ANNUAL REPORT ON MOTOR VEHICLE INDUSTRY ENFORCEMENT ACTIONS FISCAL YEAR 2011







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2011 - HIGHLIGHTS

Fiscal year 2011 saw an all-time high of enforcement cases being opened by the division. Continuing last years move to become more proactive, many of these cases were initiated after licensed locations were inspected by the investigators and resulted in finding no violations or minor violations that warranted no action other than a warning after the licensee was instructed on how to correct the deficiency. The number of contested cases needed to be filed by the staff attorneys fell as did the number of Notices of Violation (NOV) issued by the investigators in the field.

While the number of complaints for failure to transfer title in a timely manner fell, this violation remains the most common complaint for the industry.

During FY 2011, the division conducted 11 sessions of the Dealer Training Seminar (DTS) in 10 different venues. For the first time, an extra day had to be added to the schedule because of the demand for this training in the Houston area. The total number of attendees over the last 12 years of DTS exceeds 14,720.

Use of the E-tag system resulted in issuance of more than 2.9 million temporary buyer tags.

Reimbursements to consumers as a result of mediation efforts by investigators and attorneys totaled over \$276,616, a \$50,000 increase over last year.

Investigations Opened

A trend starting three years ago continues with an increase in the number of investigative files opened this fiscal year. The number of consumer-generated complaints rose 12.6% from last fiscal year.

TYPE RESPONDENT	LICENSEES & ASSOCS.	CONSU- MERS	OTHER AGENCIES, LEGIS	RED FLAG	LAW ENFORCE- MENT	INTER- NAL	ANONY- MOUS	TOTAL
FRANCHISE	186	593	72	4	10	377	54	1296
INDEPENDENT	89	1120	984	56	62	1669	55	4035
UNLICENSED	50	227	130	160	16	220	22	825
OTHER LICENSEE	22	33	22	2	1	75	3	158
SALVAGE	2	11	8	6	2	123	1	153
TOTAL	349	1984	1216	228	91	2464	135	6467

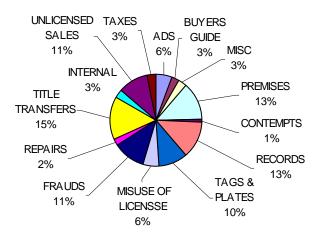
FISCAL YEAR	LICENSEES & ASSOCS.	CONSU- MERS	OTHER AGENCIES, LEGIS	RED FLAG	LAW ENFORCE- MENT	INTER- NAL	ANONY- MOUS	TOTAL
2005	642	2066	480	17	905	986	271	5367
2006	375	1173	469	1	648	1123	235	4024
2007	339	1430	466	21	265	634	179	3334
2008	366	1806	571	0	255	507	212	3717
2009	361	2123	1005	1	175	1112	123	4900
2010	301	1761	1286	9	148	2592	141	6238
2011	349	1984	1216	228	91	2464	135	6467

"COUNTS" WITHIN COMPLAINTS FILED

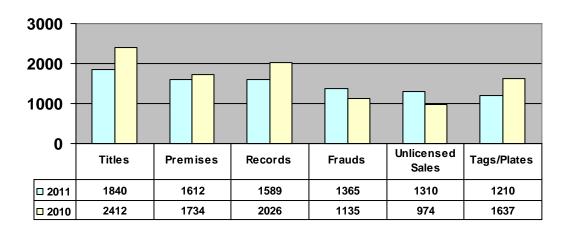
The above figures represent files that were opened as a result of a complaint. This is often a single complaint such as failure to timely transfer title. However, many complaint files result in a finding of multiple violations after the investigation is completed. Being able to identify the total count of all violations within a single investigative file or contested case allows for a more accurate report on the type and number of violations occurring in the industry. It also allows for better accounting for time spent on investigations. In FY 2011, the division opened 6467 files. These files actually resulted in finding 12,152 alleged violations.

