

TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

Thursday,  
December 7, 2017

Lone Star Room  
Building 1  
4000 Jackson Avenue  
Austin, Texas

BOARD MEMBERS:

Raymond Palacios, Chair  
Blake Ingram, Vice Chair  
Robert "Barney" Barnwell, III  
Luanne Caraway  
Brett Graham  
Kate Hardy  
Gary Painter  
Guillermo "Memo" Treviño  
Johnny Walker

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9. Chapter 219, Oversize and Overweight Vehicles and Loads 165  
 New, §§219.34, 219.35, and 219.36  
 (Relating to HB 2319, North Texas Intermodal Permit; SB 1383, Fluid Milk Transport Permit; and SB 1524, Intermodal Shipping Container Port Permit)  
 (Proposal Published October 20, 2017 - 42 Tex. Reg. 5847)

RULES - PROPOSAL

Title 43, Texas Administrative Code

10. Chapter 215, Motor Vehicle Distribution 178  
 Amendments, §215.144  
 Chapter 217, Vehicle Titles and Registration Amendments, §§217.71-217.73; and New, §217.74  
 Chapter 221, Salvage Vehicle Dealers, Salvage Pool Operators and Salvage Vehicle Rebuilders Amendments, §221.72  
 (Relating to document retention requirements for users of webDealer, including webSalvage)
11. Chapter 217, Vehicle Titles and Registration 180
- Amendments, §217.2  
 (Relating to clarification of definitions of All-Terrain Vehicle (ATV) and Recreational Off-highway Vehicle (ROV))
  - Amendments, §217.41  
 (Relating to HB 1790 on application for new disabled placard following seizure of placard)
  - Amendments, §217.123 and §217.124  
 (Relating to charges for motor vehicle records; waiving fees for governmental entities)

EXECUTIVE SESSION

12. The Board may enter into closed session under one or more of the following provisions of the Texas Open Meetings Act, Government Code, Chapter 551: 182
- Section 551.071
  - Section 551.074
  - Section 551.089
13. Action Items from Executive Session none
14. Public Comment 192
15. Adjournment

P R O C E E D I N G S

1  
2 MR. PALACIOS: Good morning, everyone. It's a  
3 great day in Austin, Texas. Welcome to this wonderful  
4 city on this beautifully cloudy, chilly, cool day.

5 Good morning. My name is Raymond Palacios, and  
6 I'm pleased to open the Board meeting of the Texas  
7 Department of Motor Vehicles. It is 8:02 a.m., and I am  
8 now calling the Board meeting for December 7, 2017 to  
9 order.

10 I want to note for the record that public  
11 notice of this meeting, containing all items on the  
12 agenda, was filed with the Office of the Secretary of  
13 State on November 29, 2017.

14 Before we begin today's meeting, please place  
15 all cell phones and other communication devices in a  
16 silent mode, and please, as a courtesy to others, do not  
17 carry on side conversations or other activities in the  
18 meeting room.

19 If you wish to address the Board to speak on an  
20 agenda item during today's meeting, please complete a  
21 speaker's sheet at the registration table. Please  
22 identify on the sheet the specific item you are interested  
23 in commenting on and indicate if you wish to appear before  
24 the Board to present your comment or if you only wish to  
25 have your written comment read into the record. If your

1 comment does not pertain to a specific agenda item, we  
2 will take your comment during the general public comment  
3 portion of this meeting.

4 In accordance with the department's  
5 administrative rule, comments to the Board will be limited  
6 to three minutes. To assist each speaker, a timer has  
7 been provided. The timer light will be green for the  
8 first two minutes, yellow for one minute, and then red  
9 when your time is over. Individuals cannot accumulate  
10 time for other speakers. Comments should be pertinent to  
11 the issue stated on the comment sheet. When addressing  
12 the Board, please state your name and affiliation for the  
13 record.

14 Before we begin today, I'd like to remind all  
15 presenters of the rules of conduct at our Board meetings,  
16 that is the Board chair is given authority to supervise  
17 the conduct of meetings. This includes the authority to  
18 determine when a speaker is being disruptive of a meeting  
19 or otherwise violating timing or presentation rules I just  
20 discussed.

21 With that, I will move on to our roll call, a  
22 roll call of members.

23 Board Member Barnwell?

24 MR. BARNWELL: Present.

25 MR. PALACIOS: Board Member Caraway?

1 MS. CARAWAY: Present.

2 MR. PALACIOS: Board Member Graham?

3 MR. GRAHAM: Present.

4 MR. PALACIOS: Board Member Hardy?

5 MS. HARDY: Present.

6 MR. PALACIOS: Board Member Painter?

7 MR. PAINTER: Present.

8 MR. PALACIOS: Board Member Walker?

9 MR. WALKER: Present.

10 MR. PALACIOS: And let the record reflect I,  
11 Raymond Palacios, am here too, we have a quorum. Also,  
12 let the record reflect that Board Members Ingram and  
13 Treviño are absent today.

14 I'll now move on to agenda item 2. I don't  
15 have anything with the exception of a couple of  
16 announcements. This day in history, as everyone knows,  
17 December 7, 1941 marks the anniversary of Pearl Harbor  
18 Day. You may recall this was a surprise attack from Japan  
19 on our Naval fleet in the Pacific. Over 2,400 American  
20 lives were lost, over 1,200 were wounded. The day after  
21 President Roosevelt made a joint address to Congress, and  
22 he declared this a day that will live in infamy. On that  
23 day we declared war in Japan. Subsequently, over four  
24 years America contributed to the war effort 400,000 lives.

25 In recognition of that day, the sacrifices that were made

1 during the war, before and subsequent, I would think if we  
2 could, please, all stand and honor our country with the  
3 Pledge of Allegiance.

4 (Whereupon, the Pledge of Allegiance was  
5 recited.)

6 MR. PALACIOS: Thank you.

7 I just want to make another announcement. This  
8 one is very, very bittersweet, but I would like to  
9 congratulate our Board liaison, Terri Tuttle -- where are  
10 you, Terri? -- on her decision to retire from state  
11 service. Terri's last day will be December 22.

12 Terri has served this Board and this agency  
13 with great distinction. I can tell you she has been  
14 invaluable to this Board in assisting us with not just the  
15 logistics and travel arrangements but also with  
16 communication, keeping us apprised as to what's going on,  
17 making sure that we're aligned our timing and everything  
18 with the agency here because there's so many things going  
19 on and it's difficult to keep track of nine Board members,  
20 travel schedules and everything, and she has done a  
21 fabulous job with that.

22 She's been with this agency for four years and  
23 altogether 20 years serving the State. Prior to being  
24 with DMV, she was with the Texas Indigent Defense Fund for  
25 12 years, and she assisted the general counsel to the

1 chief of staff in the Governor's Office for over three  
2 years. She has been a great servant to the State of  
3 Texas, to this agency, to this Board, and we will  
4 definitely miss Terri. I can tell you personally, it  
5 won't be the same without you Terri.

6 After our meeting, we're going to have a little  
7 celebration for her, so if you'd like to join us, you're  
8 welcome to.

9 Thank you, Terri.

10 (Applause.)

11 MR. PALACIOS: With that, we will move on to  
12 agenda item number 3 and I will turn it over to our  
13 executive director, Ms. Whitney Brewster.

14 MS. BREWSTER: Thank you, Mr. Chairman.  
15 Members of the Board, good morning. For the record,  
16 Whitney Brewster, executive director of the Texas  
17 Department of Motor Vehicles.

18 I want to first recognize the amazing efforts  
19 of our Motor Carrier and Information Technology Services  
20 divisions and announce the first phase launch of the  
21 electronic licensing, insurance and credentialing system,  
22 and that's going to happen this Sunday, December 10.  
23 We're calling it eLINK.

24 The Motor Carrier Division began this  
25 initiative to improve the Motor Carrier Credentialing



1 System, M CCS, in 2015, it was fall of 2015. This is a  
2 multi-division project with the Enforcement Division, the  
3 IT Division, Office of General Counsel and Motor Carrier  
4 Division. eLINK is the first major upgrade of the M CCS  
5 system which was launched in 2004, and it was the first of  
6 its kind online application. The initial launch of eLINK  
7 will offer online self-service to motor carriers who are  
8 applying for operating authority in Texas and will allow  
9 customers to handle all steps of the process of creating  
10 an account. Today this is very staff-intensive, so this  
11 will create not only efficiencies for the customer but for  
12 the agency as well.

13 M CCS will continue to serve customers for  
14 management of their accounts, both existing and those  
15 created in the new eLINK system. A status bar shows  
16 customers where there are in the eleven-step process, and  
17 eLINK is instructional and it tutors the customer through  
18 each step.

19 Just some of the features that it will add.  
20 There will be added security features and searches for  
21 chameleon carriers, and these are bad players. These are  
22 folks that have been put out of service for safety  
23 violations and they've tried to recreate themselves as a  
24 new business. There will be added security features so  
25 that we can catch those on the front and before something

1 more significant occurs on our roadways. It also cross-  
2 checks their current US DOT number status, using realtime  
3 information in the Federal Motor Carrier Management  
4 Information System, also called MCMIS. And it will check  
5 for whether household goods movers have the required rates  
6 and charges on file.

7 And so just in closing, MCCS will continue to  
8 be the official name. There will be additional  
9 enhancements as we go along through 2018 but we will be  
10 re-branding that at the end of 2018 as eLINK. So just  
11 wanted to make sure that those in attendance here today as  
12 well as our Board are aware of this new and exciting  
13 improvement to MCCS.

14 The next item, if I may continue, Mr. Chairman.

15 MR. PALACIOS: Please do.

16 MS. BREWSTER: Is to talk about the Sunset  
17 review process. I just wanted to give everybody a quick  
18 update because this is something that is significant to  
19 our agency as we're undergoing the Sunset review.

20 After we finished our first round of  
21 introductory meetings, staff continued to meet with the  
22 Sunset review team in small groups to discuss the work of  
23 their divisions and answer specific questions from the  
24 Sunset review team. The Sunset review team has visited  
25 with our Austin Regional Service Center and has plans to

1 go and meet with our San Antonio Regional Service Center  
2 as well.

3 We have been gathering substantive information  
4 to provide to Sunset, and I know that the review team has  
5 also started reaching out to the various stakeholder  
6 groups to give them a more holistic view of what the  
7 agency does and its impact.

8 I would like to commend everybody on staff who  
9 has already assisted with this effort. This is a  
10 significant initiative, it is on top of the work that is  
11 already to be done at the agency, and so I do want to  
12 pause and thank staff for the time that they're taking to  
13 provide that information in a quality manner.

14 I also would like to provide you with an update  
15 on the legislative component here as well as it relates to  
16 the Sunset Advisory Commission process. The lieutenant  
17 governor appointed the Senate members to the commission in  
18 late October, on October 26. Senator Brian Birdwell of  
19 Granbury will chair the commission, and the other Senate  
20 members include Dawn Buckingham of Lakeway, Bob Hall of  
21 Greenville, Robert Nichols of Jacksonville -- who I know  
22 all of you are very familiar with as he is also the chair  
23 of Senate Transportation -- and Kirk Watson of Austin.  
24 The speaker has not yet appointed the remaining House  
25 members to the commission, however, the terms of

1 Representatives Dan Flynn of Canton and Senfronia Thompson  
2 of Houston remain in effect, and they will continue to  
3 serve throughout this review cycle.

4 Further, the lieutenant governor and speaker  
5 each appoint one member from the public. The lieutenant  
6 governor appointed Emily Pataki of Cedar Park as the  
7 Senate's public member, and with the remaining House  
8 members, we're waiting to learn who the House public  
9 appointee will be.

10 Once that full commission is appointed,  
11 Chairman Birdwell will arrange for an organizational  
12 hearing to confirm the Sunset staff review schedule and  
13 public hearing dates, and we continue to look forward to  
14 the Sunset's report this spring, and I will certainly keep  
15 the Board up to date as we learn more.

16 Are there any questions on that, members?

17 (No response.)

18 MS. BREWSTER: All right. If I may just  
19 continue on?

20 MR. PALACIOS: Please proceed.

21 MS. BREWSTER: I wanted to provide the Board  
22 again with a hurricane relief response update. Certainly  
23 the impact of Hurricane Harvey was far-reaching and long-  
24 lingering, and we certainly are still feeling the impact  
25 of the hurricane in our agency.

1           As of November 28, there were 378 emergency  
2 relief permits issued to allow overweight vehicle carriers  
3 to deliver loads consisting entirely of relief supplies  
4 and allow transport of materials from the area, such as  
5 debris, in order to facilitate the delivery of those  
6 relief supplies. On October 16, Governor Abbot extended  
7 the suspension of certain statutes related to the  
8 enforcement of title and registration laws in the 48  
9 counties. That suspension was extended through November  
10 15, allowing for Texas residents from these counties  
11 additional time to take care of their expired  
12 registration. That ended November 15, so that is no  
13 longer in effect.

14           Wanted to also give you an update on the  
15 expenditures related to Hurricane Harvey. We had a  
16 significant amount of damage to an agency vehicle. All  
17 things considered, the agency did very well in terms of  
18 weathering the storm. Our offices held up, we only had  
19 one vehicle, and services were performed to remediate the  
20 damage which included windshield and upholstery  
21 replacement. Again, in the grand scheme of things we were  
22 very fortunate that that was the extent of the damage.

23           We did incur, obviously, additional expenses  
24 primarily related to salvage titles. As of November 30,  
25 we processed over 200,000 salvage and non-repairable

1 titles. Just to give you an idea of what that means in  
2 terms of our usual workload there, for October that's a  
3 220 percent increase in the titles processed, and for  
4 November it was 113 percent increase. We had a total of  
5 21 temporary employees that were hired to assist with the  
6 volume. We do have a statutory five-day turnaround for  
7 issuance of titles. I want to commend our staff for  
8 staying within that statutory amount. I'll just give you  
9 an idea, applications were processed within an average of  
10 four days in October and three days in November.

11 And I would like to pause for a moment and  
12 thank our Finance and Administrative Services staff and  
13 our Vehicle Titles and Registration Division staff for  
14 really putting their shoulder to the wheel and getting  
15 these processed so that we can make sure that these  
16 vehicles are properly branded and that they don't end up  
17 in the hands of an unsuspecting consumer. So if you'll  
18 just take a moment, please, and give a round of applause  
19 for those two divisions, and also our Motor Carrier  
20 Division for really stepping up and helping with the  
21 relief efforts as it applies to motor carriers.

22 (Applause.)

23 MS. BREWSTER: I'm very, very proud of them.

24 We obviously far exceeded the amount that we  
25 typically spend on efforts related to these items. We're

1 looking at a total of \$366,998, that is our estimated  
2 expense. Some good news, we were able to request  
3 emergency relief funds from the American Association of  
4 Motor Vehicle Administrators. They did grant us \$125,000  
5 to assist with relief efforts specific to the National  
6 Motor Vehicle Title Information System, and that will  
7 certainly offset those excess dollars spent on these  
8 efforts.

9 So with that, Mr. Chairman, that is what I have  
10 on hurricane relief efforts. Are there any questions?

11 MR. WALKER: So we had \$266,000 in additional  
12 costs. That's associated statewide and primarily that was  
13 in Houston and in Beaumont?

14 MS. BREWSTER: That is additional expense to  
15 the agency above and beyond what we normally would have  
16 paid or we would have budgeted.

17 MR. WALKER: So what created that additional  
18 expense?

19 MS. BREWSTER: That's primarily title paper for  
20 those salvage and non-repairable titles issued.

21 MR. WALKER: The paper?

22 MS. BREWSTER: Yes, sir, the paper, as well as  
23 the additional staff required to process them.

24 MR. WALKER: But wouldn't there have been  
25 additional income come in?

1 MS. BREWSTER: Yes, sir, there would be.

2 MR. WALKER: So how much is the additional  
3 income?

4 MS. BREWSTER: I do not have that information  
5 at this point, and I can certainly provide that to you at  
6 another time.

7 MR. WALKER: I mean, if we're going to report  
8 the additional expenses, we ought to report the additional  
9 income, I would think, because we charge for processing a  
10 salvage title.

11 MS. BREWSTER: Yes. We do anticipate an  
12 increase in the amount of money collected as a result of  
13 that. Yes, sir.

14 MR. WALKER: The \$125,000 is some grant money  
15 we went and applied for?

16 MS. BREWSTER: Yes, sir.

17 MR. WALKER: Thank you.

18 MS. BREWSTER: And, Member Walker, the agency  
19 does go through the appropriation process, like other  
20 state agencies, and so because we collect those dollars  
21 does not mean we have the authority to spend those  
22 dollars, so we would have to go through the appropriation  
23 process to get any additional dollars associated with  
24 that.

25 MR. WALKER: So we would have gotten the



1 processing and handling -- well, we don't get a handling  
2 fee on that.

3 MS. BREWSTER: No, sir. That's only for  
4 registration; processing and handling fee is for  
5 registration only.

6 MR. WALKER: Okay. Thanks.

7 MR. PALACIOS: Are there any further questions  
8 for Ms. Brewster regarding the hurricane relief response?

9 (No response.)

10 MR. PALACIOS: If not, please proceed.

11 MS. BREWSTER: All right. Thank you.

12 Since the last time we met in October, we said  
13 goodbye to Eric Obermier, our chief information officer.  
14 He accepted the position of assistant director of  
15 information technology for the Texas Municipal Retirement  
16 System, and Eric's last day was November 9. We were very  
17 sad to see him go, but to assist the department during  
18 this transition period, I have appointed Deputy Chief  
19 Information Officer Jonathan O'Quinn to serve as the  
20 interim CIO while the position is vacant.

21 The job posting for the CIO position closed  
22 last Thursday, and I am pleased to say that we had 84  
23 application for that very important position, so it's  
24 excellent that we had that kind of interest in the role  
25 and have confidence that we have a very good applicant

1 pool.

2 Jonathan, would you please stand to be  
3 recognized? Thank you.

4 In his role as the interim chief information  
5 officer, Jonathan oversees ITSD, consisting of 92  
6 employees and additional contract staff, providing  
7 information technology services and support for all  
8 department staff, as well as maintenance and support of  
9 the TxDMV's major systems and technology serving our very  
10 expansive external customer base.

11 Jonathan has over 20 years of IT experience  
12 with three years in Texas state government at TxDMV.  
13 Prior to working in Texas, Jonathan served numerous roles  
14 in Alaska state government, including IT director for the  
15 Alaska Division of Motor Vehicles. He also has more than  
16 ten years in the private sector providing county and state  
17 government IT services for voter registration and election  
18 management. Roles have included software developer,  
19 database administrator, data architect, conversion program  
20 manager, project manager, and various titles for IT  
21 director. He has worn a number of hats. He attended the  
22 West Virginia Institute of Technology where he majored in  
23 electrical engineering.

24 Members, if you will please join me in  
25 welcoming Jonathan as our interim CIO.

1 MR. PALACIOS: Welcome, Jonathan.

2 (Applause.)

3 MS. BREWSTER: Mr. Chairman, last but certainly  
4 not least, this is the time we would like to recognize our  
5 recent retirees and employees who have reached a state  
6 service milestone. We celebrate these employees in show  
7 of our appreciation for their years of service to the  
8 citizens of this great state. I want to welcome the  
9 family and friends of our celebrants that are here today.  
10 We know that you have supported these employees who have  
11 worked with us, and thank you so much for sharing your  
12 loved ones with us.

13 Martha Yancey, with the Human Resources  
14 Division, will read the service announcements, and  
15 Chairman Palacios and members, if you would please join me  
16 at the front of the dais.

17 MR. PALACIOS: Certainly.

18 MS. YANCEY: Good morning. My name is Martha  
19 Yancey, Human Resources Division.

20 The following employee has reached a state  
21 service milestone of 20 years: Christina Flores. Would  
22 you please join Ms. Brewster and our Board members?

23 Christina has worked for the Vehicle Titles and  
24 Registration Division since November 9, 1997 and  
25 transferred to the DMV when the agency was created in

1 November 2009. During this 20-year period, Christina  
2 raised her son Diego, and he is here with us today. Three  
3 years ago she became an endurance swimmer and runner,  
4 completing a marathon every year for the last three years.

5 Christina has worn many hats during her career. Since  
6 the inception of the specialty license program, she has  
7 been doing an exceptional job as the contract manager with  
8 the department's marketing vendor, MyPlates. Christina  
9 also provides excellent customer service to all our  
10 specialty plate stakeholders.

11           Congratulations on 20 years of state service,  
12 Christina.

13           (Applause; pause for presentation and photos.)

14           MS. YANCEY: And next, the following employee  
15 has reached a state service milestone of 25 years:  
16 Cristina Elorriaga. Please join Ms. Brewster and our  
17 Board members.

18           Cristina has worked for the DMV since November  
19 1, 2009. She has served as an operations specialist in  
20 the Vehicle Titles and Registration Division since October  
21 1, 2013. She does an exceptional job within vehicle data  
22 management where she handles many requests for motor  
23 vehicle information and consistently provides excellent  
24 customer service. Cristina is truly an asset to the  
25 division. It is a pleasure to congratulate her on this

1 state service milestone of 25 years.

2 (Applause; pause for presentation and photos.)

3 MS. YANCEY: And next we have an employee who  
4 has reached a state service milestone of 30 years: Allen  
5 Goolsby.

6 Allen started in the Vehicle Titles and  
7 Registration Division in 1987 at the State Department of  
8 Highways and Transportation. He transferred to the DMV  
9 when it was created on November 1, 2009. He works in the  
10 Finance and Administrative Services Division. He is a  
11 program specialist and liaisons between the agency and the  
12 Texas Department of Criminal Justice in the Huntsville  
13 office.

14 Congratulations on 30 years of service, Allen.

15 (Applause; pause for presentation and photos.)

16 MS. YANCEY: The following employees also  
17 reached a state service milestone but were unable to join  
18 us this morning: 20 years, Melissa Altman, Vehicle Titles  
19 and Registration Division and Brian Evans, Motor Carrier  
20 Division; 25 years, Sylvia Alvarado, Motor Carrier  
21 Division and Candy Southerland, Vehicle Titles and  
22 Registration Division; 30 years, Pat Barnes, Human  
23 Resources Division; 35 years, Debbie Nelson, Vehicle  
24 Titles and Registration Division.

25 And last, the employees who recently retired

1 from the agency are Patricia Valdez and Miguel Gabon.

2 Thank you.

3 (Applause.)

4 MR. PALACIOS: Terri, you understand we're  
5 holding on to your retirement, yours is still to come,  
6 Terri.

7 MR. GRAHAM: I don't think it's been accepted.

8 MR. PALACIOS: I think there's a motion that  
9 you don't retire.

10 (General laughter.)

11 MR. PALACIOS: Moving right along, we'll now  
12 move on to hear briefing and action items. We will  
13 address agenda item number 4 regarding the Internal Audit  
14 update, to be given by Ms. Sandra Menjivar-Suddeath.

15 MS. MENJIVAR-SUDDEATH: Good morning, Board  
16 members. For the record, Sandra Menjivar-Suddeath,  
17 Internal Audit director, and I'm presenting item 4 which  
18 is on page 7 of your board book, and it's a briefing item  
19 only.

20 This Internal Audit status update includes  
21 three components: first is the status of the fiscal year  
22 2018 Internal Audit plan; second part is the external  
23 coordination; and third is personnel.

24 For the status of the fiscal year 2018 Internal  
25 Audit plan, there are five items listed. One of the items

1 is a travel and training audit. This audit is an upcoming  
2 audit and we will be sending out the engagement letter in  
3 the next week. The audit objective is to determine if  
4 training and travel requests have appropriate approvals  
5 and justifications.

6 Ongoing projects include the DMV Fund which is  
7 an audit to determine if appropriate revenue is being  
8 deposited into the Texas DMV Fund. We are finishing up  
9 field work this week and so we'll be interim reporting  
10 right after that. We anticipate the report will be  
11 released by the end of January.

12 Similarly, the open records audit is in  
13 reporting and so we're working on the report and we  
14 anticipate that will also be released in January.

15 The fraud, waste and abuse risk assessment  
16 advisor service is in planning, so we've been working with  
17 a couple of divisions to make sure we have a good system  
18 and process to identify our risks. We are finishing up  
19 planning this week and will be transitioning to field work  
20 and will provide you a more detailed update.

21 The next one is a fiscal year 2018 Internal  
22 Audit followup. This is a year-long engagement where we  
23 will be providing the status of all internal and external  
24 audit recommendations and what their status is at the end  
25 of the year. However, we have mentioned before that we'll

1 be providing quarterly updates on the audit  
2 recommendations we reviewed. We just closed out the first  
3 quarter, and so on page 9 you will find the memo that  
4 discusses the audit recommendations that we reviewed  
5 during the first quarter of the year.

6 In total we reviewed 25 audit recommendations.

7 These were all internal audit recommendations. The 25  
8 audit recommendations, 17 were fully implemented by the  
9 department, which is a 68 percent implementation rate, and  
10 eight had been started, so the divisions had taken action  
11 to complete the recommendation but did not necessarily  
12 finish it or there were some gaps that we identified that  
13 needed some work. For all the eight recommendations that  
14 were started, the divisions have provided us a new status,  
15 a new update and completion date, and we'll be following  
16 up with the divisions every six months until that is  
17 completed.

18 Any questions on the status for the fiscal year  
19 2018?

20 (No response.)

21 MS. MENJIVAR-SUDDEATH: For external  
22 coordination, we have two still ongoing external audits.  
23 The first one is the Texas Comptroller of Public Accounts.  
24 They're doing a post-payment audit on us for our  
25 expenditures related to payroll, purchasing, procurement



1 and travel. They are wrapping up their field work  
2 hopefully by the end of this week, and so we'll have a  
3 report shortly from them.

4 In addition, the State Office of Risk  
5 Management conducted a risk management program review in  
6 November. They closed out all previous audit  
7 recommendations that they had. They are issuing one new  
8 audit recommendation but we're waiting for the report to  
9 fully provide you that information.

10 And then finally, on personnel, we have two new  
11 auditors that have started: Frances Barker and Jacob  
12 Geray. Frances came from the State Auditor's Office,  
13 she's our Auditor III, and she's over there. And Jacob  
14 Geray was doing work for the Massachusetts Institute of  
15 Technology and he's our Auditor II. In addition, both  
16 Derek and Jason celebrated work anniversaries this year,  
17 so Derek has been with us for three years and Jason has  
18 been here with us for one year.

19 Are there any questions on my update?

20 MR. PALACIOS: Sandra, I just want to add I did  
21 have the opportunity yesterday to meet Frances and Jacob.  
22 They're sitting, where are you, over here. Welcome  
23 aboard. I can tell you their credentials, their character  
24 are outstanding, and they're going to be a great addition  
25 to this agency. These two positions, we've been talking

1 about this for years now, and congratulations, Sandra, for  
2 making this happen, as well as Whitney. As the agency  
3 expands, the needs throughout the state have greatly  
4 increased, and I know they will be invaluable to helping  
5 you and your staff, Jason and Derek, and all the work that  
6 you do. We look forward to having you on board.

7 You'll be happy to know that somehow we let  
8 another Aggie into this agency.

9 MR. WALKER: Whoop! So he's extremely  
10 qualified.

11 (General laughter.)

12 MR. PALACIOS: Welcome aboard, very glad to  
13 have you.

14 Any other questions for Sandra?

15 (No response.)

16 MS. MENJIVAR-SUDDEATH: That concludes the  
17 item. Thank you.

18 MR. PALACIOS: Thank you, Sandra.

19 Okay. Let's move on now to agenda item number  
20 5, the legislative implementation. I'll turn it over now  
21 to Ms. Caroline Love.

