



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

Proposed Agenda for 84th Legislative Session

Government and Strategic Communications Division

November 2014

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84th Legislature Proposed Agenda

The Texas Department of Motor Vehicles (TxDMV) Board is charged with considering opportunities for improvements to operations with recommended changes to statute to the Texas Legislature under Texas Transportation Code, Section 1001.025. TxDMV's Government and Strategic Communications Division worked with staff to identify areas of statute for such recommendations, and further evaluated those recommendations with stakeholders to develop the following areas recommended for the Board's further consideration. While each component is individually outlined per the table of contents, staff recommends the below be incorporated into two bills: one omnibus bill including most of the proposed changes including clean-up to existing statute (Sections I through VI) and one salvage licensing bill (Section VII). Section VIII discussed the re-establishment of the TxDMV Fund, and Section IX lists stakeholder involvement.

I. Dealer & Lemon Law

Most proposed changes relating to motor vehicle dealers and lemon law cases are "clean-up" in nature. In Occupations Code (OCC), Chapter 2301, the term "division" is defined from "the" to "any" division to reflect the fact that motor vehicle dealer activities are now handled by both the Motor Vehicle and Enforcement Divisions. The same streamlining of statutorily required licensing language that was done last session for dealers is proposed for manufacturers, distributors, converters and representatives. Outdated references that pre-date the TxDMV's existence and separation from the Texas Department of Transportation are repealed and/or updated. In addition, language is included to clarify what fees are due upon initial licensing versus license renewal.

During the 83rd Legislative Session, Lemon Law and warranty performance contested cases were moved from the State Office of Administrative Hearings jurisdiction and placed with TxDMV, in what is now the Office of Administrative Hearings. However, several of the same sections of code relating to Lemon Law and hearings were amended last session by two different bills in slightly different ways. This session, the

Dealer & Lemon Law (Continued)

Department is making it clear which wording of those two versions will be good law and making a few clean-up changes to clarify procedures and responsibilities in Lemon Law cases.

Lastly, “willfully omitting material information” from an application for a license under OCC, Chapter 2301 or a general distinguishing number (GDN) under Transportation Code, Chapter 503 is added to the elements for which a license application can be denied; or a license or GDN revoked, suspended, placed on probation or reprimanded. In the Title Act, it is made clear a licensed dealer who sells by consignment is still required to file the title and registration paperwork for the transaction, as well as remit any motor vehicle sales tax.

II. Vehicle Titles

As a result of the legislatively mandated study on trailer titling¹, language will help clarify the exemption from mandatory titling for certain farm trailer/semitrailers is weight limited to 34,000 lbs. to conform to current practice; and permissively titling is expanded to allow farm semitrailers and trailers below 34,000 lbs. In addition, gross vehicle weight trailers and semitrailers below 4,000 lbs. may be permissively titled; and it will be required that once a trailer/semitrailer otherwise exempt is permissively titled, all subsequent purchasers of that vehicle must title it.

To address concerns of potential fraud, the fee for a certified copy of title is linked to the relevant fee and fee distribution method for a new title application. This change is being proposed in part because the certified copy will be legally changed to supersede and invalidate any existing title or certified copy of title. This is to make clear the nature of a certified copy would now function as a new title for the vehicle. This change will prevent fraud and confusion regarding what legal instrument is valid at any given time for vehicle titling.

¹ HB 2394, 83rd Legislative Session

Vehicle Titles (Continued)

Language will clarify TxDMV's role and duties in appeals of decisions made at tax assessor-collector hearings and court ordered title changes. The Department will not be required to file an answer or appear in such cases, but must provide the parties a certified title history and be served, along with all persons known to have a potential ownership interest, a copy of the petition.

III. Title and Registration Changes & Clean-ups

Definitions of "travel trailer" and "house trailer" are increased from 40 feet in length to 45 feet in length to conform to the reality of such vehicles being sold and used. Only each seller's legal name, state and city will be required on the title rather than legal address due to system programming and space limits on titles. Salvage vehicle titling language is corrected due to two different bills from the 82nd Legislative Session amending the section in slightly different ways. To conform to current practice, motor bus is added as an allowable type for an apportioned license plate, and it is clarified that implements of husbandry, farm tractors, and farm trailers/semitrailers below 4,000 lbs. are not required to be registered. The language makes clear the requirement enacted during the 83rd Legislative Session that an agriculture tax number be shown to receive agriculture related fees and license plates applies to renewals as well as the initial issuance.

The requirement that dealer and buyer eTags databases be managed by the Vehicle Title and Registration Division is changed to have them managed by the TxDMV as a whole. Rather than listing several vehicle types for which the Department can adopt rules for the placement of license plates, the section will state the Department can adopt such rules, unless otherwise specified in statute. In addition, "truck tractor" is added to the list of vehicles for which having more than one license plate is an offense, as truck tractors are only required to have one plate. The requirement that "DV" appear on disabled veteran license plates is being removed due to a shortage of alpha-numeric sequences for such plates; and, to conform to practice, motor homes will be allowed to carry disabled veteran license plates. The ability to sync registration dates for owners of multiple vehicles is repealed due to conflicts with "single sticker".