TYPES OF VIOLATIONS BY COUNTS WITHIN FILES OPENED IN FY 2011

Of the 12,152 counts within the files, title transfer problems are down slightly from 18% to 17% of the total violations, but this violation still ranks as the number one violation overall.



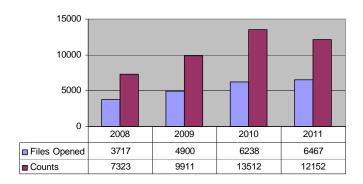
TOP SIX VIOLATIONS IN FY 2011



Looking at the total count of 12,152 violations by category, title violations remain the number one violation type, although the number of violations was down 24% from last year. This violation category includes: not applying for title timely, maintaining open titles, and not having the title when a vehicle is sold.

Unlicensed sales rose 34% to replace tax violations in the top six categories of violations this year.

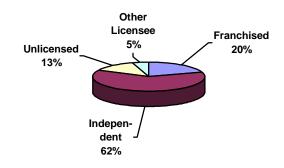
FILES OPENED AND COUNTS WITHIN THE FILES - COMPARISON WITH PRIOR YEAR



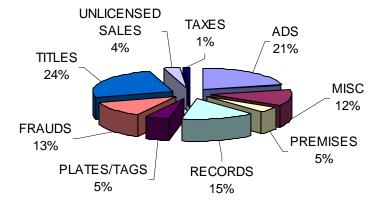
Files opened increased slightly over last year but the counts within the files have decreased by 10% from the year before.

FILES OPENED BY TYPE OF LICENSEE

The number of files opened involving franchised dealers increased 16% from last year, while the number of files opened involving independent dealers decreased, 4%.

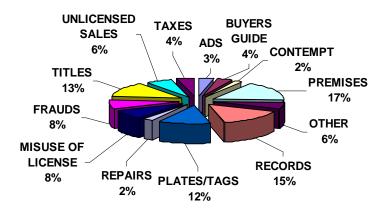


COUNTS IN COMPLAINTS OPENED ON FRANCHISED DEALERS IN FY 2011



In the past, advertising complaints represented the primary issue for franchised dealers. This year, title issues were the most common complaint-type. In FY 2011 advertising violations comprised 21% of all violation counts involving franchised dealers.

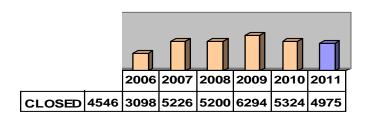
COUNTS IN COMPLAINTS OPENED ON USED VEHICLE DEALERS IN FY 2011



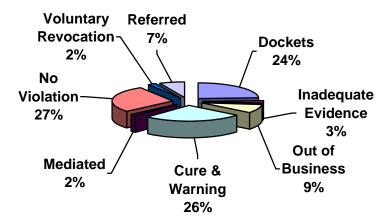
A total of 4035 files were opened involving independent (used) car dealer. These files contained 8000 counts. Title transfer complaints have historically been the most common violation for this group in the industry, but in FY 2011, record and premises violations were the most common violation-types.

Investigations Closed

HISTORY OF FILES CLOSED

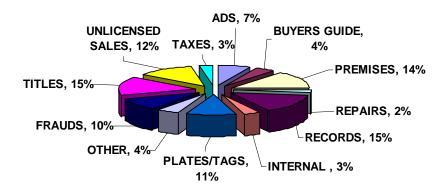


HOW FILES CLOSED IN FY 2011



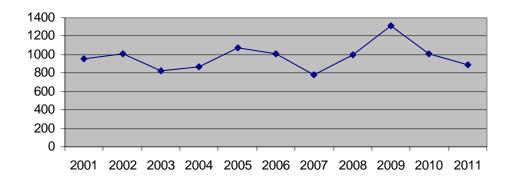
Note that there are more files closed with no violation or warning letters than are closed as a result of a contested case having been filed. The use of cure and warning letters has increased in the last four years.

