



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

TxDMV Board Meeting

8:00 a.m.

Friday, October 29, 2021

AGENDA
BOARD MEETING
TEXAS DEPARTMENT OF MOTOR VEHICLES
4000 JACKSON AVE., BUILDING 1, LONE STAR ROOM
AUSTIN, TEXAS 78731
FRIDAY, OCTOBER 29, 2021
8:00 A.M.

THE PUBLIC PHYSICAL LOCATION WITH PRESIDING OFFICER:

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

Link to October 29, 2021, 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**
AAMVA Board of Directors 2015-2021 - Appreciation
4. **#EndTheStreakTX Texas Department of Transportation Campaign - TxDOT**
Commissioner Laura Ryan (BRIEFING ONLY)
5. **Executive Director's Reports - Whitney Brewster**
 - 6 A. [Texas by Texas \(TxT\) Deployment](#)
 - 7 B. [Introduction of New Chief Financial Officer Glenna Bowman](#)
 - 8 C. [Awards, Recognition of Years of Service, and Announcements](#)
 - 9 - [Recognition of Ginny Booton](#)

RULE PROPOSALS

6. **Chapter 215, Motor Vehicle Distribution - Monique Johnston and Clint Thompson (ACTION ITEM)**
Amendments, §215.152 and §215.158
[\(Relating to HB 3927, establishing the maximum number of temporary tags that a dealer or converter may issue in a calendar year\)](#)

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- 38 7. **Chapter 215, Motor Vehicle Distribution** - Corrie Thompson (ACTION ITEM)
Amendments, §§215.150, 215.151, 215.153, 215.154, and 215.155
New, §215.505
(Relating to HB 3927, including, allowing for denial of access to the temporary tag database and issuance of temporary tags to certain vehicles without inspection)
- 57 8. **Chapter 217, Vehicle Titles and Registration** - Jimmy Archer (ACTION ITEM)
Amendments, §217.56
(Relating to obtaining registration under the Unified Carrier Registration System Plan and Agreement prior to registering under the International Registration Plan; cleanup)
- 75 9. **Chapter 217, Vehicle Titles and Registration** - Roland Luna, Sr. (ACTION ITEM)
Amendments, §§217.2, 217.4, 217.23, 217.28, 217.36, 217.45, 217.46, and 217.89
(Relating to titling and registering motor vehicles, including SB 876, allowing a person to apply for title and registration of a motor vehicle with any willing county tax assessor-collector)

RULE ADOPTION

- 105 10. **Chapter 217, Vehicle Titles and Registration** - Roland Luna, Sr. (ACTION ITEM)
Amendments, §217.41
(Relating to SB 792, Relating to specialty license plates and parking placards for vehicles of certain disabled veterans)
(Published August 20, 2021 - 46 Tex. Reg. 5167)

BRIEFING AND ACTION ITEMS

- 117 11. **Specialty Plate Designs** - Roland Luna, Sr.
(ACTION ITEMS)
A. Southwestern Baptist Theological Seminary - New Design proposed by License Plates of Texas, LLC under Transportation Code §504.851
B. San Antonio Spurs - Redesign proposed under Transportation Code §504.851
C. Tulane University - New Design proposed by License Plates of Texas, LLC under Transportation Code §504.851
- 122 12. **Advisory Committee Appointments** - Whitney Brewster
- Consumer Protection Advisory Committee (CPAC) (ACTION ITEM)
- Customer Service Advisory Committee (CSAC) (ACTION ITEM)
- Motor Vehicle Industry Regulation Advisory Committee (MVIRAC) (ACTION ITEM)

PAGE**13. Finance and Audit**

- 131 A. [FY 2021 Financial Report](#) - Glenna Bowman (BRIEFING ONLY)
- 144 B. [Internal Audit Division Status Update](#) - Sandra Menjivar-Suddeath (BRIEFING ONLY)
- Annual Activities Report
- 165 C. [Software Upgrade for the TxIRP System](#) - Jimmy Archer
- Capital Spending Authority (BRIEFING ONLY)
- Delegation of Authority to the Executive Director for the Approval and Execution of the Contract (ACTION ITEM)

CLOSED SESSION**14. 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:**

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.
- Discussion relating to TxDMV dispute resolution process and recent EEOC complaints and internal Civil Rights Office complaints.
- Performance evaluation of Executive Director, including any modifications to compensation.

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.

15. Action Items from Closed Session

Performance evaluation of Executive Director, including any modifications to Compensation

16. Public Comment

17. 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 Section 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 Item #16), 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: Tracey Beaver, General Counsel, (512) 465-5665.



Board Meeting Date: 10/29/2021
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 5.A
Subject: Executive Director's Report: Texas by Texas (TxT) Deployment

RECOMMENDATION

Briefing Only.

BACKGROUND AND DISCUSSION

TxT is a new digital assistant from Texas.gov and Texas Department of Information Resources (DIR) that provides an easier, faster and more secure way for Texas to take care of government services like vehicle registration or driver license renewals – anytime, anywhere and on any device.

TxT users are able to create a single account and profile enabling them to complete certain government transactions with multiple state agencies through their personalized dashboard in a single application.

TxDMV has partnered with Texas.gov and DIR to offer vehicle registration renewals in the TxT application.

The TxDMV module was released and activated in the TxT web application on October 9, 2021. You can now register your vehicle through the responsively designed web application seamlessly across all devices (desktop, laptop, tablet and mobile phone).

The native iOS and Android mobile applications of TxT will be released at a later date.



Board Meeting Date: 10/29/2021
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 5.B
Subject: Executive Director's Reports: Introduction of New Chief Financial Officer Glenna Bowman

RECOMMENDATION

Briefing Only

PURPOSE AND EXECUTIVE SUMMARY

We've selected Glenna Bowman as CFO and director of the Finance and Administrative Services (FAS) Division. Her first day was September 1, 2021.

Glenna has more than 30 years of experience in Texas government finance and accounting, including key roles in developing:

- The state's first Generally Accepted Accounting Principles-based, statewide financial statements
- Implementing the Uniform Statewide Accounting System (USAS)
- Developing the current funding model for the state's fourteen intermediate appellate courts.

Previously, Glenna served as CFO for the Texas Office of Court Administration, State Board of Public Accountancy, Alcoholic Beverage Commission, and Department of Agriculture. She is a graduate of the Governor's Executive Development Program and has served on the curriculum committee for the Texas Fiscal Officers Association.

In 2014, she was named Administrator of the Year by the Texas State Agency Business Administrator's Association. She holds a Master of Accountancy degree from Texas State University and a BBA in Accounting from West Texas State University.

As you know, this is an important and high-profile role within the department and at the Capitol. Glenna is the right person for the job, and she is very excited to get started.

We are excited to welcome Glenna to our team!

**Board Meeting Date: 10/29/2021****BRIEFING**

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 5.C
Subject: Executive Director's Report – Recognition of Years of Service

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 name 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 29, 2021 Board Meeting for state service awards and retirements include:

- James Bronson in Information Technology Services Division reached 20 years of state service
- Lisa Selvera in Finance and Administrative Services Division reached 25 years of state service
- Bryan Wilson in Motor Vehicle Crime Prevention Authority Division reached 25 years of state service
- Edward Sandoval in Office Administrative Hearings reached 35 years of state service
- Patricia Combs in Vehicle Titles and Registration Division reached 40 years of state service

Finally, the following individuals recently retired from the agency:

- David Craig Flathmann - Information Technology Services Division
- Martin Brown – Office of General Counsel
- Ginny Booton – Consumer Relations Division
- Dewitt Juul - Finance and Administrative Services Division
- William “Butch” Grote - Information Technology Services Division

FINANCIAL IMPACT

No financial impact.

BACKGROUND AND DISCUSSION

No additional background and discussion.



Board Meeting Date: 10/29/2021
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 5.C
Subject: Executive Director's Report: Awards, Recognition of Years of Service, and Announcements - Recognition of Ginny Booton

RECOMMENDATION

Briefing only.

PURPOSE AND EXECUTIVE SUMMARY

Ginny's work in state government began in 1993 at the University of Texas at San Antonio where she helped develop the Leadership Challenge program, a public-private joint venture in the Center for Professional Excellence. Later, she moved to Austin, Texas to accept a promotion with the Texas Department of Human Services where she advanced to become the Director of Operations for the Lone Star Technology program. In this role, Ginny implemented the nation's largest electronic benefits system, which distributes assistance to recipients of the Temporary Assistance for Needy Families program through the use of an electronic debit card.

Her passion for leading teams has taken her to multiple state agencies, including the Texas Department of Transportation, where she managed over 200 customer service employees in the Vehicle Titles and Registration (VTR) Division and then being one of the first employees to open the doors when the Texas Department of Motor Vehicle was created in 2009.

Ginny truly has a passion for serving the citizens of Texas. Coaching others and watching them succeed is her greatest reward.

This amazing woman's lifelong learning and leading began when she financed her own education and obtained a Bachelor's in Business Administration and an MBA from the University of Akron in Ohio. Ginny doesn't leave her leadership skills at the office. She has been the Seton Cove board chairwoman and has also volunteered for United Way, Big Brothers and Big Sisters, Family Eldercare, and Manos de Cristo. Ginny is a past president of Executive Women in Texas Government and during her tenure the group supported the Capitol Area Food Bank, Any Baby Can, Safe Place, and the Susan G. Komen Race for the Cure.

Ginny is a model of public service, leadership, mentorship, and community service. She was instrumental in shaping the Consumer Relations Division and the Department in numerous and positive ways. Few people equal her accomplishments in career and giving back to others. Congratulations on your retirement Ginny!



Board Meeting Date: 10/29/2021
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Monique Johnston, Motor Vehicle Division Director
Agenda Item: 6
Subject: Chapter 215, Motor Vehicle Distribution - Monique Johnston and Clint Thompson (ACTION ITEM)
Amendments, §215.152 and §215.158
(Relating to HB 3927, establishing the maximum number of temporary tags that a dealer or converter may issue in a calendar year)

RECOMMENDATION

Approval to publish the proposed amended sections in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the proposed amendments to §215.152 and §215.158 is to implement House Bill (HB) 3927, Regular Session (2021), that relates to establishing the maximum number of temporary tags a dealer or converter may issue in a calendar year. Further implementation of HB 3927, including denial of access to the temporary tag database will be addressed in Agenda Item 7, as a separate proposal.

FINANCIAL IMPACT

No financial impact.

BACKGROUND AND DISCUSSION

House Bill 3927 provides the department with significant new tools to address temporary tag misuse and fraud, including denial of access to the temporary tag database and establishing the maximum number of temporary tags that a dealer or converter may issue. This proposal relates to establishing the maximum number of temporary tags that a dealer or converter may issue. Considering the requirements of new Transportation Code §503.0632(a)-(e), the department has developed a formula to annually set a separate calendar year temporary tag limit for each dealer and converter.

For license holders past their initial license term, the formula sets a base number of the license holder's greatest use of temporary tags in the prior three fiscal years. That number is increased by multiplying the base by the number of years of the last 10 years that the license holder has been licensed. That sum is then increased by multiplying the sum by the expected growth rate and adding that to the total. The department then reserves the ability to further increase the total for all license holders should market conditions warrant. The formula is intended to provide license holders with enough temporary tags to handle a significant increase in sales over the best of the three prior fiscal years. It is intended to prevent unlimited fraudulent activity by license holders only interested in selling temporary tags.

For new license holders, the department will award a block of temporary tags for each calendar year, until the beginning of the calendar year after that license expires.

Also, as required by HB 3927, the proposal sets out a process for a license holder to request additional temporary tags based on the license holder's business results and anticipated needs. Requests for additional tags would be made through the department's eLICENSING system.

The rule is intended to provide license holders with enough temporary tags to handle a significant increase in sales over the best of the three prior fiscal years, while preventing unlimited fraudulent activity by license holders only interested in selling temporary tags.

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PROPOSAL OF
CHAPTER 215 MOTOR VEHICLE DISTRIBUTION
SUBCHAPTER E. GENERAL DISTINGUISHING NUMBERS
43 TAC §215.152 and §215.158

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes amendments to 43 TAC §215.152 and §215.158 concerning the maximum number of temporary tags that a dealer or converter may issue from the temporary tag database. The amendments are necessary to implement amended Transportation Code §503.0626 and §503.0631 and new §503.0632(a)-(e) under House Bill 3927, 87th Legislature, Regular Session (2021). The department has also proposed amendments to 43 TAC §§215.150, 215.153, 215.154, and 215.155 concerning access to the temporary tag database and temporary tag requirements and new 43 TAC §215.505 concerning denial of access to the temporary tag database in this issue of the *Texas Register*.

EXPLANATION. House Bill 3927 amended Transportation Code and added new §503.0632(a)-(e) to authorize the department to establish by rule the maximum number of temporary tags that a dealer or converter may obtain in a calendar year under §§503.062, 503.0625, or 503.063. The maximum tag limits proposed in §215.152 are intended to prevent dealers and converters from fraudulently issuing an excessive amount of temporary tags while allowing legitimate businesses to continue operations unimpacted.

The department met with the Motor Vehicle Industry Regulatory Advisory Committee twice in considering this proposal. The department appreciates the committee members' serious consideration of the issues presented by HB 3927 and the members' comments.

The department analyzed data from multiple department systems and developed a model that proposes to consider the factors identified in §503.0632(b) to greatly reduce the volume of fraudulent tag

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1 issuance, yet balances the business needs of legitimate dealers and converters. Implementation of setting
2 the maximum tag limits under HB 3927 involves programming to multiple department systems, which the
3 department intends to leverage to also identify potential fraudulent tag issuance earlier even though the
4 possible volume will be limited for an individual dealer or converter.

5 The department recognizes that implementing fraud prevention and detection mechanisms
6 should not adversely impact dealers or converters that are not fraudulently issuing temporary tags. The
7 system proposed by the department is intended to provide dealers or converters with the number of
8 temporary tags they need to operate without having to request additional tags. Also, by using existing
9 department systems, the proposal adds no additional costs for a dealer or converter and creates no new
10 required activities or reports for dealers.

11 The department also recognizes all dealers and converters are not the same. As such, the proposal
12 considers actual temporary tag issuance specific to each established dealer and converter as a minimum
13 allotment and then provides an increase based on each dealer’s and converter’s licensing tenure, as well
14 as an increase for growth, resulting in a maximum number of temporary tags unique to each dealer and
15 converter.

16 New licensees have been considered as well, and the proposal provides an initial allotment of
17 temporary tags based on the type of dealer and whether the dealer or converter is a first-time licensee,
18 existing licensee moving locations, or an existing licensee establishing an additional location to ensure a
19 maximum tag limit appropriate to each situation.

20 The following paragraphs address the amendments in this proposal.

21 The amendment to §215.152(b)(1) is a response to fraudulent activity and clarifies that
22 information entered to obtain a temporary tag must be true and accurate.

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1 The amendments to §215.152 add new subsections (c)-(l) to establish the maximum number of
2 temporary tags that may be allotted to a dealer or converter. In summary, §215.152(c)-(e) implement
3 Transportation Code §503.0632(b) and establish the calculated number of temporary tags that a dealer
4 or converter past its initial license period will receive from the department with no dealer or converter
5 action. Section 215.152(f) establishes a maximum tag limit for newly licensed dealers and converters.
6 Section 215.152(i) creates the process for dealers to request additional tags. Section 215.152(g), (h), and
7 (j)-(l) address general matters related to the maximum number of temporary tags. Section 215.2 defines
8 terms used in Chapter 215.

9 Section 215.152(c) establishes the calculation for determining the number of buyer's temporary
10 tags a dealer will receive. Section 215.152(c)(1) creates the base of the calculation based on activity
11 related to sales implementing §503.0632(b)(1)(B). The base starts with the greater of the dealer's highest
12 number of in-state buyer temporary tags issued or title transactions recorded in the Registration and Title
13 System (RTS) over the prior three fiscal years. The department is using state fiscal years, because it will
14 allow the department time to collect data, determine the multipliers, test the system, and be ready to
15 release the maximum limits prior to the January 1st calendar year implementation date. All months will
16 be counted towards the maximum limit although a lag will exist. To limit potential fraudulent action, the
17 department will limit the number of temporary tags issued in the calculation to twice the number of RTS
18 transactions. The department then adds to the in state total the number of out-of-state temporary tags
19 issued to set the base.

20 Section 215.152(c)(2) then multiplies the base total by a time in business factor to implement
21 §503.0632(b)(1)(A). The anticipated factor is based on the percentage of years the dealer has been in
22 business over the last 10 years. For example, a dealer that has been in business for five years would receive

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1 a 50 percent addition to the base. Thus, a hypothetical dealer that had a calculated base of 100 tags and
2 was in business for five years would have allotted 150 buyer's tags.

3 Section 215.152(c)(3) then multiplies the base total after the addition of the time in business
4 factor by a determined market growth rate factor of not less than zero to implement §503.0632(b)(1)(C).
5 The factor is based on the percentage growth in the market over the prior three fiscal years. For example,
6 the department's current analysis beginning in 2018 indicates a 9.7 percent growth rate. Thus, the
7 hypothetical dealer would have an additional 15 temporary tags for a total of 165, which is 65 more than
8 the dealer used in any of the three prior years.

9 Section 215.152(c)(4) is used here as a remedy if the standard formula is not working based on
10 sudden changes in the market to implement §503.0632(b)(2)-(4). This provision allows the department to
11 make adjustments to increase the number of buyer's temporary tags to all dealers in the state, or a more
12 limited area, if the standard formula is lagging behind. For example, a sudden increase in sales after a
13 slow market period may require a separate temporary increase in the number of buyer's temporary tags
14 for all dealers until the increased sales data can be incorporated into the standard calculation. Remedies
15 for individual dealer situations are addressed in §215.152(i).

16 Section 215.152(d) and (e) apply to dealer and converter temporary tags. The subsections are
17 similar in construction to the §215.152(c) in that the subsections use prior temporary tag data to establish
18 a base and then increase the allotment with multipliers based on time in business and growth rate. The
19 growth rate is based on the actual growth in the use of dealer or converter tags. Also, §215.152(d) and (e)
20 have a similar provision to §215.152(c)(4) to make adjustments to a rapidly changing market.

21 Section 215.152(f) establishes the number of allotted buyer, dealer, and converter tags for new
22 licensees. The allotment is by an annual block, because new dealers or converters will have no prior
23 history to establish a base or significant time in operation to establish a multiplier. The annual block

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1 allotment is not subject to the time in operation or annual growth multiplier. The period of allotment will
2 run through the dealer's or converter's first two-year license period and end the following December 31st.
3 This will provide information to calculate a base, a three-year multiplier, and the annual growth rate
4 multiplier. However, even with this information, many dealers and converters may see a significant drop
5 in the number allotted temporary tags depending on the base number.

6 Section 215.152(g) and (h) are added to avoid the situation under §215.152(f) in which an existing
7 dealer or converter could inflate the number of temporary tags they are allotted or be limited in its ability
8 to expand. Section 215.152(g) provides that an existing dealer or converter that is moving its operations
9 from one location to a different location will continue with its allotment of temporary tags. The dealer or
10 converter will not be issued a block allotment under subsection (f). Section 215.152(h) provides that an
11 existing dealer or converter opening an additional location will receive an allotment based on the
12 allotment provided to existing locations. Section 215.152(g) and (h) do not limit a dealer or converter from
13 requesting additional temporary tags under §215.152(i).

14 Section 215.152(i) establishes the process under which a dealer or converter may request
15 additional temporary tags as required by new Transportation Code §503.0632(d). Section 215.152(i)
16 establishes that the dealer may request additional tags after 50 percent of the calendar allotment have
17 been used. Also, requests will be made through the eLICENSING system.

18 Section 215.152(i)(1) establishes that the dealer or converter is required to demonstrate that the
19 need for additional temporary tags results from business operations, including anticipated needs, as
20 required by §503.0632(c), and lists some types of information that may be presented, including evidence
21 of factors under §503.0632(b) related to the individual license holder. The list is not exclusive. Section
22 215.152(i)(2) establishes that the department will consider the information provided but may also
23 consider any additional information that the department considers to be relevant to making a

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1 determination. As in §215.152(i)(1), a non-exclusive list of information that the department may consider
2 is listed in §215.152(i)(2).

3 Section 215.152(i)(3) establishes that the department is not bound to issue only the number of
4 additional temporary tags requested by the dealer or converter and may issue more or less than the
5 request. A decision to grant the request on whole or in part does not constitute a denial of the request.
6 Section 215.152(i)(4) establishes that a denied request may be appealed to the director of the
7 department's Motor Vehicle Division. The director's decision is final. Section 215.152(i)(5) establishes that
8 once a denial is final, a dealer or converter may only submit a subsequent request for additional temporary
9 tags during that calendar year if the dealer or converter is able to provide additional information not
10 considered in the prior request.

11 Section 215.152(j) provides that an allotment change under §215.152(i) does not result in a
12 change to the base allotment in future years. That number will be calculated under §215.152(c), (d) or (e),
13 or allotted under §215.152(f). Ultimately if the additional number of temporary tags are used, that
14 number will become the base. Section 215.152(k) provides that the department will continue to monitor
15 for temporary tag usage that suggests that misuse or fraud has occurred as described in Transportation
16 Code §§503.038, 503.0632(f), or 503.067. Section 215.152(l) provides that unused temporary tags do not
17 roll over to subsequent years. The base calculations will be done annually.

18 The amendments to §215.158(d) address the changes in Transportation Code §503.0626 and
19 §503.0631 that removed the requirement for the temporary tag databases to be within the department's
20 Vehicle Titles and Registration Division. The department has assigned the function to the department's
21 Motor Vehicle Division. Otherwise, the proposal does not change the process for determining preprinted
22 internet-down tags. The amendments to §215.158 also add new subsection (e), which clarifies that a
23 preprinted internet-down tag will apply against the dealer's maximum number of allotted buyer's tags

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1 when the preprinted tag is entered into the temporary tag database as a sale. Preprinting the tags will not
2 reduce the maximum number of allotted buyer's tags.

3 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,
4 has determined that for each year of the first five years the proposed amendments and new section are
5 in effect, there will be no significant fiscal impact to the state or local governments as a result of the
6 enforcement or administration of the proposal. There will be no significant costs to the department and
7 the proposed amendments will have no significant impact on revenue collections.

8 Monique Johnston, Director of the Motor Vehicle Division, has determined that there will be no
9 measurable effect on local employment or the local economy as a result of the proposal, because the
10 overall number of motor vehicle sales should not be affected.

11 **PUBLIC BENEFIT AND COST NOTE.** Ms. Johnston has also determined that, for each year of the first five
12 years the proposed rules are in effect, the public benefits include establishing rules to implement HB 3927
13 and limiting the criminal activity of a small subset of dealers who fraudulently obtain and sell tens of
14 thousands of temporary tags to persons seeking to engage in violent criminal activity, including armed
15 robbery, human trafficking, and assaults on law enforcement; or to criminally operate uninsured and
16 uninspected vehicles as a hazard to Texas motorists and the environment. In addition, the department's
17 calculations indicate that the numbers will be generous so as not to impede commerce by long time
18 dealers and converters or new entrants to the marketplace; or burden license holder and department
19 resources with unnecessary reviews. The proposal is to limit the unauthorized sale of temporary tags and
20 should not limit or affect a license holder's ability to sell motor vehicles or otherwise conduct legitimate
21 business.

22 Ms. Johnston anticipates that the proposal will create no additional costs for license holders. A
23 license holder is not required to purchase any special equipment, employ additional persons, or prepare

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1 additional reports. The department will gather the information and make the necessary calculations to
2 determine the maximum number of temporary tags each dealer or converter will be allotted. To the
3 extent a request for additional tags is necessary, the department expects the matter can be handled via
4 the eLICENSING system with primarily the presentation of sales information that shows the tags have
5 been legitimately issued and that more are needed. This information should be existing and readily
6 available to the license holder and the use of the eLICENSING system will expedite the review process by
7 the department.

8 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** The cost analysis in the
9 Public Benefit and Cost Note section of this proposal has determined that proposed §215.152 and
10 §215.158 will not result in additional costs for license holders, including any small businesses, micro-
11 businesses, or rural communities. Therefore, the department is not required to prepare a regulatory
12 flexibility analysis under Government Code §2006.002.

13 Even if a cost were determined, the department has tried to minimize cost to license holders. The
14 requirements in §215.152 are designed to be flexible and without a requirement that a license holder
15 incur costs from the purchase of special equipment, employment of additional persons, or preparation of
16 additional reports. In addition, the proposal is not to limit or affect a license holder’s ability to sell motor
17 vehicles.

18 To the extent the department was to perform a regulatory flexibility analysis under Government
19 Code §2006.002, the department would consider the alternatives of not adopting the amendments to
20 §215.152, exempting small and micro-business license holders from the amendments to §215.152, and
21 adopting a limited version of §215.152 for small and micro-business license holders. The department
22 would reject all three options. It has been small and micro-business license holders that have misused the
23 temporary tag database and issued the tens of thousands of illegal tags. Further, the requirements of

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1 §215.152 are minimal. The department, after considering the purpose of the authorizing statutes, does
2 not believe it is legal or feasible to waive or modify the requirements of proposed §215.150 for a small or
3 micro-business license holder.

4 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests
5 are affected by this proposal and that this proposal does not restrict or limit an owner's right to property
6 that would otherwise exist in the absence of government action and, therefore, does not constitute a
7 taking or require a takings impact assessment under Government Code, §2007.043.

8 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the first
9 five years the proposed new section is in effect, the proposed rule:

- 10 will not create or eliminate a government program;
- 11 will not require the creation of new employee positions or the elimination of existing employee
12 positions;
- 13 will not require an increase or decrease in future legislative appropriations to the department;
- 14 will not require an increase or decrease in fees paid to the department;
- 15 will create new regulation establishing the process for determining the maximum number of
16 temporary tags that may be allocated to dealers and converters and the procedures for requesting
17 additional tags;
- 18 will not expand existing regulations;
- 19 will not repeal existing regulations;
- 20 will not increase or decrease the number of individuals subject to the rule's applicability; and
- 21 will not positively or adversely affect the Texas economy.

22 **REQUEST FOR PUBLIC COMMENT.**

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1 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on MM, DD,
2 YYYY. A request for a public hearing must be sent separately from your written comments. Send written
3 comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas
4 Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the
5 department will consider written comments and public testimony presented at the hearing.

6 **STATUTORY AUTHORITY.** The department proposes amendments to §§215.152 and 215.158 under
7 Transportation Code §§503.002, 503.0632, and 1002.001.

8 Transportation Code §503.002 authorizes the department to adopt rules to administer
9 Transportation Code Chapter 503.

10 Transportation Code §503.0632(a) provides that the department by rule may establish the
11 maximum number of temporary tags that a dealer or converter may obtain in a calendar year under
12 §§503.062, 503.0625, or 503.063.

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

15 **CROSS REFERENCE TO STATUTE.** Transportation Code §§503.062, 503.0625, 503.063, and 503.0632(a)-
16 (e).

17
18 **TEXT.**

19 **Subchapter E. General Distinguishing Numbers**

20 **43 TAC §215.152 and 215.158**

21
22 §215.152. Obtaining Numbers for Issuance of Temporary Tags

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1 (a) A dealer, a federal, state, or local governmental agency, or a converter is required to have
2 internet access to connect to the temporary tag databases maintained by the department.

3 (b) Except as provided by §215.157 of this title (relating to Advance Numbers, Preprinted Internet-
4 down Temporary Tags), before a temporary tag may be issued and displayed on a vehicle, a dealer, a
5 federal, state, or local governmental agency, or converter must:

6 (1) enter in the temporary tag database true and accurate information about the vehicle,
7 dealer, converter, or buyer, as appropriate; and

8 (2) obtain a specific number for the temporary tag.

9 (c) The department will inform each dealer annually of the maximum number of buyer's
10 temporary tags the dealer is authorized to issue during the calendar year under Transportation Code
11 §503.0632. The number of buyer's temporary tags allocated to each dealer by the department will be
12 determined based on the following formula:

13 (1) Sales data determined from the department's systems from previous three fiscal
14 years. A dealer's base number will contain the greater of:

15 (A) the maximum number of in-state buyer's temporary tags issued during
16 previous fiscal years, or

17 (B) the maximum number of title transactions processed through the Registration
18 and Title System during previous fiscal years; and

19 (C) the addition of the maximum number of out-of-state buyer's temporary tags
20 issued during previous fiscal years; except

21 (D) the dealer's base number will be limited to an amount that is not more than
22 two times the number of title transactions identified in §215.152(c)(1)(B).

23 (2) a multiplier based on the dealer's time in operation; and

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1 (3) the total value of §215.152(c)(1) and (c)(2), multiplied by the expected annual growth
2 rate percentage, not less than zero, to determine the buyer’s temporary tag allotment; and in addition:

3 (4) the department may increase the determined allotment of buyer’s temporary tags for
4 dealers in the state, in a geographic or population area, or in a county, based on:

5 (A) changes in the market;

6 (B) temporary conditions that may affect sales; and

7 (C) any other information the department considers relevant.

8 (d) The department will inform each dealer annually of the maximum number of agent temporary
9 tags and vehicle specific temporary tags the dealer is authorized to issue during the calendar year under
10 Transportation Code §503.0632. The number of agent temporary tags and vehicle specific temporary tags
11 allocated to each dealer by the department, for each tag type, will be determined based on the following
12 formula:

13 (1) dealer temporary tag data for agent temporary tags and vehicle specific temporary
14 tags determined from the department’s systems from previous three fiscal years. A dealer’s base number
15 will contain the maximum number of dealer temporary tags issued during previous fiscal years;

16 (2) a multiplier based on the dealer’s time in operation; and

17 (3) the total value of §215.152(d)(1) and (d)(2), multiplied by the expected annual growth
18 rate percentage, not less than zero, to determine the dealer’s temporary tag allotment; and in addition:

19 (4) the department may increase a dealer’s allotment of agent temporary tags and vehicle
20 specific temporary tags for dealers in the state, in a geographic or population area, or in a county, based
21 on:

22 (A) changes in the market;

23 (B) temporary conditions that may affect sales; and

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- 1 (C) any other information the department considers relevant.

- 2 (e) The department will inform each converter annually of the maximum number of temporary
3 tags the converter is authorized to issue during the calendar year under Transportation Code §503.0632.
4 The number of temporary tags allocated to each converter by the department will be determined based
5 on the following formula:
 - 6 (1) converter temporary tag data determined from the department’s systems from
7 previous three fiscal years. A converter’s base number will contain the maximum number of converter
8 temporary tags issued during previous fiscal years;
 - 9 (2) A multiplier based on the converter’s time in operation; and
 - 10 (3) the total value of §215.152(e)(1) and (e)(2), multiplied by the expected annual growth
11 rate percentage, not less than zero, to determine the converter’s temporary tag allotment.
 - 12 (4) The department may increase a converter’s allotment of converter temporary tags for
13 converters in the state, in a geographic or population area, or in a county, based on:
 - 14 (A) changes in the market;
 - 15 (B) temporary conditions that may affect sales; and
 - 16 (C) any other information the department considers relevant.