22 MS. LOVE: Good morning. Again, my name is  
23 Caroline Love. I'm the director of the Government and  
24 Strategic Communications Division, and I'm here to provide  
25 a briefing this morning that starts on page 10, so no

1 action items.

2           Before I get into the department's  
3 implementation efforts for legislation that was passed by  
4 the 85th Legislature, I was going to give a quick update  
5 on an important deadline that's quickly approaching, which  
6 is Monday, December 11 is the last day for elected  
7 officials to file to run for office, and this year it  
8 seems very pertinent to what will happen in the 2019  
9 session. It all kind of begins, I guess you could say,  
10 with the Texas congressional delegation with seven members  
11 so far saying that they're not planning to return, and  
12 that, of course, has a lot of effects on all the other  
13 public offices that are held throughout the state.

14           So we have a lot of seats that are looking at  
15 changes, including a couple of members that are now going  
16 to run for Congress as opposed to staying in the state  
17 legislature. And we have on the House side, while not  
18 everybody has filed just yet for reelection, there are at  
19 least, at this point, 40 primaries that are going to be  
20 pretty well contested. So it should be an interesting  
21 March and an interesting November.

22           And interestingly, as well, our governor has  
23 come out with 15 endorsements in the House races, which is  
24 pretty unusual, it's not a common thing to occur every  
25 other year. And we know for a fact that we will have a

1 new speaker in the House, so that will definitely see a  
2 lot of changes when it comes to committee chairmanships  
3 and things like that. So that's kind of just general  
4 setting the tone, I suppose you could say.

5 As you know, the next legislative session  
6 doesn't begin till January 2019, but for this last session  
7 our staff remains busy at work implementing all the things  
8 that were passed, and there were quite a few things that  
9 impacted our operations. One of the things that you'll  
10 hear later today, there's some rules that are up for  
11 proposal that do some of the updates related to cleanup  
12 language that we had in our rules related to unified  
13 carrier registration and things like that, so that will be  
14 something you'll consider. And at the last meeting there  
15 were some rules that were proposed that are still in the  
16 public comment through December 11, so we'll be looking at  
17 those for adoption in early 2018.

18 Some of the other things that are going on,  
19 there's another rule that will be proposed later this  
20 morning -- or maybe this afternoon, we'll see how long it  
21 goes -- that relates to having our rules reflecting the  
22 process that's followed when a disabled parking placard is  
23 revoked. And there was a letter that was associated with  
24 that that was determined not very helpful, it seemed, to  
25 both the people who had had their placards revoked and it

1 was a cost and time, quite a bit of that, for the agency,  
2 so the statute that was passed not requiring that letter  
3 anymore will be reflected in the rules process, so that  
4 will be coming later.

5 In addition, I did want to mention that House  
6 Bill 4102 that was passed this last session had two  
7 options for people when they renew their registration to  
8 provide for donation opportunities. One is for the  
9 evidence testing kits that DPS has a significant backlog,  
10 and the other one is an Ending Homelessness Fund, so those  
11 two options will be provided to people when they renew  
12 their registration for contribution. And the programming  
13 that will allow for that to go into place will go live on  
14 January 2, so we're on track with implementing that.

15 And then, of course, later this morning for  
16 adoption of rules we have the permits, some of the  
17 oversize/overweight permits that were passed by the  
18 legislature. Back on November 20, TxDOT, the Department  
19 of Transportation, coordinated with us to hold a  
20 stakeholder meeting and members from the communities that  
21 use these oversize/overweight permits as it relates to  
22 fluid milk permit and also the intermodal shipping  
23 containing permits on the coast. Those two permits we had  
24 the stakeholder meetings with the groups and went through  
25 a lot of the questions about the process. Also, those

1 people are very interested, obviously, in the routes that  
2 are associated with those permits, and so we're working  
3 with TxDOT to make sure those lines of communication  
4 remain open. They're aware that the permit rules are up  
5 for adoption today and it seems like they're in good  
6 shape.

7           There's a third permit that is included in the  
8 permits that passed this last session. House Bill 2319  
9 included language to allow for a Northeast Texas  
10 Intermodal permit. And that one had some unique language  
11 as it related to the permit fee allowing this Board to set  
12 that fee, which isn't a common language that's in these  
13 permits, and so we've been coordinating pretty frequently  
14 with the stakeholder group as well as several legislative  
15 offices to ensure that when staff comes later, Mr. Archer  
16 will present a recommendation that we've come to after  
17 making all those meetings and trying to come to the right  
18 conclusion there from all the comments received.

19           So that's wraps up the implementation efforts  
20 that I have an update on, but I'm happy to answer any  
21 questions that you may have.

22           MR. WALKER: On Senate Bill 1524 by Nichols for  
23 the oversize containers out of the port, what's the weight  
24 restrictions and the length of those hauls? Do you know?

25           MS. LOVE: I would need to defer to Jimmy.

1 MR. PALACIOS: Come on up, Jimmy.

2 MS. LOVE: I just know they're big.

3 MR. ARCHER: For the record, I'm Jimmy Archer,  
4 director of the Motor Carrier Division.

5 You want to know what the weights were for the  
6 port container permits?

7 MR. WALKER: On Senate Bill 1524, the port  
8 container overweight deals.

9 MR. ARCHER: There's two options: you can run  
10 93,000 pounds with six axles or 100,000 pounds with seven  
11 axles.

12 MR. WALKER: And that's an individual truck  
13 permit. Right?

14 MR. ARCHER:: Yes, sir.

15 MR. WALKER: And the cost of that permit is how  
16 much?

17 MR. ARCHER: The permit for the intermodal  
18 container permit is \$6,000.

19 MR. WALKER: So it's \$6,000. How long is the  
20 route, roughly?

21 MR. ARCHER: It's restricted to 30 miles from  
22 the port.

23 MR. WALKER: Thirty miles? So it's 30 miles or  
24 less is the deal, and it's between 90,000 pounds and 100-?

25 MR. ARCHER: Yes, sir.

1 MR. WALKER: And it has to have more axles in  
2 order to do that?

3 MR. ARCHER: Yes, sir.

4 MR. WALKER: And we're being presented another  
5 one today on the container, similar bill, which is in the  
6 northeast part of the state to move some type of paper  
7 going to the state line, and that's for less than \$2,000?

8 MR. ARCHER: Yes, sir.

9 MR. WALKER: For the same amount, 93,000  
10 pounds?

11 MR. ARCHER: That's correct, sir. And the  
12 statute said the Board could set that permit fee up to  
13 \$2,000.

14 MR. WALKER: Thank you.

15 MR. PAINTER: The 30-mile trip, that's one way?

16 MR. ARCHER: No, sir. That's an annual permit.  
17 They can use that back and forth to go to the port and  
18 back.

19 MR. PAINTER: As many times as they want?

20 MR. ARCHER: Yes, sir. Annual permit.

21 MR. PAINTER: Okay. Thank you.

22 MS. LOVE: Thank you.

23 MR. PALACIOS: Are there any other questions  
24 for Caroline or Jimmy before they leave?

25 (No response.)



1 MR. PALACIOS: Thank you very much.

2 Now we will move on to agenda item number 6,  
3 we'll address the Enterprise Project update. I'll turn it  
4 over to Ms. Judy Sandberg.

5 MS. BREWSTER: As Ms. Sandberg comes up to the  
6 table, I wanted to respond to Member Walker's inquiry  
7 earlier regarding the amount collected on salvage and non-  
8 repairable titles. Late breaking. Actually, as of  
9 yesterday we have collected \$1.73 million associated with  
10 salvage and non-repairable titles, and that's just since  
11 the beginning of the fiscal year, so that's September 1,  
12 so since September 1 that's the amount that we've  
13 collected. For all of FY16 we collected roughly \$3.1  
14 million.

15 MR. WALKER: So it doubled our revenue.

16 MS. BREWSTER: If it continues, yes, sir.

17 MR. WALKER: And we've issued roughly -- well,  
18 it was 200,000 one month, 177- the other month.

19 MS. BREWSTER: As of yesterday, 216,516 salvage  
20 and non-repairable titles.

21 Thank you, Mr. Chairman.

22 MR. GRAHAM: I hate to revisit that, but just  
23 if you would, you mentioned that the funds, because of how  
24 they're handled, despite having the expense, you may not  
25 be able to utilize the funds?

1 MS. BREWSTER: We go through the appropriations  
2 process and we receive authority to spend TxDMV dollars  
3 for the items that we believe that we'll have expenses  
4 for. That has already been done, we went through the  
5 legislative session and we received that appropriation.  
6 We do not have authority to spend all of the dollars we  
7 collect, so if we were to need additional dollars -- which  
8 I do not believe that we do -- associated with this  
9 particular event, we would need to go to the legislature  
10 to ask for authority to use those dollars.

11 MR. GRAHAM: So there's no provision out of the  
12 ordinary, you've got to go back?

13 MS. BREWSTER: You can request special  
14 authority to spend, but that is in significant times when  
15 you absolutely have no dollars available to spend. We are  
16 not in that situation, we are able to draw from other  
17 areas of the agency to be able to cover those costs, in  
18 addition to the fact that we were able to get additional  
19 dollars through the American Association of Motor Vehicles  
20 for the National Motor Vehicle Title Information System,  
21 because that is the system that collects all of the  
22 branded information and that is the information that is  
23 share with other states so that when a consumer walks in  
24 through our doors or the doors of a DMV in another state,  
25 they're able to see that that vehicle was branded.

1 MR. GRAHAM: Perfect. Thank you.

2 MR. WALKER: So what you just said, to clarify  
3 for me -- and I understand going back for additional money  
4 if you have an exception or ran out of money -- you  
5 wouldn't go back to the legislature because they'd have to  
6 call a special session. Wouldn't you do that through the  
7 Governor's Office?

8 MS. BREWSTER: Ms. Flores, if you'd like to  
9 come on up. There is a process for requesting emergency  
10 supplemental. In those situations you have to have  
11 expended all of the dollars that you have available within  
12 the agency. Those are times of extreme measure, we are  
13 not in that situation. I'll let Ms. Flores respond to  
14 that.

15 MS. FLORES: Good morning. For the record,  
16 Linda Flores, chief financial officer for the Texas  
17 Department of Motor Vehicles.

18 There is a special provision called a budget  
19 execution process, however, as Ms. Brewster has stated, a  
20 state agency really has to have no available resources to  
21 cover unexpected or unforeseen expenses. Through our  
22 budget process, we do set aside a contingency budget to  
23 cover unforeseen events such as this. Our estimated  
24 expenditures for processing the additional salvage titles  
25 was approximately \$300,000, we are getting \$125- from

1 AAMV, so the net difference is approximately \$200,000, we  
2 have that available within our budget.

3 MR. WALKER: So that's not my question. My  
4 question originally was what is the process if you were to  
5 bust your budget. She said we'd have to go back to the  
6 legislature.

7 MS. FLORES: No, sir. You would have to go  
8 through the Governor's Office.

9 MR. WALKER: That's what I thought.

10 MS. FLORES: It's a budget execution.

11 MR. WALKER: That was my question.

12 MR. PALACIOS: Are there any further questions  
13 regarding this topic?

14 (No response.)

15 MR. PALACIOS: Okay. If not, let's move on.  
16 Ms. Sandberg.

17 MS. SANDBERG: Good morning. For the record,  
18 Judy Sandberg, director of the Enterprise Project  
19 Management Office.

20 MR. BARNWELL: You're so quiet.

21 MS. SANDBERG: Is this any better?

22 MR. BARNWELL: No, it's not.

23 MS. SANDBERG: Well, Jeremiah.

24 MR. BARNWELL: Get mad.

25 MS. SANDBERG: Get mad?

1 MR. BARNWELL: And let's hear you talk.

2 MS. SANDBERG: Oh, you don't want to see me get  
3 mad. That would not be a pretty picture.

4 (General laughter.)

5 MS. SANDBERG: I will do my best. I apologize,  
6 my voice is a little under the weather today. That's why  
7 my colleague, Mr. Kuntz, has joined me. In case my voice  
8 gives out, he's my second, he's going to take over for me.

9 So I hope that doesn't happen today, I'll do my best.

10 I am giving you a briefing today on enterprise  
11 projects and I will not be seeking any decisions from you  
12 today. My briefing begins on page 21 of your briefing  
13 book, and the very first page, the memorandum explaining  
14 my briefing is already out of date, and I need to explain  
15 it to you.

16 I've also been practicing drinking water on  
17 camera.

18 (General laughter.)

19 MS. SANDBERG: So on the memorandum that I  
20 provided under background and discussion under Priority  
21 Group 1 projects, I stated that the RTS project end date  
22 is December 31, 2018. That is correct, and the refactored  
23 RTS project is still on target to complete by that date.  
24 It is also within budget and on schedule to complete  
25 within budget. However, the statements regarding the next

1 release being scheduled for December 17, while accurate at  
2 the time, that has now changed, and I will explain why  
3 it's changed when we move on to the webDealer update.

4 The webDealer project, now a multi-year  
5 project, was scheduled to end April 30, 2018. We are down  
6 to the final two remaining phases in the webDealer  
7 project, one being eTags replacement and centralized pay  
8 in one module, the final module of webDealer being  
9 eTitles. We had planned to release eTags and centralized  
10 pay, along with the RTS module in November. We had to  
11 extend that to two different release dates in December,  
12 both of which now we've realized through testing that the  
13 quality of eTags is not where we need it to be, it does  
14 not meet our standard of quality of what we want to put  
15 out for use outside our agency or even within our agency.

16 Consequently, we've taken some corrective  
17 action, and the first step that we took was to decide to  
18 separate the RTS release from the webDealer release. That  
19 is going to require a little bit of coding and some  
20 regression testing to ensure that that release works  
21 properly, and we're going to go ahead and release that  
22 portion of RTS so that it is in effect by January 2 of  
23 2018. It's important for us to do that because it  
24 included some important items which are much anticipated,  
25 one being the House Bill 561 small package delivery,

1 others including voluntary contributions that Ms. Love  
2 mentioned earlier for ending homelessness and the rape  
3 kits. It also includes plates for antique truck and the  
4 package delivery plate.

5 Furtherance of the RTS project, it also  
6 includes changes that are necessary to fully implement  
7 search by owner, which you may recall has been on hold for  
8 quite some time. So we thought it was important, we made  
9 the decision to separate it out from the webDealer release  
10 so that we could move forward with that RTS deployment by  
11 the first of the year.

12 webDealer has required more analysis to  
13 determine exactly what the issues are. We have several  
14 issues, one being a high number of defects resulting from  
15 testing, a second issue being the data migration, we've  
16 identified some outliers as a result of testing and there  
17 are enough of those that we need to take the time to  
18 correct them and address them before we put it into  
19 production.

20 The final one is we really need to do robust  
21 load and stress testing on the eTags replacement system  
22 because what we're doing with this release is putting  
23 eTags into the webDealer framework and for the first time  
24 the number of users of the webDealer framework will  
25 increase to 30,000, so we really need to proceed with

1 caution and make sure that we thoroughly test it and that  
2 it works properly before we put it in production. The  
3 team is doing some very detailed analysis to look at  
4 exactly what tasks is it going to take and how long is it  
5 going to take. The team is projecting that probably by  
6 the end of the second quarter, meaning the end of  
7 February, we may be in a position to go ahead and  
8 implement.

9 That said, we have proceeded with developing  
10 the user guide. It is now published on the internet.  
11 We're also continuing with the training webinars that have  
12 been offered. We will offer additional training webinars  
13 as we get closer to the deployment date.

14 I should mention we have not published an  
15 implementation date, a specific date. We had in some  
16 announcements indicated that this new eTags and  
17 centralized pay might go live before the end of the  
18 calendar year but we never published a specific date, and  
19 it was because we had some concerns about our ability to  
20 really put a quality product out there. So once we have  
21 greater confidence in this recovery effort, then we will  
22 publish a more definitive implementation date for  
23 webDealer.

24 The unfortunate thing about all of this is it  
25 does have a potential downstream impact on the eTitles



1 phase, the last and final phase of the webDealer project,  
2 which according to our current schedule we should finish  
3 by April 30. That module is now at risk because to  
4 recover eTags, we are now eating into the schedule that we  
5 had planned for eTitles. We are also, candidly, eating  
6 through the budget that we had set aside for eTitles.

7           However, we will do our due diligence and  
8 revisit exactly where we are with the eTitles phase. Work  
9 has already begun on it but we need to assess how this  
10 recovery is going to impact eTitles and we will be able to  
11 report to you in the near future what the result of that  
12 analysis is.

13           I've provided you a great deal of information.  
14 I'll stop here and see if you have any questions. Yes,  
15 sir.

16           MR. WALKER: Going back to the dashboard, if I  
17 go back to RTS, it looks to me like, if I go to your  
18 bottom line, we've spent 81.4 percent of the money, 17.8  
19 percent of it is encumbered for work that still has to be  
20 done, so there's a potential, if you add those two numbers  
21 together, that 99.2 percent of the money is either spent  
22 or encumbered, so the project could actually finish at a  
23 little below budget. Is that correct?

24           MS. SANDBERG: Yes, sir, that is correct.

25           MR. WALKER: Same way with webDealer, it's

1 about 2.1 percent, could finish up under budget on that?

2 MS. SANDBERG: As of the time this chart was  
3 done, that is true, but because of the information I just  
4 shared with you, I think we will likely spend the entire  
5 budget and that will be a huge factor in what we can  
6 realistically complete with eTitles.

7 MR. WALKER: Is there any potential that it  
8 could go over the budget?

9 MS. SANDBERG: There is that potential, but  
10 because this is a major information resources project, by  
11 statute we have to coordinate with the external Texas  
12 Quality Assurance Team to discuss with them if we -- we do  
13 not have to seek their permission but we have to  
14 coordinate with them if the Board were to authorize us to  
15 exceed the budget. And one of the factors that's really  
16 important here is the Texas Quality Assurance Team does an  
17 annual report in December, and that report goes to the  
18 members of the legislature and they rate each of the major  
19 information resources projects performed by all state  
20 agencies and they give them a color-coded rating. They  
21 have already given webDealer a yellow rating, the optimum  
22 is green, and it's a yellow rating because we've already  
23 extended the project end date once in the past.

24 We do not necessarily have to seek their  
25 permission to extend the end date, but they do have the

1 authority to report us as red. They look at how far we've  
2 exceeded an end date or a budget, that's how they rate  
3 state agencies and assign a color code. They really look  
4 at duration and budget.

5 MR. WALKER: So what is the real simple answer  
6 about how much potentially we could exceed budget and by  
7 how long a period of time?

8 MS. SANDBERG: I'm sorry, Mr. Walker, I don't  
9 have that answer for you today. I will certainly work on  
10 getting that answer for you. I would request that I have  
11 the time to assess exactly what is needed to complete  
12 webLien. One option is it may be possible still to finish  
13 eTitles, but I don't know that for certain. I can't say  
14 that with certainty today. The advantage we have is the  
15 design is complete. In order to be able to state exactly  
16 how much more time or how much more money would be needed,  
17 I need a little more time to analyze that.

18 MS. BREWSTER: Mr. Chairman, if I may in  
19 response to that. The first thing that the agency needs  
20 to do is determine the exact amount of time it's going to  
21 take to complete eTags and centralized pay. That's number  
22 one. We've got to figure out the amount of time and the  
23 amount of funding that will be required to complete that,  
24 knowing that we've had some issues. Then we can then  
25 determine what is the downstream effect of that as it

1 pertains to eTitles, because as Ms. Sandberg said, there  
2 is a downstream effect of a delay for eTags and  
3 centralized pay, not only a delay in time but certainly an  
4 issue with the budget. So once those things are  
5 determined on eTags and centralized pay, which we believe  
6 we'll have wrapped up in very, very short order, we will  
7 then be able to evaluate what is the impact on eTitles and  
8 the completion of the webDealer project.

9 I appreciate Ms. Sandberg's transparency,  
10 especially since this is something that is very, very  
11 timely, this just came to light last week, and so these  
12 are things that are still in the works. And I'm sorry  
13 that we don't have more information about definitive dates  
14 and amounts at this point, but we will very soon and we'll  
15 provide that information as soon as we have it.

16 MR. WALKER: So I guess Jonathan, I assume  
17 you're working with this. Correct?

18 MR. O'QUINN: (Speaking from audience.) Right,  
19 sir.

20 MR. WALKER: He's been on our team, so how  
21 familiar is he with stepping in and grabbing the bull by  
22 the horns and dealing with the problem here?

23 MS. BREWSTER: He has been the deputy CIO for  
24 quite some time, and I believe that he's very familiar  
25 with the project, as well as the project team and the

1 tasks that are associated with it.

2 MR. WALKER: So if we were just going to take a  
3 wild stab, what's the potential over budget on this thing?

4 Have we got any idea? I know you said that we  
5 potentially could finish it within budget, but what's the  
6 potential downside of over the budget?

7 MS. SANDBERG: I hate taking wild stabs.

8 MR. WALKER: Well, somebody needs to.

9 MS. SANDBERG: If I were going to take a wild  
10 stab, I would say less than \$200,000.

11 MR. WALKER: And what's the potential savings  
12 on the RTS project that maybe you could slide some of that  
13 over there? Because it's all in the same bucket, isn't  
14 it?

15 MS. BREWSTER: Finding additional funding is  
16 less of the issue. The fact that it is a QAT reported  
17 project and we had a set budget with the Quality Assurance  
18 Team, the fact of the matter it is possible that that  
19 budget amount may be exceeded. We likely could find  
20 additional funds to make up the amount necessary, but from  
21 a Quality Assurance Team perspective, regardless if we  
22 find savings in another project, it will still be viewed  
23 as being over budget.

24 MR. WALKER: Thank you.

25 MR. PALACIOS: Board members, I just want to

1 add we're all very disappointed at the delay in this  
2 project, particularly the timing of it. The deadline that  
3 we had set internally was November 30, that was then  
4 expanded to December 10. Obviously neither of those  
5 deadlines will be met. We have discussed at length the  
6 reasons why we, I guess, were apprised of these delays at  
7 what I believe is the last minute. I think we've done a  
8 good job now of identifying the issues that we've had so  
9 that we know much further ahead of time when we have  
10 issues before these deadlines come about.

11 What we did want to make clear is that we will  
12 not be expediting this process just for the sake of  
13 hitting a deadline that we set. What is more critical in  
14 this whole process is that we set a deadline that will  
15 give us enough time for us to ensure that the application  
16 has been thoroughly vetted, it's been thoroughly  
17 inspected, all of the details and so forth. The last  
18 thing we want to do is put this out for public use with  
19 defects, and that's the directive that staff has been  
20 given and I think that is the prudent way to go with this.

21 As it stands now, I believe we're looking at first  
22 quarter of 2018 as our deadline?

23 MS. SANDBERG: Of the calendar year, yes;  
24 second quarter of the fiscal year.

25 MR. BARNWELL: So the eTitles, webDealer-

1 eTitles linkup -- or mash-up or crash-up might be the  
2 case -- when they want to pay, how do they pay for this?  
3 So I'm doing an eTitle, how do I pay for it?

4 MR. KUNTZ: For the record, Jeremiah Kuntz,  
5 director of the Vehicle Titles and Registration Division.

6 I would have to go back and actually look at  
7 the BRB to see that. One of the things that was in this  
8 phase was a centralized payment functionality for the  
9 system for two of the things that we have that are going  
10 out with it. One is the eTags, the actual buyer's tags  
11 that are issued, there is a payment functionality for  
12 folks that are purchasing a vehicle from out of state so  
13 that that money can be collected through the system and  
14 submitted to the county tax assessor-collector.

15 MR. BARNWELL: Now, that's done by credit card?

16 MR. KUNTZ: Correct, yes, there's a credit card  
17 payment option that's available there. The other payment  
18 option that is available is for salvage titles for the  
19 webSalvage application. Those applications that come in,  
20 even the high volume that we're seeing from those Harvey  
21 salvage applications, this centralized payment  
22 functionality would allow those applications to be paid  
23 for with a credit card as well. So this will be the first  
24 time that payment options are available for a transaction  
25 in webDealer.

1 MR. BARNWELL: Up until now it's been by taking  
2 a check in to the DMV?

3 MR. KUNTZ: Either taking a check, or some of  
4 the counties actually would set up electronic funds  
5 transfer agreements with the dealership community.

6 MR. BARNWELL: So ACH could be set up?

7 MR. KUNTZ: Yes, correct.

8 MR. BARNWELL: But that was set up on a county  
9 level.

10 MR. KUNTZ: And it was set up outside of the  
11 system. Yes. So this new release will have the first  
12 time the actual payment option for two types of  
13 transactions, it's just limited to those two at this time,  
14 and that was really a way for us to kind of dip our toe  
15 into this payment functionality within the system. We  
16 would then look later on if there are other types of  
17 transactions that we would want to allow payment options  
18 on.

19 So to answer your question, as we move forward  
20 with new functionality, as in eTitles, we would look to  
21 see if there are any fees that would need to be collected  
22 and whether or not a payment option would be needed on  
23 those at a future time.

24 MR. BARNWELL: So the eTitles-webDealer project  
25 has been an internal project of DMV. Is that right?



1 There's been no third party contractors involved?

2 MS. SANDBERG: Yes, sir, that is correct. We  
3 have hired contractors to augment the staff, but we did  
4 not hire a vendor, as we did with RTS.

5 MR. BARNWELL: At some point do you anticipate  
6 doing a review? I mean, we do this all the time in my  
7 business because we're always having something go wrong  
8 and we try to learn from it -- occasionally we actually do  
9 learn from it -- but we go back and analyze what went  
10 wrong, why it went wrong, what did we do that we could do  
11 different. I assume that's going to happen, and I'd like  
12 to see a report on that when we're done because this is  
13 not the kind of thing we want to have happen, certainly  
14 not very often.

15 MS. SANDBERG: Yes, sir, I understand, and  
16 we'll be happy to provide you that report. We do  
17 routinely do lessons learned. Sometimes we wait until the  
18 end of a project, but in this case we're already doing  
19 lessons learned on this particular incident and what we  
20 could do better in the future.

21 MR. BARNWELL: I would like to know what you're  
22 doing on that. I don't have any direct input and advice  
23 or guidance on it, but I'd like to know what you find and  
24 what you're doing about it.

25 MS. SANDBERG: Yes, sir.

1 MR. BARNWELL: Because certainly, as the  
2 chairman says, it's disappointing, and I know you're  
3 frustrated, disappointed, embarrassed, et cetera, let's  
4 just move on and get this thing done at this point. It's  
5 typical of software that it will bite you, and we need to  
6 bite it back, I guess.

7 MS. SANDBERG: I'm all for that.

8 (General laughter.)

9 MR. BARNWELL: All right. Well, sometime in  
10 maybe the first quarter of next year we can have some kind  
11 of a brief report on what you've identified?

12 MS. SANDBERG: Yes, sir, we will do that.

13 MR. BARNWELL: Okay. That would be super.  
14 Thank you, Judy.

15 MS. SANDBERG: You're welcome.

16 MR. WALKER: But, Judy, weren't we running  
17 webDealer already in the dealerships and beta testing it  
18 for the last year and it wasn't having any problems?

19 MS. SANDBERG: Well, we've been running the  
20 earlier phases of webDealer, new cars, used cars, salvage  
21 has already been deployed, there have been some  
22 improvements made along the way in an effort to increase  
23 adoption. It's just eTags, the current eTags that is in  
24 use is completely outside of the webDealer framework, and  
25 what this particular phase was about not only implementing

1 centralized pay for salvage dealers and out-of-state tags,  
2 but also to move eTags into the webDealer framework. It's  
3 required an actual complete rewrite of eTags in order for  
4 it to work, and it's the rewrite of eTags where we've  
5 struggled some. So this portion of the project has  
6 actually not been put out in production or even in any  
7 kind of pilot yet. Because webDealer has been such a long  
8 project, we have done it over the years in phases, and as  
9 each phase was deemed production ready, and this  
10 particular phase is just not production ready.