COUNTS WITHIN INVESTIGATIVE FILES CLOSED



4975 Investigations were closed in FY 2011, but, more importantly, within these files there were 9434 counts of various violations.

HISTORY OF OPENED FILES ON FAILURE TO APPLY TIMELY FOR TITLES

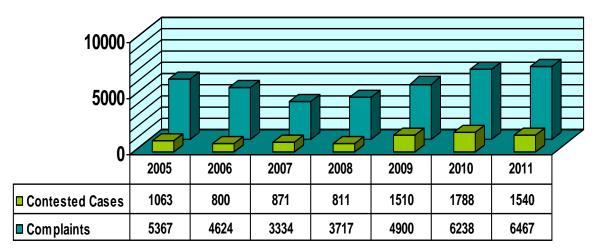


Complaints received on title violations fluctuate from year to year. This complaint-type has traditionally been the most common violation by dealers. It is believed that the extension of time for expiration of the buyer's temporary tag has resulted in the recent reduction in the number of these complaints.

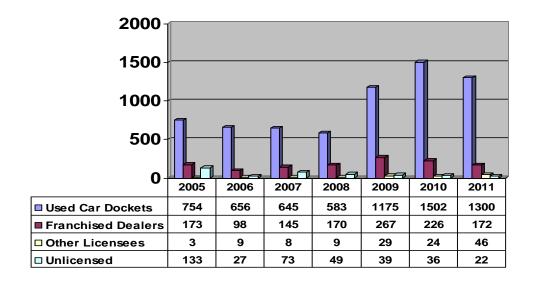
Contested Cases Opened

After a steady climb for the last three years, the number of contested cases filed in FY 2011 fell 14%. It is believed that increased staffing will result in an increase in contested cases filed in FY 2012

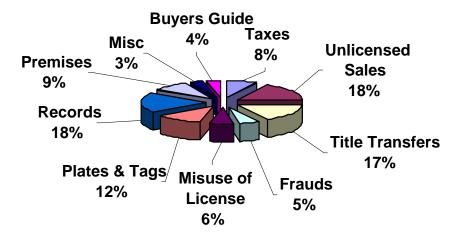
HISTORY OF CONTESTED CASES & COMPLAINTS FILED



HISTORY OF CONTESTED CASES FILED BY TYPE OF LICENSEE

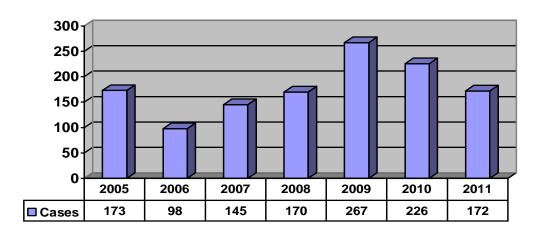


COUNTS IN CONTESTED CASES FILED IN FY 2011



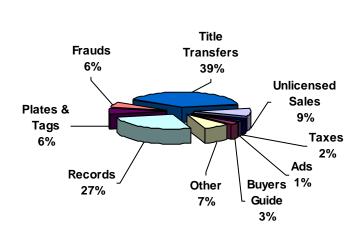
The 1540 contested cases filed contained a total of 6990 counts. While title transfer violations have traditionally been the most common violation-type, during this year, records violations and unlicensed sale violations were the most common violation alleged in contested cases.

HISTORY OF CONTESTED CASES FILED AGAINST FRANCHISED



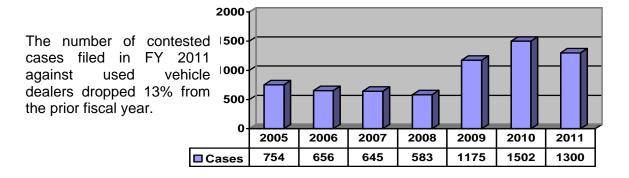
The number of contested cases filed against franchised dealers continues to decline for the second year in a row. The 172 cases filed against franchised dealers were 11% of the total number of all contested cases filed.

