e)(1) remove "with a business or individual" and "written," as those terms are incorporated into
14 the definitions of "requestor" and "service agreement" in adopted §217.122(b)(2) and (3), respectively.
15 The removal of "with a business or individual" and "written," are nonsubstantive.
16 The amendments to relettered subparagraphs (A) through (E) of subsection (e)(1) make the requirements
17 for an application for a service agreement consistent with the requirements for a request under
18 §217.123(a), to avoid any unintended consequences. The amendments to relettered paragraph (e)(1)(A)
19 change the existing requirement for the requestor to provide the permitted use on the application for a
20 service agreement to conform with §217.123(a)(4)(C) and Transportation Code Chapter 730. The
21 amendments to relettered subsection (e)(1)(A) are nonsubstantive.
22 The amendments to relettered §217.123(e)(1)(B) specify that an applicant for a service agreement must
23 comply with Transportation Code §730.007(a)(1) and provide the applicant's name and address in the

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1 application. The requirement for an adjustable account in existing §217.123(c)(1)(B) is incorporated into
2 to relettered §217.123(e)(2) for clarity, since an adjustable account is a term or condition in a service
3 agreement and not part of the application for a service agreement.

4 The amendments to relettered §217.123(e)(1)(C) require an applicant for a service agreement to provide
5 proof of identity, as established under subsections (b) and (c). Since a service agreement is a contract
6 regarding the disclosure of personal information, the department has a duty to confirm the identity of the
7 contracting recipient. The amendments remove the existing §217.123(c)(1)(C) requirement for
8 "termination and default provisions," as those are not part of an application for a service agreement.
9 Executed service agreements will contain termination and default provisions, but it is not necessary for
10 this rule to require them, as they are standard contract terms and conditions.

11 The amendments to relettered §217.123(e)(1)(D) clarify that a requestor applying to enter into a service
12 agreement may be an individual, an organization, or an entity. If the requestor is an organization or entity,
13 the amendments require an officer or director to sign the application on the entity's behalf. It is necessary
14 for the department to know that an organization or entity's upper management understands the extent
15 of the requestor's responsibility to protect the personal information contained in the department motor
16 vehicle records before entering into a service agreement that provides electronic access to the
17 department motor vehicle records.

18 The amendments remove the requirement in existing §217.123(c)(1)(E) and add a new requirement in
19 relettered §217.123(e)(1)(E). The amendments to relettered §217.123(e)(1)(E) add a requirement that the
20 application for a service agreement contain a certification that the statements made in the application
21 are true and correct. The certification will not make the application more arduous on the part of the
22 requestor and will provide assurances to the department that the requestor has confirmed that the

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1 statements made in the application are true and correct before submission. This certification is not
2 required to be notarized.

3 The amendments remove the existing §217.123(c)(1)(E) requirement for a statement that the use of
4 personal information will be in accordance with the DPPA, Transportation Code Chapter 730, and the
5 permitted use specified in the service agreement to improve readability and make the rules more concise.
6 The existing requirement is not something a requestor must provide in its application for a service
7 agreement; rather, the existing requirement restates statutory requirements in accordance with DPPA
8 and Chapter 730. The requirement that a requestor comply with the DPPA and Chapter 730 will continue
9 to be required under a service agreement but the restatement of laws is removed to avoid redundancy
10 and any unintended conflict with those laws.

11 The amendments remove existing §217.123(c)(1)(F), which requires that applications for service
12 agreements contain "the statements required by subsection (a) of this section." Any "statements required
13 by subsection (a)" that are required in an application for a service agreement are specifically included in
14 the proposed amendments to the relettered §217.123(e). Therefore, the existing requirement in
15 §217.123(c)(1)(F) is unnecessary and removed to avoid any confusion.

16 The amendments to relettered §217.123(e)(2) simplify the existing requirements related to adjustable
17 accounts and the payment of fees under a service agreement by incorporating the requirements currently
18 located in existing §§217.123(c)(1)(B), 217.123(c)(2)(B), and 217.123(e) into one subdivision. Service
19 agreements include adjustable accounts established to pay fees incurred for the individual requests or
20 searches made under the service agreement. The adjustable account requirements can be modified
21 depending on the number of requests the requestor needs to submit. Additionally, some requestors are
22 exempt from the payment of fees in this subchapter under §217.124(b) and (e), which negates the need
23 for an adjustable account. The amendments to relettered §217.123(e)(2) combine all the existing

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1 regulations regarding adjustable accounts to one subdivision in the rule, making the rule more concise
2 and improving readability.

3 The amendments remove existing §217.123(c)(2), which contains a separate set of regulations for service
4 agreements with Texas governmental entities. In existing §217.123(c)(2), the only substantive distinctions
5 between the regulations for a service agreement with a governmental entity and a service agreement
6 with a requestor that is not a governmental entity was the existence of the adjustable account and the
7 recognition that a governmental entity may have statutory authority to obtain social security numbers.

8 The distinction that governmental entities may be exempt from paying fees is addressed by the
9 amendments to §217.124(e), making the requirement in existing §217.123(c)(2)(B) unnecessary. The
10 amendments remove existing §217.123(c)(2)(A)(v), which requires a statement citing to the governmental
11 entity's authority to obtain social security number information. This statement restates existing law in
12 Chapter 730. Section 730.003(6) defines "personal information" to include a social security number. If a
13 governmental entity has authority to obtain social security numbers under Chapter 730, that authority is
14 not modified by this rule. The removal of existing §217.123(c)(2) is nonsubstantive and avoids any
15 potential conflict with existing laws.

16 The amendments remove existing §217.123(d), which addresses the ineligibility to receive personal
17 information after a violation of a term or condition of the contract. Transportation Code §730.014 and
18 §730.016 address the repercussions to a contracted authorized recipient if the recipient violates its
19 contract, including the ineligibility to receive personal information. The amendments remove the existing
20 §217.123(d) to avoid any conflict with these statutes.

21 The amendments remove existing §217.123(e) because the existing regulation regarding initial deposits
22 and minimum balances in adjustable accounts is addressed by the amendments to relettered
23 §217.123(e)(2).

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1 New §217.123(f) implements amendments to Transportation Code §730.014, which include contract
2 requirements when an agency provides a requestor access to personal information in motor vehicle
3 records in bulk under a contract under Transportation Code §730.007. New §217.123(f) specifies the
4 requirement for a bulk contract; what must be present in an application for a bulk contract; when a
5 conviction of an offense under Transportation Code Chapter 730 or a violation of 43 Texas Administrative
6 Code Chapter 217, Subchapter F terminates a bulk contract; and what records the department may
7 release under a bulk contract.

8 New §217.123(f) establishes that "[a] requestor seeking access to department motor vehicle records in
9 bulk must enter into a bulk contract with the department." To ensure compliance with Transportation
10 Code §730.014, the department will not disclose information in bulk outside of a contract.

11 New §217.123(f)(1) specifies that a requestor must submit an application for a bulk contract with the
12 department before the department will initiate the contracting process and establishes the requirements
13 for an application for a bulk contract. Before the department will begin the process of entering into a
14 contract, the requestor must provide reasonable assurances regarding the requestor's identity and
15 assurances that the personal information will be used only as authorized under Transportation Code
16 §730.007(a) and §730.012.

17 New subparagraphs (A) through (E) of §217.123(f)(1) establish the requirements for an application for a
18 bulk contract, which conform with the requirements for an application for a service agreement under
19 §217.123(e). New §217.123(f)(1)(A) incorporates the requirement under Transportation Code
20 §730.007(a)(2) that a requestor must establish a permitted use before the department can disclose
21 personal information from motor vehicle records. New §217.123(f)(1)(B) addresses the requirement
22 under Transportation Code §730.007(a)(1) that a requestor must provide the requestor's name and
23 address with the request. New §217.123(f)(1)(C) addresses the requirement from Transportation Code

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1 §730.007(a)(1) that a requestor must provide proof of identity with the request and incorporates the
2 acceptable forms of proof of identity established in §217.123(b) and (c) to create consistency across all
3 requests under this subchapter. New §217.123(f)(1)(D) specifies that the application must contain a
4 certification that the statements made in the application are true and correct. This certification will
5 provide assurances to the department that the requestor has confirmed that statements made in the
6 application are true and correct before submission. This certification is not required to be notarized. New
7 §217.123(f)(1)(E) establishes a signature requirement for the application. A requestor applying to enter
8 into a bulk contract may be either an individual, an organization, or an entity. If the requestor is an
9 organization or entity, the amendments require an officer or director to sign the application on the
10 organization's or entity's behalf. It is necessary for the department to know that an organization's or
11 entity's upper management understands the extent of the requestor's responsibility to protect the
12 personal information contained in the department's motor vehicle records before entering into a bulk
13 contract.

14 New §217.123(f)(2) implements SB 15's requirements in Transportation Code §730.014(c)(1) and (c)(3).
15 Transportation Code §730.014(c) requires requestors seeking a bulk contract to post a performance bond,
16 and to provide proof of general liability and cyber-threat insurance coverage. New §217.123(f)(2)
17 establishes that the requestor must provide proof that they have a performance bond and insurance
18 coverage that meet the requirements of Transportation Code §730.014 before a bulk contract is executed.

19 New §217.123(f)(2) allows a requestor to submit proof of a performance bond and insurance coverage
20 after submitting an application to enter into a bulk contract to provide the requestor the flexibility to wait
21 until the application is approved before expending the resources on these items. The requestor may
22 choose to submit proof of the performance bond and insurance coverage requirements with the

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1 application, but the department will consider an application for a bulk contract complete without that
2 proof if all requirements in §217.123(f)(1) are met.

3 New §217.123(f)(2)(A) implements Transportation Code §730.014(c)(1), requiring "that the requestor
4 post a performance bond in an amount of not more than \$1 million." New §217.123(f)(2)(A) establishes
5 that, for bulk contracts with the department, performance bonds must be in the amount of \$1 million and
6 specifically tied to compliance with Transportation Code Chapter 730 and 43 Texas Administrative Code
7 Chapter 217, Subchapter F. The department considered developing a process for varying the amount for
8 the bond requirement; but determined that the requestors' obligations to protect the personal
9 information in the department's motor vehicle records do not vary significantly between different bulk
10 files and contracts. Because the performance bond addresses a consistent obligation to protect the
11 personal information in the department's motor vehicle records, the rule cannot fairly and logically vary
12 the bond amount.

13 New §217.123(f)(2)(B) implements Transportation Code §730.014(c)(3) requiring "that the requestor
14 provide proof of general liability and cyber-threat insurance coverage in an amount specified by the
15 contracting agency that is: (A) at least \$3 million; and (B) reasonably related to the risks associated with
16 unauthorized access and use of the records." New §217.123(f)(2)(B) establishes that a requestor must
17 provide proof of at least \$3 million in coverage that complies with Transportation Code §730.014(c)(3) to
18 be consistent with the statute. The requirement provides requestors with the flexibility to evaluate their
19 businesses and determine their insurance coverage needs, as long as they comply with Transportation
20 Code §730.014(c)(3).

21 New §217.123(g) implements Transportation Code §730.016(a), which states that if a person is convicted
22 of an offense under Transportation Code Chapter 730 or if the person violates a rule adopted by an agency
23 relating to the terms or conditions for a release of personal information, then the person is ineligible to

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1 receive personal information under §730.007. New §217.123(g) establishes that if the contracted
2 requestor is convicted of an offense under Transportation Code Chapter 730 or is found to have violated
3 a rule under Subchapter F of Chapter 217, then the contract with that requestor is terminated as of the
4 date of the court's final determination since the person would no longer be eligible to receive personal
5 information under Transportation Code §730.016(a).

6 New §217.123(h) establishes an exemption from the form requirements in §217.123(a) for people seeking
7 personal information using another regulated method of legal compulsion. Discovery requests,
8 subpoenas, and other methods of legal compulsion have specific form requirements set out in law. New
9 §217.123(h) clarifies that §217.123 does not create additional form requirements for these methods of
10 legal compulsion. For example, if the department receives a proper request for production, under Rule
11 196.1 of the Texas Rules of Civil Procedure, the department will not also require the filing of a form
12 required under §217.123(a).

13 New §217.123(i) incorporates the existing requirement in §217.123(a) to improve readability and clarity.
14 Regardless of how a person requests personal information under §217.123, the department will disclose
15 personal information only in accordance with Title 18 U.S.C. §2721 et seq., Transportation Code Chapter
16 730, Government Code §552.130, and Title 43 Texas Administrative Code Chapter 217, Subchapter F. The
17 terms and conditions of a service agreement do not exempt the department from its obligations to protect
18 personal and confidential information. If the department fails to meet its obligations to protect personal
19 information under the DPPA, it "shall be subject to a civil penalty imposed by the Attorney General of not
20 more than \$5,000 a day for each day of substantial noncompliance," under 18 U.S.C. §2723. If the
21 department fails to meet its obligations regarding the disclosure of confidential information under
22 Government Code Chapter 552, the department's officers or employees may be subject to criminal
23 prosecution under Government Code Chapter 552, Subchapter I.

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1 **Section 217.124.** The amendments to §217.124 improve readability and incorporate new terms defined
2 by this rule proposal.

3 The amendments to §217.124(a) through (c) make nonsubstantive changes and improve readability by
4 simplifying language and removing unnecessary punctuation. The amendments in §217.124(b) replace
5 "entity" with "agency" to conform the reference to law enforcement requestors with Transportation Code
6 Chapter 730. The amendments to §217.124(c) remove "For new contracts and renewals, the costs are" as
7 these costs apply to all nonexempt requests, including requests under §217.123(a) that do not require a
8 contract, making this language unnecessary.

9 The amendments remove §217.124(d)(5) to avoid an unintended conflict with Transportation Code
10 §502.058 and §217.40(d), which authorize the owner of a vehicle for which the registration receipt has
11 been lost or destroyed to obtain a duplicate receipt from the department or the county tax assessor-
12 collector who issued the original receipt. Transportation Code §502.058 limits the disclosure of duplicate
13 registration receipts to the owner of the vehicle, and therefore any release of any personal information
14 on the disclosed receipt is under Transportation Code §730.006.

15 The amendments to §217.124(d) incorporate newly defined terms from §217.122. The amendments to
16 subsection (d) are nonsubstantive and replace the existing descriptions of the department's information
17 products with newly defined terms.

18 The amendments to §217.124(e) relate to the amendments made to existing §217.123(c)(2)(B) and are
19 not substantive. Existing §217.124(e) references an exemption granted in existing §217.123(c)(2)(B) to
20 government entities and toll project entities from paying certain fees for department motor vehicle
21 records. The proposed amendments to §217.123 remove existing §217.123(c)(2)(B) because the
22 exemption applies to all requests by these entities under the subchapter, including requests for records
23 under §217.123(a), requests for service agreements under relettered §217.123(e), and requests for bulk

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1 contracts under new §217.123(f). The exemption was moved to §217.124(e), to provide a consistent
2 application of the exemption across the different types of requests.

3 **Section 217.125.** The amendments to §217.125 implement SB 15's amendments to Transportation Code
4 §730.007(a)(2), which amended existing permitted uses and created new permitted uses. The
5 amendments to §217.125 also clarify that the department may require the requestor to provide additional
6 documentation after the initial request to provide reasonable assurances as to the requestor's permitted
7 use. The amendments remove "Certain" from the title of the rule to clarify that the department's authority
8 under Transportation Code §730.012 to request reasonable assurances that the use of the personal
9 information will comply with Transportation Code Chapter 730 is not limited to certain permitted uses.
10 The amendments to §217.125(a) are nonsubstantive and ensure consistency with Transportation Code
11 §730.003(5) and §730.007. The amendments to subsection (a) change the language from "the business or
12 government entity" to "the organization, entity, or government agency," to conform with Transportation
13 Code §730.003(5) and §730.007. The amendments avoid any unintended consequences or confusion that
14 might be caused using similar, but not identical terms.

15 The amendments to §217.125(b) improve readability and clarify that the additional documents required
16 by subsection (b) are required only when a request is made to the department. While Transportation Code
17 §730.013 restricts the redisclosure of personal information to third parties who have a permitted use
18 under §730.007, the department allows authorized recipients to determine their own business practices
19 for performing their due diligence, in order to determine whether redisclosure to a specific third party is
20 permitted under Transportation Code Chapter 730. The amendments to §217.125(b) clarify that the
21 subsection applies only when the requestor is requesting personal information from the department. A
22 person can request motor vehicle records with personal information redacted from the department
23 without submitting additional documentation under §217.125(b).

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1 Paragraphs (1) through (11) of §217.125(b) tell a requestor what documents or information need to be
2 submitted to the department with a request. The required documents or information help the
3 department to verify the requestor's permitted use and avoid the need for the department to seek
4 clarification of the request under Government Code §552.222.

5 The amendments to paragraphs (1) through (9) of §217.125(b) clarify that Transportation Code §730.007
6 does not require the inclusion of the documentation. Under the authority of Transportation Code
7 §730.012, §217.125(b) requires the inclusion of the documentation as an attachment to the application
8 that is submitted to the department. The amendments to paragraphs (1) through (9) of §217.125(b) also
9 correct the repeated omission of subsection (a) from the citations to the permitted uses under
10 Transportation Code §730.007(a)(2).

11 The amendments to §217.125(b)(1) also add the word "personal" to conform with Transportation Code
12 §730.007(a)(2)(C). The amendments to §217.125(b)(1) address SB 15's addition of Transportation Code
13 §730.007(a-2), which requires a requestor under Transportation Code §730.007(a)(2)(C) to be a business
14 that is "licensed by, registered with, or subject to regulatory oversight by a government agency," by
15 requiring a requestor to include proof of compliance with Transportation Code §730.007(a)(2)(C) with the
16 request to the department.

17 The amendments to §217.125(b)(2) also make nonsubstantive changes to improve readability and
18 conform the reference to "anticipation of litigation" with Transportation Code §730.007(a)(2)(D).

19 The amendments to §217.125(b)(4) also clarify that if a requestor supplies a license number provided by
20 the Texas Department of Insurance, an out-of-state relevant regulatory authority, or for an insurance
21 support organization, that license must be active at the time of the request for personal information.

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- 1 The amendments to §217.125(b)(5) also clarify that if a requestor supplies a license number provided by
2 the Texas Department of Licensing and Regulation or an out-of-state relevant regulatory authority, that
3 license must be active at the time of the request for personal information.
- 4 The amendments to §217.125(b)(6) also clarify that if a requestor supplies a license number provided by
5 the Texas Department of Public Safety or an out-of-state relevant regulatory authority, that license must
6 be active at the time of the request for personal information.
- 7 The amendments to §217.125(b)(7) also clarify that if a requestor supplies a commercial driver's license,
8 that license must be active at the time of the request.
- 9 The amendments to §217.125(b)(8) also incorporate SB 15's amendments to Transportation Code
10 §730.007(a)(2)(J), which remove the term "private" and add "or another type of transportation project
11 described by Section 370.003."
- 12 The amendments to §217.125(b)(9) also make nonsubstantive changes that improve readability by
13 eliminating the repetitive reference to "the Fair Credit Reporting Act."
- 14 New §217.125(b)(10) addresses the new permitted use added by SB 15 under Transportation Code
15 §730.007(a)(2)(L). New §217.125(b)(10) requires that the requestor provide proof that the requestor
16 holds an active license as a manufacturer, dealership, or distributor at the time of the request for personal
17 information as Transportation Code §730.007(a)(2)(L) authorizes the department to disclose personal
18 information to a manufacturer, dealership, or distributor.
- 19 New §217.125(b)(11) addresses the new permitted use added by SB 15 under Transportation Code
20 §730.007(a)(2)(M). New §217.125(b)(11) requires that the requestor provide proof that the requestor is
21 licensed by or is subject to regulatory oversight by one of the entities listed in Transportation Code
22 §730.007(a)(2)(M), because those are the only types of people to whom the department is authorized to
23 disclose personal information under Transportation Code §730.007(a)(2)(M).

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1 The amendments remove existing §217.125(c) to more consistently conform with Transportation Code
2 §730.007(a)(2)(M). The only permitted use in Transportation Code §730.007 that is limited to a requestor
3 that holds a license or authorization issued by the State of Texas is Transportation Code
4 §730.007(a)(2)(M). To eliminate any conflict with Transportation Code §730.007, the amendments
5 remove this section and add language addressing out-of-state licenses to subdivisions §217.215(b)(4),
6 (b)(5), (b)(6), and (b)(10).

7 New §217.215(d) clarifies that the department may require information regarding proof of the requestor's
8 permitted use under Transportation Code Chapter 730, in addition to what is required under §217.125(b).
9 Transportation Code §730.012(a) authorizes the department to require a requestor to provide reasonable
10 assurance that the use of the personal information will be only as authorized. While §217.125(b) generally
11 provides for what must be included with a request for personal information to the department, the new
12 §217.215(d) clarifies that if the initial submission is insufficient or unclear, the department will request
13 additional information as part of its due diligence to get the statutorily required proof that the requestor
14 meets the requirements of the requestor's stated permitted use.

15 **Section 217.126.** The amendments to §217.126 remove the terms "resale," "resell," and "reselling" from
16 the title and throughout the section to conform with SB 15's removal of the terms from Transportation
17 Code §730.013. The amendments to §217.126(a) replace the term "provided" with "disclose," which is a
18 nonsubstantive change for consistency throughout the subchapter and with Transportation Code Chapter
19 730. The amendments to §217.126(a) clarify that the regulation addresses only the department's motor
20 vehicle records. Transportation Code Chapter 730 applies to other agencies in addition to the department,
21 and an authorized recipient may receive information from more than one agency. Section 217.126(a)
22 addresses only the redisclosure of personal information from the department's motor vehicle records, not
23 personal information received from another source.

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1 The amendments remove existing §217.126(b) to avoid unintended conflict or confusion between
2 §217.126(b) and Transportation Code §730.013. Transportation Code §730.013 prohibits the redisclosure
3 of personal information in the identical or substantially identical format. The redisclosure of "the entire
4 motor vehicle records database in its complete format" under the existing §217.126(b) would be a
5 prohibited "identical or substantially identical" disclosure under Transportation Code §730.013.
6 Therefore, the amendments remove the unnecessary, existing §217.126(b).

7 The new §217.126(b) specifies that the department may request information regarding how an authorized
8 recipient intends to vet any third parties to whom the authorized recipient will redisclose the
9 department's personal information. Under Transportation Code §730.013, an authorized recipient can
10 redisclose the department's personal information only to a person with a permitted use under §730.007.
11 Additionally, under Transportation Code §730.014(f) the department is charged with monitoring
12 compliance with Chapter 730. The new §217.126(b) specifies that the department may monitor
13 compliance with Transportation Code §730.013 by asking the requestor questions regarding how the
14 authorized recipient intends to complete its vetting process to determine the permitted use of a third
15 party.

16 The amendments to §217.126(c) make nonsubstantive changes that improve readability and clarify that
17 §217.126(c) addresses only the redisclosure of personal information from the department's motor vehicle
18 records, not personal information received from another source.

19 The amendments remove the existing §217.126(d), which made authorized recipients responsible for any
20 misuse of personal information committed by third parties to whom the authorized recipients redisclosed
21 the personal information. The amendments remove subsection (d) to avoid confusion between it and the
22 various statutorily created responsibilities of and repercussions to the authorized recipient. SB 15
23 established new courses of action that can be taken if a third party misuses personal information, under

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1 Transportation Code §§730.0122 (regarding Sale Prohibited), 730.0123 (regarding Civil Suit), 730.013
2 (regarding Redisclosure; Offense), and 730.016 (regarding Ineligibility of Certain Persons to Receive,
3 Retain, or Redisclose Personal Information). SB 15's amendments provide sufficient civil and criminal
4 liability for authorized recipients and third parties, rendering subsection (d) unnecessary, and it is
5 therefore removed by the amendments.

6 New §217.126(d) clarifies that any resale of personal information that happened before the effective date
7 of SB 15 is still bound by the limitations of the section. While the amendments to §217.126 conform with
8 SB 15's removal of "resale" from Transportation Code §730.013, new subsection (d) ensures that the
9 amendments do not create an inadvertent regulatory loophole for personal information that was resold
10 before SB 15's amendments went into effect.

11 **Section 217.127.** The amendments to §217.127 remove the terms "resell," "resold," and "sold" from the
12 title and throughout the section, to conform with SB 15's removal of the term from Transportation Code
13 §730.013.

14 The amendments to §217.127(a) clarify that this regulation addresses only the records an authorized
15 recipient must maintain related to redisclosures of personal information from the department's motor
16 vehicle records. Transportation Code Chapter 730 applies to other agencies in addition to the department,
17 and an authorized recipient may receive information from more than one agency. Section 217.127(a)
18 addresses only the redisclosure of personal information from the department's motor vehicle records, not
19 personal information received from another source.

20 The amendments to §217.127(b)(1) improve readability and conform to Transportation Code §730.013,
21 under which a third-party recipient is identified as a "person." The amendments to §217.127(b)(1) also
22 require the records to reflect the third-party recipient's individual name and, when known, the name of
23 the organization or entity receiving the records. This amendment addresses the inclusion of organizations

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1 and entities in Transportation Code §730.003(5)'s definition of "person" and the requirement under
2 Transportation Code §730.013, that the authorized recipient maintain records "as to the person or entity
3 receiving the information."

4 The amendments to §217.127(b)(2) are nonsubstantive, provide clarity, and improve readability. The
5 amendments clarify Transportation Code §730.013's requirement that redisclosure be limited to persons
6 with permitted uses under §730.007. The amendments remove the reference to §217.125(b), as those
7 documents are required only when a person requests information from the department and replaces it
8 with a more general description of "any documentation the authorized recipient received related to the
9 person's permitted use." While an authorized recipient is not required to request the documents listed in
10 §217.125(b), if the authorized recipient relies on documentation to confirm a third party's permitted use,
11 the department may want to see the documentation when monitoring compliance under Transportation
12 Code §730.014(f).

13 The amendments to §217.127(b)(3) are nonsubstantive, provide clarity, and improve readability. The
14 addition of "under each permitted use" acknowledges that a person may qualify under more than one
15 permitted use. Therefore, they may receive some records under one permitted use and other records
16 under another permitted use. The amendments to §217.127(b)(3) address the requirement under
17 Transportation Code §730.013, that the authorized recipient maintain records "as to...the permitted use
18 for which it was obtained."

19 The amendments to §217.127(b)(4) improve readability by removing the unnecessarily repetitive use of
20 "the authorized recipient." Subsection (b)(4) describes one of the elements of an authorized recipient's
21 records regarding redisclosure; since they are the authorized recipient's records there is no need to state
22 that the statement contained in the records is the authorized recipient's statement.

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1 The amendments to §217.127(b)(5) are nonsubstantive, provide clarity, and improve readability. The
2 change from "the agreement" to "any agreement" clarifies that this section does not create a requirement
3 that an authorized recipient have an agreement with a third party to redisclose personal information from
4 the department's records. The amendments also clarify that the agreement referenced would be between
5 the authorized recipient and a third party, and is therefore separate from a contract with the department.
6 The amendments to §217.127(b)(5) continue the clarification throughout the subchapter that these
7 records pertain only to the redisclosure of personal information from department motor vehicle records,
8 not personal information received from another source.

9 New §217.127(c) clarifies that authorized recipients are required to maintain records for any resales that
10 happened before the effective date of SB 15 for five years. While the amendments to §217.127 conform
11 with SB 15's removal of "resale" from Transportation Code §730.013, authorized recipients are still
12 required to maintain records of resales for five years. New subsection (c) ensures that the amendments
13 do not create an inadvertent regulatory loophole for personal information that was resold before SB 15's
14 amendments.

15 **Section 217.128.** The amendments to §217.128 remove the terms "resale" and "resell" from the title and
16 throughout the section, conforming with SB 15's removal of the term from Transportation Code §730.013.
17 The amendments to §217.128(a) improve readability and clarify that the department may request
18 information from an authorized recipient's records. The department is authorized to request information
19 sufficient for the agency to determine compliance under Transportation Code §730.007(g). Information
20 maintained under §217.127 is the type that could assist the department in determining compliance. The
21 amendment specifies that the department may request those records, but the department is not limited
22 only to requesting those records under Transportation Code §730.007(f). These amendments are
23 nonsubstantive.

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1 The amendments to §217.128(b) clarify the department's process to request the authorized recipient's
2 records in writing. The amendments improve readability and are nonsubstantive.

3 The amendments to §217.128(c) remove the existing regulation regarding the deadline to reply to a
4 request from the department to implement and avoid any conflict with SB 15's new Transportation Code
5 §730.007(g). Transportation Code §730.007(g) established that a person must reply to a request for
6 information regarding compliance from the department in five business days, making the existing
7 requirement in §217.128(c) unnecessary.

8 The amendments to §217.128(c) incorporate SB 15's new Transportation Code §730.014(g).
9 Transportation Code §730.014(g) allows the department to cease disclosing information under a contract
10 when it determines an authorized recipient has violated a term or condition of the recipient's contract
11 with the department. If the department chooses to cease disclosing information, §730.014(g)(2) requires
12 that the department allow the authorized recipient an opportunity to remedy the violation to resume the
13 flow of information from the department. Failure to timely provide information requested by the
14 department would be a violation of Transportation Code §730.007(g) and the contract with the
15 department. New §217.128(c) specifies that if an authorized recipient fails to timely provide information
16 requested by the department, the department may cease disclosing information under the contract. New
17 §217.128(c) provides an authorized recipient 30 days to remedy the violation and provide the requested
18 records. If the authorized recipient does not provide the requested records after 30 days, the department
19 may terminate the contract. Thirty days is ample time to provide the department with information the
20 authorized recipient is required to maintain under §217.127. Compliance with this request should be
21 relatively easy for an authorized recipient that is properly maintaining records. Failure to comply for 30
22 days will likely indicate larger compliance issues. After 30 days of not responding the department's
23 request, the violation is more significant. The department has an interest in terminating contracts where

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1 a contract holder has significantly violated a term or condition of the contract. For this violation, the
2 department recognized that failure to provide the information after 30 days would be egregious and
3 therefore would be grounds for termination of the contract.

4 The amendments remove existing §217.128(d) because it is unnecessary under the proposed
5 amendments to §217.128(c).

6 The amendments remove existing §217.128(e) because it is unnecessary. Transportation Code
7 §730.014(f) requires the department to designate an employee who is responsible for monitoring
8 compliance with Transportation Code Chapter 730 and required contract terms, making existing
9 §217.128(e) an unnecessary restatement of the department's statutory duty.

10 The amendments remove existing §217.128(f) because it is unnecessary under the proposed amendments
11 to §217.128(c).

12 **Section 217.129.** The amendments to §217.129 improve readability, modify language to conform with
13 statute, and clarify potential ambiguities. The amendments add "Personal Information Contained in" to
14 the title of the section, to clarify that the rule addresses only a person's eligibility to receive the personal
15 information contained in motor vehicle records under Transportation Code Chapter 730, and not motor
16 vehicle records in their entirety. A person who is ineligible to receive personal information from motor
17 vehicle records under Transportation Code Chapter 730 may still be authorized to receive information
18 other than personal information from motor vehicle records under Government Code Chapter 552.

19 The amendments to §217.129(a) incorporate the department's authority to cease disclosing personal
20 information under a contract under Transportation Code §730.014(g). The amendments specify that this
21 subsection applies to both requests for information and contracts for access to the department's records.
22 The methods of requesting and receiving information does not affect the department's obligation to
23 protect the public's interest in personal information.

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1 The amendments to §217.129(b) remove the term "of motor vehicle records" to limit the identification of
2 the subject of the regulation to "authorized recipient," which SB 15 defined in Transportation Code
3 §730.003(1-a). Conforming the description to the defined term provides consistency and avoids potential
4 confusion that can be caused by using differing terms to describe the same entities. The amendments
5 modify "clause or term" to "term or condition" for readability and consistency. The amendments broaden
6 multiple references from "a service agreement" to "a contract with the department to access motor
7 vehicle records." These amendments incorporate the newly defined "bulk contracts," clarifying that this
8 subsection applies to all contracts for motor vehicle records, not just service agreements. The
9 amendments to §217.129(b) provide for consistent processes for all requests under contracts with the
10 department.

11 The amendments to §217.129(c) broaden the subsection's use of a "service agreement" to a "contract
12 with the department to access motor vehicle records." These amendments incorporate the newly defined
13 "bulk contracts," clarifying that this subsection applies to all contracts for motor vehicle records, not just
14 service agreements. The amendments to §217.129(c) provide for consistent processes for all requests
15 under contracts with the department. The amendments also change the subsection's use of "a business,
16 partnership, or entity" to "organization or entity" for consistency in the subchapter and with
17 Transportation Code §730.002(5). The amendments to §217.129(c) also clarify that applying for a contract
18 after termination is addressed by §217.130 and not Transportation Code §730.016 (regarding Ineligibility
19 of Certain Persons to Receive, Retain, or Rediscover Personal Information; Offense). A contract
20 termination on its own is not a basis for ineligibility under Transportation Code §730.016.

21 **Section 217.130.** The amendments to §217.130 broaden the section to apply to all contracts to access
22 motor vehicle records, to incorporate the new "bulk contract," and improve readability.

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1 The amendments to §217.130(a) improve readability and incorporate the new "bulk contracts" by
2 replacing "service agreement" with "contract to access motor vehicle records." The amendments clarify
3 that this rule applies to someone who has had a contract to access motor vehicle records with the
4 department terminated in the past and now wants to enter into a new contract; it does not address
5 instances where a requestor has had a different type of contract with the department previously
6 terminated. The amendments also distinguish contracts that were terminated for failure to maintain a
7 minimum balance, exempting those instances from the additional approval requirements. The
8 department considers terminations for failure to maintain a minimum balance to be less egregious, and
9 therefore it does not require the same process for approval after termination.

10 The amendments to §217.130(b) incorporate "for reapproval" to conform with existing language in
11 subsection (a). The amendments to §217.130(b)(1) clarify that the requestor's remedial efforts must be
12 specific to preventing "the unlawful disclosure of personal information from the department" as that is
13 the information protected under Transportation Code Chapter 730. The amendments to §217.130(b)(2)
14 clarify that the requestor will provide the department information regarding agreements where the
15 requestor anticipates it will redisclose the department's personal information in the future. Since the
16 requestor will likely not be in possession of personal information from department motor vehicle records
17 at the time of the request for reapproval, any redisclosure agreement with a third party will be dependent
18 upon the department's decision to reapprove. The amendments to §217.130(b)(3) remove the terms
19 "reselling" and "resell" to conform with amendments in SB 15 to Transportation Code §730.013 and
20 improve readability. The amendments to §217.130(b)(3) clarify that this section addresses only the
21 redisclosure of the personal information from department motor vehicle records, not personal
22 information received from another source. Transportation Code Chapter 730 applies to other agencies in
23 addition to the department, and the department recognized that an authorized recipient may receive

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1 information from more than one agency. The amendments to subsection (b)(3) also remove the
2 notification requirement regarding resale or redisclosure, as the stated elements are not necessary in
3 every case. If the department wants to know information about a redisclosure after a new contract to
4 access personal information is in place, the department is authorized to request that information under
5 Transportation Code §730.007(g), making the requirement in §217.130(b)(3) unnecessary.

6 The amendments to §217.130(c) improve readability by removing "any of the terms of" because the
7 language is unnecessary. The amendments to subsection (c) broaden the subsection's use of a "service
8 agreement" to a "contract with the department to access motor vehicle records" for consistency within
9 the subchapter. These amendments incorporate the newly defined "bulk contracts," clarifying that this
10 subsection applies to all contracts for motor vehicle records, not just service agreements. The
11 amendments change "inability" to "ineligibility" to conform with Transportation Code §730.016. Lastly,
12 the amendments to subsection (c) clarify that failure to comply could result in a permanent inability to
13 receive the department's motor vehicle records, as the department cannot limit the release of motor
14 vehicle records from other agencies due to a violation of a contract with the department.

15 **Section 217.131.** New §217.131 implements SB 15's requirement in Transportation Code §730.0121 that
16 "[a]n agency by rule shall require a requestor to delete from the requestor's records personal information
17 received from the agency under this chapter if the requestor becomes aware that the requestor is not an
18 authorized recipient of that information."

19 New §217.131(a) establishes a slightly modified definition of "requestor" for the purposes of this section.
20 Section 217.122(b)(2) defines "requestor" as "a person, this state, or an agency of this state seeking
21 personal information contained in motor vehicle records directly from the department." New §217.131(a)
22 specifies that this section applies to any person or entity that has been a requestor in the past, regardless
23 of whether the requestor is still actively seeking records from the department. This section allows the rule

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1 to more closely conform with Transportation Code §730.0121, while avoiding any unintended
2 consequence of the definition of "requestor" under §217.122(b)(2).

3 New §217.131(b) establishes a 90-day timeframe in which a requestor will complete the deletions
4 required by Transportation Code §730.0121. The department recognized that a person may not be able
5 to immediately delete all the department's personal information from its system, so the amendments
6 establish a reasonable period to complete the deletion. This deadline also balances the public's interest
7 in unauthorized persons promptly deleting this protected information.

8 New §217.131(c) and (d) clarify when the timeframe under subsection (b) will begin by addressing when
9 a requestor "becomes aware that the requestor is not an authorized recipient," under Transportation
10 Code §730.0121. Subsection (b) establishes a notice requirement for the requestor--if the requestor
11 becomes aware that they are not an authorized recipient without receiving notice from the department,
12 then the requestor will notify the department of the date the requestor became aware. The department
13 has an interest in knowing when a person becomes aware that they are not an authorized recipient to
14 monitor compliance with Transportation Code §730.0121's deletion requirements. If the department has
15 questions regarding the date or what caused the requestor to become aware that it is not an authorized
16 recipient, it can ask those questions under Transportation Code §730.007(g).

