CHAPTER 2.

THE ENFORCEMENT DIVISION AND STAFF

2.1 History. In 1991, the Motor Vehicle Commission was a state agency that licensed and regulated franchised dealers. That same year, the commission was merged into the Department of Transportation (TxDOT) and became the Motor Vehicle Division (MVD). At that time, the Texas Motor Vehicle Commission became the Texas Motor Vehicle Board which was made up of nine members appointed by the Governor. In the 2005 legislative session, the Texas Motor Vehicle Board was dissolved and all functions of the board were placed with the Director of the MVD with the exception of rulemaking which resided with the Texas Transportation Commission.

In 2009, the 81st Legislature extracted the MVD along with three other divisions of TxDOT to form the Texas Department of Motor Vehicles (TxDMV). The four divisions of TxDMV that composed the new agency are the Motor Vehicle Division, the Motor Carrier Division, the Vehicle Titles and Registration Division (VTR), and the Automobile Burglary and Theft Prevention Division (ABTPA). These divisions were further reorganized into 8 different divisions, Central Administration, Financial Services, Motor Carrier, ABTPA, Consumer Relations, VTR, Enforcement, and Motor Vehicle Division, which handles the licensing aspect.

This agency is governed by a nine-member board appointed by the Governor, composed of three dealers, two of which must be of different types and one of which is an independent dealer; a tax-assessor collector; a member of a municipal or county law enforcement entity; a manufacturer or distributor representative; a motor carrier industry representative; and, two lay persons. This board sets policy and is the final arbiter of the Occupation Code cases brought before the agency.

2.2 The Enforcement Division Staff. The Enforcement Division staff consists of five sections under the direction of a single director who reports to the TxDMV Executive Director. The five sections are Administration, Lemon Law, Compliance Education, Legal and Investigations.

a. Administration. Administration supports the other sections with the functions of Human Resources, Purchasing and Accounting.

b. Investigations. The Enforcement Section receives an average of 5,000 complaints a year from consumers, government agencies, public companies and other licensees. Investigations are broken down into three distinct areas: motor vehicle; motor carrier/household goods carriers; and oversize/overweight investigations. The job of these investigators is to collect information and document those complaints that are turned into the division. Investigators also assist law enforcement by training officers and agents on the dealer law.

c. Legal. Staff attorneys review investigations and, if needed, prosecute violations of the code and rules.

d. Compliance Education. This section is responsible for overseeing the training efforts of the division. Websites and publications are also updated and monitored by this section.

e. Lemon Law. This section administers the Texas Lemon Law and Warranty Compliance programs. If a consumer buys or leases a new vehicle and experiences ongoing repair problems, they may file a complaint with this section seeking repurchase, replacement or repair under the Lemon Law or warranty compliance requirements. This section has trained mechanics as case advisors who mediate between consumers and factory representatives. Failing mediation, the complaints are forwarded to the State Office of Administrative Hearings (SOAH) where one of the administrative law judges will hold hearings in or near the consumer's locale to determine if the vehicle qualifies for Lemon Law or warranty compliance relief.

2.3 Motor Vehicle Division. The MVD receives reviews and processes new, renewal and amendment applications for licensees. Their job consists of making sure all new applicants meet the requirements for a license and that applicants for renewals are maintaining the requirements. The many different types of licenses have different requirements and the licensing personnel assist applicants in understanding the distinctions and completing their applications. This division must also determine if any new franchised applicants are within the protest area of an existing dealership and notify all dealers who are eligible to protest a new dealership in this area.

The MVD also reviews requests for off-site auto shows and exhibitions pursuant to the law which requires franchised dealers to submit an application thirty (30) days in advance before removing vehicles from their lot to display at auto shows or other places. The requests for off-site shows and displays must be reviewed for conflicts before approval is given.