- 17 (f) A dealer or converter that is licensed after the commencement of a calendar year shall be
18 authorized to issue the number of temporary tags allotted in this subsection prorated on all or part of the
19 remaining months until the commencement of the calendar year after the dealer’s or converter’s initial
20 license expires. The allocations shall be as determined by the department in granting the license, but not
21 more than:
 - 22 (1) 600 temporary tags for a franchised dealer per each tag type, buyer’s temporary tags,
23 agent temporary tags, and vehicle specific tags;

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1 (2) 300 temporary tags for a nonfranchised dealer per each tag type, buyer’s temporary
2 tags, agent temporary tags, and vehicle specific tags; and

3 (3) A converter will be allocated 600 temporary tags.

4 (g) An existing dealer or converter that is moving its operations from one location to a different
5 location will continue with its allotment of temporary tags and not be allocated temporary tags under
6 subsection (f) of this section.

7 (h) An existing dealer or converter opening an additional location will receive a maximum
8 allotment based on the allotment provided to existing locations.

9 (i) After using 50 percent of the allotted maximum number of temporary tags, a dealer or
10 converter may request an increase in the number of temporary tags by submitting a request in the
11 department’s eLICENSING system.

12 (1) The dealer or converter must provide information demonstrating the need for
13 additional temporary tags results from business operations, including anticipated needs, as required by
14 §503.0632(c). Information may include documentation of sales and tax reports filed as required by law,
15 information of anticipated need, or other information of the factors listed in §503.0632(b).

16 (2) The department shall consider the information presented and may consider
17 information not presented that may weigh for or against granting the request that the department in its
18 sole discretion determines to be relevant in making its determination. Other relevant information may
19 include information of the factors listed in §503.0632(b), the timing of the request, and the applicant’s
20 temporary tag activity.

21 (3) The department may allocate a lesser or greater number of additional temporary tags
22 than the amount requested by the dealer or converter. Allocation of a lesser or greater number of
23 additional temporary tags is not a denial of the request.

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1 (4) If a request is denied, a dealer or converter may appeal the denial to the Director of
2 the Motor Vehicle Division whose decision is final.

3 (5) Once a denial is final, a dealer or converter may only submit a subsequent request for
4 additional temporary tags during that calendar year if the dealer or converter is able to provide additional
5 information not considered in the prior request.

6 (j) A change in the allotment under subsection (i) does not create a dealer or converter base for
7 subsequent year calculations.

8 (k) The department may at any time initiate an enforcement action against a dealer or converter
9 if temporary tag usage suggests that misuse or fraud has occurred as described in Transportation Code
10 §§503.038, 503.0632(f), or 503.067.

11 (l) Unused dealer or converter tag allotments from a calendar year do not roll over to subsequent
12 years.

13
14 RULE §215.158. General Requirements and Allocation of Preprinted Internet-down Temporary Tag
15 Numbers

16 (a) The dealer, or a federal, state, or local governmental agency, is responsible for the safekeeping
17 of preprinted Internet-down temporary tags and shall store them in a secure place, and promptly destroy
18 any expired tags. The dealer, or a federal, state, or local governmental agency shall report any loss, theft,
19 or destruction of preprinted Internet-down temporary tags to the department within 24 hours of
20 discovering the loss, theft, or destruction.

21 (b) A dealer, or a federal, state, or local governmental agency, may use a preprinted Internet-
22 down temporary tag up to 12 months after the date the preprinted Internet-down temporary tag is

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1 created. A dealer, or a federal, state, or local governmental agency, may create replacement preprinted
2 Internet-down temporary tags up to the maximum allowed, when:

3 (1) a dealer, or a federal, state, or local governmental agency, uses one or more
4 preprinted Internet-down temporary tags and then enters the required information in the temporary tag
5 database after access to the temporary tag database is again available; or

6 (2) a preprinted Internet-down temporary tag expires.

7 (c) The number of preprinted Internet-down temporary tags that a dealer, or federal, state, or
8 local governmental agency, may create is equal to the greater of:

9 (1) the number of preprinted Internet-down temporary tags previously allotted by the
10 department to the dealer or a federal, state, or local governmental agency;

11 (2) 30; or

12 (3) 1/52 of the dealer's, or federal, state, or local governmental agency's, total annual
13 sales.

14 (d) For good cause shown, a dealer, or a federal, state, or local governmental agency, may obtain
15 more than the number of preprinted Internet-down temporary tags described in subsection (c) of this
16 section. The director of the Motor Vehicle Division [~~Vehicle Titles and Registration Division~~] of the
17 department or that director's delegate may approve, in accordance with this subsection, an additional
18 allotment of preprinted Internet-down temporary tags for a dealer, or a federal, state, or local
19 governmental agency, if the additional allotment is essential for the continuation of the dealer's, or a
20 federal, state, or local governmental agency's, business. The director of the Motor Vehicle Division
21 [~~Vehicle Titles and Registration Division~~] of the department, or a federal, state, or local governmental
22 agency, or that director's delegate will base the determination of the additional allotment of preprinted
23 Internet-down temporary tags on the dealer's, or a federal, state, or local governmental agency's, past

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1 sales, inventory, and any other factors that the director of the Motor Vehicle Division [~~Vehicle Titles and~~
2 ~~Registration Division~~] of the department or that director's delegate determines pertinent, such as an
3 emergency. A request for additional preprinted Internet-down temporary tags must specifically state why
4 the additional preprinted Internet-down temporary tags are necessary for the continuation of the
5 applicant's business.

6 (e) Preprinted Internet-down temporary tags created under subsection (c) of this section apply to
7 the maximum tag limit established in §215.152 of this title (relating to Obtaining Numbers for Issuance of
8 Temporary Tags) when the preprinted tag is entered into the temporary tag database as a sale.

9
10 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the proposal and found it to be
11 within the state agency's legal authority to adopt.

12 Issued at Austin, Texas, on Month Day, YYYY.

13
14
15 _____
Tracey Beaver, General Counsel

H.B. No. 3927

AN ACT

relating to certain temporary motor vehicle tags.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 503.0626(a) and (c), Transportation Code, are amended to read as follows:

(a) The department shall develop, manage, and maintain a secure, real-time database of information on vehicles to which dealers and converters have affixed temporary tags. ~~[The database shall be managed by the vehicle titles and registration division of the department.]~~

(c) Before a dealer's or converter's temporary tag may be displayed on a vehicle, the dealer or converter must enter into the database through the Internet information on the vehicle and information about the dealer or converter as prescribed by the department. Except as provided by Section 506.0632(f), the ~~[The]~~ department may not deny access to the database to any dealer who holds a general distinguishing number issued under this chapter or who is licensed under Chapter 2301, Occupations Code, or to any converter licensed under Chapter 2301, Occupations Code.

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1 state; and

2 (2) the vehicle:

3 (A) at the time of purchase, is not located or
4 required to be titled or registered in this state;

5 (B) will be titled and registered in accordance
6 with the laws of the buyer's state of residence; and

7 (C) will be inspected in accordance with the laws
8 of the buyer's state of residence, if the laws of that state require
9 inspection.

10 (j) A vehicle may be issued and display a buyer's tag
11 without satisfying the inspection requirements of Chapter 548 if
12 the vehicle is purchased at public auction in this state and is:

13 (1) an antique vehicle as defined by Section
14 683.077(b); or

15 (2) a special interest vehicle as defined by Section
16 683.077(b) that:

17 (A) is at least 12 years of age; and

18 (B) has been the subject of a retail sale.

19 SECTION 3. Sections 503.0631(a) and (c), Transportation
0 Code, are amended to read as follows:

1 (a) The department shall develop, manage, and maintain a
2 secure, real-time database of information on persons to whom

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1 temporary tag may be displayed on a vehicle, a dealer must enter
2 into the database through the Internet information about the buyer
3 of the vehicle for which the tag was issued as prescribed by the
4 department and generate a vehicle-specific number for the tag as
5 required by Section 503.063(e). Except as provided by Section
6 506.0632(f), the [The] department may not deny access to the
7 database to any dealer who holds a general distinguishing number
8 issued under this chapter or who is licensed under Chapter 2301,
9 Occupations Code.

10 SECTION 4. Subchapter C, Chapter 503, Transportation Code,
11 is amended by adding Section 503.0632 to read as follows:

12 Sec. 503.0632. DEPARTMENT REGULATION OF TEMPORARY TAGS AND
13 ACCESS TO TEMPORARY TAG DATABASES. (a) The department by rule may
14 establish the maximum number of temporary tags that a dealer or
15 converter may obtain in a calendar year under Section 503.062,
16 503.0625, or 503.063.

17 (b) The maximum number of temporary tags that the department
18 determines a dealer or converter may obtain under this section must
19 be based on the dealer's or converter's anticipated need for
20 temporary tags, taking into consideration:

21 (1) the dealer's or converter's:

22 (A) time in operation;

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1 dealer or converter; and

2 (4) any other information the department considers
3 relevant.

4 (c) At the request of a dealer or converter, the department
5 may authorize additional temporary tags of any type for the dealer
6 or converter if the dealer or converter demonstrates a need for
7 additional temporary tags resulting from business operations,
8 including anticipated need.

9 (d) The department's denial of a request under Subsection
10 (c) may be overturned if a dealer or converter shows by a
11 preponderance of the evidence the need for additional temporary
12 tags.

13 (e) The department shall monitor the number of temporary
14 tags obtained by a dealer or converter.

15 (f) If the department determines that a dealer or converter
16 is fraudulently obtaining temporary tags from the temporary tag
17 database, the department may, after giving notice electronically
18 and by certified mail to the dealer or converter, deny access to a
19 temporary tag database to the dealer or converter. A dealer or
20 converter denied access to a temporary tag database under this
21 subsection may request a hearing on the denial as provided by
22 Subchapter O, Chapter 2301, Occupations Code.

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1 (2) any other [~~an~~] unauthorized temporary tag.

2 (d) A person may not sell or distribute a temporary tag or an
3 item represented to be a temporary tag unless the person is[~~+~~

4 [~~(1)~~] a dealer issuing the tag in connection with the
5 sale of a vehicle[~~+~~or

6 [~~(2) a printer or distributor engaged in the business~~
7 ~~of selling temporary tags solely for uses authorized under this~~
8 ~~chapter~~].

9 SECTION 6. The changes in law made by this Act apply only to
10 an offense committed on or after the effective date of this Act. An
11 offense committed before the effective date of this Act is governed
12 by the law in effect on the date the offense was committed, and the
13 former law is continued in effect for that purpose. For purposes of
14 this section, an offense was committed before the effective date of
15 this Act if any element of the offense occurred before that date.

16 SECTION 7. This Act takes effect September 1, 2021.

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President of the Senate

Speaker of the House

I certify that H.B. No. 3927 was passed by the House on May 7, 2021, by the following vote: Yeas 128, Nays 12, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3927 on May 28, 2021, by the following vote: Yeas 125, Nays 16, 4 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3927 was passed by the Senate, with amendments, on May 22, 2021, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor



House Bill 3927 Briefing Document

The Texas Department of Motor Vehicles (TxDMV or the department) Board requested the legislature in 2021 to provide TxDMV with tools to combat misuse and fraud in the issuance of temporary tags. With additional input from law enforcement, motor vehicle dealers and the industry, the legislature responded with House Bill 3927. The tools provided in HB 3927 include authorizing TxDMV to deny a dealer of converter access to the temporary tag database and to establish the maximum number of temporary tags a dealer or converter may obtain in a calendar year.

Dealers and converters obtain temporary tags from the temporary tag database. Prior to HB 3927, TxDMV was specifically prohibited by statute from denying a dealer or converter that was fraudulently obtaining thousands of excess temporary tags with access to the database. The department's only recourse was license revocation, an administrative process that can take months or years to complete, all the while leaving the dealer or converter with access to the temporary tag database to continue the fraudulent activity.

House Bill 3927 removes the statutory prohibition and authorizes TxDMV to deny a dealer's or converter's access to the temporary tag database if TxDMV determines a dealer or converter is fraudulently obtaining temporary tags. The dealer or converter may appeal the department's determination, but the dealer or converter no longer has the ability to engage in the fraudulent activity.

While denial of access is a powerful tool to stop those few who are misusing the system and fraudulently issuing temporary tags, it is reactive and addresses only stopping additional fraudulent activity. To prevent the fraud, the legislature authorized TxDMV to establish the maximum number of temporary tags a dealer or converter may obtain in a calendar year.

Establishing the maximum number of temporary tags that a dealer or converter may issue eliminates the ability to issue an unlimited number of temporary tags and provides a hard stop cap for a dealer or converter engaging in fraudulent activity. Setting maximum temporary tag limits requires TxDMV to carefully balance the need to combat fraud, while ensuring lawfully operating dealers and converters can continue to grow and conduct business efficiently and minimizing any administrative burden for both license holders and TxDMV.

House Bill 3927 requires TxDMV to consider the dealer's or converter's time in operation, sales data, expected growth, expected changes in the market, temporary conditions that may affect sales, and any other information the TxDMV considers relevant when establishing the maximum number of temporary tags. The bill also allows a dealer or converter to request additional temporary tags from TxDMV if the dealer or converter demonstrates a need.

The department developed separate methods to establish temporary tag limits for existing dealers and converters, as well as new licensees. The method used for existing dealers and converters is based on an analysis of data from the department's automated systems. Using the available data and bill requirements, TxDMV developed a formula that begins with the greatest actual number of temporary tags issued by each dealer or converter in a year over a period of years. That base number is then increased by the dealer's or converter's time in operation and then increased again by the anticipated



growth rate in the market. The administrative burden is minimized, because a dealer or converter is not required to submit additional reports to TxDMV or hire additional staff to obtain the temporary tags.

The following identifies each variable used in the formula and the considerations of each:

- Temporary Tag Data
 - To identify the maximum temporary tags issued by the dealer or converter from previous fiscal years.
 - Includes in-state buyer's temporary tags and out-of-state buyer's temporary tags to account for out-of-state sales.
- Title Transaction Data
 - To determine the maximum title transactions processed for the dealer from previous fiscal years for comparison to the maximum in-state buyer's temporary tags issued.
- Years in Operation
 - The number of years the dealer or converter has been licensed with TxDMV to allow for an annual increase in tag allotment as years in operation increase.
- Growth Rate
 - The actual, statewide annual growth rate specific to each temporary tag type to account for additional expected growth.

By using this information and a formula that anticipates solid growth based on actual temporary tag issuance for each entity, the department can combat temporary tag fraud and establish maximum limits for each dealer and converter to operate efficiently and exceed its prior level of operations without having to request additional temporary tags from TxDMV. The department reserves the ability to increase the numbers of temporary tags available if market conditions warrant. If needed, dealers and converters may request additional tags based on their specific conditions.

Temporary tag limits for new dealers and converters required an alternative method because they have no actual temporary tag issuance data and the time in operation multiplier would be minimal. As a result, TxDMV evaluated data trends and considered input from the Motor Vehicle Industry Regulation Advisory Committee in determining the appropriate initial allotment of temporary tags for license holders. The department established three specific groups to accommodate the absence of historical data and account for the various statuses of: newly licensed entities; existing licensees moving to a new location; and existing licensees opening an additional location.

A new dealer or converter would remain in the identified allotment group until their license has been renewed and TxDMV is able to use their individual sales and transaction data to apply the formula for established dealers.

The following identifies each group and the allotted number of temporary tags:

- Franchise Dealers: 600 temporary tags per each tag type
- Independent Dealers: 300 temporary tags per each tag type
- Converters: 600 temporary tags

Existing dealers or converters moving to a new location would maintain the temporary tag allotment established at the previous location.



Existing dealers or converters opening an additional location would receive a temporary tag allotment based on the allotment provided to existing locations.



Board Meeting Date: 10/29/2021
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Corrie Thompson, Enforcement Division Director
Agenda Item: 7
Subject: Chapter 215, Motor Vehicle Distribution - Corrie Thompson (ACTION ITEM)
Amendments, §§215.150, 215.151, 215.153, 215.154, and 215.155
New, §215.505
(Relating to HB 3927, including, allowing for denial of access to the temporary tag database and issuance of temporary tags to certain vehicles without inspection)

RECOMMENDATION

Approval to publish the proposed amended sections in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the proposed amendments to §§215.150, 215.151, 215.153, 215.154, and 215.155 and new §215.505 is to implement HB3927, Regular Session (2021), including, allowing for denial of access to the temporary tag database and issuance of temporary tags to certain vehicles without inspection. Further implementation of HB 3927, including establishing maximum tag limits will be addressed in Agenda 6, as a separate proposal.

FINANCIAL IMPACT

The department has determined that for each year of the first five years the proposed amendments and new section are in effect, there will be no significant fiscal impact to the state or local governments as a result of the enforcement or administration of the proposal. There will be no additional costs to the department and the proposed amendments will have no significant impact on revenue collections.

BACKGROUND AND DISCUSSION

House Bill 3927 provides the department with significant new tools to address temporary tag misuse and fraud, including denial of access to the temporary tag database and establishing the maximum number of temporary tags that a dealer or converter may issue. This proposal relates to denial of access to the temporary tag database. Considering the requirements of new Transportation Code §503.0632(f), the department has defined in §215.505 the conduct that may result in a determination that the dealer or converter has “fraudulently obtained temporary tags from the temporary tag database” and the dealer’s or converter’s denial of access to the temporary tag database. The section also establishes a notice and an appeal process for denials of access through the State Office of Administrative Hearings (SOAH) as required under §503.0632(f).

House Bill 3927 also authorized buyer’s temporary tags to be issued without a vehicle inspection in certain transactions involving out of state sales and antique auto auctions, which are addressed in amendments to §215.155. Also, relating to HB 3927 amendments to Transportation Code §503.067, the department has made amendments to §§215.150 and 215.153 to limit the unauthorized use of temporary tags by limiting unauthorized access to temporary tags.

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PROPOSAL OF

CHAPTER 215 MOTOR VEHICLE DISTRIBUTION

SUBCHAPTER E. GENERAL DISTINGUISHING NUMBERS

43 TAC §§215.150, 215.151, 215.153, 215.154, AND 215.155

SUBCHAPTER J. ADMINISTRATIVE SANCTIONS

43 TAC §215.505

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes amendments to 43 TAC §§215.150, 215.151, 215.153, 215.154, and 215.155 concerning access to the temporary tag database and temporary tag requirements and new 43 TAC §215.505 concerning denial of access to the temporary tag database. The amendments and new section are necessary to implement amended Transportation Code §§503.0626, 503.063, and 503.0631, and new §503.0632(f) concerning denial of access to the temporary tag database, management of the temporary tag database, requirements related to the issuance of certain temporary tags without an inspection, and prohibits the display and issuance of unauthorized temporary tags under House Bill (HB) 3927, 87th Legislature, Regular Session (2021). The department has also proposed amendments to 43 TAC §215.152 and §215.158 concerning maximum temporary tag limits in this issue of the *Texas Register*.

EXPLANATION. House Bill 3927 amended Transportation Code §503.0626 and §503.0631 and adds §503.0632 to provide the department with tools to limit the fraudulent misuse of the temporary tag database. The tools include the authority to deny access to the temporary tag database without having to first revoke the dealer’s or converter’s license and to establish the maximum number of temporary tags that a dealer or converter may issue. Proposed new §215.505 addresses the process for denial of access to the temporary tag database.

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1 In addition, HB 3927 amended Transportation Code §503.0626 and §503.0631 to direct the
2 department to manage the temporary tag database and amended Transportation Code §503.067 to
3 prohibit the display and issuance of unauthorized temporary tags. Proposed amendments to §§215.150,
4 215.151, 215.153, 215.154, and 215.155 address managing the database and limiting the ability of
5 unauthorized users to obtain and display temporary tags.

6 Finally, HB 3927 amended Transportation Code §503.063 concerning requirements related to the
7 issuance of buyer’s temporary tags to certain vehicles sold out of state or at auction without an inspection,
8 which is addressed in §215.155.

9 The department met twice with the Motor Vehicle Industry Regulatory Advisory Committee in
10 considering this proposal. The department appreciates the committee member’s serious consideration
11 of the issues presented by HB 3927 and the member’s comments.

12 The following paragraphs address the amendments and new section in this proposal.

13 The amendments to §215.150(a) conform to the amendment requirement in Transportation Code
14 §503.067 that temporary tags must be for an authorized purpose. The amendments to §215.150(b)
15 reference that a dealer’s or converter’s ability to obtain temporary tags is limited by new Transportation
16 Code §503.0632(a-e) concerning maximum tag limits and §503.0632(f) concerning denial of access to the
17 temporary tag database.

18 New §215.150(d) establishes requirements to manage access to the temporary tag database. The
19 requirements are consistent with Transportation Code §503.0626 and §503.0631 which, as amended,
20 require the department to manage a secure database and support preventing unauthorized access to the
21 database necessary to implement §503.067.

22 The amendment to §215.151 adds converters to the procedure for displaying a temporary tag as
23 required by Transportation Code §503.0625.

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1 The amendments to §215.153 are necessary to prevent unauthorized access to temporary tags necessary
2 to implement §503.067. The amendments remove the sample copies of temporary tags from display,
3 because the department is concerned that unauthorized persons may be able to use computer software
4 to manipulate the sample to create a high-quality tag, or at least a better-quality copy of a temporary tag
5 than could be obtained by photography or scanning. Further, having the tags online limit the
6 department's ability to change the design even if requested by law enforcement. As such, the department
7 proposes not to display the design. Law enforcement would be informed of the design and any design
8 changes, and dealers and converters using the database will print the current design for their customers
9 and own needs.

10 The amendments to §215.154 clarify the use of dealer's tags and support preventing unauthorized
11 access to the database necessary to implement §503.067. The amendment to §215.154(d)(1) adds that
12 designation and informs the reader that Transportation Code §503.062 states the authorized uses of a
13 dealer temporary tag. This avoids the potential incorrect inference that a dealer's tag could be used for
14 any purpose not prohibited in redesignated §215.154(d)(2). The amendments to redesignated
15 215.154(d)(2)(D) clarify that a dealer's tag cannot be issued for an off-highway vehicle, which are now
16 defined in Transportation Code §551A.001, because off-highway vehicles are not eligible for registration
17 under Transportation Code §502.140. Section 551A.001 defines an off-highway vehicle as an "all-terrain
18 vehicle or recreational off-highway vehicle," a "sand rail," or a "utility vehicle." The amendments to
19 §215.154(e)(3) update the limitation on use of courtesy cars to the current allowed use.

20 The amendment to §215.155 cites Transportation Code §503.063(i) and (j), which were added by
21 HB 3927 to specifically authorize issuance of buyer's temporary tags to certain vehicles sold out of state
22 or at auction without an inspection. The amendment to §215.155(f) is a nonsubstantive correction. The
23 citation refers to "dealer's tags," which are discussed in §215.154 and not §215.153.

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1 New §215.505 establishes the process for denial of access to the temporary tag database under
2 new Transportation Code §503.0632(f), as added by HB 3927. New §215.505(a) describes the conduct
3 that constitutes "fraudulently obtained temporary tags from the temporary tag database," and is grounds
4 under §503.0632(f), for denial of access to the temporary tag database. New §215.505(b) establishes that
5 the department will deny access to the database 10 days after it sends notice to the dealer or converter
6 that the department has determined the dealer or converter has fraudulently obtained temporary tags
7 from the temporary tag database. The dealer or converter may negotiate with the department during
8 this period. New §215.505(c) provides that the notices will be sent to the dealer's or converter's last
9 known address on the department's records.

10 New §215.505(d) establishes the appeal process under Subchapter O, Chapter 2301, Occupations
11 Code as required by new §503.0632(f) and HB 3927. The appeal process requires the dealer to submit a
12 request for hearing with the department within 26 days from the date the initial notice is sent to the
13 dealer or converter. Further, as proposed, requesting a hearing will not stay the denial of access.

14 New §215.505(e) provides that the department may also issue a Notice of Department Decision
15 stating administrative violations as provided in §215.500 concurrently with the notice of denial of access.
16 The subsection is to clarify that the denial of access process based on the department's determination
17 that the dealer or converter has fraudulently obtained temporary tags from the temporary tag database
18 is separate from any administrative action the department may bring against the dealer or converter,
19 even though they may be based on the same facts. New §215.505(f) provides that the denial
20 determination will become final if the dealer or converter does not request a hearing or enter into a
21 settlement agreement with the department within 26 days of the date of the notice denying access to a
22 database.

23

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1 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,
2 has determined that for each year of the first five years the proposed amendments and new section are
3 in effect, there will be no significant fiscal impact to the state or local governments as a result of the
4 enforcement or administration of the proposal. There will be no additional costs to the department and
5 the proposed amendments will have no significant impact on revenue collections.

6 Corrie Thompson, Director of the Enforcement Division, has determined that there will be no
7 measurable effect on local employment or the local economy as a result of the proposal, because the
8 overall number of motor vehicle sales will not be affected.

9 **PUBLIC BENEFIT AND COST NOTE.** Ms. Thompson has also determined that, for each year of the first five
10 years the proposed rules are in effect the public benefits include establishing rules to implement HB 3927
11 and limiting the criminal activity of a small subset of dealers who fraudulently obtain and sell tens of
12 thousands of temporary tags to persons seeking to engage in violent criminal activity, including armed
13 robbery, human trafficking, and assaults on law enforcement; or to criminally operate uninsured and
14 uninspected vehicles as a hazard to Texas motorists and the environment.

15 Ms. Thompson anticipates that the proposed requirements in proposed amendments to
16 §215.150(d) establishing dealer and converter duties to monitor temporary tag usage, manage account
17 access, and take timely and appropriate actions to maintain system security will have a cost, but further
18 anticipates that most license holders are operating in a businesslike manner and as such any additional
19 cost will be minimal.

20 The requirements are to manage secure access to the temporary tag database as the license
21 holder would secure any other valuable business asset. The requirements are as follows:

- 22 (1) monitoring temporary tag usage;
23 (2) managing account access; and

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- 1 (3) taking timely and appropriate actions to maintain system security, including:
- 2 (1) establishing and following reasonable password policies, including preventing the
- 3 sharing of passwords;
- 4 (2) limiting authorized users to owners and bona fide employees with a business need to
- 5 access the database;
- 6 (3) removing users who no longer have a legitimate business need to access the system;
- 7 (4) securing printed tags and destroying expired tags; and
- 8 (5) securing equipment used to access the temporary tag database and print temporary
- 9 tags.

10 While implementing the requirements will differ depending on factors such as the number of
 11 people the license holder employs, the license holder’s sales volume, and the license holder’s general
 12 organization and business model, the license holder is not required to purchase any special equipment,
 13 employ additional persons, or prepare additional reports. Given the vast differences in the approximately
 14 22,000 license holders this proposal will affect, a calculation of costs is impossible. Some may choose to
 15 place the requirement on existing management. Others may hire personnel and create systems to
 16 monitor multiple licensees across multiple locations. Either of these or other methods are a business
 17 decision of the license holder and beyond the scope of the department to determine.

18 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** The cost analysis in the
 19 Public Benefit and Cost Note section of this proposal has determined that proposed §215.150(d) may
 20 result in additional costs for license holders. The department estimates that more than half of the 22,000
 21 affected license holders are small or micro-businesses.

22 The department has tried to minimize cost to license holders. The requirements in §215.150(d)
 23 are designed to be flexible and without a requirement that a license holder incur costs from the purchase

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1 of special equipment, employment of additional persons, or preparation of additional reports. In addition,
2 the proposal does not limit or affect a license holder's ability to sell motor vehicles.

3 The department has considered not adopting §215.150(d), exempting small and micro-business
4 license holders from §215.150(d), and adopting a limited version of §215.150(d) for small and micro-
5 business license holders. The department rejects all three options. It has been small and micro-business
6 license holders that have misused the temporary tag database and issued the tens of thousands of illegal
7 tags. Further, the requirements of §215.150(d) are minimal. The department, after considering the
8 purpose of the authorizing statutes, does not believe it is legal or feasible to waive or modify the
9 requirements of proposed §215.150 for a small or micro-business license holder.

10 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests
11 are affected by this proposal and that this proposal does not restrict or limit an owner's right to property
12 that would otherwise exist in the absence of government action and, therefore, does not constitute a
13 taking or require a takings impact assessment under Government Code, §2007.043.

14 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the first
15 five years the proposed new section is in effect, the proposed rule:

- 16 will not create or eliminate a government program;
- 17 will not require the creation of new employee positions or the elimination of existing employee
18 positions;
- 19 will not require an increase or decrease in future legislative appropriations to the department;
- 20 will not require an increase or decrease in fees paid to the department;
- 21 will create new regulation establishing dealer and converter duties to monitor temporary tag
22 usage, manage account access, and take timely and appropriate actions to maintain system security; and
23 establishes the creation of a notice and appeal process following a department determination and action

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- 1 denying access to the temporary tag database;
- 2 will not expand existing regulations;
- 3 will not repeal existing regulations;
- 4 will not increase or decrease the number of individuals subject to the rule's applicability; and
- 5 will not positively or adversely affect the Texas economy.

6 **REQUEST FOR PUBLIC COMMENT.**

7 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on MM, DD,
8 YYYY. A request for a public hearing must be sent separately from your written comments. Send written
9 comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas
10 Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the
11 department will consider written comments and public testimony presented at the hearing.

12 **STATUTORY AUTHORITY.** The department proposes amendments to §§215.150, 215.151, 215.153,
13 215.154, and 215.155, and new §215.505 under Occupations Code §2301.705 and Transportation Code
14 §§503.002, 503.0626, 503.0631, and 1002.001.

15 Occupations Code §2301.705 provides that notice of a hearing involving a license holder must
16 be given in accordance with Chapter 2301 and board rules.

17 Transportation Code §503.002 authorizes the department to adopt rules to administer
18 Transportation Code Chapter 503.

19 Transportation Code §503.0626(d) authorizes the department to adopt rules and prescribe
20 procedures as necessary to implement §503.0626.

21 Transportation Code §503.0631(e) authorizes the department to adopt rules and prescribe
22 procedures as necessary to implement §503.0631.

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

3 **CROSS REFERENCE TO STATUTE.** Transportation Code §§503.0626, 503.063, 503.0631, and 503.0632(f)
4

5 **TEXT**

6 **Subchapter E. General Distinguishing Numbers**

7 **43 TAC §§215.150, 215.151, 215.153, 215.154 and 215.155**

8 §215.150 Authorization to Issue Temporary Tags

9 (a) A dealer that holds a GDN may issue a dealer's temporary tag, buyer's temporary tag, or a
10 preprinted Internet-down temporary tag for authorized purposes only for each type of vehicle the dealer
11 is licensed to sell. A converter that holds a converter's license under Occupations Code, Chapter 2301 may
12 issue a converter's temporary tag for authorized purposes only.