COUNTS IN CASES FILED AGAINST FRANCHISED DEALERS IN FY 2011



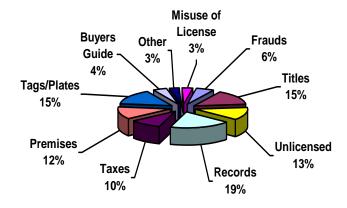
Title transfer violations were the most common allegation in franchised dealer cases. The second most common violation for franchised dealers involved record violations.

HISTORY OF CONTESTED CASES FILED AGAINST USED VEHICLE DEALERS



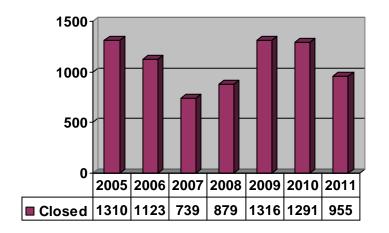
COUNTS IN CONTESTED CASES FILED AGAINST USED VEHICLE

The 1300 cases filed against used vehicle dealers in FY 2011 contained 5178 alleged violations or counts. For the second year in a row, the most common violation type related to records. Title transfer violations and tags/plate violations were the second most common violation-type.



CONTESTED CASES Closed

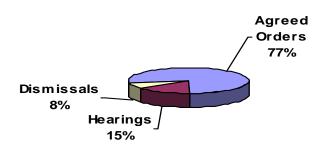
HISTORY OF CONTESTED CASES CLOSED



Closures declined 26% from FY 2010.

HOW CONTESTED CASES CLOSED IN FY 2011

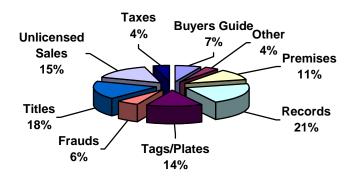
Traditionally 70-80% of contested cases closed in the FY were closed with agreed orders. FY 2011 saw 77% of the 955 total contested cases closed with an agreed order.



The following chart is a breakdown by type of licensee of how contested cases were closed in FY 2011.

	Franchised	Independent	Other	Unlicensed
AGREED ORDERS	88	628	10	14
HEARINGS	6	126	3	8
DISMISSALS	8	59	3	2

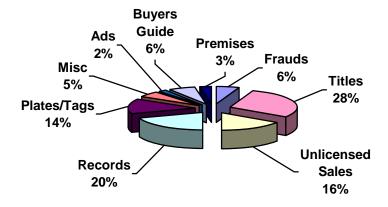
COUNTS IN ALL DOCKETS CLOSED IN FY 2011



This diagram illustrates that record violations to be the most common violation while title transfer violations are number two, followed closely by tag and plate violations.

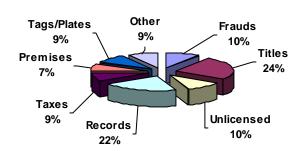
527 COUNTS IN CLOSED FRANCHISED CONTESTED CASES

Counts in cases closed on franchised dealers showed that title transfer violations are the most common violation-type, with record violations being the second most frequent violation-type.



3627 COUNTS IN CLOSED INDEPENDENT CONTESTED CASES

Counts in contested cases closed on independent dealers show title transfers violations to be the number one violation-type and records violations the number two. problem again this fiscal year.