17 New §217.131(d) establishes that if the department determines that the requestor is not an authorized
18 recipient before the requestor becomes aware, then the department will send a notice to the requestor.
19 Under new subsection (c), the date of the department's notice to the requestor begins the timeline to
20 delete the personal information in §217.131(b).

21 New §217.131(e) establishes that the requestor must notify the department when the information has
22 been deleted. This will allow the department to monitor compliance with the 90-day deadline and to
23 confirm compliance with Transportation Code §730.0121.

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1 **Section 217.132.** New §217.132 addresses notice requirements for persons who have become ineligible
2 to receive information under Transportation Code §730.016.

3 New §217.132(a) establishes a 15-day timeframe in which a person who has become ineligible to receive
4 information under Transportation Code §730.016 must notify the department of the court's ruling that is
5 the basis of the ineligibility. Cases involving violations of Transportation Code Chapter 730 and the
6 associated rules adopted by the department are criminal cases, which may occur without extensive
7 involvement from the department. It is imperative that the department know when a person becomes
8 ineligible to take steps to ensure that the department does not make future disclosures to that person.
9 Because the department may not be notified by the court when a ruling has been issued, this new rule
10 puts the burden on the person in possession of personal information from the department to provide
11 notice to the department.

12 New §217.132(b) establishes that the requestor must notify the department when the personal
13 information previously disclosed has been deleted. This will allow the department to monitor compliance
14 with Transportation Code §730.016's one-year deadline to delete the personal information from
15 department motor vehicle records.

16 **Section 217.133.** New §217.133 implements SB 15's requirement under Transportation Code
17 §730.014(c)(7) that an authorized recipient under a bulk contract must "annually provide to the agency a
18 report of all third parties to which the personal information was disclosed under this section and the
19 purpose of the disclosure." New §217.133 establishes the reporting period for the annual report, the
20 required elements of an annual report, the process for requesting an extension for filing the annual report,
21 the repercussions of failing to file the annual report, and the requirement for a final annual report at the
22 termination of a contact.

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1 New §217.133(a) establishes that an authorized recipient under a bulk contract must submit an annual
2 report to the department electronically, using a form prescribed by the department. The department will
3 provide a form for the annual report to aid contract holders in providing consistent and compliant reports.

4 New §217.133(a) establishes the reporting period as a 12-month period that begins September 1st of the
5 previous year. For example, the annual report due on October 1, 2026, would cover September 1, 2025,
6 through August 31, 2026. The department considered other cyclical obligations its staff might have at
7 various times of the year before choosing the 12-month period for the annual report. The October 1st due
8 date facilitates a prompt review by department staff of the significant amount of information the
9 department anticipates it will receive from its bulk contract holders.

10 New §217.133(b) specifies what information is required in an annual report. New §217.133(b)(1)
11 implements the requirement from Transportation Code §730.014(c)(7) that the annual report include the
12 name of each third party to whom the contracted party provided personal information from department
13 motor vehicle records. New §217.133(b)(1) requires both the name of the person who made the request
14 and the business or entity for whom the request was made, if known. New §217.133(b)(1) addresses the
15 requirement in Transportation Code §730.013(c)(1) that an authorized recipient maintain records "as to
16 any person or entity" to whom the authorized recipient rediscloses personal information from
17 department motor vehicle records. The information provided in the annual report is also necessary for
18 the department to monitor compliance, as required under Transportation Code §730.014(f)(1), and to
19 monitor whether people who are ineligible to receive personal information under Transportation Code
20 §730.016 are acquiring the department's personal information from an authorized recipient.

21 New §217.133(b)(2) implements the requirement from Transportation Code §730.014(c)(7) that the
22 annual report include the third party's permitted use under Transportation Code §730.007.
23 Transportation Code §730.013(b) allows only the authorized recipient to redisclose "for a use permitted

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1 under Section 730.007"; therefore, every third party must inform the authorized recipient of their
2 permitted use before personal information can be redisclosed. If a third party claims more than one
3 permitted use, the annual report needs to reflect each permitted use.

4 New §217.133(c) requires an annual report to contain the signature of the requestor certifying that the
5 statements made in the annual report are true and correct. If the requestor is an organization or entity,
6 new §217.133(c) requires an officer or director to sign the annual report on the organization's or entity's
7 behalf. While the information for the annual report may be assembled by other staff, new §217.133(c)
8 requires the signature of an officer or director certifying that the information in the annual report is true
9 and correct. The certification will ensure that the organization's or entity's upper management
10 understands the requestor's use of the personal information from department motor vehicle records and
11 whether the requestor's processes comply with Transportation Code Chapter 730. This certification will
12 provide assurances to the department that the requestor has confirmed the information in the annual
13 report is correct before submission. This certification is not required to be notarized.

14 New §217.133(d) addresses an authorized recipient's request for an extension to file the annual report.
15 The department understands that circumstances may arise that affect an authorized recipient's ability to
16 timely file an annual report. New §217.133(d) establishes a process for requesting an extension. A request
17 for an extension must be made in writing, no later than September 1st, one month before the annual
18 report is due. A request for an extension must include proof of an event beyond the control of the
19 authorized recipient that is preventing the timely submission of the annual report. The department will
20 consider the request and may grant an extension of up to two months, resulting in a due date as late as
21 December 1st. Because the information for the annual report will be pulled from records that are required
22 to be maintained by the authorized recipient under §217.127, gathering the information is not expected

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1 to be an arduous task for the authorized recipient. If the authorized recipient is unable to file an annual
2 report by December 1st, the department will evaluate possible repercussions under new §217.133(e).

3 New §217.133(e) establishes the possible repercussions for failing to timely submit an annual report or
4 failing to properly request an extension for filing the annual report. Failing to timely submit the annual
5 report is a violation of new §217.133 and the terms of a bulk contract. Under Transportation Code
6 §730.014(g)(1), if the department determines a person has violated the terms or conditions of a contract,
7 the department is authorized to cease disclosing personal information and allow the person to remedy
8 the violation. New §217.133(e) establishes that if the authorized recipient fails to meet the annual report
9 deadlines, the department may cease disclosing records under the bulk contract, under Transportation
10 Code §730.014(g)(1). If the authorized recipient does not remedy the violation by December 1st, the
11 department may terminate the bulk contract for a violation of new §217.133 and any associated terms or
12 conditions of the contract.

13 New §217.133(f) establishes a requirement for a final report at the termination of a bulk contract. This
14 requirement for a final report provides the department with information on any redisclosures that
15 occurred since the authorized recipient filed its last annual report or since the execution of the contract,
16 if the recipient has not previously filed an annual report. The requirement for a final report addresses the
17 possibility of contract holders attempting to avoid the reporting requirements by terminating their bulk
18 contract before October 1st. The deadline to submit the final report is 90 days after the date of the end
19 of the contract, which provides sufficient time to any contract holders that may be taking other steps to
20 wind down their business. Failure to submit a final report will be a violation of §217.133, which may result
21 in the person becoming ineligible to receive future personal information under Transportation Code
22 §730.016.

23 SUMMARY OF COMMENTS.

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1 The department received four written comments on the proposal from Auto Data Direct, Inc., Experian
2 Information Solutions, Inc., North Texas Tollway Authority, and R.L. Polk & Co.

3 **Comment:**

4 A commenter expressed concern regarding amended §217.125, Additional Documentation Related to
5 [Certain] Permitted Uses. The commenter believes that adding the requirement to include the personal
6 information the business is attempting to verify is going to be a very labor-intensive requirement and will
7 create an undue burden on the requestor and the department. The commenter assumed that it would
8 have to provide the department with “additional documentation” for each of its third-party disclosures.

9 **Response:**

10 The department disagrees with this comment. This rule provision applies between the department and
11 the requestor only at the time of application. Once the requestor provides the needed additional
12 documentation to the department at time of application, the referenced rule provision is satisfied. The
13 rule provision does not apply to any third party disclosures made by the requestor. No change has been
14 made in response to this comment.

15 **Comment:**

16 A commenter stated that §217.125 should include an explicit exception for bulk requestors. The
17 commenter assumed that it would have to provide the department with “additional documentation” for
18 each of its third-party disclosures. Bulk requestors operate under a service agreement, which provides for
19 protections of private information. The commenter also stated that the requirement for record retention
20 of the quantity of records redisclosed should be deleted.

21 **Response:**

22 The department disagrees with this comment. This rule provision applies between the department and
23 the requestor only at the time of application. Once the requestor provides the needed additional

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1 documentation to the department at time of application, the referenced rule provision is satisfied. The
2 rule provision does not apply to any third party disclosures made by the requestor, and therefore, no
3 exception for bulk requestors is needed. Also, the department's current rule already requires the quantity
4 of records to be maintained. The amendment changes the wording for clarity but does not add a new
5 requirement. No change has been made in response to this comment.

6 Comment:

7 A commenter stated that §217.123 should be amended to add a subsection to explicitly except bulk
8 contracts with government agencies from the requirements of paragraph (2) of subsection (f).

9 Response:

10 The department disagrees with this comment. Section 217.123(f)(2) requires a requestor to post a \$1
11 million performance bond and provide proof of general liability and cyber-threat insurance coverage in
12 the amount of at least \$3 million. Transportation Code § 730.014 already states that the bond and
13 insurance requirements do not apply to contracts between government agencies. Because the exception
14 exists in statute, a rule is not necessary. No change has been made in response to this comment.

15 Comment:

16 A commenter stated that the requirement for record retention of the quantity of motor vehicle records
17 rediscovered should be deleted.

18 Response:

19 The department disagrees with this comment. The department's current rule already requires the
20 quantity of records to be maintained. The amendment changes the wording for clarity but does not add
21 a new requirement. No change has been made in response to this comment.

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1 **STATUTORY AUTHORITY.** The department adopts amendments to §§217.122, 217.123, 217.124, 217.125,
2 217.126, 217.127, 217.128, 217.129, and 217.130 and adopts new §§ 217.131, 217.132, and 217.133
3 under Transportation Code Chapter 730.

4 Transportation Code §730.014 authorizes the department to adopt rules to administer Transportation
5 Code Chapter 730.

6 Transportation Code §730.0121 and §730.016 provides that the department shall establish rules to
7 require a requestor to delete the department's personal information from its records if the requestor
8 becomes aware that they are not an authorized recipient or they are convicted of an offense under
9 Chapter 730.

10 Transportation Code §1002.001 authorizes the board to adopt rules that are necessary and appropriate
11 to implement the powers and the duties of the department.

12 **CROSS REFERENCE TO STATUTE.** Transportation Code §§730.001-730.016.

13 **TEXT.**

14 **Subchapter F. Motor Vehicle Records**

15 **43 TAC §§217.122, 217.123, 217.124, 217.125, 217.126, 217.127, 217.128, 217.129, 217.130, 217.131,**
16 **217.132, and 217.133**

17 **§217.122. Definitions.**

18 (a) Words and terms defined in Transportation Code Chapter 730 have the same meaning when
19 used in this subchapter, unless the context clearly indicates otherwise.

20 (b) The following words and terms, when used in this subchapter, shall have the following
21 meanings, unless the context clearly indicates otherwise.

22 (1) ~~[Authorized recipient—A person receiving motor vehicle records as defined by this~~
23 ~~subchapter, in a manner authorized by Transportation Code, Chapter 730.]~~

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1 ~~[(2)]~~ Department--Texas Department of Motor Vehicles.

2 ~~[(3)]~~ Motor vehicle records--Information regarding the titling or registration of motor
3 vehicles, which may include the make, vehicle identification number, year, model, body style, license
4 number of a motor vehicle, and the name, address, and social security number of an owner or lienholder.]

5 ~~[(4)]~~ Personal information--Information that identifies an individual, including an
6 individual's photograph or computerized image, social security number, driver identification number,
7 personal identification certificate number, name, telephone number, medical or disability information,
8 license plate number, or address other than the postal routing code.]

9 (2) ~~[(5)]~~ Requestor--A person, this state, or an agency of this state seeking personal
10 information contained in motor vehicle records directly from the department.

11 (3) ~~[(6)]~~ Service agreement--A contractual agreement with the department that allows a
12 requestor electronic ~~[individuals, businesses or governmental entities or institutions to]~~ access to
13 department ~~[the department's]~~ motor vehicle records.

14 (4) ~~[(7)]~~ Written request--A request submitted ~~[made]~~ in writing, including by mail,
15 electronic mail, electronic media, and facsimile transmission.

16 (5) Signature--Includes an electronic signature, as defined by Transportation Code
17 §501.172, to the extent the department accepts such electronic signature.

18 (6) Batch Inquiry--Access, under a service agreement, to department motor vehicle
19 records associated with Texas license plate numbers or vehicle identification numbers, where requests
20 are submitted electronically to the department in a prescribed batch format. The department makes a
21 disclosure for each record in a batch.

22 (7) MVI-net Access--Electronic access, under a service agreement, to the department's
23 motor vehicle registration and title database, with the ability to query records by a Texas license plate

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1 number, vehicle identification number, placard number, or current or previous document number. The
2 department makes a disclosure each time a query of the system is made.

3 8) Bulk--A disclosure by the department under Transportation Code §730.007 of at least
4 250 motor vehicle records containing personal information, including any of the files defined by
5 subsection (b)(10) - (13) of this section.

6 (9) Bulk contract--A contractual agreement with the department for the disclosure of
7 motor vehicle records in bulk to the requestor.

8 (10) Master File--A bulk file containing all the department's active and inactive
9 registration and title records.

10 (11) Weekly Updates--A bulk file containing the department's new and renewed vehicle
11 registration and title records from the previous week.

12 (12) Specialty Plates File--A bulk file containing Texas specialty license plate records.

13 (13) eTAG File--A bulk file containing records related to new or updated eTAGs, vehicle
14 transfer notifications, and plate-to-owner records.

15 (14) Dealer/Supplemental File--A pair of files, one containing records of registration and
16 title transactions processed by dealers with the department during the previous week and another
17 containing the dealers' information, that are only available as a supplement to a bulk contract that
18 includes the Weekly Updates.

19 **§217.123. Access to Motor Vehicle Records.**

20 (a) Except as required under subsection (f) of this section, a [Request for records--A] requestor
21 seeking personal information from department motor vehicle records shall submit a written request in a
22 [on the] form required by the department. [Information will be released only in accordance with Title 18

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1 ~~U.S.C. §2721 et seq.; Transportation Code, Chapter 730; Government Code, §552.130; and this~~
2 ~~subchapter.]~~ A completed and properly executed form must include ~~[, at a minimum]:~~

3 (1) the name and address of the requestor;

4 (2) a description of the requested motor vehicle records, including the Texas license plate
5 number, title or document number, or vehicle identification number of the motor vehicle about which
6 information is requested;

7 (3) proof [a photocopy] of the requestor's identity, in accordance with subsections (b) or
8 (c) of this section [identification];

9 (4) a statement that the requestor: ~~[requested information may only be released if the~~
10 ~~requestor]~~

11 (A) is the subject of the record;

12 (B) ~~[if the requestor]~~ has the written consent of the person who is [authorization
13 for release from] the subject of the record;~~[,]~~ or

14 (C) will strictly limit the use of the personal information in department motor
15 vehicle records to [if the intended use is for] a permitted use under Transportation Code Chapter 730, as
16 indicated on the form;

17 (5) a certification that the statements made on the form are true and correct; and

18 (6) the signature of the requestor.

19 (b) Except as required by subsection (c) of this section, a [Identification required. A] requestor
20 must provide the requestor's [may not apply for receipt of personal information unless the requestor
21 presents] current photo identification containing a unique identification number. The identification
22 [document] must be a:

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- 1 (1) driver's license, Texas Department of Public Safety identification, or state
2 identification certificate issued by a state or territory of the United States;
- 3 (2) United States or foreign passport;
- 4 (3) United States military identification card;
- 5 (4) United States Department of Homeland Security, United States Citizenship and
6 Immigration Services, or United States Department of State identification document;
- 7 (5) concealed handgun license or license to carry a handgun issued by the Texas
8 Department of Public Safety under Government Code [7] Chapter 411, Subchapter H; or
- 9 (6) North Atlantic Treaty Organization identification or identification issued under a Status
10 of Forces Agreement [~~copy of current law enforcement credentials if the requestor is a law enforcement~~
11 ~~officer~~].
- 12 (c) A requestor seeking personal information from department motor vehicle records for use by
13 a law enforcement agency must:
- 14 (1) present the requestor's current law enforcement credentials;
- 15 (2) electronically submit the request in a manner that the department can verify that the
16 requestor is acting on behalf of a law enforcement agency; or
- 17 (3) provide a written statement from a higher level in the chain of command on the law
18 enforcement agency's letterhead stating that the requestor is not authorized to provide current law
19 enforcement credentials and identifying the law enforcement agency's incident or case number for which
20 the personal information is needed.
- 21 (d) A requestor seeking personal information from department motor vehicle records for use by
22 a law enforcement agency may submit a verbal request to the department if the law enforcement agency
23 has provided reasonable assurances that were accepted by the department as to the identity of the

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1 requestor within the last 12 months on a form required by the department. If a request is submitted
2 verbally, the department may require the requestor to confirm the request in writing.

3 (e) A requestor may receive electronic access to department motor vehicle records [~~(c) Electronic~~
4 ~~access. The department may make motor vehicle records available]~~ under the terms and conditions of a
5 ~~[written]~~ service agreement.

6 (1) Before a requestor can enter into a service agreement, the requestor must file a
7 completed application on a form required by the department, for review and approval by the department.

8 An application for a [~~Agreement with business or individuals. The written~~] service agreement must include
9 ~~[with a business or individual must contain]:~~

10 (A) a statement that the requestor will strictly limit the use of the personal
11 information from department motor vehicle records to a permitted use under Transportation Code
12 Chapter 730, as indicated on the application [~~the specified purpose of the agreement];~~

13 (B) the name and address of the requestor [~~an adjustable account, if applicable,~~
14 ~~in which an initial deposit and minimum balance is maintained in accordance with §217.124 of this title~~
15 ~~(relating to Cost of Motor Vehicle Records)];~~

16 (C) proof of the requestor's identity, in accordance with subsections (b) or (c) of
17 this section [~~termination and default provisions];~~

18 (D) the [~~contractor's~~] signature of the requestor or, if the requestor is an
19 organization or entity, the signature of an officer or director of the requestor; and

20 (E) a certification that the statements made in the application are true and
21 correct. [~~a statement that the use of motor vehicle records obtained by virtue of a service agreement is~~
22 ~~conditional upon its being used:]~~

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1 ~~[(i) in accordance with 18 U.S.C. §2721 et seq. and Transportation Code,~~
2 ~~Chapter 730; and]~~

3 ~~[(ii) only for the purposes defined in the agreement; and]~~

4 ~~[(F) the statements required by subsection (a) of this section.]~~

5 (2) Unless the requestor is exempt from the payment of fees, a service agreement must
6 contain an adjustable account, in which an initial deposit and minimum balance is maintained in
7 accordance with §217.124 of this title (relating to Cost of Motor Vehicle Records). Notwithstanding
8 §217.124 of this title, the department may modify initial deposit and minimum balance requirements
9 depending on usage. ~~[Agreements with Texas governmental entities.]~~

10 ~~[(A) The written service agreement with a Texas governmental entity must~~
11 ~~contain:]~~

12 ~~[(i) the specified purpose of the agreement;]~~

13 ~~[(ii) a statement that the use of motor vehicle records obtained by virtue~~
14 ~~of a service agreement is conditional upon its being used in accordance with 18 U.S.C. §2721 et seq. and~~
15 ~~Transportation Code, Chapter 730, and only for the purposes defined in the agreement;]~~

16 ~~[(iii) the statements required by subsection (a) of this section;]~~

17 ~~[(iv) the signature of an authorized official; and]~~

18 ~~[(v) an attached statement citing the entity's authority to obtain social~~
19 ~~security number information, if applicable.]~~

20 ~~[(B) Texas governmental entities, as defined in Government Code, §2252.001,~~
21 ~~and including the Texas Law Enforcement Telecommunication System and toll project entities, as defined~~
22 ~~by Transportation Code, §372.001, are exempt from the payment of fees, except as provided by~~
23 ~~§217.124(e) of this title.]~~

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1 ~~[(d) Ineligibility to receive personal information. The department may prohibit a person, business,~~
2 ~~or Texas governmental entity from receiving personal information if the department finds a violation of a~~
3 ~~term or condition of the agreement entered into in accordance with subsection (c) of this section.]~~

4 ~~[(e) Initial deposits and minimum balances. Notwithstanding §217.124 of this title, the~~
5 ~~department may modify initial deposit and minimum balance requirements on a case by case basis~~
6 ~~depending on customer usage.]~~

7 (f) Access to bulk motor vehicle records. A requestor seeking access to department motor vehicle
8 records in bulk must enter into a bulk contract with the department.

9 (1) Before a requestor can enter into a bulk contract, the requestor must file a completed
10 application on a form required by the department, for review and approval by the department. An
11 application for a bulk contract must include:

12 (A) a statement that the requestor will strictly limit the use of the personal
13 information to a permitted use under Transportation Code Chapter 730, as indicated on the application;

14 (B) the name and address of the requestor;

15 (C) proof of the requestor's identity, in accordance with §217.123(b) or (c) of this
16 title (relating to Access to Motor Vehicle Records);

17 (D) a certification that the statements made on the form are true and correct; and

18 (E) the signature of the requestor or, if the requestor is an organization or entity,
19 the signature of an officer or director of the requestor.

20 (2) Prior to the execution of a bulk contract, a requestor must provide proof the requestor
21 has:

22 (A) posted a \$1 million performance bond, payable to this state, conditioned upon
23 the performance of all the requirements of Transportation Code Chapter 730 and this subchapter; and

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1 (B) insurance coverage in the amount of at least \$3 million and that meets the
2 requirements of Transportation Code §730.014(c)(3).

3 (g) If a person is convicted of an offense under Transportation Code Chapter 730 or is found by a
4 court to have violated a rule under this subchapter, then any contract with that person to access
5 department motor vehicle records is terminated as of the date of the court's final determination.

6 (h) The requirements of this section do not apply to discovery, subpoena, or other means of legal
7 compulsion for the disclosure of personal information.

8 (i) An authorized recipient will receive requested motor vehicle records in accordance with Title
9 18 U.S.C. §2721 et seq.; Transportation Code Chapter 730; Government Code §552.130; and this
10 subchapter.

11 **§217.124. Cost of Motor Vehicle Records.**

12 (a) Standard costs. The department will charge fees in accordance with Government Code~~[,]~~
13 Chapter 552 and the cost rules promulgated by the Office of the Attorney General in 1 Texas
14 Administrative Code~~[,]~~ Chapter 70 (relating to Cost of Copies of Public Information).

15 (b) Law enforcement. An employee of a state, federal, or local law enforcement agency ~~[entity]~~ is
16 exempt from the payment of fees for motor vehicle records in subsection (c)(1) - (4) of this section if the
17 records are necessary to carry out lawful functions of the law enforcement agency.

18 (c) Motor vehicle record costs ~~[- For new contracts and renewals, the costs are]:~~

19 (1) Title history - \$5.75;

20 (2) Certified title history - \$6.75;

21 (3) Title and registration verification (record search) - \$2.30; and

22 (4) Certified title and registration verification (record search) - \$3.30. ~~[- and]~~

23 ~~[(5) Duplicate registration receipt for current registration period - \$2.]~~

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1 (d) Electronic motor vehicle records and files: [r]

2 (1) Master File [~~file of motor vehicle registration and title database~~] - \$5,000 plus \$.38 per

3 1,000 records;

4 (2) Weekly Updates [~~updates to motor vehicle registration and title database~~] - deposit of

5 \$1,755 and \$135 per week;

6 (3) eTAG File [~~e-Tag file~~] - deposit of \$845 and \$65 per week;

7 (4) Dealer/Supplemental File [~~Dealer supplemental file~~] - deposit of \$1,235 and \$95 per

8 week;

9 (5) Specialty Plates File [~~plates file~~] - deposit of \$1,235 and \$95 per week;

10 (6) Batch Inquiry [~~inquiry to motor vehicle registration and title database~~] - deposit of

11 \$1,000, minimum balance of \$750 and \$23 per run plus \$.12 per record;

12 (7) MVINet Access [~~Online motor vehicle inquiry (MVInet) access~~] - deposit of \$200,

13 minimum balance of \$150 and \$23 per month plus \$.12 per record; and (8) Scofflaw

14 remarks (inquiry, addition, or deletion) - deposit of \$500, minimum balance of \$350 and \$23 per run plus

15 \$.12 per record.

16 (e) Texas governmental entities, as defined in Government Code §2252.001, the Texas Law

17 Enforcement Telecommunication System, and toll project entities, as defined by Transportation Code

18 §372.001, are exempt from the payment of fees, except for the fees listed in [Exemption applicability. The

19 exemption granted in §217.123(c)(2)(B) of this title (relating to Access to Motor Vehicle Records) does not

20 apply to] subsection (d)(1), (6), or (8) of this section.

21 (f) Reciprocity agreements. The department may enter into reciprocity agreements for records

22 access with other governmental entities that may waive some or all of the fees established in this section.

23 **§217.125. Additional Documentation Related to [Certain] Permitted Uses.**

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1 (a) The department may require a requestor to provide reasonable assurance as to the identity of
2 the requestor and that the use of motor vehicle records is only as authorized under Transportation Code
3 [;] §730.012(a). Where applicable, each requestor submitting a request for motor vehicle records shall
4 provide documentation satisfactory to the department that they are authorized to request the
5 information on behalf of the organization, entity, [business] or government agency [entity] authorized to
6 receive the information.

7 (b) Requestors seeking personal information from motor vehicle records from the department for
8 a permitted use listed in this subsection must submit additional documentation. [Disclosure under the
9 following permitted uses requires additional documentation submitted to the department:]

10 (1) A request under Transportation Code[;] §730.007(a)(2)(C) must include [requires
11 submitting] the personal information the business is attempting to verify against the department's motor
12 vehicle records and documentation sufficient to prove the requestor is a business actively licensed by,
13 registered with, or subject to regulatory oversight by a government agency.

14 (2) A request under Transportation Code[;] §730.007(a)(2)(D) must include [requires
15 submitting] proof of a legal proceeding, or if no proceeding has been initiated, proof the requestor is in
16 anticipation of litigation [proceeding].

17 (3) A request under Transportation Code[;] §730.007(a)(2)(E) must include [requires
18 submitting] documentation sufficient to prove the requestor is employed in a researching occupation.

19 (4) A request under Transportation Code[;] §730.007(a)(2)(F) must include an active
20 [requires submitting a] license number provided by the Texas Department of Insurance or an active out-
21 of-state license number provided by the relevant regulatory authority, an active [a] license number the
22 insurance support organization is working under, or proof of self-insurance.

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1 (5) A request under Transportation Code[;] §730.007(a)(2)(G) must include an active
2 ~~[requires submitting a]~~ license number provided by the Texas Department of Licensing and Regulation or
3 an active out-of-state license number provided by the relevant regulatory authority.

4 (6) A request under Transportation Code[;] §730.007(a)(2)(H) must include an active
5 ~~[requires submitting a]~~ license number provided by the Texas Department of Public Safety or an active
6 out-of-state license number provided by the relevant regulatory authority.

7 (7) A request under Transportation Code[;] §730.007(a)(2)(I) must include ~~[requires~~
8 ~~submitting]~~ a copy of an active ~~[the]~~ commercial driver's license.

9 (8) A request under Transportation Code[;] §730.007(a)(2)(J) must include
10 ~~[requires submitting]~~ documentation to relate the requested personal information with the
11 operation of a ~~[private]~~ toll transportation facility or another type of transportation project as
12 described by Transportation Code §370.003.

13 (9) A request under Transportation Code[;] §730.007(a)(2)(K) must include ~~[requires a~~
14 ~~consumer reporting agency, as defined by the Fair Credit Reporting Act (15 U.S.C. §1681 et. seq.), to~~
15 ~~submit]~~ documentation on official letterhead indicating a permitted use for personal information, as
16 defined by the Fair Credit Reporting Act (15 U.S.C. §1681 et. Seq.) ~~[that Act].~~

17 (10) A request under Transportation Code §730.007(a)(2)(L) must include an active license
18 number of a manufacturer, dealership, or distributor issued by the department or an active out-of-state
19 license number provided by the relevant regulatory authority.

20 (11) A request under Transportation Code §730.007(a)(2)(M) must include an active
21 license or registration number of a salvage vehicle dealer, an independent motor vehicle dealer, or a
22 wholesale motor vehicle dealer issued by the department; or an active license issued by the Texas
23 Department of Licensing and Regulation to a used automotive parts recycler; or other proof that the

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1 requestor is subject to regulatory oversight by an entity listed in Transportation Code
2 §730.007(a)(2)(M)(iv).

3 (c) The department may require a requestor to provide additional information to clarify the
4 requestor's use of the personal information under Transportation Code Chapter 730, if the reasonable
5 assurances provided with the request are not satisfactory to the department. [Regarding §217.125(b)(4-
6 6), the department may accept active out-of-state licenses as documentation of a permitted use. Under
7 this subsection, the department will limit access to a record by record basis].

8 **§217.126. Limitations on [Resale and] Redisclosure.**

9 (a) Authorized recipients may only ~~[resell or]~~ redisclose personal information from department
10 motor vehicle records to other authorized recipients and not in the identical or substantially identical
11 format as disclosed [provided] by the department.

12 (b) The department may request information regarding how a person to whom the authorized
13 recipient may redisclose personal information represents to the authorized recipient that the person has
14 a permitted use under Transportation Code §730.007. [Authorized recipients may not resell or redisclose
15 the entire motor vehicle records database in its complete bulk format.]

16 (c) Any authorized recipient ~~[reselling or]~~ redisclosing personal information from department
17 motor vehicle records must inform the person to whom they are ~~[reselling or]~~ redisclosing of their
18 obligations under Transportation Code [,] Chapter 730 and this subchapter.

19 (d) An authorized recipient who resold personal information from department motor vehicle
20 records prior to June 18, 2021, is subject to the limitations in this section for that resale. [Any authorized
21 recipient is responsible for misuse of personal information by any person to whom they rediscovered the
22 information receiving their version of the information, regardless of whether the authorized recipient
23 approved or was aware of subsequent transfers of the information.]

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1 §217.127. Records Maintained by Recipients Who ~~[Resell or]~~ Rediscover Personal Information.

2 (a) Authorized recipients who ~~[resell or]~~ rediscover personal information from department motor
3 vehicle records are required to maintain records of that transaction.

4 (b) Records must be maintained for not less than five years and must include:

5 (1) the name and contact information of any person to whom the authorized recipient
6 [recipient of resold or] rediscovered personal information from the department ~~[contained in]~~ motor
7 vehicle records, including both the individual's name and the organization or entity with which the
8 individual is associated, when known;

9 (2) the person's permitted use under Transportation Code §730.007 for ~~[which]~~ the
10 personal information from the department motor vehicle records ~~[were released]~~, and any ~~[or]~~
11 documentation the authorized recipient received related to the person's permitted use ~~[in accordance~~
12 with §217.125(b)];

13 (3) the quantity of motor vehicle records rediscovered ~~[sold or disclosed]~~ to the ~~[each~~
14 subsequent] person under each permitted use;

15 (4) a statement ~~[by the authorized recipient]~~ specifying what data was ~~[resold or]~~
16 rediscovered and in what format; and

17 (5) ~~[any other]~~ documentation of any ~~[the]~~ agreement between the authorized recipient
18 and the person to whom the authorized recipient rediscovered ~~[to resell or rediscover]~~ personal information
19 from department ~~[contained in]~~ motor vehicle records.

20 (c) An authorized recipient who resold personal information from department motor vehicle
21 records prior to June 18, 2021, must maintain records of those transactions for five years.

22 §217.128. Department Review of Recipient's Records of ~~[Resale or]~~ Rediscovery.

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1 (a) The department may ~~[has the authority to]~~ request and review records maintained under
2 §217.127 of this title (relating to Records Maintained by Recipients Who Rediscover Personal Information)
3 ~~[kept by all authorized recipients who resell or rediscover personal information].~~

4 (b) The department will ~~[This]~~ request records from authorized recipients ~~[will be made]~~ in
5 writing.

6 (c) Failure to fully respond to the department's request may result in a cessation of information
7 under Transportation Code §730.014(g). If the authorized recipient has not provided the requested
8 records to the department within 30 days after the department's request, the department may terminate
9 the contract with the authorized recipient. ~~[The requested records must be provided to the department~~
10 ~~within 30 days of the request.]~~

11 ~~[(d) Failure to fully respond to the department's request may result in termination of access to~~
12 ~~motor vehicle records under Transportation Code, §730.007.]~~

13 ~~[(e) Upon receipt of the requested records, the department will evaluate the records for~~
14 ~~compliance with the service agreement, applicable statutes, and rules.]~~

15 ~~[(f) If it is determined that an authorized recipient is not in compliance with the service agreement,~~
16 ~~applicable statutes, and rules, the service agreement may be terminated.]~~

17 **§217.129. Ineligibility to Receive Personal Information Contained in Motor Vehicle Records.**

18 (a) The department may deny a request for or cease disclosing personal information contained in
19 the department's ~~[requestor's access to]~~ motor vehicle records if it determines withholding the
20 information benefits the public's interest more than releasing the information.

21 (b) If the department determines an authorized recipient ~~[of motor vehicle records]~~ has violated
22 a ~~[clause or]~~ term or condition of a contract with the department to access motor vehicle records ~~[the~~
23 ~~service agreement,]~~ and the department terminates the contract ~~[that service agreement has been~~

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1 ~~terminated~~, that authorized recipient cannot enter into a subsequent contract with the department to
2 access motor vehicle records [~~service agreement~~] unless approved to do so under §217.130 of this title
3 (relating to Approval for Persons Whose Access to Motor Vehicle Records Has Previously Been
4 Terminated).

5 (c) Termination of a contract with the department to access motor vehicle records [~~the service~~
6 ~~agreement~~] caused by any member of an organization [~~a business, partnership,~~] or entity shall be effective
7 on the whole organization or entity. Subsequent organizations or entities [~~businesses~~] formed by any
8 member, officer, partner, or affiliate of an organization or entity whose contract with the department to
9 access motor vehicle records [~~service agreement~~] has been terminated cannot enter into a subsequent
10 contract with the department to access motor vehicle records, unless approved to do so under §217.130
11 of this title (relating to Approval for Persons Whose Access to Motor Vehicle Records Has Previously Been
12 Terminated) [~~will also be ineligible to receive~~].

13 **§217.130. Approval for Persons Whose Access to Motor Vehicle Records Has Previously Been**
14 **Terminated.**

15 (a) A requestor seeking a contract with the department to access motor vehicle records who has
16 had a previous contract to access motor vehicle records [~~whose service agreement was previously~~]
17 terminated by the department for reasons other than the failure to maintain minimum balance
18 requirements in an adjustable account, but who is not subject to Transportation Code [~~]~~ §730.016, shall
19 submit a written request for reapproval on the form required by the department.

20 (b) In addition to the requirements of §217.123 of this title (relating to Access to Motor Vehicle
21 Records), the request for reapproval must contain:

22 (1) any documents indicating remedial efforts the requestor has undertaken to prevent
23 the unlawful disclosure of personal information from department motor vehicle records; [~~]~~

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1 (2) any documents indicating agreements between the requestor and any person to
2 whom the requestor has reason to believe it will redisclose personal information from the department
3 [third parties receiving resold or redisclosed] motor vehicle records; [7] and

4 (3) a statement that the requestor will notify the department before ~~[reselling or]~~
5 redisclosing any personal information from the department motor vehicle records for a [the] time period
6 prescribed by the department, including all of the information required under §217.127(b) of this title
7 (relating to Records Maintained by Recipients Who ~~[Resell or]~~ Redisclose Personal Information). ~~[The~~
8 ~~notification must include the name, address, and contact information of the third party requesting resold~~
9 ~~or redisclosed motor vehicle records, and must include the form(s) used to verify the third party's lawful~~
10 ~~purpose in obtaining motor vehicle records.]~~

11 (c) Failure to comply with ~~[any of the terms of]~~ this section or a re-offense of a contract with the
12 department to access motor vehicle records [the service agreement] will result in the termination of the
13 contract [service agreement] and the permanent ineligibility [inability] to receive motor vehicle records
14 from the department under Transportation Code §730.007.

15 **§217.131. Notices Regarding Unauthorized Recipient.**

16 (a) For the purposes of this section, a requestor includes a person, the state, or an agency of this
17 state that previously received personal information from department motor vehicle records.

18 (b) A requestor who is not an authorized recipient must, not later than 90 days after the date the
19 requestor becomes aware that the requestor is not an authorized recipient, delete from the requestor's
20 records any personal information received from the department that the requestor is not permitted to
21 receive and use under Transportation Code Chapter 730.

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1 (c) A requestor who becomes aware that the requestor is not an authorized recipient must
2 promptly notify the department that the requestor is not an authorized recipient and provide the date
3 they became aware.

4 (d) If the department becomes aware that the requestor is not an authorized recipient before
5 receiving notice from the requestor, the department will send a written notice to the requestor stating
6 that the requestor is not an authorized recipient. If the requestor was not already aware that it is not an
7 authorized recipient, within 90 days from the date the department sends its notice under this subsection,
8 requestor must delete any personal information received from the department that the requestor is not
9 permitted to receive and use under Transportation Code Chapter 730.

10 (e) A requestor who becomes aware that the requestor is not an authorized recipient must notify
11 the department when all the department's personal information has been deleted.

12 **§217.132. Notices Regarding Ineligibility.**

13 (a) A person who becomes ineligible to receive personal information under Transportation Code
14 §730.016 must notify the department of the basis of the person's ineligibility within 15 days of the court's
15 conviction or final determination.