13 (b) A license holder may issue an applicable dealer's temporary tag, buyer's temporary tag, or
14 converter's temporary tag until:

15 (1) the department denies access to the temporary tag database under Transportation
16 Code §503.0632(f) and §215.505 of this title (relating to Denial of Dealer or Converter Access to
17 Temporary Tag System);

18 (2) the license holder issues the maximum number of temporary tags authorized under
19 Transportation Code §503.0632(a)-(d); or

20 (3) the license is canceled, revoked, or suspended.

21 (c) A federal, state, or local governmental agency that is exempt under Section 503.024 from the
22 requirement to obtain a dealer general distinguishing number may issue one temporary buyer's tag, or
23 one preprinted Internet-down temporary tag, in accordance with Transportation Code §503.063. A

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1 governmental agency that issues a temporary buyer's tag, or preprinted Internet-down temporary tag,
2 under this subsection:

3 (1) is subject to the provisions of Transportation Code §503.0631 and §503.067 applicable
4 to a dealer; and

5 (2) is not required to charge the registration fee under Transportation Code §503.063(g).

6 (d) A dealer or converter is responsible for all use of and access to the applicable temporary tag
7 database under the dealer's or converter's account, including access by any user or unauthorized person.
8 Dealer and converter duties include monitoring temporary tag usage, managing account access, and
9 taking timely and appropriate actions to maintain system security, including:

10 (1) establishing and following reasonable password policies, including preventing the
11 sharing of passwords;

12 (2) limiting authorized users to owners and bona fide employees with a business need to
13 access the database;

14 (3) removing users who no longer have a legitimate business need to access the system;

15 (4) securing printed tags and destroying expired tags; and

16 (5) securing equipment used to access the temporary tag database and print temporary
17 tags.

18
19 RULE §215.151. Temporary Tags, General Use Requirements, and Prohibitions

20 (a) A dealer or converter shall secure a temporary tag to a vehicle in the license plate display
21 area located at the rear of the vehicle, so that the entire temporary tag is visible and legible at all times,
22 including when the vehicle is being operated.

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1 (b) A federal, state, or local governmental agency shall secure a temporary buyer's tag or
2 preprinted Internet-down temporary tag issued under 215.150(c) of this title (relating to Authorization
3 to Issue Temporary Tags) to a vehicle in the license plate display area located at the rear of the vehicle,
4 so that the entire temporary tag is visible and legible at all times, regardless of whether the vehicle is
5 being operated.

6 (c) All printed information on a temporary tag must be visible and may not be covered or
7 obstructed by any plate holder or other device or material.

8 (d) A motor vehicle that is being transported using the full mount method, the saddle mount
9 method, the tow bar method, or any combination of those methods in accordance with Transportation
10 Code, §503.068(d), must have a dealer's temporary tag, a converter's temporary tag, or a buyer's
11 temporary tag, whichever is applicable, affixed to the motor vehicle being transported.

12
13 §215.153 Specifications for All Temporary Tags

14 (a) Information printed or completed on a temporary tag must be in black ink on a white
15 background. Other than for a motorcycle, a completed buyer's, dealer's, converter's, or preprinted
16 Internet-down temporary tag shall be six inches high and at least eleven inches wide. For a motorcycle,
17 the completed buyer's, dealer's, converter's, or preprinted Internet-down temporary tag shall be four
18 inches high and at least seven inches wide.

19 (b) A temporary tag must be:

20 (1) composed of plastic or other durable, weather-resistant material; or

21 (2) sealed in a two mil clear poly bag that encloses the entire temporary tag.

22 (c) A temporary tag may only be issued and printed from the department's temporary tag
23 database as described in §215.152 of this title (relating to Obtaining Numbers for Issuance of Temporary

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1 Tags) and §215.157 of this title (relating to Advance Numbers, Preprinted Internet-down Temporary Tags).

2 [~~must comply with the specifications of the applicable temporary tag identified by the following~~

3 ~~appendices:~~

4 ~~(1) Appendix A-1 – Dealer's Temporary Tag – Assigned to Specific Vehicle;~~

5 ~~Attached Graphic~~

6 ~~(2) Appendix A-2 – Dealer's Temporary Tag – Assigned to Agent;~~

7 ~~Attached Graphic~~

8 ~~(3) Appendix B-1 – Buyer's Temporary Tag;~~

9 ~~Attached Graphic~~

10 ~~(4) Appendix B-2 – Preprinted Internet-down Temporary Tag; and~~

11 ~~Attached Graphic~~

12 ~~(5) Appendix C-1 – Converter's Temporary Tag.~~

13 ~~Attached Graphic~~

14

15 §215.154 Dealer's Temporary Tags

16 (a) A dealer's temporary tag may be displayed only on the type of vehicle for which the GDN is
17 issued and for which the dealer is licensed by the department to sell.

18 (b) A wholesale motor vehicle auction license holder that also holds a dealer GDN may display a
19 dealer's temporary tag on a vehicle that is being transported to or from the licensed auction location.

20 (c) When an unregistered vehicle is sold to another dealer, the selling dealer shall remove the
21 selling dealer's temporary tag. The purchasing dealer may display its dealer temporary tag or its metal
22 dealer's license plate on the vehicle.

23 (d) A dealer's temporary tag

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1 (1) may be displayed on a vehicle only as authorized in Transportation Code §503.062;

2 and

3 (2) may not be displayed on:

4 (A) [(1)] a laden commercial vehicle being operated or moved on the public
5 streets or highways;

6 (B) [(2)] on the dealer's service or work vehicles;

7 (C) [(3)] a golf cart as defined under Transportation Code Chapter 551; or

8 (D) [(4)] an [all-terrain vehicle, recreational] off-highway vehicle [or a utility
9 vehicle] as defined under Transportation Code Chapter 551A.

10 (e) For purposes of this section, a dealer's service or work vehicle includes:

11 (1) a vehicle used for towing or transporting other vehicles;

12 (2) a vehicle, including a light truck, used in connection with the operation of the dealer's
13 shops or parts department;

14 (3) a courtesy car with no signs on the vehicle;

15 (4) a rental or lease vehicle; and

16 (5) any boat trailer owned by a dealer or manufacturer that is used to transport more
17 than one boat.

18 (f) For purposes of subsection (d) of this section, a vehicle bearing a dealer's temporary tag is not
19 considered a laden commercial vehicle when the vehicle is:

20 (1) towing another vehicle bearing the same dealer's temporary tags; and

21 (2) both vehicles are being conveyed from the dealer's place of business to a licensed
22 wholesale motor vehicle auction or from a licensed wholesale motor vehicle auction to the dealer's place
23 of business.

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1 (g) As used in this section, "light truck" has the meaning assigned by Transportation Code,
2 §541.201.

3 (h) A dealer's temporary tag may not be used to operate a vehicle for the personal use of a dealer
4 or a dealer's employee.

5 (i) A dealer's temporary tag must show its expiration date, which must not exceed 60 days after
6 the date the temporary tag was issued.

7 (j) A dealer's temporary tag may be issued by a dealer to a specific motor vehicle in the dealer's
8 inventory or to a dealer's agent who is authorized to operate a motor vehicle owned by the dealer.

9 (k) A dealer that issues a dealer's temporary tag to a specific vehicle must ensure that the
10 following information is placed on the temporary tag:

11 (1) the vehicle-specific number from the temporary tag database;

12 (2) the year and make of the vehicle;

13 (3) the VIN of the vehicle;

14 (4) the month, day, and year of the temporary tag's expiration; and

15 (5) the name of the dealer.

16 (l) A dealer that issues a dealer's temporary tag to an agent must ensure that the following
17 information is placed on the temporary tag:

18 (1) the specific number from the temporary tag database;

19 (2) the month, day, and year of the temporary tag's expiration; and

20 (3) the name of the dealer.

21

22 §215.155 Buyer's Temporary Tags

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1 (a) A buyer's temporary tag may be displayed only on a vehicle from the seller's inventory that
2 can be legally operated on the public streets and highways and for which a sale has been consummated.

3 (b) A buyer's temporary tag may be displayed only on a vehicle that has a valid inspection in
4 accordance with Transportation Code Chapter 548, unless

5 (1) an inspection is not required under Transportation Code §503.063(i) or (j); or

6 (2) the vehicle is exempt from inspection under Chapter 548.

7 (c) For a wholesale transaction, the purchasing dealer places on the motor vehicle its own:

8 (1) dealer's temporary tag; or

9 (2) metal dealer's license plate.

10 (d) A buyer's temporary tag is valid until the earlier of:

11 (1) the date on which the vehicle is registered; or

12 (2) the 60th day after the date of purchase.

13 (e) The dealer, or federal, state, or local governmental agency, must ensure that the following
14 information is placed on a buyer's temporary tag that the dealer issues:

15 (1) the vehicle-specific number obtained from the temporary tag database;

16 (2) the year and make of the vehicle;

17 (3) the VIN of the vehicle;

18 (4) the month, day, and year of the expiration of the buyer's temporary tag; and

19 (5) the name of the dealer or federal, state, or local governmental agency.

20 (f) A dealer shall charge a buyer a fee of \$5 for the buyer's temporary tag or Internet-down buyer's
21 temporary tag issued, unless the vehicle is exempt from payment of registration fees under
22 Transportation Code, §502.453 or §502.456. A federal, state, or local governmental agency may charge a
23 buyer a fee of \$5 for the buyer's temporary tag or Internet-down buyer's temporary tag issued, unless the

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1 vehicle is exempt from payment of registration fees under Transportation Code, §502.453 or §502.456,
2 or is a vehicle described in §215.154(d)(2)(C) or (D) [~~§215.153(d)(3) or (4)~~] of this chapter (relating to
3 Dealer's Temporary Tags). The fee shall be remitted by a dealer to the county in conjunction with the title
4 transfer, and, if collected, by a federal, state, or local governmental agency, to the county, for deposit to
5 the credit of the Texas Department of Motor Vehicles fund, unless the vehicle is sold by a dealer to an
6 out-of-state resident, in which case:

7 (1) the dealer shall remit the entire fee to the department for deposit to the credit of the
8 Texas Department of Motor Vehicles fund if payment is made through the department's electronic title
9 system; or

10 (2) the dealer shall remit the fee to the county for deposit to the credit of the Texas
11 Department of Motor Vehicles fund.

12
13 **Subchapter J. Administrative Sanctions**

14 **43 TAC §215.505**

15 §215.505 Denial of Dealer or Converter Access to Temporary Tag System

16 (a) In this section "fraudulently obtained temporary tags from the temporary tag database" means
17 a dealer or converter account user misusing the temporary tag database authorized under Transportation
18 Code §503.0626 or §503.06321 to obtain:

19 (1) an excessive number of temporary tags relative to dealer sales;

20 (2) temporary tags for a vehicle or vehicles not in the dealer's or converter's inventory, a
21 vehicle is presumed not to be in the dealer's or converter's inventory if the vehicle is not listed in the
22 relevant monthly Vehicle Inventory Tax Statement; and

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1 (3) access to the temporary tag database for a fictitious user or person using a false
2 identity.

3 (b) The department shall deny a dealer or converter access to the temporary tag database 10
4 calendar days from the date the department sends notice electronically and by certified mail to the dealer
5 or converter that the department has determined, directly or through an account user, the dealer or
6 converter has fraudulently obtained temporary tags from the temporary tag database. A dealer or
7 converter may seek a negotiated resolution with the department within the 10-day period by
8 demonstrating corrective actions taken or that the department’s determination was incorrect. If a
9 resolution is not agreed to prior to the end of the 10-day period, the department will deny access to the
10 temporary tag database.

11 (c) Notice shall be sent to the dealer’s or converter’s last known email and mailing address in the
12 department’s records.

13 (d) A dealer or converter may request a hearing on the denial as provided by Subchapter O,
14 Chapter 2301, Occupations Code. The request must be submitted in writing and request a hearing under
15 this section. The department must receive a written request for a hearing within 26 days of the date of
16 the notice denying access to the database. The request for a hearing does not stay the 10-day period or
17 denial of access under subsection (b) of this section. A dealer may continue to seek a negotiated resolution
18 with the department after a request for hearing has been submitted under this subsection by
19 demonstrating corrective actions taken or that the department’s determination was incorrect.

20 (e) The department may also issue a Notice of Department Decision stating administrative
21 violations as provided in §215.500 concurrently with the notice of denial of access under this section. A
22 Notice of Department Decision may include notice of any violation, including a violation listed under
23 subsection (a) of this section.



Board Meeting Date: 10/29/2021
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Jimmy Archer, Motor Carrier Division Director
Agenda Item: 8
Subject: Chapter 217, Vehicle Titles and Registration
Amendments, §217.56 (Relating to obtaining registration under the Unified Carrier Registration System Plan and Agreement prior to registering under the International Registration Plan; cleanup)

RECOMMENDATION

Approval to publish the proposed amended section in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The amendments to §217.56: 1) implement Transportation Code §502.091(b) by requiring an applicant for vehicle registration under the International Registration Plan (IRP) to register under the Unified Carrier Registration System Plan and Agreement under 49 U.S.C. §14504a (UCR) before applying for IRP registration if the applicant is required to register under UCR; 2) delete certain definitions because the relevant terms are defined in the IRP, which is incorporated by reference into §217.56; and 3) incorporate by reference the current edition of the IRP dated January 1, 2021.

FINANCIAL IMPACT

There will be no fiscal impact to state or local governments as a result of the enforcement or administration of the amendments to §217.56. Even if Texas increases its UCR compliance rate by requiring an applicant to register under UCR before the applicant applies for vehicle registration under IRP, doing so will not increase the amount of UCR revenue that Texas gets to keep under federal law. Also, at this time, the department intends to implement the amendments without programming any changes to its automated systems.

BACKGROUND AND DISCUSSION

The amendments are necessary to implement §502.091(b), which authorizes the department to require an applicant to register under UCR before applying for vehicle registration under the IRP. Texas participates in UCR, which is a federal registration program that is administered by 41 states in the United States. Motor carriers and certain transportation service providers that provide interstate transportation services must register under UCR and pay the fees that are required under federal law. The department believes that implementing §502.091(b) will help Texas comply with the 85% UCR compliance rate as required by the UCR State Performance Standards. The department also believes that implementing §502.091(b) will help Texas increase its UCR compliance rate because many owners of commercial vehicles that travel through more than one IRP member jurisdiction want to get IRP registration.

Texas is a member of the IRP, which is a vehicle registration reciprocity agreement between the 48 contiguous states, the District of Columbia, and the Canadian provinces (member jurisdictions). Many owners of commercial vehicles that travel through more than one of the member jurisdictions want to get IRP registration because it is an efficient and cost-effective way to obtain vehicle registration in all member jurisdictions. When the owner registers its vehicles with one member jurisdiction under the IRP, the vehicles are only required to display one license plate that indicates the vehicles are registered in all member jurisdictions. Also, under the IRP, the owner is only required to pay a portion of the registration fees in any member jurisdiction. If the owner of a commercial vehicle does not have IRP registration, the owner must generally obtain vehicle registration in each of the member jurisdictions in which the vehicle will travel.

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1 Amendments to §217.56(c)(2)(B) are also necessary to delete definitions because the relevant
2 terms are defined in the IRP. It is not necessary to repeat any definitions from the IRP in §217.56(c)(2)
3 because the IRP is adopted by reference in §217.56(c)(2)(B). Also, most of the defined terms in the
4 definitions in §217.56(c)(2)(B) do not appear in §217.56(c)(2) other than in the definitions.

5 The amendment to §217.56(c)(2)(C)(i) is necessary to implement Transportation Code
6 §502.091(b) by requiring an applicant for vehicle registration under the IRP to register under UCR before
7 applying for IRP registration if the applicant is required to register under UCR. Texas participates in UCR,
8 which is a federal registration program that is administered by the 41 states that participate in UCR
9 (participating states) under 49 U.S.C. §14504a. Motor carriers and motor private carriers (motor carriers),
10 as well as brokers, freight forwarders, and leasing companies (transportation service providers), that
11 provide interstate transportation services must register under UCR and pay the fees under §14504a and
12 49 C.F.R. §367.20, *et seq.* Texas is authorized to participate in UCR under Transportation Code Chapter
13 645 and 43 TAC §218.17.

14 The department currently enforces UCR through audits and administrative enforcement actions.
15 The amendment to §217.56(c)(2)(C)(i) requires an applicant for IRP to provide the department with a copy
16 of the applicant's receipt under UCR to prove the applicant is currently registered under UCR if the
17 applicant is required to register under UCR. The department believes the amendment to
18 §217.56(c)(2)(C)(i) will help Texas comply with the 85% UCR compliance rate as required by the UCR State
19 Performance Standards dated January 28, 2020. The department also believes the amendment will help
20 Texas increase its UCR compliance rate. Texas achieved a UCR compliance rate of 88.37% for UCR
21 registration year 2019, and 85.39% for UCR registration year 2020. Also, as more of the participating states
22 increase their UCR compliance rate, it increases the chances that the Federal Motor Carrier Safety

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1 Administration (FMCSA) will reduce the UCR fees for all motor carriers and transportation service
2 providers.

3 The UCR State Performance Standards require each participating state to achieve a minimum of
4 an 85% UCR registration compliance rate by the end of each UCR registration period, which is the period
5 during which registration fees are collected for each UCR registration year. The UCR registration
6 compliance rate for a state is determined for each UCR registration period by dividing the total number
7 of UCR registrations for that state by the total number of people, including sole proprietors and legal
8 entities, that are required to have UCR registration in that state. According to the UCR State Performance
9 Standards, states that do not demonstrate the ability to achieve the 85% registration compliance rate
10 must submit a remedial action plan to the UCR Audit Subcommittee that identifies actions the state has
11 taken or will take to help ensure future compliance with the 85% registration compliance rate. The UCR
12 State Performance Standards also require participating states to undergo periodic compliance reviews
13 which are administered with oversight from the UCR Audit Subcommittee and the UCR Board of Directors.

14 The current UCR Handbook says the participating states enforce the payment of UCR fees in a
15 variety of ways. The UCR Handbook also says that some states deny a motor carrier its vehicle registration
16 under the IRP until the motor carrier completes its UCR registration.

17 If the owner of a commercial vehicle registers its vehicle under the IRP, the vehicle is registered
18 in the 48 contiguous states, as well as the District of Columbia and the Canadian provinces (member
19 jurisdictions). If the owner of a commercial vehicle does not have IRP registration, the owner must
20 generally obtain vehicle registration in each of the member jurisdictions in which the vehicle will travel.
21 Many owners of commercial vehicles that travel through more than one of the member jurisdictions want
22 to get IRP registration because it is an efficient and cost-effective way to obtain vehicle registration at a
23 fraction of the cost. When the owner registers its vehicles with one base member jurisdiction under the

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1 IRP, the vehicles are only required to display one license plate that indicates the vehicles are registered in
2 all member jurisdictions. Also, under the IRP, the owner pays vehicle registration fees based on the
3 percentage of travel in each member jurisdiction relative to the total distance traveled in all member
4 jurisdictions. IRP registration is also called apportioned registration because the owner is only required to
5 pay a portion of the registration fees in any member jurisdiction.

6 FMCSA must set the UCR fees in an amount sufficient to collect enough revenue to pay the
7 administrative costs for UCR and to pay the participating states the revenue they are entitled to receive
8 under §14504a(g) and (h), based on the recommendation of the UCR Board under §14504a(d)(7)(A). The
9 41 participating states collect the UCR fees for each UCR registration year. The collected UCR fees are
10 allocated to the states and to pay the administrative costs for UCR under §14504a(g) and (h).

11 FMCSA must increase the UCR fees if there is a shortage of UCR revenue and the UCR board
12 requests an adjustment to the fees. *See* §14504a(d)(7) and (f)(1)(E). When FMCSA proposed to increase
13 the UCR fees in 2010, some commenters stated that the UCR fees should only be raised after the
14 participating states achieved adequate compliance with UCR. *See* Fees for the Unified Carrier Registration
15 Plan and Agreement, 75 Fed.Reg. 21993, 22001 (April 27, 2010). Many commenters stated that raising the
16 UCR fees as proposed was unfair because it increased the burden on compliant motor carriers to the
17 benefit of the non-compliant motor carriers. *Id.* at 22002. One commenter stated that applicants for
18 vehicle registration should be required to show proof of compliance with UCR before their vehicle could
19 be registered. *Id.* FMCSA encouraged more states to register any person, including any entities, for UCR
20 at the same time the states renew vehicle registration, including IRP registration. *Id.* at 21999.

21 FMCSA must reduce the UCR fees if there is a surplus of UCR revenue and the UCR board requests
22 an adjustment to the fees. *See* §14504a(d)(7), (f)(1)(E), and (h)(4). A surplus of UCR revenue occurs when
23 the participating states collect more UCR revenue than is needed to pay the administrative costs for UCR

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1 and to pay the participating states the revenue they are entitled to receive under §14504a(g) and (h). The
2 participating states are not allowed to get more UCR revenue than they are entitled to keep under
3 §14504a(g) and (h), even if there is a surplus of UCR revenue. As more of the participating states increase
4 their UCR compliance rate, it increases the chances that FMCSA will reduce the UCR fees for all motor
5 carriers and transportation service providers. The last time FMCSA reduced the UCR fees was in 2020. See
6 Fees for the Unified Carrier Registration Plan and Agreement, 85 Fed. Reg. 8192 (Feb. 13, 2020) (codified
7 at 49 C.F.R. §367.60).

8 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,
9 has determined that for each year of the first five years the amendments will be in effect, there will be no
10 fiscal impact to state or local governments as a result of the enforcement or administration of the
11 proposal. Even if Texas increases its UCR compliance rate by requiring an applicant to comply with UCR
12 before the applicant applies for vehicle registration under IRP, doing so will not increase the amount of
13 UCR revenue that Texas gets to keep under 49 U.S.C. §14504a(g) and (h). Jimmy Archer, Director of the
14 Motor Carrier Division (MCD), has determined that there will be no measurable effect on local
15 employment or the local economy as a result of the proposal.

16 **PUBLIC BENEFIT AND COST NOTE.** Mr. Archer has also determined that, for each year of the first five
17 years amended §217.56 is in effect, there are anticipated public benefits.

18 Anticipated Public Benefits. A public benefit anticipated as a result of the proposal is another
19 mechanism for the department to enforce UCR, which will help Texas comply with the 85% UCR
20 compliance rate as required by the UCR State Performance Standards. Also, as more of the participating
21 states increase their UCR compliance rate, it increases the chances that FMCSA will reduce the UCR fees
22 for all motor carriers and transportation service providers. Another public benefit anticipated as a result
23 of the proposal is an updated rule that references the current version of the IRP.

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1 Anticipated Costs to Comply with The Proposal. Mr. Archer anticipates that there will be no costs
2 to comply with this rule. The cost for a person, including a sole proprietorship and any entity, to comply
3 with UCR is required by federal statute and regulations. *See* 49 U.S.C. §14504a and 49 C.F.R. §367.20, *et*
4 *seq.* The amendment to §217.56 merely adds another enforcement mechanism for the department to
5 require a person to comply with the federal statute and regulations with which the person should already
6 be complying.

7 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
8 Code §2006.002, the department has determined that the proposed amendments will not have an
9 adverse economic effect on small businesses, micro-businesses, and rural communities because the cost
10 for a person to comply with UCR is required by federal statute and regulations. *See* 49 U.S.C. §14504a and
11 49 C.F.R. §367.20, *et seq.* The amendment to §217.56 merely adds another enforcement mechanism for
12 the department regarding a person who is already required to comply with the federal law. Therefore,
13 the department is not required to prepare a regulatory flexibility analysis under Government Code,
14 §2006.002.

15 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests
16 are affected by this proposal and that this proposal does not restrict or limit an owner's right to property
17 that would otherwise exist in the absence of government action and, therefore, does not constitute a
18 taking or require a takings impact assessment under Government Code §2007.043.

19 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the
20 first five years the proposed amendments are in effect, no government program will be created or
21 eliminated. Implementation of the proposed amendments will not require the creation of new employee
22 positions or elimination of existing employee positions. Implementation will not require an increase or
23 decrease in future legislative appropriations to the department or an increase or decrease of fees paid to

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1 the department. The proposed amendments will not create any new regulations. The proposed
2 amendments will expand existing regulations to implement Transportation Code §502.091(b) by adding
3 an enforcement mechanism to enforce existing law. The proposed amendments will not limit or repeal
4 existing regulations. Lastly, the proposed amendments do not affect the number of individuals subject to
5 the rule's applicability and will not affect the Texas economy.

6 **REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written
7 comments by 5:00 p.m. CST on **Month Day, YYYY**. A request for a public hearing must be sent separately
8 from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov*
9 or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue,
10 Austin, Texas 78731. If a hearing is held, the department will consider written comments and public
11 testimony presented at the hearing.

12 **STATUTORY AUTHORITY.** The department proposes amendments to §217.56 under Transportation Code
13 §§502.091(b), 502.0021, and 1002.001.

14 Transportation Code §502.091(b) authorizes the department to adopt rules to carry out the IRP
15 and to require an applicant for IRP to register under UCR before the applicant applies for registration
16 under IRP.

17 Transportation Code §502.0021 authorizes the department to adopt rules to administer
18 Transportation Code Chapter 502.

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

21 **CROSS REFERENCE TO STATUTE.** Transportation Code §502.091 and §645.001.

22

23 **TEXT.**

1 **Subchapter B. Motor Vehicle Registration**

2 **43 TAC §217.56**

3 §217.56 Registration Reciprocity Agreements

4 (a) Purpose. To promote and encourage the fullest possible use of the highway system and
5 contribute to the economic development and growth of the State of Texas and its residents, the
6 department is authorized by Transportation Code, §502.091 to enter into agreements with duly
7 authorized officials of other jurisdictions, including any state of the United States, the District of Columbia,
8 a foreign country, a state or province of a foreign country, or a territory or possession of either the United
9 States or of a foreign country, and to provide for the registration of vehicles by Texas residents and
10 nonresidents on an allocation or distance apportionment basis, and to grant exemptions from the
11 payment of registration fees by nonresidents if the grants are reciprocal to Texas residents.

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

14 (1) Cab card--The apportioned vehicle registration receipt that contains, but is not limited
15 to, the vehicle description and the registered weight at which the vehicle may operate in each jurisdiction.

16 (2) Department--The Texas Department of Motor Vehicles.

17 (3) Director--The director of the Motor Carrier Division, Texas Department of Motor
18 Vehicles.

19 (4) Executive director--The chief executive officer of the department.

20 (5) Regional Service Center--A department office which provides specific services to the
21 public, including replacement titles, bonded title rejection letters, and apportioned registration under
22 the International Registration Plan (IRP).

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1 (6) Temporary cab card--A temporary registration permit authorized by the department
2 that allows the operation of a vehicle for 30 days subject to all rights and privileges afforded to a vehicle
3 displaying apportioned registration.

4 (c) Multilateral agreements.

5 (1) Authority. The executive director may on behalf of the department enter into a
6 multilateral agreement with the duly authorized officials of two or more other jurisdictions to carry out
7 the purpose of this section.

8 (2) International Registration Plan.

9 (A) Applicability. The IRP is a registration reciprocity agreement among states of
10 the United States and other jurisdictions providing for payment of registration fees on the basis of fleet
11 distance operated in various jurisdictions. Its purpose is to promote and encourage the fullest possible
12 use of the highway system by authorizing apportioned registration for commercial motor vehicles and
13 payment of appropriate vehicle registration fees and thus contributing to the economic development
14 and growth of the member jurisdictions.

15 (B) Adoption. The department adopts by reference the January 1, 2021 ~~January~~
16 ~~1, 2018,~~ edition of the IRP. ~~[Effective January 1, 2019, the department adopts by reference the~~
17 ~~amendments to the IRP with an effective date of January 1, 2019.]~~ The department also adopts by
18 reference the January 1, 2016, edition of the IRP Audit Procedures Manual. In the event of a conflict
19 between this section and the IRP or the IRP Audit Procedures Manual, the IRP and the IRP Audit
20 Procedures Manual control. Copies of the documents are available for review in the Motor Carrier
21 Division, Texas Department of Motor Vehicles. Copies are also available on request. ~~[The following words~~
22 ~~and terms, when used in the IRP or in paragraph (2) of this subsection, shall have the following meanings,~~
23 ~~unless the context clearly indicates otherwise.]~~

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1 (iii) The cab card shall be carried at all times in the vehicle in accordance
2 with the IRP. If the registrant chooses to display an electronic image of the cab card on a wireless
3 communication device or other electronic device, such display does not constitute consent for a peace
4 officer, or any other person, to access the contents of the device other than the electronic image of the
5 cab card.

6 (iv) The authority to display an electronic image of the cab card on a
7 wireless communication device or other electronic device does not prevent the Texas State Office of
8 Administrative Hearings or a court of competent jurisdiction from requiring the registrant to provide a
9 paper copy of the cab card in connection with a hearing, trial, or discovery proceeding.

10 (F) Audit. An audit of the registrant's vehicle operational records may be
11 conducted by the department according to the IRP provisions and the IRP Audit Procedures Manual.
12 Upon request, the registrant shall provide the operational records of each vehicle for audit in unit
13 number order, in sequence by date, and including, but not limited to, a summary of distance traveled
14 by each individual vehicle on a monthly, quarterly, and annual basis with distance totaled separately
15 for each jurisdiction in which the vehicle traveled.

16 (G) Assessment. The department may assess additional registration fees of up to
17 100% of the apportionable fees paid by the registrant for the registration of its fleet in the registration
18 year to which the records pertain, as authorized by the IRP, if an audit conducted under subparagraph
19 (F) of this paragraph reveals that:

20 (i) the operational records indicate that the vehicle did not generate
21 interstate distance in two or more member jurisdictions for the distance reporting period supporting the
22 application being audited, plus the six-month period immediately following that distance reporting
23 period;

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- 1 (ii) the registrant failed to provide complete operational records; or
- 2 (iii) the distance must be adjusted, and the adjustment results in a
- 3 shortage of registration fees due Texas or any other IRP jurisdiction.

4 (H) Refunds. If an audit conducted under subparagraph (F) of this paragraph
5 reveals an overpayment of fees to Texas or any other IRP jurisdiction, the department will refund the
6 overpayment of registration fees in accordance with Transportation Code, §502.195 and the IRP. Any
7 registration fees refunded to a carrier for another jurisdiction will be deducted from registration fees
8 collected and transmitted to that jurisdiction.

9 (I) Cancellation or revocation. The director or the director's designee may cancel
10 or revoke a registrant's apportioned registration and all privileges provided by the IRP as authorized by
11 the following:

- 12 (i) the IRP; or
- 13 (ii) Transportation Code, Chapter 502.

14 (J) Enforcement of cancelled or revoked registration.