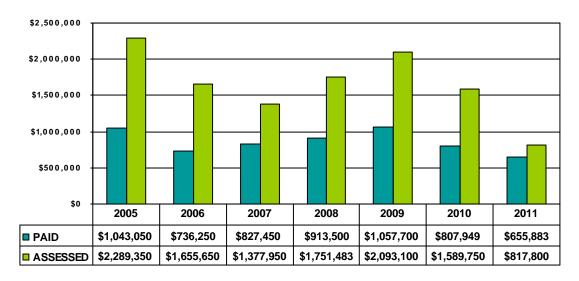
DEFAULTS & REPRESENTATIONS AT HEARINGS

	2007	2008	2009	2010	2011
DEFAULTS	<mark>107</mark>	<mark>183</mark>	<mark>199</mark>	<mark>221</mark>	<mark>138</mark>
PRO SE	0	2	4	28	5
ATTY REP'D	1	0	2	7	0

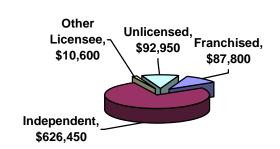
In FY 2011 Enforcement attended 143 hearings, the great majority of which resulted in an order of default when the respondent did not appear.

Civil Penalties

Each fiscal year contested cases are closed that represent cases filed not only during the current fiscal year but also during previous fiscal years. The figures below represent the total dollar amount assessed by an order in a given fiscal year and the amount paid in that fiscal year regardless when assessed. The difference between the amount assessed and the amount collected, represents orders in contested cases that result in a default by the respondent in which penalties will usually never be paid. These figures include the NOV data.

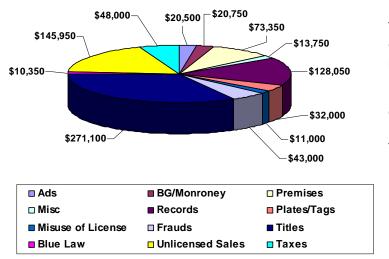


CIVIL PENALTIES ASSESSED DURING FY 2011 BY TYPE OF LICENSEE



A total of \$817,800 in penalties was assessed in contested cases closed in this fiscal year. 76% of this amount was assessed against independent dealers; 11% against franchised vehicle dealers; 12% against unlicensed entities; and, 1% against other licensees.

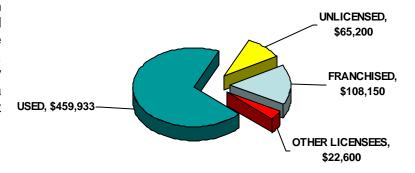
AMOUNTS ASSESSED PER VIOLATION CLASS IN FY 2011



The violation-type that generates the most in civil penalties fines is title issues. Untimely transfers, maintaining open titles, and giving titles to buyers to register, are all included in this category.

PENALTIES PAID BY TYPE OF RESPONDENT

\$655,883 was actually paid in fines on cases that closed during FY 2011. This figure includes NOVs. Traditionally, used vehicle dealers pay more only because there is a larger population in that sector.



The Notice of Violation (NOV) Process

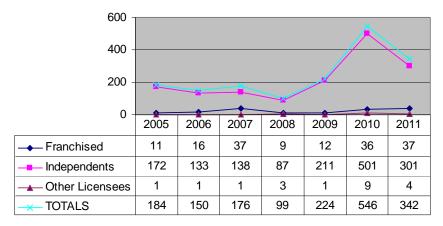
All the previous discussions and charts of investigations and contested cases opened and closed include the Notice of Violation (NOV) figures. This section provides a detailed look at the NOV data independently.

The stated purpose of the NOV is to increase enforcement presence in the field; address the minor violations that were often neglected; alleviate some of the paperwork from the attorney staff; educate and stress to the dealer body the importance of following all the rules, and enforcing those rules through a less expensive procedure; and developing a more accurate history on dealer violations. The civil penalties arising from NOVs range from \$50 to \$200.

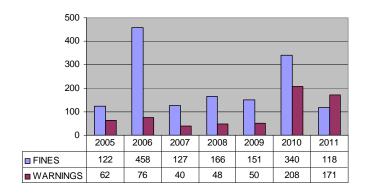
During FY 2011 enforcement investigators issued 342 NOV citations. This number is a 37% decrease over the 546 issued in 2010. These 342 citations represent 5% of the total investigations opened in FY 2011. The total number of counts in the 342 citations came to 486.