16 (b) A person who becomes ineligible to receive personal information under Transportation Code
17 §730.016 must notify the department when all of the personal information received from the department
18 under Transportation Code Chapter 730 has been deleted from the person's records.

19 **§217.133. Annual Report.**

20 (a) An authorized recipient under a bulk contract must electronically submit an annual report, on
21 a form prescribed by the department, on or before October 1st of each year for the 12-month period
22 beginning September 1st of the preceding year.

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1 (b) An annual report must include information regarding any third party to which the authorized
2 recipient redisclosed personal information from department motor vehicle records during the reporting
3 period, including:

4 (1) the name of the third party, including both the individual and the organization or entity
5 with which the individual is associated, when known; and

6 (2) the third party's permitted uses under Transportation Code §730.007 for the
7 redisclosed motor vehicle records.

8 (c) An annual report must include the signature of the requestor or, if the requestor is an
9 organization or entity, the signature of an officer or director of the requestor certifying that all statements
10 in the annual report are true and correct.

11 (d) An authorized recipient under a bulk contract may request an extension of time to submit an
12 annual report by sending a written request to the department no later than September 1st of the year the
13 annual report is required to be submitted. The request for extension must include proof of an event that
14 is beyond the control of the authorized recipient and prevents the timely submission of the annual report.
15 The department may grant an extension for submission of the annual report to no later than December
16 1st of the year the annual report is required to be submitted.

17 (e) If an authorized recipient under a bulk contract fails to timely submit the annual report or
18 request an extension under subsection (d) of this section, the department may cease disclosing motor
19 vehicle records until the annual report is submitted to the department. If an authorized recipient fails to
20 submit an annual report by December 1st of the year the annual report is required to be submitted, then
21 the department may terminate the bulk contract.

22 (f) If a person cancels or the department terminates a bulk contract, the person must submit a
23 final report containing all the information required under subsection (b) of this section relating to all

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1 personal information from department motor vehicle records redisclosed since the last annual report or,
2 if the person has never submitted an annual report, since the execution of the bulk contract. The person
3 must submit this report by the 90th day after the date of the cancellation or termination of the bulk
4 contract.

5
6 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the adoption and found it to be a
7 valid exercise of the state agency’s legal authority.

8 Issued at Austin, Texas, on M DD, YYY.

9
10 _____
11 Elizabeth Brown Fore, General Counsel
12
13
14



August 4, 2022

To: Office of General Counsel, Texas Department of Motor Vehicles

From: Beth Williams, Government Affairs Coordinator, Auto Data Direct, Inc.

Re: Comments to proposed rules related to §§217.122-217.133 concerning the disclosure of personal information from the department's motor vehicle records.

In January 2022, Auto Data Direct, Inc., provided comments on the working draft for implementation of SB 15. We would like to reiterate our concern regarding proposed language in Section 127.125 related to documentation requirements for specific permissible uses under 730.007. This latest draft includes the following:

A request under Transportation Code (a)(2)(C) must include the personal information the business is attempting to verify against the department's motor vehicle records and documentation sufficient to prove the requestor is a business actively licensed by, registered with, or subject to regulatory oversight by a government entity.

Based on our input in January and discussions with staff, our impression was that it was not the intent of the department to require the noted documentation for each unique inquiry submitted directly through one of the department's data systems. Rather, that vetting of the business entity and the assurance of authorized use would likely be completed on the front end. And/or that requests for additional specific information could be made by the department but that it would not require submission of that detail with each inquiry.

As we stated in January, we believe adding the requirement to include the personal information the business is attempting to verify is going to be a very labor-intensive requirement and will create an undue burden on the requestor and the department.

1. How will the department manage and grade the documentation submitted for each type of record request listed in 127.125? Will there be employees assigned to that function within the department? If the record is requested through the electronic, single inquiry system through a provider like ADD that submits real-time record inquiries throughout the day, is the turn-around immediate?

2. How does the requestor submit the documentation? If a request under 730.007(a)(2)(C) requires submission of the personal information a business is attempting to verify against the department's records, does that mean that an automobile dealer wishing to verify ownership of a vehicle presented for trade-in must submit the personal information of the customer along with the VIN? What system is in place to accept, review, and securely store that information?

We agree that verification of proper credentials and permissible use under 730.007 is a reasonable requirement that protects consumer privacy but the requirement for documentation to be submitted with each query, as we read it in the proposed rules, is unduly cumbersome for all parties. Instead, we would like to recommend that the phrase, 'upon request of the department' be included so that it leaves open the ability for the department to verify legitimacy of the request without mandating that the personal information be submitted with each request.

We appreciate the opportunity to comment during this final review of the rule and are happy to provide additional information if it would be helpful to staff as they finalize the rule.



955 American Lane
4th Floor
Schaumburg, IL 60173
cell (310) 956-9879
sean.wheatley@experian.com

August 19, 2022

Office of General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731

Please accept this letter as Experian Information Solutions, Inc.'s ("Experian") formal comment to the Texas Department of Motor Vehicle's amendment to their proposed rule concerning disclosure of personal information from the department's motor vehicle records dated July 22, 2022.

Experian has been a trusted custodian of the Texas Department of Motor Vehicles' ("TxDMV") motor vehicle records for over twenty years. Currently, Experian receives these records pursuant to a service agreement.

Experian Automotive is a division of Experian, the global information solutions company. Experian receives motor vehicle title and registration data, including personally identifiable information ("PII"), from all 50 states and the District of Columbia. Experian utilizes this data to create various products and services that are in compliance with the Federal Driver Privacy Protection Act ("DPPA") and each state's relevant laws. Personally Identifiable Information derived from this data is utilized for safety related automotive recall campaign notifications by auto manufacturers and other permitted uses including insurance underwriting verification.

Thank you again and we look forward to working with you on this implementation.

Sincerely,

A handwritten signature in black ink that reads "Sean R. Wheatley". The signature is written in a cursive, flowing style.

Sean R. Wheatley
State Government Relations, Experian Automotive

Enclosure

Comments specific to sections of the proposed rule

- 1. Section 217.125 “Additional Documentation Related to Permitted Uses”** – This section lists out the documentation that must be submitted to the TxDMV for each permissible use.

Comment: Experian appreciates the opportunity to have worked closely with the TxDMV for over twenty years. In the prior rulemaking on this same section of law, TxDMV clarified in the preamble to the rule that this section does not apply to bulk purchasers of data such as Experian that has a “service agreement.” This is because the service agreement provides additional and significant protections for handling the motor vehicle records. Please see “comment” and “answer” below that was published in the preamble of the rule in the *Texas Register* (43 *TexReg* 4766):

COMMENT

HDR, Experian, and Polk asked the department to clarify how the additional documentation provisions of §217.125 apply to those who resell or redisclose department data.

RESPONSE

No change is necessary here, as §217.125 applies only to the department. This rule indicates the documentation the department will require in order to disclose personal information associated with a motor vehicle record. As mentioned, customers under a service agreement with the department are bound by the terms of that agreement and are not subject to the provisions in §217.125. The permitted uses of our service agreement customers are vetted according to that agreement and are continuously monitored by the recordkeeping provisions associated with Transportation Code Chapter 730

Request:

Experian would like the exclusion for bulk purchasers to be explicit in the current rulemaking. In fact, the Legislature just created a new series of regulations for bulk purchasers of these records. A suggestion to include the following language in Section 217.125 could provide the clarification needed, “Bulk Users receiving the data under a service agreement with the department are bound by the terms of that agreement and are not subject to the provisions of 217.125.”.

- 2. 217.127 (b)(3) “Records Maintained by Recipients Who Rediscover Personal Information”** – This section requires reporting or record keeping requirements of quantity of individual records disclosed.

Comment:

Maintaining a record of the quantity of motor vehicle records disclosed is not required under the recently amended Texas Transportation Code section 730.014, which covers record keeping. While the new language in Section 730.014 (c)(7) of the Texas Transportation Code requires “the requestor annually provide to the agency a report of all third parties to which the personal information was disclosed under this section and the purpose of the disclosure”, there is no mention of quantity of records. This is consistent with the federal DPPA that also does not require a record of the quantity of records that are disclosed. The key is that the requestor keep track of all third parties that received the records containing personal information and the permissible uses for disclosure.

In fact, the number of records disclosed to a business could be considered a trade secret. An example of this would be the number of records disclosed to a manufacturer for a safety-related motor vehicle recall campaign in a state. Since Experian’s reports to the TxDMV are subject to the Texas Public Information Act, this information could be obtained by competitors of Experian’s customers. Experian would not want to disclose confidential business information about our customers that receive records from us.

Because the quantity of records disclosed could be considered a trade secret and retention of the quantity of records is not required under the law, this information is not tracked or retained. Experian also submits that the quantity of records disclosed provides no critical data. Rather the important information to track and report is records of third parties who receive personal information and their permissible use of the data. To impose such a requirement in the regulations is impractical. Authorized users such as Experian would have to put forth significant resources to change our systems to track and maintain this information.

This new requirement to track and maintain the quantity of records could disclose our customers’ trade secrets, is not required by law, is not necessary for the work of the TxDMV, and it would require significant and costly changes to our systems. For these reasons, Experian requests the TxDMV to not require this new record keeping requirement.

Request:

Experian requests this requirement be struck from the proposed rule in 217.127(b)(3).



600 Congress Avenue
Suite 2200
Austin, TX 78701
Telephone: 512-305-4700
Fax: 512-305-4800
www.lockelord.com

Brian O'Reilly
Direct Telephone: 512-305-4853
Direct Fax: 512-391-4896
boreilly@lockelord.com

August 22, 2022

VIA E-mail: rules@txdmv.gov

Office of General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731

Re: Comment on TxDMV Proposed Motor Vehicle Records Rules (47 Tex. Reg. 4312, *et seq.* (July 22, 2022))

To Whom it May Concern:

The following comment to the Texas Department of Motor Vehicles' (TxDMV) proposed amendments to the motor vehicle records rules are submitted on behalf of the North Texas Tollway Authority ("NTTA").

NTTA is a political subdivision of the State of Texas governed by Chapter 366 of the Texas Transportation Code and empowered to acquire, construct, maintain, repair and operate toll projects in the North Texas region. *See* TEX. TRANSP. CODE § 366.033. Pursuant to an agreement between NTTA and TxDMV, NTTA accesses motor vehicle records of the users of its toll projects in order to send invoices as required under Chapter 366. NTTA uses the TxDMV Master File, along with the Weekly Updates and the eTag File to determine the mailing address for the registered owners of vehicles using NTTA toll projects.

Comment: Proposed § 217.123(f) Access to bulk motor vehicle records

In order to enter into a bulk contract, proposed § 217.123(f)(2) requires a requestor to provide proof the requestor has posted a \$1 million performance bond and insurance coverage in the amount of at least \$3 million and that meets the requirements of Texas Transportation Code §730.014(c)(3). Texas Transportation Code §730.014(d) provides that the bond and insurance requirements do not apply to a contract between a government agency and another government agency. It does not appear that this exception to the bond and insurance requirements is provided for in the proposed rules. NTTA assumes that a bulk contract between a political subdivision, such as the NTTA, and TxDMV would not require the provision of the bond and insurance requirements. To the extent NTTA's access to motor vehicle records described above would

TxDMV, Office of General Counsel
August 22, 2022
Page 2

constitute a bulk disclosure and require a bulk contract, NTTA submits the following recommendation:

Recommendation: Modify § 217.123(f) by adding new subsection (j) to clarify that the bond and insurance requirements do not apply to a bulk contract between a government agency and another government agency:

(j) The requirements of subsection (f)(2) do not apply to a bulk contract between the Department and an entity described in § 217.124(e).

Thank you for your consideration of this comment. Please contact me at the number shown above if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Brian O'Reilly". The signature is written in a cursive style with a large, stylized "B" and "O".

Brian O'Reilly

cc: Dena Stroh, NTTA General Counsel

26533 Evergreen Road, Suite 1100
Southfield, MI 48076

August 22, 2022

Office of General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731

To Whom It May Concern:

We appreciate the opportunity to provide further feedback on the proposed rules, pursuant to Senate Bill 15 of the 2021 Session. We also greatly appreciate the cooperative work by the Texas DMV on the legislation and this rule set. However, upon further investigation internally, we would like to provide feedback on one provision that gives us some concern.

The new Transportation Code section 730.014 would require all recipients to track the number of records provided to each subrecipient or customer in addition to the subrecipient's permissible use. Tracking and reporting the identity and permissible use of each subrecipient or customer is supported by federal and state statute. However, reporting the number of individual records is not a requirement in any statute. In the context of safety recalls, this could be considered highly confidential within the automotive industry.

R.L. Polk & Co. is the leading provider of automotive safety recall data and market intelligence. We operate in every US and Canadian jurisdiction and provide a single point-of-contact for nearly every automotive manufacturer in need of vehicle data. Our services are built upon complex and highly secure data systems. We have invested significantly in properly securing data and have always been willing to work with the DMV on record-level inquiries when questions arise.

If this portion of the rule set is adopted, our system would need to be modified to implement a "counter" of records provided to each individual customer. We estimate that it would require hundreds of hours of development time for each offered product and the associated cost of those hours. Further, this cost would be in addition to other significant expenses required under Senate Bill 15. These costs include the performance bond, insurance requirements, increased reporting, and others. This is all occurring at a time in the automotive industry when costs are closely scrutinized due to the uncertain economic environment.

We respectfully request that this requirement be removed and consistent with federal and state law.

Thank you,



Bruce Noll
Government Relations, R.L. Polk & Co.

Board Meeting Date: 10/13/2022
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Patricia Ueckert, Vehicle Titles and Registration Division Operations Section Director
Agenda Item: 8
Subject: Specialty Plate Designs

RECOMMENDATION

Action Item. The Vehicle Titles and Registration Division seeks board approval or denial for eight plate designs submitted for your consideration. Each plate design is from the marketing vendor, My Plates.

PURPOSE AND EXECUTIVE SUMMARY

Louisiana Tech University, Arizona State University, Oklahoma State University, and University of Nebraska are redesigns of existing My Plates (vendor) plates. Tarleton State University, Texas Elks, and Folds of Honor are new plate designs. Black-Silver State of the Arts is a crossover plate design.

FINANCIAL IMPACT

Costs incurred by the department related to the My Plates program and an \$8 administrative fee per plate are recouped from the My Plates vendor. Revenue generated from the sale of vendor specialty license plates is split between the state (General Revenue Fund) and My Plates. The details of the revenue splits can be found in Section IV (State/Contractor Revenue Sharing) of the Specialty License Plate Marketing contract.

BACKGROUND AND DISCUSSION







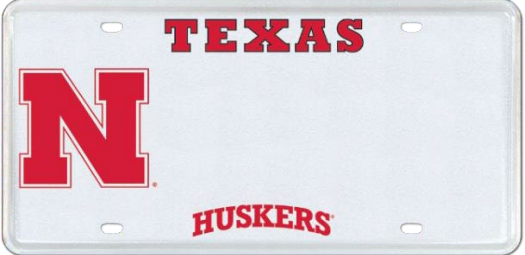

Statutory authority for the board to approve vendor specialty license plates and invite the public's comment on proposed vendor plate designs are in Texas Transportation Code §504.851(g) and (g-1) (1). Statutory authority for a sponsor of a specialty license plate under Texas Transportation Code Chapter 504, Subchapter J, to contract with the private vendor authorized under Texas Transportation Code §504.851 for the marketing and sale of the specialty license plate is in Texas Transportation Code §504.6011. Statutory authority for the board to approve non-profit organization specialty license plates and invite the public's comment on proposed plate designs are in Texas Transportation Code §504.801. The board's approval criteria are clarified in Texas Administrative Code §217.45 Specialty License Plates, Symbols, Tabs, and Other Devices, and §217.52 Marketing of Specialty License Plates through a Private Vendor.

The vendor contract (Statement of Work paragraph #2, Marketing Services) specifies that following the board's contingent approval of a plate, the vendor must get at least 200 commitments within six months of the approval for a plate to be produced (*existing* plates must also maintain 200 registrations to stay in the program). My Plates' procedure is to first offer a plate to the public to register their interest. Following the board's contingent approval, My Plates then offers a plate online for prepaid orders and confirms when 200 prepaid orders are achieved.

TxDMV's procedure is to invite comments on all proposed plates ahead of the board's review. The department's intent is to determine if there are any unforeseen public concerns about a plate design. The department publishes a 10-day

“like/dislike/comment-by-email” survey, called an eVIEW, on its website. Although the survey counts the public’s “likes” and “dislikes,” it is unscientific and not used as an indicator of a plate’s popularity.

Each plate design listed below was presented to the public in a September 2022 eVIEW. No negative comments were received. The count of the public’s “like/dislikes” are noted below with each design.

| Louisiana Tech University | CURRENT | REDESIGN |
|--|---|--|
| 358 people liked this design and 443 did not |  |  |
| Arizona State University | CURRENT | REDESIGN |
| 344 people liked this design and 405 did not |  |  |
| Oklahoma State University | CURRENT | REDESIGN |
| 371 people liked this design and 388 did not |  |  |
| University of Nebraska | CURRENT | REDESIGN |
| 254 people liked this design and 428 did not |  |  |



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

| | | |
|---|---|--|
| <p>Tarleton State University</p> | <p>NEW</p> | |
| <p>778 people liked this design and 173 did not</p> |  | |
| <p>Texas Elks</p> | <p>NEW</p> | |
| <p>772 people liked this design and 237 did not</p> |  | |
| <p>Folds of Honor</p> | <p>NEW</p> | |
| <p>738 people liked this design and 81 did not</p> |  | |
| <p>Black-Silver State of the Arts</p> | <p>CURRENT</p> | <p>CROSSOVER</p> |
| <p>975 people liked this design and 98 did not</p> |  |  |

Louisiana Tech University (Redesign)



Arizona State University (Redesign)



Oklahoma State University (Redesign)



University of Nebraska (Redesign)



Tarleton State University (New)



Texas Elks (New)



Folds of Honor (New)



Black-Silver State of the Arts (Crossover)



Vehicle Titles and
Registration Division
Special Plates Unit (5FTEs) 08/22



VTR Director
Vacant

OCT. 2022



FALL ARRIVALS



NEW STATE



REDESIGN STATE



CROSSOVER VENDOR

SPECIALTY PLATES FALL 2022 EDITION



SLP AVAILABLE _____ **530**
MILITARY AND DV _____ **194**
RESTRICTED USE _____ **51**
STATE SPECIALTY _____ **148**
VENDOR SPECIALTY _____ **137**



VENDOR



VENDOR



MILITARY

| | LINKED | UNLINKED | TOTAL |
|------------------------------------|--------|----------|-------|
| 1. ANIMAL FRIENDLY | 7,639 | 259 | 7,898 |
| 2. CONSERVATION: HORNED LIZARD | 6,384 | 235 | 6,619 |
| 3. STATE OF THE ARTS | 4,701 | 198 | 4,899 |
| 4. CONSERVATION: BLUEBONNET | 4,672 | 227 | 4,899 |
| 5. CONSERVATION: WHITE-TAILED DEER | 3,275 | 163 | 3,438 |
| 6. TEXAS A & M UNIVERSITY | 2,316 | 050 | 2,366 |
| 7. BIG BEND NATIONAL PARK | 2,067 | 106 | 2,173 |
| 8. CONSERVATION: HUMMINGBIRD | 1,931 | 151 | 2,082 |
| 9. CONSERVATION: LARGE MOUTH BASS | 1,923 | 148 | 2,071 |
| 10. CONSERVATION: CAMPING | 1,919 | 124 | 2,043 |

| | | | |
|---------------------------|--------|--------|--------|
| 1. CLASSIC BLACK | 55,489 | 10,457 | 65,946 |
| 2. LARGE STAR WHITE/BLACK | 40,247 | 7,524 | 47,771 |
| 3. TEXAS BLACK 1845 | 17,816 | 4,343 | 22,159 |
| 4. LONE STAR BLACK | 13,655 | 3,256 | 16,911 |
| 5. CARBON FIBER | 10,732 | 2,529 | 13,261 |
| 6. LONE STAR 1836 | 4,856 | 878 | 5,734 |
| 7. LONE STAR BLK/SILV | 4,254 | 1,174 | 5,428 |
| 8. TEXAS VINTAGE BLACK | 4,189 | 719 | 4,908 |
| 9. TEXAS A&M (MAROON) | 4,081 | 589 | 4,670 |
| 10. WHITE | 3,762 | 815 | 4,577 |

| | | | |
|------------------------------|---------|-------|---------|
| 1. DISABLED VETERAN | 207,784 | 7,737 | 215,521 |
| 2. DV U.S. ARMY | 49,472 | 1,981 | 51,453 |
| 3. DV U.S. MARINE CORPS | 26,707 | 948 | 27,655 |
| 4. DV U.S. AIR FORCE | 22,228 | 787 | 23,015 |
| 5. DV U.S. NAVY | 19,506 | 719 | 20,225 |
| 6. DV BRONZE STAR MEDAL | 13,880 | 446 | 14,326 |
| 7. PURPLE HEART | 13,679 | 360 | 14,039 |
| 8. U.S. MARINE CORPS | 12,424 | 525 | 12,949 |
| 9. MERITORIOUS SERVICE MEDAL | 12,200 | 463 | 12,663 |
| 10. U.S. ARMY | 10,681 | 455 | 11,136 |

SPECIAL PLATES UNIT CUSTOMER SERVICE FY 2022

92,698

28,857

65

17,422

5,982

33

4,168

Personalized Plate
Applications Reviewed
(91% Approved)

Telephone Calls

Walk-in
Customers

Emails

Refunds

Public Information
Open Records

Correspondence
(Including Plate
Applications)

Board Meeting Date: 10/13/2022
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Keith Yawn, Government & Strategic Communications Division Director
Agenda Item: 9
Subject: Recommended Statutory Changes for the 88th Legislature under Transportation Code §1001.025

RECOMMENDATION

Action Item. Staff recommends the board approve the attached statutory change proposals for communication to the 88th Texas Legislature.

PURPOSE AND EXECUTIVE SUMMARY

Transportation Code Section 1001.025 authorizes the board to recommend to the legislature statutory changes that would improve department operations.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

Department staff presented a set of draft recommendations for statutory changes during the August 10, 2022 Legislative and Public Affairs Committee meeting. The full board was provided the packet of draft recommendations for review the next day as part of the summary of committee activities. Since that time, department staff has worked with various stakeholders to discuss and clarify the intent and development of these recommendations. Those collaborations have not resulted in any changes to the drafts presented in August.

Final recommended statutory changes are included in the materials attached for this agenda item. Recommendations approved by the board will be communicated to legislative offices for consideration.



Texas Department of Motor Vehicles

Proposed Legislative Recommendations Packet: Title Act Items

Items Previously Recommended by the Board (87th Regular Session, House Bill 3531):

1. Clarify equal use of printed and electronic titles (Transportation Code, Chapter 501, throughout)
2. Define auction sales receipt & allow its use for reporting scrapped vehicles
 - a. Transportation Code, Section 501.091. Definitions
 - b. Transportation Code, Section 501.1003. Salvage Dealer Responsibilities
3. Allow wider range of ownership evidence when insurance companies apply for title (Transportation Code, Section 501.0925. Insurance Company Not Required to Surrender Certificates of Title in Certain Situations)
4. Allow vehicles with out of state salvage-type titles to receive a rebuilt title (Transportation Code, Section 501.100 Application for Regular Certificate of Title for Salvage Vehicle)

1. **Throughout Chapter 501 of the Transportation Code there are express references to printed (or certificate) titles. Electronic titles have long been used in Texas and in practice are not treated differently from a printed title. The same issue exists throughout the chapter for salvage and nonrepairable vehicle titles. The following amendments will remove any distinctions between printed and electronic titles, both regular, salvage and nonrepairable, so that it is clear both forms of titles are used in the same manner.**

In two instances a distinction for printed titles will remain: a requirement about a warning that must be printed on the face of a certificate of title (501.021) and a requirement relating to physical signatures on a printed title (501.028). There is also an amendment in 501.0234 clarifying that it is a certificate of authority that is issued under Chapter 683 not a title.

These amendments are not intended to alter existing department practice or operations but clarify the statute for public transparency. These changes were included in House Bill 3531 (87R).

SUBCHAPTER B. ~~[CERTIFICATE OF]~~ TITLE REQUIREMENTS

Section 501.0234(b): (b) This section does not apply to a motor vehicle:

- (1) that has been declared a total loss by an insurance company in the settlement or adjustment of a claim;
- (2) for which the title has been surrendered in exchange for:
 - (A) a salvage vehicle title ~~[or salvage record of title]~~ issued under this chapter;
 - (B) a nonrepairable vehicle title ~~[or nonrepairable vehicle record of title]~~ issued under this chapter or a certificate of authority issued under Subchapter D, Chapter 683; or
 - (C) an ownership document issued by another state that is comparable to a document described by Paragraph (A) or (B);
- (3) with a gross weight in excess of 11,000 pounds; or
- (4) purchased by a commercial fleet buyer who:
 - (A) is a deputy authorized by rules adopted under Section 520.0071;
 - (B) utilizes the dealer title application process developed to provide a method to submit title transactions to the county in which the commercial fleet buyer is a deputy; and
 - (C) has authority to accept an application for registration and application for title transfer that the county assessor-collector may accept.

Sec. 501.0276. DENIAL OF TITLE RECEIPT OR ~~[7]~~ TITLE ~~[7 OR RECORD OF TITLE]~~ FOR FAILURE TO PROVIDE PROOF OF EMISSIONS TESTING. A county assessor-collector may not issue a title receipt and the department may not issue a ~~[certificate of]~~ title for a vehicle subject to Section 548.3011 unless proof that the vehicle has passed a vehicle emissions test as required by that section, in a manner authorized by that section, is presented to the county assessor-collector with the application for a title.

Section 501.0301(b): (b) A county assessor-collector may not issue a title receipt and the department may not issue a ~~[certificate of]~~ title for an off-highway vehicle purchased from a retailer located outside this state and designated by the manufacturer as a model year that is not more than one year before the year in which the application for title is made unless the applicant for the title delivers to the assessor-collector or the department, as

applicable, satisfactory evidence showing that the applicant:

- (1) has paid to the comptroller the applicable use tax imposed on the vehicle under Subchapter D, Chapter 151, Tax Code; or
- (2) is not required to pay any taxes described by Subdivision (1).

Sec. 501.038. ~~[CERTIFICATE OF]~~ TITLE FOR CUSTOM VEHICLE OR STREET ROD.

Section 501.038(b): (b) Notwithstanding any other provision of this chapter, if the department issues a ~~[certificate of]~~ title for a custom vehicle or street rod, the model year and make of the vehicle must be listed on the ~~[certificate of]~~ title and must be the model year and make that the body of the vehicle resembles. The ~~[certificate of]~~ title must also include the word "replica."

SUBCHAPTER C. REFUSAL TO ISSUE, REVOCATION, SUSPENSION, OR ALTERATION OF TITLE ~~[CERTIFICATE]~~

Section 501.074(a): (a) The department shall issue a new title for a motor vehicle registered in this state for which the ownership is transferred by operation of law or other involuntary divestiture of ownership after receiving:

- (1) a certified copy of an order appointing a temporary administrator or of the probate proceedings;
- (2) letters testamentary or letters of administration;
- (3) if administration of an estate is not necessary, an affidavit showing that administration is not necessary, identifying all heirs, and including a statement by the heirs of the name in which the title ~~[certificate]~~ shall be issued;
- (4) a court order; or
- (5) the bill of sale from an officer making a judicial sale.

Section 501.091:

(10) "Nonrepairable vehicle title" means a nonrepairable record of title or printed document issued by the department that evidences ownership of a nonrepairable motor vehicle.

(16) "Salvage vehicle title" means a salvage record of title or printed document issued by the department that evidences ownership of a salvage motor vehicle.

Sec. 501.09111. RIGHTS AND LIMITATIONS OF NONREPAIRABLE VEHICLE TITLE OR ~~[, NONREPAIRABLE RECORD OF TITLE,]~~ SALVAGE VEHICLE TITLE ~~[, OR SALVAGE RECORD OF TITLE]~~.

Section 501.09111(b): (b) A person who holds a nonrepairable vehicle ~~[certificate of]~~ title issued prior to September 1, 2003, is entitled to the same rights listed in Subsection (a) and may repair, rebuild, or reconstruct the motor vehicle.

Section 501.09112: (b) A nonrepairable vehicle title must clearly indicate that the motor vehicle:

- (1) may not be:
 - (A) issued a ~~[regular]~~ title;
 - (B) registered in this state; or
 - (C) repaired, rebuilt, or reconstructed; and
- (2) may be used only as a source for used parts or scrap metal.
- (d) A salvage vehicle title ~~[or a salvage record of title]~~ for a vehicle that is a salvage motor vehicle because of damage caused exclusively by flood must bear a notation that the department considers appropriate. If the title

for a motor vehicle reflects the notation required by this subsection, the owner may sell, transfer, or release the motor vehicle only as provided by this subchapter.

(e) An electronic application for a nonrepairable vehicle title or [~~nonrepairable record of title,~~] salvage vehicle title [~~or salvage record of title~~] must clearly advise the applicant of the same provisions required on a printed title.

(f) A nonrepairable vehicle title or [~~nonrepairable record of title,~~] salvage vehicle title [~~or salvage record of title~~] in the department's electronic database must include appropriate remarks so that the vehicle record clearly shows the status of the vehicle.

Sec. 501.0925. INSURANCE COMPANY NOT REQUIRED TO SURRENDER [~~CERTIFICATES OF~~] TITLE IN CERTAIN SITUATIONS.

Section 501.0925: (a) An insurance company that acquires, through payment of a claim, ownership or possession of a motor vehicle covered by a [~~certificate of~~] title that the company is unable to obtain may obtain from the department not earlier than the 30th day after the date of payment of the claim:

(1) a salvage vehicle title for a salvage motor vehicle;

(2) a nonrepairable vehicle title for a nonrepairable motor vehicle; or

(3) a [~~regular certificate of~~] title for a motor vehicle other than a salvage motor vehicle or a nonrepairable motor vehicle.

(b) An application for a title under Subsection (a) must be submitted to the department on a form prescribed by the department and include:

(1) a statement that the insurance company has provided at least two written notices attempting to obtain the [~~certificate of~~] title for the motor vehicle; and

(2) evidence acceptable to the department that the insurance company has made payment of a claim involving the motor vehicle.

(c) An insurance company that acquires, through payment of a claim, ownership or possession of a motor vehicle covered by a [~~certificate of~~] title for which the company is unable to obtain proper assignment of the title certificate may obtain from the department not earlier than the 30th day after the date of payment of the claim:

(1) a salvage vehicle title for a salvage motor vehicle;

(2) a nonrepairable vehicle title for a nonrepairable motor vehicle; or

(3) a [~~regular certificate of~~] title for a motor vehicle other than a salvage motor vehicle or a nonrepairable motor vehicle.

(d) An application for a title under Subsection (c) must be submitted to the department on a form prescribed by the department and include:

(1) a statement that the insurance company has provided at least two written notices attempting to obtain a proper assignment of the [~~certificate of~~] title; and

(2) the [~~certificate of~~] title.

(f) An insurance company that acquires, through payment of a claim, ownership or possession of a salvage motor vehicle, or nonrepairable motor vehicle covered by an out-of-state ownership document may obtain from the department a salvage vehicle title, or nonrepairable vehicle title if:

(1) the motor vehicle was damaged, stolen, or recovered in this state;

(2) the motor vehicle owner from whom the company acquired ownership resides in this state; or

(3) otherwise allowed by department rule.

Sections 501.097: (a) An application for a nonrepairable vehicle title or [~~nonrepairable record of title,~~] salvage vehicle title [~~or salvage record of title~~] must:

(1) be made in a manner prescribed by the department and accompanied by a \$8 application fee;

(2) include, in addition to any other information required by the department:

(A) the name and current address of the owner; and

(B) a description of the motor vehicle, including the make, style of body, model year, and vehicle identification number; and

(3) include the name and address of:

(A) any currently recorded lienholder, if the motor vehicle is a nonrepairable motor vehicle; or

(B) any currently recorded lienholder or a new lienholder, if the motor vehicle is a salvage motor vehicle.

(c-1) The department's titling system must include a remark that clearly identifies the vehicle as a salvage motor vehicle or nonrepairable motor vehicle.

Sec. 501.100. APPLICATION FOR [~~REGULAR CERTIFICATE OF~~] TITLE FOR SALVAGE VEHICLE.

Section 501.100: (a) The owner of a motor vehicle for which a nonrepairable vehicle title issued prior to September 1, 2003, or for which a salvage vehicle title [~~or salvage record of title~~] has been issued may apply for a title after the motor vehicle has been repaired, rebuilt, or reconstructed and, in addition to any other requirement of law, only if the application:

(1) describes each major component part used to repair the motor vehicle;

(2) states the name of each person from whom the parts used in assembling the vehicle were obtained; and

(3) shows the identification number required by federal law to be affixed to or inscribed on the part.

(f) The department may not issue a [~~regular~~] title for a motor vehicle based on a:

(1) nonrepairable vehicle title or comparable out-of-state ownership document;

(2) receipt issued under Section 501.1003(b); or

(3) certificate of authority.

Section 501.1001: (b) For a salvage motor vehicle, the insurance company shall apply for a salvage vehicle title [~~or salvage record of title~~]. For a nonrepairable motor vehicle, the insurance company shall apply for a nonrepairable vehicle title [~~or nonrepairable record of title~~].

(c) An insurance company or other person who acquires ownership of a motor vehicle other than a nonrepairable motor vehicle or salvage motor vehicle may voluntarily and on proper application obtain a salvage vehicle title or [~~salvage record of title,~~] nonrepairable vehicle title [~~or nonrepairable record of title~~] for the vehicle.

(d) This subsection applies only to a motor vehicle in this state that is a self-insured motor vehicle and that is damaged to the extent it becomes a nonrepairable motor vehicle or salvage motor vehicle. The owner of a motor vehicle to which this subsection applies shall submit to the department before the 31st business day after the date of the damage, in a manner prescribed by the department, a statement that the motor vehicle was self-insured and damaged. When the owner submits a report, the owner shall surrender the ownership document and apply for a nonrepairable vehicle title or [~~nonrepairable record~~]

~~of title,~~] salvage vehicle title [~~, or salvage record of title~~].

Section 501.1002: (b) The owner of a salvage motor vehicle or nonrepairable motor vehicle may not transfer ownership of the motor vehicle by sale or otherwise unless the department has issued a salvage vehicle title or [~~, salvage record of title,~~] nonrepairable vehicle title [~~, or nonrepairable record of title~~] for the motor vehicle or a comparable ownership document has been issued by another state or jurisdiction for the motor vehicle in the name of the owner.

Sec. 501.1003. SALVAGE VEHICLE DEALER RESPONSIBILITIES. (a) If a salvage vehicle dealer acquires ownership of a nonrepairable motor vehicle or salvage motor vehicle for the purpose of dismantling, scrapping, or destroying the motor vehicle, the dealer shall, before the 31st day after the date the dealer acquires the motor vehicle, submit to the department a report stating that the motor vehicle will be dismantled, scrapped, or destroyed. The dealer shall:

(1) make the report in a manner prescribed by the department; and
(2) submit with the report a properly assigned manufacturer's certificate of origin, [~~regular certificate of~~] title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state ownership document for the motor vehicle.

(b) After receiving the report and title or document, the department shall issue the salvage vehicle dealer a receipt for the manufacturer's certificate of origin, [~~regular certificate of~~] title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state ownership document.

(c) The department shall adopt rules to notify the salvage vehicle dealer if the vehicle was not issued a printed title, but has a record of title in the department's titling system.

Section 501.107: (b) A metal recycler shall submit to the department the properly assigned manufacturer's certificate of origin, [~~regular certificate of~~] title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state ownership document that the person receives in conjunction with the purchase of a motor vehicle not later than the 60th day after the date the metal recycler receives the title or out-of-state ownership document.

Section 501.109: (c) A person commits an offense if the person knowingly fails or refuses to surrender a [~~regular~~] certificate of title after the person:

(1) receives a notice from an insurance company that the motor vehicle is a nonrepairable motor vehicle or salvage motor vehicle; or
(2) knows the vehicle has become a nonrepairable motor vehicle or salvage motor vehicle under Section 501.1001.

Section 501.110: (b) The department, an agent, officer, or employee of the department, or another person enforcing this subchapter is not liable to a person damaged or injured by an act or omission relating to the issuance or revocation of a title, nonrepairable vehicle title, or [~~nonrepairable record of title,~~] salvage vehicle title [~~, or salvage record of title~~] under this subchapter.

Section 501.152: (a) Except as provided by this section, a person commits an offense if the person:

(1) sells, offers to sell, or offers as security for an obligation a motor vehicle registered in this state; and
(2) does not possess or have electronic access to the title receipt or [~~certificate of~~] title for the vehicle.

- 2. Salvage vehicle dealers that purchase vehicles from law enforcement auctions or foreclosure sales do not receive standard evidence of ownership documents like a title. An auction sales receipt is often the only proof of ownership available. The following amendment defines the term auction sales receipt in Section 501.091, Transportation Code. Amendments to Section 501.1003, Transportation Code, allow an auction sales receipt to be submitted by salvage vehicle dealers when they report that a salvage or nonrepairable motor vehicle will be scrapped, dismantled, or destroyed. This eliminates the need for an unnecessary title application for a vehicle that is going to be scrapped. These changes were included in House Bill 3531 (87R).**

Section 501.091: (1-a) "Auction sales receipt" means a document certifying the sale of a motor vehicle at auction by a law enforcement agency or public sale for a lien foreclosure.