11 MR. PALACIOS: Just to be clear, the webDealer  
12 application is currently functional. These are just two  
13 additional modules now that will be added to webDealer  
14 that are currently being used right now, they're just not  
15 part of the webDealer application itself.

16 MR. WALKER: So webDealer is actually still  
17 running okay?

18 MR. PALACIOS: Yes. We have no issues with  
19 webDealer, it's just the adoption of these two  
20 applications.

21 MR. WALKER: I just knew it was all tied  
22 together. I thought we had a problem now going back with  
23 what's already made it there.

24 MS. BREWSTER: Thank you, Mr. Chairman.  
25 Piggybacking on your comment, sir, this was an effort to

1 put eTags into webDealer to allow dealers only one  
2 application to be able to process their transactions.

3 MR. WALKER: I thought it was affecting the  
4 whole system.

5 MS. BREWSTER: Hopefully, and the goal was to  
6 allow for greater ease for dealers when doing  
7 transactions, both eTags and webDealer transactions, so  
8 it's all in one application. webDealer, as you both have  
9 commented, is still going to function, there are no issues  
10 there. Same with eTags, dealers will still be able to get  
11 their eTags, service delivery is not stopping. These were  
12 enhancements, and these enhancements are unfortunately now  
13 delayed, but I guess the silver lining is service delivery  
14 will continue

15 MR. WALKER: Thank you.

16 MR. PALACIOS: Thank you.

17 MS. SANDBERG: Really, that pretty well  
18 concludes my remarks for today. The only other thing I  
19 would mention is within your briefing there is a list of  
20 the new projects for the current biennium. We are in the  
21 process of holding a series of executive sponsor workshop  
22 meetings to determine the start dates for those projects  
23 based on our resources, so more news to come on that as  
24 well.

25 Thank you.

1 MR. PALACIOS: Thank you, Ms. Sandberg. Hope  
2 you get to feeling better.

3 Let's move on now to agenda item number 7, a  
4 briefing on assembled vehicles, including dune buggies.  
5 I'll turn it over to the esteemed Jeremiah Kuntz and we'll  
6 then hear public comments for this agenda item.

7 MR. KUNTZ: Good morning, members. For the  
8 record, again, Jeremiah Kuntz, director of Vehicle Titles  
9 and Registration Division.

10 I'll kind of cover the overview here. This  
11 briefing item is intended to provide the Board with an  
12 overview of the research the department has conducted thus  
13 far and allow petitioners an opportunity to provide public  
14 comment to the agency as we weigh our options for moving  
15 forward relating to assembled and reconstructed vehicles.

16 We're not seeking a Board position on this, we're not  
17 looking for you to make any kind of decisions today on  
18 this, this is merely a Board briefing.

19 I'm going to encourage you to let the agency  
20 continue its research in this matter, that we don't try  
21 and come up with a solution today. We're just trying to  
22 get the information out and also allow the members of the  
23 public that have petitioned the Board for rulemaking an  
24 opportunity to voice their concerns and hear what issues  
25 they would like us to address.

1           This issue is an extremely complex issue, it  
2 does build upon itself as we go through. There are a lot  
3 of tentacles that kind of spring off of this issue. I  
4 think that will become apparent. We've attempted to  
5 organize this presentation in a fashion that will provide  
6 you with a baseline of information as we understand it  
7 today. I'll reiterate that we continue to learn more  
8 about this issue every single day. I know myself and  
9 David Duncan have been working on this probably for the  
10 last three weeks, and I don't think a day has gone by that  
11 we haven't figured out some new piece of the puzzle that  
12 helps us get an understanding of how to address this  
13 issue. That being said, we want to continue that  
14 opportunity to figure this issue out.

15           With that, I'll kick this off. So here are the  
16 topics we're going to talk about today. We're going to  
17 talk about the petition itself, the actual United States  
18 Code, Texas Transportation Code, the Occupations Code, the  
19 assembled vehicle rule history, and the assembled vehicle  
20 examples that we've got.

21           So this is the petition that came in. The  
22 department recently received over 180 petitions for  
23 rulemaking to allow for the titling and registration of  
24 dune buggies for operation on the public roadways. The  
25 agency has also received 21 legislative inquiries, we've

1 also received three requests from legislators to provide  
2 briefings on why dune buggies are not currently allowed to  
3 be titled or registered. During those legislative  
4 briefings we did commit to those members that we would  
5 research the issue and provide them with additional  
6 information related to the federal safety requirements and  
7 whether the state statute or administrative rule could be  
8 amended to allow for those vehicles to receive title and  
9 registration.

10 We also monitored various blogs, forums and  
11 social media to try and better understand the various  
12 issues that builders, people out in the public have  
13 experienced as it relates to the titling and registering  
14 of their vehicles.

15 So as you can see the petition itself is up  
16 here, here are some excerpts from the actual letter. I  
17 don't know if we've gotten anything other than a form  
18 letter, maybe some variations on it, but this captures the  
19 essence of the petition.

20 Here's a history of the rules, and I think  
21 there may be some misunderstanding from a lot of folks out  
22 there about what the history of these rules are. The  
23 rules that prohibit the titling of dune buggies are found  
24 in TAC 217.3. They were originally effective September 2  
25 of 2012. That original rule required a body, motor and

1 frame to be from a motor vehicle manufacturer, so you  
2 could not have a motor, body and frame put together from  
3 somebody that was not a licensed manufacturer in the State  
4 of Texas.

5 In April of 2014, those rules were further  
6 amended to remove the requirement for the motor, body and  
7 frame to be from a manufacturer but added specific  
8 language that prohibited the titling of dune buggies, on-  
9 track racing vehicles, off-road vehicles, and vehicles  
10 with a body or frame from a non-repairable motor vehicle.

11 The current version of the rule was effective  
12 March of 2016. The latest version of the rule made no  
13 material changes to that original language but moved the  
14 language to a separate section to make the vehicles not  
15 eligible for title more prominent in the Administrative  
16 Code. Under the current administrative rules, an  
17 assembled vehicle must have a body, motor and frame and  
18 all safety components required by federal law the year it  
19 is assembled. There is an exception for custom vehicles  
20 and street rods -- we will discuss that later as we go  
21 through the presentation -- to that requirement that it  
22 must meet FMVSS standards in the year that it was  
23 assembled.

24 For all of these, the department received no  
25 comments related to these rules, specifically to dune



1 buggies or assembled vehicles.

2           So here's a little bit of background on the  
3 different types of construction to give a better  
4 understanding of the terminology that we're talking about.

5       So this slide lists the different types of manufacturer.

6       We all know what an original manufactured vehicle is, a  
7 vehicle that's a 2017 model from your major manufacturers,  
8 Chevy, Ford, Toyota, all those major manufacturers.

9           The next group of vehicles are vehicles that  
10 have been rebuilt. Within this group there are also  
11 reconstructed vehicles. This is a very interesting  
12 provision right here. These vehicles are vehicles that  
13 take parts from originally manufactured vehicles to  
14 reconstruct a vehicle. This may include the mixing of  
15 parts from various years. For example, a person takes a  
16 1950 Chevy body and mounts it to a modern Corvette chassis  
17 with a modern engine. Both of those vehicle body, chassis  
18 were both originally manufactured and then merged  
19 together. That is what we deem a reconstructed vehicle.  
20 That does not include vehicles that are merging parts that  
21 were not originally manufactured from a manufacturer.

22           Rebuilt salvage is just what the name implies,  
23 it's a vehicle that was involved in an accident and the  
24 vehicle is rebuilt to the original vehicle specifications.

25       There's no change to the vehicle design or function.

1           The next group is where we start getting into  
2 the very interesting conversation we're going to have  
3 today, and these are vehicles that are assembled. This  
4 group of vehicles is where we focused our research to  
5 determine the proper standards that apply for their  
6 vehicle construction and the requirements that they must  
7 meet in order for them to be titled or registered. On  
8 this list only newly assembled or replica vehicles would  
9 qualify for title and registration.

10           A newly assembled vehicle would be basically a  
11 new manufacturer of a one-off vehicle but the vehicle does  
12 meet all FMVSS safety standards. This is not something  
13 that you would see regularly but there is an allowance for  
14 somebody that is doing one-off vehicles that do meet that  
15 safety standard. Replicas obviously resemble a previously  
16 manufactured vehicle. The state law allows for replica  
17 vehicles to be constructed and titled and registered.

18           We then get into the four below it: race cars,  
19 stripped down vehicles, dune buggies and merged vehicles,  
20 and none of these vehicles are eligible currently for  
21 title and registration on Texas roadways.

22           MR. WALKER: Can I ask you a question?

23           MR. KUNTZ: Yes, sir.

24           MR. WALKER: It says original manufactured, a  
25 licensed manufacturer. Does the State of Texas issue a

1 license for somebody to manufacture vehicles?

2 MR. KUNTZ: Yes, we do. Ford, GM, Toyota are  
3 all licensed manufacturers in the State of Texas.

4 MR. WALKER: And that's issued by the  
5 Department of Motor Vehicles?

6 MR. KUNTZ: That is issued by Daniel's group  
7 for the Motor Vehicle Division.

8 MS. CARAWAY: What is one-off?

9 MR. KUNTZ: A one-off vehicle, it would be a  
10 unique vehicle. You could have a concept car, for  
11 example, that is constructed by somebody but they have  
12 constructed that vehicle to meet all of the new standards  
13 but it's not a mass produced vehicle, it's not rolling off  
14 an assembly line and you have thousands of them coming  
15 into the market.

16 Assembled vehicles, so this is the current  
17 definition of an assembled vehicle. Another section of  
18 the Administrative Code specifically prohibits the titling  
19 and registration of those on-track stripped down vehicles,  
20 dune buggies and merged vehicles, and I will cover that  
21 later.

22 An assembled vehicle is a vehicle assembled  
23 from three basic component parts, motor, body and frame,  
24 except that a motorcycle must have a frame and motor, a  
25 trailer or travel trailer will have no motor, obviously,

1 and that is assembled from new or used materials and parts  
2 by someone not regulated as a motor vehicle manufacturer,  
3 altered or modified to the extent that it no longer  
4 reflects the original manufacturer's configuration, or  
5 assembled from a kit even if a manufacturer's  
6 certification of origin or a manufacturer's statement of  
7 origin is provided.

8 Here are some examples. These examples are  
9 vehicles that the department would determine to be for on-  
10 track racing. They are newly manufactured and do not meet  
11 the requirements in the Federal Motor Vehicle Safety  
12 Standards. In many instances, the manufacturer of track  
13 vehicles provides an MCO that specifically states that the  
14 vehicle is not built for on-road use. These vehicles may  
15 not be altered to make them street legal. Once a  
16 manufacturer has made a determination that the vehicle is  
17 not for on-road use, that it's for track use, the  
18 department will not allow that vehicle to be altered for  
19 on-road use.

20 MR. GRAHAM: If I could get clarification. If  
21 I want to become a licensed manufacturer in the State of  
22 Texas, is it simply send in a form to be a manufacturer,  
23 or are there stringent requirements? I just don't know.  
24 I mean, I know that manufacturers are registered.

25 MR. KUNTZ: I'm going to call Daniel Avitia up

1 here to answer the question as to what requirements there  
2 are for licensed motor vehicle manufacturers.

3 MR. BARNWELL: You've got no chance.

4 MR. GRAHAM: Well, I'm not telling you I want  
5 to build a manufacturer, I can't build anything, I break  
6 stuff.

7 (General laughter.)

8 MR. AVITIA: Member Graham, I'd be happy to  
9 give you a license for a manufacturer if you could meet  
10 the requirements under Occupations Code Chapter 2301.  
11 There's various requirements. For example, you have to  
12 manufacture self-propelled vehicles having two or more  
13 wheels, a fully self-propelled vehicle, has the primary  
14 purpose of transporting a person or persons and property,  
15 and the list goes on and on, but there are various  
16 requirements under the Occupations Code in order for you  
17 to be a manufacturer, such as Ms. Hardy's organization  
18 here.

19 MR. GRAHAM: So let me just ask this from  
20 50,000 feet, if I'm going to make one vehicle, can I come  
21 get a license as a manufacturer if I make one, or does it  
22 really require more advanced, someone in the business?

23 MR. AVITIA: If you're going to be  
24 manufacturing one vehicle in the State of Texas and you  
25 plan to sell that vehicle in the State of Texas, yes, sir,

1 you would be required to have a manufacturer's license.

2 MR. WALKER: The question is how difficult  
3 would be to go get that license.

4 MR. GRAHAM: That's what I'm asking.

5 MR. AVITIA: Well, much like Member Hardy's  
6 organization, you would have to be a manufacturer of more  
7 than one vehicle -- obviously GM manufactures thousands of  
8 vehicles -- but you would also have to represent how  
9 you're going to sell those vehicles in the State of Texas  
10 through, for example, your dealer network as you are a  
11 dealer for a manufacturer. So it would be the opposite of  
12 the requirements, in essence, for you to be a dealer in  
13 the State of Texas.

14 MR. WALKER: You didn't answer the question in  
15 my mind.

16 MR. AVITIA: I'm sorry. What was your  
17 question.

18 MR. WALKER: You didn't answer the question.

19 MR. AVITIA: How hard is it?

20 MR. WALKER: The question is how difficult is  
21 it. We know General Motors, Ford and all those guys are  
22 the big 50,000 pound gorillas out there that could go get  
23 a license. How hard would it be for Brett and I to start  
24 Walker & Graham Dune Buggies, or whatever, manufacturing.  
25 What's the likelihood that we could go get a license?

1           MR. KUNTZ: I was going to say if you'll give  
2 me a second, we're going to get into a little bit more of  
3 this. I think that the issue is not necessarily the  
4 obtaining of the license but it is the requirements placed  
5 upon you for warranty performance, Lemon Law, and then  
6 there are other requirements at the federal level. I  
7 don't know that it's necessarily the application process  
8 that's going to be burdensome, it's all the things in  
9 order to continue operations as a manufacturer that are  
10 going to be burdensome, and I'm going to get into some of  
11 those here in just a second.

12           MR. PALACIOS: He's going to get much deeper.

13           MR. KUNTZ: We're just scratching the surface  
14 right now.

15           MR. GRAHAM: Very good. Let's go, I'm ready.

16           MR. WALKER: Good question.

17           MR. GRAHAM: Board Member Walker, we're going  
18 to have to hold our new project until we've worked through  
19 this a little more.

20           MR. WALKER: Well, we're going to have to get  
21 some of Barnwell's money to do it with.

22           (General laughter.)

23           MR. KUNTZ: This next class of vehicles is  
24 addressed in the Administrative Code. These would be  
25 stripped down vehicles, they are not eligible for title

1 and registration. As you can see, many of the major  
2 component parts have been removed from these vehicles and  
3 a lot of the safety components that were originally on the  
4 vehicle are no longer there, so these vehicles would not  
5 be eligible for title and registration in the State of  
6 Texas.

7 The next class of vehicles are dune buggies.  
8 This is where we have received many of these petitions and  
9 so this is where we will focus a lot of attention here as  
10 well. These are examples. As you can see, there is not  
11 an easy way to define a dune buggy. We do not currently  
12 have a defined definition in our administrative rules of  
13 what a dune buggy is. Some of these look more like a  
14 go-cart than they do an actual vehicle. I will point your  
15 attention to the green one down in the center. There are  
16 no doors, there's no body panels, there's nothing but a  
17 pipe constructed frame on a chassis, and so that is much  
18 different than the ones that are up above it that have  
19 some kind of body, they have windshields, those kinds of  
20 things. So there are various iterations of what people  
21 would consider a dune buggy which makes this a difficult  
22 vehicle class to try and identify.

23 Some of you may ask how this is different than  
24 a reconstructed vehicle like we were talking before. As  
25 you can see, in some of these instances these vehicles



1 took a body, a fiberglass body kit -- the orange and blue  
2 one specifically -- and they have been placed upon a  
3 manufactured VW chassis. Generally you see these chassis  
4 from like 1966 VW Beetles, they remove the body and then  
5 replace it with a fiberglass body. This would not meet  
6 the definition of a reconstructed vehicle as the body was  
7 not from an originally manufactured vehicle, it does not  
8 contain a VIN from an originally manufactured vehicle, and  
9 therefore, it does not meet that definition.

10 MR. WALKER: Can I ask you a question right  
11 there?

12 MR. KUNTZ: Yes, sir.

13 MR. WALKER: So let's talk about the blue car  
14 right there. It's a regular VW Volkswagen Bug. Right?

15 MR. KUNTZ: Underneath, the chassis, yes.

16 MR. WALKER: Okay. So I bought it from VW, I  
17 went out and registered it, I titled it so I can drive it  
18 on the road when I bought it. Right?

19 MR. KUNTZ: Yes, sir.

20 MR. WALKER: So I go into my garage and I do  
21 this and I just keep on registering my old car every year.  
22 How do you know that I've changed my body frame on there?

23 MR. KUNTZ: So you're bringing up an issue that  
24 is material to this discussion, and that is when law  
25 enforcement pulls somebody over roadside they will look at

1 the record on that vehicle, and that record will reflect  
2 the year, make, model and body style of that vehicle.  
3 That vehicle, I think you would say, is no longer a VW  
4 Beetle. If law enforcement was to pull that vehicle over,  
5 the vehicle that is sitting before them is not the vehicle  
6 that is being represented to them in the official record,  
7 and there could very well be issues with that person  
8 roadside because they do not have a vehicle that is  
9 registered properly in our system.

10 MR. WALKER: Could be registered, but the key  
11 word is not properly.

12 MR. KUNTZ: Correct. The make, model and year  
13 of that vehicle in our system must reflect what is on the  
14 road at that time. That is where we have in our title  
15 manual requirements. If you make material changes to a  
16 vehicle, you are required to go through the process to  
17 retitle that vehicle as the appropriate make, model and  
18 body style.

19 MR. WALKER: But where's the breaking point? I  
20 changed the mirrors. Did I change it?

21 MR. KUNTZ: You are bringing up what makes this  
22 issue so complicated. Just bear with me as we get through  
23 this. I'm going to keep going.

24 MR. WALKER: I cut a hole in the roof because I  
25 want to put a sunroof in there.

1 MR. KUNTZ: I know. Bear with me, we're  
2 getting to these points. You're right on track, you're  
3 tracking exactly with what we're looking at right now, and  
4 what you have just raised is the crux of the problem that  
5 we have which is at what point does it become a new  
6 vehicle, at what point have you departed from the original  
7 manufactured vehicle that we have on record. That's the  
8 crux of the problem we have before us.

9 MR. WALKER: Okay. I'm glad I'm on track.

10 MR. KUNTZ: You are right on track.

11 So here we go. Here is the different types of  
12 manufacturing or assembling of vehicles. So there are  
13 three licensed entities in the State of Texas for the  
14 manufacturing or assembling of vehicles as a licensed  
15 manufacturer, a licensed converter, or a licensed salvage  
16 rebuilder. So you were asking questions about  
17 manufacturing, there are actually three different license  
18 types that you've got here before you.

19 The licensed manufacturers are assembling  
20 vehicles as new vehicles off the assembly line.

21 A licensed converter is somebody -- and we'll  
22 get into this in Texas statute here in just a second --  
23 that actually takes a brand new vehicle that has not been  
24 titled or registered and makes changes to that vehicle  
25 prior to its first title and registration being issued.

1 The prime example of that are chassis that are  
2 reconfigured for ADA, like accessibility vans. A tow  
3 truck would also be another example of a vehicle. They  
4 take a truck chassis that rolls right off a licensed  
5 manufacturer's assembly line, a converter takes that  
6 chassis, affixes a cherry picker to it, and that is done  
7 by a licensed converter in the state.

8 MS. HARDY: Ambulances.

9 MR. KUNTZ: Ambulances are also prime examples  
10 of these. But the changes to that vehicle occur prior to  
11 its first title and registration event, and that's what is  
12 required by a licensed converter in the State of Texas.

13 MR. WALKER: So let me ask. You're opening a  
14 lot of doors for me here.

15 MR. KUNTZ: Yes, we are.

16 MR. WALKER: So I buy trucks that are just  
17 chassis and they don't have beds on them -- like we just  
18 bought three last week -- so we put beds on them. We send  
19 them to Morgan and they put a body on the back of that  
20 truck. Do they have a converter's license to add a body  
21 to it? I mean, I don't know.

22 MR. KUNTZ: Yes, those would be added by a  
23 licensed converter.

24 MR. WALKER: We buy trucks and they need beds  
25 on them. They don't come with a bed, they don't come with

1 a box, so I send it to Southwest Rigging, they rig my  
2 truck up to make it the way I need it to do my job.

3 MR. AVITIA: Member Walker, to answer your  
4 question, we would have to look at the very specific type  
5 of changes that you're going to be making to that chassis  
6 in order to determine if you were a converter. The  
7 examples that were given were tow trucks, cherry pickers  
8 and the ambulances. But we would work very closely with  
9 VTR to determine what type of license you would require  
10 based on the modifications that you're making to that  
11 chassis.

12 MR. KUNTZ: And I'm going to make one other  
13 very subtle distinction. If you are purchasing that from  
14 a dealer --

15 MR. WALKER: I'm buying it from Kate.

16 MR. KUNTZ: If you're buying it directly from  
17 the manufacturer --

18 MR. WALKER: I buy a cab and chassis all the  
19 time, and then they send it to a shop. We make the  
20 specifications on what kind of bed we want on there,  
21 whether we want a 24-foot flatbed with a lift gate on it  
22 with side rails. My question is is that a converter, does  
23 that guy need a converter's license?

24 MS. HARDY: Chances are, yes, if we're shipping  
25 directly to.

1 MR. KUNTZ: If it has not been subject to a  
2 first sale and somebody is making modifications to that  
3 chassis, yes, they must be done by a licensed converter in  
4 the State of Texas. If you have purchased the chassis and  
5 then you're sending it to your mechanic to add something  
6 to it, that is after the first sale and a mechanic is not  
7 required to have a converter's license if they're working  
8 on used vehicles, a vehicle that has already been subject  
9 to a first sale.

10 We're going to get into the definition of a  
11 converter here in just a second.

12 MR. PALACIOS: Is it crystal clear now?

13 MR. WALKER: No. I'm treading lightly, I don't  
14 want to open up the door on something I'm doing illegal  
15 here.

16 MR. GRAHAM: Your buddy that puts those bodies  
17 on is probably not real happy with you right now.

18 MR. BARNWELL: I think there's an investigation  
19 coming on here.

20 MR. WALKER: I bought the trucks from you guys  
21 and I just told you what I needed to do my job.

22 (General talking and laughter.)

23 MR. KUNTZ: The next two groups of  
24 manufacturers or assemblers are not currently licensed in  
25 the State of Texas. So vehicles assembled in these

1 methods may not be titled and registered currently  
2 depending on the vehicle that they're assembling. So a  
3 manufacturer of on-track vehicles. On-track vehicles are  
4 not required to be titled and registered, therefore, the  
5 manufacturers of those vehicles are not required to be  
6 licensed manufacturers in the state. So if they are  
7 making a declaration that I'm not manufacturing on-road  
8 motor vehicles, then they do not have to comply with the  
9 manufacturing requirements.

10 Individuals that are home building, we do not  
11 currently license home builders, and I'm going to get into  
12 this in a little bit here. Then we have parts  
13 manufacturers, kit car part manufacturers, and then other  
14 parts manufacturers are not currently licensed. I will  
15 throw out one caveat on that, and that is for engines, and  
16 I believe Member Graham is probably aware of this. When  
17 you have engines that are manufactured for vehicles over  
18 16,000 pounds, then the motor is then considered a motor  
19 vehicle and it's produced by a manufacturer and sold  
20 through a licensed dealer in the State of Texas.

21 MR. WALKER: 16,000 pounds?

22 MR. KUNTZ: 16,000 pounds is the threshold at  
23 which if you are selling motors for vehicles, for 16,000  
24 pound vehicles, those have to be --

25 MR. WALKER: Wait a minute, hold on, you said

1 two different things now.

2 MR. KUNTZ: I'm sorry. Gross vehicle weight.

3 MR. WALKER: There's a difference between  
4 16,000 pound motor.

5 MR. KUNTZ: Gross vehicle weight rating vehicle  
6 engines.

7 MR. WALKER: I was going to say that's an awful  
8 big engine.

9 MR. KUNTZ: Not the engine itself, no. Sorry.  
10 So here's the different categories of  
11 manufacturers.

12 MR. BARNWELL: Are you having fun up there?

13 MR. KUNTZ: I'm having a lot of fun. Are you  
14 having fun?

15 MR. BARNWELL: I think you're enjoying this and  
16 I just want to let you know I'm not.

17 MR. PALACIOS: He's just getting warmed up.

18 MR. KUNTZ: Just wait, it gets better and  
19 better.

20 MS. HARDY: This show is getting better and  
21 better here.

22 MR. BARNWELL: You're just having too much fun,  
23 I can tell.

24 (General laughter.)

25 MR. KUNTZ: All right. Texas statutes, we're



1 going to deal with Texas statutes first. Here's that  
2 definition of a converter. It means a person before the  
3 retail sale of a motor vehicle assembles, installs or  
4 affixes a body, cab or special equipment to a chassis, or  
5 substantially adds, subtracts from or modifies a  
6 previously assembled or manufactured motor vehicle other  
7 than a motor home, ambulance or firefighting vehicle. So  
8 here's the definition under Occupations Code 2301.002

9 MR. WALKER: Stop right there.

10 MR. KUNTZ: Sir.

11 MR. WALKER: So now I'm at the red light,  
12 there's one of these guys sitting next to me with one of  
13 these cars that's got these jacks on it, up and down, up  
14 and down, he modified with special equipment to the  
15 chassis that lifts the chassis up and down.

16 MR. KUNTZ: Remember the first condition: he's  
17 a person before the first retail sale.

18 MR. WALKER: Before the retail sale.

19 MR. KUNTZ: Before the retail sale.

20 MR. WALKER: So if I did it in my garage, I put  
21 these air lifters on everybody else's cars.

22 MR. KUNTZ: You're taking a 1980 vehicle and  
23 you're changing that vehicle, you're not a converter. If  
24 you take a 2017 vehicle that has never had a title or  
25 registration on it and you do that to it, then, yes, you

1 would have to be a converter.

2 MR. WALKER: But not if I bought it and then  
3 took it home and did it in my garage.

4 MR. KUNTZ: Buy it first, then it's already  
5 been subject to a first retail sale.

6 Manufacturer. So as we were talking about  
7 manufacturer, this is the definition under Occupations  
8 Code 2301: a manufacturer means a person who manufactures  
9 or assembles new motor vehicles -- there is an S at the  
10 end of that, that would mean more than one. That's going  
11 to be very important as we start looking at the federal  
12 definitions here in just a second.

13 Transportation Code 501, so these are some  
14 other codes that we're going to have to be aware of as we  
15 start dealing with this issue. This is the title chapter  
16 of code, Chapter 501. The first sale means a vehicle that  
17 has been transferred and has never been titled or  
18 registered, so this is the very first time that that  
19 vehicle is sold to somebody else, it's never been titled  
20 or registered before and is being sold.

21 A manufacturer's certificate of origin is  
22 required under 501.025 for that first sale. So the first  
23 time it's under retail sale, a manufacturer's certificate  
24 of origin is required. This is the birth certificate of a  
25 vehicle and it contains information about the make, model,

1 year, body style of that vehicle and whether it is  
2 intended for on- or off-road use. That's where many of  
3 these vehicle manufacturers make that declaration that a  
4 vehicle is for on- or off-road use.

