

TEXAS DEPARTMENT OF MOTOR VEHICLES
LEGISLATIVE AND PUBLIC AFFAIRS COMMITTEE
MEETING

OPEN MEETING VIA TELEPHONE CONFERENCE CALL
PURSUANT TO GOVERNOR'S MARCH 16, 2020,
TEMPORARY SUSPENSION OF CERTAIN
OPEN MEETING PROVISIONS

Wednesday,
February 3, 2021

COMMITTEE MEMBERS:

Paul Scott, Chair
Tammy McRae
Manuel "Manny" Ramirez

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P R O C E E D I N G S

1
2 MR. SCOTT: Good afternoon. My name is Paul
3 Scott, and I'm pleased to open the Legislative and Public
4 Affairs Committee of the Board of the Texas Department of
5 Motor Vehicles.

6 Will all members please make sure their video
7 is turned on throughout the meeting and use their unmute
8 button prior to speaking.

9 It is 2:00 p.m., and I am now calling the
10 committee meeting for February 3, 2021 to order. I want
11 to note for the record that the public notice of this
12 meeting, containing all items on the agenda, was filed
13 with the Office of the Secretary of State on January 26,
14 2021.

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

20 This meeting is being held by conference call
21 in accordance with Texas Government Code Chapter 551, as
22 temporarily modified under Governor Greg Abbott's
23 authority to suspend certain statutes due to COVID-19.
24 Governor Abbott suspended various portions of the Texas
25 Open Meetings Act that require government officials and

1 members of the public to be physically present at
2 specified meeting locations.

3 Under that suspension the public will not be
4 physically able to attend this meeting. Instead, the
5 public may attend this meeting by using the link or
6 calling the toll free number which were both posted in our
7 agenda which was filed with the Office of the Secretary of
8 State on January 26, 2021. All committee members,
9 including myself, will be participating remotely via
10 Webex.

11 At this time please mute your phone for the
12 entire duration of this meeting. I am asking our Webex
13 meeting host to make sure all participants' phones are
14 muted and their video is turned off, except for committee
15 members and those who are presenting. Callers will be
16 removed for any disruption, including background noise.

17 I would like to remind all participants that
18 this is a telephone conference call meeting. Because this
19 meeting is being held by telephone conference call, there
20 are a few things that will assist in making the meeting
21 run smoother and assist the court reporter in getting an
22 accurate record.

23 Board members, please speak slowly and clearly,
24 do not speak over others, and be sure to ask me, the
25 committee chair, for permission before speaking.

1 Department staff and any commentators should identify
2 themselves before speaking. Remember to speak clearly,
3 and there may be a slight delay due to the telephone
4 conference call meeting, so please wait a little bit
5 longer than usual before responding to participants.

6 Do not speak over others, and speakers should
7 ask the committee chair permission to proceed and be sure
8 to get recognized before speaking.

9 If you wish to address the committee or speak
10 on an agenda item during today's meeting, please send an
11 email to GCO_General@TxDMV.gov. Please identify in your
12 email the specific item you are interested in commenting
13 on, your name and address, and whether you are
14 representing anyone or speaking for yourself. If comment
15 does not pertain to a specific agenda item, we will take
16 your comment during the general public comment portion of
17 the meeting.

18 In accordance with department administrative
19 rule, comments to the board will be limited to three
20 minutes, then your line may be muted by the meeting host
21 when your time is up. Comments should be pertinent to the
22 issues stated in your email. When addressing the board,
23 please state your name and affiliation for the record.

24 I'd like to mention that Member Washburn's
25 appointment ended this month. Ms. Washburn was actively

1 engaged in many important issues throughout her time on
2 the board, and we appreciate her service to the citizens
3 of Texas and for her active participation and by lending
4 her expertise on issues before the board. Ms. Washburn
5 will be missed. We wish her well in her future endeavors.

6 And now I'd like to have a roll call of the
7 committee members. Please respond verbally when I call
8 your name.

9 Member McRae?

10 MS. McRAE: Here.

11 MR. SCOTT: Member Ramirez?

12 MR. RAMIREZ: Here.

13 MR. SCOTT: And let the record reflect that I,
14 Paul Scott, am here too. We have a quorum.

15 The posted agenda stated that a quorum of the
16 board may be present at this meeting; however, board
17 members who are not members of the Legislative and Public
18 Affairs Committee will not vote on any committee agenda
19 items today, nor will any board action be taken.

20 I see we have some other board members with us
21 today: Chairman Treviño, Vice Chair Bacarisse, Member
22 Prewitt, Member Gillman, as well as Member Graham. Is
23 that everybody?