Sec. 501.1003. SALVAGE VEHICLE DEALER RESPONSIBILITIES. (a) If a salvage vehicle dealer acquires ownership of a nonrepairable motor vehicle or salvage motor vehicle for the purpose of dismantling, scrapping, or destroying the motor vehicle, the dealer shall, before the 31st day after the date the dealer acquires the motor vehicle, submit to the department a report stating that the motor vehicle will be dismantled, scrapped, or destroyed. The dealer shall:

(1) make the report in a manner prescribed by the department; and
(2) submit with the report a properly assigned manufacturer's certificate of origin, ~~[regular certificate of]~~ title, nonrepairable vehicle title, salvage vehicle title, auction sales receipt, or comparable out-of-state ownership document for the motor vehicle.

(b) After receiving the report and title, manufacturer's certificate of origin, auction sales receipt, or document, the department shall issue the salvage vehicle dealer a receipt for the manufacturer's certificate of origin, ~~[regular certificate of]~~ title, nonrepairable vehicle title, salvage vehicle title, auction sales receipt, or comparable out-of-state ownership document.

(c) The department shall adopt rules to notify the salvage vehicle dealer if the vehicle was not issued a printed title, but has a record of title in the department's titling system.

- 3. Section 501.0925, Transportation Code, requires a vehicle to have been issued a paper title in Texas or another state for insurance companies to apply for title when unable to obtain the current title for the vehicle. The following amendment allows insurance companies to obtain title for a new vehicle that has been damaged, but not yet titled, and for vehicles that have been issued an electronic title. These changes were included in House Bill 3531 (87R).**

Sec. 501.0925. INSURANCE COMPANY NOT REQUIRED TO SURRENDER EVIDENCE OF OWNERSHIP ~~[CERTIFICATES OF TITLE]~~ IN CERTAIN SITUATIONS.

Section 501.0925: (a) An insurance company that acquires, through payment of a claim, ownership or possession of a motor vehicle covered by a ~~[certificate of]~~ title or a manufacturer's certificate of origin that the company is unable to obtain may obtain from the department not earlier than the 30th day after the date of payment of the claim:

(1) a salvage vehicle title for a salvage motor vehicle;
(2) a nonrepairable vehicle title for a nonrepairable motor vehicle; or

(3) a ~~[regular certificate of]~~ title for a motor vehicle other than a salvage motor vehicle or a nonrepairable motor vehicle.

(b) An application for a title under Subsection (a) must be submitted to the department on a form prescribed by the department and include:

(1) a statement that the insurance company has provided at least two written notices attempting to obtain the evidence of ownership ~~[certificate of title]~~ for the motor vehicle; and

(2) evidence acceptable to the department that the insurance company has made payment of a claim involving the motor vehicle.

(c) An insurance company that acquires, through payment of a claim, ownership or possession of a motor vehicle covered by a ~~[certificate of]~~ title or a manufacturer's certificate of origin for which the company is unable to obtain proper assignment of the title or manufacturer's certificate of origin ~~[certificate]~~ may obtain from the department not earlier than the 30th day after the date of payment of the claim:

(1) a salvage vehicle title for a salvage motor vehicle;

(2) a nonrepairable vehicle title for a nonrepairable motor vehicle; or

(3) a ~~[regular certificate of]~~ title for a motor vehicle other than a salvage motor vehicle or a nonrepairable motor vehicle.

(d) An application for a title under Subsection (c) must be submitted to the department on a form prescribed by the department and include:

(1) a statement that the insurance company has provided at least two written notices attempting to obtain a proper assignment of the evidence of ownership ~~[certificate of title]~~; and

(2) the evidence of ownership ~~[certificate of title]~~.

(f) An insurance company that acquires, through payment of a claim, ownership or possession of a motor vehicle, salvage motor vehicle, or nonrepairable motor vehicle covered by an out-of-state title or out-of-state ownership document may obtain from the department a title, salvage vehicle title, or nonrepairable vehicle title, as appropriate, if:

(1) the motor vehicle was damaged, stolen, or recovered in this state;

(2) the motor vehicle owner from whom the company acquired ownership resides in this state; or

(3) otherwise allowed by department rule.

4. Section 501.100, Transportation Code, requires issuance of a salvage vehicle title before a rebuilt Texas title can be obtained. The following amendment allows a vehicle with an out-of-state title comparable to a salvage vehicle title to be issued a rebuilt Texas title without the owner first having to apply for a salvage vehicle title with the department. This eliminates the need for customers to apply for a salvage vehicle title just to immediately surrender it for a rebuilt title. These changes were included in House Bill 3531 (87R).

Section 501.100: (a) The owner of a motor vehicle for which a nonrepairable vehicle title issued prior to September 1, 2003, ~~[or]~~ for which a salvage vehicle title ~~[or salvage record of title]~~ has been issued, or for which a comparable out-of-state ownership document for a salvage motor vehicle has been issued may apply for a title under Section 501.023 after the motor vehicle has been repaired, rebuilt, or reconstructed and, in addition to any other requirement of law, only if the application:

(1) describes each major component part used to repair, rebuild, or reconstruct the motor vehicle;

(2) states the name of each person from whom the parts used in repairing, rebuilding, or reconstructing ~~[assembling]~~ the vehicle were

obtained; and

(3) shows the identification number required by federal law to be affixed to or inscribed on the part.

(f) The department may not issue a [~~regular~~] title for a motor vehicle based on a:

(1) nonrepairable vehicle title issued on or after September 1, 2003, or comparable out-of-state ownership document or record, or evidence of a notation described by Section 501.09113(a)(2) on an out-of-state ownership document or record in the National Motor Vehicle Title Information System;

(2) receipt issued under Section 501.1003(b); or

(3) certificate of authority issued under Chapter 683.



Texas Department of Motor Vehicles

Proposed Legislative Recommendations Packet: **Registration & License Plate Items** (Transportation Code)

Items Previously Recommended by the Board (87th Regular Session, House Bill 3531):

1. Allow all authorized military license plates to be issued as “Disabled Veteran” (Section 504.202 Veterans with Disabilities)
2. Clarify that Legion of Merit license plates are exempt from registration fee (Section 504.316)
3. Exclude truck tractors from two plate requirement (Section 504.943 Operation of a Vehicle without License Plate)
4. Clarify wording and carrying requirements for temporary registration permits
 - a. Section 502.094 72- or 144 Hour Permits
 - b. Section 502.095 One-trip or 30-day Trip Permits
 - c. Section 502.474 Operation of One-trip Permit Vehicle

New Items for Recommendation to the 88th Texas Legislature:

5. Update references to state agencies
 - a. Section 502.413 Voluntary Contribution to Special Olympics Texas Fund
 - b. Section 504.602 Keep Texas Beautiful License Plates
 - c. Section 504.610 Texas Aerospace Commission License Plates
 - d. Section 504.619 Texas Commission for the Deaf and Hard of Hearing License Plates
 - e. Section 504.642 Texas Council on Child Welfare Boards License Plates
6. Clarify certain specialty license plate fees
 - a. Section 504.414 Professional Firefighter Plates
 - b. Section 504.512 Gold Star Mother, Father, Spouse, or Family Member
 - c. Section 504.513. Firefighters

- d. Section 504.516 Rental Trailer or Travel Trailer Fee: Trailer of Semitrailer
- e. Section 504.507 Forestry Vehicles
- 7. Repeal the Honorary Consul Specialty License Plate (Section 504.515 Honorary Consuls)
- 8. Clarification of certain license plate fees and allocations (Section 504.851 Contract with Private Vendor)
- 9. Clarifications to the registration of farm trailers less than 4,000 pounds, and related vehicles
 - a. Section 502.146 Certain Farm Vehicles and Drilling and Construction Equipment
 - b. Section 502.147 Certain Farm Trailers, Farm Semitrailers, Farm Tractors, and Implements of Husbandry (*New Proposed Section*)

- 1. The following amendments allow all license plate emblems and designs authorized in Transportation Code, Chapter 504, Subchapter D (Military Plates) to be on a disabled veteran license plate under Section 504.202, Transportation Code. The amendment provides consistent eligibility standards. These changes were included in House Bill 3531 (87R).**

Section 504.202: (e-1) Other than license plates issued under Subsection (h), license plates issued under this section may include, on request, ~~[÷~~

~~[(1) the emblem of the veteran's branch of service; or [(2)] one emblem or design from another license plate to which the person is entitled under Subchapter D [Section 504.308, 504.309, 504.310(b), 504.311, 504.312, 504.313, 504.3135, 504.314, 504.315, 504.316, 504.3161, 504.318, 504.319, 504.320, 504.323, as added by Chapter 1085 (H.B. 3567), Acts of the 85th Legislature, Regular Session, 2017, or 504.325].~~

- 2. Eligible customers are issued one set of Legion of Merit license plates, authorized under Section 504.316, Transportation Code, without having to pay registration fees. This matches the treatment of similar types of military-related license plates. However, statute needs clarification under Section 504.3015 regarding the fee exemption. These changes were included in House Bill 3531 (87R).**

Section 504.3015: (a) A person applying for a set of license plates under this subchapter shall pay the registration fee required under Chapter 502 and the applicable special plate fee required under this section, except that one set of license plates shall be issued without the payment of the registration fee under:

- (1) Section 504.308;
- (2) Section 504.310(b);
- (3) Section 504.315, other than Subsections (c) and (q) of that section; ~~and~~
- (4) Section 504.316; and
- (5) Section 504.319.

- 3. The amendment clarifies that truck tractors are excluded from the general two license plate requirement but are included in the one plate requirement under Section 504.943, Transportation Code. This change was included in House Bill 3531 (87R).**

Section 504.943: (b) A person commits an offense if the person operates on a public highway during a registration period a road tractor, truck tractor, motorcycle, trailer, or semitrailer that does not display a license plate that:

- (1) has been assigned by the department for the period; and
- (2) complies with department rules regarding the placement of license plates.

4. Clarify wording and carrying requirements for temporary registration permits.

- a. **The 72 and 144-hour temporary registration permits can be issued to certain vehicles in lieu of regular registration. Unlike most other registration related provisions, statute does not expressly require the permit be carried in the vehicle under Section 502.094, Transportation Code. The amendment makes clear that a 72/144-hour permit must be carried in the vehicle during the times the permit is valid. Some elements of this proposal were included in House Bill 3531 (87R); other changes have been added to address recent department actions to prevent fraudulent activity. Specifically these new changes clarify the inspection requirement to obtain a permit.**

Section 502.094. 72- OR 144-HOUR TEMPORARY REGISTRATION PERMITS:

(a) The department may issue a temporary registration permit [~~in lieu of registration~~] for a commercial motor vehicle, trailer, semitrailer, or motor bus that:

(1) is owned by a resident of the United States, Canada, or the United Mexican States;

(2) is subject to registration in this state; and

(3) is not authorized to travel on a public highway because of the lack of registration in this state or the lack of reciprocity with the state or province in which the vehicle is registered.

(b) A temporary registration permit issued under this section is valid for the period stated on the temporary registration permit, effective from the date and time shown on the receipt issued as evidence of registration under this section.

(c) A person may obtain a temporary registration permit under this section by:

(1) applying to the county assessor-collector or the department;

(2) paying a fee of \$25 for a 72-hour temporary registration permit or \$50 for a 144-hour temporary registration permit in the manner prescribed by the department that may include a service charge for a credit card payment or escrow account;

(3) furnishing to the county assessor-collector or the department evidence of financial responsibility for the vehicle that complies with Sections 502.046(c) and 601.168(a); and

(4) submitting a copy of the applicable federal declaration form required by the Federal Motor Carrier Safety Administration or its successor in connection with the importation of a motor vehicle or motor vehicle equipment subject to the federal motor vehicle safety, bumper, and theft prevention standards.

(d) A county assessor-collector shall report and send a fee collected under this section in the manner provided by Section 502.198. The board by rule shall prescribe the format and content of a report required by this subsection.

(e) A vehicle issued a temporary registration permit under this section is subject to Subchapters B and F, Chapter 548, unless the vehicle:

(1) is registered in another state of the United States, in a province of Canada, or in a state of the United Mexican States; or

(2) is mobile drilling or servicing equipment used in the production of gas, crude petroleum, or oil, including a mobile crane or

hoisting equipment, mobile lift equipment, forklift, or tug.

(f) A commercial motor vehicle, trailer, semitrailer, or motor bus apprehended for violating a registration law of this state:

(1) may not be issued a temporary registration permit under this section; and

(2) is immediately subject to registration in this state.

(g) A person who operates a commercial motor vehicle, trailer, or semitrailer with an expired temporary registration permit issued under this section is considered to be operating an unregistered vehicle subject to each penalty prescribed by law.

(h) The department may establish one or more escrow accounts in the Texas Department of Motor Vehicles fund for the prepayment of a 72-hour ~~[permit]~~ or a 144-hour temporary registration permit. Any fee established by the department for the administration of this subsection shall be administered as required by an agreement entered into by the department.

(i) A temporary registration permit issued under this section must be carried in the vehicle, or, if the vehicle is a trailer or semitrailer, in the motor vehicle pulling the trailer or semitrailer, at all times during the period in which the permit is valid, including when the vehicle is being operated.

b. One-trip and 30-day temporary registration permits are required to be displayed in the rear window of the vehicle or attached to or carried in a vehicle with no rear window under Section 502.095, Transportation Code. The rear window display requirement differs from most other types of registration. The proposed amendment requires a one-trip or 30-day temporary permit to be displayed in a vehicle's rear license plate area or attached to the vehicle if there is no rear license plate area. The amendment also changes the term tag to permit for consistency and clarity and requires the permit receipt to be carried in the vehicle as prescribed by the department. Some elements of this proposal were included in House Bill 3531 (87R); other changes have been added to address recent department actions to prevent fraudulent activity. Specifically these new changes clarify the inspection requirement to obtain a permit.

Section 502.095 ONE-TRIP OR 30-DAY TEMPORARY REGISTRATION ~~[TRIP]~~ PERMITS:

(a) The department may issue a temporary registration permit ~~[in lieu of registration]~~ for a vehicle subject to registration in this state that is not authorized to travel on a public highway because of the lack of registration in this state or the lack of reciprocity with the state or country in which the vehicle is registered.

(b) A temporary registration permit issued under this section is valid for:

(1) one trip, as provided by Subsection (c); or

(2) 30 days, as provided by Subsection (d).

(c) A one-trip permit is valid for one trip between the points of origin and destination and those intermediate points specified in the application and registration receipt. Unless the vehicle is a bus operating under charter that is not covered by a reciprocity agreement with the state or country in which the bus is registered, a one-trip permit is for the transit of the vehicle only, and the vehicle may not

be used for the transportation of any passenger or property. A one-trip permit may not be valid for longer than 15 days from the effective date of registration.

(d) A 30-day temporary registration permit may be issued only to a passenger vehicle, a private bus, a trailer or semitrailer with a gross weight of not more than 10,000 pounds, a light truck, or a light commercial vehicle with a gross vehicle weight of more than 10,000 pounds that will operate unladen. A person may obtain multiple 30-day temporary registration permits. The department may issue a single registration receipt to apply to all of the periods for which the vehicle is registered.

(e) A vehicle issued a 30-day temporary registration permit under this section is subject to Subchapters B and F, Chapter 548.

(f) ~~(e)~~ A person may obtain a temporary registration permit under this section by:

(1) applying as provided by the department to:

(A) the county assessor-collector of the county in which the vehicle will first be operated on a public highway; or

(B) the department in Austin or at one of the department's vehicle title and registration regional offices;

(2) paying a fee, in the manner prescribed by the department including a registration service charge for a credit card payment or escrow account of:

(A) \$5 for a one-trip permit; or

(B) \$25 for each 30-day period; and

(3) furnishing evidence of financial responsibility for the vehicle in a form listed under Section 502.046(c).

(g) ~~(f)~~ A registration receipt shall be carried in the vehicle at all times during the period in which it is valid. The temporary registration permit ~~[temporary tag]~~ must contain all pertinent information required by this section and must be attached to the vehicle in the license plate display area located at the rear of the vehicle, so that the entire temporary registration permit is visible and legible at all times, including when the vehicle is being operated. If the vehicle does not have a license plate display area at the rear of the vehicle, the temporary registration permit [displayed in the rear window of the vehicle so that the tag is clearly visible and legible when viewed from the rear of the vehicle. If the vehicle does not have a rear window, the temporary tag] must be attached to ~~[on or carried in]~~ the vehicle to allow ready inspection. The registration receipt must be carried, in a manner prescribed by the department, in the vehicle at all times during the period in which it is valid.

(h) ~~(g)~~ The department may refuse and may instruct a county assessor-collector to refuse to issue a temporary registration permit for any vehicle if, in the department's opinion, the vehicle or the owner of the vehicle has been involved in operations that constitute an abuse of the privilege granted by this section. A registration issued after notice to a county assessor-collector under this subsection is void.

c. A one-trip permit is referred to as a temporary tag in Section 502.474, Transportation Code. For consistency and to avoid confusion with temporary tags issued by dealers and

converters, the amendment changes the term temporary tag to permit. This change was included in House Bill 3531 (87R).

Sec. 502.474. OPERATION OF ONE-TRIP PERMIT VEHICLE. A person commits an offense if the person operates a vehicle for which a one-trip permit is required without the registration receipt and properly displayed permit [~~temporary tag~~].

5. The names of state agencies have changed over time so references in statute to those agencies need to be updated.

a. Transportation Code Section 502.413 references the Department of Aging and Disability Services (DADS). DADS was merged into the Texas Health and Human Services Commission (HHSC) and no longer exists as a state agency. The Special Olympics Texas fund is now under the auspices of HHSC.

Sec. 502.413:

(e) The department shall consult with the Texas Health and Human Services Commission [~~Department of Aging and Disability Services~~] in performing the department's duties under this section.

(f) The Special Olympics Texas fund is created as a trust fund outside the state treasury to be held by the comptroller and administered by the Texas Health and Human Services Commission [~~Department of Aging and Disability Services~~] as trustee on behalf of Special Olympics Texas. The fund is composed of money deposited to the credit of the fund under this section. Money in the fund shall be disbursed at least monthly, without appropriation, to Special Olympics Texas to provide training and athletic competitions for persons with mental illness and intellectual disabilities.

b. Transportation Code Section 504.602 creates a litter-prevention and community-beautification program charity plate. The section references "the department" as the recipient of plate fees. In this chapter "the department" is defined as the Texas Department of Motor Vehicles which does not operate those programs; the Texas Department of Transportation does.

Sec. 504.602:

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be used in connection with the Texas Department of Transportation's [~~department's~~] litter prevention and community beautification programs.

c. Transportation Code Section 504.610 references the Texas Aerospace Commission which was abolished by the 78th Legislature. Related functions were transferred to the Texas Economic Development and Tourism Office (Government Code Section 481.0066).

Sec. 504.610. TEXAS AEROSPACE AND AVIATION [~~COMMISSION~~] LICENSE PLATES.

(a) The department may issue specialty license plates in recognition of Texas aerospace and aviation [~~the Texas Aerospace~~

~~Commission~~]. The department shall design the license plates in consultation with the aerospace and aviation office of the Texas Economic Development and Tourism Office [~~Texas Aerospace Commission~~].

d. Transportation Code Section 504.619 references the Texas Commission for the Deaf and Hard of Hearing, which no longer exists. The related programs are now managed by the Texas Health and Human Services Commission.

Sec. 504.619. [~~TEXAS COMMISSION FOR THE~~] DEAF AND HARD OF HEARING LICENSE PLATES.

(a) The department shall issue specialty license plates in support of the [~~Texas Commission for the~~] deaf [~~Deaf~~] and hard of hearing [~~Hard of Hearing~~]. The department shall design the license plates in consultation with the Texas Health and Human Services Commission [~~for the Deaf and Hard of Hearing~~].

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates:

(1) shall be deposited to the credit of the general revenue fund; and

(2) may be appropriated only to the Texas Health and Human Services Commission [~~for the Deaf and Hard of Hearing~~] for direct services programs, training, and education.

e. Transportation Code Section 504.642 references the Department of Protective and Regulatory Services, which is now the Department of Family and Protective Services. (FAS)

Sec. 504.642:

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of a special account for abused and neglected children established at the Department of Family and Protective [~~and Regulatory~~] Services. Money in the account may be used only by the Department of Family and Protective [~~and Regulatory~~] Services to fund programs and services supporting abused and neglected children under Section 264.004, Family Code.

6. Clarification of certain specialty license plate fees.

a. Transportation Code Section 504.400 states that plates issued under the subchapter are issued with no charge to the customer; however, Section 504.414 establishes a Professional Firefighter license plate as a fundraising specialty plate that has a plate fee. The amendment clears up contradictory wording within the subchapter and identifies the current plate fee of \$30. This amendment was identified through an inquiry from the Comptroller of Public Accounts.

Sec. 504.414:

(b) Notwithstanding Section 504.400, the fee for a set of license plates under this section is \$30. After deduction of the department's administrative costs in accordance with Section 504.801, the remainder of the fees from the sale of professional firefighter plates shall be

deposited to the credit of an account in the state treasury to be used by the nominated state agency for the purpose of making grants to support the activities of an organization of professional firefighters located in this state that provides emergency relief and college scholarship funds to the professional firefighters and their dependents.

- b. Transportation Code Section 504.512 is not clear that the Gold Star license plate is issued with no plate fee. The other license plates in the subchapter are expressly stated to have no fee for issuance; amendment provides clarity and consistency.**

Sec. 504.512:

(c) There is no fee for issuance of the license plates.

- c. Transportation Code Sections 504.513 is not clear that the Firefighter license plate is issued with no plate fee. The other license plates in the subchapter are expressly stated to have no fee for issuance; amendment provide clarity and consistency. The proposal also corrects the related association name, which has changed since the statue was enacted.**

Sec. 504.513. FIREFIGHTERS. (a) The department shall issue specialty license plates for:

- (1) volunteer firefighters certified by:
 - (A) the Texas Commission on Fire Protection; or
 - (B) the State ~~Firefighter's~~ ~~[Firemen's]~~ and Fire Marshals' Association of Texas; and
- (2) fire protection personnel as that term is defined by Section 419.021, Government Code.

(b) A person may be issued not more than three sets of license plates.

(c) There is no fee for issuance of the license plates.

- d. Transportation Code Section 504.516 is not clear that the Rental Trailer and the Travel Trailer license plates are issued with no plate fee. The other license plates in the subchapter are expressly stated to have no fee for issuance; amendment provides clarity and consistency.**

Sec. 504.516:

(c) There is no fee for issuance of the license plates.

- e. Transportation Code Section 504.507 refers to county-imposed fees under "this chapter," referencing Chapter 504. However, county fees are established in Transportation Code, Chapter 502. This proposed amendment clarifies that reference.**

Sec. 504.507:

(b) There is no fee for issuance of the license plates. The department shall:

- (1) collect any fee that a county imposes under Chapter 502 ~~[this chapter]~~ for registration of a forestry vehicle; and
- (2) send the fee to the appropriate county for disposition.

- 7. An honorary consul license plate is authorized under Section 504.515, Transportation Code. The Office of Foreign Missions, US Department of State reports misrepresentation of**

individual's status as an honorary consul can result in the plates use related to commission of certain crimes. The repeal of the plate eliminates the misuse of consular immunity by individuals who are not eligible due to temporary consular status or a change in consular status. Elimination of the plate will also assist law enforcement in cities with consular offices maintain and enforce traffic laws effectively.

At the State Department's request, several other states - including Colorado, Oklahoma and Louisiana - have taken, or are preparing, legislative actions to eliminate similar plates. As of July 2022, there are approximately 85 active Honorary Consul plates issued in Texas.

~~{Sec. 504.515. HONORARY CONSULS. (a) The department shall issue specialty license plates for a person who is an honorary consul authorized by the United States to perform consular duties. License plates issued under this section must include the words "Honorary Consul."}~~

~~(b) The fee for issuance of the license plates is \$40.}~~

8. **Transportation Code Section 504.851 establishes the operation of a private vendor contract for the marketing and sale of certain personalized or specialty license plates. Fees for many of these license plates are established throughout Chapter 504. The statute requires the board to establish fees by rule even for plates that have their fees established in statute. The following amendment removes the redundancy and adds language to authorize allocation of the personalization fee based on current practice.**

Sec. 504.851:

(c) Except as otherwise provided by law, the ~~[The]~~ board by rule shall establish the fees for the issuance or renewal of souvenir license plates, specialty license plates, or souvenir or specialty license plates that are personalized that are marketed and sold by the private vendor or hosted on the private vendor's website. The state's portion of the personalization fee may not be less than \$40 for each year issued. Other fees must be reasonable and not less than the amounts necessary to allow the department to recover all reasonable costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs. A fee established under this subsection is in addition to:

(1) the registration fee and any optional registration fee prescribed by this chapter for the vehicle for which specialty license plates are issued;

(2) any additional fee prescribed by this subchapter for the issuance of specialty license plates for that vehicle; and

(3) any additional fee prescribed by this subchapter for the issuance of personalized license plates for that vehicle.

9. **Clarifications to the registration of farm trailers less than 4,000 pounds, and related vehicles.**

- a. **Farm trailers between 4,000 and 34,000 lbs. are required to have a distinguishing plate under Section 502.146, Transportation Code. Farm trailers less than 4,000 lbs. are not**

required to have the plate but may have the plate if the owner requests one. The amendment clarifies that farm trailers less than 4,000 lbs. can permissibly be issued the farm distinguishing plate.

Section 502.146: (a) The department shall issue distinguishing license plates to a vehicle described by Subsection (b) or (c). The department may issue distinguishing license plates to a vehicle with a gross weight of 4,000 pounds or less if the vehicle otherwise meets the requirements of subsection (b)(1). The fee for the license plates is \$5 and shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

(b) An owner is not required to register a vehicle that is used only temporarily on the highways if the vehicle is:

(1) a farm trailer or farm semitrailer with a gross weight of more than 4,000 pounds but not more than 34,000 pounds that is used exclusively:

(A) to transport seasonally harvested agricultural products or livestock from the place of production to the place of processing, market, or storage;

(B) to transport farm supplies from the place of loading to the farm; or

(C) for the purpose of participating in equine activities or attending livestock shows, as defined by Section [87.001](#), Civil Practice and Remedies Code;

b. Farm trailers less than 4,000 lbs., farm tractors, and implements of husbandry have long been exempt from registration requirements. The statute that made the exemption explicit was inadvertently repealed several sessions ago. The amendment would make the long-standing exemption clear in statute. The TxDMV board recommended this amendment in a past legislative session.

Sec. 502.147. CERTAIN FARM TRAILERS, FARM SEMITRAILERS, FARM TRACTORS, AND IMPLEMENTS OF HUSBANDRY. An owner is not required to register a farm trailer or farm semitrailer that has a gross weight of 4,000 pounds or less or a farm tractor or an implement of husbandry, if the trailer, semitrailer, tractor, or implement is operated only temporarily on the highways.



Texas Department of Motor Vehicles

Proposed Legislative Recommendations Packet: **Oversize/Overweight Permits Items** (Transportation Code)

1. Clarify fee references for certain oversize/overweight permits
 - a. Section 621.353 Distribution of Fee for Permit for Excess Weight
 - b. Section 623.077 Highway Maintenance Fee
 - c. Section 623.009 Permit Fees for Governmental Entities (*New Proposed Section*)

2. Clarify the use of unladen lift permits
 - a. Section 623.181 Annual Permit
 - b. Section 623.191 Optional Procedure
 - c. Section 623.192 Permit to Move Unladen Lift Equipment Motor Vehicles
 - d. Section 623.193 Designated Route in Municipality
 - e. Section 623.194 Registration of Vehicle
 - f. Section 623.199 Determination Whether Vehicle Subject to Registration or Eligible for Distinguishing License Plate

1. Clarify fee references for certain oversize/overweight permits

- a. **The total fee for a weight tolerance permit consists of a base fee, an administrative fee, and an additional fee based on the number of counties selected. The fee amounts are specified in various sections of Chapter 623 but the allocation of those fees is specified Section 621.353, Transportation Code. The specific allocation of the additional fee based on the number of counties selected would benefit from the following clarification of the allocation of amounts deposited to the general revenue fund.**

Section 621.353: (c) The comptroller shall send each fee portion collected under Section 623.0111 that is allocated to the general revenue fund under that section for an excess weight permit to the counties designated on the application for the permit, with each county shown on the application receiving an amount determined according to the ratio of the total number of miles of county roads maintained by the county to the total number of miles of county roads maintained by all of the counties designated on the application.

- b. **The annual envelope permit described by Section 623.071, Transportation Code can be issued to either a vehicle or a company. The highway maintenance fee in Section 623.077 is not charged to either permit under current operations. The proposed amendment clarifies that the fee does not apply to either annual envelope permit.**

Section 623.077: (a) An applicant for a permit under this subchapter, other than a permit under Section 623.071(c) (3) or (d), must also pay a highway maintenance fee in an amount determined according to the following table: ...

- c. **Oversize/overweight permits must be obtained by governmental entities, including the military, for moving large equipment or loads. The vehicle moving the load must have either state or federal exempt license plates and are not required to pay the permit fee. Statute would benefit from clarification that the department can waive the permit fee in such cases by rule.**

Sec. 623.009. PERMIT FEES FOR GOVERNMENTAL ENTITIES. The department by rule may waive fees for permits issued by the department to governmental agencies.

2. Unladen lift permits are available for both self-propelled and trailer mounted equipment, such as cranes. Subchapters I and J, Chapter 623, Transportation Code would benefit from clarification that the permits are administered the same for trailer mounted lift equipment and self-propelled equipment.

Subchapter I. UNLADEN LIFT EQUIPMENT [~~MOTOR VEHICLE~~]; ANNUAL PERMIT

Section 623.181: (a) The department may issue an annual permit for the movement over a highway or road of this state of an unladen lift equipment motor vehicle or a combination of a truck-tractor and a trailer-mounted piece of unladen lift equipment that because of its design for use as lift equipment cannot comply with the restrictions set

~~out in Subchapter C of Chapter 621 and Section 621.101 [exceeds the maximum weight and width limitations prescribed by statute].~~

Subchapter J. UNLADEN LIFT EQUIPMENT ~~[MOTOR]~~ VEHICLES; TRIP PERMITS

Sec. 623.191. OPTIONAL PROCEDURE. This subchapter provides an optional procedure for the issuance of a permit for the movement of an unladen lift equipment motor vehicle or a combination of a truck-tractor and a trailer-mounted piece of unladen lift equipment that because of its design for use as lift equipment ~~cannot comply with the restrictions set out in Subchapter C of Chapter 621 and Section 621.101 [exceeds the maximum weight and width limitations prescribed by statute].~~

Sec. 623.192. PERMIT TO MOVE UNLADEN LIFT EQUIPMENT ~~[MOTOR]~~ VEHICLES. (a) The department may, on application, issue a permit to a person to move over a road or highway under the jurisdiction of the Texas Department of Transportation an unladen lift equipment motor vehicle or a combination of a truck-tractor and a trailer-mounted piece of unladen lift equipment that cannot comply with the restrictions set out in Subchapter C of Chapter 621 and Section 621.101.

(b) The department may not issue a permit under this section unless the vehicle or combination may be moved without material damage to the highway or serious inconvenience to highway traffic.

Section 623.193: (a) A municipality having a state highway in its territory may designate to the department the route in the municipality to be used by a vehicle or combination described by Section 623.192 operating over the state highway. The department shall show the designated route on each map routing the vehicle.

(b) If a municipality does not designate a route, the department shall determine the route of the vehicle or combination on each state highway in the municipality.

(c) A municipality may not require a fee, permit, or license for movement of the vehicle or combination ~~[vehicles]~~ on the route of a state highway designated by the municipality or department.

Sec. 623.194. A permit under this subchapter may be issued only if the following vehicle ~~[the vehicle to be moved]~~ is registered under Chapter 502 for the maximum gross weight applicable to the vehicle under Section 621.101 or has the distinguishing license plates as provided by Section 502.146 if applicable to the vehicle:

- (1) the unladen lift equipment motor vehicle; or
- (2) the trailer on which the unladen lift equipment is mounted.

Section 623.199: (a) The department may establish criteria to determine whether an unladen lift equipment motor vehicle or the trailer on which the unladen lift equipment is mounted ~~[that because of its design for use as lift equipment exceeds the maximum weight and width limitations prescribed by statute]~~ is subject to registration under Chapter 502 or eligible for the distinguishing license plate provided by Section 502.146.



Texas Department of Motor Vehicles

Proposed Legislative Recommendations Packet: MVCPA Board Requested Item:

- 1. The following proposed statutory additions/amendments would create a dedicated fund/account for the deposit of Motor Vehicle Crime Prevention Authority fee collections. This dedication would ensure the fee revenue could not be expended on other state purposes and encourage the full statutorily required appropriation to the program for release as grant program funding to law enforcement agencies and administrative costs each biennium.**

Section 1001.151, Transportation Code, is amended to read as follows:

Sec. 1001.151. TEXAS DEPARTMENT OF MOTOR VEHICLES FUND. (a) The Texas Department of Motor Vehicles fund is a special fund in the treasury outside the general revenue fund and the state highway fund.

(b) Except as provided by Subsection (c), and unless otherwise dedicated by the Texas Constitution, the fund consists of:

- (1) money appropriated by the legislature to the department;
- (2) money allocated to pay fund accounting costs and related liabilities of the fund;
- (3) gifts, grants, and donations received by the department;
- (4) money required by law to be deposited to the fund;
- (5) interest earned on money in the fund; and
- (6) other revenue received by the department.

~~(c) Money appropriated to the department for Motor Vehicle Crime Prevention Authority purposes and other revenue collected or received by the Motor Vehicle Crime Prevention Authority may not be deposited into the fund.~~

Transportation Code, is amended by adding Section 1006.156 to read as follows:

Sec. 1006.156. DEPOSIT AND APPROPRIATION OF REVENUE. All gifts, grants, and the fee described by Section 1006.153(e-1), Transportation Code, shall be deposited to the credit of a subaccount in the Texas Department of Motor Vehicles fund and may be appropriated only to the department for purposes of the authority under this chapter.

To: Texas Department of Motor Vehicles Board
From: Glenna Bowman, Chief Financial Officer
Agenda Item: 10.A
Subject: FY 2022 Financial Report (as of August 31, 2022)

RECOMMENDATION

Briefing item with no recommendation.

PURPOSE AND EXECUTIVE SUMMARY

Attached is the TxDMV fiscal year (FY) 2022 financial report for September 1, 2021, through August 31, 2022. This report contains information on projected and actual revenues, as well as budgeted and actual expenditures for the full twelve months of the fiscal year. The report includes a stand-alone report for TxDMV Fund 0010 and information on selected statistics that may have an impact on revenues.

TxDMV is self-supporting and funds almost all its expenditures through revenues deposited to TxDMV Fund 0010. The Motor Vehicle Crime Prevention Authority (MVCPA) is fully funded through fees deposited to General Revenue Fund 0001.

Highlights of the department's revenues, expenditures, and fund balances for FY 2022 include the following:

- TxDMV collected \$2.03 billion in revenue in all funds. This is 3.7% more than collections for FY 2021. *(see page 3)*
- TxDMV Fund 0010 revenue collections total \$180.1 million, a 13.4% increase compared to FY 2021. *(see page 5)*
- The department collected sufficient revenue in FY 2022 to support its year-to-date expenditures. *(see page 6)*
- The adjusted balance for TxDMV Fund 0010 as of August 31, 2022, is \$174.1 million. *(see page 6)*
- Expenditures and outstanding obligations in all funds total \$171.3 million (\$148.7 million in expenditures and \$22.6 million in encumbrances). The total amount includes \$8.8 million in General Revenue expenditures and \$7.5 million in General Revenue encumbrances; most of the General Revenue obligations are for MVCPA activities. *(see page 10)*

FINANCIAL IMPACT

N/A

BACKGROUND AND DISCUSSION

REVENUES (All Funds) *(see Page 3)*

In FY 2022, the state showed a steady growth pattern in almost all sectors, resulting in increases in all categories of revenue but two. Decreased motor vehicle business license revenue can be attributed to the motor vehicle industry at large realizing the effects of supply-chain issues and the global chip shortage. This has led to a lack of motor vehicle inventory and increased competition for available inventory. As a result, the department has received fewer applications for motor vehicle industry licensure. TxDMV will continue to monitor the effects of these factors throughout FY 2022.

Title revenue increased 26.4% from FY 2021 to FY 2022, with most of the increase attributable to restarting collection of the delinquent title transfer penalty formerly waived by the governor under his disaster declaration for COVID-19. Waiver of the fee ended in April 2021.

PROJECTED versus ACTUAL REVENUES (see Page 4)

Overall, revenues in FY 2022 exceed projections by 3.3%, mostly attributable to higher-than-expected registration collections. Four categories of revenue are above projections, and three categories are below projections. Although oversize/overweight permit revenue is slightly below projections (1.9%), revenue in this category is higher than in FY 2021.

TxDMV FUND 0010 REVENUES (see Page 5)

FY 2022 collections for TxDMV Fund 0010 total \$180.1 million, an increase of 13.4% (\$21.2 million) from FY 2021. The increase in FY 2022 revenues is mostly attributable to restarting collection of the delinquent title transfer penalty formerly waived by the governor.

EXPENDITURES AND ENCUMBRANCES (see Page 10)

Expenditures and outstanding obligations in all funds for FY 2022 total \$171.3 million (\$148.7 million in expenditures and \$22.6 million in encumbrances). Significant expenditure categories include salaries and related costs, contract services for license plate production, printing costs for vehicle titles and registration forms, postage, and Data Center Services costs. Included in expenditures is \$9.3 million for contract payments to License Plates of Texas LLC, the MyPlates specialty-plates vendor. Contract payments to License Plates of Texas, LLC are contingent upon revenues collected. Included within the total obligations amount is \$16.3 million in General Revenue appropriations; most of the General Revenue obligations are for MVCPA activities.