5 The last section is 501.038 which defines a  
6 custom vehicle or street rod. It requires that a vehicle  
7 resemble a vehicle manufactured at least 25 years ago, and  
8 we'll get into that definition right now.

9 MR. BARNWELL: What does resemble mean?

10 MR. KUNTZ: You have hit the nail on the head.  
11 We're going to have a lot of fun with that one.

12 MR. BARNWELL: As Larry said, or Curley in The  
13 Three Stooges: I resemble that remark. I just don't have  
14 any idea about some of these words.

15 MR. KUNTZ: That is a very subjective word that  
16 is not currently defined. So a custom vehicle is at least  
17 25 years old and of a model year after 1948, or  
18 manufactured to resemble a vehicle that is at least 25  
19 years old and of a model year after 1948, and that has  
20 been altered from the manufacturer's original design or  
21 has a body constructed from materials not original to the  
22 vehicle.

23 Now, this is where it gets interesting. This  
24 is the Transportation Code 504.501, this is relating to  
25 the license plate for either a custom vehicle or street

1 rod license plate. The previous definition does not  
2 contain, so under 501 in the title it does not contain the  
3 language about it has been altered from the manufacturer's  
4 original design. The only language in 501 has language  
5 that it was manufactured to resemble a vehicle at least 25  
6 years old. So currently under statute, the two sections  
7 of statute do not comport with one another. We have a  
8 section that allows for a license plate for a vehicle that  
9 has been materially altered but 501 does not allow for a  
10 title unless it resembles something. That's where that  
11 subjectivity of resembles starts to come into play.

12 MR. WALKER: So do we define the difference  
13 between a street rod and a custom vehicle?

14 MR. KUNTZ: A street rod is manufactured before  
15 1949 or after 1948 to resemble a vehicle manufactured  
16 before 1949.

17 MR. WALKER: After 1948 but before 1949.

18 MR. KUNTZ: You've got one year.

19 MR. WALKER: That's correct. So you can only  
20 have a street rod for that one year?

21 MR. KUNTZ: That one year is the definition of  
22 a street rod.

23 MR. WALKER: So why do we say before and after,  
24 why wouldn't we just say manufactured in 1948?

25 MR. KUNTZ: Because it could be manufactured

1 after 1948 to resemble a vehicle that is from 1948.

2 MR. WALKER: I need another cup of coffee.

3 (General laughter.)

4 MR. KUNTZ: You could have manufactured it in  
5 1984 to resemble a 1948 vehicle.

6 MR. PAINTER: So are you going to get into the  
7 situation of coming from out of state?

8 MR. KUNTZ: Yes, we're going to talk about that  
9 here in a second.

10 MR. PAINTER: Okay.

11 MR. KUNTZ: The United States Code, this is  
12 where it gets real fun. This is where we have spent an  
13 extensive amount of research. Manufacturer under United  
14 States Code. The United States Code is the actual federal  
15 statute, not the rulemaking, I just want to clarify that.

16 We don't generally deal in the United States Code, but  
17 when we talk about Texas Administrative Code, we're  
18 talking about our rules. When you look at the United  
19 States level, the United States Code is actually their  
20 statute, then you get into their rulemaking after that, so  
21 this is actual law at the federal level. A manufacturer  
22 means a person manufacturing or assembling motor vehicles  
23 or motor vehicle equipment or importing motor vehicles or  
24 motor vehicle equipment for resale. Motor vehicle means a  
25 vehicle driven or drawn by mechanical power and

1 manufactured primarily for on public streets, roads and  
2 highways but does not include a vehicle operated on a rail  
3 line.

4 MR. BARNWELL: So a vehicle powered by a jet  
5 engine would not qualify. Is that right?

6 MR. KUNTZ: It's driven or drawn by mechanical  
7 power.

8 MR. WALKER: That's a race car.

9 MR. BARNWELL: Well, not necessarily.

10 MR. WALKER: They used to put those in race  
11 cars but they outlawed them.

12 MR. KUNTZ: The part that I would go to on that  
13 is manufactured primarily for use on public roads and  
14 streets. I don't believe there are too many manufacturers  
15 manufacturing vehicles with jet engines for on-roadway  
16 use.

17 MR. BARNWELL: Have you done any research into  
18 that? Are you sure? It could happen.

19 (General laughter.)

20 MR. KUNTZ: As far as my research has taken me  
21 so far, I've not found any manufactured jet engine cars.

22 MR. BARNWELL: I hate to make light of it, but  
23 this is way out there, all this stuff. So excuse me, I  
24 just can't help myself.

25 MR. KUNTZ: All right. Motor vehicle equipment

1 means any system, part or component of a motor vehicle as  
2 originally manufactured, any similar part or component  
3 manufactured or sold for replacement or improvement of a  
4 system, part or component, or as necessary or addition to  
5 a motor vehicle. This one is going to be very interesting  
6 here. If you are manufacturing components to be sold as  
7 replacements for original components, you are a motor  
8 vehicle manufacturer. I will rewind, a manufacturer  
9 includes manufacturing not just the motor vehicle but also  
10 motor vehicle equipment. So if you're making equipment,  
11 you are a manufacturer under the federal definition; your  
12 equipment must comply.

13 MR. PALACIOS: Let me go back to the previous  
14 slide. You had a parts assembler and you said they did  
15 not need to be licensed.

16 MR. KUNTZ: In Texas.

17 MR. PALACIOS: In Texas. So if they are a  
18 manufacture under federal, would they not then meet the  
19 same criteria for state?

20 MR. KUNTZ: If you are only manufacturing  
21 parts, under the State of Texas definition of a  
22 manufacturer, you are not licensed in the State of Texas  
23 if you are purely manufacturing parts. However, at the  
24 federal level your parts must be certified with NHTSA and  
25 comply with the safety standards.

1 MR. PALACIOS: Okay. So as I understand it  
2 then, if they meet the federal guidelines for a  
3 manufacturer, they do not need to be licensed necessarily  
4 in Texas as a manufacturer.

5 MR. KUNTZ: One does not necessarily lead to  
6 the other, they are two different standards, and there is  
7 not a license at the federal level, there is a self-  
8 certification. You must certify to the National Highway  
9 Traffic Safety Administration that your vehicle or its  
10 parts comply with the Federal Motor Vehicle Safety  
11 Standards.

12 MR. GRAHAM: So it's go to meet those standards  
13 and we don't license them.

14 MR. KUNTZ: Must meet the standards and you  
15 must comply. Now, there are other things, and we're going  
16 to get into those here in just a second, that you must  
17 them comply with.

18 MR. WALKER: What is a part? A mirror.

19 MR. KUNTZ: I cut this definition off. It  
20 actually continues to go on to include apparel, and you  
21 would ask yourself why is apparel, helmets and jackets for  
22 motorcycle riders are required to meet FMVSS safety  
23 standards for helmets and other safety equipment that is  
24 apparel.

25 MR. WALKER: An air freshener that goes into an



1 air conditioning vent that clips.

2 MR. KUNTZ: There is not a standard for air  
3 fresheners. So we're going to get into this.

4 MR. WALKER: Well, it attaches to the car.

5 MR. KUNTZ: Again, I want to make sure that  
6 we're very clear. You must only meet the standard for  
7 which a standard is applicable. So airbags, if you're  
8 manufacturing airbags you must meet the standard for  
9 airbags; if you are manufacturing tires you must meet the  
10 standard for tires; if you are manufacturing vehicles you  
11 must meet crash test ratings. So there is specific  
12 equipment that is covered by the federal safety standards.

13 Not every single piece of equipment is covered by the  
14 standards. So carpeting in a motor vehicle, there is no  
15 standard for carpeting, so if you're manufacturing  
16 carpeting you would not have to comply with any safety  
17 standards. But if you are manufacturing a part covered or  
18 you are manufacturing a vehicle, you must meet those  
19 certification requirements.

20 I anticipate a question from Mr. Barnwell.

21 MR. BARNWELL: Well, I see that this is a  
22 labyrinth, this is a maze, and it's amazing. What I'm  
23 wondering is how does a state like Utah, which around Moab  
24 they've got all these off-road trails, they're less than  
25 40 miles an hour, I think they've got some exceptions to

1 things.

2 MR. KUNTZ: We're going to talk about the other  
3 states here too.

4 MR. BARNWELL: But are they FMVSS?

5 MR. KUNTZ: We're going to talk about the other  
6 states in just a second. It depends, some of those  
7 vehicles are, some of those vehicles are not.

8 MR. BARNWELL: To me, it sounds like I'm a kid,  
9 you're a parent and you're trying to tell me about Santa  
10 Claus. Well, it depends, may be, we'll talk about it  
11 later. Just don't be the Grinch.

12 (General laughter.)

13 MR. KUNTZ: And I'm going to go back to the  
14 very first thing that I said, there are tentacles  
15 spreading off of this.

16 MR. BARNWELL: I knew you were having fun with  
17 this, I knew you were.

18 MR. KUNTZ: And it really depends on the every  
19 single specific vehicle and how it was assembled, and in  
20 our discussions with NHTSA that is exactly the response we  
21 have gotten from them. Each and every case must be taken  
22 on its own merit. You can't paint this with a broad brush  
23 and say all of these meet or all of these don't, you have  
24 to look at each and every vehicle and how it was  
25 manufactured and when it was manufactured.

1 MR. BARNWELL: Okay.

2 MR. KUNTZ: Prohibition on manufacturing and  
3 selling: a person may not manufacture for the sale, sell,  
4 offer for sale, introduce or deliver for introduction into  
5 interstate commerce or import into the United States any  
6 motor vehicle or motor vehicle equipment manufactured on  
7 or after the date an applicable motor vehicle safety  
8 standard prescribed under this chapter takes effect unless  
9 the vehicle or equipment complies with the standard  
10 covered at that time.

11 Prohibition on manufacturing and selling: this  
12 section does not apply to motor vehicles or equipment  
13 after the first sale. So once it's been sold, you don't  
14 have to reapply and the new standard does not then cover.

15 This is essentially a grandfathering clause.

16 Exported vehicles do not have to comply. If  
17 you are manufacturing in the United States for export  
18 only, those vehicles do not have to meet the standard at  
19 the time and you do not have to be certified with NHTSA.  
20 There are import vehicles that meet the standard, so if  
21 you have a manufacturer that already meets the standard or  
22 exceeds it, many of the vehicles from Canada already meet  
23 or exceed the standard in the United States, those  
24 vehicles do not have to meet the standard. Or imported  
25 vehicles that meet other certain exemptions. There is a

1 laundry list of other exemptions, I'm not going to get all  
2 the way into those. And then there's another exemption  
3 for motor vehicles that are at least 25 years old.

4           General exemption: a manufacturer may apply  
5 for an exemption under motor vehicle safety standards, so  
6 you can at any time apply to the Secretary of  
7 Transportation for an exemption from the standard. That  
8 exemption generally is due to economic hardship from  
9 having to comply with the standard. If granted, the  
10 manufacturer must affix a permanent label to the motor  
11 vehicle. The exemption is only good for three years, so  
12 you have three years to get into compliance and the  
13 exemption will expire.

14           There are also special exemptions. I'm going  
15 to caveat this with these special exemptions are currently  
16 in the United States Code. There is a rulemaking  
17 requirement and that rulemaking has not taken place as of  
18 this date. So this special exemption for low volume  
19 manufacturers is not currently in the rulemaking and so it  
20 is not currently in effect but it is in the federal  
21 statute; therefore, there is no such low volume  
22 manufacturer exemption today.

23           Low volume manufacturers can apply for an  
24 exemption if they do not produce more than 325 replica  
25 motor vehicles per year. Replica is intended to

1 resemble -- here's that word again -- the body of another  
2 vehicle manufactured at least 25 years ago before the  
3 manufacture of the replica, and it must be manufactured  
4 under a license from the original manufacturer. So if you  
5 come in and you're going to claim an exemption under the  
6 low volume manufacturer license, you must show that you  
7 have received trademark authorization from the original  
8 manufacturer to produce that replica.

9 MR. BARNWELL: If I want to make a replica  
10 Duesenberg, who the duce do I call?

11 MR. KUNTZ: Whoever holds that current  
12 trademark.

13 MR. BARNWELL: But nobody holds it.

14 MR. KUNTZ: If there's nobody, then it wouldn't  
15 apply.

16 MR. BARNWELL: What wouldn't apply?

17 MR. KUNTZ: That condition wouldn't apply.

18 MR. BARNWELL: It doesn't apply if you can't  
19 find somebody to license it.

20 MR. KUNTZ: If there is a current trademark or  
21 some kind of patent, any of those kinds of things under  
22 the federal law, for copyright infringement, trademark  
23 infringement, any of those kinds of things, you must show  
24 that you have received permission from the person holding  
25 that trademark before you can start producing that replica

1 vehicle. That is actually a condition of a low volume  
2 manufacturer.

3 MR. BARNWELL: Okay.

4 MR. KUNTZ: If granted, low volume  
5 manufacturers must affix a permanent label to the motor  
6 vehicle. The Secretary of Transportation may require  
7 written notification of an exemption be delivered to the  
8 dealer and first purchaser of that vehicle. So once you  
9 sell that replica, you must provide that purchaser the  
10 exemption. Low volume manufacturers shall submit an  
11 annual report on the number of vehicles that they have  
12 provided the exemption to.

13 MR. PALACIOS: Jeremiah, can you explain again  
14 the status of these exemptions? Where are they? You're  
15 saying they're not enforced?

16 MR. KUNTZ: There's no rulemaking. The federal  
17 statute required rulemaking from NHTSA, and that  
18 rulemaking has not taken place yet.

19 MR. PALACIOS: Okay. So we're waiting on a  
20 board or something?

21 MR. KUNTZ: More to come.

22 MR. PALACIOS: All right.

23 MR. KUNTZ: So if we were to summarize the  
24 federal and state law, this is the way it works: under  
25 U.S. Code, if you manufacture the first vehicle, so

1 greater than or equal to one, you are a manufacturer under  
2 the federal guidelines and that vehicle must meet FMVSS in  
3 the year that it is manufactured; low volume manufacturer  
4 there is a threshold of less than or equal to 5,000;  
5 replica manufacturers less than or equal to 325; vehicle  
6 equipment is the same as a manufacturer, so it is at one  
7 part, if you will, so if you build one body, one chassis,  
8 you are an equipment manufacturer.

9 And then you go into Texas Code which is  
10 anything greater than one, so at two vehicles you would  
11 then be required to be a licensed manufacturer in the  
12 State of Texas. There is no threshold on when those  
13 vehicles are manufactured, that is a lifetime threshold.  
14 There's no condition that says one per year, it is one  
15 vehicle.

16 This is where it gets stringent so these were  
17 the questions about what if you're a licensed  
18 manufacturer. Well, if you are certified under the  
19 federal guidelines, these are the things that you must do  
20 once you produce a vehicle: designate an agent for  
21 service process; certify compliance with FMVSS; affix  
22 certification labels; submit identifying information  
23 within 30 days of manufacturing commencing; assign a VIN  
24 to a motor vehicle; provide tire information labeling;  
25 notify NHTSA of non-compliance or defects; notify owners

1 and dealers and provide remedy for defects, so this is  
2 when you have recalls; submit quarterly reports under  
3 early warning reporting, that's if you suspect there may  
4 be a defect, you must submit that under the early warning  
5 reporting; you must maintain all records of owners and  
6 purchasers; and you must comply with the average fuel  
7 economy standards.

8 MR. GRAHAM: Was that for Texas or federal?

9 MR. KUNTZ: That's federal. That's the first  
10 vehicle.

11 MR. GRAHAM: Okay.

12 MR. KUNTZ: So you manufacture one in 2017, all  
13 new parts, you must comply.

14 MR. PALACIOS: Does that also include the  
15 safety requirements, airbags, stabilitrack, backup  
16 cameras, and so forth

17 MR. KUNTZ: Federal Motor Vehicle Safety  
18 Standards, this is what we refer to as FMVSS safety  
19 equipment. These standards are what are in rule at NHTSA.  
20 This is a sampling of standards, there are other  
21 standards and these are ones that I picked out that are  
22 specific to actual passenger vehicles. There are specific  
23 standards for motorcycles, trailers, other things.

24 So controls and displays, Standard 101,  
25 controls and displays must be within the reach driver,



1 windshield wiping and washing systems must be present;  
2 lamp reflective devices and associated equipment; rearview  
3 mirrors must be present; hood latch systems must be  
4 present; warning devices must be present; occupant  
5 protection on interior impact, airbags.

6 MR. PALACIOS: Pardon the interruption,  
7 Jeremiah. Just let the record reflect that Board Member  
8 Walker has stepped out.

9 MR. KUNTZ: Impact protection for driver from  
10 steering system -- again, these are standards for the  
11 driver's airbags; seatbelt assemblies and anchorage must  
12 be there; windshield mounting; side impact protection. I  
13 have not put the applicable years in which these standards  
14 would apply but they vary, so even though we have all  
15 these standards, these are the present standards for 2017.

16 You must then go back and look at the older standards  
17 because other standards applied during various years. So  
18 the original standard for airbags did not come about until  
19 1996, you then go back for seatbelts. Each standard has a  
20 different year in which it was applied, so then you would  
21 have to look at the year in which a vehicle was assembled  
22 and manufactured to apply those different standards.

23 MR. GRAHAM: And that's all federal.

24 MR. KUNTZ: Yes.

25 MR. GRAHAM: But if I want to get a license in

1 Texas to manufacture a vehicle, I have to meet those  
2 standards too.

3 MR. KUNTZ: Yes.

4 MR. GRAHAM: And so the answer to my question  
5 earlier is it's very complicated to be licensed to be a  
6 manufacturer.

7 MR. KUNTZ: Yes. There are lots and lots of  
8 reporting requirements.

9 MR. GRAHAM: Now that I'm thinking back to when  
10 I asked the question, I was looking at a little pathway  
11 there as I think about trying to license vehicles that  
12 maybe if I just get a license to be a manufacturer it kind  
13 of gave me another route, but the answer is no, that's not  
14 happening.

15 MR. KUNTZ: And at the federal level, I go back  
16 to as soon as you manufacture one vehicle, you must meet  
17 this standard.

18 MR. PALACIOS: Is that the end of your business  
19 plan now?

20 MR. GRAHAM: Yeah. The Walker-Graham Vehicle  
21 Company lasted 17 minutes and it's dead.

22 MR. PALACIOS: Nice while it lasted.

23 MR. GRAHAM: Sorry, Johnny, it's over.

24 MR. WALKER: They shut us down already?

25 MR. GRAHAM: Yep, we're done.

1 (General laughter.)

2 MR. PALACIOS: Let the record reflect that  
3 Board Member Walker has returned, it's 10:04 a.m.

4 MR. KUNTZ: The other thing, obviously, as we  
5 discussed earlier too, once you are a licensed  
6 manufacturer in the State of Texas you can no longer sell  
7 direct to the public, you must use a dealer network in  
8 order to sell those vehicles. So then those other state  
9 standards then start to apply on top of the federal  
10 standards for the vehicle itself.

11 MR. GRAHAM: Got it. Thank you.

12 MR. KUNTZ: So all that being said, here are  
13 some excerpts, and this is not an extensive list of  
14 excerpts, so one of the things that we discovered as we  
15 started doing research is that NHTSA publishes letters in  
16 response to inquiries that they have received over the  
17 years from various individuals who are attempting to title  
18 and register different vehicles at that time. So we went  
19 back and researched, the oldest letter that we have is  
20 from 1968 with an interpretation specific to dune buggies  
21 at that time. The most recent ones are in the '90s and  
22 2000s. There are lots and lots of opinions out there that  
23 have been put out by NHTSA; I've got a sampling of at  
24 least eight or nine in the back of my binder. They all  
25 build upon themselves, obviously, as the standards change,

1 the interpretations also, therefore, change, and so it is  
2 not an easy thing.

3 When we called and talked to NHTSA they  
4 basically said you have to look at each individual vehicle  
5 and then you also then have to take each one of these  
6 interpretation letters and take them all into context and  
7 apply them all together. So these interpretation letters  
8 start to build upon each other and they start to paint a  
9 picture and bounds around what can be done to a motor  
10 vehicle.

11 So this particular one there was a question  
12 about whether or not a dune buggy is street legal. The  
13 vehicle that is street legal, which is manufactured for  
14 use on public roads, is required to comply with all  
15 applicable Federal Motor Vehicle Safety Standards. These  
16 standards include the requirement for airbags. This was a  
17 1990-something requirement; this letter came, I believe,  
18 in 1999. There was a person that had requested  
19 information, I guess they were from Hawaii, and as best we  
20 can tell, they were manufacturing new dune buggies, and  
21 there's a lot of folks that would refer to these as sand  
22 rails, the things that are more pipe constructed, and they  
23 were asking if that specific vehicle needed to meet all  
24 the current FMVSS standards. NHTSA's response was: Yes,  
25 they do if they are intended for on-road use; if they were

1 for off-road use, then, no, they would not. They also  
2 said that the manufacturer would be required to apply VINs  
3 to those vehicles to identify the specifics of that  
4 vehicle and how it was manufactured.

5 MR. GRAHAM: So street legal, we have some  
6 exceptions for UTVs, I believe, that they are street  
7 legal. Right?

8 MR. KUNTZ: So we have some exceptions in state  
9 law for particularly golf carts, ATVs, ROVs. Those  
10 specific exemptions to allow them to be operated on the  
11 roadways are limited in use and where they can be operated  
12 and they are limited in the speed limits in which they can  
13 be operated. Many times what you'll see in these federal  
14 interpretations is vehicles that are able to attain a  
15 speed of greater than 25 miles per hour, and anything less  
16 than that would be considered a low speed vehicle, and  
17 therefore, they have different requirements. Our state  
18 law allows those low speed vehicles to be operated only in  
19 limited instances. Obviously, you cannot take a golf cart  
20 out on Interstate 35 and operate it because it's not able  
21 to be operated at those speeds or be safe for operation in  
22 that instance.

23 MR. GRAHAM: Gotcha.

24 MR. WALKER: Well, they just passed a bill in  
25 the last legislative session for UPS and package delivery

1 people to use vehicles on city streets.

2 MR. KUNTZ: Those have limited conditions on  
3 where they may be operated and the use in which they can  
4 be operated.

5 MR. WALKER: They can go more than 25 miles an  
6 hour.

7 MR. KUNTZ: Again, they can only be operated on  
8 certain roadways that have a speed limit less than 35  
9 miles an hour.

10 MR. GRAHAM: Got it.

11 MR. WALKER: So let me ask another question to  
12 dirty it up some more. What about trailer manufacturers?

13 MR. KUNTZ: What's the question?

14 MR. WALKER: Do they fall under these same  
15 guidelines?

16 MR. KUNTZ: There are specific standards for  
17 the manufacture of a trailer. Generally what you see is  
18 tires, brakes, so if it's a trailer that's going to have  
19 electronic brake controllers on it, those brakes would  
20 have to meet the standard for breaks.

21 MR. WALKER: Do I have to have a license to  
22 make trailers?

23 MR. KUNTZ: If it has brakes, and if you are  
24 manufacturing trailers in the State of Texas and you  
25 manufacture more than one trailer, yes.

1 MR. WALKER: So if I manufacture more than one  
2 trailer in the State of Texas, or it doesn't matter where  
3 you manufacture them because we can go back to the Warren  
4 Buffett deal, but what is the requirement on dealer versus  
5 selling them yourself? Do I need to be a --

6 MR. DUNCAN: David Duncan, general counsel. If  
7 you're a manufacturer in Texas, you must have a dealer  
8 network, whether you're here or not.

9 MR. KUNTZ: Even for trailers.

10 MR. WALKER: So a gooseneck trailer  
11 manufactures trailers in Bryan, Texas, and they have a  
12 dealer network, but I can still go to the factory and buy  
13 a Gooseneck Trailer in Bryan, Texas directly from them.

14 MR. BARNWELL: That's right.

15 MR. WALKER: I know that.

16 MR. BARNWELL: Me too. And that's not just  
17 them.

18 MR. WALKER: Well, they all sell them that way.

19 MR. BARNWELL: All of them are that way.

20 MR. WALKER: If they are a licensed  
21 manufacturer, they should not be selling direct to the  
22 public.

23 MR. GRAHAM: So now you don't have anybody to  
24 get your truck bodies from, nor are you getting any  
25 trailers anymore. I mean, you're just doing good down

1 there.

2 MR. BARNWELL: You've pretty much screwed this  
3 up.

4 MR. WALKER: I need to leave Texas.

5 (General laughter.)

6 MR. DUNCAN: And that is the case with RV  
7 manufacturers as well. We have one very rare exception in  
8 Texas that there is an RV manufacturer that sold way back  
9 when and there's a specific exception for them in  
10 2301.476, but absent that, no. No trailer manufacturer or  
11 RV manufacturer can sell direct.

12 MR. BARNWELL: So what the trailer  
13 manufacturers are probably doing is they have an in-house  
14 dealer, and they sell to the dealer and the dealer then  
15 sells it to you. It just happens to be adjacent to the  
16 plant where it's manufactured. Would that be legal?  
17 We'll ask Daniel.

18 MS. HARDY: Somehow they're probably reporting  
19 using a dealer.

20 MR. BARNWELL: Yeah, they're using a dealer  
21 because they're manufacturing thousands of trailers a  
22 year.

23 MS. HARDY: Even though it looks like they're  
24 selling direct to you.

25 MR. BARNWELL: Yeah, you think it's direct.



1 MR. PALACIOS: Let's try to stay on focus here,  
2 if we could.

3 MR. AVITIA: Member Barnwell, to answer your  
4 question, if there is a manufacturer of trailers -- and  
5 hopefully, Johnny, this answers your question as well.

6 I'm sorry. For the record, Daniel Avitia.

7 If you are manufacturing trailers in Texas,  
8 yes, you are required to have a license. Can you  
9 co-locate with a manufacturer, meaning a dealer co-locate  
10 with a manufacturer, I'm not sure that they can co-locate  
11 but they might be right next to each other, and that  
12 dealer that is authorized to sell those manufactured  
13 trailers could be right next door, and that may be the  
14 situation.

15 MR. WALKER: Okay. I can dirty the water for  
16 you real good.

17 MR. PALACIOS: You already have.

18 MR. WALKER: I'm just going to tell you that I  
19 bought trailers, and so Lufkin Industries -- which is no  
20 longer in business today -- manufactured trailers in  
21 Lufkin, Texas. I bought trailers directly for 25-30 years  
22 directly from Lufkin Trailers without going through a  
23 dealer network, you buy directly from the factory.

24 MR. AVITIA: Are they still in business?

25 MR. WALKER: No. But they didn't shut down

1 because of that. That's the reason I'm using them as an  
2 example.

3 MR. AVITIA: So technically they are not  
4 allowed to sell direct unless they have, as Mr. Duncan,  
5 our general counsel, specified, a legislative exemption to  
6 sell direct, such as the RV manufacturer. That would be  
7 an enforcement review through Director Thompson's office.

8 MR. WALKER: That's why I used somebody that's  
9 not in business anymore, and they're not in business  
10 because they got shut down, they just shut that plant  
11 down.

12 MR. PALACIOS: Okay. If we could, can we get  
13 back on track. This is a very complicated issue and we  
14 have public comment here, and I want to give all attention  
15 to the pertinent matter.

16 MR. KUNTZ: So the next excerpt that we took  
17 from a NHTSA letter specifically discusses the issue of  
18 kit cars, and I know that there's a lot of folks that talk  
19 about kit cars, and so this, I think, is very relevant to  
20 the discussion that we'll be having here. There was a  
21 question as to whether or not putting a motor and  
22 transmission into a kit car that was purchased from a kit  
23 car manufacturer would require that person to be a  
24 certified manufacturer at the federal level. It's very  
25 clear: We would regard the person installing the engine

1 and transmission of a kit car, whether the kit car  
2 purchaser or commercial entity as a manufacturer of the  
3 vehicle and responsible for its compliance with Federal  
4 Motor Vehicle Safety Standards, and the assembler of a  
5 single kit car is a manufacturer. They explicitly opined  
6 on that issue.