IV. Motor Carrier Changes

Language will clarify if an electronic version of a permit is issued (e.g. oversized/overweight or OS/OW), the electronic version will be accepted as proof of being permitted. It is also clarified electronic proof is acceptable for insurance and cab cards. In instances where there is no federal amount on which to base the insurance amount (e.g. private motor carriers), the Department will have the authority to set the amount required; and the bond amount for motor transportation brokers is increased from \$10,000 to \$75,000 to align with new federal levels. Truck tractor exemptions for transporting poles of certain lengths are removed to alleviate confusion.

It will be required that the person named on a permit issued under the OS/OW chapters be the one who actually moves the load. It will become a requirement that a shipper must provide a certificate of weight if the person transporting the load requests one, and the certificate must be provided to the Department by the person transporting a load in cases where the combined weight is greater than 200,000 lbs.

A limit of 180 days is being set for when a motor carrier can renew an expired registration without having to go through the process for obtaining a new registration. For household goods movers, the requirement to file tariffs with the Department is going to include all transportation services, as opposed to services between two or more municipalities. The Department will determine the method of filing such tariffs and how the tariffs will be made available for public inspection.

A new overweight permit is proposed, which would be a weight tolerance permit valid for 24 hours. It would have the same basic limits as the existing annual weight tolerance permit except for this time constraint. The fee of \$25 would be distributed among the state and counties selected on the permit application.

The token trailer/combo fee is changed from a \$15 per year for a token trailer license plate to a one-time \$105 fee for a permanent license plate for semitrailers used in combo. The license plate will be required to bear the word "Permanent" and will last until the vehicle is removed from service or sold. In addition, the fleet registration fee is

Motor Carrier Changes (Continued)

changing from an annual \$10 fee to a one-time \$10 fee upon initial registration in the fleet program.

V. Motor Carrier Clean-ups

The definition of weight tolerance permit in the new grant program for county roads in energy sectors is being clarified to apply only to permits under Transportation Code, Section 623.011, which is the section referred to in usage as weight tolerance permits as opposed to all permits under Chapter 623. The requirement that a token trailer registration receipt be carried in the vehicle is removed due to changes made during the 83rd Legislative Session to token trailer registration. It is clarified that unless expressly authorized by a permit, a permit does not allow tire ratings to be exceeded. In addition, it is clarified the weight and size limits in Chapter 621 apply unless otherwise provided. Language explains if the Department creates an alternative method to carrying a cab card, that method will be acceptable in meeting the requirement to carry a cab card.

For the new Ready-Mixed Concrete truck permits, the limit on the vehicle having three axles is removed because these trucks have more than three axles; and the requirement that the permit sticker be above the inspection sticker is removed due to the implementation of the Single Sticker program in 2015. The state's portion of the permit fee is split 90/10 between the State Highway Fund and the TxDMV Fund to conform to other permits in the chapter, and to offset Department costs for providing the permits and stickers.

Wording cleanups are made changing "single state" to "unified carrier registration", and to conform state statutes to current practice and federal law. The section saying TxDMV can issue U.S. Department of Transportation numbers is repealed as TxDMV does not perform this function. It is clarified a motor transport broker is defined as someone who offers such service to motor carriers registered under Chapter 643. Wording cleanups are made to brokers being "registered" under federal law rather than "permitted."

VI. Motor Carrier Enforcement

Loading in excess of size limits is added to the existing ability to sanction for loading excessive weight. Revoking, suspending, or denying a motor carrier's registration is added as a possible penalty for violating the permitting chapters; and not issuing a registration, renewal or re-registration is added as an option for a motor carrier who does not pay an assessed administrative penalty under the permitting chapters. It is clarified TxDMV may deny a registration renewal and reregistration, in addition to an initial registration; and having the Federal Motor Carrier Safety Administration place "out of service for unacceptable safety compliance" on a motor carrier is added to the list of reasons for denying a registration, renewal, or re-registration. A registration supplement can be denied if a motor carrier is, or affiliates with, a chameleon carrier who has unpaid permitting or registration administrative penalties. In addition, if a motor carrier is, or affiliates with, a chameleon carrier who has unpaid permitting or registration administrative penalties, the motor carrier can be denied a registration renewal. The same sanctions can also be pursued if a motor carrier affiliates with a chameleon carrier who has been revoked, denied, or has unpaid size and weight or registration administrative penalties. If an applicant for a registration is affiliated with a chameleon who has not paid certain registration administrative penalties by the 61st day after they become due, the application may be denied.