HISTORY OF NOV CITATIONS ISSUED BY LICENSEE

This chart represents all citations issued whether or not closed by the end of the fiscal year.



HISTORY OF HOW NOV CITATIONS WERE CLOSED



Just because a dealer received a citation does not mean a fine is due. For the last several years one-third of the cases where citations were issued resulted in only warnings. In FY 2011 warnings were issued with 59% of the total of 289 citations. This is the first time since the program was started that citations with warnings outnumbered cases resulting in fines.

COUNTS IN NOV CITATIONS CLOSED IN FY 2011

In FY 2011 there were 420 counts in the 289 citations issued. Records and plates violations were the most common violations. Buyer's guide violations were the next most common violation.

VIOLATION TYPE	FRANCHISED	INDEPENDENTS	OTHER	TOTAL
BUYERS GUIDES	4	93		97
CONSIGNMENTS		4		4
CURBSTONING		1		1
PLATES	11	93		104
PREMISES	2	24		26
RECORDS	18	137	4	159
RIGHT OF WAY	5	10		15
TAGS	1	6		7
OPEN TITLES	2	5		7
TOTAL	43	373	4	420

The amount of civil penalties paid in FY 2011 by licensees who received NOV citations dropped \$12,000 from last fiscal year. Over 56% of all NOV penalties resulted from record-keeping and buyer's guide violations. The NOV figures were included in the total civil penalty figures previously discussed.

FINES PAID ON NOV CITATIONS IN FY 2010

VIOLATION TYPE	FRANCHISED	INDEPENDENT	OTHER	TOTAL
BUYERS GUIDES	\$450	\$9,550		\$10,000
CONSIGNMENTS		\$700		\$700
CURBSTONING		\$500		\$500
PLATES	\$450	\$7,650		\$8,100
PREMISES		\$2,500		\$2,500
RECORDS	\$450	\$8,500	\$100	\$9,050
RIGHT OF WAY	\$450	\$900		\$1,350
TAGS		\$700		\$700
OPEN TITLES	\$100	\$1,000		\$1,100
TOTAL	\$1,900	\$32,000	\$100	\$34,000



Outreach Efforts

DEALER TRAINING SEMINARS

In an effort to better inform our licensees and other stakeholders regarding the many laws affecting the motor vehicle distribution industry, the Enforcement division launched the Dealer Training Seminar (DTS) program in 1999. The DTS is presented at different locations each year throughout the state. Last year Enforcement visited 10 different locations and presented a total of 11 days of instruction. The free seminars are scheduled and located in such a manner that every dealer in the state receives an invitation at least once every two years.

By the end of FY 2011, the total number of attendees over the last twelve years reached 14,720. Approximately 66% of attendees were independent dealers, 13% were affiliated with franchised dealerships, and the remaining attendees included tax assessor-collector staff, law enforcement, and persons who may be considering becoming a licensee.

The program consists of presentations on the basic laws involved in operating a motor vehicle dealership, such as licensing requirements, daily operations, titling, taxes, financing and advertising. Speakers include staff from not only the Enforcement Division of TxDMV, but also from the Vehicle Titles & Registration Division of TxDMV, the Office of the Consumer Credit Commissioner, and the Texas Comptroller's Office.

DTS provides an excellent opportunity to educate a dealer population that has no mandated education requirements, and gives the licensees an opportunity to meet agency personnel. Many licensees take advantage of the opportunity to talk with agency representatives and ask questions they have been unable to resolve over the phone or otherwise.

Another opportunity DTS provides is the ability to directly poll the licensee body on issues that affect the industry. Such information is useful to the division in developing and modifying policies and rules.

A summary of attendance figures and answers to survey questions taken over the years at DTS follows. Note that not all questions are asked every year.