7 A person who assembles a kit car which did not  
8 comply with the Federal Motor Vehicle Safety Standards and  
9 then drove the vehicle on public roads would be in  
10 violation of that section. In addition to facing federal  
11 enforcement action in the event of a crash, there could  
12 potentially be liability issues both for the assembler of  
13 the kit car and for the kit car manufacturer. This letter  
14 ended basically with: I would suggest that you seek legal  
15 counsel. This is a more recent letter that was received,  
16 so this is not an old one from 1968, this is a more  
17 relevant and new one.

18 This is where the problem starts to get murky.

19 If you take all parts from a kit manufacturer and you  
20 assemble them in your garage, you are now a manufacturer  
21 under the federal guidelines and liable for that vehicle  
22 for the life of that vehicle.

23 MR. WALKER: As long as you've got a license.

24 MR. KUNTZ: Whether you have a license or not,  
25 you're liable for that vehicle and its operation on the

1 roadway. You built it and put it on the roadway, you put  
2 it into interstate commerce, you are liable for anything  
3 that happens with that vehicle there forth.

4 MR. PALACIOS: Do we title vehicles like that,  
5 these kit cars?

6 MR. KUNTZ: This is where the custom vehicle  
7 and street rod discussion gets very interesting. Our  
8 state law allows somebody to title and register this  
9 vehicle; our state law does not exempt you from your  
10 liability as a manufacturer under federal law. So our law  
11 says, yes, you can assemble a kit car that resembles a  
12 1965 Shelby Cobra. There are kit car manufacturers that  
13 will sell you the rolling chassis and body, all you have  
14 to do is drop an engine and transmission in it. Our state  
15 law will allow you to title and register that vehicle.  
16 You are still a certified manufacturer under the federal  
17 guidelines and you must comply. If you assemble it in  
18 2017, it has to have airbags.

19 MR. PALACIOS: Now, under that scenario, we  
20 would not have licensed this person to manufacture the  
21 vehicle, however --

22 MR. KUNTZ: There is a difference in the number  
23 of vehicles, and that's why I was trying to be very clear.

24 In state law it's more than one vehicle, at the federal  
25 level it's the first vehicle. So if you build one, under

1 state law you're not required to be a licensed  
2 manufacturer. Our state law also allows you to title and  
3 register that vehicle as long as it resembles a vehicle  
4 older than 25 years. But under the federal law you are  
5 still required for that first vehicle to certify it met  
6 FMVSS in the year in which it was assembled. There's two  
7 dates that FMVSS applies: the year in which you purchased  
8 all of the parts to assemble it, or the year in which you  
9 completed assembly. Those are the only two dates that you  
10 may use to determine whether FMVSS applies.

11 So if you manage to prove that you purchased  
12 the kit in 1968 but you didn't finish completion until  
13 2017, then FMVSS would not apply. But if you purchased a  
14 full kit with all new parts in 2017 and you completed  
15 assembly in 2017, the standards of 2017 apply, therefore,  
16 you must have airbags, all the brake controllers,  
17 everything that is required of a current model year  
18 vehicle must be in that kit vehicle.

19 MR. PALACIOS: However, the issue is we will  
20 title and license that vehicle. Is there any, I guess,  
21 provision that there's verification that that kit car has  
22 met these standards? Again, we don't have a licensed  
23 manufacturer.

24 MR. KUNTZ: That is where it gets murky. The  
25 specific state law muddied that water and put in a

1 provision that said that the state will only deem that it  
2 was required to meet the standards in the year which it  
3 resembles. So our state law is not in tune with the  
4 federal law on that aspect, so it allows it to get on the  
5 road.

6 MR. GRAHAM: So tomorrow I order one of those  
7 kits, I build a car, the state will title it and license  
8 it and I can drive it on the road legally in Texas, and  
9 then any issue I have with the federal government is  
10 between me and the federal government, it doesn't involve  
11 licensing and registration.

12 MR. KUNTZ: That's correct.

13 MR. WALKER: Only one, though, and you're  
14 liable for it for the life of it.

15 MR. GRAHAM: Sure. Understood. So that's how  
16 it works today?

17 MR. KUNTZ: That's the way it works today for  
18 custom vehicles and street rods. I'm being very specific:  
19 for custom vehicles and street rods which have that  
20 little provision you must resemble something.

21 MR. BARNWELL: You know, Jeremiah, there's a  
22 television show on now where they have all these hot rod  
23 guys, some in Austin, some all over the place, and they're  
24 building these hot rods. Are these people in flagrant  
25 violation of the federal law?

1 MR. KUNTZ: Most of those shows, and I watch  
2 many of them --

3 MR. WALKER: Jessie James.

4 MR. BARNWELL: That's one of them.

5 MR. KUNTZ: Gas Monkey Garage, watch all these  
6 shows. In most of those cases what they are doing is  
7 reconstructing a vehicle. They are taking a previously  
8 manufactured vehicle and they are making modifications to  
9 the body, they may be making modifications to the chassis,  
10 adding better brakes, better suspension, those kinds of  
11 things, but ultimately, at the end of the day they are  
12 reconstructing a previously manufactured vehicle.

13 And even when we start to look -- and we'll get  
14 into this a little bit -- there are other letters of  
15 interpretation here -- and this is where the water gets  
16 real murky -- on when you start merging old and new parts.

17 And that's where we're having a lot of trouble because  
18 there's not clear direction on at what point does it cross  
19 that threshold -- Member Walker, to your earlier point --  
20 is it when I cut the top off of it and make it a  
21 convertible, is it when I have stripped it down to the  
22 chassis, is it that I've actually made changes to the  
23 chassis.

24 We have one letter that seems to indicate that  
25 NHTSA is very concerned with the chassis, braking system

1 and component parts that were originally manufactured on  
2 that vehicle and less concerned with the original body.  
3 However, on some of these instances, what they've done is  
4 they take the chassis, chop it in half and shorten the  
5 wheelbase, at which case NHTSA then says you've materially  
6 altered the original configuration and design. One of the  
7 interpretation letters says that if the chassis is taken  
8 away from the body but the original body could be easily  
9 reassembled to that chassis at a later date and time, they  
10 would not consider that chassis to have been materially  
11 altered, and therefore, it would still be a used vehicle  
12 subject to only the provisions that applied at the time  
13 that that chassis was manufactured.

14 But again, I'm trying to be very clear here, we  
15 have many instances of different types of vehicles. I  
16 think we've got folks that are going to come up and  
17 testify to their assemblage of different used manufactured  
18 parts. It is very different in the federal guidelines, as  
19 far as we can tell, if you are taking, and many of these  
20 are 1966 VW Bug chassis, very few standards applied in  
21 1966, however, if you take a Chevy Cobalt from 1999 and  
22 you take the chassis from a Chevy Cobalt, the standards of  
23 1999 still apply to that chassis. Just because you've  
24 taken used parts doesn't mean that that vehicle is somehow  
25 alleviated of its safety requirements, and what NHTSA is



1 saying is if you materially change the component parts  
2 that were applicable in 1999, then you have now assembled  
3 a new vehicle, whether you've used used parts or not.

4 And so that's where each and every vehicle has  
5 to be looked at individually to make that determination  
6 because it depends on what parts you've used, what vehicle  
7 those parts originally came from, was there a standard in  
8 place for that year, and then did you change, did you take  
9 something away from that vehicle that would have applied  
10 in that year that you're taking the parts from.

11 MS. HARDY: And any parts that's modified.  
12 Right? If it's a GM Genuine Part, we wouldn't be liable  
13 for that either. Right?

14 MR. KUNTZ: Or if you have a manufacturer of  
15 aftermarket GM parts, that new manufacturer is now liable  
16 for the parts because they certify those parts comply as a  
17 replacement part to that vehicle. So if you change that  
18 part, the person that changes that part must certify that  
19 that part meets the standard for the year in which that  
20 vehicle was developed.

21 MR. WALKER: So Jeremiah, and Raymond, let me  
22 ask a question. I know what you're doing is FYI and  
23 there's no vote here. What's the end goal today? Are we  
24 trying to say that there's issues that we need to address,  
25 that the Board needs to create a committee to look at.

1 MR. PALACIOS: I'll address part of it and let  
2 Jeremiah. This whole issue came up, there was a request  
3 to title and register dune buggies and it seemed like a  
4 simple premise, but as we dug deeper into this we saw that  
5 this is much, much more complicated than the initial  
6 question as it presented itself. The purpose of this  
7 briefing, if you will, is that, to brief Board members as  
8 to what the issues are. As you can see, it is very, very  
9 complicated. Once we answered one question, we got into  
10 various other elements of the federal requirements,  
11 manufacturing requirements.

12 MR. WALKER: It's like a cancer spreading  
13 everywhere.

14 MR. PALACIOS: It's very, very complicated.  
15 And we will hear public comment, as well, to get the  
16 viewpoints of people from the community.

17 MR. WALKER: What I'm also hearing, though, is  
18 that this is a lot of statutory issues.

19 MR. PALACIOS: And federal as well. It's all  
20 complicated. My premise, I think our guiding principle in  
21 decisions we make regarding these types of vehicles -- and  
22 again, I'm speaking as chairman -- is that our guiding  
23 principle should always be the safety for the citizens of  
24 Texas when we look at this. Again, it's complicated. I  
25 can't even give you a simple summary of this, but as I see

1 it, once we title and register vehicles, what we are  
2 saying, in essence, is these vehicles are street safe, and  
3 that for me is what we need to look at as our guiding  
4 principle behind all of these discussions is are these  
5 vehicles street safe, do we comply with federal  
6 requirements, manufacturer requirements and so forth.

7 But again, that is as simple as I can put it,  
8 and again, we are not making decisions today. There's no  
9 way we're going to be able to resolve anything. This is  
10 primarily to give the Board a briefing. Yes, to answer  
11 your question, Board Member Walker, we will move forward  
12 with this with a work group which we've discussed. We  
13 haven't really gotten into the details as to who will be  
14 on this work group and so forth, but that is the plan  
15 going forward.

16 MR. WALKER: It's a pretty complex issue.

17 MR. PALACIOS: Yes.

18 MR. KUNTZ: So I'll continue through, I'll try  
19 and move rapidly.

20 MR. PALACIOS: Again, I hate to interrupt  
21 again. In four minutes, at 10:30 we'll take a break, but  
22 Kate has left the room at 10:24 a.m.

23 MR. KUNTZ: I'll try and move through this  
24 quickly to try and wrap this up. There's a lot of  
25 questions about what do other states do, so is there some

1 other state that could provide us kind of the answer to  
2 this. David wanted me to do this joke: It's all over the  
3 map.

4 (General laughter.)

5 MR. PALACIOS: Let the record reflect it is  
6 10:26 and Board Member Hardy has returned.

7 MR. KUNTZ: So there are six states that allow  
8 for titling and registration of dune buggies, four states  
9 allowing for titling of dune buggies for off-highway use,  
10 two states will title and not register dune buggies, 13  
11 state that they will title a dune buggy if it meets FMVSS  
12 standards, three states will not title or register dune  
13 buggies, Texas being one of those, and then 22 states did  
14 not respond. I want to address this very clearly for the  
15 audience as well. This was a survey that was done in 2015  
16 of all the states and asked them does your state title and  
17 register vehicles. We did not go out and look at their  
18 statutes. We relied upon what they told us at the time.

19 So there are a lot of people in the public that  
20 are saying, well, hey, I've got a title in this state, or  
21 hey, I've been able to do something in this state. These  
22 are the responses that we received from those other  
23 states. I'm not going to state to you that I have  
24 researched every single law in all 50 states. I'm relying  
25 upon the DMVs in those states to give us the answers as to

1 what they do in their state.

2 And I will tell you this, this is part of what  
3 has caused this issue, just because somebody has been able  
4 to obtain a title and registration in a state does not  
5 necessarily mean that that state is authorized to do that.  
6 I will tell you right now that we have dune buggies that  
7 have title and registration in our system today. That is  
8 what caused this issue. There was a title that was  
9 revoked that then caused a lot of these folks that are  
10 here today to petition the agency to stop that practice.  
11 We are not currently revoking those titles today, but  
12 clearly, under our administrative rule a dune buggy is not  
13 allowed to be titled in the State of Texas, but people  
14 have been able to get through the system by various  
15 methods. And by various methods I mean that they may not  
16 disclosed that they had made material alterations to their  
17 vehicle in order to obtain title.

18 MR. WALKER: So the reason you have a title is  
19 to prove ownership. Right?

20 MR. KUNTZ: Correct.

21 MR. WALKER: Well, tell me the difference  
22 between number two and number three, it says title for  
23 off-highway only, and it shows one, two, three, four  
24 states on that.

25 MR. KUNTZ: I will give you an example.

1 MR. WALKER: And then title only. What's the  
2 difference between the two?

3 MR. KUNTZ: Very little. In the State of Texas  
4 we specifically brand titles as off-highway use only, so  
5 like an ATV or an ROV that is titled in Texas, that person  
6 will get a title and on that title it will say: This  
7 vehicle is for off-highway use only. We brand it as such.  
8 Other states may title it but they don't brand it, but  
9 they also will not issue registration to that specific  
10 vehicle. So it's just a matter of whether that state  
11 applies a brand or that they responded to us that they  
12 provide a brand.

13 MR. WALKER: So what's the downfall of issuing  
14 a title?

15 MR. PALACIOS: Board members, we've been going  
16 at this for two hours, so if it's your pleasure for us to  
17 take a break or let Jeremiah finish.

18 MR. WALKER: How much longer are you going to  
19 be?

20 MR. KUNTZ: I've got a few more slides that I  
21 can try and crank through here.

22 MR. BARNWELL: That's about an hour and a half.

23 MR. KUNTZ: I won't take an hour and a half.

24 (General laughter.)

25 MR. PALACIOS: Okay.

1 MR. WALKER: But my question is wouldn't it be  
2 beneficial for the state to have a title because every  
3 time they transfer the title we collect sales tax?

4 MR. KUNTZ: That is potentially one solution  
5 that could be offered. Yes. Again, I want to caution  
6 against us trying to come up with solutions at this point  
7 in time because I want to come up with a recommendation,  
8 getting input from the community here, because I want to  
9 make sure we're not doing something that does not meet  
10 their objective. If it's not going to provide them  
11 benefit to title it without registration, I don't want to  
12 burden these people with having to get titles to something  
13 that can't be operated on the roadway. So they may not  
14 see a title as beneficial, they might, I don't know yet  
15 until we go and talk to all of them.

16 MR. WALKER: How do you prove it's yours?

17 MR. KUNTZ: Again, you will have to go through  
18 some kind of process to obtain a title. There will be  
19 requirements that have to be met in order to obtain a  
20 title, and so if the ultimate goal is to operate them on  
21 the roadway and the title doesn't get them to that  
22 ultimate goal, why subject them to those requirements and  
23 have them go jump through a bunch of hoops to obtain title  
24 that doesn't do them any good?

25 So again, this just rehashes vehicles that are

1 not eligible for titles under our rules: vehicles that are  
2 missing or stripped of their motor vehicle frame or body;  
3 determined by the department to be a dune buggy;  
4 determined by the department to be for on-track racing,;  
5 determined by the department to be for off-road use; or  
6 vehicles that are constructed from non-repairable motor  
7 vehicles.

8           The last section I'm going to go over is best  
9 practices from the American Association of Motor Vehicle  
10 Administrators. I'm going to zip through this as to not  
11 take up a bunch of time. Most of these best practices we  
12 already adhere to. There are a few, and I'll highlight  
13 those.

14           Assigning the model year as a year of  
15 inspection. So today we assign a model year on the model  
16 year that it was manufactured, not when it was inspected.

17           There's a best practice for specially constructed  
18 vehicles, which a lot of these would fall into, the best  
19 practice is to assign the model year. They would say go  
20 get, in our instance, an ASE certified master mechanic  
21 inspection. The standard at the federal level is put the  
22 year in which that vehicle is inspected; we don't do that,  
23 we put the year in which the person says it was  
24 manufactured, the manufacturing was completed.

25           The next one for reconstructed vehicles is to



1 require and maintain file of certification by a  
2 professional engineer. We don't require a professional  
3 engineer, we require an ASE certified master mechanic  
4 inspection, so we are slightly different than the standard  
5 from AAMVA, we still have an inspection that's looking at  
6 the roadworthiness of the vehicle, it's just not by a  
7 licensed engineer.

8           The next one is a continuation of reconstructed  
9 vehicles, and it is to designate on the title record that  
10 an engineer's report is on file. Obviously we don't have  
11 an engineer's report, but we also do not put that into the  
12 title record. We have the actual certification report in  
13 our FileNet system but if you were to just look up in the  
14 record on our system, it's not going to have an indicator  
15 that says there's an inspection on file with the  
16 department. So we do not do that standard.

17           The next is the best practice for replica  
18 vehicles. These are those vehicles that resemble another  
19 one. Require an inspection based on on-road use. The  
20 standard contemplates that you would have certain vehicles  
21 that are only for parade use versus vehicles that are  
22 going to be operated as a daily driver or be operated  
23 outside of parades and exhibitions. We don't do that at  
24 the title level, we do have antique vehicle license plates  
25 but that is after the title has already been issued and

1 then that vehicle has been deemed for antique use only.  
2 They receive a special license plate and a discounted  
3 registration of \$10 per year, but that is not related to  
4 the mechanical roadworthiness or whether or not it's in  
5 the title. We don't do that at the time of title.

6 This is also a continuation of replica  
7 vehicles. We do not put the year, make and model of the  
8 vehicle of primary designation on the title. So if you  
9 replicated a 1965 Shelby Cobra, we would put 2017 as the  
10 year of manufacture, we would have ASVE as the vehicle  
11 make, so that would be an assembled vehicle make, and then  
12 in the remarks it would be branded 1965 Shelby Cobra  
13 Replica, so that remark is down below the actual  
14 indicators in our system. That is a differentiation from  
15 the standard from AAMVA. Designate on the title that the  
16 engineer's report is on file. Again, we've covered that  
17 already.

18 MR. PALACIOS: How do you define the make and  
19 model of that vehicle? Is it replica?

20 MR. KUNTZ: Yes. It's going to be ASVE which  
21 would be assembled vehicle is the designation in our  
22 terminology, and so if it's a Ford replica, then it would  
23 be 2017 Ford ASVE as the make, and then in the remarks we  
24 would actually put the year that it resembles, 1965 Ford  
25 Shelby Cobra Replica.

1 MR. PALACIOS: Okay.

2 MR. KUNTZ: And then establish a procedure for  
3 owner to certify the vehicle is for shows and parades.  
4 We've gone over that, we don't do that at the time of  
5 title, we do that for license plates, and so therefore, we  
6 differentiate from the standard on that.

7 So this brings us to the recommendation, and  
8 we've already discussed this recommendation. At this time  
9 our recommendation would be to convene a working group.  
10 The working group would be charged with evaluating state  
11 and federal regulations relating to the assembled and  
12 reconstructed vehicles, and then make recommendations for  
13 possible statutory and administrative rule changes.

14 With that, we're done. It didn't take me an  
15 hour and a half to get through those last slides.

16 (General talking and laughter.)

17 MR. PALACIOS: Before we get into public  
18 comment, let's go ahead and take a break, come back around  
19 10:45.

20 (Whereupon, at 10:37 a.m., a brief recess was  
21 taken.)

22 MR. PALACIOS: Okay. Let's reconvene, folks,  
23 and get this show moving forward.

24 We will now take comments on agenda item number  
25 7. I'd like to remind everyone who signed up to speak

1 that you'll have a total of three minutes to comment on  
2 this item. Our timekeeper will remind each speaker when  
3 they have one minute left and when their time is up, as  
4 well with signals on our timekeeping device. And I just  
5 want to welcome you here. Your input is greatly  
6 appreciated. As you can see, it's a very, very  
7 complicated issue, and we certainly welcome your input and  
8 feedback on this topic.

9 First let me call up -- we have, I believe,  
10 four speakers on this issue, and let me begin with Mr.  
11 Justin Sullivan.

12 MR. SULLIVAN: Thank you for the opportunity to  
13 speak today. I'm going to try and go very quickly.

14 MR. PALACIOS: Let the record reflect Board  
15 Member Barnwell has stepped out.

16 I'm sorry, sir. Please proceed.

17 MR. SULLIVAN: We provided packets to each of  
18 the Board members. They're very simple; I will be  
19 referencing a couple of pages.

20 My name is Justin Sullivan. I have recently  
21 completed construction on an assembled vehicle.

22 January 2015 to August 2017, these dates refer  
23 respectively to the issuance and subsequent revocation of  
24 our titles and registration. I'd like to explain briefly  
25 just what happened in those 31 months.

1           First, due specifically to the successful  
2 registration of these vehicles, a brand new Texas small  
3 business was created. Next, that small business went on  
4 to ship dozens of these new chassis kits all over America.

5       As can be expected, many of these kits went to customers  
6 right here in Texas, and I was one of them. The ability  
7 to be street-legalized in Texas was the single biggest  
8 consideration in my search for a kit vehicle. I found one  
9 that was legal, sold off all my other projects, and  
10 purchased it.

11           I took delivery of multiple boxes of parts and  
12 pieces, I spent hundreds of hours and thousands of dollars  
13 making it exactly the way I wanted it, which is why anyone  
14 would ever attempt to build their own vehicle. Finally,  
15 finished I headed to my local DMV office.

16           MR. PALACIOS: Sorry. Let the record reflect  
17 that Board Member Barnwell has returned. And I will add  
18 some time to your presentation.

19           MR. SULLIVAN: No problem.

20           I finished and I headed to my local DMV office  
21 with a large binder of supporting material. The fees were  
22 paid and the paperwork was filed. I left feel ecstatic,  
23 which may be the first time that has ever been said about  
24 a trip to the DMV office. Many months passed, it was  
25 successfully insured, no problems whatsoever.

1           Then out of nowhere revoked. I vividly  
2 remember getting that letter from this department.  
3 Everything I had worked so hard on was now worthless.  
4 Surely this is a mistake, I thought. Why me, and more  
5 importantly, why now.

6           In the packet provided, if you'd please turn to  
7 tab number 5 you'll see a copy of the letter that I  
8 received. I'd like to address two of the concerns  
9 specifically in that letter. One, "The department has  
10 determined that the DF Goblin does not meet Federal Motor  
11 Vehicle Safety Standards." We've heard a lot about that  
12 today. While this is not entirely true, it is entirely  
13 irrelevant. The majority of the parts installed in the  
14 Goblin are removed from Chevrolet Cobalt sedans.

15           NHTSA has said on multiple occasions that since  
16 these kit cars are built from used components, that  
17 current Federal Motor Vehicle Safety Standards do not  
18 apply. And I want to stress the following point, this is  
19 not a federal problem. Many, many other states are  
20 currently registering these exact vehicles. That's  
21 something Mr. Kuntz touched on. But as it stands right  
22 now, this is a Texas DMV issue.

23           Second, the department has concluded that your  
24 vehicle is not an actual replica of a 1958 Lotus, which is  
25 what the title and paperwork reflect. If you'll turn to

1 tab number 6, please. You've read this today already: a  
2 custom vehicle is a vehicle that --

3 (Timer buzzed.)

4 MR. SULLIVAN: 60 seconds, please?

5 MR. PALACIOS: You have time. Please.

6 MR. SULLIVAN: A custom vehicle that is  
7 manufactured to resemble a vehicle or that has been  
8 altered from the manufacturer's original design.

9 Let's examine this use of the word "resemble"  
10 as we've based all of our work and registration off of it.

11 Miriam Webster: to be like or similar to. "He resembles  
12 his father" is the given explanation. Google's example  
13 sentence takes it a step further writing "Some people  
14 resemble their dog."

15 I find the next clause even more interesting:  
16 that has been altered. In fact, it seems the manual is  
17 requiring alteration, exacting distinguishable replicas  
18 would not be legal under these specifications.

19 Number 6 you'll see three photos. The first is  
20 a Caterham 7. It is probably the most popular kit vehicle  
21 ever produced. Apparently it does resemble a Lotus  
22 roadster. The immediate next picture is my vehicle, the  
23 DF Goblin. Lastly you'll see a picture of the original  
24 Lotus vehicle.

25 Are there differences? Yes, of course there

1 are. We've had many, many upgrades that have happened in  
2 the last 60 years, we don't use drum brakes, we use disc  
3 brakes all the way around, a factory General Motors fuel  
4 system is used, as well as engine and transmission. There  
5 are some additional safety roll bars, chassis  
6 modifications that have been made as well. Again, fuel  
7 system is all factory GM, and there have been some  
8 changes, however, I don't believe you'll find any person  
9 alive who more closely resembles their dog than my vehicle  
10 resembles the Lotus it was registered as.

11 The entire set of rules deals with the visual  
12 appearance of something. I don't understand this.  
13 There's really no law, statute or legislation dealing with  
14 modifying the appearance of something, so that is a  
15 question that we've brought up multiple times.

16 I spent well over a year working till 3:00 a.m.  
17 building this vehicle, I did over \$20,000, and to have all  
18 of that stripped away is pretty frustrating. So we really  
19 want to come and we want to work with each person in this  
20 room to get a common understandable set of standards.  
21 There are many VTR Form 64s, the safety standard for  
22 assembled vehicles. My vehicle completely passed that and  
23 passed all individual requirements in that, therefore, it  
24 is a safe vehicle. So as you touched on previously, what  
25 else do we need to worry about?



1 MR. PALACIOS: Thank you for your time, Mr.  
2 Sullivan. We certainly share your desire to come up with  
3 common standards, standards that are transparent that we  
4 can all adhere to, and I can assure you we'll work with  
5 all the stakeholders towards that end.

6 MR. SULLIVAN: I'll be happy to answer any  
7 questions you might have.

8 MR. WALKER: I've got two questions.

9 MR. SULLIVAN: Yes, sir.

10 MR. WALKER: Where are you from?

11 MR. SULLIVAN: I am from South Austin.

12 MR. WALKER: From where?

13 MR. SULLIVAN: South Austin.

14 MR. WALKER: Oh, so you're from here local.

15 And I'm trying to follow you, did you put this  
16 together, this whole deal?

17 MR. SULLIVAN: Our group did. Yes, sir.

18 MR. WALKER: And so this 7, this car right  
19 here, this is your car?

20 MR. SULLIVAN: No, sir. That is the original  
21 we are attempting to replicate.

22 MR. WALKER: And which car is your car?

23 MR. SULLIVAN: The second photo.

24 MR. WALKER: The blue car right here?

25 MR. SULLIVAN: Yes, sir.

1 MR. WALKER: So that's your car. And so your  
2 comments to us, I guess, are that you built the car and  
3 you can't get it on the street. Right?

4 MR. SULLIVAN: Except I had it on the street  
5 for several months and then I didn't.

6 MR. WALKER: Did you get a ticket?

7 MR. SULLIVAN: No, sir. I got my license and  
8 registration revoked.

9 MR. WALKER: Your license? Not your driver's  
10 license.

11 MR. SULLIVAN: No, sir.

12 MR. PALACIOS: Did you have a second question?

13 MR. WALKER: Well, that was my question.

14 MR. PALACIOS: Okay. Just one point of  
15 clarification, Mr. Sullivan. The frustration that you had  
16 discussed regarding your visit to what you said was the  
17 DMV office, that was actually a county office.

18 MR. SULLIVAN: My license plate did come from  
19 the county office. I didn't have any frustrations in that  
20 office, that went fantastically well.