15 (i) Notice. If a registrant is assessed additional registration fees, as
16 provided in subparagraph (G) of this paragraph, and the additional fees are not paid by the due date
17 provided in the notice or it is determined that a registrant's apportioned license plates and privileges
18 should be canceled or revoked, as provided in subparagraph (I) of this paragraph, the director or the
19 director's designee will mail a notice by certified mail to the last known address of the registrant. The notice
20 will state the facts underlying the assessment, cancellation, or revocation; the effective date of the
21 assessment, cancellation, or revocation; and the right of the registrant to request a conference as provided
22 in clause (ii) of this subparagraph.

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1 (ii) Conference. A registrant may request a conference upon receipt of a
2 notice issued as provided by clause (i) of this subparagraph. The request must be made in writing to the
3 director or the director's designee within 30 days of the date of the notice. If timely requested, the
4 conference will be scheduled and conducted by the director or the director's designee at division
5 headquarters in Austin and will serve to abate the assessment, cancellation, or revocation unless and until
6 that assessment, cancellation, or revocation is affirmed or disaffirmed by the director or the director's
7 designee. In the event matters are resolved in the registrant's favor, the director or the director's designee
8 will mail the registrant a notice of withdrawal, notifying the registrant that the assessment, cancellation,
9 or revocation is withdrawn, and stating the basis for that action. In the event matters are not resolved in
10 the registrant's favor, the director or the director's designee will issue a ruling reaffirming the department's
11 assessment of additional registration fees or cancellation or revocation of apportioned license plates and
12 privileges. The registrant has the right to appeal in accordance with clause (iii) of this subparagraph.

13 (iii) Appeal. If a conference held in accordance with clause (ii) of this
14 subparagraph fails to resolve matters in the registrant's favor, the registrant may request an
15 administrative hearing. The request must be in writing and must be received by the director no later than
16 the 20th day following the date of the ruling issued under clause (ii) of this subparagraph. If requested
17 within the designated period, the hearing will be initiated by the department and will be conducted in
18 accordance with Chapter 206, Subchapter D of this title (relating to Procedures in Contested Cases).
19 Assessment, cancellation, or revocation is abated unless and until affirmed or disaffirmed by order of the
20 Board of the Texas Department of Motor Vehicles or its designee.

21 (K) Reinstatement.

22 (i) The director or the director's designee will reinstate apportioned
23 registration to a previously canceled or revoked registrant if all applicable fees and assessments due on

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1 the previously canceled or revoked apportioned account have been paid and the applicant provides proof
2 of an acceptable recordkeeping system for a period of no less than 60 days.

3 (ii) The application for the following registration year will be processed in
4 accordance with the provisions of the IRP.

5 (L) Denial of apportioned registration for safety reasons. The department will
6 comply with the requirements of the Performance and Registration Information Systems Management
7 program (PRISM) administered by the Federal Motor Carrier Safety Administration (FMCSA).

8 (i) Denial or suspension of apportioned registration. Upon notification
9 from the FMCSA that a carrier has been placed out of service for safety violations, the department will:

10 (I) deny initial issuance of apportioned registration;

11 (II) deny authorization for a temporary cab card, as provided for
12 in subparagraph (M) of this paragraph;

13 (III) deny renewal of apportioned registration; or

14 (IV) suspend current apportioned registration.

15 (ii) Issuance after denial of registration or reinstatement of suspended
16 registration. The director or the director's designee will reinstate or accept an initial or renewal application
17 for apportioned registration from a registrant who was suspended or denied registration under clause (i)
18 of this subparagraph upon presentation of a Certificate of Compliance from FMCSA, in addition to all other
19 required documentation and payment of fees.

20 (M) Temporary cab card.

21 (i) Application. The department may authorize issuance of a temporary
22 cab card to a motor carrier with an established Texas apportioned account for a vehicle upon proper
23 submission of all required documentation, a completed application, and all fees for either:

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1 (I) Texas title as prescribed by Transportation Code, Chapter 501
2 and Subchapter A of this chapter (relating to Motor Vehicle Titles); or

3 (II) registration receipt to evidence title for registration purposes
4 only (Registration Purposes Only) as provided for in Transportation Code, §501.029 and §217.24 of this
5 title (relating to Vehicle Last Registered in Another Jurisdiction).

6 (ii) Title application. A registrant who is applying for a Texas title as
7 provided for in clause (i)(I) of this subparagraph and is requesting authorization for a temporary cab card,
8 must submit to a Regional Service Center a photocopy of the title application receipt issued by the county
9 tax assessor-collector's office.

10 (iii) Registration Purposes Only. A registrant who is applying for
11 Registration Purposes Only under clause (i)(II) of this subparagraph and is requesting authorization for a
12 temporary cab card, must submit an application and all additional original documents or copies of original
13 documents required by the director to a Regional Service Center.

14 (iv) Department approval. On department approval of the submitted
15 documents, the department will send notice to the registrant to finalize the transaction and make
16 payment of applicable registration fees.

17 (v) Finalization and payment of fees. To finalize the transaction and print
18 the temporary cab card, the registrant may compute the registration fees through the department's
19 apportioned registration software application, TxIRP system, and:

20 (I) make payment of the applicable registration fees to the
21 department as provided by §209.23 of this title; and

22 (II) afterwards, mail or deliver payment of the title application fee
23 in the form of a check, certified cashier's check, or money order payable to the county tax assessor-

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1 collector in the registrant's county of residency and originals of all copied documents previously
2 submitted.

3 (vi) Deadline. The original documents and payment must be received by
4 the Regional Service Center within 72-hours after the time that the office notified the registrant of the
5 approval to print a temporary cab card as provided in clause (iv) of this subparagraph.

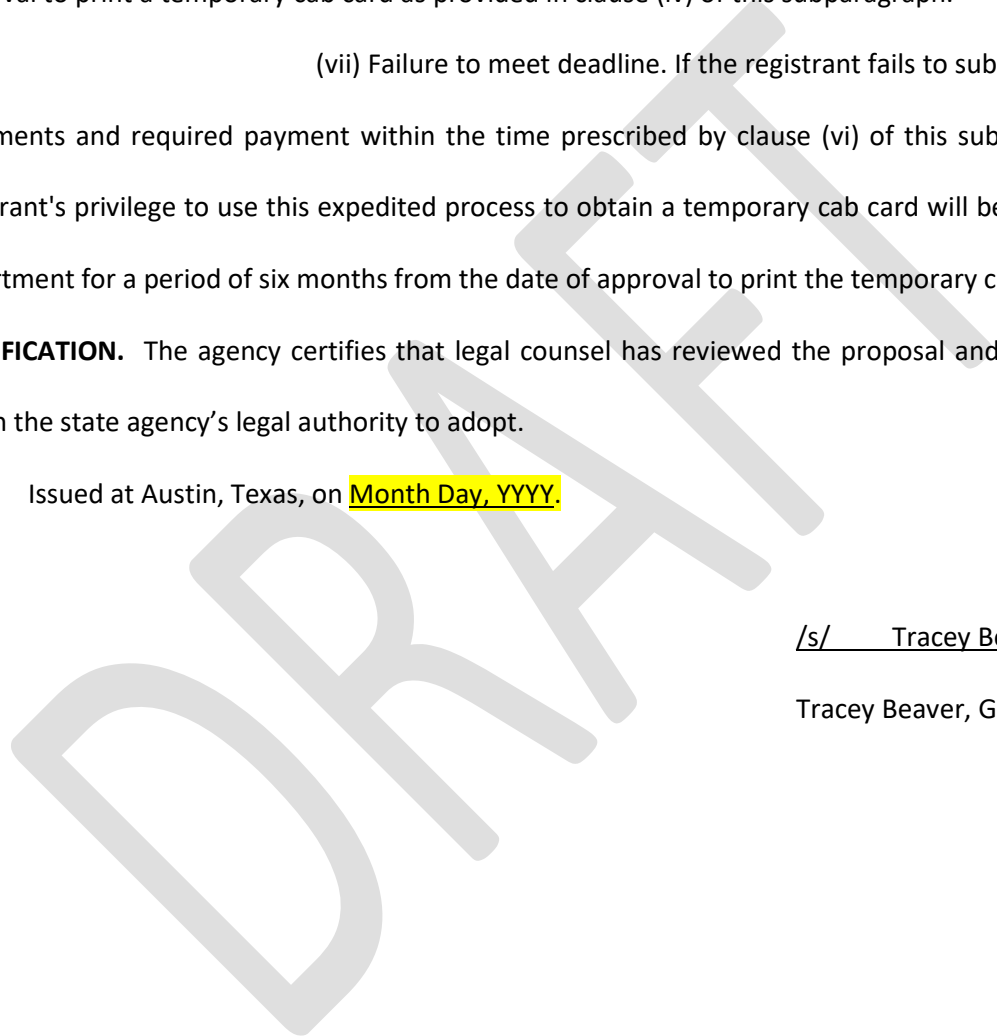
6 (vii) Failure to meet deadline. If the registrant fails to submit the original
7 documents and required payment within the time prescribed by clause (vi) of this subparagraph, the
8 registrant's privilege to use this expedited process to obtain a temporary cab card will be denied by the
9 department for a period of six months from the date of approval to print the temporary cab card.

10 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the proposal and found it to be
11 within the state agency's legal authority to adopt.

12 Issued at Austin, Texas, on Month Day, YYYY.

13
14 /s/ _____ Tracey Beaver

15 Tracey Beaver, General Counsel





Board Meeting Date: 10/29/2021
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Roland Luna, Vehicle Titles & Registration Division Director
Agenda Item: 9
Subject: Chapter 217, Vehicle Titles and Registration - (ACTION ITEM)
 Amendments, §§217.2, 217.4, 217.23, 217.28, 217.36, 217.45, 217.46, and 217.89 (Relating to titling and registering motor vehicles, including SB 876, allowing a person to apply for title and registration of a motor vehicle with any willing county tax assessor-collector)

RECOMMENDATION

Approval to publish the proposed amended sections in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the proposed amendments to §§217.4, 217.23, 217.28, 217.45, 217.46, and 217.89 is to implement Senate Bill (SB) 876, Regular Session (2021), to allow for any willing county to process title and registration transactions, in addition to the counties designated by statute. Senate Bill 876 is effective March 1, 2022.

The proposal also amends §217.36 to complete the implementation of Transportation Code §707.20 and §707.21 under House Bill (HB) 1631, Regular Session (2019), by removing obsolete references to photographic traffic signal enforcement programs. The department fully implemented HB 1631 as required. The proposal also makes a nonsubstantive amendment to §217.2 to remove the definition of "identification certificate," because the term is not often used as defined.

FINANCIAL IMPACT

There will be no financial impact, but the department will incur a one-time technology cost of \$70,000 in the first year to implement programming for the department's automated systems. Therefore, there will be no fiscal impact to state or local governments as a result of the enforcement or administration of the proposal for each year of the first five years the proposed amendments will be in effect.

BACKGROUND AND DISCUSSION

Senate Bill 876 expands title and registration services beyond those county tax assessor-collectors required to accept a title or registration application in statute to any county tax assessor-collector willing to accept the application. Previously the applicant's county of residence was required to be closed before any county tax assessor-collector could be willing to accept the application. The SB 876 amendments address existing sections that limited title and registration to a particular county or counties. Implementation of SB 876 also requires significant programming changes to the department's Registration and Title System (RTS) to facilitate identification of applications processed by a county beyond those the county tax assessor-collector is required to accept and determine applicable fees as required by SB 876 amendments to Transportation Code §520.006. A title or registration transaction processed by a willing county tax assessor-collector will be assessed fees based on the applicant's county of residence, and the county of residence will be credited fees according to Transportation Code §520.006.

House Bill 1631 prohibited registration restrictions related to photographic traffic signal enforcement programs. Under §217.36, the department contracted with counties to implement prior registration restrictions. The department canceled

the contractual provisions following passage of HB 1631. The proposed amendment to §217.36 removes the rule provisions that HB 1631 rendered obsolete.

The proposal also amends to §217.2 to remove the definition of “identification certificate,” because it refers to a vehicle inspection document, but is most often used to mean a personal identification document such as a driver’s license or identification card.

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PROPOSAL OF

SUBCHAPTER A. MOTOR VEHICLE TITLES

43 TAC §217.2 AND §217.4

SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

43 TAC §§217.23, 217.28, 217.36, 217.45, AND 217.46

SUBCHAPTER D. NONREPAIRABLE AND SALVAGE MOTOR VEHICLES

43 TAC §217.89

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes amendments to 43 TAC §§217.2, 217.4, 217.23, 217.28, 217.36, 217.45, 217.46, and 217.89 concerning titling and registering motor vehicles. The amendments to §§217.4, 217.23, 217.28, 217.45, 217.46, and 217.89 are necessary to implement amended Transportation Code §§501.023, 501.0234, 501.030, 502.040, 502.041, 502.407, 520.006, and 521.144 authorizing registration and title applications to be processed by any county tax assessor-collector willing to accept the application under Senate Bill 876, 87th Legislature, Regular Session (2021). The amendment to §217.36 is necessary to complete the implementation of Transportation Code §707.20 and §707.21 under House Bill 1631, 86th Legislature, Regular Session (2019) by removing obsolete references to photographic traffic signal enforcement programs. The amendment to §217.2 removes the term "identification certificate" as a defined term and is nonsubstantive.

EXPLANATION. Senate Bill 876 expands title and registration services beyond those county tax assessor-collectors required to accept a title or registration application in statute to any county tax assessor-collector willing to accept the application. Proposed §§217.4, 217.23, 217.28, 217.45, 217.46, and 217.89 address the expansion by adding a reference to "a county tax assessor-collector who is willing to accept

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1 the application" to those existing sections that specified a county tax assessor-collector. Sections that did
2 not specify a county tax assessor-collector or just the process have not been amended.

3 The department met with the Customer Service Advisory Committee twice in considering this
4 proposal. The department appreciates the committee members' serious consideration of the issues
5 presented by SB 876 and the members' comments.

6 Implementation of SB 876 also involves significant programming modifications to the
7 department's Registration and Title System (RTS) to enable the routine processing of out of county
8 applications and the distribution of fees as specified in amended Transportation Code §520.006, which
9 applies if a willing county tax assessor-collector is collecting fees and processing the application on behalf
10 of a county tax assessor-collector who is designated by statute to process the application.

11 The following paragraphs address the amendments in this proposal.

12 The amendment to §217.2 removes the term "identification certificate" as a defined term and
13 redesignates the following definitions accordingly. The term is never used alone as a defined term. The
14 term is used in multiple sections of Chapter 217. It usually refers to a document that is then described as
15 a form of personal identification such as a driver's license or identification card, but not in a consistent
16 manner. In §217.4 and §217.89, the term is used and then described similarly to its defined use in §217.2,
17 as relating to a vehicle inspection under Transportation Code Chapter 548 and §501.030. Chapter 548
18 refers to the document as a "vehicle inspection report." As such, the term is unnecessary as a defined
19 term because each use redefines the term.

20 The amendment to §217.4(b)(1) removes the statement "as selected by the applicant." In this
21 section, the term "applicant" refers to the owner or purchaser of the vehicle. The change conforms the
22 section with SB 876, which repeals Transportation Code §501.023(e) and §501.0234(e), which required
23 the purchaser to choose the county the title application was to be filed in. The amendment to §217.4(b)(2)

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1 conforms the section with the SB 876 any willing county amendment to Transportation Code §501.023(a).
2 The amendment to §217.4(c)(4) removes the requirement for the applicant to provide the seller's mailing
3 address, which is not required in statute or the applicable department form. The amendment to
4 §217.4(d)(4) replaces the term "identification certificate" with "vehicle inspection report" based on the
5 reasons addressed in the prior discussion of the amendment to §217.2.

6 The amendments to §217.23(c) and (d) are necessary to conform the section with the SB 876 any
7 willing county amendment to Transportation Code §502.040 and §502.041.

8 The amendments to §217.28(a) and (c) are necessary to conform the section with the SB 876 any
9 willing county amendment to Transportation Code §502.041. The amendment also adds new §217.28(f)
10 to create a definition of a closed county by rule for purposes of Transportation Code §502.407(c), as
11 required by SB 876. Proposed §217.28(f) is based on the prior closed definition in §217.4(b)(2), which is
12 being amended as previously discussed in this proposal to conform §217.4 to Transportation Code
13 §501.023 as amended by SB 876. The amendment to §217.28(e)(5) replaces the existing sentence,
14 because proration is covered in §217.45(d)(2). Additionally, the department proposes nonsubstantive
15 amendments to §217.28(b), (c), and (d) to conform to current statutory references by replacing the term
16 "license plate" with the term registration and otherwise referring to "registration renewal notice" and
17 clarifying that an applicant may also renew a vehicle registration via the internet without a registration
18 renewal notice.

19 The amendments to §217.36(b) and (d) are necessary to remove obsolete references to
20 photographic traffic signal enforcement programs. House Bill 1631 prohibited the use of such programs
21 with the enactment of Transportation Code §707.20 and §707.21. The department timely implemented
22 HB 1631 and ceased the prohibited actions; however, a change was not made to the rule to remove the
23 provisions.

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1 The amendments to §217.45(b)(3), (d)(3)(B) and (E), (e)(1)(A), and (f)(1) are necessary to conform
2 the section with the SB 876 any willing county amendment to Transportation Code §502.040 and
3 §502.041, including by changing the reference from "the" to "a" county tax assessor-collector. The
4 department has also proposed amending §217.45(f)(1) to remove the reference to log loader license
5 plates in a replacement paragraph, because log loader plates cannot be replaced.

6 The amendments to §217.46(d)(3), (e)(1), and (f) are necessary to conform the section with the
7 SB 876 any willing county amendment to Transportation Code §502.041. The §217.46(d)(3) amendment
8 removes the reference to "as indicated on the License Plate Renewal Notice" because an "appropriate"
9 county may be a willing county. Similarly, §217.46(f) amendment removes the requirement to go to "the
10 county in which the owner resides" for replacement license plates. The amendments to §217.46(c)(1)(C)
11 and (4) substitute the term "vehicle identification number" for "motor number." The amendment to
12 §217.46(c)(3)(B)(ii) removes the requirement for "tire size" because the department does not collect the
13 information in this context. The amendments to §217.46(d)(2), (3), and (4) conform to current statutory
14 references by replacing the term "license plate renewal notice" with the term "registration renewal
15 notice." Finally, the amendment to §217.46(d)(2) also replaces the word "mail" with "send" should
16 additional distribution methods be adopted in the future.

17 The amendment to §217.89(b) is necessary to conform the section with the SB 876 any willing
18 county amendment to Transportation Code §501.023(a). The amendments to §217.89(c) and (d)(3)(B) are
19 based on a review of the enacting statute HB 3588, 78th Legislature, Regular Session (2003), which
20 established the \$65 rebuilder fee and submission requirements. House Bill 3588 did not have a savings
21 clause for the prior inspections. The department is proposing to apply the change prospectively and not
22 to any existing title issued under the process. The amendments to §217.89(d)(2)(D) and (G) are to update
23 the rule to conform with the existing process that does not require the owner's address, but does require

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1 the rebuilder's name, address, and signature. The amendments to §217.89(d)(3)(A) update the
2 requirement to refer to the "authorization or certificate number and the date of inspection" instead of a
3 "sticker" number and "expiration." The amendment to §217.89(d)(5) updates the statutory reference to
4 Transportation Code §502.046, which was transferred, redesignated, and amended from Transportation
5 Code §502.153 by HB 2357 Acts 2011, 82nd Legislature, Regular Session (2012).

6 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,
7 has determined that for each year of the first five years the proposed new section will be in effect, there
8 will be a one-time technology implementation cost of \$70,000 in the first year to implement programming
9 for the department's automated systems, and that while SB 876 could result in shifts of which counties
10 perform the transactions and receive registration and title fees, SB 876 and this proposal do not alter the
11 overall number of applications or revenues that would be collected. Therefore, there is no fiscal impact
12 to the state or local governments as a result of the enforcement or administration of the proposal.

13 Roland D. Luna, Sr., Director of the Vehicle Titles and Registration Division, has determined that
14 there will be no measurable effect on local employment or the local economy as a result of the proposal,
15 because the overall number of applications will not be affected.

16 **PUBLIC BENEFIT AND COST NOTE.** Mr. Luna has also determined that, for each year of the first five years
17 the proposed rules are in effect, the public benefits include establishing rules to implement SB 876 and
18 the options it creates for vehicle owners to register and title their vehicles when they are away from their
19 county of residence or another county's tax office is more convenient to their location. The amendment
20 to §217.36 removes obsolete rule text that may be confusing to readers.

21 Mr. Luna anticipates that there will be no additional costs on a regulated person to comply with
22 these rules because the rules do not establish any additional requirements on a regulated person beyond
23 the requirements of statute.

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1 The sections implementing SB 876 allow a county tax assessor-collector to choose to accept out
2 of county applications, which may generate costs, but those are business decisions that result from the
3 statute not from the rule. Likewise, a dealer or owner has the choice to apply for title and initial
4 registration, or registration renewal, in a statutorily designated county or a willing county. Costs may
5 result from those business decisions, but they arise from the statute not the rule.

6 The removal of obsolete language in §217.36 to comply with statute does not result in a cost.

7 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
8 Code §2006.002, the department has determined that the proposed amended sections will not have an
9 adverse economic effect on small businesses, micro-businesses, or rural communities.

10 The proposal amends §§217.4, 217.23, 217.28, 217.45, 217.46, and 217.89 to comply with statute
11 and imposes no requirements not specified in statute. In addition, SB 876 does not authorize the
12 department to use its discretion in implementing the SB 876 requirements.

13 The removal of obsolete language in §217.36 to comply with statute does not result in a cost or
14 the need for a regulatory flexibility analysis.

15 The department has determined that the proposed amended sections will not have a financial
16 effect, on any small businesses, micro-businesses, or rural communities. Therefore, the department is not
17 required to prepare a regulatory flexibility analysis under Government Code §2006.002.

18 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests
19 are affected by this proposal and that this proposal does not restrict or limit an owner's right to property
20 that would otherwise exist in the absence of government action and, therefore, does not constitute a
21 taking or require a takings impact assessment under Government Code, §2007.043.

22 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the first
23 five years the proposed new section is in effect, the proposed rule:

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- 1 will not create or eliminate a government program;
- 2 will not require the creation of new employee positions or the elimination of existing employee
- 3 positions;
- 4 will not require an increase or decrease in future legislative appropriations to the department;
- 5 will not require an increase or decrease in fees paid to the department;
- 6 will not create new regulation;
- 7 will not expand existing regulations;
- 8 will repeal existing regulations in §217.36;
- 9 will not increase or decrease the number of individuals subject to the rule's applicability; and
- 10 will not positively or adversely affect the Texas economy.

11 REQUEST FOR PUBLIC COMMENT.

12 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on MM, DD,
13 YYYY. A request for a public hearing must be sent separately from your written comments. Send written
14 comments or hearing requests by email to rules@txdmv.gov or by mail to Office of General Counsel, Texas
15 Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the
16 department will consider written comments and public testimony presented at the hearing.

17 **STATUTORY AUTHORITY.** The department proposes amendments to §§217.2, 217.4, 217.23, 217.28,
18 217.36, 217.45, 217.46, and 217.89 under Transportation Code §§501.0041, 502.0021, 520.003, and
19 1002.001.

20 Transportation Code §501,0041 authorizes the department to adopt rules to administer
21 Transportation Code Chapter 501.

22 Transportation Code §502.0021 authorizes the department to adopt rules to administer
23 Transportation Code Chapter 502.

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1 Transportation Code §520.003 authorizes the department to adopt rules to administer

2 Transportation Code Chapter 520,

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

5 **CROSS REFERENCE TO STATUTE.** Transportation Code §§501.023, 501.0234, 501.030, 502.040, 502.041,
6 502.407, 520.006, 521.144, 707.020 and 707.021

7 **TEXT.**

8

9

SUBCHAPTER A. MOTOR VEHICLE TITLES

10

43 TAC §217.2 AND §217.4

11 §217.2 Definitions

12 The following words and terms, when used in this subchapter, shall have the following meanings, unless
13 the context clearly indicates otherwise.

14 (1) - (10)(No Change)

15 (11) [~~Identification certificate—A form issued by an inspector of an authorized safety~~
16 ~~inspection station in accordance with Transportation Code, Chapter 548.~~]

17 ~~[(12)]~~ Implements of husbandry--Farm implements, machinery, and tools used in tilling
18 the soil, including self-propelled machinery specifically designed or especially adapted for applying plant
19 food materials or agricultural chemicals. This term does not include an implement unless it is designed or
20 adapted for the sole purpose of transporting farm materials or chemicals. This term does not include any
21 passenger car or truck. This term does include a towed vehicle that transports to the field and spreads
22 fertilizer or agricultural chemicals; or a motor vehicle designed and adapted to deliver feed to livestock.

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1 (12) [(13)] Manufacturer's certificate of origin--A form prescribed by the department
2 showing the original transfer of a new motor vehicle from the manufacturer to the original purchaser,
3 whether importer, distributor, dealer, or owner and when presented with an application for title showing
4 on appropriate forms prescribed by the department, each subsequent transfer between distributor and
5 dealer, dealer and dealer, and dealer and owner.

6 (13) [(14)] Moped--A motor vehicle as defined by Transportation Code, §541.201.

7 (14) [(15)] Motor vehicle importation form--A declaration form prescribed by the United
8 States Department of Transportation and certified by United States Customs that relates to any motor
9 vehicle being brought into the United States and the motor vehicle's compliance with federal motor
10 vehicle safety standards.

11 (15) [(16)] Non-United States standard motor vehicle--A motor vehicle not manufactured
12 in compliance with federal motor vehicle safety standards.

13 (16) [(17)] Obligor--An individual who is required to make payments under the terms of a
14 support order for a child.

15 (17) [(18)] Off-highway vehicle--A motor vehicle as defined by Transportation Code,
16 §551A.001.

17 (18) [(19)] Person--An individual, firm, corporation, company, partnership, or other entity.

18 (19) [(20)] Recreational off-highway vehicle or ROV--A motor vehicle as defined by
19 Transportation Code, §551A.001, and designed primarily for recreational use. The term does not include
20 a "utility vehicle" as defined by Transportation Code, §551A.001, or a self-propelled, motor-driven vehicle
21 designed or marketed by the manufacturer primarily for non-recreational uses.

22 (20) [(21)] Safety certification label--A label placed on a motor vehicle by a manufacturer
23 certifying that the motor vehicle complies with all federal motor vehicle safety standards.

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1 (21) [(22)] Sand rail--A motor vehicle as defined by Transportation Code, §551A.001.

2 (22) [(23)] Statement of fact--A written declaration that supports an application for a title,
3 that is executed by an involved party to a transaction involving a motor vehicle, and that clarifies an error
4 made on a title or other negotiable evidence of ownership. An involved party is the seller, or an agent of
5 the seller involved in the motor vehicle transaction. When a written declaration is necessary to correct an
6 odometer disclosure error, the signatures of both the seller and buyer when the error occurred are
7 required.

8 (23) [(24)] Title application--A form prescribed by the division director that reflects the
9 information required by the department to create a motor vehicle title record.

10 (24) [(25)] Utility vehicle or UTV--A motor vehicle as defined by Transportation Code,
11 §551A.001, and designed primarily for utility use. The term does not include a "golf cart" as defined by
12 Transportation Code, §551.401, or a self-propelled, motor-driven vehicle designed or marketed by the
13 manufacturer primarily for non-utility uses.

14 (25) [(26)] Verifiable proof--Additional documentation required of a vehicle owner,
15 lienholder, or agent executing an application for a certified copy of a title.

16 (A) -(C) (No change)

17
18 §217.4 Initial Application for Title.

19 (a) No Change

20 (b) Place of application. Except as otherwise provided by Transportation Code, Chapters 501 and
21 502, and by §217.84(a) of this title (relating to Application for Nonrepairable or Salvage Vehicle Title),
22 when motor vehicle ownership is transferred, a title application must be filed with:

23 (1) the county tax assessor-collector in the county in which the applicant resides or in the

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1 county in which the motor vehicle was purchased or encumbered [~~as selected by the applicant~~]; or

2 (2) a [~~the~~] county tax assessor-collector of a county who is willing to accept the application
3 [~~if the county tax assessor-collector's office of the county in which the owner resides is closed for more~~
4 ~~than one week or if the department is notified that the county tax assessor-collector's office may be closed~~
5 ~~for more than one week~~].

6 (c) Information to be included on application. An applicant for an initial title must file an
7 application on a form prescribed by the department. The form will at a minimum require the:

8 (1) - (3) (No change)

9 (4) previous owner's legal name and municipality and state [~~complete mailing address~~], if
10 available;

11 (5) -(8) (No change)

12 (d) Accompanying documentation. The title application must be supported by, at a minimum, the
13 following documents:

14 (1) -(3) (No change)

15 (4) a vehicle inspection report [~~an identification certificate~~] if required by Transportation
16 Code, Chapter 548, and Transportation Code, §501.030, and if the vehicle is being titled and registered,
17 or registered only;

18 (5) -(6) (No Change)

19

20 **SUBCHAPTER B. MOTOR VEHICLE REGISTRATION**

21 **43 TAC §§217.23, 217.28, 217.36, 217.45, and 217.46**

22

23 §217.23 Initial Application for Vehicle Registration

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1 (a) - (b) (No change)

2 (c) An initial application for registration must be filed with the tax assessor-collector of the county
3 in which the owner resides or any county tax assessor-collector who is willing to accept the application,
4 except as provided in subsection (d) of this section. [÷]

5 (d) An ~~[(1) an]~~ application for registration, as a prerequisite to filing an application for title, may
6 ~~[also]~~ be filed with the county tax assessor-collector in the county in which:

7 (1) the owner resides;

8 (2) the motor vehicle is purchased or encumbered; or

9 (3) a county tax assessor-collector who is willing to accept the application.

10 ~~[(2) if a county has been declared a disaster area, the resident may apply at the closest~~
11 ~~unaffected county if the affected county tax assessor-collector estimates the county offices will be~~
12 ~~inoperable for a protracted period; or]~~

13 ~~[(3) if the county tax assessor-collector office in the county in which the owner resides is~~
14 ~~closed for more than one week, the resident may apply to the county tax assessor-collector in a county~~
15 ~~that borders the closed county if the adjacent county agrees to accept the application.]~~

17 §217.28 Vehicle Registration Renewal

18 (a) To renew vehicle registration, a vehicle owner must apply [~~, prior to the expiration of the~~
19 ~~vehicle's registration,~~] to the tax assessor-collector of the county in which the owner resides or a county
20 tax assessor-collector who is willing to accept the application.

21 (b) The department will send a registration [~~license plate]~~ renewal notice, indicating
22 indicating the proper registration fee and the month and year the registration expires, to each vehicle
23 owner prior to the expiration of the vehicle's registration.