VII. Salvage Vehicle Occupational Licensing

The Department proposes a salvage vehicle licensing bill to: (1) clarify activities salvage vehicle related license holders may engage in; (2) correct and statutorily relocate various definitions; and (3) streamline licensing processes with a view toward automation. The main elements of the bill are explained below.

The bill adds to Occupations Code, Chapter 2302 definitions of "metal recycler," "salvage vehicle dealer," "salvage vehicle rebuilder," and "used parts dealer" currently located in Transportation Code, Chapter 501. The Occupations Code is a more logical, clear, and concise place for these terms to be defined. The term "licensed dealer" is

Salvage Vehicle Occupational Licensing (Continued)

defined as a catch all term for referring to entities licensed under Chapter 2302.

In several sections of the bill, it is made clear licensees must comply with applicable board rules, in addition to statute. It is also added that a licensee's employees must conform with certain inspection related requests, and a licensee or employee must comply with a demand from a TxDMV employee or law enforcement for copies of records required to maintain under statute or board rule, including an inventory record or bill of sale.

The current system has confusing endorsements to a salvage vehicle dealer license, which are not aligned with the actual activities performed in the salvage industry. The bill moves the system from one license type with several endorsements and classifications to three license types: salvage vehicle dealer (currently exists), salvage pool operator, and salvage vehicle rebuilder. A salvage vehicle rebuilder will be required to hold the appropriate GDN, unless the rebuilder only works on vehicles owned by another person. Throughout the bill, changes are made to reflect the three license types as needed (often by using the term "license holder" as opposed to the current "salvage vehicle dealer").

The license application process is streamlined by reducing unnecessary requirements, adding other requirements to bring it into modern practice (such as providing an E-mail address), and conforming the law to match other licensing statutes (like allowing the board to set the length of the license). The applicant will be required to certify the county and municipality approved the business location. It is being clarified the existing salvage vehicle agent license operates only under the authority of a licensed salvage vehicle dealer, and a new section is added allowing the board to initiate disciplinary action against a salvage dealer for an act or omission of a salvage agent authorized by that dealer, or person acting in a representative capacity for the dealer if the act or omission would be grounds for denying, revoking, or suspending the dealer's license. A license renewal will need a complete renewal application, in addition to other existing

Salvage Vehicle Occupational Licensing (Continued)

requirements. Repealed sections are for higher fees for certain late renewals, no renewal more than a year of expiration, and if doing business in another state for a time after expiration. It is clarified a licensee must amend the license if a new location is opened or moved to and cannot conduct business at the location until the Department approves the amended license.

The language clarifies a licensee must receive salvage and/or nonrepairable titles assigned to them and comply with both Transportation Code, Chapter 501 and board rules. In addition, the licensee must maintain records for salvage and nonrepairable vehicles it purchases and sells. This aligns with other statutes so a license is not required if a person purchases at casual sales five or fewer nonrepairable/salvage vehicles per calendar year. Licensees must also remove and securely store all license plates, maintain records on all plates removed from all vehicles received, and keep a copy of a valid photo ID of the sellers of all vehicles acquired by the licensee. On demand, a licensee is required to surrender to the Department any record or document the licensee is required to possess or maintain. For an injunction of more than one year on a salvage operation, both district and county attorneys will be allowed to file suit.

As was done during the 83rd Legislative Session with dealer licensing fees and administrative penalties, the language directs salvage related licensing fees and administrative penalties to be deposited to the credit of the Texas Department of Motor Vehicles Fund. Current law does not specify where such fees are deposited, and they have been deposited in the General Revenue Fund for the current biennium.

VIII. Texas Department of Motor Vehicles Fund

HB 2202 from the 83rd Legislative Session established a dedicated Texas Department of Motor Vehicles Fund separate from the general revenue and state highways funds. However, the newly established fund was not exempted from the funds consolidation bill (*HB 6*) for that session. Therefore the TxDMV Fund was abolished and the revenues streams that would have gone into the fund are instead going to the credit of the state's General Revenue Fund. TxDMV staff will work with legislators, their staffs, the Legislative Budget Board, and the Comptroller to include language in the upcoming funds consolidation legislation to recreate the Texas Department of Motor Vehicles Fund and rededicate the revenue sources for the fund.

IX. Stakeholder Involvement

TxDMV made every effort to involve our stakeholders throughout the development of this agenda and work through these concepts. Following please find a list of those stakeholders.

- Texas Automobile Dealers Association
- Texas Independent Automobile Dealers Association
- Texas Aggregates & Concrete Association
- Texas Farm Bureau
- Texas & Southwestern Cattle Raisers
- Texas Forestry Association
- Texas Logging Council
- Texas Cattle Feeders Association
- National Title Solutions Forum
- Texas Trucking Association
- Tax Assessor Collectors Association
- Automobile Manufactures Alliance
- Texas Food & Fuel Association
- Southwest Movers Association
- Texas Automotive Recyclers Association
- Multiple insurance, trade and law enforcement entities in the salvage motor vehicle industry sector