21 MR. PALACIOS: Great. Thank you for that.

22 Jeremiah, for my benefit, what was the specific  
23 reason we revoked the title and registration on Mr.  
24 Sullivan's vehicle?

25 MR. KUNTZ: I would have to go back and

1 actually look at that record and pull the history on that.

2 MR. SULLIVAN: The photo is in the packet.  
3 There were two specific reasons, which I'd be happy to  
4 readdress, if you'd like.

5 MR. KUNTZ: I know that there has been reviews  
6 of different titles, looking through our system, and  
7 certain vehicles -- we regularly get new vehicles that are  
8 coming into the system, and I say that in that the  
9 counties will regularly title and register vehicles, the  
10 system is not locked down so tight that you cannot enter a  
11 vehicle into the system that was not produced by a  
12 manufacturer, so it will allow a county to enter that  
13 vehicle in. Through normal reviews of those transactions,  
14 we will identify at times vehicles that have made their  
15 way into the system that are not currently authorized  
16 under our rules or under our statutes to have that title  
17 and registration.

18 I can think of a prime example which is a  
19 vehicle known as the Ariel Atom. It is a track vehicle,  
20 it is produced by a manufacturer, they are a turnkey track  
21 vehicles, they are only operated on racetracks. There  
22 have been times where individuals have managed to get  
23 those titled and registered. When we see those come  
24 across as an Ariel Atom and we find them in the system, we  
25 go in and revoke them because we know them to be an on-

1 track vehicle, not a street legal vehicle.

2 MR. PALACIOS: Okay.

3 MR. KUNTZ: There's always instances where we  
4 are reviewing and revoking titles. It is regular course  
5 of business, unfortunately, up in our title section to  
6 review transactions and revoke transactions that do not  
7 meet our standards.

8 MR. BARNWELL: What is the recourse for a  
9 person in this gentleman's position?

10 MR. KUNTZ: David, would you like to speak to  
11 recourse for title determinations?

12 MR. DUNCAN: He could bring a title suit, he  
13 could request that a court review that. You can always  
14 petition us and ask us to revisit a decision that's made  
15 at the staff level. Obviously, at least it doesn't appear  
16 that Jeremiah was made aware of this one. We like to  
17 review things internally before we tell people to go file  
18 a lawsuit. I had not heard of this specific example, and  
19 I'm sure Ms. Brewster had not either, since Jeremiah had  
20 not. So we prefer to do internal reviews of agency  
21 actions first, and then if worse comes to worst, you can  
22 always appeal an agency action to district court.

23 MR. BARNWELL: Have you done that?

24 MR. SULLIVAN: No, sir. I hope to solve it  
25 here first.

1 MR. BARNWELL: Well, we can't solve anything  
2 with a comment here today, we can't take that action.

3 MR. SULLIVAN: I understand.

4 MR. BARNWELL: I would recommend that you talk  
5 to staff who are professional and they're going to try to  
6 do what they can.

7 MR. SULLIVAN: This is nowhere near the first  
8 discussion. I want to thank Mr. Kuntz, Ms. Love and Ms.  
9 Brewster for the past six months of discussions we've had.

10 MR. PALACIOS: Thank you for that.

11 On other point, the county that you had the bad  
12 experience, it was not Hays County. Is that correct?

13 MS. CARAWAY: If it was a good experience, it  
14 was Hays County.

15 MR. PALACIOS: Right.

16 (General talking and laughter.)

17 MR. WALKER: Do you have seatbelts in this car?

18 MR. SULLIVAN: Yes, sir. We have factory  
19 General Motors seats and seat restraints in the car.

20 MR. WALKER: When you say we, you don't own  
21 this car individually?

22 MR. SULLIVAN: There are many members that have  
23 the exact same vehicle that I do.

24 MR. WALKER: I'm asking about your car.

25 MR. SULLIVAN: Oh, yes, sir.

1 MR. WALKER: You own your car. Right?

2 MR. SULLIVAN: Yes, sir.

3 MR. WALKER: And so let me ask -- and I can  
4 sure appreciate your frustration with building something  
5 and you can't use it -- where would you drive that car  
6 right now?

7 MR. SULLIVAN: It is insured as an occasional  
8 use vehicle, just like a few of my other historic vehicles  
9 are.

10 MR. WALKER: Where could you drive that car  
11 right now?

12 MR. SULLIVAN: Previously to getting my title  
13 revoked, I could drive it on any street in Texas.

14 MR. WALKER: Where can you drive that car  
15 today? I'm asking the question today.

16 MR. SULLIVAN: Right now it cannot leave my  
17 garage.

18 MR. WALKER: You can't drive the car today  
19 anywhere.

20 MR. SULLIVAN: It will be impounded if seen on  
21 public roads.

22 MR. WALKER: Unless you took it to HEB parking  
23 lot and did loops in the parking lot.

24 MR. KUNTZ: It could be operated on a track at  
25 this point, private property, not on public roadways.

1 MR. SULLIVAN: Which involves trailers. I  
2 don't race.

3 MR. WALKER: I mean, I see your frustration,  
4 but I also get we don't want cars on the road impeding  
5 safety with other cars out there where you could hurt  
6 somebody.

7 MR. SULLIVAN: The safety you have now in Form  
8 VTR-64 and one other 58-something -- I'm sorry, I don't  
9 have that note in front of me -- that does a very good job  
10 at checking each of the requirements on the vehicle and  
11 providing a very solid baseline of safety. It checks  
12 everything from the headlights being DOT approved, my  
13 wheels and my tires are DOT approved, and then the vast  
14 majority of running components, brakes, engine,  
15 transmission, all of this was removed from a General  
16 Motors vehicle, a common Chevy Cobalt.

17 MR. PALACIOS: Thank you very much, Mr.  
18 Sullivan.

19 MR. SULLIVAN: Thank you.

20 MR. PALACIOS: Our next speaker is Mr. Lonny  
21 Doyle. Will you please come forward?

22 MR. DOYLE: Good morning.

23 MR. PALACIOS: Good morning.

24 MR. DOYLE: For the record, I'm Lonny Doyle.  
25 I'm from Red Oak, Texas.

1 MR. WALKER: Where?

2 MR. DOYLE: Red Oak, close to Waxahachie.

3 My wife and my oldest son and I own DF Kit Car,  
4 we manufacture the Goblin kit.

5 I've got some packets here, if you would like  
6 to see them.

7 MR. PALACIOS: Sure.

8 MR. DOYLE: Three and a half years ago, my son  
9 and I started spending our nights and weekends working on  
10 a street legal car for our personal use. We were inspired  
11 by a kit car builder that used to manufacture a modern  
12 Lotus 7. After eight months of design and fabrication  
13 work, the first Goblin was finished. Just like a Lotus 7,  
14 our car was an open top, open wheel, exposed front  
15 suspension, and it was lightweight with minimal body work.  
16 Unlike the Lotus 7, it uses modern engine, power steering,  
17 power brakes, with all-wheel disc brakes, cruise control,  
18 air conditioning and a lot of other modern amenities.

19 During the construction of our first car, we  
20 shared our progress on an online forum with many hobbyists  
21 and they were interested in building their own Goblin kit  
22 car. After successfully registering our first car in  
23 January of 2015, following the Texas assembled vehicle  
24 manual, we felt confident that we could sell our kit and  
25 have customers build their own street legal cars.



1           We decided to go all in. We sold rental  
2 property and pooled our savings and developed our second  
3 prototype and all the tooling, and got some financial  
4 assistance from some machine shops and laser cutting  
5 places, and we opened for sales in 2015. Orders came in  
6 from all over the U.S. and quite a large percent was from  
7 here in Texas. Over the next two years, four Texas  
8 Goblins were successfully titled and registered. The past  
9 summer one of our customers was unable to register his  
10 Goblin for reasons for refusal that bounced between it was  
11 determined to be a dune buggy first and then it was  
12 determined to be not safe, despite it passing the ASE  
13 master mechanic inspection, and then it was determined by  
14 the department to be for on-track racing.

15           At this point when we receive calls from  
16 potential customers from Texas, we warn them that  
17 registration was questionable, we did not want them to be  
18 blind-sided when they found out that it wasn't able to be  
19 registered. Most of these callers have not contacted us  
20 again. In August we received two letters telling us that  
21 the titles for our Goblins were being revoked because the  
22 department concluded that our cars were not actual  
23 replicas of the Lotus 7. Before August, 21 percent of our  
24 sales were here in Texas; since August we have not sold a  
25 single car in Texas. No one wants to buy a kit car that

1 can't be registered. Those customers that have bought  
2 kits from us in Texas are now left with a kit car that  
3 they can't register.

4 I'm sure all of you know that margins for a  
5 startup company are thin. This hit in our sales has  
6 already had a large impact on us. We're scaling back  
7 orders and we have nine or so customers and some of those  
8 are small customers like us. Like M&H Metal Specialities,  
9 they set up programming and everything to do our parts and  
10 we're really having to scale back to them. And there's a  
11 powder coating place in Mesquite that made fixtures and  
12 stuff to do our powder coating and we're no longer able to  
13 take our cars over there because they were just Texas-  
14 based. There's a chance we can survive without having  
15 sales in Texas but we're afraid the effects are much  
16 larger than the 21 percent hit in orders.

17 The number one question we are asked from  
18 potential customers all over the country is whether or not  
19 the Goblin is street legal. This used to be an easy  
20 question, but now with our home state revoking our titles,  
21 it makes them wonder if they will eventually have the same  
22 situation in their state. This also leaves us with  
23 selling a product that we can no longer demonstrate. We  
24 have potential customers that visit our shop from all over  
25 the U.S., wanting to go for a test drive. It does not

1 give them much buying confidence when we tell them that we  
2 are not allowed to drive our own cars.

3 That's about it. Do you have any questions?

4 MR. WALKER: I do. So this Goblin, you own  
5 this company that's Goblin, it belongs to you?

6 MR. DOYLE: Yes.

7 MR. WALKER: You started this. I'm just  
8 reading your deal here. And so you didn't buy -- you  
9 initially bought some kind of kit, you liked doing that  
10 with your son, and then you created your own chassis and  
11 framework.

12 MR. DOYLE: We'd actually made parts for a guy  
13 who used to build the Lotus 7 kit and we saw that he was  
14 doing it, and then my son found an assembly vehicle manual  
15 and we went through all of it and said, hey, we can do  
16 this. I actually have an aircraft machine shop, a small  
17 business, and we used some of the machining from that and  
18 solid works and designed the chassis and everything and  
19 built our first prototype. We put all this stuff on a  
20 forum and there were other people like, well, that's  
21 really neat, I'd like to have one of those. So then we  
22 started considering making this a business.

23 MR. WALKER: I'm not trying to get nosy, but  
24 did you quit your regular job in order to do this for a  
25 living?

1 MR. DOYLE: No. Actually, one of my sons runs  
2 that now. I've got a second son -- I actually have four  
3 boys.

4 MR. WALKER: I've got four boys too, I  
5 sympathize with you.

6 (General laughter.)

7 MR. WALKER: So you started a company basically  
8 to make these and you were hoping to one day become Ford  
9 Motor Company or GM.

10 MR. DOYLE: No, not really. We don't actually  
11 produce a car, we just make a frame and we buy radiators  
12 and sell some of the hardware. That's all we sell. We  
13 don't assemble anything. On the second page.

14 MR. WALKER: I saw the picture of the frame.

15 MR. DOYLE: That's what we send out.

16 MR. WALKER: So you sell the framework and then  
17 somebody would want to take and go get a wrecked car,  
18 there's a picture here of a Chevrolet Cobalt.

19 MR. DOYLE: Right, you get a wrecked Chevy  
20 Cobalt.

21 MR. WALKER: So you get this wrecked Chevy  
22 Cobalt and you take all the framing off, you take the  
23 engine.

24 MR. DOYLE: You take the engine and  
25 transmission out of that and put into our frame and the

1 suspension.

2 MR. WALKER: So how many different car models  
3 will fit inside of your Goblin framework?

4 MR. DOYLE: Just the one.

5 MR. WALKER: Only a Cobalt works.

6 MR. DOYLE: Only the Chevy Cobalt from 2005 to  
7 2010.

8 MR. WALKER: So primarily the prime parts that  
9 are being used are pretty much all ASE certified because  
10 they came from General Motors.

11 MR. DOYLE: Right.

12 MR. WALKER: So the only thing that is not ASE  
13 certified would be your chassis frame. Is that correct?

14 MR. DOYLE: Yes, that's correct.

15 MR. PALACIOS: I don't think that's a given  
16 that they're ASE certified just because they came from  
17 General Motors.

18 MR. DOYLE: Well, one thing that confused us is  
19 we have a letter that came from -- it was between a Todd  
20 Motsumoto and NHTSA, and they said if the vehicle was  
21 manufactured incorporating a number of previously used  
22 parts, particularly involving the chassis and/or drive  
23 train, we generally have considered this vehicle to be a  
24 used one and none of the FMVSS that apply to new completed  
25 vehicles apply to it. So the federal government is not

1 interested in it if you use used parts.

2 MR. PALACIOS: Is that accurate, to your  
3 knowledge, Mr. Kuntz?

4 MR. KUNTZ: Not from the reading of the  
5 interpretations that we've seen. And that's the problem  
6 is that NHTSA has not opined that the mere presence of a  
7 used part would qualify that vehicle as a used vehicle.  
8 What they are clearly getting at is if the chassis has  
9 been materially changed from the original manufacturer  
10 design that that statement would not apply. And that is  
11 supported by other interpretations that we are seeing.  
12 I'm trying to find one right now.

13 MR. WALKER: But whose chassis do you use in a  
14 Cobalt, in your car?

15 MR. DOYLE: We sell the frame and we put all  
16 the pieces in the frame.

17 MR. WALKER: The chassis is the rails. Whose  
18 chassis are you using?

19 MR. DOYLE: We fabricate a steel chassis.

20 MR. WALKER: So you're using your chassis.

21 MR. DOYLE: Correct. It's equivalent to  
22 somebody, I guess, having a jeep and putting a lift kit on  
23 it. I'm the person that makes the lift kit, I'm the  
24 person that makes the tube chassis.

25 MR. WALKER: And then the next problem he has

1 is he can't sell that because he's a manufacturer.

2 MR. DOYLE: Well, we followed the guidelines,  
3 the same way you do with a Cobra, like you can build a  
4 Cobra kit car. You buy a Cobra kit, you assemble all you  
5 pieces into it, and then go through the assembly vehicle  
6 manual, and that's something we did here. We're just the  
7 fabricator of the kit.

8 MR. WALKER: Can you sell kits without being --  
9 we're not the smartest people today in here because we  
10 found out that the trailer people are not manufacturers,  
11 they're agents today, so when you make these kits, does  
12 that make him a manufacturer or does that make him a  
13 retailer?

14 MR. KUNTZ: I can't make a definitive  
15 determination. All I can tell you is my reading of the  
16 definition of a manufacturer includes manufacturers of  
17 motor vehicle parts, and so if you are making parts that  
18 are regulated by NHTSA, then you would be a manufacturer.

19 But again, I can't get into all of that because I don't  
20 know all of the parts that he's manufacturing and whether  
21 or not he's using some other part that may have been or  
22 may meet the criteria. That's why I say each individual  
23 vehicle becomes a challenge when you start merging new and  
24 used parts.

25 I'll read this one right here -- well, that's

1 probably another one, never mind.

2 MR. BARNWELL: Do you manufacture anything  
3 besides a tube frame and a little skin on it?

4 MR. DOYLE: That's it.

5 MR. BARNWELL: That's all you manufacture.

6 MR. DOYLE: That's the parts we make.

7 MR. BARNWELL: And then we throw the chassis  
8 from the Cobalt, engine, transmission.

9 MR. DOYLE: You take the engine, transmission  
10 and suspension, brakes, the steering components, steering  
11 rack, the tire pressure monitor and all the other things,  
12 seatbelts, seats all come out of the Chevy Cobalt. And we  
13 don't actually assemble a vehicle, we sell the parts.

14 MR. BARNWELL: So all you sell is the tube  
15 frame.

16 MR. DOYLE: Right.

17 MR. BARNWELL: And a manual.

18 MR. DOYLE: Yeah, and a manual.

19 MR. WALKER: Well, the rails apparently come  
20 with it because all the chassis is the rails also.

21 MR. DOYLE: The tube frame is the chassis. Our  
22 kit was to replicate a Lotus 7.

23 MR. WALKER: I don't know what a Lotus 7 is,  
24 but I do know trucks and cars are made to have a chassis  
25 and they've got a rail system that goes through there and



1 it gets attached to your axles, the engine sits in the  
2 frame.

3 MR. DOYLE: It's all kind of a unibody type  
4 construction. That's how the Lotus 7 was, it didn't have  
5 like a frame member going through.

6 MR. WALKER: So the engine is hanging off those  
7 tubes?

8 MR. DOYLE: It's a structure, a lattice. What  
9 we did is we designed it and you put it into a constrained  
10 condition on the computer and you push it in different  
11 directions and stuff and it shows you all of the  
12 structural integrity to it. There's a lot to it, it's a  
13 pretty complex thing.

14 MR. WALKER: So can your components be licensed  
15 in each state outside of Texas?

16 MR. DOYLE: Yes. A lot of states outside of  
17 Texas, I'm not going to say all of them. We have them  
18 getting registered all over.

19 MR. WALKER: So you can still make your product  
20 and just ship it outside of Texas. Well, you can still  
21 sell in Texas, I assume, you just can't use it in Texas.

22 MR. DOYLE: Like I say, 21 percent of our sales  
23 was in Texas until this letter went out, and we haven't  
24 sold any more since then, nobody is really interested in  
25 it. And of course, we don't demonstrate our cars. We

1 have a person that just flew in from New York last  
2 Wednesday, I think -- Thursday, and of course, we showed  
3 him the car, we cranked it up, but we couldn't give him a  
4 ride in it because it's illegal.

5 MR. WALKER: No place to go.

6 MR. DOYLE: Yeah.

7 MR. PALACIOS: Any other questions for Mr.  
8 Doyle?

9 (No response.)

10 MR. PALACIOS: Thank you.

11 MR. KUNTZ: Mr. Walker, I'll read, there's a  
12 letter here, I don't have a date on this one. This  
13 probably speaks to it a little bit.

14 "The question is whether the addition of a new  
15 or newer used body on an existing 1967-1975 chassis  
16 affects the exclusion afforded by Section 30112. Under  
17 the longstanding line of interpretations of this agency,  
18 the substitution of a new body on a used chassis alone  
19 does not result in the creation of a new motor vehicle."  
20 That's a new body on a used chassis. "Thus, under the  
21 scheme you outlined, a 1967-75 Land Rover with a different  
22 body and unmodified chassis could be imported without the  
23 need to conform with FMVSS. We contrast this with the  
24 situation where refurbishment of a 1967-1975 chassis  
25 occurs before importation. The substitution of new

1 chassis parts for the original ones -- and this is where  
2 it gets very interesting -- may reach a point where the  
3 combination with newer vehicle parts, the overall vehicle  
4 itself could be regarded as newly manufactured rather than  
5 one manufactured in 1967 to 1975."

6 MR. WALKER: But the key word being may.

7 MR. KUNTZ: And again, that's why I say I don't  
8 have clear determination from NHTSA at what point that is.  
9 Is it 50 percent of that original chassis, is it at 10  
10 percent? What I would see here is that the chassis itself  
11 in this instance seems to be wholly new, but the  
12 suspension and the drive train appear to be from the used  
13 vehicle. Again, I'm struggling with trying with how to  
14 determine that. I think that it would really be a  
15 specific request to NHTSA. But that's really speaking to  
16 whether to not he would be required to be a manufacturer  
17 in NHTSA's eyes, as well, because he's manufacturing parts  
18 to replace existing parts.

19 MR. PALACIOS: Thank you, Mr. Doyle.

20 Let's move on to our next speaker -- I can't  
21 read this -- Mr. Frank --

22 MR. WALKER: How many do we have?

23 MR. PALACIOS: Two more.

24 MR. SMITH: My name is Faron Smith. I am here  
25 to represent the dune buggy and sandrail owners in Texas.

1 I'm going to apologize for being a little bit nervous, I  
2 might stutter a little bit.

3 When it comes to dune buggies, dune buggies  
4 were started by Bruce Meyers in California in 1964. Those  
5 are the little fiberglass looking cars, speed buggy from  
6 the cartoons when we were kids. Many of us use it as a  
7 hobby, it's something that we do in our garage, not  
8 manufacture. We're hobbyists, we're basically the same  
9 thing as every other guy that's out there that's wanting  
10 to build something, their dream, something that they've  
11 wanted to do since they were little kids.

12 Old Red, which is the original Meyers Manx, was  
13 inducted into the Historic Vehicle Association, I believe  
14 it was last year. The hobby that we do has been passed  
15 down from generation to generation. At my house, my  
16 daughters have actually come out and helped me work on my  
17 car. It's my pride and joy, it's something that I love,  
18 it's something fun. It's not something that I'm going to  
19 go out and cruise and try to break speed limits or  
20 anything like that. My friend Scott, over here, helps me  
21 put together events and we spend money going to hotels, we  
22 go through cruises. The dream is to just sit there, have  
23 my wife with me, and we're just cruising. We're not  
24 hurting anybody, we're wanting to spend money on taxes and  
25 everything with it.

1           There's hours of research that goes into it,  
2 hours and hours of time in building, and we don't want  
3 Franken-cars out on the road either, Mr. Kuntz, we want to  
4 basically work with you just like you said. We want to  
5 make sure that there's safety guidelines because I don't  
6 want to put my wife in a car that there's a possibility  
7 that she might fly out of. And I'm not going to get into  
8 how much I spent on it, because she may be watching, to be  
9 quite honest with you, and I'm already bald, I don't need  
10 knuckle bumps.

11           (General laughter.)

12           MR. SMITH: I guess the thing is that before I  
13 came up here, Mr. Kuntz already said that he was going to  
14 work with us, and I really appreciate it, it means a lot  
15 and this is going to be a lot of fun. Hopefully we get to  
16 fix this and make it an opportunity to make a set of  
17 comprehensive rules for everybody and we can all enjoy it.

18           That's pretty much all I have. Do you have any  
19 questions?

20           MR. PALACIOS: Thank you very much, Mr. Smith.  
21 Appreciate your time.

22           The next speaker we have is Mr. Ron Hinkle.  
23 Please come forward, sir.

24           MR. HINKLE: Good morning. My name is Ron  
25 Hinkle, I'm representing the Assembled Vehicle Coalition

1 of Texas, and thank you so much for your time. All of my  
2 presentation has already been talked about, so I get to  
3 shorten this and I hope that's a good thing for you guys.

4           You have heard there's a lot of concerns and a  
5 lot of consternation and confusion about the how and the  
6 why of why these titles and registrations were revoked.  
7 And because there's a lot of significant downside to this,  
8 you've already heard already there's a loss of private  
9 sector investment that you've heard, loss of personal  
10 freedoms, supply chain disruptions, lost jobs and wages --  
11 that's going to certainly occur to some of the folks that  
12 assemble these things -- and of course, the loss of state  
13 and local revenues from the titles and registration fees.

14           This has gained so much attention that there's  
15 actually a number of states and a number of international  
16 countries that are actually listening to this broadcast  
17 live right now. We have folks in Pennsylvania,  
18 California, Hawaii, Michigan, New York, Georgia, North  
19 Carolina and Canada who are actually listening to this  
20 broadcast to see where Texas goes on this kind of stuff,  
21 because as you guys know, once Texas goes, so goes the  
22 nation in a lot of ways. So even though there may be  
23 rules and policies in place, we're a big state and a lot  
24 of people maybe want to sell supplies in this state, and  
25 so this is a big business decision for a lot of people

1 knowing whether they've lost a huge market like this.

2           And of course, there are several Texas  
3 legislators that have had a lot of concerns about this.  
4 I've been contacted, I understand that you have as well.  
5 A lot of them have been contacted by their constituents  
6 realizing that these vehicles that they invested in, some  
7 of them for many years, have been essentially shut down.  
8 So they want to work with us, want to work with you on  
9 trying to make something right again.

10           We do want to offer some short-term and long-  
11 term solutions, and this has been talked about, Mr. Kuntz  
12 has talked about this a lot, but the first short-term  
13 solution would be for the reinstatement of those titles  
14 and registrations that have been revoked, and not just the  
15 ones that are existing today because you do have this  
16 strange situation where dune buggies that were titled and  
17 licensed at one point are on the road driving, yet the  
18 very same dune buggy the year after 2014 were not able to.

19           So you have those very same vehicles on the road, so they  
20 can't be necessarily unsafe, so we need to get everything  
21 all put together and make everything match as much as  
22 possible.

23           And also for those folks who have bought dune  
24 buggies from other states and brought it, thinking they  
25 could be titled and registered, not knowing that this rule

1 had taken place, they have now lost their investment, it's  
2 worthless. You can sell it out of state but someone is  
3 going to give you pennies on the dollar knowing that you  
4 have a vehicle that's worthless to you, and so they're at  
5 that advantage.

6 Likewise, people have already bought these kits  
7 and they're in their driveways or in their garages or  
8 warehouses, they may be not assembled yet or partially  
9 assembled, but yet that investment is lost as well. And  
10 so once they get those vehicles assembled, we would like  
11 to have in the short term those titles and registrations  
12 also be applicable as well.

13 We've already talked about, Mr. Kuntz brought  
14 this up -- and I appreciate that he did -- that we want to  
15 get a private sector working group together with key DMV  
16 staff and sit down and start talking about and defining  
17 better what types of vehicles should or should not be on  
18 the road. Like Mr. Smith said, we don't want unsafe  
19 vehicles driving around, we're all driving, we're families  
20 that are driving as well.

21 We want to look at best practices in other  
22 states. Hawaii just passed legislation a few days ago  
23 that now allows dune buggies to be licensed and registered  
24 and be legal on the streets now. And we want to look at  
25 associations, like Mr. Kuntz brought up. The American



1 Association of Motor Vehicle Administrators has a lot of  
2 really, really good ideas and maybe some really, really  
3 good best practices that we can incorporate.

4           And I think Mr. Smith brought it up, but Mr.  
5 Kuntz and I had a chance to talk on the phone, as Ms. Love  
6 and I have, and they're very helpful in trying to kind of  
7 work through this situation. But Mr. Kuntz is right, we  
8 don't want Franken-cars and these monstrosities, as he  
9 calls them, on the road that someone went from one  
10 junkyard to another and put something together and they  
11 expect it to be titled and licensed, and that's not what  
12 anybody wants. And so we want to kind of help better  
13 define these kind of vehicles on exactly what should and  
14 should not be on the road, what is safe and not safe, and  
15 put a set of criteria on there, and lastly bring that  
16 feedback to the Board for your consideration.

17           And then in the long term work with some of  
18 those legislators that want to put together some  
19 legislation and let the DMV and this private sector  
20 working group craft some draft legislation and work with  
21 these legislators to get something on the books that makes  
22 sense. Right now there's custom vehicles that anyone  
23 could say it's an assembled vehicle or a kit car, they  
24 have almost the same definitions.

25           So we need clarity, we need better definitions,

1 and I think we can then finally get all this behind us.  
2 Happy to answer any questions.

3 MR. GRAHAM: I have one quick question. I know  
4 we're trying to move on, but just real briefly, one of the  
5 things I keep hearing is the issue of safety, and I  
6 presume we're concerned with the safety of other drivers  
7 on the road, that somebody doesn't build a vehicle that  
8 creates an unsafe environment for other people on the  
9 road, and certainly for themselves too. But you know, I  
10 don't drive a motorcycle, it's legal for me to drive a  
11 motorcycle, I choose not to because I have kids and I like  
12 to go fast and it's probably not a good idea because I  
13 could be injured in that vehicle or on a motorcycle.