TOTAL FIGURES FOR 12 YEARS OF DTS

*Not all Questions were asked every year

Attendees	14720	Total Attendees
Survey Responses	10961	Total Surveys returned
Your Business Affiliation?		
Franchise	1886	17%
Indep	6999	64%
Other Licensee	334	3%
Other Agency	203	2%
Other/Unlicensed	560	5%
No Response	979	9%
	10961	
If you are a Texas dealer, how long? If you work for a dealer, how long have you worked in the business?		
< 1 yr	651	14%
1 - 10 yrs	1871	41%
> 10 yrs	1298	29%
Not applied yet	273	6%
Waiting on Lic	37	1%
No Response	406	9%
	4536	
Have you attended a previous TxDOT Dealer Seminar?		
Yes	3038	34%
No	5644	64%
No Response	167	2%
	8849	
Overall, how would you rank the dealer training seminar?		
Excellent	5981	55%
Good	3803	35%
Fair	229	2%
Poor	17	0%
No Response	931	. 8%
	10961	
Are you in favor of continuing education for dealers?		
Yes	10501	96%
No	197	2%
No Response	263	2%
	10961	

Should the continuing education be mandatory?		
Yes	7474	68%
No	3118	28%
No Response	369_	3%
	10961	
Should new applicants be required to pass a test before becoming a licensed dealer?		
Yes	6171	56%
No	4068	37%
No Response	722	7%
	10961	
Are you in favor of licensing Salespeople?		
Yes	3206	41%
No	3948	50%
No Response	729	9%
·	7883	
Should new applicants be required to attend a course like this		
before receiving a license?		
Yes	7337	83%
No	1259	14%
No Response	253	3%
	8849	
Do you have access to the Internet?		
Yes	1565	95%
No	67	4%
No Response	20	1%
	1652	
Are you in favor of the E-Tag?		
Yes	1104	83%
No	165	12%
No Response	62	5%
	1331	
Is your attendance as the result of an Agreed Order?		
Yes	455	25%
No	1267	70%
No Response	76	4%
-	1798	
a. Is this the first time you have had contact with Enforcement?		
Yes	551	31%
No	973	54%
No Response	274	15%
· · · · · ·	1798	

b. Did the investigator treat you in a professional and courteous manner?		
Yes	646	36%
No	149	8%
No Response	1003	56%
	1798	
c. Did the investigator clearly explain any violations to you?		
Yes	583	32%
No	186	10%
No Response	1029	57%
	1798	
d. Did you speak with an enforcement attorney?		
Yes	310	17%
No	455	25%
No Response	1033	57%
	1798	
e. Did the attorney treat you in a professional and courteous manner?		
Yes	356	20%
No	202	11%
No Response	1240	69%
	1798	
f. Did you pay a civil penalty?		
Yes	374	21%
No	429	24%
No Response	995	55%
	1798	
g. Do you believe your case was handled in a fair and just manner?		
Yes	429	24%
No	216	12%
No Response	1153	64%
	1798	
eminar Notification Preference		
-mail	560	25%
ISPS	561	25%
oth	562	25%
lo response	563	25%
	2246	

RED FLAG PROGRAM

The Red Flag program is a specialized program presented by the Enforcement Division to tax assessor-collectors and their staffs. The program is designed to teach the front-line agent to quickly recognize a title anomaly that would signal a possible odometer rollback. TxDMV investigators who are trained in odometer fraud have been conducting this popular training for the past nine years. During FY 2011, 26 different Red Flag seminars were presented in Bexar, Comal, Dallas, Denton, Guadalupe, Harris, Hays, Howard, Lavaca, Lubbock, Parker, Smith, Taylor, Travis, and Webb Counties.

Others receiving the training included personnel in the TxDMV VTR Division regional and central offices, DPS Auto Theft School, Police and Constable Departments in various counties, and federal agencies such as US Customs and Homeland Security.