CAPITAL BUDGET AND PROJECTS (see Pages 11-12)

The FY 2022 capital project budgets through August 31, 2022, include expenditures of \$16.9 million and encumbrances of \$3.1 million, for a total obligation of \$20.0 million. This includes \$6.0 million in obligations for Automation System Projects; \$10.1 million for Data Center Services; \$1.3 million for the International Registration Plan upgrade; and \$2.0 million for County Technology. The remaining capital obligations are for other technology projects, Regional Service Centers Maintenance, Replacement Vehicles, and Headquarters Maintenance. The FY 2022 capital project budget includes \$16.9 million in funds carried forward from FY 2021; most of the carry forward is for the TxDMV Automation System capital budget.

During the 87th regular legislative session, the Legislature appropriated a total of \$13.0 million in new funding in FY 2021 which was brought forward to FY 2022. The \$13.0 million provides funding for the planning of a new building that will eventually replace Building 5 at TxDMV Headquarters, the design and acquisition of an Accounts Receivables system, the implementation of the webSALVAGE application, and implementation of requirements related to Senate Bill 1064 for additional county fleet registration requirements.

MYPLATES (see Page 7)

The current (third) specialty-plates marketing contract was executed with License Plates of Texas LLC. The vendor's online storefront runs from November 19, 2019, to December 31, 2025, with an option to renew the contract for an additional six-year term. The contract includes a minimum guarantee of \$25 million into the General Revenue Fund from the sale of personalized and non-personalized new vendor specialty plates, as well as 5% of the revenue from the renewal of these plates, during the term of the contract.

General Revenue Fund 0001 deposits associated with the MyPlates contract from November 19, 2019, to August 31, 2022, total \$56.8 million. Of the \$56.8 million, \$26.3 million counts toward the \$25 million contract guarantee, which has now been met.



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

FY 2022 Financial Report for the period ending August 31, 2022

Finance and Administrative Services Division

October 13, 2022



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

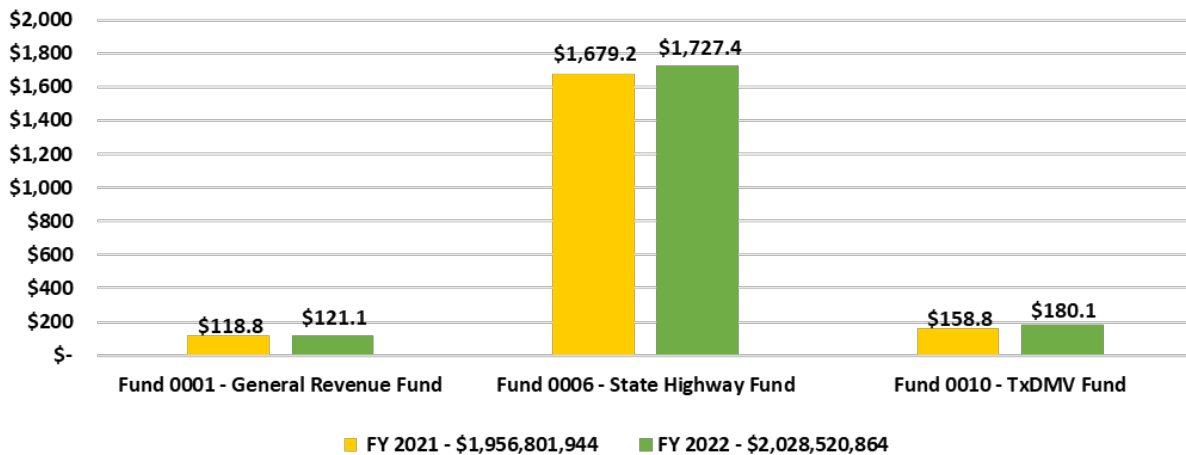


FY 2021 and FY 2022 Revenues - All Funds

September 1 through August 31

FY 2021 and FY 2022 Revenue by Fund

(in millions)



The Texas Department of Motor Vehicles (TxDMV) collected \$2.03 billion through August 31, 2022. This is 3.7% more than FY 2021 collections. FY 2021 and FY 2022 revenue deposits for all funds by revenue category are shown in the chart below.

In FY 2022, the state showed a steady growth pattern in almost all sectors, resulting in increases in all categories of revenue but two. Decreased motor vehicle business license revenue can be attributed to the motor vehicle industry at large realizing the effects of supply-chain issues and the global chip shortage. This has led to a lack of motor vehicle inventory and increased competition for available inventory. As a result, the department has received fewer applications for motor vehicle industry licensure. TxDMV will continue to monitor the effects of these factors throughout FY 2023. The increase in title revenue from FY 2021 to FY 2022 is mostly attributable to restarting collection of the delinquent title transfer penalty formerly waived by the governor. Waiver of the fee ended in April 2021.

FY 2021 and FY 2022 Revenue by Category - All Funds

| Revenue Category | FY 2021 Actual | FY 2022 Actual | Variance | % Difference |
|-------------------------------------|-------------------------|-------------------------|----------------------|--------------|
| Motor Vehicle Certificates of Title | \$ 76,877,751 | \$ 97,160,615 | \$ 20,282,863 | 26.4% |
| Motor Vehicle Registration | 1,643,644,378 | 1,684,844,745 | 41,200,368 | 2.5% |
| Motor Carrier - Oversize/Overweight | 153,833,986 | 162,415,786 | 8,581,800 | 5.6% |
| Motor Carrier Credentialing | 6,297,803 | 6,114,203 | (183,600) | (2.9%) |
| Motor Vehicle Business Licenses | 8,091,110 | 7,451,703 | (639,407) | (7.9%) |
| Miscellaneous Revenue | 11,909,038 | 13,533,301 | 1,624,262 | 13.6% |
| Processing and Handling Fee | 56,147,878 | 57,000,512 | 852,634 | 1.5% |
| Total | \$ 1,956,801,944 | \$ 2,028,520,864 | \$ 71,718,920 | 3.7% |

FY 2022 Projected versus Actual Revenues - All Funds

September 1 through August 31

FY 2022 Projected vs Actual Revenue by Category

| Revenue Category | FY 2022 Projected | FY 2022 Actual | Variance | % Difference |
|-------------------------------------|-------------------------|-------------------------|----------------------|--------------|
| Motor Vehicle Certificates of Title | \$ 88,046,000 | \$ 97,160,615 | \$ 9,114,615 | 10.4% |
| Motor Vehicle Registration | 1,629,144,000 | 1,684,844,745 | 55,700,745 | 3.4% |
| Motor Carrier - Oversize/Overweight | 165,562,000 | 162,415,786 | (3,146,214) | (1.9%) |
| Motor Carrier Credentialing | 6,119,000 | 6,114,203 | (4,797) | (0.1%) |
| Motor Vehicle Business Licenses | 7,687,000 | 7,451,703 | (235,297) | (3.1%) |
| Miscellaneous Revenue | 11,582,000 | 13,533,301 | 1,951,301 | 16.8% |
| Processing and Handling Fee | 55,306,000 | 57,000,512 | 1,694,512 | 3.1% |
| Total | \$ 1,963,446,000 | \$ 2,028,520,864 | \$ 65,074,864 | 3.3% |

TxDMV revenue collections in FY 2022 reflect an increase in most categories from the same period in FY 2021. FY 2022 projections were established in the latter part of FY 2021 and include the effect of restarting a full year of collections of certain previously waived fees.

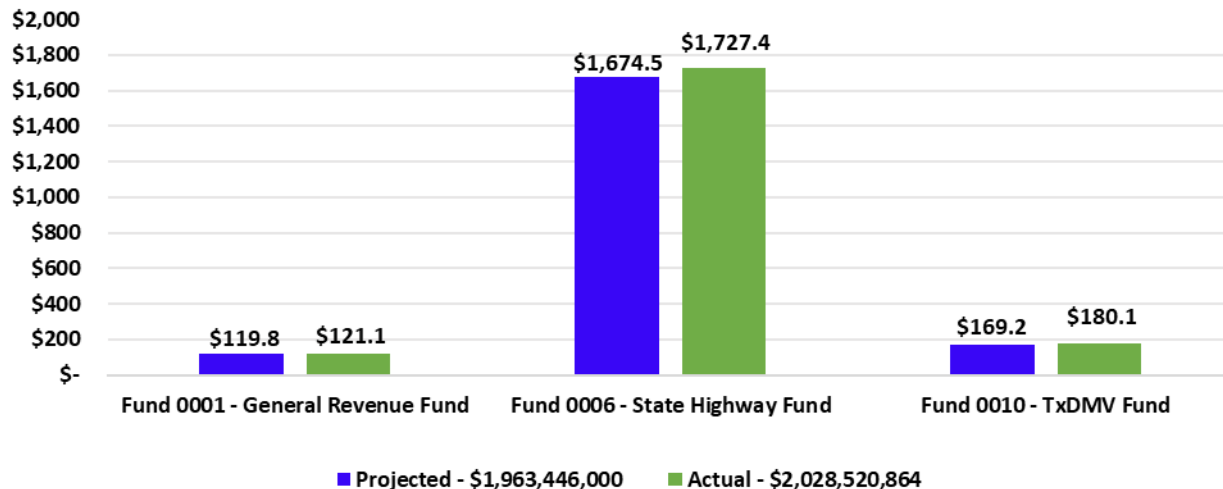
Revenue for FY 2022 is 3.3% (\$65.1 million) above projections, with higher-than-expected title, registration, miscellaneous, and processing and handling fee revenues.

Motor carrier oversize/overweight revenue is 1.9% (\$3,146,214) below projections. Motor vehicle business license revenue is 3.1% (\$235,297) below projections due to a lower-than-expected number of licenses issued year-to-date.

Total projected and actual revenues by fund are shown in the chart below.

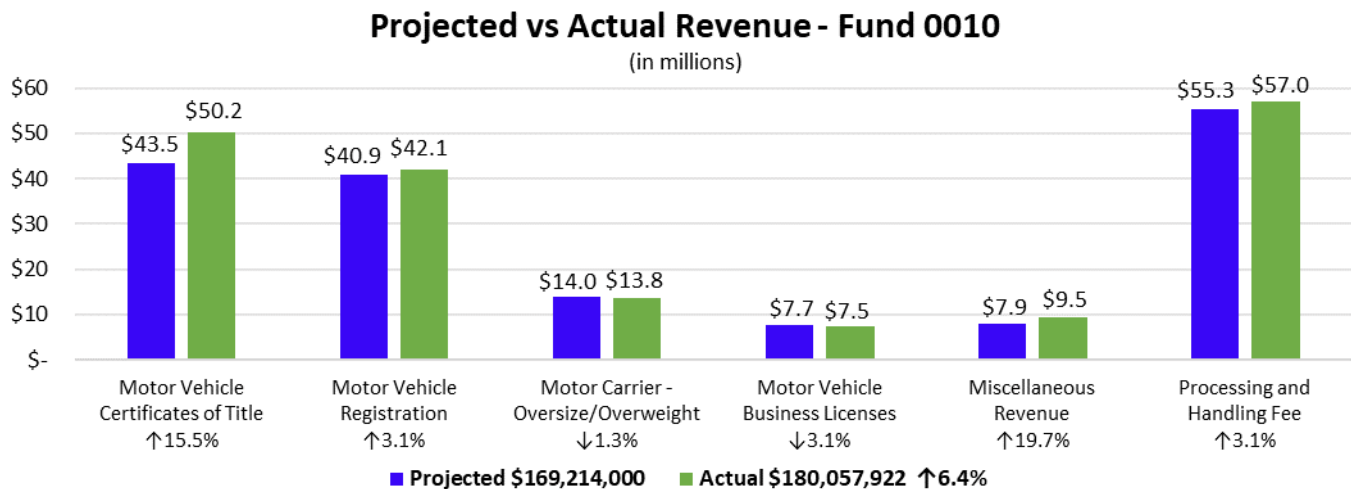
FY 2022 Projected vs Actual Revenue by Fund

(in millions)



FY 2022 TxDMV Fund 0010 Revenue Highlights

September 1 through August 31



- Overall, TxDMV Fund 0010 revenue is 6.4% (\$10,843,922) above projections for FY 2022.
- Motor Vehicle Title revenue is 15.5% above projections, mostly reflecting higher-than-expected delinquent title transfer penalties.
- Motor Vehicle Registration revenue is 3.1% over projections, mostly due to stronger-than-expected vendor-plates sales.
- Motor Vehicle Business License revenue is 3.1% under projections due to fewer-than-expected dealer licenses being issued.
- Miscellaneous revenue is 19.7% over projections, mostly attributable to higher-than-expected collections of motor vehicle dealer civil penalties and credit-card service fees, and an increased interest rate earned on the TxDMV fund.

| FY 2021 and FY 2022 Actual Revenue - Fund 0010 | | | | |
|--|-----------------------|-----------------------|----------------------|--------------|
| Revenue Category | FY 2021 | FY 2022 | Variance | % Difference |
| | Actual | Actual | | |
| Motor Vehicle Certificates of Title | \$ 32,225,292 | \$ 50,220,125 | \$ 17,994,833 | 55.8% |
| Motor Vehicle Registration | 40,855,465 | 42,145,216 | 1,289,751 | 3.2% |
| Motor Carrier Oversize/Overweight | 13,412,579 | 13,764,477 | 351,898 | 2.6% |
| Motor Vehicle Business Licenses | 8,091,110 | 7,451,703 | (639,407) | (7.9%) |
| Miscellaneous Revenue | 8,108,900 | 9,475,890 | 1,366,989 | 16.9% |
| Processing and Handling Fee | 56,147,878 | 57,000,512 | 852,634 | 1.5% |
| Total | \$ 158,841,224 | \$ 180,057,922 | \$ 21,216,698 | 13.4% |

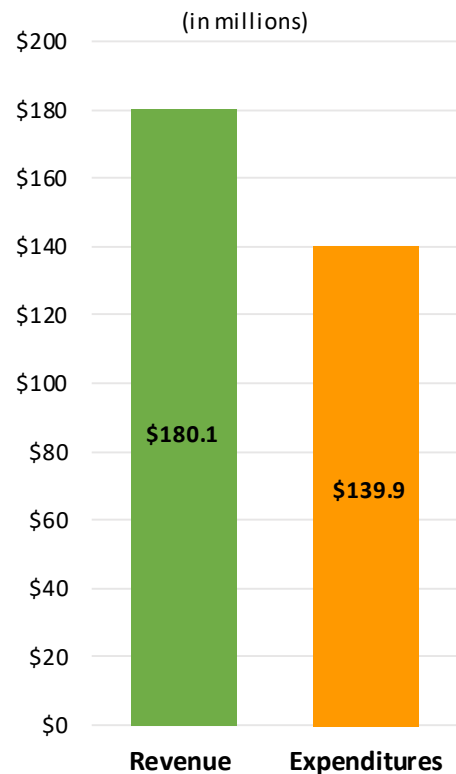
- Total TxDMV Fund 0010 revenue is 13.4% (\$21.2 million) higher than in FY 2021. The increase in Motor Vehicle Title revenue is mostly due to restarting collection of the delinquent title transfer penalty, formerly waived by the governor. The increase in Motor Vehicle Registration revenue is mostly attributable to strong vendor-plates sales. The increase in Miscellaneous revenue is mostly due to higher collections of motor vehicle dealer civil penalties, credit-card service fees, and interest earned on the TxDMV fund.

FY 2022 TxDMV Fund 0010 Revenues, Expenditures and Fund Balance

September 1 through August 31

| | FY 2022 |
|---|------------------------------|
| Beginning Fund Balance | \$ 149,090,673 |
| Revenue | |
| Motor Vehicle Certificates of Title | \$ 50,220,125 |
| Motor Vehicle Registration | \$ 42,145,216 ⁽¹⁾ |
| Motor Carrier - Oversize/Overweight | \$ 13,764,477 ⁽²⁾ |
| Motor Vehicle Business Licenses | \$ 7,451,703 |
| Miscellaneous Revenue | \$ 9,475,890 |
| Processing and Handling Fee | \$ 57,000,512 ⁽³⁾ |
| Total Revenue | \$ 180,057,922 |
| Operating Expenditures | |
| Salaries and Wages | \$ 41,648,740 |
| Other Personnel | \$ 2,544,810 |
| Professional Fees | \$ 17,736,695 |
| Fuels & Lubricants | \$ 52,550 |
| Consumables | \$ 1,088,570 |
| Utilities | \$ 4,211,307 |
| Travel | \$ 217,262 |
| Rent - Building | \$ 759,654 |
| Rent - Machine and Other | \$ 209,614 |
| Other Operating | \$ 58,498,751 ⁽¹⁾ |
| Other Capital | \$ 32,784 |
| Total Operating Expenditures | \$ 127,000,736 |
| Fringe Benefits | |
| Retirement | \$ 3,911,954 |
| Group Insurance | \$ 5,668,738 |
| OASI (Old Age and Survivor's Insurance) | \$ 3,222,254 |
| Unemployment Reimbursement to GR | \$ 20,467 |
| Benefit Replacement Pay | \$ 41,677 |
| Total Fringe Benefits | \$ 12,865,090 |
| Total Expenditures | \$ 139,865,826 |
| Ending Fund Balance | \$ 189,282,769 |
| Adjustment for Encumbrances | \$ 15,185,306 |
| Adjusted Fund Balance | \$ 174,097,463 |

FY 2022 Revenues & Expenditures



Footnotes:

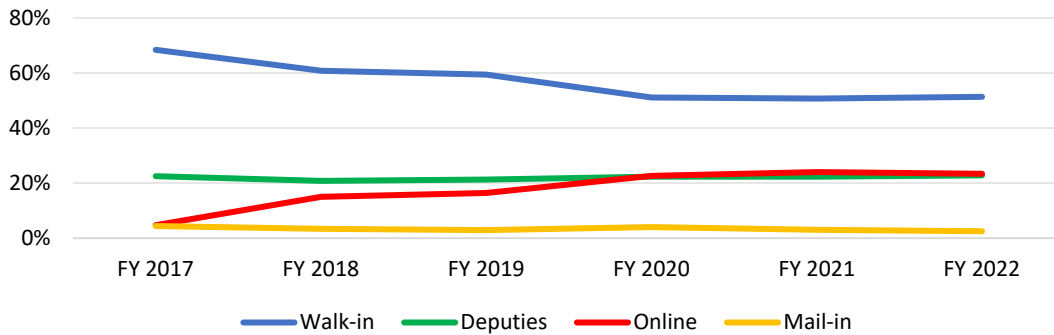
⁽¹⁾ Included in Motor Vehicle Registration fees are MyPlates revenue collections of \$9,549,255; and included in Other Operating expenditures are MyPlates expenditures of \$9,321,878.

⁽²⁾ Motor Carrier - Oversize/Overweight excludes escrow deposits.

⁽³⁾ Processing and Handling fee revenue does not include the portion of the fees retained for administrative expenses by the counties or Texas.gov, per TxDMV board rule.

Processing and Handling Fee

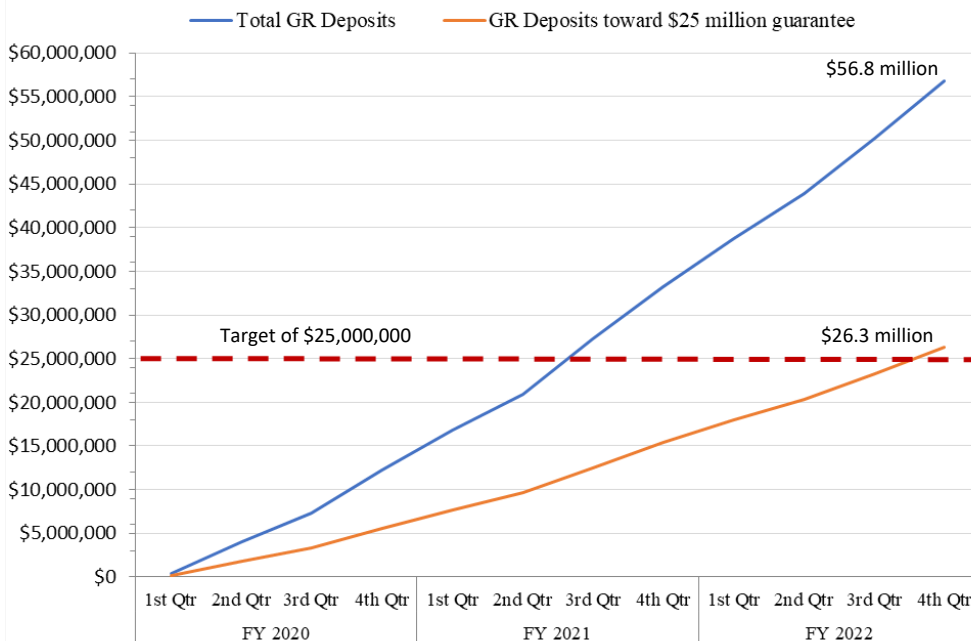
Transaction Mix from Annual Registrations



- As of August 31, 2022, a majority (51.3%) of annual-registration transactions were processed at county offices.
- Due to reopening of county offices, the percentage of online registration renewals decreased slightly, accounting for 23.4% (5.8 million) of the 24.6 million total transactions in FY 2022 compared to 24.0% in FY 2021.
- Deputy and mail-in percentages have remained relatively constant since FY 2017, and are at 22.8% and 2.5%, respectively, for FY 2022.

Vendor Plates

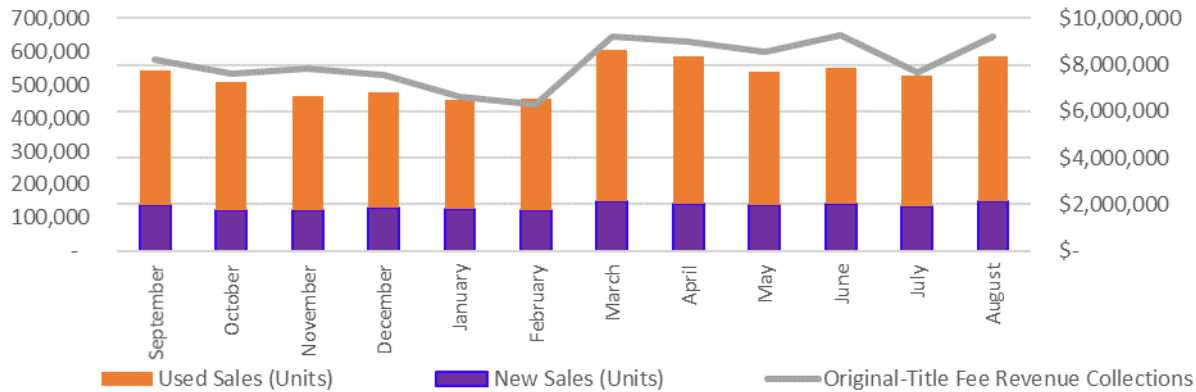
Current-Contract Cumulative Deposits to General Revenue



- General Revenue Fund 0001 deposits associated with the MyPlates contract from November 19, 2019, to August 31, 2022, total \$56.8 million.
- \$26.3 million of the revenue counts toward the contract's \$25 million guarantee.
- Since the effective date of the current contract, new orders account for 43.5% of the Fund 0001 mix, and renewals account for 56.5%.

Motor Vehicle Certificates of Title

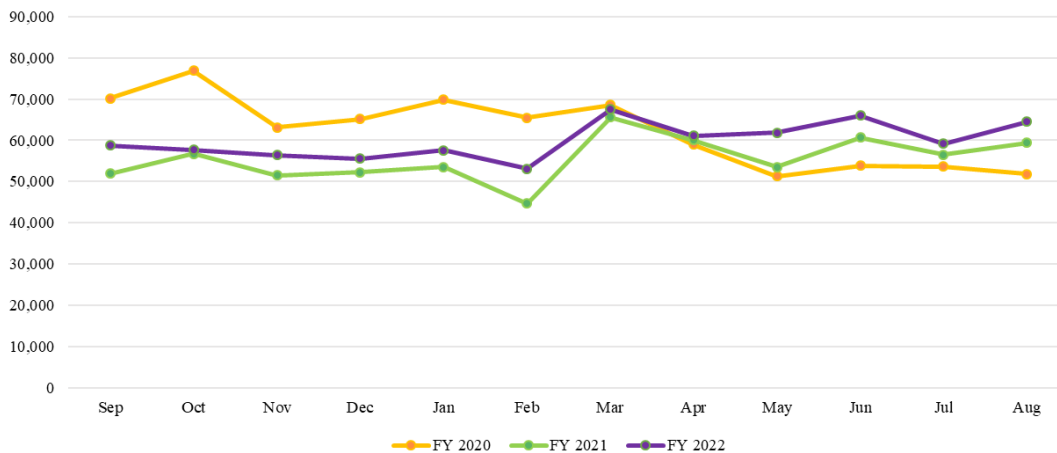
Monthly Auto Sales and Original-Title Fee Revenue Collections



- Original-title fees are the largest component of Certificates of Title revenue. In FY 2022, TxDMV collected revenue from the issuance of about 6.9 million original titles. Original-title issuance is driven by new- and used-vehicle sales; original-title revenue collections are reflected in the gray trend line above. FY 2022 saw a slight decrease in overall vehicle sales as compared to FY 2021.
- Auto sales in FY 2022 decreased 3.4% from FY 2021, with used-vehicle sales up 1.7% and new-vehicle sales down 15.6%.

Motor Carrier Oversize/Overweight Permits

Monthly Oversize/Overweight Permit Issuance



- The number of permits issued in FY 2022 is 719,364 compared to 666,271 in FY 2021, an increase of 8.0%. Increased activity in the oil-and-gas and construction sectors has affected the issuance of motor-carrier permits, resulting in a steady increase in oversize/overweight fee deposits since FY 2021.
- As shown in the trend lines in the graph above, FY 2022 saw an increase in permit issuance as compared to FY 2021.
- Revenue in this category also saw an overall year-over-year increase (5.6%) in FY 2022.

FY 2022 Financial Report as of August 31, 2022

FY 2022 Highlights

- The adjusted FY 2022 budget as of August 31, 2022, is \$205.4 million. This amount includes the original baseline total as approved by the Legislature during the 87th legislative session and adjustments as shown in the table below.

| FY 2022 Budget | Amount |
|--|-----------------------|
| Original Baseline Appropriations | \$ 156,209,975 |
| Unexpended Balances from FY 2021 and Other Adjustments | \$ 35,672,599 |
| Benefit Costs | \$ 13,527,467 |
| Adjusted Appropriations | \$ 205,410,040 |

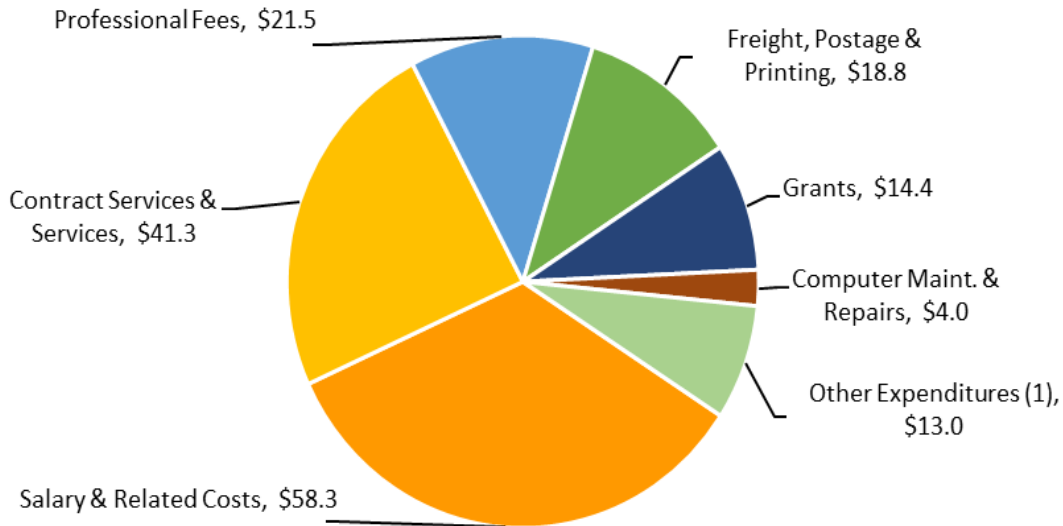
- The baseline total of \$156.2 million provides funding for 808.0 full-time equivalents (FTEs), ongoing operating costs, and FY 2022 funding for capital projects.
- The \$35.7 million in unexpended balances and other adjustments as of August 31, 2022, was a combination of the continuation of capital projects funded in FY 2021 and brought forward to FY 2022 and the carryforward of supplemental appropriations funded in late FY 2021. Also included is an increase in MyPlates and online service fee revenues and corresponding expenditures. The largest portion of the carry forward is \$13.0 million for the supplemental appropriations originally approved by the 87th Legislature in House Bill 2 in July 2021.
- The House Bill 2 amount of \$13.0 million provides for planning of a new Building 5 at TxDMV headquarters (\$6.2 million); implementation of an accounts-receivable system (\$3.5 million); development of the webSALVAGE application (\$3.2 million); and one-time programming costs to implement the provisions of Senate Bill 1064 relating to the extended registration of certain county fleet vehicles (\$250,000).
- Capital project carryforwards from FY 2021 total \$16.9 million and is for Automation projects (\$12.7 million), Headquarters Maintenance (\$2.9 million), and IRP Upgrade (\$1.3 million).

FY 2022 Financial Report as of August 31, 2022

September 1 through August 31

- Expenditures and outstanding obligations for FY 2022 totaled \$171.3 million (\$148.7 million in expenditures and \$22.6 million in encumbrances).
- TxDMV has the authority to carry forward to FY 2023 all unexpended balances from FY 2022.

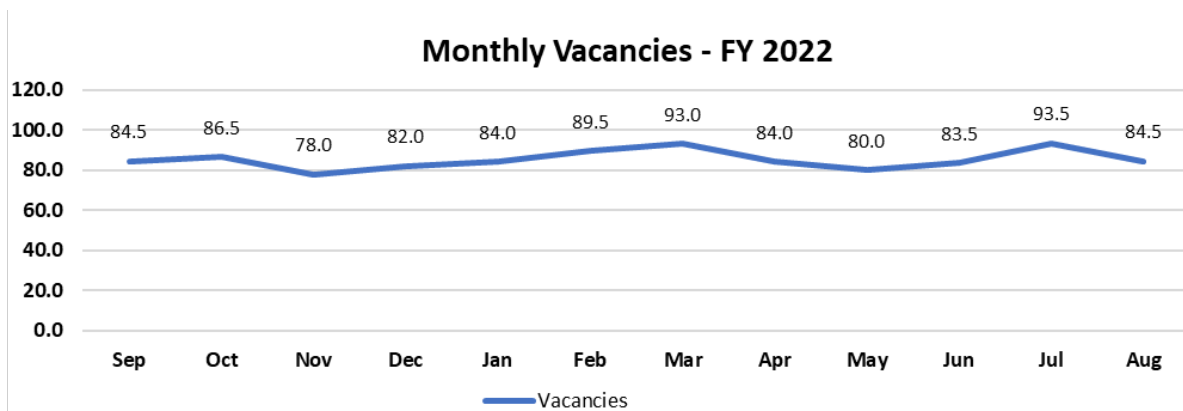
FY 2022 Expenditures and Encumbrances by Category - All Funds
(in millions)



⁽¹⁾ Other Expenditures includes: Online Service Fees (\$5.5 million), Rents/Utilities (\$5.5 million), Other Expenses (\$1.3 million), Travel/Training (\$533,000), and Capital Equipment (\$149,000).

Full-Time Equivalents

- In FY 2022, the department's authorized FTE cap increased from 802.0 to 808.0. The 6.0 new FTEs are allocated as follows by division: Finance & Administrative Services (2.0) and Vehicle Titles and Registration (4.0).
- Overall, vacancies have remained constant throughout FY 2022.



FY 2022 Financial Report as of August 31, 2022

Capital Budget and Projects

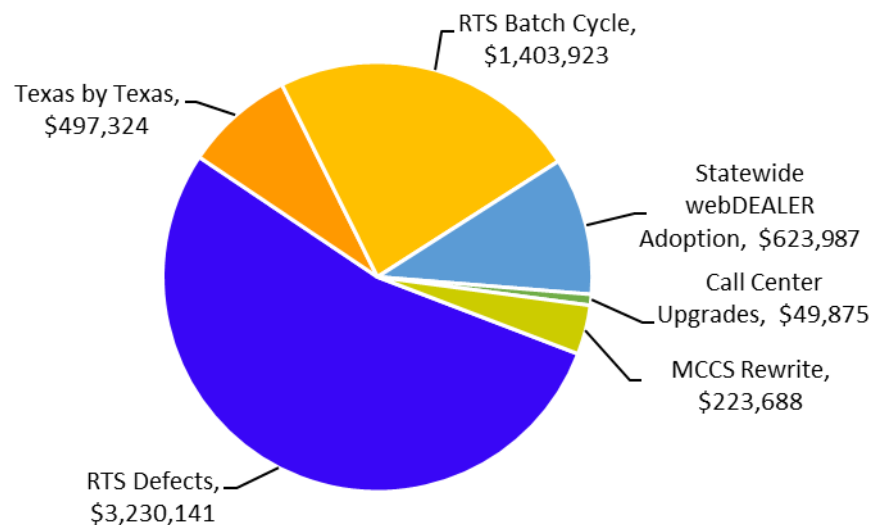
Capital Budget Financial Status

| | Revised Budget | Expenditures | Encumbrances | Available Budget |
|--------------------------------------|----------------------|-----------------------|----------------------|----------------------|
| TxDMV Automation System | \$ 17,755,741 | (\$4,754,170) | (\$1,274,769) | \$ 11,726,802 |
| Other Info Resources Projects | \$ 18,009,127 | (\$12,005,587) | (\$1,098,503) | \$ 4,905,037 |
| Other Capital Projects | \$ 3,146,817 | (\$148,986) | (\$743,136) | \$ 2,254,695 |
| Grand Total, Capital Budget | \$ 38,911,685 | (\$16,908,742) | (\$3,116,409) | \$ 18,886,535 |

- The Revised Capital Budget for FY 2022 includes \$16.9 million carried forward from FY 2021 for Automation, Headquarters Maintenance, and IRP Upgrade projects and \$21.9 million in new appropriations and \$79,000 in adjustments.

TxDMV Automation System Projects

Automation Expenditures & Encumbrances



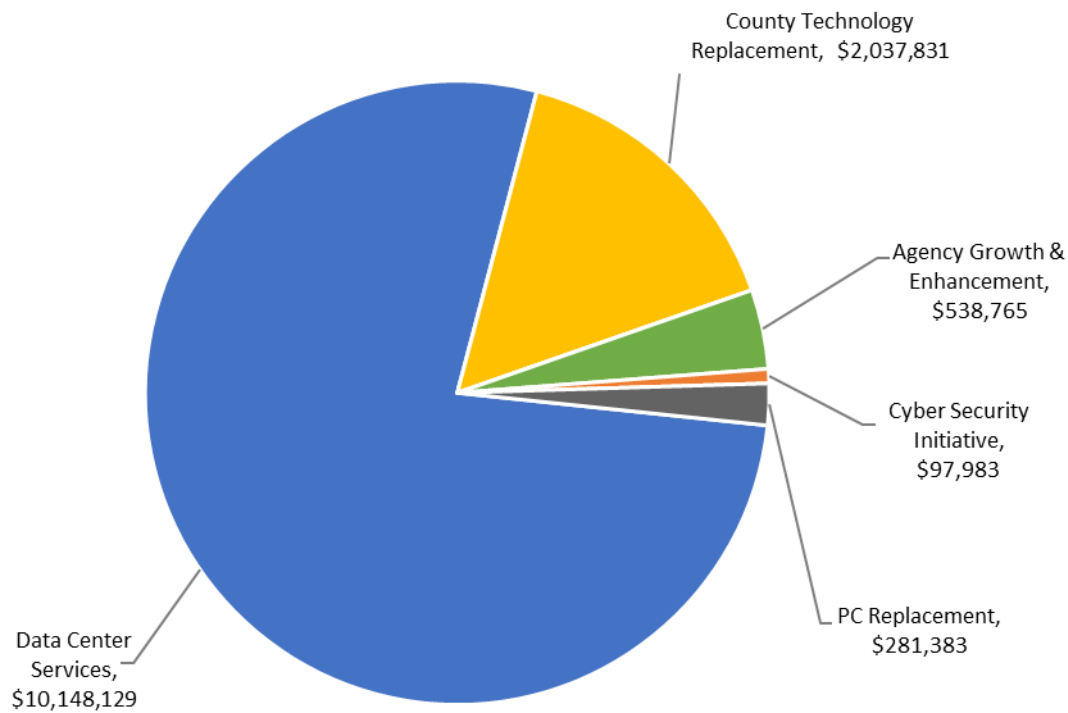
- The total budget for the TxDMV Automation System Projects as of August 31, 2022, is \$17.8 million.
- Expenditures and encumbrances total \$6.0 million. The majority of these costs are for Registration and Title System (RTS) defects (\$3.2 million); the Statewide webDEALER Adoption project (\$624,000); the RTS Batch Cycle project (\$1.4 million); the Texas by Texas project (\$497,000); and the Motor Carrier Credentialing System (MCCS) upgrade (\$224,000).
- All remaining balances in Automation will carry forward to FY 2023.

FY 2022 Financial Report as of August 31, 2022

Other Information Resources Projects

- Data Center Services (DCS) provides management of applications, hardware, and technology services for TxDMV and is the largest single component of Other Information Resources Projects (\$10.1 million).
- Obligations in County Technology Replacement include routine replacement of laptops and desktops for the technology refresh program.
- The upgrade of the International Registration Plan (IRP) application is a new project for FY 2022.