14 So as I think about safety -- and I actually  
15 got online and looked at a couple of these while we were  
16 working through this -- shouldn't I be entitled to get in  
17 a vehicle that may or may not be perfectly safe in the  
18 eyes of everyone and put myself at risk as long as I don't  
19 put other people at risk? I mean, how do we define  
20 safety? And I think that's going to be an important  
21 question as we move forward is does the vehicle not put  
22 other people at risk.

23 MR. HINKLE: That's a great question. I think  
24 there should be a set of criteria that what is deemed  
25 safe, and that's a broad category, I realize that.

1 Sometimes safety is about the driver. There's a thing  
2 called an autocycle now that you're aware of, the Polaris  
3 Slingshot. It's titled and licensed, it's not a  
4 motorcycle, it's not a car, it's an autocycle. But you  
5 can watch lots of videos where it gets turned over and  
6 drivers get thrown out. Is it a driver problem or is the  
7 vehicle problem?

8 MR. GRAHAM: I don't know. I just wanted to  
9 bring that forward because that's a struggle is how we  
10 define that and how do other states define. I know you  
11 will work through that and dig into it.

12 MR. HINKLE: We definitely want to partner with  
13 DMV staff. They know what they're talking about, and  
14 frankly, so do we, but I think we can put great minds  
15 together and figure exactly what needs to be done.

16 But the most important thing I think I want to  
17 leave with you is to reinstate those titles and  
18 registrations that got revoked on cars that are certainly  
19 safe.

20 MR. GRAHAM: Thank you.

21 MR. HINKLE: Thank you very much.

22 MR. PALACIOS: Thank you, Mr. Hinkle.

23 MR. WALKER: Jeremiah, did we revoke the titles  
24 or just the registration?

25 MR. KUNTZ: The titles.

1 MR. WALKER: The titles. How many are there?

2 MR. KUNTZ: How many were revoked?

3 MR. WALKER: Yes.

4 MR. KUNTZ: I don't know how many titles have  
5 been revoked, I'd have to go and pull numbers to see what  
6 titles have been revoked. I hazard to go down that road  
7 because we revoke titles every day for a myriad of  
8 different reasons. There may be legal disputes over the  
9 title. That is a regular and normal practice for the  
10 agency to revoke titles, and when a title is revoked, the  
11 registration is as well. But on this specific issue, I  
12 don't believe that we have an exhaustive list of every  
13 title that was revoked for this specific reason because we  
14 don't have a tracking list that says a revoked title for  
15 being a dune buggy, a revoked title for being this. We  
16 issue those letters and they're revoked from the system.

17 MR. WALKER: So what motivated us, the agency,  
18 to go out -- I mean, it would seem to me like I have a  
19 title for my F250 Ford pickup truck, and when I go down  
20 here to register it every year or mail my registration in,  
21 nobody says, well, let's go look at it to see if it's been  
22 modified, or let's change it and cancellation my  
23 registration and title. I mean, what stimulated the  
24 agency to cancel titles?

25 MR. KUNTZ: I would have to go back on the

1 first one that was revoked. Like I said, we revoke titles  
2 on an ongoing basis every day for a myriad of different  
3 reasons.

4 MR. WALKER: But I think that's pretty critical  
5 here as to what caused us to go out and cancel titles.

6 MR. KUNTZ: And again, I can go back and do the  
7 research on that. But again, ultimately, those titles  
8 that were revoked do not currently meet the statutory or  
9 administrative rules for a vehicle that is allowed to be  
10 titled and operated on the roadway. Whether it was  
11 previously authorized or not, we've got statutes and rules  
12 in place today that say.

13 MR. WALKER: Who in our agency made that  
14 determination?

15 MR. KUNTZ: It would have been made in the  
16 title section so it would have been made by the chief of  
17 titles.

18 MR. WALKER: So did the chief of titles say I'm  
19 going to go look at that vehicle to see if it's registered  
20 or not, legal or meets the standards?

21 MR. KUNTZ: I'm not going to speak for what the  
22 chief of titles did or didn't do when he looked at that  
23 title. The letter is signed by his section administrator  
24 that oversees that, Tracy Godfrey is the one that actually  
25 signed that letter -- I just looked at it. He's the one

1 that handles those revocations.

2 MR. WALKER: He's not in Enforcement?

3 MR. KUNTZ: No. But again, we regularly review  
4 our records and we look through our database and we make  
5 determinations in those reviews of the database as to  
6 whether or not things are properly and appropriately  
7 titled and registered in the State of Texas. I don't know  
8 if this came in from somebody that was complaining, I  
9 don't know if it was through a normal review. I don't  
10 know what specifically precipitated the revocation of the  
11 vehicle that's in this packet, but from what I'm hearing,  
12 it sounds like the time between the initial title and the  
13 revocation was not a very long period of time, it wasn't  
14 like it had been titled and registered for 20 years in  
15 this specific instance.

16 MR. PALACIOS: Mr. Kuntz, I think part of the  
17 concern would be if the title was revoked, the issue would  
18 be why was it issued in the first place.

19 MR. KUNTZ: And I'm going to, unfortunately,  
20 point the finger at our county tax assessor-collectors.

21 MR. WALKER: She's got a big stick over here.

22 (General laughter.)

23 MR. KUNTZ: There are thousands of title clerks  
24 across the state that struggle with making these  
25 determinations at their office on a daily basis. In fact,

1 I was just talking to one here just a little while ago  
2 that they struggle with these because a vehicle comes up,  
3 they are trying to make a determination at that time, they  
4 go ahead, they look at the paperwork and they say I think  
5 that it looks good, and they title it. That does not  
6 necessarily mean that it did actually comport with the  
7 law.

8           And a lot of times when we see a specific  
9 vehicle class that our title chief has made a  
10 determination on -- Ariel Atom is the prime example I can  
11 give you -- question came in: Can an Ariel Atom be  
12 licensed and registered on the roadway? We reviewed that  
13 specific vehicle, we looked at the class of vehicle, we  
14 did research on it, we made a determination, no, it does  
15 not meet the standards to be titled and registered on the  
16 roadway. We look in our system to see if we have any that  
17 are titled and registered, we find five, we say they  
18 weren't supposed to be titled and registered to begin  
19 with, and we revoke those titles.

20           So it could come in from a myriad of different  
21 ways. Somebody may have sent in a request that says:  
22 Hey, I want to be able to title and register a DF Goblin.  
23 We went out, we did a title determination on it, we  
24 looked at that vehicle. We said, No, it does not meet our  
25 current definitions, it would not be allowed for under our

1 rules. We then search our database, we find them, and  
2 they are subsequently revoked. That's just different  
3 scenarios that you may see in our going back and reviewing  
4 these titles and making a determination did something slip  
5 through, because I'm not going to tell you that the system  
6 is so tight that you cannot slip a vehicle through, you  
7 can.

8           Polaris is a prime example. The whole issue of  
9 Polaris started because we revoked Polaris titles, and we  
10 had a determination that was requested by Polaris, can  
11 this vehicle be titled and registered, and we made the  
12 determination, no, they could not under the current  
13 definition at that time in statute. That was subsequently  
14 changed and we then allowed them.

15           MS. BREWSTER: Mr. Chairman, if I may?

16           MR. PALACIOS: Yes.

17           MS. BREWSTER: Mr. Kuntz is referring very  
18 specifically to the Polaris Slingshot.

19           MR. KUNTZ: Slingshot.

20           MS. BREWSTER: Which was referred to earlier in  
21 testimony.

22           MR. PALACIOS: Okay.

23           Board Member Walker asked a question previously  
24 as to how many titles were revoked. Mr. Hinkle, do you  
25 have any information on that?



1 MR. HINKLE: Thank you. This is Ron Hinkle.  
2 Unofficially it's probably in the hundreds  
3 because there's a Facebook group of all these folks who  
4 were talking and everyone is kind of telling I got revoked  
5 as well, I received my letter. The only ones we have  
6 letters that we put in there are just the two that are  
7 represented here, but there could be hundreds that have  
8 been revoked.

9 MR. PALACIOS: Okay. Thank you.

10 MR. HINKLE: And the Polaris Slingshot, I think  
11 that they were being sold in other states because they  
12 were not defined here in the state so they couldn't be  
13 sold in the state. You could buy them but you couldn't  
14 bring them in, you couldn't be titled and licensed because  
15 they were not defined. They were a thing, so they weren't  
16 issued anything, they just didn't exist in the minds of  
17 the DMV -- understandably so -- so that's the reason why  
18 they weren't able to get their title and registration  
19 until they legislatively became something and then you  
20 could apply for it.

21 And I think there's another question that  
22 someone raised that -- do you want to come to the mic just  
23 for record purposes -- you raised a question that was  
24 interesting, as well, about how long it took.

25 MR. SULLIVAN: My name is Justin Sullivan

1 again.

2 As he mentioned, I guess revoking these titles  
3 is a fairly standard practice. What I want to know is it  
4 fairly standard to take 2-1/2 years to revoke a title?

5 MR. WALKER: Between the time you find out  
6 about it?

7 MR. SULLIVAN: From the time it was issued to  
8 the time it was revoked.

9 MR. HINKLE: That's his timeline, essentially.

10 MR. WALKER: Well, how would they know? They  
11 just figured it out at some point in time.

12 MR. KUNTZ: And that's the answer is it takes  
13 until we figure out that there's something that is in the  
14 system. Like I said, if somebody manages to get a title  
15 in and it is not discovered for some time, still the laws  
16 were in place when that title was issued, unfortunately.  
17 The administrative rules, the laws, all of those things  
18 existed at the time that title was issued and it did not  
19 comport with those laws and rules at the time the title  
20 was issued.

21 MR. DUNCAN: And the clearest example -- David  
22 Duncan, general counsel -- is the Polaris Slingshot. When  
23 the Polaris Slingshot issue arose, we were made aware that  
24 there were three other manufacturers of basically  
25 identical vehicles. In fact, the Slingshot was basically

1 identical to a thing called a Campagna T-REX, and we  
2 discovered that there were half a dozen of those that were  
3 registered and titled in Texas and that some of those had  
4 been registered, I believe, for years, and we revoked  
5 those at the same time as the few Polaris Slingshots that  
6 had made it into Texas at that point.

7 MR. WALKER: Well, so the Slingshot actually  
8 got registered?

9 MR. DUNCAN: The change in statute, that took a  
10 change in statute. It is now called an autocycle, it is  
11 neither a car nor a motorcycle.

12 MR. WALKER: It's less than a dune buggy.

13 MR. DUNCAN: It is an autocycle.

14 MR. SULLIVAN: This is not a gotcha. We didn't  
15 go into the DMV and say, oh, if we just fill out the  
16 paperwork in this way, we'll get it approved. I think  
17 what I tried to provide with my earlier testimony is the  
18 reasons we went through and why it is legal. This is not  
19 a situation where we go and we say, okay, if we use this  
20 specific language, we might get through. That was never  
21 the intent.

22 MR. WALKER: I get you. I think most of the  
23 Board gets that.

24 MR. GRAHAM: Just one last thing just so  
25 everybody is clear that you're going to put together a

1 work group, going to get stakeholders together, try to  
2 work through all of this. Obviously there's a lot to  
3 cover. I look forward to hearing the results of that. And  
4 maybe just clarify for these folks if they do want to have  
5 some kind of an appeal for a decision that's been made on  
6 a title, how do they move forward, if they so choose, how  
7 would they move forward with that.

8 MR. KUNTZ: The simplest thing would be to  
9 write a letter to the department requesting a review of  
10 that determination.

11 MR. GRAHAM: And they can cite the vehicle VIN  
12 number.

13 MR. DUNCAN: Exactly, along with your arguments  
14 that it meets all portions of the statute, not just 504 or  
15 501. That's what Jeremiah was trying to get at earlier is  
16 when that legislative change was made there are slight  
17 differences between the titling reference to street rod  
18 and custom vehicle and the license plate definition of  
19 those. It's a very complicated thing. But to try to put  
20 it into the context of what we understand, not it's safe,  
21 not it passed an inspection, it has to fit within one of  
22 the categories we have. And I will tell you, just to  
23 drive home the point that started all of this was dune  
24 buggies, and with dune buggies we have a very difficult  
25 time identifying where that fits in the statute. In fact,

1 as nearly as we can tell, it's impossible, there really  
2 isn't a definition that they fit in the statute.

3 MR. PALACIOS: Okay. Well, thank you very much  
4 to our commenters. We truly appreciate your input and  
5 your feedback. As we said before, this is a very complex  
6 issue and our work is just beginning in this, we have a  
7 lot going forward. Thank you.

8 Let's move forward now to agenda item number 8  
9 which is a contested case, and here to address that issue  
10 will be Mr. Daniel Avitia and Heather Pierce.

11 Yes, Mr. Avitia.

12 MR. AVITIA: Thank you, Chairman. Members, Ms.  
13 Brewster, good morning. Again, Daniel Avitia, director of  
14 the Motor Vehicle Division.

15 Members, this is an action item. I will be  
16 requesting the Board to issue a final order. Alongside me  
17 this morning is Ms. Heather Pierce. Ms. Pierce is an  
18 attorney with the Enforcement Division and provided the  
19 legal representation during the contested case hearing  
20 held at the State Office of Administrative Hearings on  
21 August 10 of this year.

22 Agenda item 8, which can be found on page 61 of  
23 your board books, is the contested case Texas Department  
24 of Motor Vehicles v. Rickey A. Lyons d/b/a The Race House.  
25 On this matter staff is asking the Board to issue a final

1 order which concurs with the administrative law judge's  
2 proposal for decision which is to deny Mr. Lyons's  
3 application for a general distinguishing number to operate  
4 as an independent motor vehicle dealer.

5 The grounds for the denial are the following.  
6 First, the respondent, Mr. Lyons, made material  
7 misrepresentations in his GDN application. Specifically,  
8 Mr. Lyons failed to disclose that he previously held a GDN  
9 license in the State of Texas.

10 Second, the respondent failed to admit that he  
11 was the manager of another dealership called Ladies Choice  
12 four years in the State of Texas. Under Mr. Lyons's  
13 leadership and management Ladies Choice had its GDN  
14 license revoked in one enforcement case, and in another  
15 case was assessed a \$6,000 administrative penalty for the  
16 following issues: misusing temporary tags, operating as a  
17 dealer from a location that does not meet requirements,  
18 selling vehicles from a location other than a licensed  
19 location, making material misrepresentations to MBD on the  
20 GDN renewal with regard to the physical location of this  
21 business, failing to remit motor vehicle sales tax and  
22 failing to apply for transfer of title and registration,  
23 and finally, for failing to file or file in a timely  
24 manner the entity's 2015 motor vehicle inventory  
25 declaration reporting sales for the preceding 2014

1 calendar year.

2 The \$6,000 penalty assessed by the Department  
3 of Motor Vehicles was unpaid at the time of the hearing,  
4 and as of yesterday's checking, remains unpaid.

5 The issue before you today is whether the Board  
6 should approve or deny Mr. Lyons's application for GDN  
7 licensure. The applicant in this case did not file  
8 exceptions, briefs of pleadings contesting the judge's  
9 findings of fact or conclusions of law. As you're aware,  
10 the Board can change findings of fact, conclusions of law  
11 or orders issued by a SOAH ALJ when change is justified  
12 under Texas Occupations Code 2001.058(e). We don't  
13 believe there are any such justifications present in this  
14 case. That is to say the SOAH judge did not fail to  
15 properly apply or interpret the law, agency rules, written  
16 policies or prior administrative decisions, there is not a  
17 prior administrative decision on which the SOAH ALJ relied  
18 on that is incorrect or should be changed, and finally,  
19 there is not a technical error in a finding of fact that  
20 should be changed.

21 Staff believes the judge's analysis of the law  
22 and the evidence presented in this case is thorough and  
23 that the conclusions of law reached in this case are  
24 certainly reasonable. Therefore, staff requests that the  
25 Board issue an order adopting the judge's findings of fact

1 and conclusions of law and the judge's recommendation,  
2 again, which is to deny Mr. Lyons's application for  
3 licensure.

4 The applicant did receive notice of the Board's  
5 consideration of this case this morning. I believe Mr.  
6 Lyons is present this morning and would like to address  
7 the Board.

8 Members, this concludes my remarks. Thank you.

9 MR. PALACIOS: Thank you, Mr. Avitia.

10 And Mr. Rickey Lyons, I believe, is present to  
11 address this matter on his behalf. Please come forward.

12 Good morning, Mr. Lyons. The Board has  
13 allocated you five minutes.

14 MR. LYONS: Good morning. My name is Rickey  
15 Lyons, I am from Dallas. However, I want to start off by  
16 saying it was really a pleasure being here, learning a  
17 lot, seeing what a Board meeting is really about, how you  
18 guys discuss openly things that the department is working  
19 on, improvements, and just different challenges, and  
20 through a cohesive effort and criticism, I think you guys  
21 are moving forward in the right direction. We simply  
22 encourage you guys to continue to do the same thing.

23 A couple of things. The reason that I'm here,  
24 I didn't bring any notes, I wasn't prepared, but about two  
25 years ago my life was going really, really well. I'm from



1 Dallas and we had just completed a roof project, tore off  
2 the roof and completed a new decking, TPO, a brand new  
3 type of roof that was about \$40,000 worth of work that we  
4 were able to source a general contractor and we got it  
5 done for 22K, with the help of some relatives.

6 At the time we were just working with the  
7 Enforcement Division attorney, Corrie Alvarado, and what  
8 had happened was we were fined \$6,000, and my mother was  
9 working with Corrie Alvarado to get the fines reduced and  
10 get everything ironed out, and they had successfully done  
11 that. The \$6,000 fine was reduced to \$1,500 in December  
12 of 2015. Corrie Alvarado and my mother, they worked  
13 together to fix the last component that was warrant  
14 basically a zero fine. It was a permanent sign. We had  
15 just completed a complete tear-off and put-on of a brand  
16 new galvanized steel roof and building it up, so to put a  
17 permanent sign on the building, we didn't know how that  
18 was going to work out. However, we did advise Ms.  
19 Alvarado that we needed to get with the City of Dallas  
20 because we did have a pole in the parking lot but you had  
21 to be grandfathered in, so that warrants some things with  
22 the City of Dallas, submitting paperwork around December  
23 of 2015. Vacations were there, people were off work, and  
24 progress was going to be slow.

25 Also, we had just suffered a big tornado. As

1 we came in today, I heard you guys talking about Hurricane  
2 Harvey. When there's a natural disaster, you know,  
3 contractors are depleted, there is a delay on everything,  
4 so December we had a 30-day good month. Corrie, we closed  
5 out the end of the year saying, okay, the \$6,000 was  
6 reduced to \$1,500, we just need a permanent sign, once you  
7 guys get that done, let us know what the city is saying,  
8 the City of Dallas, and all of that.

9 And then all of a sudden in January, guess  
10 what, there is this surprise, hey, we now need \$6,000,  
11 we're going to push for revocation, and then February, Mr.  
12 Avitia signed off on that. So you've got to understand we  
13 didn't understand how to deal with that, and so now to  
14 hear the things that are brought up that we paid a fine  
15 for we thought we settled in good faith.

16 But here's another part about it, the company  
17 Ladies Choice is actually owned by my sister, who is in  
18 the military, she's a sergeant in the military, and there  
19 were some other things that we asked the State, as far as  
20 the administrative hearings and decisions, to abate that  
21 because under the Service Members Relief Act, you know,  
22 the license was revoked, there were administrative actions  
23 taken, and she wasn't notified, she was never notified.  
24 She never got a chance to appear, she never got a chance  
25 to represent, and the State moved forward quickly to

1 revoke the license.

2           So again, we're like saying, hey, this is  
3 unfair, how do we deal with this, after we just spent all  
4 this money to get the roof done and then we're dealing  
5 with the State who is moving forward really aggressive  
6 without any recourse, without any type of communication,  
7 just telling us to sit back and wait, wait, wait, and then  
8 all of a sudden January 2016 is here, February 2016 is  
9 here, now the license are revoked.

10           Now, another thing that they didn't mention was  
11 that -- and like the gentleman that mentioned the tax  
12 collector's office -- there was another instance that came  
13 up about us paying inventory taxes, and it was ironic but  
14 when we go down to the tax office, I've gone down several  
15 times, I made several phone calls. And they always said,  
16 Is Ladies Choice in business? And we were like scratching  
17 our head like what are you guys talking about. So a  
18 couple of trips downtown, they're saying, Sir, we can't  
19 pull your company up. Our P number, it was a P and six  
20 digits, we had the exact same number as another company  
21 who had five digits, and in the system they were unable to  
22 pull up our account.

23           MR. PALACIOS: Are you close to wrapping up,  
24 Mr. Lyons?

25           MR. LYONS: Pardon me?

1 MR. PALACIOS: Your time is up.

2 MR. LYONS: I'm trying to speak a little fast.

3 MR. PALACIOS: But your time is up, so just  
4 please wrap it up. I'll give you a few more seconds.

5 MR. LYONS: Okay. So with that, we had to  
6 learn that the tax collector's office coordinates with the  
7 central appraisal district who tried to get with Corrie  
8 Alvarado and let her know that we made an error with the  
9 City of Dallas, how can we resolve this. With Corrie  
10 there was no cooperation, and it's just been a downward  
11 spiral. This has sent my family and everybody into it's  
12 just been a complete disarray. And we want to just make  
13 sure to let you guys know that we've done a lot, people  
14 are relying on us to continue to put out good product, we  
15 want to do good things, and that's why we're here.

16 MR. PALACIOS: Thank you, Mr. Lyons.

17 Are there any questions for Mr. Lyons?

18 (No response.)

19 MR. PALACIOS: Hearing none, I will entertain a  
20 motion.

21 MR. PAINTER: Mr. Chairman, I move that the  
22 Board adopt the PFD as written.

23 MR. PALACIOS: The motion has been made by  
24 Board Member Painter to adopt the PFD. All in favor  
25 please signify by raising your right hand.

1 MR. WALKER: The PFD being the administrative  
2 ruling from SOAH?

3 MR. PALACIOS: Yes.

4 MR. PAINTER: Yes.

5 MR. PALACIOS: All in favor please signify by  
6 raising your right hand.

7 (A show of hands.)

8 MR. PALACIOS: Motion carries unanimously.

9 Thank you, Mr. Lyons.

10 Let's move on to agenda item number 9. We will  
11 hear from Mr. Jimmy Archer on agenda item 9 regarding  
12 Chapter 219, and we also have someone who has come forward  
13 to comment on this as well.

14 MR. ARCHER: I can still say good morning. Mr.  
15 Chairman, members of the Board, for the record, my name is  
16 Jimmy Archer, I'm director of the Motor Carrier Division.

17 This agenda item may be found on pages 82 through 112 of  
18 your Board book. I have three rules to present to you for  
19 adoption today. All these proposed rule amendments were  
20 presented to the Board at the August 17 Board meeting and  
21 created permits that were authorized by the 85th  
22 Legislature.

23 The first rule amendment is to 43 Texas  
24 Administrative Code Section 219.34 which creates a North  
25 Texas Intermodal Permit. I believe that Caroline called

1 it the Northeast Texas Permit. On our system it's called  
2 the North Texas Permit, it's an intermodal permit. The  
3 North Texas Intermodal Permit allows for the transport of  
4 sealed intermodal shipping containers in portions of Bowie  
5 County. The statute provides specific axle configurations  
6 and weights of the vehicle combinations with a gross  
7 weight not to exceed 93,000 pounds.

8 In the original rule proposal we set the fee at  
9 \$2,000, as allowed by statute. Staff is recommending the  
10 permit fee be set at \$500 based on comments received from  
11 TxDOT, the Bowie County judge and representatives of  
12 Domtar. The department asked TxDOT for their  
13 recommendation on an initial fee for this permit. Based  
14 on Domtar's estimate, they would buy approximately 20  
15 permits per year and will take approximately 1.5 trips per  
16 day, five days per week under each permit.

17 In a letter dated October 19, 2017, TxDOT  
18 concluded that a permit fee of \$200 is sufficient at this  
19 time to cover the anticipated increase in pavement and  
20 bridge consumption costs caused by the increased weight of  
21 the permitted vehicles. The Honorable James Carlow, Bowie  
22 County Judge, requested the department to set the permit  
23 fee at an amount that is proportionate to the short  
24 distance within the county that aligns with similar  
25 permits in Texas. Domtar representatives submitted four

1 comments requesting the department to adjust the proposed  
2 permit fee to align with the following: distance to be  
3 traveled which is 2.5 miles, and similar permits issued by  
4 the department.

5 Mr. Colin Parrish submitted a comment on behalf  
6 of Domtar in which he proposed a formula which is based on  
7 the fee for the Intermodal Shipping Container Permit under  
8 219.36 -- which I'll talk about in a little bit -- to come  
9 up with a \$500 fee for the North Texas Intermodal Permit.

10 Mr. Parrish also stated that the legislature intended the  
11 permit fee to be set lower than \$2,000, except in extreme  
12 circumstances or as a last resort, and that the fee for  
13 this permit will be viewed as a precedent setting test  
14 case.

15 The department recommends reducing the permit  
16 fee in 219.34 from \$2,000 to \$500 which is fair and  
17 reasonable for this annual permit. However, the  
18 department does not adopt the formula proposed by Mr.  
19 Parrish. We disagree with the argument that the permit  
20 fee should be based on the distance of the road on which  
21 the permit is authorized, and we disagree with the  
22 argument that the legislature intended the permit fee to  
23 be set at lower than \$2,000, except in extreme  
24 circumstances or as a last resort. And finally, we do not  
25 intend to set precedent in determining future permit fees.

1           The Transportation Code requires the department  
2 to initially set the fee for this permit at an amount not  
3 to exceed \$2,000. This section also says that beginning  
4 in 2022, September 1 of each even-numbered year, the  
5 department shall set the fee for this permit based on the  
6 results of studies conducted by TxDOT, and does not list  
7 distance as a factor for the TxDOT study which will be  
8 used to determine the future fee for this permit. The  
9 legislature did not intend for this initial fee to set a  
10 precedent for the future fee for this permit because the  
11 legislature provided the factors on which the future fee  
12 must be based. Also, there's no language in statute that  
13 says the department must set the fee lower than \$2,000,  
14 except in extreme circumstances or as a last resort.

15           If the Board approves, staff anticipates  
16 publication of the amendment in the *Texas Register*. This  
17 permit will become effective 20 days after filing with the  
18 *Register*, and I ask that the Board adopt Section 219.34  
19 with the recommended fee of \$500.

20           MR. DUNCAN: And, members, David Duncan,  
21 general counsel. What Jimmy has just been covering in his  
22 presentation is that the numbers have been in varying  
23 amounts from different sources, so TxDOT said \$200, the  
24 commenter from the Domtar side said \$500. If the Board  
25 were to set an amount anywhere at or below \$2,000, it is



1 defensible. There really is no magic formula for this,  
2 and there is no formula specified in statute other than  
3 beginning in 2022. I just wanted to make clear that it is  
4 within the Board's discretion to set the fee anywhere from  
5 below \$2,000 up to \$2,000.

6 MR. PALACIOS: Thank you, Mr. Duncan.

7 Mr. Archer, is your presentation complete?

8 MR. ARCHER: Yes, sir.

9 MR. PALACIOS: At this point then I want to  
10 call up Mr. Colin Parrish, who is here to speak on this  
11 issue.

12 MR. PARRISH: Thank you for hearing me today.  
13 My name is Colin Parrish. I'm here representing Domtar.

14 MR. PALACIOS: Mr. Parrish, for the Board's  
15 benefit, can you let them know what Domtar stands for?

16 MR. PARRISH: It's the name of the company, it  
17 stands for Dominion Tar. Domtar is an integrated pulp and  
18 paper manufacturing products company that Dominion Tar  
19 didn't really represent what it does anymore, so a long  
20 time ago they changed it to Domtar.