24 We will now proceed to agenda item 2, Pledges
25 of Allegiance - U.S. and Texas. Before we begin, I ask

1 that the board and other panelists please turn off their
2 audio and video. I will also turn off my video as I lead
3 you all in the pledges. We will pause to give presenters
4 and board members a moment to turn off their audio and
5 video, and please all stand and honor our country and
6 state with the Pledges of Allegiance.

7 (The Pledges of Allegiance - U.S. and Texas
8 were recited.)

9 MR. SCOTT: Members, please turn your video
10 back on.

11 Okay. We will now move to agenda item 3,
12 that's comments and announcements. At this time I will
13 turn it over to Whitney Brewster regarding the Sunset
14 Advisory Commission compliance report and hearing.

15 MS. BREWSTER: Thank you, and good afternoon,
16 Chairman Scott and Members McRae and Ramirez. For the
17 record, my name is Whitney Brewster, executive director of
18 the Texas Department of Motor Vehicles.

19 Board members, I'm just today giving you an
20 overview of the recent activities around the Sunset
21 compliance report and hearing that occurred since the
22 board last met in December.

23 So in early January the Sunset Advisory
24 Commission released a report on progress that state
25 agencies had made on implementation of recommendations

1 made by the Sunset Advisory Commission back in 2019.

2 Of note for us there were two items that were
3 pointed out as being in progress, those being the risk-
4 based monitoring rules, as well as the contested case
5 rules, both of which will be on the full board meeting
6 agenda tomorrow for consideration.

7 So those two items were pointed out, but
8 specifically when it applied to the contested case rules,
9 it did indicate that although that item was in progress,
10 it did not address the specific issues pointed out in the
11 Sunset recommendations in that report in 2019.

12 And so I, along with General Counsel Tracey
13 Beaver, had the opportunity to go to the Sunset hearing on
14 January 13 to discuss items that were recommendations for
15 agencies that are going through the process right now
16 during the 87th Legislature, and certainly those who have
17 already gone through the process, like our agency, and the
18 implementation efforts around that, so Ms. Beaver and I
19 represented the agency in that capacity.

20 So during that discussion of implementation
21 efforts, the vice chair, Dawn Buckingham, who is also our
22 Sunset Bill author, asked about specific items around the
23 contested case rules, and wanted to make sure that it was
24 clear that there were Sunset recommendation around
25 contested case rules that were adopted by the Sunset

1 Advisory Commission in 2019.

2 And I had the opportunity to explain that the
3 board is in the process of considering those rules, that
4 they were considered in the December board meeting, they
5 were not adopted in that meeting, and that Chairman
6 Treviño had established a Contested Case Rules
7 Subcommittee, led by a public appointed member of the
8 board, our Vice Chair Bacarisse, and that we also were
9 going to take advantage of that opportunity to talk about
10 compliance and Sunset recommendations so that there could
11 be a robust conversation in the subcommittee that occurred
12 on January 19.

13 And so we'll certainly be talking about this in
14 greater length in tomorrow's discussion around the
15 contested case rules, the subcommittee recommendation, and
16 certainly direction given by the Sunset Advisory
17 Commission, but I would just summarize that there is an
18 urging of caution when it comes to anything that looks
19 like a trial structure, anything that could have
20 additional risk to things entering into the record that
21 was not in the SOAH record.

22 And so I explained, as did Tracey, that we
23 would make sure that we shared this information with the
24 board so that you could make a good decision at the end of
25 the day when the rules were considered in the February 4

1 board meeting.

2 And so with that, Mr. Chairman, I just wanted
3 to give a brief update on that, certainly a lot more
4 conversation on that in tomorrow's meeting, but that is
5 some legislative activity that has certainly occurred
6 since the last time the board met.

7 MR. SCOTT: thank you.

8 Anyone have any questions for Ms. Brewster?

9 (No response.)

10 MR. SCOTT: Okay. Thank you again.

11 So hearing none, we will now move to the next
12 agenda item, which is a briefing of the 87th Legislative
13 Session, and we will hear from Caroline Love on agenda
14 item 4.A.

15 MS. LOVE: Good afternoon. My name is Caroline
16 Love. I am the director of the Government and Strategic
17 Communications Division, and today I have a briefing item
18 on agenda item 4.A that relates to a general update about
19 the legislative session.

20 So the legislature is about four weeks into
21 their 20-week session and have not met for very many days
22 during that time, but as Ms. Brewster mentioned, there has
23 been some activity.

24 So we have, in addition to the Sunset Advisory
25 Commission meeting that occurred on January 13, the Senate

1 committees have been announced and the Senate Finance
2 Committee will start their meetings next week, and their
3 budget hearing for TxDMV is scheduled to occur on February
4 18. There will be other agencies considered that day as
5 well, and so we're preparing for that hearing.