Technology Capital Projects



Other Capital Projects

- The budgets for Other Capital Projects as of August 31, 2022, total \$3,146,817 and include funding for Regional Service Centers Maintenance, Replacement Vehicles, and Headquarters Maintenance.
- The Headquarters Maintenance capital budget is a carry forward from FY 2021. This project will address facilities as part of the transition of Camp Hubbard from TxDOT to TxDMV and will continue into FY 2023.

Board Meeting Date: 10/13/2022
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Glenna Bowman, Chief Financial Officer
Agenda Item: 10.B
Subject: Modify Contract Approval Procedures Adopted on February 10, 2022

RECOMMENDATION

TxDMV staff recommends that the board approve proposed updates to the department's Contract Approval Procedures, last revised by the Board on February 10, 2022.

PURPOSE AND EXECUTIVE SUMMARY

The department last modified its Contract Approval Procedures in February 2022, to address the transition of certain facilities maintenance responsibilities from TxDOT to TxDMV. The board approved several specific maintenance categories, including services related to recycling, elevators, heating and cooling systems, utilities, and fire and safety. The list of approved changes did not include general facilities maintenance.

General facilities maintenance covers a wide spectrum of services, including but not limited to roof repair; flooring repair; wall and ceiling repair; installation of cabinetry; installation of window blinds; masonry repairs and installation; curb and parking lot repairs or painting; interior wall and office space reconfiguration; installation of carpeting; and updates and additions to signage. All of these items fall within the scope of "routine operations" that are currently excluded from the board's Contract Approval Procedures.

As a clean-up item, staff also recommend changing the order of the services listed in the Contract Approval Procedures to be alphabetical and changing the footnote references accordingly. These changes are administrative only and do not make any substantive changes to the existing procedures.

FINANCIAL IMPACT

No financial impact is expected from this request.

BACKGROUND AND DISCUSSION

Contract approval procedures were initially approved by the TxDMV board on March 10, 2011. The procedures delegated authority to the executive director to approve and sign contracts on behalf of the department for procurements mandated by statute or use by other state agencies. They also specified that the executive director could execute contracts valued at or below \$200,000 within budget guidelines according to established procurement and contract laws, rules, regulations and policies of oversight agencies. The board authorized the executive director to adopt separate internal procedures and/or administrative rules to assist with the implementation of the resolution.

These procedures have subsequently been modified to clarify board approvals for contract renewals and/or change orders that exceed \$200,000; increase the original contract by 25 percent or more with a value of \$50,000 or more; or increase the original contract by \$100,000 or more. The modifications also reflected specific exemptions and a provision for the department's annual budget document to include all agency contracts which are expected to exceed \$200,000 in

the following fiscal year. (Previous modifications were adopted on September 12, 2013; November 14, 2013; November 3, 2016; May 5, 2019; and February 10, 2022.)

BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

CONTRACT APPROVAL PROCEDURES

Revised ~~February 10~~October 13, 2022

The Board of the Texas Department of Motor Vehicles (Board) finds it necessary to adopt procedures relating to contracts executed on behalf of the Texas Department of Motor Vehicles (department). The Executive Director (or designee) has the authority to sign and/or approve contracts on behalf of the department without Board approval, to the extent the contract approval procedures do not require prior Board approval and Board approval is not required by law. The Board authorizes the Executive Director to adopt separate internal procedures to assist with the implementation of these contract approval procedures.

Procurement Process:

The department may enter into the procurement process to acquire goods and/or services without consultation or prior Board approval provided that the department complies with the General Contract Approval procedures below.

General Contract Approval:

Department contracts must be submitted to the Board by the Executive Director (or designee) for review and approval prior to execution and/or award if:

- the contract or contract renewal exceeds \$200,000.
- a change order, individually or in combination with other change orders (other than the exercise of available renewal options), increases the original contract by twenty-five percent or more, as long as the dollar amount of the change order is \$50,000 or more.
- any change order, individually or in combination with any other change orders (other than the exercise of available renewal options), increases the original contract by \$100,000 or more.

At the discretion of the Executive Director (or designee), the department may request the Board consider any contract of any amount.

Exclusion:

The department is not required to obtain approval for any grants awarded to the department or awarded by the department or any contracts which do not obligate the department to pay, such as the contract for the TexasSure program.

The following department contracts are for routine operations and are excluded from the contract approval procedures listed above:

| | |
|---|--|
| Copier Maintenance | Real Estate Leases for Same Location ¹³ |
| Council on Competitive Government (CCG) Contracts | Registration Stickers |

| | |
|---|--|
| Department of Information Resources (DIR) Contracts | Security Services |
| Elevator Services and Needs | Set-Aside Contracts ² |
| Equipment Maintenance | Software – Off-the-Shelf |
| Fire and Safety Services and Needs | Statewide Procurement Division (SPD) Contracts |
| <u>General Facilities Maintenance</u> | Temporary Staff Services |
| Hardware/Software Maintenance | Trash Disposal and Recycling |
| Heating and Cooling System Services and Needs | TxMAS Contracts ^{3†} |
| Interagency/Interlocal Agreements | Utility-Related Services and Needs |
| Janitorial Services | Vehicle Registration Renewal Notices |
| Lawn Services | Vehicle Titles |
| Leased Copiers | Vehicles |
| Postage | |

| | |
|--|---|
| Statewide Procurement Division (SPD) Contracts | Lawn Services |
| Department of Information Resources (DIR) Contracts | Janitorial Services |
| Council on Competitive Government (CCG) Contracts | Vehicles |
| Hardware/Software Maintenance | Leased Copiers |
| Vehicle Registration Renewal Notices | Copier Maintenance |
| Vehicle Titles | Trash Disposal and Recycling |
| TxMAS Contracts[†] | Interagency/Interlocal Agreements |
| Registration Stickers | Software—Off the Shelf |
| Equipment Maintenance | Set-Aside Contracts² |
| Temporary Staff Services | Postage |
| Security Services | Elevator Services and Needs |
| Fire and Safety Services and Needs | Utility-Related Services and Needs |
| Heating and Cooling System Services and Needs | Real Estate Leases for Same Location⁻ |

Emergency Procurements:

In the event a contract is needed on an emergency basis, the Executive Director (or designee) will contact the Board Chairman or the Finance and Audit Committee Chairman for approval to execute such a contract and will brief the full Board at the next regularly scheduled Board meeting.

¹This exclusion only applies to renewals and amendments to existing leases, as well as new leases for the same real estate that the department occupied under a prior lease.

[†]~~Texas Multiple Award Schedule (TXMAS) contracts are contracts that have been developed from contracts awarded by the federal government or any other governmental entity of any state.~~

²Set-aside contracts are a specific set of contracts for which a competitive procurement is not required, such as contracts for commodities or services that are available from Texas Correctional Industries and the Central Nonprofit Agency under contract with the Texas Workforce Commission (TWC). Currently, WorkQuest is the Central Nonprofit Agency under contract with TWC.

~~This exclusion only applies to renewals and amendments to existing leases, as well as new leases for the same real estate that the department occupied under a prior lease.~~

~~⁴³Texas Multiple Award Schedule (TXMAS) contracts are contracts that have been developed from contracts awarded by the federal government or any other governmental entity of any state.~~

An emergency procurement is an unforeseeable situation requiring a procurement and the possible execution and/or award of a contract to:

- prevent a hazard to life, health, safety, welfare or property;
- avoid undue additional costs to the state; or
- avoid undue delay to any department operations.

Budgeting and Reporting:

Even though the routine contracts listed above are excluded from Board review, the Executive Director (or designee) must still ensure that all contracts are within budget guidelines and adhere to all established procurement and contract laws, rules, regulations, and policies of oversight agencies.

No later than August 31st of each fiscal year, the Chief Financial Officer (or designee) shall submit to the Board an annual report which identifies all agency contracts which are expected to exceed \$200,000 in the next fiscal year. This report shall include, but not be limited to, vendor name, contract purpose, contract amount, and contract duration. Additionally, the Chief Financial Officer (or designee) shall state whether sufficient funds are available in the agency's proposed operating budget for such contracts.

Contract Approval Procedures:

Funds for the department's contracts are first considered when the Board reviews and approves the department's operating budget. The Board's approval of the operating budget constitutes approval of any contracts listed in the operating budget. After the Board approves the operating budget, the department's Executive Director (or designee) is authorized to execute such contracts according to established procurement and contract laws, rules, regulations and policies of oversight agencies.

IT IS THEREFORE ORDERED by the Board that these contract approval procedures are adopted. The contract approval procedures dated ~~May 2, 2019~~February 10, 2022, and titled *Board of the Texas Department of Motor Vehicles, Contract Approval Procedures* are rescinded, effective ~~February 10~~October 13, 2022.

The department is directed to take the necessary steps to implement the actions authorized in these contract approval procedures.

~~February 10~~October 13, 2022

Charles Bacarisse, Chair
Board of the Texas Department of Motor Vehicles

To: Texas Department of Motor Vehicles Board
From: Salem Chuah, Internal Audit Division Director
Agenda Item: 10.C
Subject: Internal Audit Division Status Update: Internal and External Engagements, Including webDEALER Advisory Service and the State Auditor’s Office Audit Regarding Temporary Tags

RECOMMENDATION

Briefing Only.

PURPOSE AND EXECUTIVE SUMMARY

This status update provides information on current Internal Audit Division (IAD) activities on fraud, waste, and abuse; internal engagements; and external engagements.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

Fraud, Waste, and Abuse

For the fourth quarter of fiscal year 2022, IAD received seven complaints. The complaints are from the State Auditor’s Office and sources external to TxDMV. Of the seven complaints, two are closed and five have been referred.

IAD will be sending the fraud pulse survey to all employees this month. The questions will be in the categories of ethics, reporting misconduct, accountability, and work performance. The survey was last administered in March 2022.

Internal Engagements

IAD has four engagements in the fieldwork phase, all of which are expected to be completed in November: the Business Continuity and Disaster Recovery Audit, Contract Development Audit, webDEALER Advisory, and the Internal Audit Quality Assurance Review.

For the Business Continuity and Disaster Recovery Audit, IAD interviewed the business continuity manager, obtained the continuity of operations plan (COOP) and tested the business process analysis sections, and sent surveys to a sample of TxDMV employees to determine opportunities for improvement.

In the Contract Development Audit, IAD selected samples for testing to determine if contracts have all essential and/or recommend clauses, tested samples to determine if information was reported correctly to the Legislative Budget Board, and reviewed industry best practices on elements to include in the statement of work and when to involve major stakeholders in the contracting process.

The webDEALER Advisory is being performed by Weaver. The objective of this advisory is to identify system weaknesses, including management of user accounts and system logic and security. The team has met with many internal divisions to gain an understanding of the system and analyze data.

The Internal Audit Quality Assurance Review is an internal assessment of IAD required by standards. The assessment includes a review of IAD's charter, operating procedures, and key performance indicators.

Lastly, the Fiscal Year 2022 Internal Audit Annual Report is completed to meet the statutory requirements of the Texas Government Code. The report was created using guidelines established by the State Auditor's Office. The report will be submitted to the State Auditor's Office, the Legislative Budget Board, and the Governor's Office.

External Engagements

The Comptroller of Public Accounts' desk audit on dual/multiple employment continues to be in-progress.

The State Auditor's Office (SAO) began its audit on the Motor Vehicle Crime Prevention Authority's (MVCPA) grant processes and TxDMV's temporary tags. The two objectives of the audit are to:

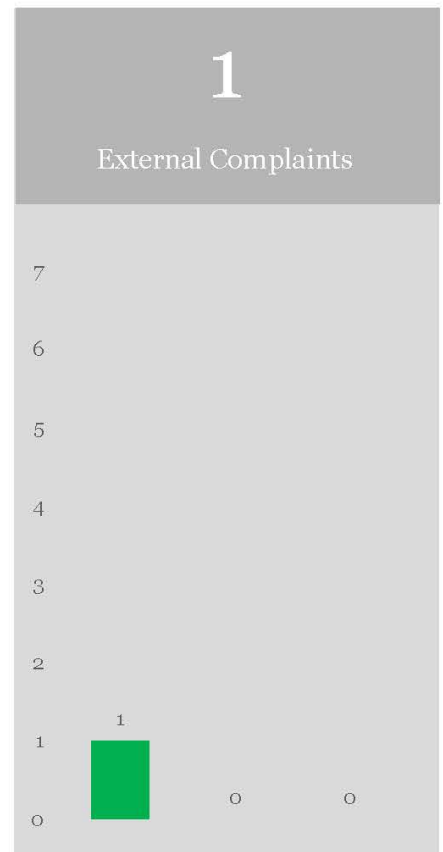
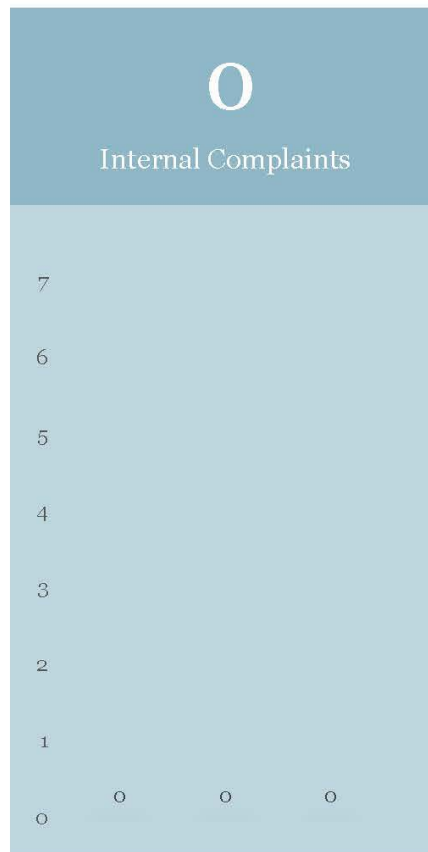
1. Determine whether the MVCPA has processes in place to ensure that it awards, administers, and monitors grants in accordance with applicable requirements and if it complies with selected statutory requirements, including limitations on administrative expenses; and
2. Evaluate TxDMV's processes and controls related to ensuring the appropriate production and use of temporary vehicle tags.

The SAO held a formal kickoff with TxDMV in August and an "end of planning" meeting last week. The audit report is on target to be released in March 2023.

The State Office of Risk Management (SORM) completed its on-site consultation of the Pharr Regional Service Center and released its report on August 25, 2022. There was one recommendation which will be implemented by November 1, 2022.

The Federal Highway Administration (FHWA) completed its triennial heavy vehicle use tax (HVUT) review in August 2022. The objective was to determine if the Department complied with relevant federal regulations regarding HVUT. The review found that TxDMV was in full compliance and offered five recommendations related to training and ongoing communication with the Regional Service Centers. One of the recommendations was to commend the TxDMV staff and management for follow-up activities related to the previous fiscal year 2019 HVUT review as all recommendations from that review were implemented.

FY2022 Fourth Quarter Complaint Summary



Legend



Closed



Referred



Under Investigation

Internal Audit Division Status

Internal Engagements

| | | |
|---|------------------|--|
|  | Planning | N/A |
|  | Fieldwork | <ul style="list-style-type: none"> • Business Continuity and Disaster Recovery Audit • Contract Development Audit • webDEALER Advisory • Quality Assurance Improvement Program |
|  | Reporting | N/A |
|  | Issued | <ul style="list-style-type: none"> • FY2022 Internal Audit Annual Report |

External Engagements

| | | |
|---|--------------------|---|
|  | In-Progress | <ul style="list-style-type: none"> • CPA: Dual/Multiple Employment Desk Audit • SAO: MVCPA Grant Processes and Temporary Tags |
|  | Issued | <ul style="list-style-type: none"> • SORM: On-site Consultation (Pharr RSC) • FHWA: Triennial Heavy Vehicle Use Tax Review |

Legend

CPA: Comptroller of Public Accounts
SAO: State Auditor's Office

SORM: State Office of Risk Management
FHWA: Federal Highway Administration



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

Fiscal Year 2022 Internal Audit Annual Report 23 – 01

Internal Audit Division
October 2022

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Introduction

The Internal Audit Division (IAD) at the Texas Department of Motor Vehicles (TxDMV) prepared the Fiscal Year (FY) 2022 Internal Audit Annual Report to meet the requirements of the Texas Government Code using guidelines established by the State Auditor's Office.

The report includes information in seven areas, such as posting information on TxDMV's website, status of engagements, the audit plan, external reviews, and compliance with fraud reporting requirements.

In FY2022, IAD completed six engagements which consisted of two audits, one advisory service, one follow-up, and two compliance reports that provided management with information and analyses to assist in initiating improvements to operations and to strengthen internal controls. In addition, IAD provided advice on governance and other activities to work toward more effective and efficient processes.

I. Compliance with Texas Government Code, Section 2102.015: Posting the Internal Audit Plan, Internal Audit Annual Report, and Other Audit Information on the Website

Texas Government Code, Section 2102.015 requires state agencies and institution of higher education to post the entity's internal audit plans and internal audit annual reports on the entity's website within 30 days of approval. The statute also requires the entity to post any weaknesses or concerns resulting from the annual plan or annual report and a summary of actions taken to address the issues raised by the audit plan or annual report.

The Internal Audit Division (IAD) at the Texas Department of Motor Vehicles (TxDMV) posted the following on its [website](#):

- FY2022 Internal Audit Plan (First Six Months);
- FY2022 Internal Audit Plan (Second Six Months);
- FY2023 Internal Audit Plan (First Six Months); and
- FY2022 Internal Audit Annual Report.

IAD also has the Quality Assurance and Improvement Program (QAIP) – Internal Assessment report on its website. This report provides information on how many recommendations were implemented by the Department.

The FY2022 QAIP, FY2023 Internal Audit Annual Report, and FY2023 Internal Audit Plan (Second Six Months), will be posted once issued and approved.

II. Internal Audit Plan for Fiscal Year 2022

The status of the FY2022 internal audit plan engagements is outlined below in Table 1.

Table 1. FY2022 Internal Audit Plan Status

| Engagement Number and Name | Type | Division Impacted | Status / Report Date |
|---|------------|---|--|
| 22-00: Audit Recommendation Implementation Status Follow-Up | Follow-up | Various | Issued October 2021 Issued March 2022 |
| 22-01: FY2021 Internal Audit Annual Report | Compliance | IAD | Issued October 2021 |
| 22-02: Quality Assurance - Internal Assessment | Compliance | IAD | Issued November 2021 |
| 22-03: Dealer Licensing Process | Audit | Motor Vehicle Division | Issued June 2022 |
| 21-04: Access Management | Advisory | Information Technology Services Division (ITSD) | Issued April 2022 |
| 21-05: Website Components and Security | Audit | ITSD | Issued June 2022 |
| 22-06: Disaster Recovery and Business Continuity | Audit | ITSD | In-Progress |
| 22-07: Contract Development | Audit | Financial and Administrative Division (FAS) | In-Progress |
| 22-08: webDEALER | Advisory | ITSD | In-Progress |

Internal Audit Plan Deviations

IAD submits two internal audit plan each fiscal year, each for six months. The FY2022 Internal Audit Plan (Second Six Months) acts as the updated plan for the fiscal year. Two audits listed in the FY2022 Internal Audit Plan (Second Six Months) were canceled. This includes an audit of facilities and an audit on Payment Card Industry (PCI) compliance. The audit of facilities was canceled because TxDMV has only recently begun the process of planning for its new headquarters. IAD canceled the PCI compliance audit because ITSD has separately procured an advisory (consulting) service to evaluate PCI compliance.

III. Consulting Services and Nonaudit Services Completed

Consulting Services

IAD conducted one advisory service, or consulting service, during FY2022. The advisory service was related to access management. The objective was to evaluate TxDMV's process design for managing access to Department systems and data while protecting user confidentiality, integrity, and user authenticity. The scope included access requests from FY2020 through FY2022.

Nonaudit Services



IAD provided nonaudit services during FY2022 which included coordinating external audits and reviews, providing advice on several Department workgroups, and participating as a non-voting member in the enterprise project governance process.

IV. External Quality Assurance Review

IAD went through an external quality assurance review (peer review) in FY2021. Representatives of the State Agency Internal Audit Forum performed the peer review in accordance with current peer review policies and procedures. On March 2021, IAD received a rating of “pass” out of three possible ratings: pass, pass with deficiencies, or fail (see Figure 1).

The report noted one opportunity for improvement: to better document sample selections in engagements. IAD implemented this recommendation by updating its engagement templates and procedures.

Figure 1. Peer Review Opinion

| | | | |
|--|----------------|---|----------------|
| Texas Department of Motor Vehicles Internal Audit Division External Quality Assurance Review – March 2021 | | | |
| Overall Opinion | | | |
| Based on the information received and evaluated during this external quality assurance review, it is our opinion that the Texas Department of Motor Vehicles Internal Audit Division receives a rating of “Pass/Generally Conforms” and is in compliance with the Institute of Internal Auditors (IIA) <i>International Standards for the Professional Practice of Internal Auditing</i> and Code of Ethics, the United States Government Accountability Office (GAO) <i>Government Auditing Standards</i> , and the Texas Internal Auditing Act (Texas Government Code, Chapter 2102). This opinion, which is the highest of the three possible ratings, means that policies, procedures, and practices are in place to implement the standards and requirements necessary for ensuring the independence, objectivity, and proficiency of the internal audit function. | | | |
| The Internal Audit Division is independent, objective, and provides impartial and unbiased judgments on the audit work performed. Division staff are qualified, proficient, and knowledgeable in the areas they audit. Individual audit projects are planned using risk assessment techniques; audit conclusions are supported in the working papers; and findings and recommendations are clear and concise. | | | |
| The Internal Audit Division is well managed. In addition, the Division has effective relationships with the Board and is well respected and supported by management. Surveys and interviews conducted during the quality assurance review indicate that management considers Internal Audit a useful part of the overall Department operations and finds that the audit process and report recommendations add value and help improve the Department’s operations. | | | |
| The Internal Audit Division has reviewed the results of the peer review team’s work and has accepted them to be an accurate representation of the Division’s operations. | | | |
| Acknowledgements | | | |
| We appreciate the courtesy and cooperation extended to us by the Internal Audit Division Director, Internal Audit staff, the Chairman of the Board and the Chair of the Finance and Audit Committee, the Executive Director, and the senior managers who participated in the interview process. We would also like to thank each person who completed surveys for the quality assurance review. The feedback from the surveys and the interviews provided valuable information regarding the operations of the Internal Audit Division and its relationship with management. | | | |
|  | April 21, 2021 |  | April 21, 2021 |
| Arby James Gonzales, CPA, CFE Internal Audit Director Texas Division of Insurance SAIAF Peer Review Team Leader | Date | Harold Rogers, CIA, CISA Internal Auditor Texas Workforce Commission SAIAF Peer Review Team Member | Date |

V. Internal Audit Plan for Fiscal Year 2023

FY2023 Engagements

The TxDMV Board approved the FY2023 First Six Month Internal Audit Plan on August 11, 2022. The audit plan included four engagements for the first six months of the fiscal year (Table 2), four additional engagements for the second six months of the fiscal year (Table 3), required engagements (Table 4), division initiatives, and added value services.

Table 2. FY2023 Engagements – First Six Months

| Engagement | Hours | Division Impacted | Objective |
|---|-------|---|--|
| Business Continuity and Disaster Recovery Audit | 600 | Information Technology Services Division | To examine if controls to ensure operational resiliency have been developed, implemented, and updated to account for the expansion of telework. |
| Contract Development Audit | 650 | Finance & Administrative Services Division Office of the General Counsel | To determine if the processes are in place to ensure contracts are developed and reported in accordance with applicable requirements and if the statement of work is well defined. This audit addresses certain contract management processes. |
| webDEALER Advisory Service | 150 | Information Technology Services Division | To identify weaknesses in webDEALER and associated systems. |
| Employee Onboarding Process Audit | 600 | Human Resources Division | To determine if hiring policies and procedures are followed consistently, if controls exist around employee verification and eligibility, and the effectiveness and efficiency of the onboarding process. |

Table 3. FY 2023 Engagements – Second Six Months (Potential)

| Engagement | Hours | Division Impacted | Preliminary Objective |
|---|-------|---------------------------------|---|
| Regional Service Center Audit | 700 | Vehicle Titles and Registration | To determine whether selected RSCs are consistently following established procedures, evaluate the efficiency and effectiveness of the RSCs, and the culture of the RSCs. |
| Motor Carrier and Motor Vehicle Investigation Audit | 600 | Enforcement Division | To examine processes and controls related to the investigation process. |

| | | | |
|---|-----|-----------------|--|
| Key Performance Indicators Audit | 550 | Department-wide | To determine the accuracy of the reported performance metrics and the adequacy of related control systems over the collection and reporting of selected performance metrics. |
| Information Technology Advisory Service | TBD | TBD | This engagement will be used to substitute one of the risk-based engagements. |

Table 4. Required Engagements

| Engagement | Hours | Description |
|---|-------|---|
| FY2022 Internal Audit Activities | 70 | A report that summarizes IAD activities conducted in FY2022. This report will be submitted to the State Auditor's Office. |
| Quality Assurance and Improvement Program - Internal Assessment | 100 | An internal assessment to determine IAD's compliance with audit standards and performance.v |
| Audit Recommendation Implementation Status Follow-up | 60 | An engagement to verify if outstanding audit recommendations have been fully implemented. |
| FY2023 Risk Assessment and Second Half Internal Audit Plan | 250 | An enterprise-wide risk assessment to identify risk areas for the upcoming six months. The Internal Audit Plan will be submitted to the State Auditor's Office. |

Value-Added Services and Division Initiatives

Value-Added Services

- **Investigations on Fraud, Waste, and Abuse:** Detecting, tracking, and reviewing any internal fraud, waste, and abuse allegations or State Auditor's Office Hotline complaints. IAD investigates internal fraud, waste, and abuse allegations and also administers the Fraud Pulse Survey twice a year.
- **External Coordination Efforts:** Coordinating external audits or reviews by providing audit status updates and facilitating management responses to recommendations.
- **Workgroup Participation / Ad-hoc Advisory:** Participating in TxDMV workgroups, such as the Executive Steering Committee and the Governance Team, to help identify unforeseen risks in enterprise projects or activities. IAD also sets aside hours to address any short-term assessment or information requests by TxDMV staff.
- **Department Training:** Providing training to help TxDMV staff understand their responsibilities for audits, recommendation implementation, and prevention of fraud, waste, and abuse.

Division Initiatives

- **Communication and Dashboard Refinement:** Communicating audit and advisory results in a digestible manner with icons, pictures, and graphics. Also, continuing to refine dashboards to show monthly and quarterly IAD metrics, maintain communication sites to show the Department's risk management, governance, and engagement information.
- **TeamMate+ Enhancements:** Enhancing the software's functionality by continuing to update the risks stored within the software, creating and automating reports, and staying current on best practices for optimized software functionality.
- **Staff Development & Hiring:** Taking the minimum required hours of training each year (40 hours) in accordance with auditing standards. This includes creating development plans to obtain required knowledge, skills, and abilities for audit and advisory services. Hiring internal audit staff to fill all IAD vacancies and providing training to integrate new hires into the office.

Risk Assessment Methodology

The audit plan was developed using a risk-based methodology, which incorporated input from TxDMV board members, executive management, division management, and risks identified by audit staff through previous fiscal year engagements and observations. IAD also analyzed TxDMV information and reviewed internal audit and industry publications to identify and rank potential audit topics by risk. In addition, IAD collected information on the potential controls that were in place to mitigate the identified risks.

Each risk was reviewed using approved Department risk guidance that took into consideration the following factors: financial impact, operational effectiveness and efficiency impact, legal or regulatory impact, brand or reputational impact, degree of change in the program/function/process, degree of complexity, degree of centralization, and control design strength. Risks were scored using the factors mentioned to determine the engagements in the audit plan.

VI. External Audit Services Procured in Fiscal Year 2022

TxDMV procured two external audit services during FY2022:

- Weaver conducted a co-source audit (Website Components and Security Audit); and
- Contractor assisted on various engagements throughout FY2022, including the Access Management Advisory Service, the FY2022 Second Six Month Risk Assessment, and the Business Continuity and Disaster Recovery Audit.

VII. Reporting Suspected Fraud and Abuse

Fraud Reporting Requirements

To comply with the fraud reporting requirement of Section 7.09, page IX-38 of the General Appropriation Act (87th Legislature), TxDMV has taken the following actions:

- External website: included a link (Report Fraud, Waste or Abuse) in the footer of the TxDMV [home page](#) that directly links to the “How to Report Fraud, Waste, or Abuse” page on the State Auditor’s Office (SAO) website.
- External website: included a Reporting Fraud section on TxDMV’s IAD [page](#) that includes information on reporting fraud to the SAO or to IAD, with a direct link to the SAO’s fraud hotline website.
- Internal website: included a Fraud, Waste, and Abuse section with a direct link to the SAO’s fraud hotline website.
- Policy: developed a Fraud, Waste, and Abuse policy that includes definitions, examples, and procedures on how to report detected or suspected fraud, waste, or abuse.

Investigation Coordination Requirements

To support compliance with Texas Government Code, Section 321.022 related to investigation coordination requirements, IAD has documented procedures for supporting SAO investigations.

IAD also evaluates all instances of fraud, waste, or abuse reported to IAD to determine appropriate action. If the Internal Audit Director has reasonable cause to believe that fraudulent or unlawful conduct has occurred in relation to the operation of the TxDMV, the Director will work with appropriate parties and notify the SAO.



U.S. Department of Transportation
Federal Highway Administration

HVUT Triennial Review

For the State of Texas

August 8, 2022

Kirk D. Fauver, Planning & Research Engineer
FHWA Texas Division (HPP-TX)

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EXECUTIVE SUMMARY

In accordance with 23 United States Code (U.S.C.) 141 and 23 Code of Federal Regulations- CFR 669 (Part 669 of the Federal-aid Policy Guide- FAPG) the Federal Highway Administration (FHWA) is required to perform compliance reviews regarding the certification of proof of payment of the Heavy Vehicle Use Tax (HVUT) no less frequently than once every three years. This report summarizes the review and assessment of the State of Texas in terms of compliance with the HVUT regulations as part of the FHWA Texas Division's oversight and stewardship of this program in Fiscal Year 2022.

The FHWA Texas Division last completed a triennial review of the HVUT program for the State of Texas in May 2019 (with a final report released in June 2019). The previous review completed in FY 2019 found the State of Texas (via the Texas Department of Motor Vehicles, TxDMV) was in general compliance with the federal laws and regulations pertaining to the federal-aid HVUT enforcement and compliance program under 23 CFR 669.

Based upon this current review, conducted in June 2022 (in conjunction with the TxDMV management and staff) several key recommendations were developed by the review team. The FHWA Texas Division worked collaboratively as an interagency team for purposes of completing this review of the HVUT program in cooperation with the TxDMV and FHWA HQ's Office of Highway Policy Information. The FHWA Texas Division Office continues to make its efforts to communicate with TxDMV on key HVUT policy and regulatory changes to ensure open lines of communications in a continuous manner. The FHWA mission is to ensure that all HVUT-related federal laws and regulations are clearly communicated and understood by our federal, State and local partners.

The following key recommendations were made by the review team and agreed upon as part of the FHWA and TxDMV close-out meeting held on June 22, 2022 at TxDMV Motor Carrier Division at Camp Hubbard in Austin, Texas.

Recommend that the TxDMV:

- Encourage additional training of TxDMV staff and management of the HVUT regulations, policies, and procedures to ensure overall consistency across the Regional Service Centers and Central Office. FHWA Office of Highway Policy Information (OHPI) has developed web-based training on HVUT that may be accessed 24/7 on-line at their website.
- Encourage the efforts associated with a follow-up Peer Exchange with several DMVs from other similar states, focus the peer exchange on work items of interest to the State of Texas as

part of the HVUT Program. The last virtual Peer Exchange conducted in FY 21 on May 3rd of 2021 was considered a tremendous success in many regards, especially in the sharing of best management practices related to HVUT Program administration, oversight, and processes. By rotating the host State for each of the future Peer Exchanges, the burden to staff resources will be made a shared responsibility.

- Recommend that ongoing communications with the Regional Service Centers continuously in FY 22 and beyond as staff turnover, and loss of institutional knowledge pose serious challenges to management of the HVUT Program at each of the Centers. By providing continuous levels of communications and engagement with the TxDMV Central Office, problems with technical or policy and program issues can be vetted earlier and identified before larger recurring problems occur.
- Recommend updating the older FileNET electronic registration database and advance the concept of a new more sophisticated on-line vehicle registration program to provide better customer service and convenience for heavy duty vehicle fleet operators. The use of an on-line vehicle registration and HVUT proof of payment tool will enhance the ability of TxDMV to provide user friendly and paperless systems that will serve the State of Texas and ensure compliance in a seamless manner.
- Commend the TxDMV staff and management for follow-up activities related to the previous FY 2019 HVUT Triennial Review recommendations. All FHWA recommendations have been implemented and documentation has been provided by TxDMV to show great progress in the areas for further improvement reflected in the FY 2019 HVUT Triennial Review report.

Based upon the review of approximately two dozen electronically digitized IRS Form 2290s Proof of Payment for the HVUT, the completion of the on-site triennial HVUT review, and receipt of annual certification of the HVUT, the FHWA finds upon its review and evaluation that the State's HVUT enforcement and procedures are in compliance with 23 U.S.C. 141 and 23 CFR 669.

INTRODUCTION

In accordance with 23 U.S.C. 141 (a), the Governor of each State (or his/her designee) must certify annually to the FHWA (due by July 1st) that the State is obtaining proof of payment of the HVUT. The HVUT is credited to the Highway Account of the Highway Trust Fund that provides revenues used for eligible Title 23 Federal-aid highway transportation programs and projects funded under the Moving Ahead for Progress in the 21st Century (MAP-21) passed into law in July 2012. The HVUT is a significant source of transportation funding in the U.S. In 2018, Federal HTF receipts topped \$42.6 billion, with \$37.2 billion dedicated to the HTF's Highway Account. In 2020 alone, the HVUT

generated more than \$1.4 B in Federal Highway Trust Fund (HTF) revenue according to the FHWA Office of Highway Policy Information.¹

The Federal HTF finances a broad spectrum of transportation investments, including:

- Highway improvements (e.g., land acquisition and other right-of-way costs, preliminary and construction engineering, construction and reconstruction, resurfacing and restoration costs of roadways and bridges)
- Highway and bridge maintenance activities
- Highway law enforcement
- Safety programs (e.g., driver education and training, vehicle inspection programs, enforcement of vehicle size and weight limits)
- Congestion relief projects
- Debt service
- Administrative costs (e.g., research, engineering)

If the gross taxable weight is from 55,000 to 75,000 pounds, the HVUT is \$100, plus \$22 per 1,000 pounds over 55,000 pounds. For over 75,000-pound vehicles, the maximum HVUT is \$550 per year. The table below illustrates these categories.

| Gross Taxable Weight | Heavy Vehicle Use Tax Rates |
|----------------------|---|
| Below 55,000 lbs | No tax |
| 55,000 – 75,000 lbs | \$100 plus \$22 per 1,000 lbs over 55,000 lbs |
| Over 75,000 lbs | \$550 |

Exemptions from the HVUT, under Federal law, include:

- Federal Government;
- State or local governments (including D.C.);
- The American Red Cross;
- Non-profit volunteer fire departments, ambulance associations, or rescue squads;
- Indian Tribal Governments;
- Mass transportation authorities.

Other types of exemptions also exist for the following types of vehicles:

¹ Source: More Information: Link to 2020 FHWA Highway Statistics, Table FE-9: [Table FE-9 | Highway Statistics 2020 - Policy | Federal Highway Administration \(dot.gov\)](#)

- Commercial vehicles traveling less than 5,000 miles annually;
- Agriculture vehicles traveling less than 7,500 miles annually;
- Vehicles not considered highway motor vehicles (e.g., mobile machinery for non-transportation functions, vehicles for off-highway transportation use, and non-transportation trailers and semi-trailers);
- Qualified blood collector vehicles used by qualified blood collector organizations.

The implications for the potential loss of funding apportionment for National Highway Performance Program (NHPP) funds may be quite severe for the State of Texas, if the State is found in non-compliance with the HVUT laws and regulations. The eight percent penalty amounts for each of the following fiscal years (FY 19-21) show an annual potential loss of over \$174-194 M per year – if found in non-compliance of HVUT laws and requirements for the State of Texas as shown in the following table.

| FY | NHPP APPORTIONMENT | 8% Penalty |
|-------------|-------------------------------|-----------------------|
| 2019 | \$ 2,178,452,881 | \$ 174.3 M |
| 2020 | \$ 2,284,681,927 | \$ 182.8 M |
| 2021 | \$ 2,420,268,939 | \$ 193.6 M |

In an e-mail sent on December 9, 2021 a copy of the required annual certification of enforcement of the HVUT was executed by the current Executive Director of the TxDMV- Whitney Brewster. The annual certification was found complete and submitted to FHWA in accordance with 23 CFR 669.11 of the Federal-Aid Policy Guide. In this document, it is stated that no regulatory or policy changes have occurred in State of Texas legislation over the past year that would affect the annual certification finding. A copy of the annual certification and the responses to the FHWA HQ's questions on HVUT are shown within the Appendix Section of this report. These documents were forwarded via e-mail to the FHWA HQ's Office of Highway Policy Information (Michael Dougherty) on December 10, 2021.