LAW ENFORCEMENT TRAINING

Because dealer law is not covered in the police academies, Enforcement Division personnel also provide training to various law enforcement agencies. This year 750 law enforcement officers across the state in 21 different sessions received training on E-tags, dealer laws, curbstoning and general information on TxDMV operations.

Red Flag, DTS and many of the law enforcement trainings that are hosted by the Enforcement Division are accredited for TCLEOSE credit for any officer that attends the sessions.

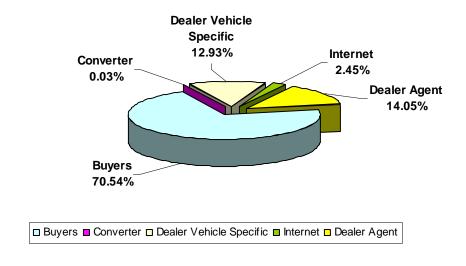
OTHER INDUSTRY APPEARANCES

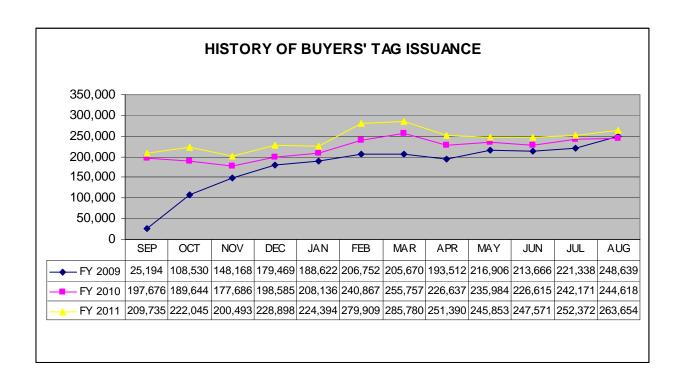
Other presentations were made at industry conferences during the year. For the first time, the Texas Auctioneers Association invited Enforcement Division personnel to attend their annual state conference and local chapter meetings in San Antonio and Austin. The Enforcement Division Director appeared at the Texas Independent Automobile Dealer Association's Annual Conference to address dealers about the types of complaints the division receives and how best to handle those complaints and the resulting investigation.

E-TAGS - FY 2011

TAG TYPES ISSUED IN FY 2011 BY MONTH							
Month	Buyers	Converter	Dealer Vehicle Specific	Dealer Agent	Internet	Total	Daily Average
SEP	209,735	73	45,146	44,627	2,485	302,066	10,069
OCT	222,045	71	43,014	44,940	3,894	313,964	10,128
NOV	200,493	80	39,409	42,388	9,795	292,165	9,739
DEC	228,898	93	42,345	45,696	4,648	321,680	10,377
JAN	224,394	107	44,761	47,222	6,211	322,695	10,410
FEB	279,909	78	42,423	45,183	5,127	372,720	13,311
MAR	285,780	90	49,680	50,995	8,698	395,243	12,750
APR	251,390	60	46,011	51,193	16,043	364,697	12,157
MAY	245,853	72	43,773	49,713	19,037	358,448	11,563
JUN	247,571	112	45,512	52,820	8,607	354,622	11,439
JUL	252,372	82	44,521	50,215	5,102	352,292	11,364
AUG	263,654	122	47,035	55,172	11,572	377,555	12,179
TOTAL	2,912,094	1,040	533,630	580,164	101,219	4,128,147	
%	70.54%	0.03%	12.93%	14.05%	2.45%		

The Dealer e-Tag system became mandatory in October of FY 2010. As seen from the chart above, the issuance of Buyers' tags reflects approximately 2.9 million vehicle sales in the fiscal year and over 70% of the total tags issued.





The issuance of Buyers' tags is a good indicator of how dealer sales are increasing. Despite the economic downturn, vehicle sales are holding steady for the past 3 years with a slight improvement this fiscal year. The bump during the first quarter represents the traditional tax refund selling season.