21 They do integrated pulp and paper. This  
22 product that they're going to be moving is a fluff pulp,  
23 it's going to be big rolls of kind of a fibrous cardboard  
24 that they're going to ship overseas to make baby diapers  
25 and adult incontinence products in this case.

1 I will keep it super brief. I just wanted to  
2 thank everybody for their professionalism throughout the  
3 whole process, during the comment period, through  
4 everything, the initial proposed rule and then now the  
5 modified recommended proposed rule. So I know it's a  
6 thankless job that they all get, we just wanted to say  
7 thank you for your time. And I can answer any questions.

8 MR. PALACIOS: Thank you, Mr. Parrish.

9 Are there any further questions for Mr. Archer  
10 or Mr. Duncan or Mr. Parrish?

11 (No response.)

12 MR. PALACIOS: Hearing none, I will entertain a  
13 motion

14 MR. WALKER: I have a question.

15 MR. PALACIOS: Yes.

16 MR. WALKER: So what I have heard so far and  
17 what I have read is that it is asking this Board to set a  
18 fee for a permit to transport 2-1/2 miles, and I think the  
19 staff has maybe made a suggestion/recommendation of \$500.

20 MR. PALACIOS: That is correct.

21 MR. WALKER: And as a trucker and as the  
22 trucking industry's representative on this Board, I've got  
23 all kind of mixed emotions because the next thing we're  
24 going to look at here is the milk transport people and the  
25 statutory fee that was set on that is \$1,200 to haul the

1 same amount of weight of milk going down the gravel road  
2 from the dairy farm to where they bottle the milk at, the  
3 South Texas permit that was statutorily set was \$6,000 for  
4 93- to 95,000 pound overweight containers, very similar to  
5 these up there, that was statutorily set at \$6,000 in  
6 Houston on about a three-mile route down there. Then it  
7 says set fees standard to those out there, the legislative  
8 mandate says, didn't it say, Jimmy, similar to other fees  
9 out there?

10 MR. ARCHER: And requests that were made by the  
11 commenters.

12 MR. WALKER: And so my company and anybody else  
13 who buys a permit from this agency today, if I take and go  
14 pick up a load that weighs legal weight and take it from  
15 one side of the road down to the other side, I pay \$85,  
16 and if you take and think about what these guys are doing  
17 here on this fee is they're paying an equivalent of  
18 \$1.28 -- based on the volume that they're going to do at  
19 \$500 is \$1.28 for every time they do that. So when I put  
20 that in perspective to myself, I think about every time I  
21 get on the Harris County Toll Road in Houston, Texas and I  
22 go from one exit to the next exit in my car -- and I'm  
23 paying fuel taxes to pay to build that road but somebody  
24 says we've got to pay for this through the cost of  
25 tolls -- I get charged \$1.25 driving a car from one exit

1 to the next exit on the Harris County Toll Road in  
2 Houston, Texas.

3 I don't think that \$500, I don't think that  
4 \$200 that the TxDOT study is real legitimate. And  
5 furthermore, I'm going to tell you something else about  
6 this that nobody has thought about is that 2-1/2 miles, I  
7 can go get a truck today, and when they said there's going  
8 to be 20 permits bought on this thing, I could go out  
9 there and buy one permit with one truck and move every one  
10 of their loads and just shuttle two miles down that road,  
11 disconnect that trailer and hook to a different truck and  
12 let him take it the remainder of the distance someplace  
13 else. So theoretically, you could probably do this with  
14 one permit all year long and move all their loads with one  
15 truck.

16 My suggestion, and I don't have the golden  
17 ball, but I wouldn't do this for less than \$1,000. And  
18 the State issued me just the other day, we got a permit on  
19 some stuff we do in Houston on some tires where they grind  
20 tires up, and we got a permit -- Jimmy, what's it  
21 called -- a variance, we got a weight tolerance permit  
22 that allows us 10 percent to move some crushed up ground  
23 tires because the guy that crushes them up and grinds them  
24 sometimes overloads our trailer, so we needed a permit to  
25 do that. We take that down the street and Jimmy charges

1 me \$1,000 for that.

2 Is that not correct, Mr. Archer?

3 MR. BARNWELL: I thought you guys were friends.

4 (General laughter.)

5 MR. WALKER: So I'm sitting here thinking,  
6 there is no standard out there, apparently. The  
7 legislature said \$2,000 is the maximum we can charge on  
8 this. I sure don't think that \$200, I sure don't think  
9 that \$500 is legitimate. I'd recommend somewhere at least  
10 \$1,000 be the charge for this annual permit.

11 MR. PALACIOS: Mr. Archer, I understand we had  
12 feedback from stakeholders, legislature and so forth. The  
13 \$500 number, how did we arrive at that, I guess.

14 MR. ARCHER: I'd like to make two comments. To  
15 answer your question, Ms. Love stated that they had  
16 visited with legislative members who were fine with the  
17 \$500 fee. The second thing is I would agree with Member  
18 Walker that there is no set formula for setting a permit  
19 fee. I mean, once the legislature passes it --

20 MR. WALKER: It's all over the board.

21 MR. ARCHER: I mean, there's no standard  
22 formula. I can't calculate the fees for each permit type  
23 that we have, and we have 30 of them now, and tell you  
24 that there's anything that's similar between more than  
25 three of them at a time. There's three that use distance

1 as a calculation, those are by letter permits, those are  
2 set on weight and distance. All the rest of them they  
3 were set by the legislature.

4 Again, as Mr. Duncan said, it's the Board's  
5 pleasure to set this fee as what they feel it should be,  
6 anything from \$2,000 or less.

7 MR. GRAHAM: Followup question. So in the case  
8 of the fee that's been established at \$6,000 for the  
9 container units down at the port, that's an annual fee.  
10 Correct?

11 MR. ARCHER: Correct. It's one permit.

12 MR. GRAHAM: This \$500 fee is not an annual  
13 fee?

14 MR. WALKER: It's annual also.

15 MR. GRAHAM: It is an annual fee. So we're  
16 talking about the same thing.

17 MR. WALKER: According to the testimony, or  
18 this deal here is that they're going to run 1-1/2 loads  
19 per day per truck, well, they want 20 permits. But you  
20 could theoretically do this with one truck and pick it up  
21 at one end of the road and take it to the other end and  
22 shuttle it, and the State of Texas is only going to make  
23 whatever we set that fee and one truck could do all of  
24 this work, I guarantee you.

25 MR. ARCHER: Let me clarify. Domtar's estimate

1 in their letter, which is in your materials, is that they  
2 would buy 20 permits, they estimate 20 permits per year.

3 MR. GRAHAM: But in relation to other permits,  
4 in my mind there's really no relevance to how many permits  
5 they're going to buy, it's being consistent and equal and  
6 treating everyone consistent across the board.

7 MR. WALKER: There's no way that we are going  
8 to be consistent here because we don't have the latitude  
9 or the knowledge to be consistent, because I'm telling you  
10 right now, these permits are all over the board and  
11 they're statutorily being created and the permit in  
12 Houston, Texas to do exactly what these guys are doing in  
13 North Texas is \$6,000. And the trucks have to be special  
14 designed trucks to do it, with third axles on them, they  
15 have to have anti-rollover, they have to have disc brakes.  
16 That bill is convoluted as all get-out, and this one got  
17 through as, hey, you can do it and the DMV has to set the  
18 fees.

19 MR. PALACIOS: Well, as Mr. Duncan has stated,  
20 it is the Board's purview to set the fee, we have the  
21 discretion up to \$2,000, staff has recommended \$500, we've  
22 had good discussion on this matter. At this time I'll  
23 entertain a motion to adopt a fee.

24 MR. WALKER: I would make a motion that we set  
25 the fee at \$1,000 annually.

1 MR. PALACIOS: The motion has been made by  
2 Board Member Walker to adopt the fee at \$1,000 annually.

3 MR. BARNWELL: Second.

4 MR. PALACIOS: Second by Board Member Barnwell.  
5 All in favor please signify by raising your right hand.

6 (A show of hands.)

7 MR. PALACIOS: Motion carries unanimously.  
8 Thank you, Board Member Walker, Mr. Archer.

9 MR. ARCHER: I have two other permits to  
10 discuss with you today. The other two permits authorized  
11 by the 85th Legislature are the Fluid Milk Transport  
12 Permit, and the Intermodal Shipping Container Permit.

13 Section 219.35 creates the Fluid Milk Transport  
14 Permit which allows the transport of fluid milk in Texas.

15 The statute provides for specific axle configurations and  
16 weights for the vehicle combination, with the gross weight  
17 not to exceed 90,000 pounds. The fee for this permit is  
18 set by statute at \$1,200.

19 Section 219.36 creates the Intermodal Shipping  
20 Container Port Permit which allows for the transport of a  
21 sealed intermodal shipping container more than 30 miles  
22 from a port authority or port of entry that is located in  
23 a county contiguous with the Gulf of Mexico or bay or  
24 inlet opening into the Gulf. The fee for this permit was  
25 set in statute at \$6,000. The statute provides specific



1 axle configurations and weights for the vehicle  
2 combinations, with a gross weight not to exceed either  
3 93,000 pounds on six axles or 100,000 pounds on seven  
4 axles.

5           These rules establish the requirements,  
6 restrictions and procedures regarding these two new  
7 permits such as application method, movement restrictions  
8 during hazardous conditions, curfew restrictions and  
9 windshield stickers. The proposed amendments no fiscal  
10 implications for the state or local governments. If the  
11 Board approves, staff anticipates filing of this notice  
12 with the adoption of these amendments through the *Texas*  
13 *Register*. They will become effective 20 days after  
14 filing, and I ask that the Board approve these rules for  
15 adoption.

16           MR. WALKER: I so move that we accept the  
17 adopted proposed rules.

18           MR. PALACIOS: Motion by Board Member Walker to  
19 accept the proposal.

20           MR. PAINTER: Second.

21           MR. PALACIOS: Second by Board Member Painter.

22           All those in favor please signify by raising your right  
23 hand.

24           (A show of hands.)

25           MR. PALACIOS: Motion passes unanimously.

1 Thank you, Mr. Archer.

2 Moving right along, we'll move on to agenda  
3 item number 10, rule proposal. We'll now hear, once  
4 again, Mr. Jeremiah Kuntz.

5 MR. WALKER: How long is this going to take?  
6 How many questions does Mr. Barnwell have?

7 MR. BARNWELL: Mr. Walker's questions.  
8 (General laughter.)

9 MR. KUNTZ: For the record, Jeremiah Kuntz,  
10 director of Vehicle Titles and Registration Division.

11 Before you is a package of rules that we are  
12 seeking permission to propose for public comment. These  
13 rules amend Chapter 217, there's a laundry list of these,  
14 217.71, 217.72, 217.73 to rename the subchapter and  
15 subsection titles. The proposed amendments also clarify  
16 that the purpose of the subchapter is to prescribe the  
17 policies and procedures under which the department may  
18 make automated equipment for use of RTS available at  
19 county tax assessor-collectors for users who opt to use  
20 webDealer.

21 The proposed amendments to 217.71 add a  
22 definition for title application and webDealer and correct  
23 some grammatical errors. Proposed amendments to 217.72  
24 also make minor wording changes. The proposed amendments  
25 also add a new 217.74, access to and use of webDealer

1 which includes requirements for submitting title  
2 applications through webDealer, including a requirement  
3 that the user must retain the title documents or other  
4 ownership evidence pertaining to the transaction for a  
5 minimum of four calendar years.

6 And then along with the proposed amendments and  
7 new sections described above, the department proposes  
8 related amendments to 215.144 and 221.72. These proposed  
9 amendments relate to record retention requirements for  
10 users of webDealer who are either a GDN holder or a  
11 salvage vehicle dealer.

12 To sum all this up, what we are adding in here  
13 are the record retention requirements for dealers or the  
14 salvage industry to retain the original salvage documents  
15 that are being submitted through the system. This will  
16 assist us particularly in the webSalvage arena. Today the  
17 insurance industry has to send in the original documents  
18 prior to us issuing them a salvage title. This will  
19 shorten the time frame to process those because the entity  
20 will just retain the original documents in their files for  
21 four years and we will be able to process those without  
22 waiting for the original documentation to make it to the  
23 department. So this rule is intended to streamline those  
24 processes by having the entity that's submitting the  
25 documents retain the originals for that time period.

1 MR. BARNWELL: Mr. Chairman, I move that the  
2 Board approve the proposed amendments to Chapter 215, 217  
3 and 221, as proposed by Mr. Kuntz.

4 MR. PALACIOS: I'll repeat that. There was a  
5 motion made by Board Member Barnwell to accept the  
6 amendments, as proposed on Title 43.

7 MS. HARDY: Second.

8 MR. PALACIOS: Second by Board Member Hardy.  
9 All in favor please signify by raising your right hand.

10 (A show of hands.)

11 MR. PALACIOS: Motion passes unanimously.

12 MR. KUNTZ: Would you like me to continue?

13 MR. PALACIOS: Yes, please.

14 MR. KUNTZ: Agenda item 11, this is rules that  
15 will be published for public comment. The proposed  
16 amendments add a definition for all-terrain vehicles and  
17 recreational off-highway vehicles by reference to  
18 Transportation Code 502.001. The amendments specify that  
19 an ATV and ROV are designed primarily for recreational  
20 use, and we've had some instances where manufacturers have  
21 asked for a title determination on off-road vehicles that  
22 are to be used for utility use, primarily the ones that  
23 we're talking about, you would see, as an example, the  
24 passenger carriers that are in the terminals of an airport  
25 that have usually like three benches on them. There have

1       been requests for title determinations on whether a title  
2       would be required for those. This is to help clarify that  
3       issue that if the vehicle is not intended for recreational  
4       off-highway use, then it would fall outside of those two  
5       definitions.

6               MR. PALACIOS: We do have someone who is  
7       present to provide comment on this issue. If you're  
8       finished with your presentation, Mr. Kuntz, I'll ask him  
9       to come forward.

10              Mr. Bruce Carlile, are you present? Please  
11       come forward.

12              MR. CARLILE: My name is Bruce Carlile from  
13       Houston.

14              Respectfully I'm going to decline because I'm  
15       really with the Volkswagen contingent and I don't want to  
16       muddy the waters. I apologize for wasting your time.

17              MR. PALACIOS: Thank you very much, sir.

18              Are there any questions for Mr. Kuntz regarding  
19       this?

20              MR. KUNTZ: And just to clarify and make sure  
21       that there's no ambiguity, this does not have any impact  
22       on dune buggies.

23              (General laughter.)

24              MR. PALACIOS: Thank God.

25              Hearing no questions, I'll entertain a motion

1 on agenda item number 11.

2 MR. BARNWELL: Mr. Chairman, I move that the  
3 Board approve the proposed amendments to Chapter 217 for  
4 publication in the *Texas Register* for public comment.

5 MR. WALKER: I second.

6 MR. PALACIOS: Motion made by Board Member  
7 Barnwell, second by Board Member Walker to adopt the  
8 proposal of the amendment. All in favor please signify by  
9 raising your right hand.

10 (A show of hands.)

11 MR. PALACIOS: Motion passes unanimously.

12 We are getting towards the end now. We will  
13 move on now to executive session.

14 We are going into closed session. It is now  
15 12:13 p.m. on December 7, 2017. We'll go into closed  
16 session under Texas Government Code Sections 551.071,  
17 .074, and 551.089. For those of you in attendance, I  
18 anticipate being in executive session for approximately 30  
19 minutes and reconvene in open session after that.

20 With that, we are recessed from public meeting  
21 and going into executive session.

22 (Whereupon, at 12:13 p.m., the meeting was  
23 recessed, to reconvene this same day, Thursday, December  
24 7, 2017, following conclusion of the executive session.)

25 MR. PALACIOS: It is approximately 12:50 p.m.

1 on December 7, 2017, and the Board of the Texas Department  
2 of Motor Vehicles is now in open session. We want to note  
3 that no action was taken in closed session.

4 We are awaiting Mr. Jeremiah Kuntz. We'd like  
5 clarification on two items that we previously voted on, as  
6 soon as he arrives, which he has arrived.

7 Thank you, Mr. Kuntz. We would like  
8 clarification on two items that we voted on earlier on  
9 Chapter 217. I believe they were amendments 217.41 and  
10 217.123 and .124.

11 MR. KUNTZ: Yes, sir. Before you are the  
12 proposals for publication to amend Chapter 217.41 of the  
13 Administrative Code. The purpose of this amendment is to  
14 implement HB 1590. This is one of the bills that Caroline  
15 Love referred to earlier. This eliminates the requirement  
16 that the department conduct a hearing to determine  
17 whether a revocation of a disabled parking placard should  
18 continue or be rescinded, and adds that a person from whom  
19 a placard has been seized can apply for a new placard by  
20 submitting an application under Transportation Code  
21 681.003. This is a legislative change that occurred this  
22 last legislative session.

23 We used to, if a handicap placard was seized  
24 from a person, we had basically a process by which they  
25 could come in and request to get that back. The law was

1 changed to eliminate that process and just allow them to  
2 reapply, so they would just go into the tax office, show  
3 the proof that they qualify for the handicap placard, and  
4 it eliminates that process that we would go through which  
5 really did not result in anything substantial in the  
6 process.

7 MR. PALACIOS: Thank you. Please proceed.

8 MR. KUNTZ: Continuing on, the final rule that  
9 is for publication is 217.123 and 217.124. These  
10 particular rules deal with motor vehicle records and the  
11 fees that are assessed. What we are attempting to do here  
12 is to clarify some of the practices that the agency has  
13 had that have been administered through contracts with  
14 individuals that obtain certain motor vehicle records. We  
15 have had, as a practice, exemptions for law enforcement or  
16 certain governmental entities from having to pay fees in  
17 order to get motor vehicle records from the department.  
18 What we are doing is clarifying in rule so that there's no  
19 ambiguity as to who qualifies for exemptions from the fees  
20 and who would have to pay and which types of motor vehicle  
21 records that would apply to

22 Essentially what we are doing here is putting  
23 it out to where if you come in under contract and obtain  
24 the database, let's say you're a county toll road  
25 authority, and you need our motor vehicle records in order



1 to send toll bills to your customers, what we would do is  
2 we would provide them with weekly updates to the system,  
3 so all the transactions that have occurred for the week  
4 that updated title records, we provide those in electronic  
5 format to them for free. They would be responsible for  
6 data-mining that information themselves to determine who  
7 the owner of vehicles are.

8 If, however, they wanted us to do the work,  
9 which we refer to as a batch process, where they would  
10 send us license plates and then we would query the  
11 database and then give them the results in a report, those  
12 services would have to be paid for because they require  
13 staff time and they create workload for the folks in IT.

14 And so what we're clarifying here is that there  
15 are certain ways that you can get these records that we  
16 will give them to you for free if you're a governmental  
17 entity or law enforcement, and then in other instances if  
18 we're required to do something in order to get the records  
19 for you, we would assess those fees. And so that's the  
20 main purpose of doing this is to clarify that, and then  
21 also codify into the rule some of the fees that were being  
22 assessed through contractual arrangements. There's been  
23 new files that have come about since these rule were first  
24 implemented that didn't exist before, and so we're trying  
25 to make sure that the fees for those specific files are

1 clarified in the administrative rule.

2 MR. PALACIOS: Are there any questions on these  
3 three amendments?

4 MR. WALKER: Yep. So you mentioned giving the  
5 toll road people the information, giving the information  
6 and charging somebody that might need some. Who sets the  
7 fee and how much is the fee to buy that information?

8 MR. KUNTZ: So the fees are set in this rule.  
9 So the specific fee for those records are set by this  
10 administrative rule.

11 MR. WALKER: Show me where that list is, what  
12 page.

13 MR. KUNTZ: It's on page 188 of your board  
14 book. For new contracts and renewals, the cost for title  
15 histories are \$5.75, certified title histories \$6.75, it  
16 goes on down here. Weekly updates is under D.2, and a  
17 weekly update would be for \$135 a week. So if you're  
18 getting the reoccurring weekly updates to the database,  
19 you would pay \$135 per week to get those.

20 MR. WALKER: So it says here there's a deposit  
21 of \$1,000. What's the deposit for?

22 MR. KUNTZ: That is what we would deduct from  
23 for those weekly charges.

24 MR. PAINTER: To make sure we get our money.

25 MR. KUNTZ: Yes. So they pay up front and then

1 we deduct it. It's kind of like an escrow account.

2 MR. WALKER: So then when they go in there and  
3 draw our data down, they pay a minimum, it's 12 cents per  
4 record?

5 MR. KUNTZ: For weekly updates there's a  
6 deposit of \$1,755. The first week that they receive a  
7 file, we would deduct \$135 from the \$1,755, and every time  
8 they get the record, we would deduct that money from their  
9 deposit, and then they would reload that account.

10 MR. WALKER: Is that all of the files?

11 MR. KUNTZ: No. So under electronic motor  
12 vehicle records --

13 MR. WALKER: There's 28 million registered cars  
14 in the State of Texas, or whatever, 23-. So when they  
15 pull down, what do you get for that 135 bucks? All 23  
16 million, or whatever it is?

17 MR. KUNTZ: No. So what you have to do is you  
18 first have to load a database using the master file. The  
19 master file has all of the current records that are in our  
20 database. The weekly file contains all of the changes to  
21 that master file that have occurred the previous week. So  
22 all the transactions that are processed in a county office  
23 for that week show up in a weekly file, and you would use  
24 that to update your database -- so somebody has to have a  
25 database on the outside of our system -- they would update

1 their database with those weekly changes. That weekly  
2 file has all the alterations and changes that would have  
3 occurred.

4 MR. WALKER: That were changed over the last  
5 week.

6 MR. KUNTZ: Correct. So it's just the  
7 exceptions.

8 MR. WALKER: There's no requirement for them to  
9 go and do that download. Correct?

10 MR. KUNTZ: No. If they want to just start  
11 getting our weekly files, they could start by just  
12 obtaining a week's file at a time until they had gone for  
13 52 weeks and then they would have the totality of the  
14 database at that point.

15 MR. WALKER: I wouldn't have the totality on  
16 day one?

17 MR. KUNTZ: You would not. The weekly update  
18 is only going to have the transactions that were processed  
19 in a county office that week.

20 MR. BARNWELL: It's an incremental update.

21 MR. KUNTZ: Correct.

22 MR. WALKER: So let me ask you a question  
23 because this kind of hits home here a little bit. I go  
24 out here and sell my pickup truck that I'm driving.  
25 Harris County Toll Road Authority sees my truck license

1 plate number. I go and change it at the county tax  
2 assessor-collector's office. So now six months from now  
3 that license plate goes through a Harris County Toll Road  
4 booth and they send me a notice that says, hey, you ran a  
5 booth and didn't pay a tag. Well, I don't even own that  
6 vehicle, nor do I own that tag anymore. Is that because  
7 Harris County didn't update their data?

8 MR. KUNTZ: No. When you sell a vehicle the  
9 owner on record is not updated until the purchaser of that  
10 vehicle applies for title. So take for example, you trade  
11 your vehicle in to a dealership, it sits on the  
12 dealership's lot for six months, it is still in your name  
13 for six months until the new purchaser purchases that and  
14 the dealership goes to the county office and applies for  
15 title in the new owner's name.

16 However, what you can do is --

17 MR. WALKER: Who takes my tag off that car?  
18 Should I take it off?

19 MR. KUNTZ: You should, yes. Our best practice  
20 is anybody that sells a vehicle should remove the license  
21 plate and registration sticker from that vehicle upon sale  
22 of it, as well as file a vehicle transfer notification  
23 with the department which will actually put a remark on  
24 your record that that vehicle has been transferred and  
25 that it is pending a new purchaser applying for title.

1 MR. WALKER: But the typical person does not do  
2 that.

3 MR. KUNTZ: They should. It's on our website,  
4 it is free to obtain.

5 MR. WALKER: I go to Raymond's dealership,  
6 drive in there, say Raymond, what will you give me for my  
7 car out here? Raymond says I'll give you a thousand bucks  
8 for it. I say put it against the cost of a new one, and  
9 here's the keys to my old one.

10 MR. PALACIOS: The common practice amongst  
11 dealerships is to remove license plates and we put  
12 temporary tags on.

13 MR. KUNTZ: A dealer is required by law to  
14 issue new registration to that vehicle when they sell it.  
15 What we refer to as sticker scraping, they're required by  
16 law to remove the license plate and registration from that  
17 vehicle before it is sold.

18 MR. BARNWELL: But not upon acquisition.

19 MS. CARAWAY: Before it's sold. That's the  
20 problem.

21 MR. PALACIOS: Normally that's a matter of  
22 practice. As soon as we bring the vehicle in inventory,  
23 we'll remove plates and everything else and put a  
24 temporary plate on it.

25 MR. KUNTZ: You have the right to remove your

1 license plate and registration and take it with you.

2 MR. WALKER: We do that on all of our big  
3 trucks.

4 MR. KUNTZ: I would encourage anybody that  
5 sells a vehicle to remove the license plate and  
6 registration from that vehicle when they sell it.

7 MR. WALKER: So let's talk about who can buy  
8 that list for that fee down here.

9 MR. KUNTZ: Under state and federal law there  
10 are permitted purposes for the use of that list. It is  
11 not limited to the individual but it is for a permitted  
12 purpose. So if you are a governmental entity performing a  
13 governmental function and you have a need to know the  
14 registration and title of a vehicle that has a license  
15 plate on it, then you have a legitimate purpose to obtain  
16 that data to do your governmental function.

17 MR. WALKER: I own a wrecker service, a towing  
18 service.

19 MR. KUNTZ: Yes, that is a permitted use under  
20 DPPA at the state and federal level. A tow truck company  
21 is an entity that does have the authority to obtain that  
22 information.

23 MR. WALKER: So you can buy all of the data  
24 that we have, a tow company can.

25 MR. KUNTZ: Yes. Under state and federal law.

1 MR. PALACIOS: Any further questions for Mr.  
2 Kuntz?

3 (No response.)

4 MR. PALACIOS: I want to remind everyone that  
5 the detail of the items that Mr. Kuntz has reviewed with  
6 us are included in the board book that was given to all of  
7 us last week.

8 Any further questions on these items? If not,  
9 thank you very much.

10 MR. DUNCAN: And members, I apologize, next  
11 time as the motion is being made, we'll try to be real  
12 clear, if we're breaking items down or we taking them  
13 together, we'll just try to be a little clearer.  
14 Apologies.

15 MR. PALACIOS: Thank you, Mr. Duncan.

16 Unless there is any further business, I would  
17 like to entertain a motion to adjourn.

18 MR. BARNWELL: Merry Christmas, everybody. So  
19 moved.

20 MR. GRAHAM: Second.

21 MR. PALACIOS: All in favor?

22 (A show of hands.)

23 MR. PALACIOS: Let the record reflect it is now  
24 1:02 p.m. We are now adjourned.

25 (Whereupon, at 1:02 p.m., the meeting was



1 adjourned.)

C E R T I F I C A T E

1  
2  
3 MEETING OF: TxDMV Board  
4 LOCATION: Austin, Texas  
5 DATE: December 7, 2017

6 I do hereby certify that the foregoing pages,  
7 numbers 1 through 194, inclusive, are the true, accurate,  
8 and complete transcript prepared from the verbal recording  
9 made by electronic recording by Nancy H. King before the  
10 Texas Department of Motor Vehicles.  
11  
12  
13  
14  
15

16 /s/ Nancy H. King 12/13/2017  
17 (Transcriber) (Date)  
18

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