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1 (c) The registration [~~license plate~~] renewal notice should be returned by the vehicle owner to the
2 [~~appropriate~~] county tax assessor-collector in which the owner resides or a county tax assessor-collector
3 who is willing to accept the application, or to that [~~the~~] tax assessor-collector's deputy, either in person
4 or by mail, unless the vehicle owner renews via the Internet. The renewal notice must be accompanied by
5 the following documents and fees:

6 (1) -(3) (No change)

7 (d) If a registration renewal notice is lost, destroyed, or not received by the vehicle owner, the
8 vehicle may be registered if the owner presents personal identification acceptable to the county tax
9 assessor-collector or via the Internet. Failure to receive the notice does not relieve the owner of the
10 responsibility to renew the vehicle's registration.

11 (e) Renewal of expired vehicle registrations.

12 (1) (4) (No change)

13 (5) Specialty license plates, symbols, tabs, or other devices may be prorated as provided
14 in §217.45(d)(2) of this title (relating to Specialty License Plates, Symbols, Tabs, and Other Devices) [If a
15 vehicle is registered in accordance with Transportation Code, §§502.255, 502.431, 502.435, 502.454,
16 504.315, 504.401, 504.405, 504.505, or 504.515 and if the vehicle's registration is renewed more than one
17 month after expiration of the previous registration, the registration fee will be prorated].

18 (f) For purposes of Transportation Code §502.407(c), the county tax assessor-collector's office of
19 the county in which the owner resides is closed for a protracted period of time if the county tax assessor-
20 collector's office has notified the department that it is closed or will be closed for more than one week.

21

22 §217.36 Refusal to Register by Local Government and Record Notation

23 (a) (No change)

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1 ~~[(b) Refusal to register due to traffic signal violation. A local authority, as defined in Transportation~~
2 ~~Code, §541.002, that operates a traffic signal enforcement program authorized under Transportation~~
3 ~~Code, Chapter 707 may enter into a contract with the department under Government Code, Chapter 791~~
4 ~~to indicate in the state's motor vehicle records that the owner of a motor vehicle has failed to pay the civil~~
5 ~~penalty for a violation of the local authority's traffic signal enforcement system involving that motor~~
6 ~~vehicle. In accordance with Transportation Code, §707.017, a county tax assessor-collector may refuse to~~
7 ~~register a motor vehicle if such a failure is indicated in the motor vehicle record for that motor vehicle.~~
8 ~~The local authority is responsible for obtaining the agreement of the county in which the local authority~~
9 ~~is located to refuse to register motor vehicles for failure to pay civil penalties imposed by the local~~
10 ~~authority.]~~

11 (c) (No change)

12 (d) Record notation. A contract between the department and a county, municipality, or local
13 authority entered into under Transportation Code, §502.010 or [,~~]~~ Transportation Code, §702.003 [~~, or~~
14 ~~Transportation Code, §707.017]~~ will contain the terms set out in this subsection.

15 (1)-(5) (No change)

17 §217.45 Specialty License Plates, Symbols, Tabs, and Other Devices

18 (a) (No change)

19 (b) Initial application for specialty license plates, symbols, tabs, or other devices.

20 (1)-(2) (No change)

21 (3) Place of application. Applications for specialty license plates may be made directly to
22 the county tax assessor-collector in which the owner resides or a county tax assessor-collector who is
23 willing to accept the application, except that applications for the following license plates must be made

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1 directly to the department:

2 (A) County Judge;

3 (B) Federal Administrative Law Judge;

4 (C) State Judge;

5 (D) State Official;

6 (E) U.S. Congress--House;

7 (F) U.S. Congress--Senate; and

8 (G) U.S. Judge.

9 (4) (No change)

10 (c) (No change)

11 (d) Specialty license plate renewal.

12 (1) -(2) (No change)

13 (3) Renewal.

14 (A) Renewal notice. Approximately 60 days before the expiration date of a
15 specialty license plate, symbol, tab, or other device, the department will send each owner a renewal
16 notice that includes the amount of the specialty plate fee and the registration fee.

17 (B) Return of notice. The owner must return the fee and any prescribed
18 documentation to the tax assessor-collector of the county in which the owner resides or a county tax
19 assessor-collector who is willing to accept the application, except that the owner of a vehicle with one of
20 the following license plates must return the documentation, and specialty license plate fee, if applicable,
21 directly to the department and submit the registration fee to a [the] county tax assessor-collector:

22 (i) County Judge;

23 (ii) Federal Administrative Law Judge;

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1 (iii) State Judge;

2 (iv) State Official;

3 (v) U.S. Congress--House;

4 (vi) U.S. Congress--Senate; and

5 (vii) U.S. Judge.

6 (C) -(D) (No Change)

7 (E) Lost or destroyed renewal notices. If a renewal notice is lost, destroyed, or not
8 received by the vehicle owner, the specialty license plates, symbol, tab, or other device may be renewed
9 if the owner provides acceptable personal identification along with the appropriate fees and
10 documentation to the tax assessor-collector of the county in which the owner resides or a county tax
11 assessor-collector who is willing to accept the application. Failure to receive the notice does not relieve
12 the owner of the responsibility to renew the vehicle's registration.

13 (e) Transfer of specialty license plates.

14 (1) Transfer between vehicles.

15 (A) Transferable between vehicles. The owner of a vehicle with specialty license
16 plates, symbols, tabs, or other devices may transfer the specialty plates between vehicles by filing an
17 application through the county tax assessor-collector in which the owner resides or a county tax assessor-
18 collector who is willing to accept the application, if the vehicle to which the plates are transferred:

19 (i) is titled or leased in the owner's name; and

20 (ii) meets the vehicle classification requirements for that particular
21 specialty license plate, symbol, tab, or other device.

22 (B)-(C) (No change)

23 (2)-(3) (No change)

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Proposed Sections

1 (f) Replacement.

2 (1) Application. When specialty license plates, symbols, tabs, or other devices are lost,
3 stolen, or mutilated, the owner shall apply directly to a [the] county tax assessor-collector for the issuance
4 of replacements [~~-, except that Log Loader license plates must be reapplied for and accompanied by the~~
5 ~~prescribed fees and documentation~~].

6 (2)-(3) (No change)

7 (g)-(l) (No change)

8

9 §217.46 Commercial Vehicle Registration

10 (a) -(b) (No change)

11 (c) Application for commercial vehicle registration.

12 (1) Application form. An applicant shall apply for commercial license plates through the
13 appropriate county tax assessor-collector upon forms prescribed by the director and shall require, at a
14 minimum, the following information:

15 (A) owner name and complete address;

16 (B) complete description of vehicle, including empty weight; and

17 (C) vehicle identification number [~~motor number~~] or serial number.

18 (2) Empty weight determination.

19 (A) The weight of a Motor Bus shall be the empty weight plus carrying capacity,
20 in accordance with Transportation Code, §502.055.

21 (B) The weight of a vehicle cannot be lowered below the weight indicated on a
22 Manufacturer's Certificate of Origin unless a corrected Manufacturer's Certificate of Origin is obtained.

23 (C) In all cases where the department questions the empty weight of a particular

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1 vehicle, the applicant should present a weight certificate from a public weight scale or the Department of
2 Public Safety.

3 (3) Gross weight.

4 (A) (No change)

5 (B) Restrictions. The following restrictions apply to combined gross weights.

6 (i) (No change)

7 (ii) A combination of vehicles is restricted to a total gross weight not to
8 exceed 80,000 pounds; however, all combinations may not qualify for 80,000 pounds unless such weight
9 can be properly distributed in accordance with axle load limitations, ~~[tire size,]~~ and distance between
10 axles, in accordance with Transportation Code, §623.011.

11 (4) Vehicle identification number ~~[Motor number]~~ or serial number. Ownership must be
12 established by a court order if no vehicle identification number ~~[motor]~~ or serial number can be identified.
13 Once ownership has been established, the department will assign a number upon payment of the fee.

14 (5) -(7) (No change)

15 (d) Renewal of commercial license plates.

16 (1) (No change)

17 (2) Registration ~~[License Plate]~~ Renewal Notice. The department will send ~~[mail]~~ a
18 registration renewal notice ~~[License Plate Renewal Notice]~~, indicating the proper registration fee and the
19 month and year the registration expires, to each vehicle owner approximately six to eight weeks prior to
20 the expiration of the vehicle's registration.

21 (3) Return of registration renewal notices ~~[License Plate Renewal Notices]~~. Except for
22 authorized online renewals, registration renewal notices ~~[License Plate Renewal Notices]~~ should be
23 returned by the vehicle owner to the department or the appropriate county tax assessor-collector, as

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1 indicated on the registration renewal notice [~~License Plate Renewal Notice~~]. Unless otherwise exempted
2 by law, registration renewal notices [~~License Plate Renewal Notices~~] may be returned either in person or
3 by mail, and shall be accompanied by:

4 (A)-(D) (No change)

5 (4) Lost or destroyed registration renewal notice [~~License Plate Renewal Notice~~]. If a
6 registration renewal notice [~~License Plate Renewal Notice~~] is lost, destroyed, or not received by the vehicle
7 owner, the vehicle may be registered if the owner presents personal identification acceptable to the
8 county tax assessor-collector. Failure to receive the notice does not relieve the owner of the responsibility
9 to renew the vehicle's registration.

10 (e) Transfer of commercial vehicle license plates.

11 (1) Transfer between persons. With the exceptions noted in paragraph (3) of this
12 subsection, when ownership of a vehicle displaying commercial vehicle license plates is transferred,
13 application for transfer of such license plates shall be made with the county tax assessor-collector in the
14 county in which the purchaser resides or a county tax assessor-collector who is willing to accept the
15 application. If the purchaser does not intend to use the vehicle in a manner that would qualify it for the
16 license plates issued to that vehicle, such plates must be exchanged for the appropriate license plates.

17 (2)-(3) (No change)

18 (f) Replacement of lost, stolen, or mutilated commercial vehicle license plates. An owner of lost,
19 stolen, or mutilated commercial vehicle license plates may obtain replacement license plates by filing an
20 Application for Replacement Plates and remitting the prescribed fee to the county tax assessor-collector
21 or from the department [~~of the county in which the owner resides~~].

22

23

Subchapter D. NONREPAIRABLE AND SALVAGE MOTOR VEHICLES

TITLE 43. TRANSPORTATION
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Chapter 217 - Vehicle Titles and Registration

Proposed Sections

1 **43 TAC §217.89**

2 §217.89 Rebuilt Salvage Motor Vehicles

3 (a) Filing for title. When a salvage motor vehicle or a non-repairable motor vehicle for which a
4 non-repairable vehicle title was issued prior to September 1, 2003, has been rebuilt, the owner shall file
5 a certificate of title application, as described in §217.4 of this title (relating to Initial Application for Title),
6 for a rebuilt salvage certificate of title.

7 (b) Place of application. An application for a rebuilt salvage certificate of title shall be filed with
8 the county tax assessor-collector in the county in which the applicant resides, ~~[or]~~ in the county in which
9 the motor vehicle was purchased or is encumbered, or to any county tax assessor-collector who is willing
10 to accept the application.

11 (c) Fee for rebuilt salvage certificate of title. In addition to the statutory fee for a title application
12 and any other applicable fees, a \$65 rebuilt salvage fee must accompany the application [~~unless the~~
13 ~~applicant provides the evidence described in subsection (d)(3)(B) of this section.~~]

14 (d) Accompanying documentation. The application for a certificate of title for a rebuilt non-
15 repairable or salvage motor vehicle must be supported, at a minimum, by the following documents:

16 (1) evidence of ownership, properly assigned to the applicant, as described in subsection
17 (e) of this section;

18 (2) a rebuilt statement, on a form prescribed by the department that includes:

19 (A) a description of the motor vehicle, which includes the motor vehicle's model
20 year, make, model, identification number, and body style;

21 (B) an explanation of the repairs or alterations made to the motor vehicle;

22 (C) a description of each major component part used to repair the motor vehicle
23 and showing the identification number required by federal law to be affixed to or inscribed on the part;

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1 (D) the name ~~[and address]~~ of the owner and the name and address of the
2 rebuilder;

3 (E) a statement by the owner that the owner is the legal and rightful owner of the
4 vehicle, the vehicle is rebuilt, repaired, reconstructed, or assembled and that the vehicle identification
5 number disclosed on the rebuilt affidavit is the same as the vehicle identification number affixed to the
6 vehicle;

7 (F) the signature of the owner, or the owner's authorized agent; and

8 (G) a statement by the rebuilder that the vehicle has been rebuilt, repaired, or
9 reconstructed by the rebuilder and that all component parts used were obtained in a legal and lawful
10 manner, signed by the rebuilder or the rebuilder's authorized agent or employee;

11 (3) evidence of inspection submitted by the person who repairs, rebuilds, or reconstructs
12 a non-repairable or salvage motor vehicle in the form of [:]

13 ~~[(A)]~~ disclosure on the rebuilt statement of the vehicle inspection report
14 authorization or certificate ~~[sticker]~~ number, and the date of inspection ~~[expiration]~~, issued by an
15 authorized state safety inspection station after the motor vehicle was rebuilt, if the motor vehicle will be
16 registered at the time of application; ~~or~~

17 ~~[(B) a written statement, executed by a specially trained commissioned officer of~~
18 ~~the Department of Public Safety prior to September 1, 2003, certifying that the rebuilt non-repairable or~~
19 ~~salvage motor vehicle's parts and identification numbers have been inspected and that the vehicle~~
20 ~~complies with state safety standards;]~~

21 (4) an odometer disclosure statement properly executed by the seller of the motor vehicle
22 and acknowledged by the purchaser, if applicable;

23 (5) proof of financial responsibility in the title applicant's name, as required by

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Proposed Sections

- 1 Transportation Code §502.046, [~~§502.153~~] unless otherwise exempted by law;
- 2 (6) a vehicle inspection report [~~the identification certificate~~] required by Transportation
- 3 Code, §548.256, and Transportation Code, §501.030, if the motor vehicle was last titled and registered in
- 4 another state or country, unless otherwise exempted by law; and
- 5 (7) a release of any liens, unless there is no transfer of ownership and the same lienholder
- 6 is being recorded as is recorded on the surrendered evidence of ownership.

7 (e)-(g) (No change)

8

9 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the proposal and found it to be

10 within the state agency's legal authority to adopt.

11 Issued at Austin, Texas, on Month Day, YYYY.

12

13 _____

14 Tracey Beaver, General Counsel

S.B. No. 876

1 AN ACT
2 relating to the county in which a person may apply for the
3 registration of and title for a motor vehicle.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 501.023(a), Transportation Code, is
6 amended to read as follows:

7 (a) The owner of a motor vehicle must present identification
8 and apply for a title as prescribed by the department, unless
9 otherwise exempted by law. To obtain a title, the owner must
10 apply:

11 (1) to the county assessor-collector in the county in
12 which:

13 (A) the owner is domiciled; or

14 (B) the motor vehicle is purchased or encumbered;

15 or

16 (2) to any ~~the~~ county assessor-collector ~~[of a~~
17 ~~county]~~ who is willing to accept the application ~~[if the county~~
18 ~~assessor-collector's office of the county in which the owner~~
19 ~~resides is closed or may be closed for a protracted period of time~~
20 ~~as defined by the department].~~

S.B. No. 876

1 (1) to the county assessor-collector of the county in
2 which:

3 (A) the owner is domiciled; or

4 (B) the motor vehicle is purchased or encumbered;

5 or

6 (2) to any [in the] county assessor-collector who is
7 willing to accept the application [as directed by the purchaser
8 from the counties set forth in Section 501.023].

9 SECTION 3. Section 501.030(e), Transportation Code, is
10 amended to read as follows:

11 (e) Before a motor vehicle that is required to be registered
12 in this state and that is brought into this state by a person other
13 than a manufacturer or importer may be bargained, sold,
14 transferred, or delivered with an intent to pass an interest in the
15 vehicle or encumbered by a lien, the owner must apply for a title in
16 a manner prescribed by the department to the county
17 assessor-collector for the county in which the transaction is to
18 take place or to any assessor-collector who is willing to accept the
19 application. The assessor-collector may not issue a title receipt
20 unless the applicant delivers to the assessor-collector
21 satisfactory evidence showing that the applicant is the owner of
22 the vehicle and that the vehicle is free of any undisclosed liens.

23 SECTION 4. Section 502.0023(b), Transportation Code, is

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1 owner's residence or principal place of business or in any county in
2 which the county assessor-collector is willing to accept the
3 registration~~[, or~~

4 ~~[(2) the motor vehicles in a commercial fleet that are~~
5 ~~operated most regularly in the same county].~~

6 SECTION 5. Section 502.040(b), Transportation Code, is
7 amended to read as follows:

8 (b) The application must be accompanied by personal
9 identification as determined by department rule and made in a
10 manner prescribed by the department through:

11 (1) ~~[through]~~ the county assessor-collector of the
12 county in which the owner resides; or

13 (2) any ~~[if the office of that assessor-collector is~~
14 ~~closed, or may be closed for a protracted period of time, as defined~~
15 ~~by department rule, through a]~~ county assessor-collector who is
16 willing to accept the application.

17 SECTION 6. Section 502.041(a), Transportation Code, is
18 amended to read as follows:

19 (a) Notwithstanding Section 502.040, the owner of a vehicle
20 may concurrently apply for a title and for registration through the
21 county assessor-collector of the county in which:

22 (1) the owner resides; ~~[or]~~

23 (2) the vehicle is purchased or encumbered; or

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1 (c) It is a defense to prosecution under this section that
2 at the time of the offense:

3 (1) the office of the county assessor-collector for
4 the county in which the owner of the vehicle resided was closed for
5 a protracted period of time in accordance with department rules
6 [~~Section 502.040(b)(2)~~]; and

7 (2) the vehicle's registration was expired for 30
8 working days or less.

9 SECTION 8. The heading to Section 520.006, Transportation
10 Code, is amended to read as follows:

11 Sec. 520.006. COLLECTION OF FEES ON BEHALF OF ANOTHER
12 ASSESSOR-COLLECTOR; COMPENSATION OF ASSESSOR-COLLECTOR.

13 SECTION 9. Sections 520.006(a-1) and (b), Transportation
14 Code, are amended to read as follows:

15 (a-1) A county assessor-collector collecting fees on behalf
16 of another [~~a~~] county assessor-collector [~~whose office is closed or~~
17 ~~may be closed for a protracted period of time as defined by the~~
18 ~~department~~] for purposes of Section 501.023, 501.0234, 501.030,
19 502.0023, [or] 502.040, or 502.041 shall collect all taxes, fees,
20 and other revenue based on the vehicle owner's county of residence.
21 The vehicle owner's county of residence shall be the recipient of
22 all taxes, fees, and other revenue collected as a result of the
23 transaction, except that the county processing the application may

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1 ~~county that is closed or may be closed for a protracted period of~~
2 ~~time].~~

3 (b) A county assessor-collector who is compensated under
4 this section for processing a transaction shall pay the entire
5 expense of issuing registration receipts and license plates under
6 Chapter 501 or 502 from the compensation allowed under this
7 section.

8 SECTION 10. Section 521.144(c), Transportation Code, is
9 amended to read as follows:

10 (c) A registration receipt issued by a ~~the~~ county
11 assessor-collector in this state ~~[of the county in which the new~~
12 ~~resident resides]~~ is satisfactory evidence that a motor vehicle is
13 registered under Chapter 502.

14 SECTION 11. The following provisions of the Transportation
15 Code are repealed:

16 (1) Section 501.023(e); and

17 (2) Section 501.0234(e).

18 SECTION 12. Section 502.407(c), Transportation Code, as
19 amended by this Act, applies only to an offense committed on or
0 after the effective date of this Act. An offense committed before
1 the effective date of this Act is governed by the law in effect when
2 the offense was committed, and the former law is continued in effect
3 for that purpose. For purposes of this section, an offense was

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President of the Senate

Speaker of the House

I hereby certify that S.B. No. 876 passed the Senate on April 13, 2021, by the following vote: Yeas 29, Nays 2; and that the Senate concurred in House amendments on May 27, 2021, by the following vote: Yeas 28, Nays 3.

Secretary of the Senate

I hereby certify that S.B. No. 876 passed the House, with amendments, on May 14, 2021, by the following vote: Yeas 93, Nays 35, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor



Board Meeting Date: 10/29/2021
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Roland Luna, Vehicle Titles & Registration Division Director
Agenda Item: 10
Subject: Chapter 217, Vehicle Titles and Registration - (ACTION ITEM)
Amendments, §217.41. (SB 792, Relating to specialty license plates and parking placards for vehicles of certain disabled veterans)

RECOMMENDATION

Approval to publish the adopted amended section in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the adopted amended section is to implement Senate Bill (SB) 792, Regular Session (2021), to include disabled veterans in the process for issuance of disabled person license plates. Under SB 792, effective January 1, 2022, access to disabled parking spaces will be limited to persons, including disabled veterans, who are eligible for a disabled person license plate bearing the International Symbol of Access under Transportation Code §504.201. SB 792 requires the department to adopt rules by December 1, 2021, to issue license plates under Transportation Code §504.202(b-1). The adoption amends §217.41 to include disabled veterans in the existing disabled person application process.

FINANCIAL IMPACT

There will be no financial impact, but the department will incur a one-time technology cost of \$8,000 in the first year to implement programming for the department's automated systems. Therefore, there will be no fiscal impact to state or local governments as a result of the enforcement or administration of the amended section for each year of the first five years the adopted amendments will be in effect.

BACKGROUND AND DISCUSSION

Disabled persons with qualifying mobility issues or who are legally blind, and persons that transport those persons, can obtain disabled person license plates bearing the International Symbol of Access under Transportation Code §504.201. Disabled veterans, and persons that transport them, can obtain disabled veteran license plates under Transportation Code §504.202 based on a service-related disability, which might not be related to mobility. Disabled persons and disabled veterans can also obtain the blue and white disabled parking placard. Both types of license plates and the parking placard currently allow disabled person parking when transporting the disabled person or disabled veteran.

Effective January 1, 2022, SB 792 restricts access to disabled parking spaces to vehicles bearing a license plate with the International Symbol of Access or disabled parking placard. SB 792 amends Transportation Code §504.202(b-1) to allow disabled veterans who meet the disabled persons requirement to obtain the plates. Disabled veterans meeting the standard, and their transporters, must obtain new license plates or a parking placard to continue to qualify for disabled parking after January 1, 2022. A person who qualifies for a disabled parking placard may continue to access a disabled parking space when displaying a disabled person placard.

COMMENTS

The amendments were published for comment in the August 20, 2021, issue of the *Texas Register*. The comment period closed on September 20, 2021. The department received written comments from the Tax Assessor-Collectors Association

of Texas. All comments received were addressed in the preamble sections and rule text was changed in response to one comment.

If the board adopts the rules during its October 29, 2021, open meeting, staff anticipates:

- Publication in the November 12, 2021, issue of the *Texas Register*; and
- The rules will establish an effective date of January 1, 2022, to coincide with the effective date of the bill.

THE TAX ASSESSOR-COLLECTORS ASSOCIATION OF TEXAS

An Association to secure the benefits of organized ideas and discussion of mutual problems that will advance and maintain proper efficiency and dignity of the County Tax Office.

www.tacaofexas.org

ENHANCE YOUR VIEW



September 20, 2021

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Attn: Tracey Beaver

Dear TxDMV Board, Executive Director and V.T.R. Director,

The Tax Assessor Collectors Association of Texas (TACA), representing all 254 county tax assessor collectors, seeks to provide input on Texas Administration Code proposed rule §217.41.

There appears to be a duplication of language in the rule. In *On 217.41 (e)(1) (A)* “An owner who sells or trades a vehicle **to which** the disabled person license plates have been issued **shall** remove the disabled person license plates from the vehicle.”

This language is repeated again in... (B) (III)(ii) ...”An owner who sells or trades a vehicle **with** disabled person license plates **must** remove the plates from the vehicle.”

Unless there is a purpose for the duplicate language, it is recommended for clarity to omit the duplicate language.

In *Section (B) Transfer between vehicles*, a recommendation to include language that Form VTR-420-UT must be used.

Thank you,

Randy H. Riggs
President, TACA

Michelle French
TxDMV Liaison, TACA

TITLE 43. TRANSPORTATION
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Adopted Section

1 qualifying disabled veteran is not required to accept a disabled person license plate displaying
2 the International Symbol of Access; however, as stated in SECTION 8 and SECTION 9 of SB
3 792, beginning January 1, 2022, only vehicles displaying license plates bearing the International
4 Symbol of Access or a disabled parking placard may lawfully park in disabled parking spaces
5 under Transportation Code §§681.008, 681.009. and 681.011.

6 The statutory requirements for a disabled person under Transportation Code §504.201
7 differ from the requirements to qualify as a disabled veteran under Transportation Code §504.202.
8 As such, it is possible that not all persons who qualify for a disabled veteran license plate will
9 meet the requirement in Transportation Code §504.202(b-1) and be able to obtain license plates
10 bearing the International Symbol of Access or disabled parking placards.

11 Section 217.41(b)(2)(A) is also amended to establish satisfactory proof of eligibility for an
12 organization that under Transportation Code §504.202(c) transports disabled veterans who would
13 qualify for license plates issued under Transportation Code §504.202(b-1), as required in
14 Transportation Code §504.202(b-2). As amended, §217.41(b)(2)(A) includes the certification
15 requirements in Transportation Code §504.202(d) and adds a requirement for the certifying
16 authority, the veteran's county service officer of the county in which a vehicle described by
17 Transportation Code §504.202(c) is registered or the Department of Veterans Affairs certify that
18 the vehicle regularly transports veterans that would qualify for license plates under Transportation
19 Code §504.202(b-1). The department considers that Transportation Code §504.202(b-2) requires
20 transportation on a regular but not constant basis.

21 Section 217.41(b)(2)(B) and (C) are amended to recognize that a disabled veteran may
22 qualify for certain military specialty license plates under §217.43. Also, the terms "Disabled
23 Person" and "International Symbol of Access" are restated for consistent usage in the section.

24 Section 217.41(b)(3)(A) is amended to inform the reader of the Transportation Code
25 sections that establish requirements for the issuance of disabled parking placards. Section

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Adopted Section

1 217.41(b)(3)(B) is amended to inform the reader of department rules that have provisions related
2 to the renewal of regular, military, and specialty license plates. In response to a comment, the
3 department has added §217.41(e)(B)(iii), which reads "The department will provide a form that
4 persons may use to facilitate a transfer of disabled person license plates between vehicles." The
5 change does not impose a new requirement or add costs not addressed in the proposal.

6 The department also adopts nonsubstantive changes for department style, including
7 adding lead statements in §217.41(b)(2)(B) and (C); changing the term "Disabled Person" to
8 "disabled person" throughout §217.41; and adding "tax assessor-collector" references to "county"
9 in §217.41(d)(1)(B) and (e)(1)(B) for consistency with other references in the subsections. Finally,
10 the department adopts as a nonsubstantive change that all references in the section to the parking
11 placard be styled "disabled parking placard," for consistency with the terminology in
12 Transportation Code §504.201 and §504.202, and Chapter 681.

13 Senate Bill 792 required the department to adopt rules by December 1, 2021. Because
14 the amendments to §217.41 implement SB 792, the amended section cannot become effective
15 until SB 792, which is January 1, 2022. As such, the amendments to §217.41 are adopted to be
16 effective January 1, 2022.

17

18 **SUMMARY OF COMMENTS.**

19 The department received two written comments on the proposal from The Tax Assessor-
20 Collectors Association of Texas (TACA), which represents all 254 county tax assessor-
21 collectors in Texas.

22 **Comment:**

23 The commenter notes that the second sentence §217.41(e)(1)(A) appears to be
24 duplicated in §217.41(e)(1)(B)(ii), with some slight differences. The commenter recommended
25 that the duplicate statement be eliminated for clarity.

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Adopted Section

1 **Agency Response:**

2 The department agrees that both provisions require a person that sells or trades a
3 vehicle with disabled person license plates to remove the license plates. However, each
4 statement applies to a different circumstance: the transfer of license plates between persons
5 and the transfer of license plates between vehicles. Because the proposal did not indicate the
6 requirement was under review, the department declines to determine if, or which, statement is
7 duplicate and remove it from the adopted text.

8
9 **Comment:**

10 The commenter recommends that §217.41 (e)(1)(B)(ii) include a requirement that Form
11 VTR-420-UT must be used.

12 **Agency Response:**

13 The department agrees that transfer of a military specialty plate with a DV designation
14 would currently involve VTR-420-UT. However, §217.41 is not limited to military plates or disabled
15 veterans. While not contemplated at this time, the form and form number may change to better
16 serve disabled persons in complying with this rule. For these reasons, the department declines to
17 refer to the form by number but has added a statement that "The department will provide a form
18 that persons may use to facilitate a transfer of disabled person license plates between vehicles."
19 The change does not impose a new requirement or add costs not addressed in the proposal.

20
21 **STATUTORY AUTHORITY.** The department adopts amendments to §217.41 under
22 Transportation Code §§504.202, 504.0011, and 1002.001.

23 Transportation Code §504.202(b-2) requires the department to adopt rules prescribing
24 satisfactory proof of eligibility for an organization that registers a motor vehicle under
25 Transportation Code §504.202(c) to receive license plates under Transportation Code

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Adopted Section

1 §504.202(b-1) if the vehicle regularly transports veterans who are eligible to receive license
2 plates under Subsection (b-1).

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
6 and appropriate to implement the powers and the duties of the department.

7 **CROSS REFERENCE TO STATUTE.** Transportation Code §§502.410, 504.201, 504.202,
8 681.004, 681.008, 681.009, and 681.011.

9
10 **TEXT.**

11 **SUBCHAPTER B. MOTOR VEHICLE REGISTRATION**

12 **43 TAC §217.41**

13 **§217.41 Disabled Person License Plates and Disabled Parking [~~Identification~~] Placards**

14 (a) Purpose. Transportation Code, Chapters 504 and 681, charge the department with
15 the responsibility for issuing specially designed license plates and disabled parking
16 [~~identification~~] placards for disabled persons. For the department to perform these duties
17 efficiently and effectively, this section prescribes the policies and procedures for the application,
18 issuance, and renewal of disabled person [~~Disabled Person~~] license plates and disabled parking
19 placards.

20 (b) Issuance.

21 (1) For purposes of this section, "disabled person" means a person eligible for
22 issuance of a license plate bearing the International Symbol of Access under Transportation
23 Code §504.201, including a qualifying disabled veteran under §504.202(b-1).

24 (2) [(1)] Disabled person [~~Person~~] license plates.