In reviewing the State certifications, the FHWA Divisions are required to review a reasonable number of registration records and check the rate of compliance (proof of payment with IRS Form 2290) for the selected records. As part of the FY 22 HVUT Triennial Review, the FHWA Texas Division and TxDMV staff reviewed over two dozen electronic IRS Form 2290s as part of the TxDMV on-line relational database management structure and found no discrepancies. The documentation for 2290 proof of payment for interstate vehicles are scanned and filed in TxDMV's automated document management system. Paper documents are also maintained in a secure location within the TxDMV building in Camp Hubbard.

As proof of payment to register their vehicle(s) in any state the IRS Schedule 1 form is stamped and returned to the taxpayer by the IRS to show proof of payment for State DMV registration purposes. The IRS Form 2290-V, Payment Voucher, is used to accompany the taxpayer's check or money order. Form 2290-V is used to credit the taxpayer's heavy highway vehicle use tax payment to their account. In the current tax year, a taxpayer must file the IRS Form 2290 and Schedule 1 for each tax year. The Form 2290 must be filed to the IRS if a taxable commercial motor vehicle is registered, or required to be registered, in their name within a state (or within District of Columbia, Canada, or Mexico) under law at the time of its first use during the applicable tax period if the commercial motor vehicle has a taxable gross weight of 55,000 pounds or more.

A change to the IRS Form 2290 now provides a consent form (located in the Schedule 1- Form 2290- revised July 2018) that allows the taxpayer to consent to the IRS disclosing specific tax payment information regarding their payment of the HVUT fees for the tax period shown in the form. The specific taxpayer information that may be disclosed by the IRS includes information related to the Vehicle Identification Number (VIN), and the verification of payment of the HVUT tax fee to the IRS. Upon signing the consent form, taxpayer information may be shared with other federal and state agencies including the U.S. Department of Transportation (DOT), U.S. Customs and Border Protection (CBP), and state DMV.

The consent disclosure form issued by IRS as part of Form 2290 should assist the State DMVs in ensuring proof of payment prior to the registration of their commercial motor vehicles. The latest version of IRS Form 2290 (revised in July 2022) is posted on the following website location: <http://www.irs.gov/pub/irs-pdf/f2290.pdf>. Participants during the previous review discussed how the Form 2290 information (if consent has been granted by the taxpayer) could be electronically provided to the State DMV staff via Internet on a continual basis throughout the year for audit purposes. The TxDMV previously researched this option with the IRS, but taxpayer confidentiality concerns have hindered the agency's ability to become an e-File provider. Also, as discussed during the previous review, the TxDMV's IT resources are already committed to projects to implement legislative requirements, replace legacy systems, and to increase operational efficiency.

PURPOSE OF REVIEW

The purpose of this triennial review is to ascertain that the State of Texas complies with Title 23 USC 141 and 23 CFR 669 to ensure compliance with the federal laws and regulations pertaining to the federal HVUT program. In accordance with 23 CFR 669, the Federal Highway Administration is responsible for conducting a periodic review no less frequently than once every three years of the state's procedures for compliance with the HVUT via 23 U.S.C. 141(d), including an inspection of supporting documentation and records. Under the Federal-Aid Program Guide, under 23 CFR 669 it is the policy of the FHWA that each state requires registrants of heavy trucks as described in 26 CFR Part 41 to provide proof of payment of the vehicle use tax either before lawfully registering or within four months after lawfully registering such vehicles as provided for under a suspension registration

system. The State of Texas does not currently allow for a suspension registration system at the time of review. In accordance with 23 USC 141 (a), the Governor of each State (or his/her designee) must certify annually to the FHWA (due by January 1st) that the State is obtaining proof of payment of the HVUT. Penalties for HVUT non-compliance for states may be very costly. The Secretary of Transportation has the authority to withhold up to 8 percent of the state's National Highway Performance Program (NHPP) funds [23 U.S.C. 104(b)(5)] if it fails one of its periodic compliance reviews. As shown previously, the implications to states that do not comply with the HVUT program requirements can be quite severe.

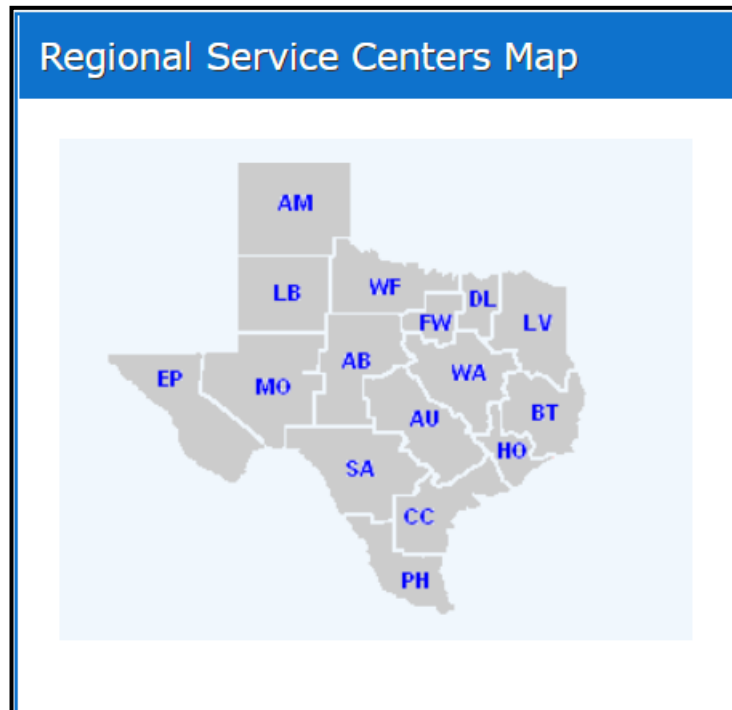
REVIEW OF STATE OF TEXAS HVUT PROGRAM

Within the State of Texas, the IRS Schedule 1 (a copy of IRS validated Form 2290) is used to confirm acceptable proof of payment for the applicable tax period (between July 1 through June 30, OMB No. 1545-0143) for purposes of compliance with the federal HVUT. The IRS Schedule 1 (Form 2290, revised July 2022) provides a listing of equipment by vehicle identification number, and name of the individual or carrier for fleets up to twenty-five (25) units. For commercial carrier fleets greater than 25 units, electronic filing is required. The IRS Schedule 1 (Form 2290) documents payment of the HVUT and must be furnished at the time of registration renewal or else the registration renewal will not be approved by the TxDMV.

In addition, the State of Texas has a mandatory liability insurance coverage requirement that ensures minimum levels of coverage for bodily injuries or deaths resulting from an accident involving an insured carrier. The current proof of insurance is a financial responsibility that must be submitted with a registration renewal application and for initial registration, or upon transfer of registration. The current financial responsibility for a vehicle owner with regard to vehicle type or operations ranges from \$30,000 to \$5 million. In addition, the primary operator or company that controls or directs carriers through the State of Texas must also register their company and commercial motor vehicles with the TxDMV.

Under the International Registration Plan (IRP) registration manual, commercial vehicle owners whose vehicles travel beyond the State of Texas may also register their vehicle through an apportioned registration application (Schedule A) and keep a mileage schedule, and apply for a Texas cab card or register for a temporary permit. The Texas cab card is used as a registration card issued by the base jurisdiction for a vehicle of an apportioned fleet that identifies the vehicle, base plate, and registered weight by jurisdictions and showing the jurisdictions where the vehicle is properly registered. The original cab card must be carried in the cab of the vehicle to which it was issued by the TxDMV. An electronic copy of the TxDMV's State of Texas Apportioned Renewal Application (also known as International Registration Plan or "IRP") is provided at the following web site: <http://www.txdmv.gov/motor-carriers/commercial-fleet-registration/apportioned-registration>.

Revisions and updates to the apportioned registration form are posted every month as appropriate and are made available via an on-line customer service link provided by TxDMV. In addition, the TxDMV has sixteen (16) Regional Service Centers (RSCs) located throughout the State of Texas for commercial and individual motor carriers to walk-in and pick up the Apportioned Registration Instructions Booklet, Apportioned Renewal Applications, and Fee Book. The locations of the TxDMV RSCs are shown at the following web-link:
<http://www.txdmv.gov/regional-service-centers>. The sixteen RSCs are open from 8 a.m. to 5 p.m. local time, Monday through Friday, except for those holidays when state agencies are closed.



As part of the abbreviated instructions for completing the Texas Apportioned Renewal Application, a checklist is provided at the end of the brochure for purposes of ensuring all documentation is mailed in correctly by the registrants. To ensure that monthly motor carrier applications and renewal registrations are received and processed in a timely manner by TxDMV prior to their expiration date, the annual registration renewal applications are due to the TxDMV one month prior to their expiration date. A screen shot of the current on-line TxIRP web-based registration program developed by TxDMV is shown on the following page.

However, as part of the FY 2019 HVUT Triennial Review, it was noted that TxDMV provides little or minor information related to the FHWA HQ's HVUT training modules on its current IRP website. The review team suggested that the TxDMV add a link on its IRP web page to the FHWA HQ's HVUT training modules since this website also provides national and statewide vital facts, program descriptions, and statistics about the importance of the HVUT program administration as it relates to the Federal Highway Trust Fund (HTF). This website improvement has been subsequently made by TxDMV on their website over the past year as shown below under "More Information."

New TxDMV Website for Apportioned Registration (TxIRP) and HVUT Proof of Payment, IRS Form 2290 Information

The screenshot shows the TxDMV website interface. At the top, there is a navigation bar with links for Motorists, Dealers, and Motor Carriers. A search box and a 'Contact Us' link are also present. The main header features the Texas Department of Motor Vehicles logo and the slogan 'HELPING TEXANS GO, HELPING TEXAS GROW'. Below this is a banner image of several commercial trucks on a highway. The page content is organized into sections: 'Apportioned Registration' with a TXIRP logo and descriptive text, 'How to Apply' with instructions on setting up an account, and a 'Motor Carriers Toolbox' containing various utility links. A breadcrumb trail indicates the current location: 'TxDMV » Motor Carriers » Commercial Fleet Registration » Apportioned Registration'.

Apportioned Registration

TXIRP

TxDMV has a program for licensing commercial vehicles engaged in interstate operations. Apportioned registration, also known as the [International Registration Plan \(IRP\)](#), lets you obtain registration credentials in one jurisdiction, giving you the freedom of interstate travel without the inconvenience and expense of purchasing trip permits.

If you operate interstate, you may qualify for apportioned registration. To learn if you qualify, contact your local TxDMV Regional Service Center or send us an email at MCD_TxIRP@TxDMV.gov.

How to Apply

All apportioned accounts are maintained in our online system, TxIRP. If this is your first time to obtain Apportioned registration on your vehicles, please visit your local TxDMV Regional Service Center to set-up your registration account.

Once your account is set-up, you may make changes to and renew your registration using one of the following methods:

Motor Carriers Toolbox

- 1-800 Phone & FAX Menu
- Forms
- Publications
- Statutes & Rules
- Motor Carriers Reports and Data



More Information

Proof of Heavy Vehicle Use Tax (HVUT), IRS Form 2290

The Heavy Use Vehicle Tax (HVUT) is a tax paid to the Internal Revenue Service (IRS). Federal law requires proof of payment of the HVUT when vehicles with a gross weight of 55,000 pounds (24,948 kg.) or more are registered.

Proof of payment for new or used units being titled and registered in Texas are required within sixty (60) days of the date shown on the title assignment.

The Carrier is required to pay this tax by filing a Federal Form 2290, Schedule 1 with the IRS. The original paid receipt can be either of the following:

1. The Form 2290 with the certified payment stamp by IRS for the current taxable year.
2. A copy of the Form 2290, Schedule 1 with or without a certified payment stamp along with a copy of the front and back of the cancelled check used to make payment to indicate the current payment has been made for HVUT.

The instructions for filing the Federal Form 2290 are at www.irs.gov/pub/irs-pdf/i2290.pdf and the Form 2290 can be located at www.irs.gov/pub/irs-pdf/f2290.pdf.

[Learn more about Heavy Vehicle Use Tax](#)

Federal Laws and Regulations

- [Federal Highway Administration Heavy Vehicle Use Tax](#)
- [IRS Information](#)

For questions regarding this tax, contact the IRS at (800) 829-1040 or contact your local IRS office. Taxpayers may call 844-545-5640 to make an appointment. Visit the IRS website for more information.

Source: <http://www.txdmv.gov/motor-carriers/commercial-fleet-registration/apportioned-registration>

The TxDMV assists applicants by providing the addresses and locations of federal IRS walk-in offices for purposes of obtaining a validated Schedule 1 (Form 2290). The twenty-four (24) IRS walk-in offices provide taxpayer assistance in filing tax forms, including the IRS Form 2290. The TxDMV has provided this information to all of the county tax assessor-collector's offices. The county tax assessor-collectors are responsible for registering intrastate heavy vehicles not subject to the IRP apportioned registration through the Registration and Title System (or RTS).

Recently, the TxDMV has developed a PowerPoint slide presentation that provides background training materials to the RSCs and the 254 county tax assessor offices for HVUT-related administration and enforcement issues. TxDMV (Commercial Fleet Services Section) noted in the previous review that it needs to be more proactive with the State of Texas' counties by getting more web-based training, communication, and guidance out to these local agencies related to HVUT compliance goals and requirements. It was noted during this review that the FHWA HQ's Office of Highway Policy Information (OHPI) has developed on-line web-based training for external parties' use and outreach on the HVUT Compliance program. This resource could be made available to all

254 counties and sixteen regional service centers that manage and enforce the HVUT requirements by providing web access links as part of the TxDMV's existing IRP website.

The review team also recommended during the on-site HVUT Triennial Review that the TxDMV formalize its training instruction and certification efforts for both the HVUT and IRP programs. Making additional web-based training available for TxDMV and county tax assessor-collector staff and documenting its use will improve staffs' understanding of the legal requirements, objectives and the goals of the HVUT and IRP processes. The FHWA review team noted during this review that high employee turnover at the RSCs will make training availability a higher priority in the future.

As part of the RSC's efforts to ensure HVUT compliance, the staff currently stamps the customer's copy of registration verifying payment of the HVUT and sends a copy of the form to TxDMV (Commercial Fleet Services Section) offices located in Austin for digital scanning purposes. The RSCs require proof of payment of HVUT at time of registration or weight increase but do not maintain hard copies of the Form 2290 on-file. The electronic scanned digital images of IRS Form 2290s are entered into the HVUT database management system and may be retrieved by TxDMV employees as needed. The TxDMV has recently completed an IT project that transfers scanned images from the older TxDOCs system into a new content management application (called FileNET).

The TxDMV and the Federal Motor Carrier Administration use several different relational database management systems as part of the TxIRP apportioned registration and the HVUT Form 2290 proof of payment process. TxIRP systems also include a computer link to the Performance and Registration Information Systems Management (PRISM) data management system developed by the U.S. DOT Federal Motor Carrier Safety Administration (FMCSA).

The PRISM system has been deployed nationwide by U.S. DOT and serves to improve safety awareness and performance of commercial motor vehicles through education, safety monitoring, registration records, in order to target high-risk non-compliant commercial motor vehicle carriers. The U.S. DOT PRISM program serves to reduce the number of commercial motor vehicle crashes by getting unsafe truck drivers off the road. PRISM was designed to determine commercial motor vehicle safety ratings; place unsafe motor carriers into the Motor Carrier Safety Improvement Process (MCSIP); and allow systematic tracking of unsafe motor carriers and their safety and accident history records.

Texas has two computerized registration systems - the Registration and Title System or "RTS" and the TxIRP System. The RTS is used in the 254 county tax offices for the registration of intrastate vehicles and is proprietary to the State of Texas. The TxIRP System was developed by a contractor for Texas and is used by the sixteen RSCs, TxDMV headquarters, and the public for the registration of interstate vehicles on-line via the TxDMV website. The TxDMV Commercial Fleet Services Section provides oversight and direction to the 254 State of Texas counties regarding compliance requirements associated with the IRS Form 2290 proof of payment filing as part of the commercial motor vehicle registration process. RSCs mail hardcopies of IRS Form 2290s to the Commercial

Fleet Services Section, which currently secures the forms at the TxDMV's Camp Hubbard location until they are digitally scanned. The hard copies are then shredded. It was noted during a previous HVUT Triennial Review report that the TxDMV (Commercial Fleet Services Section) needs to provide for a secure location of all HVUT/Schedule 1 forms and data prior to electronic scanning of documentation. This recommendation has been followed up and addressed and now the TxDMV holds these forms in a secure on-site location.

The sixteen (16) RSCs also require proof of payment of HVUT at the time of registration or weight increase, but do not maintain hard copies of the Form 2290 on file in their offices since these have been digitally scanned by the TxDMV central office into the FileNET computer system. The TxDMV issues regular reminders of the HVUT proof of payment verification requirement as part of registration notices sent periodically to commercial motor vehicle owners. In addition, other advisory information in the form of TxDMV Registration and Title Bulletins that are sent out periodically to the counties and RSC offices and posted on the TxDMV website. RSCs are continuously advised of these updated policies and procedures via periodic teleconference calls and meetings held between the TxDMV central office and the RSCs.

During previous on-site reviews by FHWA, it was found that the TxDMV had a backlog of hardcopy IRS Form 2290s waiting to be scanned and that these files were not in a secure location. It was noted during the past two reviews and current on-site review that the TxDMV has successfully reduced its backlog of sensitive files and has secured only a small number of hardcopy IRS Form 2290s awaiting to be scanned.

As part of the previous review, the federal review team also found that the TxDMV did not have a formalized written standard operating procedures (SOP) manual in-place for purposes of addressing HVUT enforcement and administration issues. This finding was also previously documented by the FHWA and IRS as part of an on-site HVUT triennial review previously as part of Triennial Reviews in the previous two cycles. However, the TxDMV has recently created a standard operating procedure (SOP) document and has begun its implementation within Commercial Fleet Services division of TxDMV.

The benefits of having an updated HVUT-related SOP manual or process manual document will make the administration, training, and oversight of the HVUT program more effective and productive. In the event of employee retirements and turnover, and for workforce and succession planning purposes, it was found to be critical to develop a standard SOP manual for purposes of providing additional HVUT training, guidance, and support on issues related to this compliance program. As a part of the FY 22 review, the review team also recommended the development of a one-page HVUT checklist for purposes of evaluating and processing 2290s prior to the issuance of registration documents. This one-page checklist could prove to be invaluable to new hires tasked with reviewing Form 2290s for compliance purposes.

SUMMARY OF THE HVUT ON-SITE REVIEW

The FHWA, in conjunction with the TxDMV, held a brief teleconference call a few months prior to the actual on-site HVUT field review to coordinate the on-site review. The added purpose of the preliminary HVUT kickoff teleconference call was to discuss possible review topics and discuss the Triennial HVUT review agenda with the relevant TxDMV staff and management. Upon agreement of the list of the HVUT review agenda topics, the FHWA Texas Division drafted a letter to announce the review and a proposed agenda and it was distributed in February 2022 (shown in the Appendix).

On June 21 thru June 22nd, the FHWA Texas Division held its on-site certification review in conjunction with the TxDMV Commercial Fleet Services Section (Motor Carrier Division) at the TxDMV Camp Hubbard location in Austin. The following list of thirteen (13) Federal and State participants attended all or part of the FY 2022 HVUT triennial review:

- Michael Dougherty, FHWA Office of Highway Policy Information
- Kirk Fauver, FHWA Texas Division
- Justin Morgan, FHWA
- Jamik Alexander, FHWA
- Jimmy Archer, TxDMV
- Dottie Struble, TxDMV
- Carol Fallin, TxDMV
- Pat Johnston, TxDMV
- Tammy Russ, TxDMV
- Christy Grimberg, TxDMV
- Glynis Reaves, TxDMV
- James Chesshire, TxDMV
- Richard Goldsmith, TxDMV

At the beginning of the on-site review on June 21st, Michael Dougherty of FHWA HQ's Office of Highway Policy Information (OHPI) gave a PowerPoint presentation on the roles of the FHWA regarding the administration of the Heavy Vehicle Use Tax (HVUT) Program per federal code. Kirk Fauver of the FHWA Texas Division followed and provided a PowerPoint presentation that introduced the federal goals and objectives of the HVUT compliance program, and potential negative monetary risks and consequences for failure to comply, as well as focus areas for the on-site HVUT Triennial review.

Additionally, Carol Fallin of TxDMV gave a PowerPoint presentation on the status of the Texas HVUT verification program, and follow-up actions from the previous FY 2019 Triennial Review recommendations were presented by Dottie Struble of TxDMV. On June 21st, our federal review team also had an opportunity to interview TxDMV Regional Service Centers including El Paso,

Pharr, and San Antonio virtually using MS Teams. The virtual interviews provided the federal review team a chance to hear of any issues or concerns from the perspective of the regional centers. Staff turnover, training needs, impacts of COVID-19 closures of IRS offices, and administrative (personnel) needs were discussed. The federal review team reviewed a random sample of electronic motor carrier registration files and the status of proof of payment (e.g., IRS Form 2290s/Schedule 1 documents). The two dozen random files were selected by the federal review team based upon year of registration by the commercial motor carriers in FileNET. Multiple fiscal years were reviewed for individual and commercial motor carriers within the State of Texas during this on-site review.

The review of motor carrier registration files was performed with the use of the FileNET computer software used by the TxDMV to track registration and verify IRS-stamped Form 2290s for commercial motor carriers. Approximately two dozen electronic files were randomly selected and reviewed by the FHWA and TxDMV staff during the on-site review using the FileNET computer software in conjunction with TxIRP. No major compliance issues were noted by the FHWA reviewer based on the random samples selected for review.

FHWA RECOMMENDATIONS

Recommend that the TxDMV:

- Encourage additional training of TxDMV staff and management of the HVUT regulations, policies, and procedures to ensure overall consistency across the Regional Service Centers and Central Office. FHWA Office of Highway Policy Information (OHPI) has developed web-based training on HVUT that may be accessed 24/7 on-line at their website.
- Encourage the efforts associated with a follow-up Peer Exchange with several DMVs from other similar states, focus the peer exchange on work items of interest to the State of Texas as part of the HVUT Program. The last virtual Peer Exchange conducted in FY 21 on May 3rd of 2021 was considered a tremendous success in many regards, especially in the sharing of best management practices related to HVUT Program administration, oversight, and processes. By rotating the host State for each of the future Peer Exchanges, the burden to staff resources will be made a shared responsibility.
- Recommend that ongoing communications with the Regional Service Centers continuously in FY 22 and beyond as staff turnover, and loss of institutional knowledge pose serious challenges to management of the HVUT Program at each of the Centers. By providing continuous levels of communications and engagement with the TxDMV Central Office, problems with technical or policy and program issues can be vetted earlier and identified before larger recurring problems occur.
- Recommend updating the older FileNET electronic registration database and advance the concept of a new more sophisticated on-line vehicle registration program to provide better customer service and convenience for heavy duty vehicle fleet operators. The use of an on-line vehicle registration and HVUT proof of payment tool will enhance the ability of

TxDMV to provide user friendly and paperless systems that will serve the State of Texas and ensure compliance in a seamless manner.

- Commend the TxDMV staff and management for follow-up activities related to the previous FY 2019 HVUT Triennial Review recommendations. All FHWA recommendations have been implemented and documentation has been provided by TxDMV to show great progress in the areas for further improvement reflected in the FY 2019 HVUT Triennial Review report.

FHWA REVIEW FINDING

Based upon the review of over two dozen electronic IRS Form 2290s Proof of Payment for the HVUT, the completion of the on-site triennial HVUT review in June 2022 and receipt of annual certification of the HVUT and review questions in December of 2021, the FHWA finds upon review and evaluation of the State of Texas (TxDMV- Commercial Fleet Services Section) HVUT enforcement and procedures are in compliance with 23 U.S.C. 141 and 23 CFR 669. The partnership effort in working with the TxDMV on the HVUT and TxIRP Programs has developed into a remarkable interagency relationship between TxDMV and FHWA Texas Division.

ON-LINE REFERENCES FOR HVUT REVIEW & COMPLIANCE

For additional information, please see the following web sites:

- HVUT Compliance Review On-Line Web Training Module
<http://www.fhwa.dot.gov/policyinformation/hvut/mod1/index.cfm#toc>
- Link to IRS Form 2290 at:
<http://www.irs.gov/pub/irs-pdf/f2290.pdf>
- Link to IRS Form 2290 instructions at: <http://www.irs.gov/pub/irs-pdf/i2290.pdf>

APPENDIX

ATTACHMENT A- FHWA LETTER ANNOUNCING THE TRIENNIAL HVUT REVIEW



U.S. Department
of Transportation

**Federal Highway
Administration**

J. J. Pickle Federal Bldg.
500 E. 8th Street, Rm 826
Austin, Texas 78701

February 15, 2022

In Reply Refer To: HPP-TX

FHWA Triennial Review Heavy Vehicle Use Tax (HVUT)
Proof of Payment

Mr. Jimmy Archer, Director Motor Carrier Division
Texas Department of Motor Vehicles
4000 Jackson Avenue, Building #1
Austin, Texas 78731

Dear Mr. Archer:

In accordance with 23 CFR 669, the Federal Highway Administration (FHWA) is responsible for conducting a triennial review of the state's procedures for compliance with the Heavy Vehicle Use Tax (HVUT) per 23 U.S.C. 141(d), including an inspection of supporting documentation and records. The last FHWA Triennial Review report of the state's HVUT procedures was successfully completed in May 2019.

The FY 2019 Triennial Review report found that the Texas Department of Motor Vehicles (TxDMV) was in substantial compliance with the HVUT enforcement and procedures per applicable federal law and regulations. The next virtual FY 2022 HVUT Triennial Review has been scheduled for May 17-18, 2022 from 9:00 AM-4:30 PM via MS Teams in coordination with your office.

A copy of the proposed agenda will be forthcoming as we approach the virtual review date. We appreciate your staff's assistance (especially Ms. Dorothy Struble) toward making the FY 2022 HVUT Triennial Review a successful partnering opportunity. Should you have any questions or comments regarding this review, please contact Mr. Kirk Fauver of my staff at (512) 536-5952.

Sincerely yours,

Michael T. Leary
Director Planning & Program Development

ATTACHMENT B - Governor's Delegation Memo to TxDMV for Heavy Vehicle Use Tax (HVUT)



GOVERNOR GREG ABBOTT

December 22, 2015

Ms. Whitney Brewster
Executive Director
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731

Dear Ms. Brewster:

Pursuant to the power vested in me as governor by the Constitution and laws of the State of Texas, I hereby designate the executive director of the Texas Department of Motor Vehicles (DMV), or the executive director's designee(s), to sign or cause to be signed on my behalf all routine agreements, certifications, reports or validation documents necessary and related only to DMV programs and operations and pertaining only to the programs of the Federal Highway Administration, the National Highway Traffic Safety Administration, the Federal Motor Carrier Safety Administration and the National Transportation Safety Board.

This delegation is contingent upon my office being given the opportunity to review and comment on each document prior to signature. Additionally, for our records, please provide my office with one copy of each document signed on my behalf immediately upon transmittal.

If you need additional information or have any questions, please contact Chuy Gonzalez at (512) 463-1178 or chuy.gonzalez@gov.texas.gov.

Sincerely,

A handwritten signature in black ink that reads "Greg Abbott".

Greg Abbott
Governor

GA:cgk

ATTACHMENT C- TxDMV TRANSMITTAL LETTER FOR ANNUAL CERTIFICATION OF HVUT



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

December 09, 2021

Mr. Al Alonzi, Division Administrator
Federal Highway Administration
Federal Office Building
300 East 8th Street, Room 826
Austin, Texas 78701

Dear Mr. Alonzi:

Enclosed is the Texas response to the annual Federal Highway Administration Heavy Vehicle Use Tax (HVUT) Proof of Payment Compliance Review. Additionally, in accordance with Title 23, Code of Federal Regulations, Part 669, the required Certification of Enforcement of Heavy Vehicle Use Tax, executed by TxDMV Executive Director Whitney Brewster, as designee for the Governor of the State of Texas, is enclosed.

If additional information is required, please contact Carol Fallin at (512) 465-3789.

Sincerely,

Whitney H. Brewster, Executive Director
Texas Department of Motor Vehicles

Enclosures

cc:

The Honorable Greg Abbott, Governor of Texas
Kirk Fauver, Statewide Planning Engineer, FHWA

HEAVY VEHICLE USE TAX (HVUT) PROOF OF PAYMENT COMPLIANCE REVIEW**October 1, 2020 – September 30, 2021****(TEXAS RESPONSE)**

- 1. What state legislation has been changed or adopted to implement the requirements of 23 U.S.C. 141 (c)?**

Answer: Texas adopted administrative rules, effective August 8, 2016, to implement the requirements of 23 U.S.C 141(c) and the Internal Revenue Service (IRS) regulations found in Title 26, Code of Federal Regulations, Part 41. Specifically, Title 43, Sections 217.46 (Commercial Vehicle Registration) and 217.54 (Registration of Fleet Vehicles) of the Texas Administrative Code authorize the Texas Department of Motor Vehicles (TxDMV) to require verification of Heavy Vehicle Use Tax (HVUT) payment as specified in 23 U.S.C. 141(c) and the IRS regulations found in Title 26, Code of Federal Regulations, Part 41. Copies of the TxDMV rules are attached.

Texas Transportation Code, Section 502.432, requires TxDMV to provide for a monthly registration period for a truck-tractor or a commercial motor vehicle that is used exclusively to transport a seasonal agricultural product, provided that the owner can show proof of compliance with the HVUT requirements.

- 2. What questions/problems have arisen pertaining to the state's authority to obtain proof of payment?**

Answer: While this may not be viewed as a problem pertaining to our authority to obtain proof of payment, the onset of COVID-19 and its impact on state and federal offices to provide in-person customer service, with limited operations, caused huge backlogs in the validation and verification of IRS Forms 2290. Registrants and taxpayers were faced with challenges of trying to pay the HVUT and obtaining the necessary proof to provide to our offices at the time of registration. Despite the challenges, the TxDMV resolved every case that was brought to the attention of our office.

- 3. What administrative procedures/regulations have been established by the state to ensure sufficient direction for implementing an effective program to comply with 23 U.S.C. 141(c)? Please provide copies of all procedures, regulations, and any changes.**

Answer: TxDMV established administrative procedures and adopted the administrative rules referenced in response to Question #1 above to provide sufficient direction for implementing an effective program to comply with 23 U.S.C. 141(c).

- 4. What guidance have you received to process registrations for vehicles subject to the heavy vehicle use tax?**

Answer: TxDMV received guidance from IRS policies, procedures, and releases. TxDMV also received recommendations resulting from FHWA triennial reviews.

- 5. What training/instructions are provided to personnel responsible for processing registrations for vehicles subject to HVUT? (Ask to see training manual or presentation.)**

Answer: Instructions are provided to personnel responsible for processing registrations for vehicles subject to HVUT in the TxDMV Motor Vehicle Registration Manual, TxDMV Texas International Registration Plan (TxIRP) Apportioned Registration Information Packet, and the Apportioned Renewal Instruction Booklet. In addition, TxDMV provides on-the-job and periodic training to personnel in the TxDMV Motor Carrier Division (MCD), and the 16 Regional Service Centers (RSCs). TxDMV updates the HVUT information in the TxIRP Information Packet and Apportioned Renewal Instruction Booklet, as needed. The Apportioned Registration Training Checklist and Texas Heavy Vehicle Use Tax Verification Training are available upon request.

In May 2019, the Commercial Fleet Branch (CFB) developed the HVUT evasion methods and detection training using the FHWA's training outline as a guide. This training will be provided to CFB, regional service centers, and county staff that administer the HVUT program for Texas.

The CFB also developed and published HVUT Standard Operating Procedures (SOPs) to provide formal guidance on the department's administration of Texas' HVUT program in October 2019.

6. Does the state or county provide any general fraud training to personnel responsible for processing applications for vehicle registrations?

Answer: Yes. Training is provided to personnel at the TxDMV-MCD, the RSCs, and the county tax assessor-collector offices, at their convenience, on how to identify fraudulent IRS Form 2290s.

As previously stated, CFB developed the HVUT evasion methods and detection training for CFB, Regional Service Centers and county staff that administer the HVUT program for Texas. A copy of the compliance training presentation is attached to this response.

7. Please describe your policies and procedures for communicating with personnel responsible for processing applications for registrations of vehicles subject to the heavy vehicle use tax.

Answer: Work group coordinators train TxDMV MCD personnel as needed on HVUT proof of payment policies, procedures, and enforcement activities during scheduled training sessions, one-on-one discussions, or through on-the-job training. In addition, they receive HVUT policy and procedures updates during work group or section meetings. While this training is not required, it is offered as an educational tool for TxDMV MCD personnel.

Personnel in TxDMV MCD and RSCs routinely communicate with each other through phone calls or email about HVUT proof of payment policies, procedures, and enforcement activities. The RSCs are responsible for communicating with, and providing training for, the county tax assessor collector offices.

These processes have been modified as needed to adjust to operational changes related to the department's COVID-19 policies.

8. How do you communicate any procedural changes to personnel responsible for processing applications for registrations of vehicles subject to the heavy vehicle use tax? Is there any training provided for new changes?

Answer: Any policy and/or procedural changes are communicated to TxDMV MCD staff through meetings via PowerPoint presentations, and to the RSCs and the county tax assessor-collector offices through distribution of TxDMV Registration and Title Bulletins (RTBs) or targeted email notifications.

9. What kind of training have you received to process registrations subject to HVUT? (Question for field/site personnel only.)

Answer: TxDMV provides on-the-job and periodic training to its personnel involved in this process. Any policy or procedural changes are communicated to TxDMV MCD staff through meetings via Power Point presentations, and to the RSCs and the county tax assessor-collector offices through distribution of TxDMV RTBs, directives, and email notifications.

10. How are changes to the state's procedure communicated to you? (Question for field/site personnel only.)

Answer: Any procedural changes relating to HVUT are communicated through TxDMV MCD publications, TxDMV RTBs, email, and the TxIRP web site.

11. Does the state have a dispute resolution process in place?

Answer: TxDMV does not have a formal dispute resolution process in place regarding HVUT but communicates directly with customers to resolve problems relating to the verification of HVUT payments. This process also includes communications with the IRS, as applicable.

12. Please describe the dispute resolution process.

Answer: TxDMV does not have a formal dispute resolution process in place but communicates with customers to resolve problems relating to the verification of HVUT payments. This process also includes communications with the IRS, as applicable.

13. What is the registration period in your state for vehicles subject to the heavy vehicle use tax? (In some states, these vehicles must renew every six months, in others, annually, etc.)

Answer: The registration period is one year for most vehicles. However, Texas Transportation Code, Section 502.0023, authorizes TxDMV to register commercial fleet vehicles for an extended registration period of up to eight years. The application for this extended registration period must be accompanied by proof of payment of the HVUT, and TxDMV has the authority to cancel this extended registration for non-payment of and lack of proof of annual payment of the HVUT. See 43 Texas Administrative Code, Section 217.54(c)(2)(E) and (i). Also, Texas Transportation Code, Section 502.432, authorizes TxDMV to register certain vehicles for a period of one month to six months.

14. Have you encountered any difficulty with requesting proof of payment prior to registering vehicles? (Question both field/site personnel and state personnel.)

Answer: Yes, as previously stated in our response to Question #2.

- 15. What quality assurance processes do you have in place to monitor compliance? Describe in detail this process. (Question both field/site personnel and state personnel.)**

Answer: CFB has supervisors and program specialists whose responsibilities include HVUT verification training and quality assurance checks to verify the proper administration of the program. The business job description (BJD) for the position of IRP Compliance Auditor includes reviewing HVUT payments in conjunction with the audit process. A current copy of the BJD is attached. An HVUT training presentation was developed, providing CFB employees an overview of the program, our verification responsibilities, and indicators of HVUT fraud detection.

- 16. Does the quality assurance process provide for self-assessments of compliance and external audits for compliance with all registration processes and procedures? Can you provide evidence of the findings of both internal and external audit findings?**

Answer: The RSCs are required to forward verified IRS Form 2290s to CFB for review and scanning for electronic storage in an automated document management system. CFB contacts registrants to resolve any discrepancy discovered during the review process. The RSCs are informed of discrepancies and are advised to help the registrants, if necessary. As previously stated, Texas' CFB IRP Compliance Auditors conduct quality assurance checks of filed IRS Forms 2290s as part of the audit process.

- 17. How does the state verify that the vehicle being registered is the vehicle the HVUT was paid for?**

Answer: TxDMV verifies that the vehicle identification number of the vehicle(s) being registered appear on the validated Schedule 1, if less than 25 vehicles are being registered. In addition, TxDMV has developed and uses a TxIRP report that provides information relating to automated and manual verification of HVUT. This report enables TxDMV to validate if personnel involved in these transactions are properly verifying payment of the HVUT; and to identify systemic problems with the automated verification process through TxIRP.

- 18. Does your state verify vehicle VIN numbers prior to issuing a registration?**

Answer: No. While some vehicles require VIN inspection, performed at inspection time, TxDMV only verifies that the vehicle identification numbers of the vehicles being registered appear on the Schedule 1, if less than 25 vehicles are being registered.

- 19. What internal review procedures have been developed to monitor compliance with 23 U.S.C. 141(c)? (If internal review procedures have been developed and implemented, obtain written or verbal descriptions.)**

Answer: At the state level, CFB has internal review procedures in place to monitor compliance with 23 U.S.C. 141(c). Texas apportioned renewal applications are examined by responsible personnel to verify that the registrants have provided the required information and documentation. CFB personnel are required to stamp each Texas Apportioned Registration Renewal Application (Schedule A) as confirmation that a valid IRS Form 2290 was properly submitted. If the registrant does not submit a valid IRS Form 2290, TxDMV attempts to obtain one; however, application for renewal will

not be processed until the valid form is presented to the branch. In addition, records of Texas apportioned registrants are randomly reviewed by the CFB coordinators and section manager. This review is performed daily to ensure compliance with CFB procedures and to ensure the presence of proper documentation (e.g., valid IRS Form 2290).