25 (A) Eligibility. In accordance with Transportation Code [,] §504.201 and

TITLE 43. TRANSPORTATION
Part 10. Texas Department of Motor Vehicles
Chapter 217 - Vehicle Titles and Registration

Adopted Section

1 §504.202(b-1) and (b-2), the department will issue specially designed license plates displaying
2 the International Symbol of Access [~~international symbol of access~~] to permanently disabled
3 persons or their transporters instead of regular motor vehicle license plates. As satisfactory
4 proof of eligibility, an organization that transports disabled veterans who would qualify for
5 license plates issued under Transportation Code §504.202(b-1) must provide a written
6 statement from the veteran's county service officer of the county in which a vehicle described by
7 Transportation Code §504.202(c) is registered or by the Department of Veterans Affairs that:

8 (i) the vehicle is used exclusively to transport veterans of the
9 United States armed forces who have suffered, as a result of military service, a service-
10 connected disability;

11 (ii) the vehicle regularly transports veterans who are eligible to
12 receive license plates under Subsection (b-1); and

13 (iii) the veterans are not charged for the transportation.

14 (B) Specialty license plates. The department will issue disabled person
15 [~~Disabled Person insignia on these~~] specialty license plates displaying the International Symbol
16 of Access that can accommodate the identifying insignia and that are issued in accordance with
17 §217.43 or §217.45 of this title [~~(relating to Specialty License Plates, Symbols, Tabs, and Other~~
18 ~~Devices)].~~

19 (C) License plate number. Disabled person [~~Person~~] license plates will
20 bear a license plate number assigned by the department or will bear a personalized license
21 plate number issued in accordance with §217.43 or §217.45 of this title.

22 (3) [~~2~~] Windshield disabled parking [~~identification~~] placards.

23 (A) Issuance. The department will issue removable windshield disabled
24 parking [~~identification~~] placards to temporarily or permanently disabled persons and to the
25 transporters of permanently disabled persons, as provided under Transportation Code

TITLE 43. TRANSPORTATION
Part 10. Texas Department of Motor Vehicles
Chapter 217 - Vehicle Titles and Registration

Adopted Section

1 §§504.201, 504.202, and 681.004.

2 (B) Display. A person who has been issued a windshield disabled parking
3 [identification] placard shall hang the placard from a vehicle's rearview mirror when the vehicle
4 is parked in a disabled person parking space or shall display the placard on the center portion of
5 the dashboard if the vehicle does not have a rearview mirror.

6 (c) Renewal of disabled person ~~[Disabled Person]~~ license plates. Disabled person
7 ~~[Person]~~ license plates are valid for a period of 12 months from the date of issuance [;] and are
8 renewable as specified in §§217.28, 217.43, and 217.45 ~~[\$217.28]~~ of this title ~~[(relating to~~
9 ~~Vehicle Registration Renewal)]~~.

10 (d) Replacement.

11 (1) License plates. If a disabled person ~~[Disabled Person]~~ metal license plate is
12 lost, stolen, or mutilated, the owner may obtain a replacement metal license plate by applying
13 with a county tax assessor-collector.

14 (A) Accompanying documentation. To replace disabled person
15 ~~[permanently Disabled Person]~~ metal license plates, the owner must present the current year's
16 registration receipt and personal identification acceptable to the county tax assessor-collector.

17 (B) Absence of accompanying documentation. If the current year's
18 registration receipt is not available and the county tax assessor-collector cannot verify that the
19 disabled person ~~[Disabled Person]~~ metal license plates were issued to the owner, the owner
20 must reapply in accordance with this section.

21 (2) Disabled parking ~~[Person identification]~~ placards. If a disabled parking
22 ~~[Disabled Person identification]~~ placard becomes lost, stolen, or mutilated, the owner may
23 obtain a new disabled parking ~~[identification]~~ placard in accordance with this section.

24 (e) Transfer of disabled person ~~[Disabled Person]~~ license plates and disabled parking
25 ~~[identification]~~ placards.

TITLE 43. TRANSPORTATION
Part 10. Texas Department of Motor Vehicles
Chapter 217 - Vehicle Titles and Registration

Adopted Section

1 (1) License plates.

2 (A) Transfer between persons. Disabled person [~~Person~~] license plates
3 may not be transferred between persons. An owner who sells or trades a vehicle to which
4 disabled person [~~Disabled Person~~] license plates have been issued shall remove the disabled
5 person [~~Disabled Person~~] license plates from the vehicle. The owner shall return the license
6 plates to the department and shall obtain appropriate replacement license plates to place on the
7 vehicle prior to any transfer of ownership.

8 (B) Transfer between vehicles. Disabled person [~~Person~~] license plates
9 may be transferred between vehicles if the county tax assessor-collector or the department can
10 verify the plate ownership and the owner of the vehicle is a [~~the~~] disabled person or the vehicle
11 is used to transport a [~~the~~] disabled person.

12 (i) Plate ownership verification may include:
13 (I) a Registration and Title System (RTS) inquiry;
14 (II) a copy of the department application [~~Application~~] for
15 disabled person [~~Disabled Person~~] license plates; or
16 (III) the owner's current registration receipt.

17 (ii) An owner who sells or trades a vehicle with disabled person
18 [~~Disabled Person~~] license plates must remove the plates from the vehicle.

19 (iii) The department will provide a form that persons may use to
20 facilitate a transfer of disabled person license plates between vehicles.

21 (2) Disabled parking [~~Identification~~] placards.

22 (A) Transfer between vehicles. Disabled parking [~~Person identification~~]
23 placards may be displayed in any vehicle driven by the disabled person or in which the disabled
24 person is a passenger.

25 (B) Transfer between persons. Disabled parking [~~Person identification~~]

TITLE 43. TRANSPORTATION
Part 10. Texas Department of Motor Vehicles
Chapter 217 - Vehicle Titles and Registration

Adopted Section

1 placards may not be transferred between persons.

2 (f) Seizure and revocation of disabled parking placard.

3 (1) If a law enforcement officer seizes and destroys a disabled parking placard
4 under Transportation Code [v] §681.012, the officer shall notify the department by email.

5 (2) The person to whom the seized disabled parking placard was issued may
6 apply for a new disabled parking placard by submitting an application to the county tax
7 assessor-collector of the county in which the person with the disability resides or in which the
8 applicant is seeking medical treatment.

9 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the adoption and found it
10 to be within the state agency's legal authority to adopt.

11 Issued at Austin, Texas, on Month Day, YYYY.

12

13

14

Tracey Beaver, General Counsel



Board Meeting Date: 10/29/2021
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Roland D. Luna, Sr., Vehicle Titles & Registration Division Director
Agenda Item: 11
Subject: Specialty License Plate Designs

RECOMMENDATION

The Vehicle Titles and Registration Division (VTR) seeks board approval or denial of three plate designs submitted for your consideration. Each plate design is from the marketing vendor, My Plates.

PURPOSE AND EXECUTIVE SUMMARY

The Southwestern Baptist Theological Seminary plate and the Tulane University plate are new plate designs and have never been sold before. The San Antonio Spurs is a redesign of an existing My Plates (vendor) plate.

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 (SLPM) 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. Since March 2014, the board has contingently approved 40 vendor plates. Of the 40, nine did not achieve the required 200 commitments and were not produced.



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.

The Southwestern Baptist Theological Seminary plate and the San Antonio Spurs plate designs were presented to the public in an August 2021 eView, and the Tulane University plate design was presented to the public in a September 2021 eView. No negative comments were received. The count of the public's "like/dislikes" are below with the designs.

Southwestern Baptist Theological Seminary	New	
780 people liked this design and 278 did not		
San Antonio Spurs	Current	Redesign
515 people liked this design and 168 did not		
Tulane University	New	
173 people liked this design and 202 did not		



Southwestern Baptist Theological Seminary (New)



San Antonio Spurs (Redesign)



Tulane University (New)





Board Meeting Date: 10/29/2021
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 12
Subject: Advisory Committee Appointments
- Consumer Protection Advisory Committee (CPAC) (ACTION ITEM)
- Customer Service Advisory Committee (CSAC) (ACTION ITEM)
- Motor Vehicle Industry Regulation Advisory Committee (MVIRAC) (ACTION ITEM)

RECOMMENDATION

That the Texas Department of Motor Vehicles Board (board) appoint the individuals from the list of potential members presented to the board by the executive director as members of the Consumer Protection Advisory Committee, Customer Service Advisory Committee, and the Motor Vehicle Industry Regulation Advisory Committee.

PURPOSE AND EXECUTIVE SUMMARY

To implement Transportation Code §1001.031, directing the board to establish advisory committees by appointing advisory members to the Consumer Protection Advisory Committee, Customer Service Advisory Committee, and the Motor Vehicle Industry Regulation Advisory Committee.

FINANCIAL IMPACT

No financial impact.

BACKGROUND AND DISCUSSION

The Sunset Advisory Commission recommended (Recommendation 1.7) that the board “establish advisory committees to provide expertise for rulemaking and other issues and adopt rules regarding standard committee structure and operating criteria.”

Under Transportation Code §1001.031, the board established five advisory committees by rules. The rules establishing these advisory committees as well as their purpose, use and structure, were adopted by the board in the August 8, 2019 board meeting. The board is required to “appoint members to an advisory committee by selecting them from a list of potential members provided by the executive director.” Further, the board is required, to the extent practical, to consider the balance of the advisory committee to ensure representation of: industries or occupations regulated or indirectly regulated by the board, consumers of services provided by the board, and different geographical regions of the state. The board has previously selected members for all five committees.

The appointment of the individuals on the Consumer Protection Advisory Committee list of potential members presented today would add two individuals who are consumers of services (insurance and law enforcement) to the

committee, neither category of which is currently represented in the committee member affiliations and add geographic diversity.

The appointment of the individuals on the Customer Service Advisory Committee list of potential members presented today would add two individuals who are franchise dealers to that committee and add geographic diversity.

The appointment of the individuals to the Motor Vehicle Industry Regulation Advisory Committee list presented today would add a consumer of services (law enforcement), a recreational vehicle representative focusing on franchise dealers, and a franchise dealer to that committee.



Roles of the Five Advisory Committees

1. The **Consumer Protection Advisory Committee** will make recommendations on investigation and enforcement issues, including: vehicle titles and registration fraud; lemon law; the warranty performance program; and various other topics affecting consumers.
2. The **Customer Service Advisory Committee** will make recommendations on topics related to improving and enhancing customer service by the department, including: infrastructure; new customer service initiatives; policy and process improvements; and technology.
3. The **Motor Carrier Regulation Advisory Committee** will make recommendations on topics related to motor carrier registration and motor carrier regulation.
4. The **Motor Vehicle Industry Regulation Advisory Committee** will make recommendations on topics related to regulation of the motor vehicle industry.
5. The **Vehicle Titles and Registration Advisory Committee** will make recommendations on topics related to vehicle titles and registration

Names for Consideration

No.	Potential Members	GeoRegion	County	Employer	License Type/Affiliation
1	Russell Hayter	10	Hays	Retired - Insurance Industry	Public
2	David Kohler	11	Travis	Travis County - Sr. Deputy Sheriff	Law Enforcement
Existing Consumer Protection Adiscory Committee Members					
1	Laird McGraw Doran, CPAC Presiding Officer	06	Harris	The Friedkin Group - Vice President & Senior Counsel	Affiliated with Franchise Dealer/Distributor
2	William Carroll Smith	06	Harris	Monument Chevrolet - Owner	Franchise dealer
3	Richard Cavender	10	Bexar	Audi Dominion - Dealer Principal	Franchise Dealer
4	Juan Alfredo Solis	09	Cameron	Allstar Motors - Owner	Independent Dealer
5	Dorothy S. Brooks	11	Travis	Texas Trucking Association/Southwest Movers Association (SMA) - Director of Operations	Motor Carrier Consultant
6	Melissa A. Peace, CPAC First Vice Chair	04	Ellis	Transportation Compliance Services USA - Certified Compliance Specialist	Motor Carrier Consultant
7	Traci Lynne McCullah	06	Harris	Westar Moving & Storage, Inc. - Vice President	Moving & Storage
8	James Gordon French	10	Bexar	Scobey Moving and Storage LTD - Vice President	Moving & Storage

Names for Consideration

9	Tiffen Shay Eshpeter	11	Williamson	Better Business Bureau Serving Heart of Texas - Chief Operating Officer	Public
10	Raymond "Ray" George Olah	11	Travis	Office of the Attorney General - Assistant Attorney General	Public
11	Michael S. Rigby, CPAC Second Vice Chair	11	Travis	Office of Consumer Credit Commissioner - General Counsel	Public
12	Ruben P. Gonzalez	05	El Paso	El Paso County - Tax Assessor Collector	Tax Assessor-Collector
13	Cheryl E. Johnson	06	Galveston	Galveston County - Tax Assessor Collector	Tax Assessor-Collector
14	Jeanette A. Rash	02	Montgomery	Milam St Auto Storage, Inc./ Cannino West, Inc. - President	Towing Company

No.	Potential Members	GeoRegion	County	Employer	License Type/Affiliation
1	Robert Frank Boggus	09	Hidalgo	Boggus Motor Sales - Dealer/President	Franchise Dealer
2	Christopher Edward Wall	03	Victoria	Keating Auto Group - General Counsel	Franchise Dealer
Existing Customer Service Advisory Committee Members					
1	Christopher Gaston	06	Harris	Texas Gulf Coast Auto Title - Title Clerk	Auto Title Service
2	Thomas Johnson Drake	11	Milam	Auto Data Direct, Inc. - National Towing Manager	Data Collector User
3	Richard Cavender	10	Bexar	Audi Dominion - Dealer Principal	Franchise Dealer
4	Melissa A. Peace, CPAC First Vice Chair	04	Ellis	Transportation Compliance Services USA - Certified Compliance Specialist	Motor Carrier Consultant
5	Susan K. Sutton	06	Harris	Texas Motor Transportation Consultants LLC - Senior Title Administrator	Motor Carrier Consultant
6	Ford Earl Wagner	10	Comal	Texas Auto Carriers, Inc. - COO	Motor Carrier Operations - Others
7	Brian Everett Daugbjerg	08	Gregg	Longview Scrap & Metal - Owner	Motor Carrier Operations - Self & Scrap Metal
8	Billie Ann Aliu, CSAC Second Vice Chair	06	Galveston	Samsung Engineering America - Sr. HR Manager	Public
9	Russell Lonzo Hayter	10	Hays	Retired - Insurance Industry	Public
10	Lori Lenae King	11	Mills	Mills County - Tax Assessor-Collector	Tax Assessor-Collector
11	Kristen Haley Hoyt, CSAC First Vice Chair	10	Comal	Comal County - Tax Assessor-Collector	Tax Assessor-Collector

Names for Consideration

12	John Richard Ames, CSAC Presiding Officer	04	Dallas	Dallas County - Tax Assessor Collector	Tax Assessor-Collector
13	Ruben P. Gonzalez	05	El Paso	El Paso County - Tax Assessor Collector	Tax Assessor-Collector
14	Stephen Wayne Palacios	10	Bexar	Bexar County Tax Assessor-Collector Office - Chief Deputy of Operations	Tax Assessor-Collector
15	Tina May Carter	11	Travis	Travis County Tax Office - Motor Vehicle Supervisor	Tax Assessor-Collector
16	Bruce Queinton Stidham	04	Grayson	Grayson County - Tax Assessor Collector	Tax Assessor-Collector

No.	Potential Members	GeoRegion	County	Employer	License Type/Affiliation
1	Mike Sullivan	06	Harris	Group 1 Automotive - Director Governmental and Public Affairs	Franchise Dealer
2	Julio Cesar Gonzalez	04	Dallas	Dallas Police Department - Lieutenant of Police	Law Enforcement
3	Ernest Philip Elam	11	Travis	Texas Recreational Vehicle Association - Executive Director	Recreational Vehicle Representative - Franchise Dealers
Existing Motor Vehicle Industry Regulation Advisory Committee Members					
1	Lloyd "Buddy" Ernest Ferguson	11	McLennan	Barack Ferrazzano Kirschbaum & Nagelberg, LLP - Partner	Attorney for Manufacture/Distributor
2	Laird McGraw Doran, CPAC Presiding Officer	06	Harris	The Friedkin Group - Vice President & Senior Counsel	Affiliated with Franchise Dealer/Distributor
3	Franklin Scott Sims	01	Taylor	Freedom Motors - Owner	Converter - Wheelchair Accessible
4	Stephen Earl Prather, Sr.	06	Harris	Retired -	Franchise Dealer
5	Scott Arthur Stark, MVIRAC First Vice Chair	11	Travis	South Point Hyundai, Genesis of Austin, South Point Dodge Chrysler Jeep and Ram - President/Owner	Franchise Dealer
6	Joshuah Brian Greenlaw	06	Harris	Wild West Motoplex - General Manager	Franchise Dealer - Motorcycles
7	Trey Srolla, MVIRAC Second Vice Chair	12	Clay	Eddie Hill's Fun Cycles - General Manager	Franchise Dealer - Motorcycles
8	Christopher Sean Donnelly	02	Montgomery	Donnelly Auto Group - President/Managing Member	Independent Dealer
9	Jimmy Vitela	02	Montgomery	Northstar Auto Group/Vitela Investment, LLC - CEO	Independent Dealer
10	Kalien Moody Thomas	04	Ellis	Frontera Truck Parts & Equipment, Inc. - Office Manager	Independent Dealer

Names for Consideration

11	Greg Frank Zak	06	Fort Bend	Dixon Motors - President/Owner	Independent Dealer
12	Rita Lynn Edwards	08	Hopkins	Edwards Used Cars - Office Manager, Title Clerk, Finance Manager, Bookkeeper, Sales	Independent Dealer
13	Mark Harold Brown	10	Comal	Red Carpet Auto Sales Co. - Owner	Independent Dealer
14	Jeff Martin	11	Williamson	Texas Independent Automobile Dealers Association - Executive Director	Independent Dealer Representative
15	Michael Walter Bradburn, Sr.	11	Bell	Travis County Constable Precinct 3 - Corporal	Law Enforcement
16	Russell Lonzo Hayter	10	Hays	Retired - Insurance Industry	Public
17	William J. Murphy	10	Kerr	Self-employed - Owner	Public
18	David Earl Blassingame, MVIRAC Presiding Officer	04	Dallas	Autoflex Leasing & Blassingame Consulting - Special Projects Coordinator and Owner of Consulting Company	Vehicle Lessor Consultant



Board Meeting Date: 10/29/2021
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Glenna Bowman, Chief Financial Officer
Agenda Item: 13.A.
Subject: FY 2021 Financial Report (BRIEFING ONLY) – Glenna Bowman and Sergio Rey

RECOMMENDATION

Briefing Only.

(PLEASE NOTE: All page numbers below refer to the FY 2021 Financial Report in the Board book, section 13.A.)

PURPOSE AND EXECUTIVE SUMMARY

Attached is the Fiscal Year (FY) 2021 financial summary report for TxDMV for the period ending August 31, 2021. This report contains information on projected and actual revenues, as well as budgeted and actual expenditures. The report includes a stand-alone report for TxDMV Fund (0010) and information on selected statistics that may have an impact on revenues.

The TxDMV is self-supporting and funds most of its expenditures through revenues deposited to TxDMV Fund 0010. The Motor Vehicle Crime Prevention Authority division (MVCPA) is fully funded through fees deposited to the General Revenue Fund (0001).

Highlights of the department's revenues, expenditures and fund balances include the following:

- In FY 2021, the TxDMV collected \$1.96 billion in revenue in all funds. This was 6.3% more than FY 2020 collections.
- TxDMV Fund 0010 collections totaled \$158.8 million, a 1.7% increase over FY 2020.
- Expenditures and outstanding obligations in all funds for FY 2021 totaled \$174.0 million, which includes \$149.5 million in expenditures and \$24.5 million in encumbrances.
- The department collected sufficient revenue in FY 2021 to support its expenditures and encumbrances for the year.
- The adjusted year-end balance for **TxDMV Fund 0010** as of August 31, 2021, was **\$149.1 million**.

FINANCIAL IMPACT

N/A

BACKGROUND AND DISCUSSION

REVENUES (All Funds) (see Page 2)

In FY 2021, the state showed a steady growth pattern in almost all sectors, resulting in an increase in registration, motor carrier credentialing, motor vehicle business license, and processing and handling fee revenue. Decreased activity in the oil-and-gas sector, along with a shortage of drivers in the industry, has affected the issuance of motor-carrier permits, continuing to result in lower oversize / overweight fee deposits. Revenues in the second half of FY 2021 trended upward from the lows of FY 2020 and early FY 2021.

PROJECTED versus ACTUAL REVENUES (see Page 3)

Overall, FY 2021 revenues exceeded projections by 2.2%. Revenue collections in the last few months of FY 2021 reflected an increase in most categories from the lows of FY 2020 as the fee-waiver and deferral period ended in April 2021.

TxDMV FUND 0010 REVENUES (see Page 4)

FY 2021 collections for TxDMV Fund 0010 totaled \$158.8 million, an increase of 1.7% (\$2.6 million) over FY 2020. The increase in FY 2021 revenues is mostly attributable to strong vendor-plates sales, motor vehicle registrations, and processing and handling fee collections.

EXPENDITURES AND ENCUMBRANCES (see Page 9)

Expenditures and outstanding obligations in all funds for FY 2021 totaled \$174.0 million, which includes \$149.5 million in expenditures and \$24.5 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 \$8.5 million for contract payments to License Plates of Texas, LLC., the MyPlates specialty-plates vendor. Contract payments to MyPlates are contingent upon revenues collected.

CAPITAL BUDGET AND PROJECTS (see Pages 10-11)

The FY 2021 capital project budgets through August 31, 2021, included expenditures of \$20.4 million and encumbrances of \$8.2 million, for a total of \$28.6 million. This included \$5.9 million for Automation System Projects; \$13.6 million for Data Center Services; and \$7.1 million for County Technology. The remaining capital obligations were for other technology projects, Regional Service Centers Maintenance, Replacement Vehicles and Headquarters Maintenance. The FY 2021 capital project budget included \$25.9 million in funds carried forward from FY 2020; most of the carry forward was 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 will carry forward to FY 2022. The \$13.0 million provided 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 Web Salvage application, and implementation of requirements related to Senate Bill 1064 for additional County fleet registration requirements.

MYPLATES (see Page 6)

The current (third) specialty-plates marketing contract executed with License Plates of Texas, LLC. For the MyPlates.com 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, 2021, totaled \$33.3 million. Of the \$33.3 million, \$15.4 million counts toward the \$25 million contract guarantee.



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.



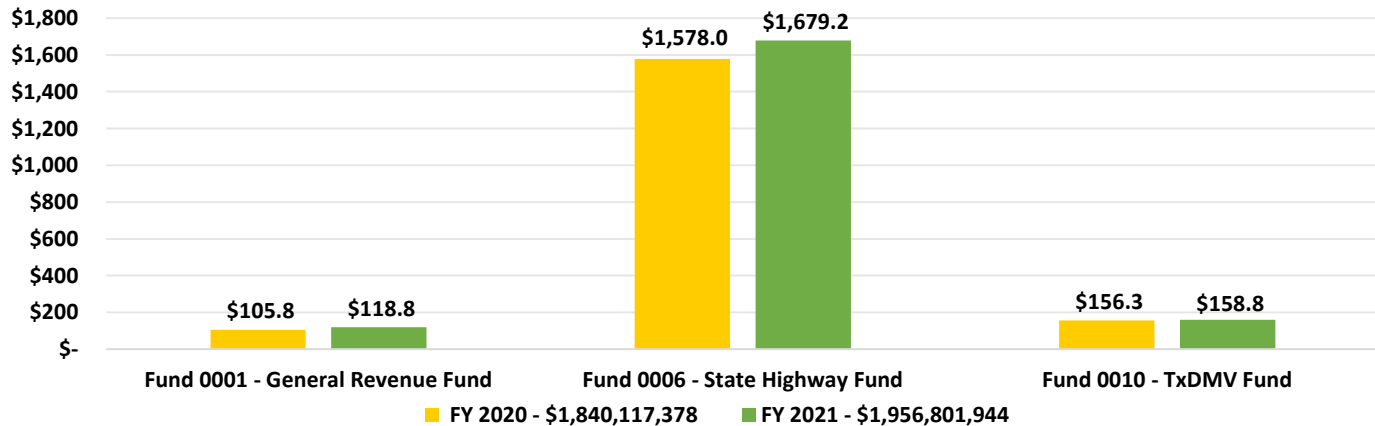
FY 2021 Financial Report
For the Year Ending August 31, 2021
October 29, 2021

FY 2020 and FY 2021 Revenues - All Funds

September 1 through August 31

FY 2020 and FY 2021 Revenue by Fund

(in millions)



The Texas Department of Motor Vehicles (TxDMV) collected \$1.96 billion in FY 2021. This was 6.3% more than FY 2020 collections. In FY 2021, the state showed a steady growth pattern in almost all sectors, resulting in an increase in registration, motor carrier credentialing, motor vehicle business license, and processing and handling fee revenue. Decreased activity in the oil-and-gas sector, along with a shortage of drivers in the industry, has affected the issuance of motor-carrier permits, continuing to result in lower oversize/overweight fee deposits. Revenues in the second half of FY 2021 trended upward from the lows of FY 2020 and early FY 2021.

FY 2020 and FY 2021 revenue deposits for all funds by revenue category are shown in the chart below.

FY 2020 and FY 2021 Revenue by Category - All Funds

Revenue Category	FY 2020 Actual	FY 2021 Actual	Variance	% Difference
Motor Vehicle Certificates of Title	\$ 78,290,902	\$ 76,877,751	\$ (1,413,151)	(1.8%)
Motor Vehicle Registration	1,510,001,445	1,643,644,378	133,642,932	8.9%
Motor Carrier - Oversize/Overweight	173,477,380	153,833,986	(19,643,394)	(11.3%)
Motor Carrier Credentialing	5,889,314	6,297,803	408,489	6.9%
Motor Vehicle Business Licenses	7,390,831	8,091,110	700,278	9.5%
Miscellaneous Revenue	12,359,893	11,909,038	(450,855)	(3.6%)
Processing and Handling Fee	52,707,612	56,147,878	3,440,266	6.5%
Total	\$ 1,840,117,378	\$ 1,956,801,944	\$ 116,684,566	6.3%

FY 2021 Projected versus Actual Revenues - All Funds

September 1 through August 31

Revenue Category	FY 2021 Projected	FY 2021 Actual	Variance	% Difference
Motor Vehicle Certificates of Title	\$ 82,914,000	\$ 76,877,751	\$ (6,036,249)	(7.3%)
Motor Vehicle Registration	1,587,790,000	1,643,644,378	55,854,378	3.5%
Motor Carrier - Oversize/Overweight	162,563,000	153,833,986	(8,729,014)	(5.4%)
Motor Carrier Credentialing	5,974,000	6,297,803	323,803	5.4%
Motor Vehicle Business Licenses	7,682,000	8,091,110	409,110	5.3%
Miscellaneous Revenue	11,361,000	11,909,038	548,038	4.8%
Processing and Handling Fee	56,336,000	56,147,878	(188,122)	(0.3%)
Total	\$ 1,914,620,000	\$ 1,956,801,944	\$ 42,181,944	2.2%

TxDMV revenue collections in the last few months of FY 2021 reflected an increase in most categories from the lows of FY 2020 as the fee-waiver and deferral period came to a close on April 14, 2021. FY 2021 projections were established in the latter part of FY 2020 and include consideration of COVID-19 effects on revenue streams.

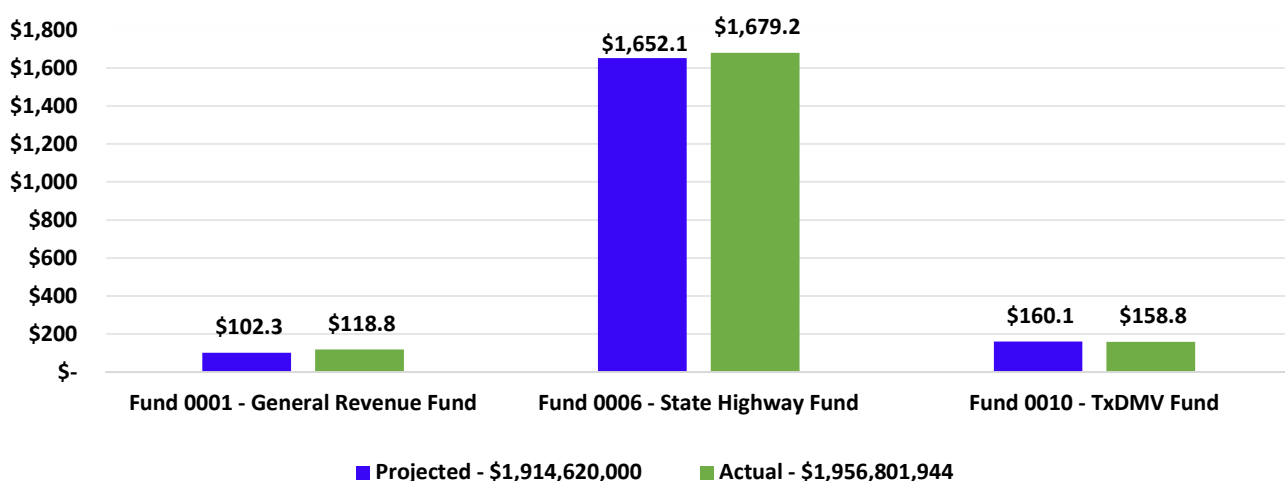
FY 2021 Motor Vehicle Title revenue was 7.3% (\$6.0 million) below projections primarily due to lower-than-expected revenue from delinquent title transfer penalties.

FY 2021 revenue declined for most categories in the second quarter due to the week of severe weather in February 2021 in which much less business was conducted statewide. Customer activity picked up as expected in the third and fourth quarters.

Total projected and actual revenues by fund are shown in the chart below.

FY 2021 Projected vs Actual Revenue by Fund

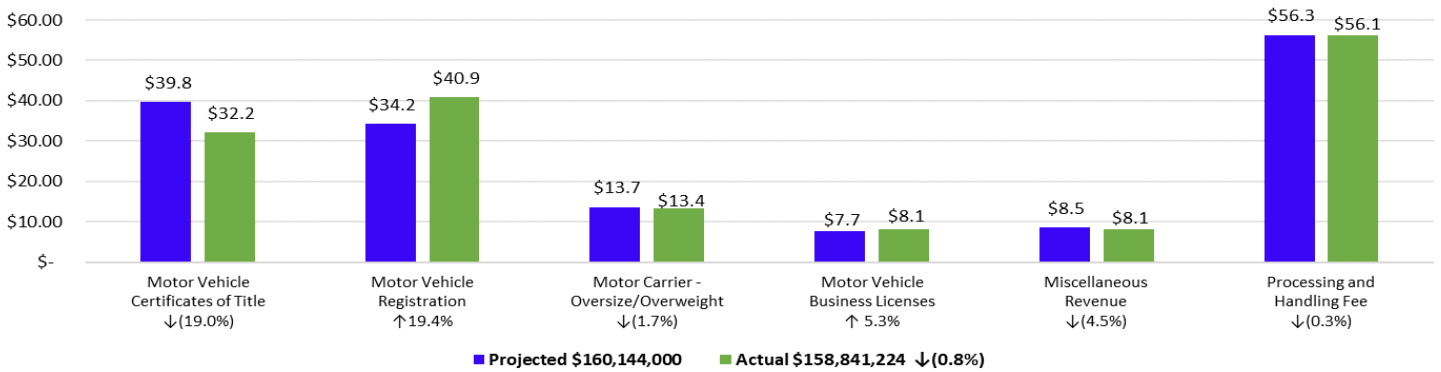
(in millions)



FY 2021 TxDMV Fund 0010 Revenue Highlights

September 1 through August 31

Projected vs Actual Revenue - Fund 0010
(in millions)



- Overall, TxDMV Fund 0010 revenues were 0.8% (\$1,302,776) below projections in FY 2021.
- Motor Vehicle Title revenue was 19.0% under projections, mostly due to the unknown ending date of the waiver period for delinquent title transfer penalty collections when annual projections were established.
- Motor Vehicle Registration revenue was 19.4% over projections (mostly due to stronger-than-expected vendor-plates sales).
- Motor Carrier Oversize/Overweight revenue was 1.7% under projections.
- Motor Vehicle Business License revenue was 5.3% over projections.
- Miscellaneous revenue was 4.5% under projections, mostly attributable to lower-than-expected interest rates paid on the TxDMV Fund balance.
- Processing and Handling Fee revenue was below projections by 0.3%.

FY 2020 and FY 2021 Actual Revenue - Fund 0010

Revenue Category	FY 2020		FY 2021		Variance	% Difference
	Actual		Actual			
Motor Vehicle Certificates of Title	\$ 36,964,892	\$	\$ 32,225,292	\$	\$ (4,739,600)	(12.8%)
Motor Vehicle Registration	35,044,378		40,855,465		5,811,087	16.6%
Motor Carrier Oversize/Overweight	14,711,609		13,412,579		(1,299,030)	(8.8%)
Motor Vehicle Business Licenses	7,390,831		8,091,110		700,278	9.5%
Miscellaneous Revenue	9,442,352		8,108,900		(1,333,452)	(14.1%)
Processing and Handling Fee	52,707,612		56,147,878		3,440,266	6.5%
Total	\$ 156,261,675	\$	\$ 158,841,224	\$	\$ 2,579,549	1.7%

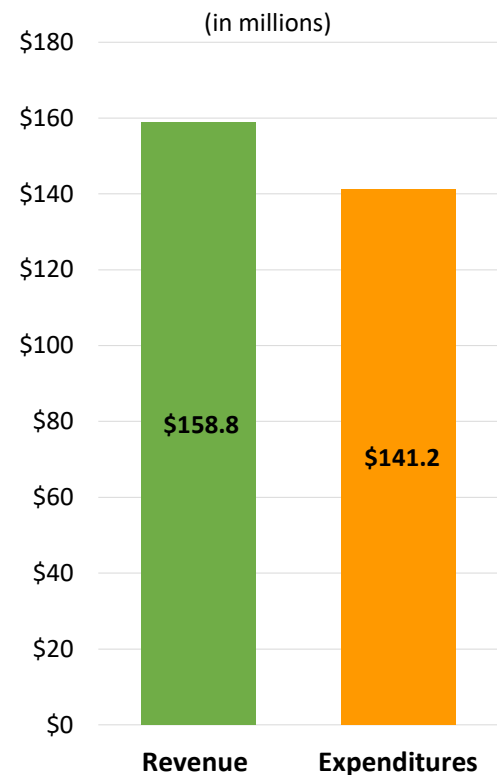
- Total TxDMV Fund 0010 revenue was 1.7% (\$2.6 million) higher than FY 2020. The decrease in Motor Vehicle Title revenue was due to the waiver of delinquent title transfer penalties. The increase in Motor Vehicle Registration revenue was mostly due to strong vendor-plates sales. The decrease in Miscellaneous revenue was mostly due to lowered interest rates on the TxDMV Fund balance.

FY 2021 TxDMV Fund 0010 Revenues, Expenditures and Fund Balance

September 1 through August 31

	<u>FY 2021</u>
Beginning Fund Balance	\$ 147,503,099
Revenue	
Motor Vehicle Certificates of Title	\$ 32,225,292
Motor Vehicle Registration	\$ 40,855,465 (1)
Motor Carrier - Oversize/Overweight	\$ 13,412,579 (2)
Motor Vehicle Business Licenses	\$ 8,091,110
Miscellaneous Revenue	\$ 8,108,900
Processing and Handling Fee	\$ 56,147,878 (3)
Total Revenue	\$ 158,841,224
Operating Expenditures	
Salaries and Wages	\$ 40,376,617
Other Personnel	\$ 2,213,133
Professional Fees	\$ 19,127,012
Fuels & Lubricants	\$ 25,227
Consumables	\$ 1,274,980
Utilities	\$ 3,742,894
Travel	\$ 48,202
Rent - Building	\$ 753,382
Rent - Machine and Other	\$ 209,496
Other Operating	\$ 60,292,240 (1)
Other Capital	\$ 311,760
Total Operating Expenditures	\$ 128,374,943
Fringe Benefits	
Retirement	\$ 3,796,227
Group Insurance	\$ 5,841,662
OASI (Old Age and Survivor's Insurance)	\$ 3,094,107
Unemployment Reimbursement to GR	\$ 21,702
Benefit Replacement Pay	\$ 49,748
Total Fringe Benefits	\$ 12,803,446
Total Expenditures	\$ 141,178,389
Ending Fund Balance	\$ 165,165,934
Adjustment for Encumbrances	\$ 16,075,261
Adjusted Fund Balance	\$ 149,090,673

FY 2021 Revenues & Expenditures



Footnotes:

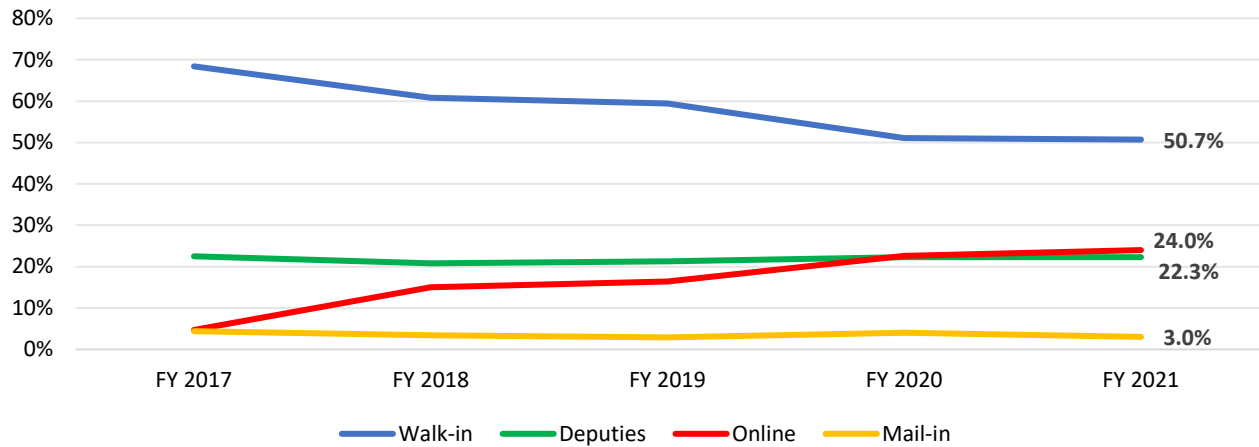
(1) Included in Motor Vehicle Registration Fees are MyPlates revenue collections of \$8,162,960; and included in Other Operating Costs are MyPlates expenditures of \$8,517,933.

(2) Motor Carrier - Oversize/Overweight excludes escrow deposits.

(3) Processing & 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

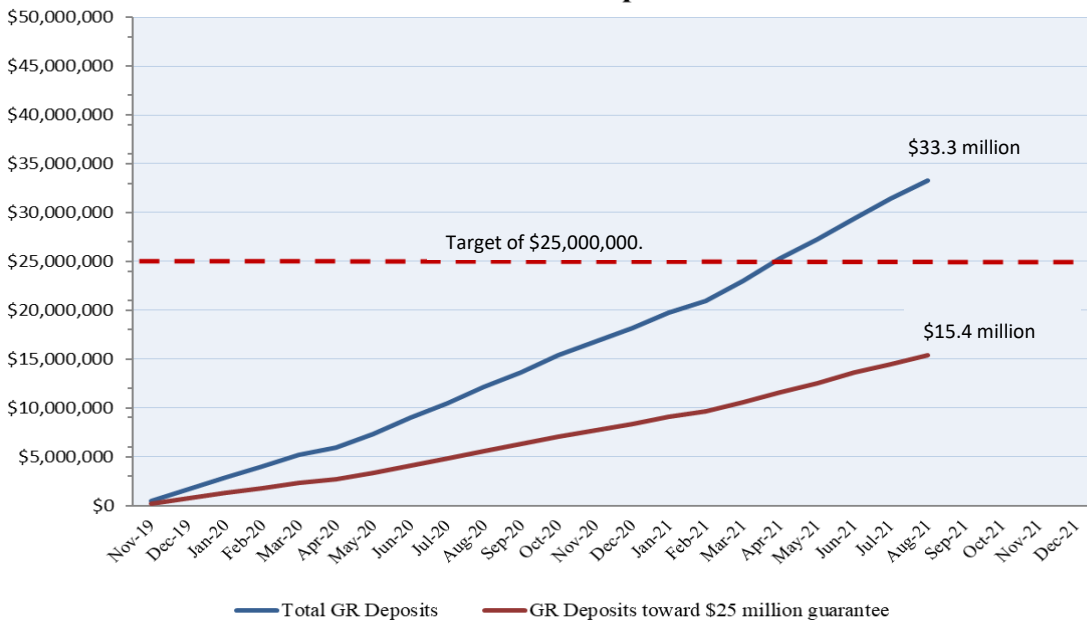
Transaction Mix of Annual Registrations



- A majority (50.7%) of annual-registration transactions were processed at county offices in FY 2021.
- Due to temporary closures by some county offices during FY 2021, online registration renewals experienced a slight increase over FY 2020, accounting for 5.9 million (24.0%) of the 24.5 million transactions in FY 2021 compared to 22.6% in FY 2020.
- Deputy and Mail-in registrations have remained at relatively constant levels over the past five years, at 22.3% and 3.0%, respectively.

Vendor Plates

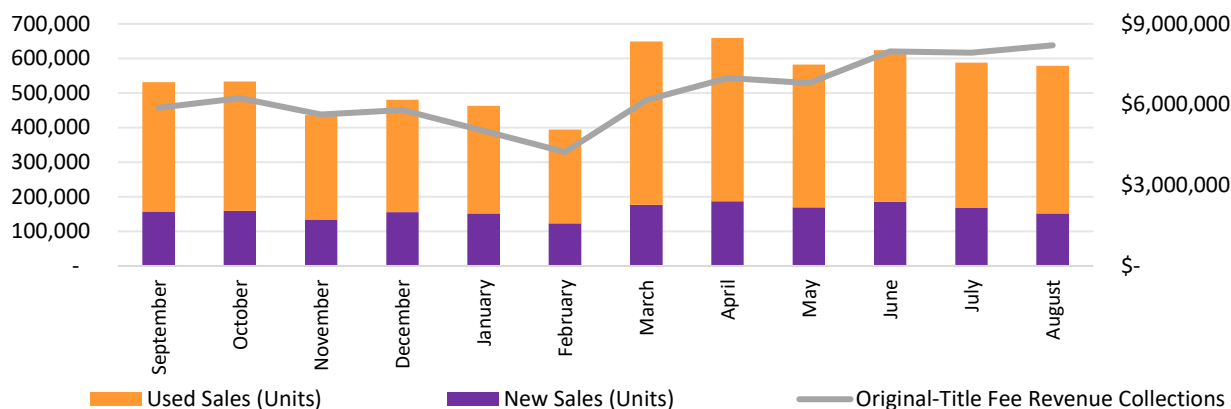
Current-Contract Cumulative Deposits to General Revenue



- General Revenue Fund 0001 deposits associated with the MyPlates contract from November 19, 2019, to August 31, 2021, totaled \$33.3 million.
- \$15.4 million of these revenues counted toward the contract's \$25 million guarantee.
- Since the effective date of the current contract, new orders accounted for 43.4% of the Fund 0001 mix, and renewals accounted for 56.6%.

Motor Vehicle Certificates of Title

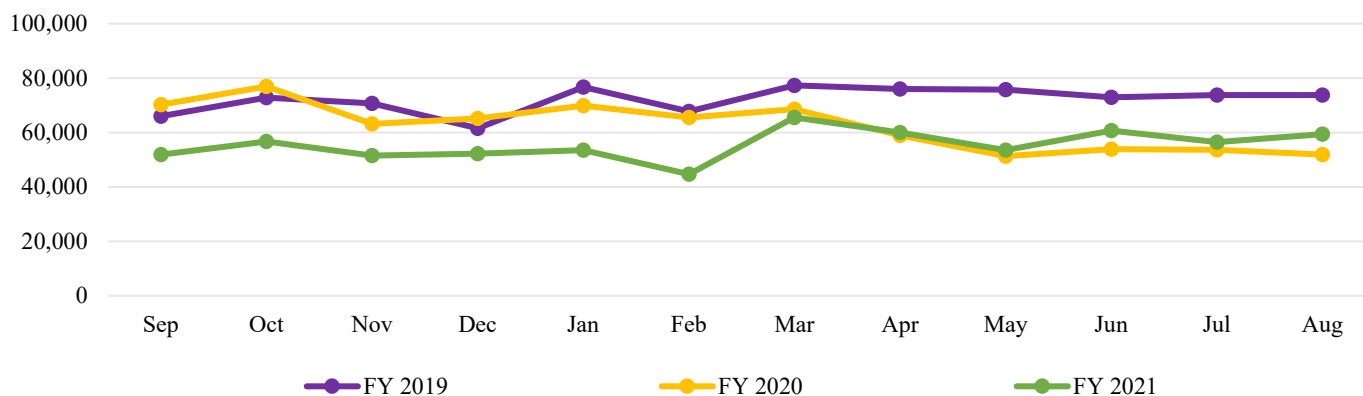
Monthly Auto Sales and Original-Title Fee Revenue Collections (FY 2021)



- Original-title fees are the largest component of Certificates of Title revenue. In FY 2021, TxDMV collected revenue from the issuance of about 6.8 million original titles. Original-title issuance is driven by new- and used-vehicle sales, and tracks with the revenue collections displayed by the gray line above. The second half of FY 2021 saw an increase in overall vehicle sales as compared to the first half of FY 2021, as shown in the bars above.
- Auto sales in FY 2021 increased by 12.9% from FY 2020, with used-car sales up 13.0% and new-car sales up 12.6%.

Motor Carrier Oversize/Overweight Permits

Monthly Oversize/Overweight Permit Issuance (FYs 2019-2021)



- The number of permits issued in FY 2021 was 666,271 compared to 749,083 in FY 2020, a decrease of 11.1%. Decreased activity in the oil-and-gas sector, along with a shortage of drivers in the industry, has affected the issuance of motor-carrier permits, continuing to result in lower oversize/overweight fee deposits.
- As shown in the trend lines in the graph above, the second half of FY 2021 saw an increase in permit issuance as compared to the second half of FY 2020 and the first half of FY 2021.
- Revenue in this category did not meet FY 2021 expectations, but is expected to see an uptick in FY 2022.

FY 2021 Financial Summary as of August 31, 2021

FY 2021 Highlights

- The adjusted FY 2021 budget as of August 31, 2021 was \$220.8 million. This amount includes the original baseline total as approved by the Legislature during the 86th legislative session and adjustments as shown in the table below.

FY 2021 Budget	Amount
Original Baseline Appropriations	\$ 153,007,749
Unexpended Balances from FY 2020	38,100,000
Adjustments for MyPlates Commissions	3,900,000
Benefit Costs	12,800,000
Supplemental Appropriations	13,000,000
Adjusted Appropriations	\$ 220,807,749

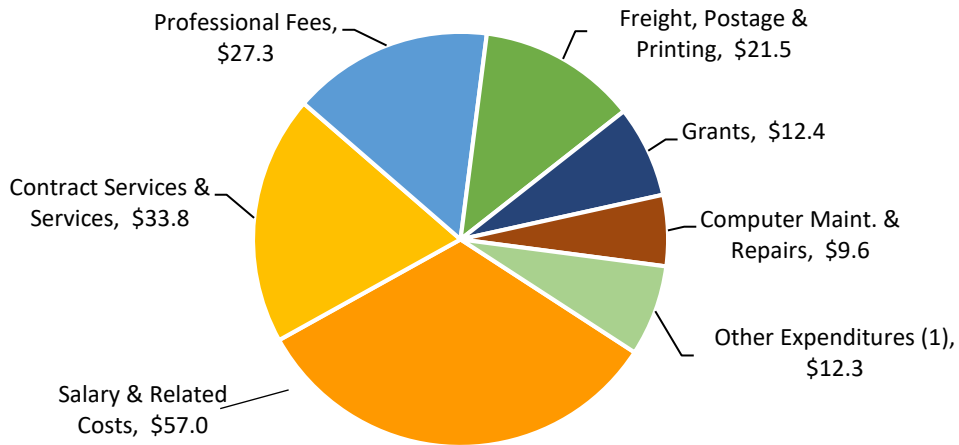
- The baseline total of \$153.0 million provided funding for 802.0 FTEs, ongoing operating costs, and FY 2021 funding for capital projects.
- The \$38.1 million in carry forward funds as of August 31, 2021 is primarily from the continuation of capital projects funded in FY 2020 and continuing into FY 2021. The largest portion of the carry forward is from the TxDMV Automation Project, with a carry forward amount of \$17.7 million.
- Rider 10 provided authority for TxDMV to carry forward any unexpended funds from FY 2020 into FY 2021. As of August 31, 2021 the operating carry forward amount was approximately \$11.0 million.
- The operating carry forward has been utilized by TxDMV in FY 2021 to address the continued COVID-19 response, other one-time costs, and one-time facility expenditures related to the late February winter storm.
- The 87th Legislature approved supplemental appropriations that began in FY 2021 and will carry forward into FY 2022. Funding in the amount of \$13.0 million was added to the TxDMV budget and provides for planning of a new Building 5 at TxDMV HQ (\$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).

FY 2021 Financial Summary as of August 31, 2021

September 2020 through August 2021

- Expenditures and outstanding obligations for FY 2021 totaled \$174.0 million (\$149.5 million in expenditures and \$24.5 million in encumbrances).

FY 2021 Expenditures and Encumbrances by Category - All Funds
(in millions)

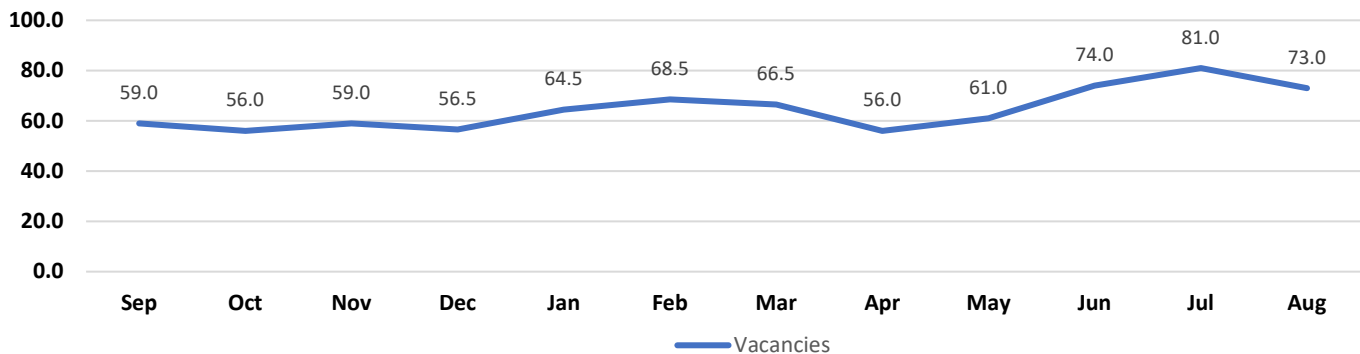


⁽¹⁾ Other Expenditures includes: Online Service Fees (\$5.0 million), Rents/Utilities (\$4.8 million), Other Expenses (\$1.8 million), Capital (\$482,000) and Travel/Training (\$285,000)

Full-Time Equivalents

- In FY 2020, the department's authorized FTE cap increased from 779.0 to 802.0. The new FTES were allocated as follows: Consumer Relations (9.0), Information Technology Services (12.0), and Vehicle Titles and Registration (2.0 for digital license plates).
- Overall, vacancies remained fairly constant during the course of FY 2021.

Monthly Vacancies - Most Recent 12 Months



FY 2021 Financial Summary as of August 31, 2021

Capital Budget and Projects

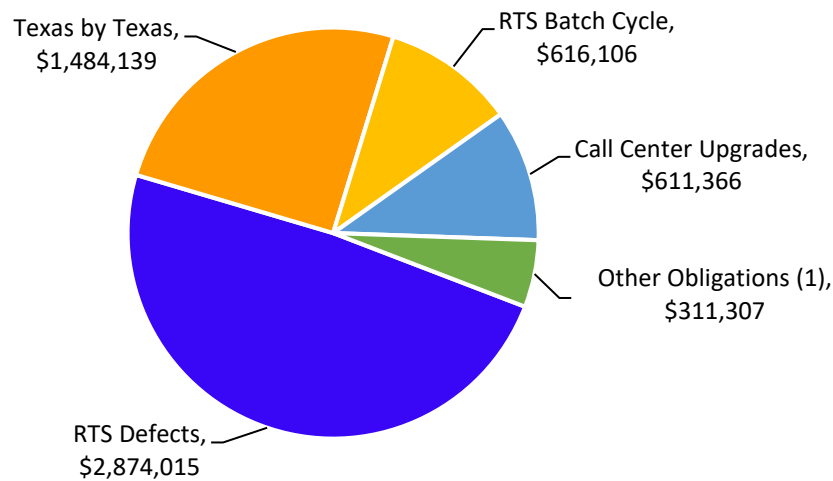
Capital Budget Financial Status

	Revised Budget	Expenditures	Encumbrances	Available Budget
TxDMV Automation System	\$ 16,160,963	(\$4,501,021)	(\$1,395,914)	\$ 10,264,028
Other Info Resources Projects	\$ 25,591,952	(\$15,795,963)	(\$6,737,402)	\$ 3,058,587
Other Capital Projects	\$ 3,191,389	(\$90,864)	(\$20,543)	\$ 3,079,982
Grand Total, Capital Budget	\$ 44,944,304	(\$20,387,848)	(\$8,153,859)	\$ 16,402,597

- The Revised Capital Budget for FY 2021 includes \$27.0 million carried forward from FY 2020 for Automation and Headquarters Maintenance projects and \$17.9 million in new appropriations.

TxDMV Automation System Projects

Automation Expenditures & Encumbrances



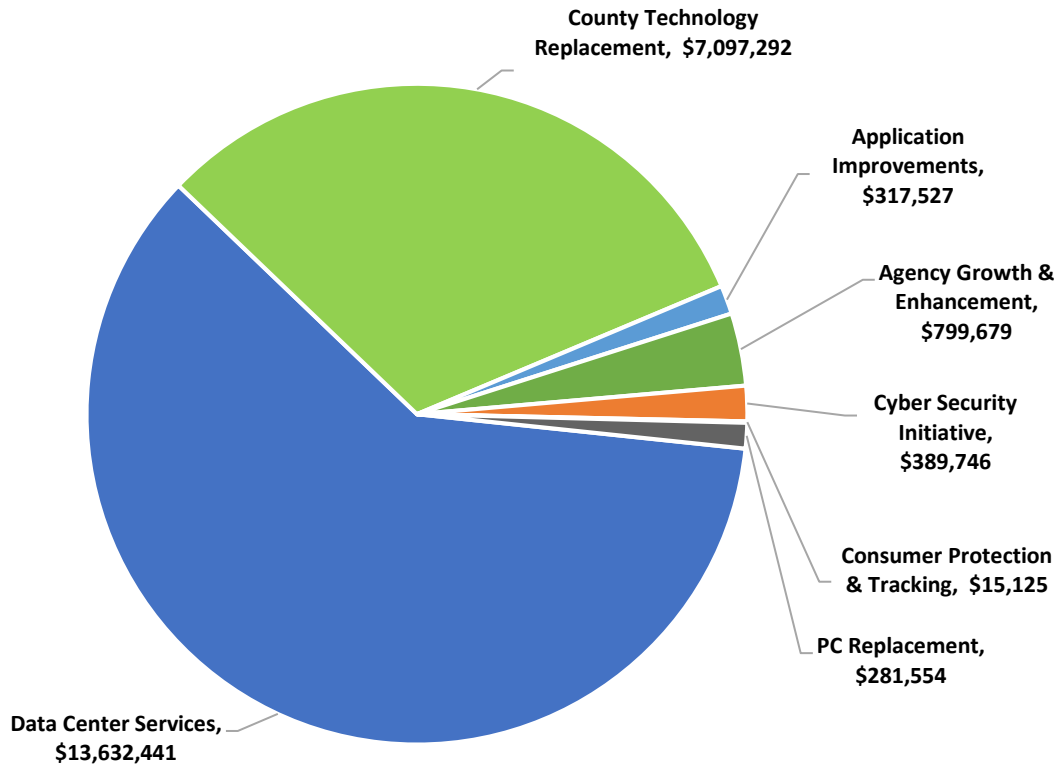
⁽¹⁾ Other Obligations include: External Website Renovation (\$142,000), RTS Enhancements (\$97,438), Cybersecurity (\$54,383), RO Queuing System (\$15,000) and webLIEN (\$2,486).

- The total budget for the TxDMV Automation System Projects as of August 2021 is \$16.2 million.
- Expenditures and encumbrances total \$5.9 million. The majority of these costs are for Registration and Title System (RTS) defects (\$2.87 million) and the Texas by Texas application implementation (\$1.48 million).
- Approximately \$4.9 million remains in Unallocated Reserve at the end of August 2021. This balance will carry forward to FY 2022 and will be used primarily for the Motor Carrier Credentialing System (MCCS) re-write project.

FY 2021 Financial Summary as of August 31, 2021

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 (\$13.6 million).
- Obligations in County Technology Replacement includes routine replacement of laptops and desktops for the technology refresh program.



Other Capital Projects

- The budgets for Other Capital Projects as of August 31, 2021 total \$3,191,389 and include funding for Regional Service Centers Maintenance, Replacement Vehicles and Headquarters Maintenance.
- Funding for agency vehicles provided for the acquisition of five vehicles in FY 2021. As of August 31, 2021, \$90,864 was expended and \$20,543 was encumbered for agency vehicles.
- The HQ Maintenance capital budget will carry forward to FY 2022.



Board Meeting Date: 10/29/2021
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Sandra Menjivar-Suddeath, Internal Audit Division Director
Agenda Item: 12.B
Subject: Internal Audit Division Status Report

RECOMMENDATION

Briefing Only – No recommendation

PURPOSE AND EXECUTIVE SUMMARY

The status update provides information on current Internal Audit Division (IAD) activities. The October 2021 update contains information on internal and external engagements.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

At every TxDMV Board meeting, IAD provides an update and status on current activities. For the October 2021 update, the IAD is providing the following information:

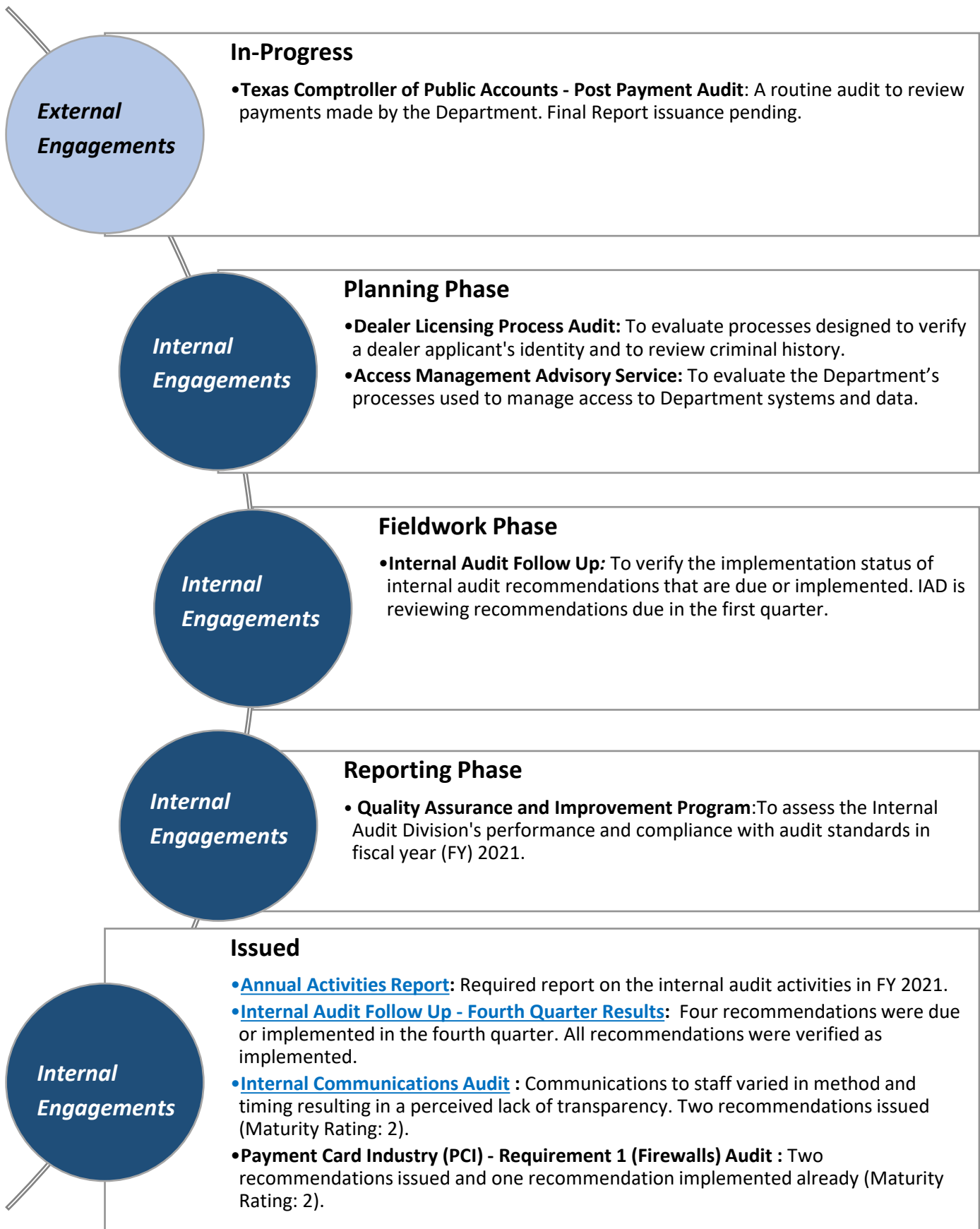
Internal Engagements

- The last two audit engagements listed on the fiscal year (FY) 2021 Second Six Month Internal Audit Plan were completed in September.
- Five engagements have been started since the beginning of fiscal year. Out of those five engagements, one engagement has been completed and the other engagements are various stages of being completed. The completed engagement is the required annual activities report.