At the RSCs, personnel will not process a new application, renewal or supplemental application unless the applicant submits a validated IRS Form 2290. The appropriate paperwork is initialed by personnel as verification the HVUT was submitted or that the 60-day criterion is still in effect. At the county level, the Registration and Title System (RTS) prompts the user to verify proof of payment of HVUT by selecting "Verified Heavy Vehicle Use Tax" (or "60-Day Trans" for new purchase) in the system before processing can continue. Additionally, the transactions that are processed through RTS can be monitored through ad hoc reports for compliance. Also, the TxDMV's RSC managers train newly elected County Tax Assessor-Collectors on their responsibility to know and comply with all relevant rules and regulations for the transactions and processes for which they are responsible. This includes familiarizing Tax Assessor-Collectors with the Registration Manual and how to use it. The RSC Managers are also required to visit every county office twice annually to discuss any recurring issues or concerns.

20. What information serves as the basis for the annual certification that is provided to the governor for signature? (Question is for state only.)

Answer: Responsible TxDMV staff meet on an annual basis to review the requirements of its HVUT verification program and to review relevant information prior to execution of the annual certification. The TxDMV staff review information drawn from the TxIRP database, the electronic document storage and retrieval program, internal policies and procedures, and related documents.

21. If the state delegates authority for vehicle registration to counties and/or private contractors, what information and assurances does the state receive from these delegates that proof of payment has been collected from the appropriate vehicles before they are lawfully registered to make the annual certification? (Question only if the state delegates authority.)

Answer: At the county level, RTS prompts the user to verify proof of payment of HVUT by selecting "Verified Heavy Vehicle Use Tax" (or "60-Day Trans" for new purchase) in the system before processing can continue. Additionally, these transactions processed through RTS can be monitored through ad hoc reports.

22. Has the state shown proof annually regarding all vehicles subject to the HVUT tax as described in Section 4481 of the Internal Revenue Code? Are all annual certifications since the last FHWA compliance review available?

Answer: Yes. All annual certifications since the last FHWA compliance review are available for review.

23. According to your last review records your current designee is Whitney Brewster. Is this information still valid? Please provide documentation that the signatory on certification has valid authority to sign for the governor.

Answer: Whitney Brewster is currently the Executive Director of TxDMV. A copy of The Governor's Office Letter designating Ms. Brewster, or her designee, to sign the Certification is included with this report.

- 24. Does the state have a computerized registration system? If so, is it proprietary to the state (the state developed it solely) or was it purchased from a vendor (other states may have it)?**

Answer: Texas has two automated registration systems: the RTS and the TxIRP systems. RTS is used in the 254 county tax offices for the registration of intrastate vehicles and is proprietary to Texas. The TxIRP System was developed by a vendor for Texas and is used by the CFB, RSCs, and registrants for the registration of interstate and intrastate commercial vehicles.

- 25. What is the state's procedure for assigning an HVUT identifier in your record system (whether electronic or manual) when a proof-of-payment transaction occurs?**

Answer: Responsible personnel at TxDMV, MCD, RSCs, and county levels manually verify proof of payment by verifying the payment validation e-File watermark and/or stamp used by the IRS on Schedule 1. This includes date verification also. In addition, verified IRS Form 2290s are scanned and electronically stored in the automated document management system.

- 26. What is the total number of vehicles registered for which proof of payment has been received during the current review period (e.g., calendar year, fiscal year, or whichever is compatible with IRS information)?**

Answer: Texas currently has 195,681 power units registered at or above 55,000 pounds in the TxIRP and RTS systems databases for FY 2021.

- 27. Does the total number of vehicles for which proof of payment has been received agree reasonably well with the total number of vehicles registered in the taxable weight category during the current review period?**

Answer: Yes.

- 28. Can differences be adequately explained (e.g., duplicate registrations, exempt vehicles, vehicles under a "suspension" registration system)?**

Answer: Yes.

- 29. Which vehicles does your state exempt from payment of the HVUT? (Question both field/site personnel and state personnel.)**

Answer: In accordance with IRS regulations, Texas exempts the use of certain highway motor vehicles from the tax (and does not require the registrant/taxpayer to report such vehicles on a Form 2290) if certain requirements are met. The use of a highway motor vehicle is not subject to the tax if it is used and operated by:

- The Federal Government;
- The District of Columbia;
- A state or local government;

- The American National Red Cross;
- A nonprofit volunteer fire department, ambulance association, or rescue squad;
- An Indian tribal government but only if the vehicle's use involves the exercise of an essential tribal government function; or
- A mass transportation authority if it is created under a statute that gives it certain powers normally exercised by the state.

Also exempt from tax (and thus not required to be reported on a Form 2290) is the use of:

- Qualified blood collector vehicles (see below) used by qualified blood collector organizations; and
- Mobile machinery that meets the specifications for a chassis as described under Specially designed mobile machinery for non-transportation.

Additionally, heavy agriculture (farm) vehicles operated less than 7,500 miles in a tax year, vehicles operating under a temporary permit, and non-farm vehicles operated less than 5,000 miles in a tax year are exempted from the payment of the HVUT. TxDMV allows an exemption for certain transit-type buses, as authorized by 26 CFR 41.4483-2 (Exemption for certain transit-type buses).

30. How does the state verify the exemption status of vehicles? (Question both field/site personnel and state personnel.)

Answer: Part II of the Schedule 1 must be completed, and the form received by the IRS prior to vehicle registration (except those subject to the 60-day grace period), as proof of compliance for heavy agriculture (farm) vehicles operated less than 7,500 miles in a tax year, or non-farm vehicles operated less than 5,000 miles in a tax year.

31. How do you track exempted vehicles? (Question both field/site personnel and state personnel.)

Answer: TxDMV does not allow exempted vehicles for apportion registration. Exempted vehicles are not tracked at this time.

32. What documentation (e.g., Form 2290 or Schedule 1) is collected for vehicles over 55,000 pounds, but exempt from the HVUT (e.g., farm vehicles)? (Question both field/site personnel as appropriate and state personnel.)

Answer: Part II of the Schedule 1 must be completed, and the form received by the IRS prior to vehicle registration (except those subject to the 60-day grace period), as proof of compliance for heavy agriculture (farm) vehicles operated less than 7,500 miles in a tax year and non-farm vehicles operated less than 5,000 miles in a tax year.

33. How are owners of vehicles subject to the HVUT provided information about the requirements for registration in advance of the registration period? (Question both field/site personnel and state personnel.)

Answer: An information booklet containing instructions for completing the Texas apportioned renewal application, as well as HVUT requirements, is mailed in conjunction with the apportioned renewal notice. For intrastate vehicles, the information

is located on the reverse side of the registration renewal notice that is mailed to customers six to eight weeks prior to registration expiration.

- 34. What public relations/public involvement efforts are used to inform owners of vehicles subject to the HVUT about the proof of payment requirements? (Question both field/site personnel and state personnel.)**

Answer: An information booklet containing instructions for completing the Texas Apportioned Renewal Application, as well as HVUT requirements, is mailed in conjunction with the apportioned renewal notice. For intrastate vehicles, the information is located on the reverse side of the registration renewal notice that is mailed to customers six to eight weeks prior to registration expiration.

- 35. What is your record keeping retention policy? (Question both field/site personnel and state personnel.)**

Answer: CFB maintains the IRS Form 2290 for the current year plus three years for qualifying Texas-based apportioned registrants. These files are maintained in the automated document management system. The record retention requirement for the document imaging system is current year plus three years. The records retention requirements for the automated system are current year plus three years.

- 36. If paper records are retained, (e.g., Form 2290, Schedule 1, notation on registration documents), where are they filed (e.g., central location, counties)?**

Answer: Paper records for apportioned vehicle registrations are submitted to the Imaging Section at TxDMV Headquarters in Austin. The CFB manager is the records custodian for all apportioned registration and related records. Currently, the paper records are being converted to electronic records through the document imaging process, and electronically indexed in the FileNet automated document management system. Paper records that are the subject of this inspection have gone through the imaging process. These electronic records will be made available to the inspector through a dedicated computer workstation. A CFB coordinator will be on hand to assist the inspector with gaining access to these records. Counties are not mandated to retain paper records on HVUT proof of payment since transactions are processed through the RTS.

- 37. Which records are used by the state for internal compliance review(s)?**

Answer: At the Headquarters level, CFB has internal review procedures in place to monitor compliance with 23 U.S.C. 141(c). Texas apportioned renewal applications are audited by TxDMV's IRP Compliance Auditors to verify that registrants have provided the required information and documentation. The reviewed records include the Texas Apportioned Registration Renewal Application (Schedule A), the corresponding date stamped IRS Form 2290 and other valid documentation submitted by the registrant for review and verification of proof of payment.

RSC personnel will not process a new application, renewal, or supplemental application unless the applicant submits the stamped IRS Form 2290. The appropriate paperwork is initiated by personnel as verification the HVUT was submitted or the 60-day criterion is still in effect.

At the county level, RTS prompts the user to verify proof of HVUT payment by selecting "Verified Heavy Vehicle Use Tax" (or "60-Day Trans" for new purchase) in the system before processing can continue. Additionally, these transactions processed through the RTS system can be monitored through ad hoc reports.

38. How do you keep records for proof of payment of intrastate vehicles subject to HVUT?

Answer: At the headquarters level, the intrastate documents are scanned and filed in TxDMV's automated document management system. The RSCs send their documentation for proof of payment for intrastate vehicles to the Imaging Section for processing, scanning, and electronic filing in the automated document management system. At the county level, the RTS system prompts the user to verify proof of payment of HVUT by selecting "Verified Heavy Vehicle Use Tax" (or "60-Day Trans" for new purchase) in the system before processing can continue. Additionally, these transactions processed through the RTS system can be monitored through ad hoc reports for compliance. Also, the TxDMV's Regional Service Center managers train newly-elected County Tax Assessor-Collectors on their responsibility to know and comply with all relevant rules and regulations for the transactions and processes for which they are responsible. This includes familiarizing Tax Assessor-Collectors with the Registration Manual and how to use it. Regional Service Center Managers are also required to visit every county office twice annually to discuss any recurring issues or concerns.

39. How do you keep records for proof of payment for interstate vehicles subject to HVUT?

Answer: At the headquarters level, documentation for proof of payment for interstate vehicles are scanned and filed in TxDMV's automated document management system. Paper documents are maintained in a secure location until scanned within CFB's building. Paper documents are then shredded.

The RSCs send their documentation for proof of payment for interstate vehicles to the Imaging section for scanning, and electronic filing in the automated document management system. The counties do not process the registration for interstate commercial vehicles.

40. Does your state issue temporary operating permits for either interstate or intrastate vehicles? If so, how do you ensure the HVUT has been paid before fully registering the vehicle?

Answer: Texas issues temporary operating permits. Texas ensures that the HVUT payment is made before registering the vehicle, unless the vehicle falls within an exception. HVUT payment is verified by one of the following:

- The original or a copy of the Schedule 1 portion of the Form 2290 receipted by the Internal Revenue Service (IRS).
- A copy of the Form 2290 with Schedule 1 attached as filed with the IRS along with a copy of the front and back of the canceled check covering the payment to the IRS, or

- A copy of the Form 2290 with Schedule 1 attached as filed with the IRS along with a validated receipt for payment from a local IRS office in lieu of a copy of a canceled check.

41. If a vehicle subject to the HVUT is being registered that is new to that owner/driver, during the 60-day grace period, how does the state follow up to ensure the HVUT is paid for that vehicle?

Answer: There is no follow-up to ensure that the HVUT is paid; however, proof of payment is verified at time of subsequent annual renewal.

42. If a vehicle owner increases the registered vehicle weight from less than 55,000 pounds to more than 55,000 pounds, is proof of payment of the HVUT obtained? (Note: The state is required to obtain proof of payment in this case.)

Answer: Yes. A Texas registrant is required to provide proof of payment of HVUT when a vehicle weight is voluntarily increased to 55,000 pounds or more at the time of initial registration or during a registration year.

43. If a vehicle owner increases the registered vehicle weight from 55,000 pounds (or more) to a higher weight category, is proof of payment of the HVUT obtained? (Note: The state is not required to obtain proof of payment in the case. Some states have elected to obtain proof of payment of the higher vehicle weight; however, registration is not denied if proof of payment is not presented. If proof of payment at the higher vehicle weight is not presented, the taxpayer is informed that this discrepancy may be the basis for an IRS audit.)

Answer: No. Proof of payment of HVUT is not verified when a vehicle weight is increased from 55,000 pounds (or more) to a higher weight during a registration year

44. If the state uses the suspension registration system, are the provisions provided for in 26 CFR Part 41, Section 41.6001-2(b) (3) being followed? What data sources are incorporated (e.g., weigh in motion data, port authority data)?

Answer: Texas does not use a suspension registration system as defined in 26 CFR Part 41, Section 41.6001-2(b) (3). However, please see the TxDMV response to Question #13 in which the extended registration of fleet vehicles is discussed.

45. If a third party has been delegated to perform the certification process, what oversight or quality assurance procedures are being followed? (Ask for procedure documentation.)

Answer: TxDMV assumes this question is asking about delegation of the requirement to verify compliance with the HVUT requirements as required by 26 C.F.R. Section 41.60012, rather than delegation of the annual certification that is required by 23 C.F.R. Section 669.7. TxDMV has not delegated the certification process to a third party. However, some counties have delegated the HVUT verification process to third parties, which use the RTS. At the county level, RTS prompts the user to verify proof of payment of HVUT by selecting "Verified Heavy Vehicle Use Tax" (or "60-Day Trans" for new purchase) in the system before processing can continue. Additionally, these transactions processed through RTS can be monitored through ad hoc reports for compliance. Also, the TxDMV's Regional Service Center managers train newly elected

County Tax Assessor-Collectors on their responsibility to know and comply with all relevant rules and regulations for the transactions and processes for which they are responsible. This includes familiarizing Tax Assessor-Collectors with the Registration Manual and how to use it. Regional Service Center Managers are also required to visit every county office twice annually to discuss any recurring issues or concerns.

Board Meeting Date: 10/13/2022
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Jimmy Archer, Motor Carrier Division Director
Agenda Item: 11
Subject: Delegation of Authority to the Executive Director to Approve and Execute an Amendment to the Innovative Technology Deployment (ITD) Commercial Vehicle Information Exchange Window (CVIEW) Services Contract

RECOMMENDATION

TxDMV recommends that the board delegate the authority to the department’s executive director to approve and sign an amendment to the Innovative Technology Deployment (ITD) Commercial Vehicle Information Exchange Window (CVIEW) Services Contract.

PURPOSE AND EXECUTIVE SUMMARY

The contact amendment should be approved so the vendor can provide upgrades to improve the CVIEW, including augmenting existing CVIEW functionality to increase safety by providing the Texas Department of Public Safety (DPS) and other administrative and management users with real-time insight into electronic-screening operations activity across the state from a single system login. Additional changes will be made to existing dashboard functionality to enhance real-time information currently provided.

FINANCIAL IMPACT

There is no cost to the department. The estimated cost of these enhancements is \$780,000, and the funds were obtained by the department through a “no match” grant from the Federal Motor Carrier Safety Administration (FMCSA) through the Innovative Technology Deployment Program.

BACKGROUND AND DISCUSSION

Texas receives and shares motor carrier safety data with all other states through ITD’s CVIEW tool. The safety data includes real-time Out-of-Service status (when a vehicle or driver has been taken off the road for safety reasons) for on-the-road police enforcement. CVIEW is critical nationwide for data transfers 24/7.

ITD is important to the state in achieving a statewide Intelligent Transportation System (ITS) that improves safety and security; improves productivity of motor carriers, commercial vehicles, and their drivers; improves efficiency and effectiveness of safety programs through targeted enforcement; improves data sharing within and between states and FMCSA; and reduces federal/state and industry regulatory and administration costs.

Texas joined the ITD program in 2001. TxDMV is the ITD-designated lead agency for the state. ITD is governed by a Steering Committee and Working Group comprised of representatives of the TxDMV, Texas Department of Transportation, DPS, Texas Comptroller of Public Accounts, FMCSA, Federal Highway Administration, and the Texas Trucking Association. Texas has successfully achieved and maintained Core ITD compliance by meeting FMCSA’s requirements for Safety Information Exchange, Credentialing Administration, and Electronic Screening.

The planned enhancements will provide:

- remote, real-time insight from a single location into numerous electronic-screening systems' activity and performance across Texas
- detailed information related to e-screening system health, specifically, activity and performance for specific time periods, by inspection site, and in relation to routed oversize/overweight permits for analysis that will lead to more efficient use of resources and more effective use of systems and data
- screen-to-screen access to electronic-screening data and related oversize and overweight permit data
- enhanced real-time insight into general CVIEW system health and operational activity to ensure peak performance, availability, and data quality

Board Policy Documents

Governance Process (10/13/11)

Strategic Planning (10/13/11)

Board Vision (4/7/16)

Agency Boundaries (9/13/12)

Texas Department of Motor Vehicles TxDMV Board Governance Policy

1. PURPOSE

The directives presented in this policy address board governance of the Texas Department of Motor Vehicles (TxDMV).

2. SCOPE

The directives presented in this policy apply to the TxDMV Board and TxDMV agency personnel who interact with the Board. The TxDMV Board Governance Policy shall be one that is comprehensive and pioneering in its scope.

3. POLICY

3.1. TxDMV Board Governing Style

The Board shall govern according to the following general principles: (a) a vision for the agency, (b) diversity in points of view, (c) strategic leadership, providing day-to-day detail as necessary to achieve the agency vision, (d) clear distinction of Board and Executive Director roles, (e) collective decision making, (f) react proactively rather than reactively and with a strategic approach. Accordingly:

- 3.1.1. The Board shall provide strategic leadership to TxDMV. In order to do this, the Board shall:
 - 3.1.1.1. Be proactive and visionary in its thinking.
 - 3.1.1.2. Encourage thoughtful deliberation, incorporating a diversity of viewpoints.
 - 3.1.1.3. Work together as colleagues, encouraging mutual support and good humor.
 - 3.1.1.4. Have the courage to lead and make difficult decisions.
 - 3.1.1.5. Listen to the customers and stakeholders needs and objectives.
 - 3.1.1.6. Anticipate the future, keeping informed of issues and trends that may affect the mission and organizational health of the TxDMV.
 - 3.1.1.7. Make decisions based on an understanding that is developed by appropriate and complete stakeholder participation in the process of identifying the needs of the motoring public, motor vehicle industries,

and best practices in accordance with the mission and vision of the agency.

- 3.1.1.8. Commit to excellence in governance, including periodic monitoring, assessing and improving its own performance.
- 3.1.2. The Board shall create the linkage between the Board and the operations of the agency, via the Executive Director when policy or a directive is in order.
- 3.1.3. The Board shall cultivate a sense of group responsibility, accepting responsibility for excellence in governance. The Board shall be the initiator of policy, not merely respond to staff initiatives. The Board shall not use the expertise of individual members to substitute for the judgment of the board, although the expertise of individual members may be used to enhance the understanding of the Board as a body.
- 3.1.4. The Board shall govern the agency through the careful establishment of policies reflecting the board's values and perspectives, always focusing on the goals to be achieved and not the day-to-day administrative functions.
- 3.1.5. Continual Board development shall include orientation of new Board members in the board's governance process and periodic board discussion of how to improve its governance process.
- 3.1.6. The Board members shall fulfill group obligations, encouraging member involvement.
- 3.1.7. The Board shall evaluate its processes and performances periodically and make improvements as necessary to achieve premier governance standards.
- 3.1.8. Members shall respect confidentiality as is appropriate to issues of a sensitive nature.

3.2. TxDMV Board Primary Functions/Characteristics

TxDMV Board Governance can be seen as evolving over time. The system must be flexible and evolutionary. The functions and characteristics of the TxDMV governance system are:

- 3.2.1. Outreach
 - 3.2.1.1. Monitoring emerging trends, needs, expectations, and problems from the motoring public and the motor vehicle industries.
 - 3.2.1.2. Soliciting input from a broad base of stakeholders.

3.2.2. Stewardship

- 3.2.2.1. Challenging the framework and vision of the agency.
- 3.2.2.2. Maintaining a forward looking perspective.
- 3.2.2.3. Ensuring the evolution, capacity and robustness of the agency so it remains flexible and nimble.

3.2.3. Oversight of Operational Structure and Operations

- 3.2.3.1. Accountability functions.
- 3.2.3.2. Fiduciary responsibility.
- 3.2.3.3. Checks and balances on operations from a policy perspective.
- 3.2.3.4. Protecting the integrity of the agency.

3.2.4. Ambassadorial and Legitimizing

- 3.2.4.1. Promotion of the organization to the external stakeholders, including the Texas Legislature, based on the vision of the agency.
- 3.2.4.2. Ensuring the interests of a broad network of stakeholders are represented.
- 3.2.4.3. Board members lend their positional, professional and personal credibility to the organization through their position on the board.

3.2.5. Self-reflection and Assessment

- 3.2.5.1. Regular reviews of the functions and effectiveness of the Board itself.
- 3.2.5.2. Assessing the level of trust within the Board and the effectiveness of the group processes.

3.3. Board Governance Investment

Because poor governance costs more than learning to govern well, the Board shall invest in its governance capacity. Accordingly:

- 3.3.1. Board skills, methods, and supports shall be sufficient to ensure governing with excellence.

- 3.3.1.1. Training and retraining shall be used liberally to orient new members, as well as maintain and increase existing member skills and understanding.
 - 3.3.1.2. Outside monitoring assistance shall be arranged so that the board can exercise confident control over agency performance. This includes, but is not limited to, financial audits.
 - 3.3.1.3. Outreach mechanisms shall be used as needed to ensure the Board's ability to listen to stakeholder viewpoints and values.
 - 3.3.1.4. Other activities as needed to ensure the Board's ability to fulfill its ethical and legal obligations and to represent and link to the motoring public and the various motor vehicle industries.
- 3.3.2. The Board shall establish its cost of governance and it will be integrated into strategic planning and the agency's annual budgeting process.

3.4. Practice Discipline and Assess Performance

The Board shall ensure the integrity of the board's process by practicing discipline in Board behavior and continuously working to improve its performance. Accordingly:

- 3.4.1. The assigned result is that the Board operates consistently with its own rules and those legitimately imposed on it from outside the organization.
 - 3.4.1.1. Meeting discussion content shall consist solely of issues that clearly belong to the Board to decide or to monitor according to policy, rule and law. Meeting discussion shall be focused on performance targets, performance boundaries, action on items of Board authority such as conduct of administrative hearings, proposal, discussion and approval of administrative rule-making and discussion and approval of all strategic planning and fiscal matters of the agency.
 - 3.4.1.2. Board discussion during meetings shall be limited to topics posted on the agenda.
 - 3.4.1.3. Adequate time shall be given for deliberation which shall be respectful, brief, and to the point.
- 3.4.2. The Board shall strengthen its governing capacity by periodically assessing its own performance with respect to its governance model. Possible areas of assessment include, but are not limited to, the following:
 - 3.4.2.1. Are we clear and in agreement about mission and purpose?

- 3.4.2.2. Are values shared?
 - 3.4.2.3. Do we have a strong orientation for our new members?
 - 3.4.2.4. What goals have we set and how well are we accomplishing them?
 - 3.4.2.5. What can we do as a board to improve our performance in these areas?
 - 3.4.2.6. Are we providing clear and relevant direction to the Executive Director, stakeholders and partners of the TxDMV?
- 3.4.3. The Board Chair shall periodically promote regular evaluation and feedback to the whole Board on the level of its effectiveness.

Texas Department of Motor Vehicles Strategic Planning Policy

1. PURPOSE

The directives presented in this policy address the annual Strategic Planning process at the Texas Department of Motor Vehicles (TxDMV).

2. SCOPE

The directives presented in this policy apply to the TxDMV Board and TxDMV agency personnel who interact with the Board. TxDMV Strategic Planning Policy attempts to develop, document and expand its policy that is comprehensive in its scope in regards to the strategic planning process of the Board and the Department beyond that of the state strategic planning process.

3. POLICY

3.1. TxDMV Board Strategic Planning

This policy describes the context for strategic planning at TxDMV and the way in which the strategic plan shall be developed and communicated.

- 3.1.1. The Board is responsible for the strategic direction of the organization, which includes the vision, mission, values, strategic goals, and strategic objectives.
- 3.1.2. TxDMV shall use a 5-year strategic planning cycle, which shall be reviewed and updated annually, or as needed.
- 3.1.3. The 5-year strategic plan shall be informed by but not confined by requirements and directions of state and other funding bodies.
- 3.1.4. In developing strategic directions, the Board shall seek input from stakeholders, the industries served, and the public.
- 3.1.5. The Board shall:
 - 3.1.5.1. Ensure that it reviews the identification of and communication with its stakeholders at least annually.
 - 3.1.5.2. Discuss with agency staff, representatives of the industries served, and the public before determining or substantially changing strategic directions.

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- 3.1.5.3. Ensure it receives continuous input about strategic directions and agency performance through periodic reporting processes.
 - 3.1.6. The Board is responsible for a 5-year strategic plan that shall identify the key priorities and objectives of the organization, including but not limited to:
 - 3.1.6.1. The creation of meaningful vision, mission, and values statements.
 - 3.1.6.2. The establishment of a Customer Value Proposition that clearly articulates essential customer expectations.
 - 3.1.6.3. A Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis, to be updated annually.
 - 3.1.6.4. An assessment of external factors or trends (i.e., customer needs, political factors, economic factors, industry trends, technology factors, uncertainties, etc.)
 - 3.1.6.5. Development of the specific goals and objectives the Department must achieve and a timeline for action.
 - 3.1.6.6. Identification of the key performance indicators to measure success and the initiatives that shall drive results.
 - 3.1.6.7. Engage staff at all levels of the organization, through the executive director, in the development of the strategic plan through surveys, interviews, focus groups, and regular communication.
 - 3.1.6.8. Ensure the strategic planning process produces the data necessary for LBB/GOBPP state required compliance while expanding and enhancing the strategic plan to support the needs of the TxDMV. The overall strategic plan shall be used as a tool for strategic management.
 - 3.1.7. The Board delegates to the Executive Director the responsibility for **implementing** the agency's strategic direction through the development of agency wide and divisional operational plans.
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Texas Department of Motor Vehicles TxDMV Goals and Objectives

1. PURPOSE

The information presented in this policy addresses the goals and key objectives of the Board of the Texas Department of Motor Vehicles (TxDMV) as they relate to the mission, vision, and values of the TxDMV.

2. SCOPE

The scope of this policy is to define the desired state the TxDMV Board is working to achieve. This policy is designed to be inspirational in outlining the desired state of the agency that supports the TxDMV Board vision and meeting agency goals.

3. TxDMV MISSION

To serve, protect and advance the citizens and industries in the state with quality motor vehicle related services.

4. TxDMV VISION

The Texas Department of Motor Vehicles sets the standard as the premier provider of customer service in the nation.

5. TxDMV VALUES

To earn the trust and faith of all citizens of Texas with transparency, efficiency, excellence, accountability, and putting stakeholders first.

- 5.1. **Transparency** – Being open and inclusive in all we do.
- 5.2. **Efficiency** – Being good stewards of state resources by providing products and services in the most cost-effective manner possible.
- 5.3. **Excellence** – Working diligently to achieve the highest standards.
- 5.4. **Accountability** – Accepting responsibility for all we do, collectively and as individuals.
- 5.5. **Stakeholders** – Putting customers and stakeholders first, always.

6. TxDMV GOALS

6.1. GOAL 1 – Performance Driven

The TxDMV shall be a performance driven agency in its operations whether it is in customer service, licensing, permitting, enforcement or rule-making. At all times the TxDMV shall mirror in its performance the expectations of its customers and stakeholder by effective, efficient, customer-focused, on-time, fair, predictable and thorough service or decisions.

6.1.1. Key Objective 1

The TxDMV shall be an agency that is retail-oriented in its approach. To accomplish this orientation TxDMV shall concentrate the focus of the agency on:

- 6.1.1.1. Delivering its products and services to all of its customers and stakeholders in a manner that recognizes that their needs come first. These needs must be positively and proactively met. TxDMV works for and with its customers and stakeholders, not the other way around.
- 6.1.1.2. Operating the agency's licensing and registration functions in a manner akin to how a private, for-profit business. As a private, for-profit business, TxDMV would have to listen to its customers and stakeholders and implement best practices to meet their needs or its services would no longer be profitable or necessary. Act and react in a manner that understands how to perform without a government safety net and going out of business.
- 6.1.1.3. Simplify the production and distribution processes and ease of doing business with the TxDMV. Adapting and maintaining a business value of continuous improvement is central to TxDMV operations and processes.
- 6.1.1.4. All operations of the TxDMV shall stand on their own merits operationally and financially. If a current process does not make sense then TxDMV shall work within legislative and legal constraints to redesign or discard it. If a current process does not make or save money for the state and/or its customers or stakeholders then TxDMV shall work within legislative and legal constraints to redesign or discard it. TxDMV shall operate as efficiently and effective as possible in terms of financial and personnel needs. Divisions should focus on cost savings without sacrificing performance. Division directors are accountable for meeting these needs and applicable measures. All division directors are collectively responsible for the performance of TxDMV as a whole.
- 6.1.1.5. Focus on revenue generation for transportation needs as well as the needs of its customers.
- 6.1.1.6. Decisions regarding the TxDMV divisions should be based on the overriding business need of each division to meet or provide a specific service demand, with the understanding and coordination of overarching agency-wide needs.

- 6.1.1.7. Developing and regularly updating a long-range Statewide Plan describing total system needs, establishing overarching statewide goals, and ensuring progress toward those goals.
- 6.1.1.8. The TxDMV shall establish a transparent, well-defined, and understandable system of project management within the TxDMV that integrates project milestones, forecasts, and priorities.
- 6.1.1.9. The TxDMV shall develop detailed work programs driven by milestones for major projects and other statewide goals for all TxDMV divisions.
- 6.1.1.10. The TxDMV, with input from stakeholders and policymakers, shall measure and report on progress in meeting goals and milestones for major projects and other statewide goals.

6.2. GOAL 2 – Optimized Services and Innovation

The TxDMV shall be an innovative, forward thinking agency that looks for ways to promote the economic well-being and development of the industries it serves as well as the State of Texas within the legislative boundaries that have been established for the agency.

6.2.1. Key Objective 1

The TxDMV shall achieve operational, cultural, structural and financial independence from other state agencies.

- 6.2.1.1. Build the TxDMV identity. This means that TxDMV shall make customers aware of what services we offer and how they can take advantage of those services.
- 6.2.1.2. Build the TxDMV brand. This means that TxDMV shall reach out to the stakeholders, industries we serve and the public, being proactive in addressing and anticipating their needs.
- 6.2.1.3. Determine immediate, future, and long term facility and capital needs. TxDMV needs its own stand-alone facility and IT system as soon as possible. In connection with these needs, TxDMV shall identify efficient and effective ways to pay for them without unduly burdening either the state, its customers or stakeholders.
- 6.2.1.4. All regulations, enforcement actions and decision at TxDMV shall be made in a timely, fair and predictable manner.

6.2.2. Key Objective 2

Provide continuous education training on business trends in the industry with a particular emphasis on activities in Texas.

6.2.3. Key Objective 3

Provide continuous outreach services to all customers and stakeholders to access their respective needs and wants. This includes helping frame legislative or regulatory issues for consideration by other bodies including the legislature.

6.2.4. Key Objective 4

Examine all fees to determine their individual worth and reasonableness of amount. No fee shall be charged that cannot be defended financially and operationally.

6.3. GOAL 3 – Customer-centric

The TxDMV shall be a customer-centric agency that delivers today's services and decisions in a positive, solution-seeking manner while ensuring continuous, consistent and meaningful public and stakeholder involvement in shaping the TxDMV of tomorrow.

6.3.1. Key Objective 1

The TxDMV shall seek to serve its customer base through a creative and retail oriented approach to support the needs of its industries and customers.

6.3.2. Key Objective 2

The TxDMV shall develop and implement a public involvement policy that guides and encourages meaningful public involvement efforts agency-wide.

6.3.3. Key Objective 3

The TxDMV shall develop standard procedures for documenting, tracking, and analyzing customer complaint data. Successful problem resolution metrics should be monitored to support continuous improvement activities that shall permanently improve customer facing processes.

6.3.4. Key Objective 4

The TxDMV shall provide a formal process for staff with similar responsibilities to share best practices information.

6.3.5. Key Objective 5

The TxDMV shall provide central coordination of the Department's outreach campaigns.

6.3.6. Key Objective 6

The TxDMV shall develop and expand user friendly, convenient, and efficient website applications.

6.3.7. Key Objective 7

TxDmv shall timely meet all legislative requests and mandates.

Agency Operational Boundaries as Defined by Department Policies of the TxDMV Board (Board)

The Board is responsible for the policy direction of the agency. The Board's official connection to the day-to-day operation of the Texas Department of Motor Vehicles (TxDMV) and the conduct of its business is through the Executive Director of the TxDMV (ED) who is appointed by the Board and serves at its pleasure. The authority and accountability for the day-to-day operations of the agency and all members of the staff, except those members who report directly to the Board, is the sole responsibility of the ED.

In accordance with its policy-making authority the Board has established the following policy boundaries for the agency. The intent of the boundaries is not to limit the ability of the ED and agency staff to manage the day-to-day operations of the agency. To the contrary, the intent of the boundaries is to more clearly define the roles and responsibilities of the Board and the ED so as to liberate the staff from any uncertainty as to limitations on their authority to act in the best interest of the agency. The ED and staff should have certainty that they can operate on a daily basis as they see fit without having to worry about prior Board consultation or subsequent Board reversal of their acts.

The ED and all agency employees shall act at all times in an exemplary manner consistent with the responsibilities and expectations vested in their positions. The ED and all agency employees shall act in a manner consistent with Board policies as well as with those practices, activities, decisions, and organizational circumstances that are legal, prudent, and ethical. It is the responsibility of the ED to ensure that all agency employees adhere to these boundaries.

Accordingly, the TxDMV boundaries are as follows:

1. The day-to-day operations of the agency should be conducted in a manner consistent with the vision, mission, values, strategic framework, and performance metrics as established by the Board. These elements must not be disregarded or jeopardized in any way.
2. A team-oriented approach must be followed on all enterprise-wide decisions to ensure openness and transparency both internally and externally.
3. The agency must guard against allowing any financial conditions and decision which risk adverse fiscal consequences, compromise Board financial priorities, or fail to

show an acceptable level of foresight as related to the needs and benefits of agency initiatives.

4. The agency must provide timely, accurate, and honest information that will afford the Board, public, stakeholders, executive branch and the legislature the best ability to evaluate all sides of an issue or opportunity before forming an opinion or taking action on it. Any information provided that is intentionally untimely, inaccurate, misleading or one-sided will not be tolerated.
5. The agency must take all reasonable care to avoid or identify in a timely manner all conflicts of interest or even the appearance of impropriety in awarding purchases, negotiating contracts or in hiring employees.
6. The agency must maintain adequate administrative policies and procedures that are understandable and aid in staff recruitment, development and retention.
7. The agency must maintain an organizational structure that develops and promotes the program areas from an enterprise-wide perspective. No organizational silos or sub-agencies will be allowed. We are the TxDMV.
8. The agency must empower its entire staff to deliver a positive customer experience to every TxDMV customer, stakeholder or vendor to reduce their effort and make it easier for them to do business with the TxDMV.
9. The agency must at all times look to flattening its organizational structure to reduce cost as technology advances allow.
10. Agency staff shall anticipate and resolve all issues timely.
11. The agency must maximize the deployment and utilization of all of its assets – people, processes and capital equipment – in order to fully succeed.
12. The agency must not waste the goodwill and respect of our customers, stakeholders, executive branch and legislature. All communication shall be proper, honest, and transparent with timely follow-up when appropriate.
13. The agency should focus its work efforts to create value, make sure that processes, programs, or projects are properly designed, budgeted and vetted as appropriate with outside stakeholders to ensure our assumptions are correct so positive value continues to be created by the actions of the TxDMV.
14. The ED through his or her staff is responsible for the ongoing monitoring of all program and fiscal authorities and providing information to the Board to keep it apprised of all program progress and fiscal activities. This self-assessment must result in a product that adequately describes the accomplishment of all program

goals, objectives and outcomes as well as proposals to correct any identified problems.

15. In advance of all policy decisions that the Board is expected to make, the ED will provide pertinent information and ensure board members understand issues/matters related to the pending policy decision. Additionally, the ED or designee will develop a process for planning activities to be performed leading up to that particular policy decision and the timeframe for conducting these planning activities. It is imperative that the planning process describes not only when Board consideration will be expected but also when prior Board consultation and involvement in each planning activity will occur.
16. In seeking clarification on informational items Board members may directly approach the ED or his or her designee to obtain information to supplement, upgrade or enhance their knowledge and improve the Board's decision-making. Any Board member requests that require substantive work should come to the Board or Committee Chairs for direction.
17. The agency must seek stakeholder input as appropriate on matters that might affect them prior to public presentation of same to the Board.
18. The agency must measure results, track progress, and report out timely and consistently.
19. The ED and staff shall have the courage to admit a mistake or failure.
20. The ED and staff shall celebrate successes!

The Board expects the ED to work with agency staff to develop their written interpretation of each of the boundaries. The ED will then present this written interpretation to the Board prior to discussion between the Board and ED on the interpretation. The Board reserves the right to accept, reject or modify any interpretation. The intent is that the Board and the ED will come to a mutually agreeable interpretation of agency boundaries that will then form the basis of additional written thought on the part of the ED and staff as to how these boundaries will influence the actions of the agency.