External Engagements

- The Texas Comptroller of Public Accounts has completed testing for the routine post payment audit. The final report is still pending.

October 2021 Internal Audit Division Status





Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

Fiscal Year 2021 Annual Audit Activities Report 22 – 01

Internal Audit Division
October 2021



Texas Department of Motor Vehicles

Fiscal Year 2021 Annual Audit Activities, 22-01

Executive Summary

BACKGROUND

On an annual basis, the Internal Audit Division (IAD) submits its internal audit report to statutorily required parties. The parties that receive a copy of this report include the State Auditor's Office, Legislative Budget Board, and the Governor's Office. In addition, the report is posted on the Texas Department of Motor Vehicles (TxDMV) website.

The report provides information on the assurance (audit) services, consulting (advisory) services, and other activities that were conducted in fiscal year 2021.

The report is developed using the guidelines set forth by the State Auditor's Office. The guidelines require the report to include information on engagements conducted, the audit plan, and external reviews.

RESULTS

In fiscal year (FY) 2021, IAD completed 10 audit, advisory service, follow-up, and compliance engagements. The 10 engagements conducted by IAD included 6 audit engagements, 1 advisory service engagement, 1 follow-up engagement, and 2 compliance engagements.

The FY 2022 audit plan was approved by the TxDMV Board on August 6, 2021. The approved audit plan includes engagements for the first six months and contingency/potential engagements for the second half of the fiscal year. The plan includes division initiatives and added-value services as well. These items listed in the audit plan were identified using a risk-based methodology and cover risks related to contract management and information technology.

Finally, this report includes information on the external reviews coordinated by the IAD as well as a brief description of actions taken by TxDMV to comply with fraud reporting and investigation coordination requirements.

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Compliance with Texas Government Code Section 2102.015

The Internal Auditing Act, Texas Government Code §2102.015, requires that within 30 days of approval an entity should post its audit plan and internal audit annual report. It also requires that any actions taken by the Department to address the concerns identified in the audit plan (e.g., recommendations) be posted on the Department's website.

FY 2021 Postings

In fiscal year (FY) 2021, the *FY 2021 First and Second Six Month Internal Audit Plans* were posted on the website after the Texas Department of Motor Vehicles (TxDMV) Board approved them. Similarly, the annual report was posted on the website after it was submitted to the TxDMV Board.

The Internal Audit Division (IAD) posted the Quality Assurance and Improvement Program (QAIP) – Internal Assessment report on the website. This report provides information on how many recommendations were implemented by the Department.

The internal audit plans, annual reports, and QAIP reports can be found at <https://www.txdmv.gov/motorists/consumer-protection/internal-audit-division>.

FY 2022 Postings

The TxDMV Board approved the *Fiscal Year 2022 First Six Month Internal Audit Plan* on August 5, 2021, and the TxDMV web master posted the plan to the website after that. Similarly, the annual report will be presented to the TxDMV Board on October 29, 2021, and the TxDMV webmaster will post the report on the TxDMV website after that date.

The QAIP report will be posted on the TxDMV website after issuance.

Internal Audit Plan for Fiscal Year 2021

The status of the FY 2021 audit plan engagements is outlined below in Table 1.

Table 1. FY 2021 Internal Audit Plan Status

Engagement Number and Name	Status	Executive Summary
21-00: Audit Recommendation Implementation Status Follow-Up	Final Report Issued	IAD reviewed 30 internal audit recommendations that were due or implemented in FY 2021. The results will be available in the FY 2022 Quality Assurance and Improvement Program – Internal Assessment report.
21-01: Annual Activities	Final Report Issued	IAD submitted the required annual report to the Governor’s Office, State Auditor’s Office, and the Legislative Budget Board. The report included all activity conducted in FY 2020.
21-02: Quality Assurance - Internal Assessment	Final Report Issued	<p>This report provided information on the division's compliance and performance for FY 2020. In that fiscal year, the division complied with all internal audit standards and met many of its Key Performance Indicators and maintained an overall Level 3 in the Capability Model while improving in individual categories of the model.</p> <p>While the division complied with all audit standards, two opportunities of improvement were identified in the review: 1) Define the Finance & Audit Committee’s role in the internal audit charter and 2) Revise Board training to focus on the role of internal audit. Both opportunities have been implemented.</p>
21-03: Procurement Measures	Final Report Issued	This advisory service focused on the procurement processes conducted by the Purchasing Section in the Finance and Administrative Services Division (FAS), FAS Budget Section, Office of General Counsel (OGC), and Department staff. This advisory service helped the Department understand if it had any procurement process gaps and evaluated the new measures put in place for the procurement function. IAD provided information on potential process gaps that exist. The results of this engagement are only included in this report.
21-04: Employee Relations	Final Report Issued	<p>IAD conducted an audit on the employee relations. IAD found that the employee relations processes are at a level 3 – Defined maturity rating.</p> <p>The employee relations process focuses upon advising the manager rather than staff when an issue is raised. Employees are referred to their immediate supervisors and management chain to resolve issues before taking formal action. The audit contained two recommendations. One recommendation has been implemented.</p>
21-05: Telecommuting Program	Final Report Issued	<p>IAD conducted an audit on the telecommuting program. IAD found the telecommuting program is at a level 2 - Repeatable but Intuitive maturity rating.</p> <p>IAD gathered data and information that showed staff felt a positive impact from the expanded telecommuting program. Staff reported better work-life balance and increased productivity because of the program. IAD issued two recommendations to improve information about cybersecurity risks. Both recommendations have been implemented.</p>

Engagement Number and Name	Status	Executive Summary
21-06: License Plate Manufacturing and Monitoring	Final Report Issued	<p>IAD conducted an audit on the license plate manufacturing and monitoring process. IAD found that the license plate manufacturing and monitoring process is at a level 2 - Repeatable but Intuitive maturity rating.</p> <p>The audit identified concerns on how the Department monitors license plate sequencing and monitoring needs and how IT systems are used to support the processes. The audit also reviewed the TxDMV's interagency agreement and identified potential improvements to clarify roles and service level within the contract. Nine recommendations were issued.</p>
21-07: Change Management	Final Report Issued	<p>IAD conducted an audit on Information Technology (IT) change management. The audit was co-sourced with a vendor. IAD found the change management process at a 3 - Defined maturity rating.</p> <p>The process is supported by members of management who have a good understanding of the systems maintained by the TxDMV and are skilled and experienced in their respective fields. The audit identified that a limited number of individuals could bypass the process and potentially implement changes without going through the established controls and improvements related to monitoring the change management process. Seven recommendations were issued to strengthen change management processes. One recommendation has been implemented.</p>
21-08: Internal Communications	Final Report Issued	<p>IAD conducted an audit on internal communication processes. IAD found internal communications processes are at a level 2 – Repeatable but Intuitive maturity rating.</p> <p>IAD identified that each division is expected to clarify communications about TxDMV activities that directly impact their staff. Each division uses its own processes to pass on information and the processes change depending on the information being communicated. This may result in staff's not knowing when to expect information and may cause perceptions that management is not being transparent. Although there is no standardized process at the divisional level, Executive-level communication has been more standardized and has been focused on improving transparency of communication to staff. Two recommendations were issued.</p>
21-09: Payment Card Industry (PCI) Compliance - Requirement 1 (Firewalls)	Final Report Issued	<p>IAD conducted its annual PCI audit and focused on the firewall requirement. The objective of the audit was to determine compliance with Payment Card Industry (PCI) requirement 1: Install and maintain a firewall.</p> <p>IAD identified some noncompliance issues and issued two recommendations.</p>

Internal Audit Plan Deviation

No deviations occurred in FY 2021.

Consulting Services and Nonaudit Services Completed

Consulting Services

The IAD conducted one advisory service, or consulting service, during FY 2021. The advisory service engagement related to Procurement Measures.

Procurement Measures

The advisory service had two main objectives: 1) Determine whether the procurement process has clearly defined roles and responsibilities and 2) Evaluate whether the 180 - day procurement completion period established by the Department for most procurements is reasonable.

The advisory service identified the Department developed a procurement process with assigned responsibilities and has updated its processes to meet new and current demands. These changes have not been fully understood by staff and led to gaps in communication as well as some misunderstanding of procurement process responsibilities.

In addition, the Department has tentatively set a 180 - day timeframe to complete most of its procurements and contracts, regardless of complexity, as part of its procurement performance measures. IAD reviewed a sample of contracts and provided feedback on the limitations of the measure.

Nonaudit Services

IAD performed nonaudit services during FY 2021. The nonaudit services include facilitating external coordination, providing advice on several agency workgroups, and participating as a non-voting member in the enterprise project governance process.

External Quality Assurance Review

IAD underwent an external quality assurance review (peer review) in FY 2021. 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 agreed to the recommendation and already implemented it 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) *International Standards for the Professional Practice of Internal Auditing* and Code of Ethics, the United States Government Accountability Office (GAO) *Government Auditing Standards*, 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.


Arby James Gonzales, CPA, CFE
Internal Audit Director
Texas Division of Insurance
SAIAF Peer Review Team
Leader

April 21, 2021
Date


Harold Rogers, CIA, CISA
Internal Auditor
Texas Workforce Commission
SAIAF Peer Review Team Member

April 21, 2021
Date

Internal Audit Plan for Fiscal Year 2022

The TxDMV Board approved the Fiscal Year 2022 First Six Month Internal Audit Plan on August 6, 2021. The audit plan included nine engagements for the first half of the fiscal year, five potential engagements for the second half of the fiscal year, division initiatives, and added value services. Table 1 and Table 3 provide information on the engagements.

FY 2022 Engagements

Table 2. FY 2021 Engagements – First Half

Engagement Area	Hours	Background
Incident Response	TBD	Over the past few years, organization’s incident response plans have been used more often. As natural disasters and cybersecurity events, as well as normal incident handling become more common, having an effective incident response plan is key. This engagement would look at the Department’s incident response plan. This engagement ties to COSO elements of Control Environment, Risk Assessment, and Information and Communication. This engagement will be co-sourced with the Department’s vendor and may not be conducted due to schedule or other unforeseen issue with the vendor.
Facilities	900	With approval from the Legislature, the Department will begin evaluating building consolidation and facilities construction planning for headquarters. Additionally, the Department maintains Regional Services Center (RSC) facilities. This engagement would look at the Department’s capacity to maintain headquarter buildings, as well as evaluate the Department’s capabilities to meet Departmental needs at RSCs. This engagement ties to COSO elements of Control Environment, Risk Assessment, and Control Activities.
SB-15: Data Contracts	900	Texas Senate Bill 15 requires enhanced consumer protection and data privacy. This advisory service engagement would evaluate the design of monitoring processes concerning vehicle data usage and the appropriateness of data usage to help with the implementation of SB15. This engagement ties to COSO elements of Control Environment, Risk Assessment, and Monitoring.
Dealer Licensing Processes	750	The Department is responsible for determining license eligibility for a multitude of dealer licenses. The engagement will evaluate the Department’s processes designed to ensure the verification of dealer applicant’s identities and applicant’s criminal history through the dealer licensing process. This engagement ties to COSO elements of Control Environment, Risk Assessment, Control Activities, and Monitoring.
Access Management	600	The engagement will evaluate the how access is managed through the Department as access management is designed to protect user confidentiality, integrity, and user authenticity. This engagement ties to COSO elements of Control Activities and Monitoring.

Engagement Area	Hours	Background
Annual Activities	25	A statutorily required review that summarizes internal activities conducted in FY 2021. The State Auditor's Office prescribes the report format and information.
Quality Assurance and Improvement Program – Internal Assessment	100	An internal assessment to determine compliance with audit standards and provide information on IAD's performance. IAD's performance includes an evaluation of Key Performance Indicators and Capability Model.
Audit Recommendation Implementation Status Follow-Up	75	An engagement to verify if outstanding audit recommendations have been fully implemented. Quarterly reporting for internal audit recommendations will be done. This engagement addresses contract management requirements.
FY 2022 Risk Assessment and Second Half Internal Audit Plan	200	An engagement to identify high risks areas where an engagement may be warranted in the upcoming year.

Table 3. FY 2022 Engagements – Potential Second Half and Contingency

Engagement Area	Preliminary Engagement Information
Payment Card Industry (PCI) Compliance	The Department accepts credit cards and is required to meet PCI standards. This engagement would evaluate PCI compliance with one of the requirements. This audit was identified as an area of review in the Cybersecurity roadmap.
Motor Carrier Division	The Motor Carrier Division operates its own call center that provides information and services to motor carriers. The call center deals with obtaining permits for motor carriers as well as getting credentials to motor carriers. At the end of FY 2021, the Commercial Fleet Services was reorganized with Credentialing. This caused a change in how customers are served in the call center. This potential engagement would look at the reorganization and its impact to the call center.
Strategic Communication (External Communication)	Communication strategies are a key component to delivering consistent information to external customers. The engagement would evaluate the Department's communication strategies to ensure they are designed to deliver accurate and critical information to stakeholders.

Division Initiatives

In addition to audit engagements, IAD conducts several divisional initiatives to help the division provide more risk coverage. In the first half of the fiscal year, IAD will be conducting the following division initiatives:

- **TeamMate +:** IAD continues to enhance and support its audit software.
- **Staff Development Plans and Training:** IAD staff take training and create development plans to obtain required knowledge, skills, and abilities.

- **Communication Plans:** IAD continues refining dashboards, communication sites, and other items to provide a snapshot of the Department's risk management, governance, and engagement information to the Department.
- **Automation & Technology Improvement:** IAD will continue to work on automating routing process and leverage technology to be more efficient.

Value-Added Services

IAD also provides added value services throughout the years. These added value services include fraud, waste, and abuse items, external audit coordination, ad hoc advisory, workgroup participation, and department training.

- **Fraud, Waste, and Abuse (FWA) Items:** IAD works on detecting, tracking, and reviewing internal FWA allegations or State Auditor's Office Hotline complaints. IAD investigates internal FWA allegations.
- **External Coordination Efforts:** IAD coordinates and facilitates any external audits. External coordination efforts include providing audit status update and coordinating responses.
- **Ad hoc Advisory:** IAD sets aside 250 hours to address any short-term assessment or information requests by TxDMV staff during the first half of the fiscal year.
- **Workgroup Participation:** IAD participates in TxDMV work groups to help identify any unforeseen risk in enterprise projects or activities.
- **Department Training:** IAD provides training to help TxDMV staff understand their responsibilities for audits, recommendation implementation, and preventing fraud, waste, and abuse.
- **Key Risk Indicators:** IAD will be monitoring the Fraud, Regional Service Centers, and Procurement & Contract Management risk indicators on a quarterly basis to help with risk mitigation. This Value-Added Service addresses contract management requirements.

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 included 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, or process
- Degree of complexity
- Degree of centralization
- Control design strength

354 Department operational risks have been identified through the risk assessment. Each risk was scored using the factors above to determine the engagements for the first six-month internal audit plan and contingency engagements.

The risk scores go up to seven and half, which is the highest risk score. Table 4 provides information on the risk scores and definitions for each category.

Table 4. Risk Scores

Risk Category	Score	Definition
Very High	> 4.50	The risk may substantially hinder the Department's, division's, and/or function's achieving its objectives or goals.
High	3.50 – 4.49	The risk may significantly hinder to the Department, division, or function achieving its objectives or goals.
Medium	2.50 – 3.49	The risk should be monitored on a regular basis to ensure it does not become an issue; however, it is not currently hindering the Department, division, or function from achieving its objectives or goals.
Low	1.50 – 2.49	The risk is mostly mitigated and may not hinder the Department, division, or function from achieving its objectives or goals.
Very Low	< 1.50	The risk is mitigated and is not hindering the Department, division, or function from achieving its objectives or goals.

Themes

For the FY 2022, three themes were developed to help provide an overall perspective on internal audit's focus for the first six months:

- **Legislative Implementation Readiness:** Areas and functions significantly impacted by legislation changes.
- **Operational effectiveness:** Areas and functions where processes and overall operations had significant change in management or processes are expected to be changed.
- **Information Technology:** Areas where the spread of new technologies, data collection methodologies, and automation increases risks to our organization and customers.

Hour Analysis

Engagement hours were calculated using historical data and auditor's judgement. Hours are an estimate and could be adjusted at the beginning of an engagement. IAD identified 1500 hours available for the second six months.

External Audit Services Procured in Fiscal Year 2021

TxDMV procured two external audit services during FY 2021:

- **Co-sourced Vendor** - IAD obtained a vendor, Weaver, to conduct a co-source audit for the division. The audit focused on information technology change management for applications. The audit had two objectives: 1) Determine whether the IT change management processes and procedures provide adequate control, monitoring, and compliance with policies, regulations, and best practices and 2) Determine whether access rights for personnel responsible for developing, testing, and publishing changes to Texas Department of Motor Vehicle (TxDMV) systems is controlled, monitored, and compliant with policies, regulations, and access management best practices.
- **Contractor Services** – IAD obtained a contractor to help on audit engagements throughout FY 2021. The contractor worked on multiple audits, including Employee Relations, Internal Communications, and Telecommuting. The contractor also assisted in the Procurement Measures advisory service.

Reporting Suspected Fraud and Abuse

Fraud Reporting Requirements

To comply with fraud reporting requirements in the General Appropriations Act (86th Legislature, Article IX-37, Section 7.09), the TxDMV has taken the following actions:

- Provides information on the home page of the TxDMV website (www.txdmv.gov) on how to report suspected fraud, waste, and abuse directly to the State Auditor's Office (SAO).
- Includes in the agency's Fraud, Waste, and Abuse policies on how to report suspected fraud involving state funds to the SAO. Employees are directed by agency policy to report any suspected incidents of fraud to their manager, the Internal Audit Director, and the SAO.
- Provides a link on the Internal Audit Division's intranet page to the SAO fraud hotline website.
- Provides information on the Internal Audit Division's internet page about reporting fraud.

Investigation Coordination Requirements

IAD coordinates compliance with Texas Government Code, Section 321.022 (Coordination of Investigations) by submitting a quarterly report to the State Auditor's Office on the disposition of allegations received as described in agency procedures.

IAD also evaluates all instances of fraud, waste, or abuse reported to the 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.

Appendix 1: Report Distribution and Rating Information

Report Distribution

In accordance with the Texas Internal Auditing Act, this report is distributed to the Board of the Texas Department of Motor Vehicles, Governor's Office of Budget, Planning, and Policy, Legislative Budget Board, and the State Auditor's Office. The report will also be distributed to the executive management team.



Memorandum

Date: September 29, 2021

To: Texas Department of Motor Vehicles (TxDMV) Board

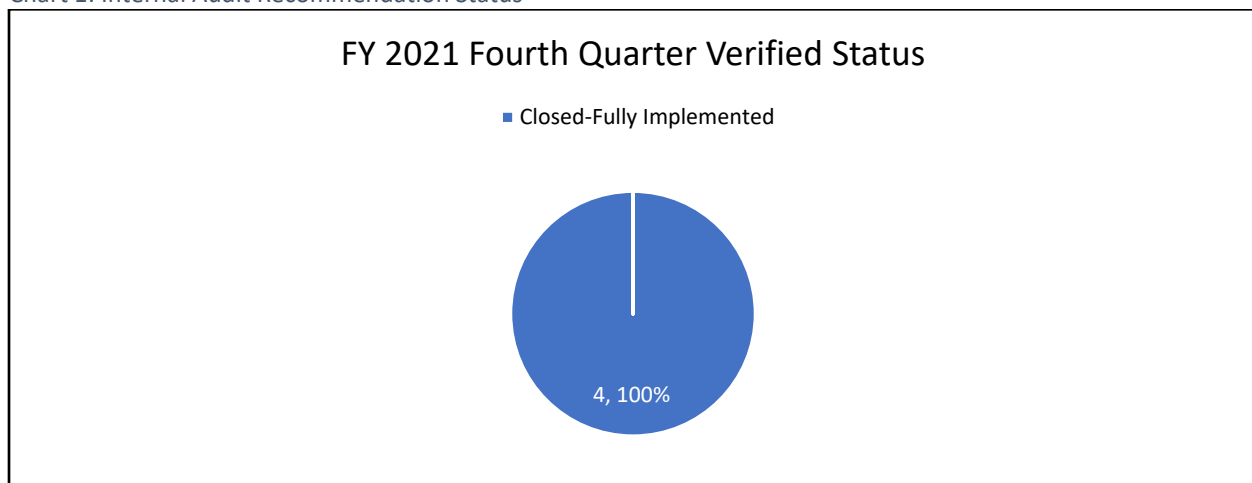
From: Sandra Menjivar – Suddeath, Internal Audit Director

Subject: Fiscal year (FY) 2021 Internal Audit Recommendation Implementation Status: Fourth Quarter

Fourth Quarter Status

TxDMV implemented four internal audit recommendations that were due or were marked as completed between June 1 to August 31, 2021. For the quarter, the implementation rate was 100%.

Chart 1: Internal Audit Recommendation Status



Background

Implementation Status Definitions

The Internal Audit Division (IAD) continuously conducts follow-up activities to decide if appropriate action has been taken to address previously issued internal audit recommendations (recommendations). On a quarterly basis, the IAD reports to the TxDMV Board whether appropriate action was taken by assigning an implementation status to each recommendation reviewed during the designated period. The implementation status IAD assigns includes the following:

- **Closed - Fully Implemented:** The division fully implemented the audit recommendation by developing and using processes, systems, or policies. The changes are operating as intended.
- **Implemented:** The division developed and is using processes, systems, or policies to implement a recommendation, but the effectiveness of the implementation is still pending and the risk is not fully mitigated. IAD is monitoring the effectiveness. IAD, within an agreed upon period, will

decide whether to mark the recommendation as “Closed - Fully Implemented” or reset to “Started” state.

- **Started:** The division began developing and using processes, systems, or policies to implement a recommendation but not all elements were complete. The division revised the completion date or is revising the completion date.
- **Pending:** The division has not begun developing or using processes or using processes, systems, or policies to implement a recommendation. The division revised the completion date or is revising the completion date.
- **Not Implemented/ Management Accepts the Risk:** The division and department no longer intends to develop a process, system, or policy to address a recommendation.
- **Not Applicable**¹: The recommendation is no longer relevant.

IAD determines whether appropriate action was taken and assigns an implementation status when the completion date is due or when the division submits an implementation action.

Recommendation Priority Definitions

IAD designates a priority for each recommendation in an audit or advisory service report. Each recommendation is rated as a HIGH or LOW priority. The priority is based on the criteria documented in Table 1.

Table 1: Recommendation Priority Criteria

Priority	Criteria
Low	<ul style="list-style-type: none"> • Requires only a written policy or procedure update • Is within an acceptable range of risk tolerance for the Department • External audit recommendations identified as that are not a reoccurring or regulatory issue
High	<ul style="list-style-type: none"> • Executive Management or Board Request • Not within an acceptable range of the risk tolerance of the division • New process had to be developed to address recommendations • An audit recommendation (external or internal) that is a reoccurring issue or has a regulatory impact

Fourth Quarter Follow – Up Information and Results

For the fourth quarter of FY 2021, the IAD reviewed four implemented or due audit recommendations from four internal audit reports. Out of four audit recommendations, three had a priority of HIGH and one had a priority of LOW.

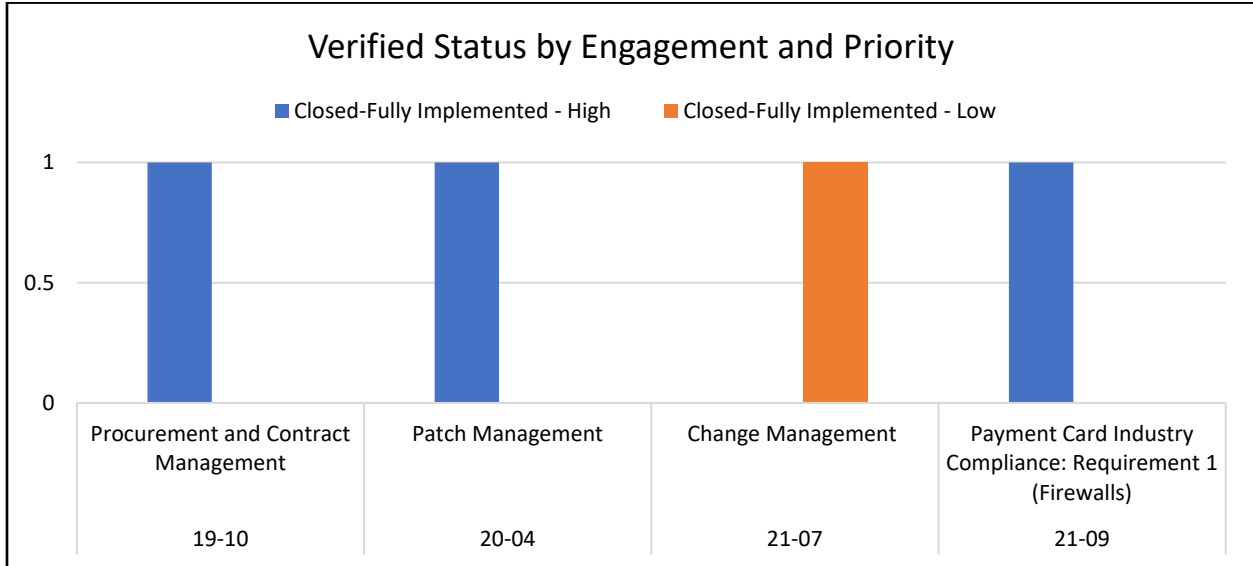
¹ Some recommendations are no longer applicable due to the age of the recommendation and organizational changes.

The IAD verified the implementation status for the four recommendations and determined the following implementation status:

- 4 recommendations (100%) were fully implemented.

Chart 2 gives detail on the verified implementation status by engagement and priority.

Chart 2: Verified Status



cc: Whitney Brewster, Executive Director
Shelly Mellott, Deputy Executive Director
Daniel Avitia, Deputy Executive Director
TxDMV Executive Management



Board Meeting Date: 10/29/2021
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Jimmy Archer, Motor Carrier Division Director
Agenda Item: 13.C
Subject: Software Upgrade for the TxIRP System – Jimmy Archer
- Capital Spending Authority (BRIEFING ONLY)
- Delegation of Authority to the Executive Director for the Approval and Execution of the Contract (ACTION ITEM)

RECOMMENDATION

TxDMV recommends that the board delegate authority to the department's executive director to approve and sign the contract for the Software Upgrade for the TxIRP System (TxIRP Upgrade) after consulting with the board chairman.

PURPOSE AND EXECUTIVE SUMMARY

The TxIRP Upgrade will upgrade and modernize the TxIRP System. The department received the capital spending authority for the TxIRP Upgrade, so the department is now authorized to proceed with the project. The department is requesting the board to delegate the authority to the department's executive director to approve and sign the contract for the TxIRP upgrade, after consulting with the board chairman, to comply with Government Code Section 2261.254(c) and (d).

FINANCIAL IMPACT

The TxIRP Upgrade will be funded by a 2019 grant from the Federal Motor Carrier Safety Administration (FMCSA) in the amount of \$1,096,500, along with state matching funds in the amount of \$193,500, for a total of \$1,290,000.

BACKGROUND AND DISCUSSION

At the April 2020 board meeting, the board approved staff's request for the creation of a new capital project line item in the department's appropriations (capital spending authority) for the TxIRP Upgrade under Section 14.03 of Article IX of the General Appropriations Act. The Texas Legislature appropriates money to Texas state agencies in the General Appropriations Act, which imposes strict limits on expenditures for capital budget items. Capital budget items include expenditures for assets with a biennial project cost or unit cost in excess of \$100,000 within certain categories, including the acquisition of information resource technologies such as the TxIRP Upgrade. The department received written approval from the Legislative Budget Board in May of 2021, and the department received written approval from the Governor's Office in September of 2021 as required by Section 14.03. The department is now authorized to proceed with the TxIRP Upgrade project.

TxIRP is the customer-facing application for apportioned vehicle registration under the International Registration Plan (IRP), as well as several types of vehicle registration such as extended commercial fleet registration. This customer-facing application complies with the IRP, which is a vehicle registration reciprocity agreement that is used to manage

apportioned vehicle registration between the 48 contiguous U.S. states, the District of Columbia, and Canadian provinces.

The purpose of the TxIRP Upgrade is to modify the existing TxIRP application as follows:

- provide a responsive design system allowing for a complete update of the application to run under the latest version of the development software;
- maintain all current Texas-specific functionality, and re-design approximately 200 TxIRP web pages to the latest web technology;
- install a responsive online application designed to work with hand-held devices using a touchscreen interface; and
- refresh the software to ensure the TxIRP functionality remains cutting edge, with competitive response time and modern technology that keeps pace with industry standards.

Due to the dollar amount of the proposed contract for the TxIRP Upgrade, the board is required to do one of the following under Government Code Section 2261.254(c) and (d) before the department can enter into the contract: 1) approve the contract, which must be signed by the board chairman; or 2) delegate to the department's executive director or deputy executive director the authority to approve and sign the contract. The department is requesting the board to delegate signature authority to our executive director to sign the awarded contract, which is consistent with how the department and the board have handled prior contracts under Section 2261.254. Due to the deadline to complete the project and the fact that the board typically meets once every two months, the department is also requesting the board to delegate the authority to our executive director to approve the contract after consulting with the board chairman.

The deadline to spend the 2019 federal grant funds is September 30, 2024. The department estimates that it will take 30 months for the selected vendor to complete the TxIRP Upgrade. The grant agreement with FMCSA states that the department's failure to comply with the grant agreement, which includes the deadlines, may result in an enforcement action under 2 C.F.R. §200.339 and §200.340. If the department fails to complete the project by September 30, 2024, FMCSA may pursue an enforcement action against the department, which could include disallowing any federal reimbursements for work completed after September 30, 2024, as well as withholding further federal grants for the project or the program.

The department would like to sign the contract with the selected vendor no later than March 1, 2022, to help ensure the selected vendor completes the project by September 30, 2024. Since the department didn't receive the final approval for the capital spending authority for the TxIRP Upgrade until September of 2021, the department only recently started the procurement process, which could take months to complete. The department would like to sign a contract with the selected vendor as soon as possible in case of any contingencies that could extend the estimated completion time for the TxIRP Upgrade. The board typically meets every two months, but is only required to hold regular meetings every quarter. The department is requesting the board to delegate the authority to the department's executive director to approve the contract after consulting with the chairman, so the department can enter into the contract as soon as the department is ready to award a contract.

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.

-
- 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.
-

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.