6 On the House side we don't have any committees
7 announced just yet, but they're sure to be coming soon,
8 and so we're preparing for what those hearings might be as
9 well on that side.

10 And other activity I did want to mention, in
11 those first 60 days of a legislative session, legislation
12 cannot be considered in either chamber unless it's an
13 emergency item, as identified by the governor, and so on
14 February 1, earlier this week, the governor held the State
15 of the State Address, and he identified those items and
16 these items can be considered before that 60-day time
17 frame comes up, and it includes items such as expanding
18 broadband internet access, changing the bail system, how
19 to protect the public, and then civil liability
20 protections for businesses that are open during the
21 pandemic.

22 So we'll be keeping an eye on those activities,
23 but also just keeping this board and this committee
24 informed whenever there are other legislative activities.

25 I'll be providing regular updates on those as well.

1 So that's pretty much all I have for item 4.A
2 and I'm happy to consider any questions.

3 MR. SCOTT: Do we have any questions for
4 Caroline on agenda item 4.A?

5 (No response.)

6 MR. SCOTT: Before we move on, let me circle
7 back just a second. Member Ramirez, did you have a
8 question for Ms. Brewster?

9 MR. RAMIREZ: I did not. I was going to thank
10 her for her work and circling up with the committee. And
11 also just say I've heard some feedback from some our state
12 senators too, including Senator Buckingham, and she echoed
13 the same sentiments that were spoken at that committee
14 meeting, so it's definitely a serious issue that I look
15 forward to handling tomorrow.

16 MR. SCOTT: All right. Thanks for bringing
17 that up.

18 Okay. We'll now hear from Caroline Love on
19 agenda item 4.B.

20 MS. LOVE: Thank you. For the record, Caroline
21 Love, director of the Government and Strategic
22 Communications Division, and I have today a couple of
23 additional legislative recommendations for this committee
24 to consider for presenting to the full board tomorrow for
25 further consideration.

1 And as for a little bit of background, the
2 TxDMV Board is tasked in statute with providing
3 recommendations to the legislature on opportunities to
4 improve efficiencies in operations, and there were some
5 recommendations that were presented and passed by the
6 board at both the October and December 2020 meetings.

7 But there were two recommendations that were
8 considered at the December 10, 2020 meeting that did not
9 get passed, and Chair Treviño asked the staff to revisit
10 these, and so that is what brings us back today.

11 And the two items relate to the attempt to curb
12 the abuse of the temporary tag system, and the other item
13 relates to a surety bond for dealers to help customers in
14 a situation when a dealer goes out of business.

15 And so before I get into the updated
16 recommendation, I do want to mention after the December
17 meeting we worked to have a meeting of the Consumer
18 Protection Advisory Committee, which occurred on January
19 15, 2021, and they revisited these recommendations, and
20 their new recommendations will be outlined in just a
21 little bit.

22 But in addition to reconsidering those
23 recommendations, they also heard from a couple of my
24 colleagues who provided very helpful information to
25 provide background and more details on it, so at this time

1 I'm going to turn it over to my colleagues to help provide
2 that background.

3 Ms. Corrie Thompson, director of the
4 Enforcement Division, is with us, and she'll provide some
5 information about what the department staff has seen when
6 it comes to abuses of the temporary tag system, and then
7 additionally, Roland Luna, the Vehicle Titles and
8 Registration Division director, has some information about
9 what staff has done in the recent past to help further
10 enhance that system and try to prevent some of the abuses,
11 and then also his conversations with other states on how
12 they approach addressing this issue.

13 So at this time I'll go ahead and turn it over
14 to Corrie.

15 MS. THOMPSON: Good afternoon, everyone.
16 Corrie Thompson, director of the Enforcement Division, and
17 as Caroline said, the CPAC committee reconvened mid
18 January to discuss the issues with temp tag misuse and
19 abuse within our system. And I just wanted to take a
20 moment to give everybody a background to explain how we
21 found ourselves here and why we're bringing these
22 recommendations before the department through the CPAC
23 committee recommendations.

24 In the past several years law enforcement has
25 been reaching out to the department, and the department

1 was seeing on its own an increase in misuse and abuse of
2 the tag system, so that would be not just counterfeit
3 issuance of tags by people that do not have access to
4 eTAG, but rather people who actually have obtained
5 licenses and are issuing tags directly through their
6 access and having obtained that license by the department.

7 And just for a little bit of context, in fiscal
8 year 2019 we worked what we would say were eight of these
9 really large abuse cases, and we saw an increase in that
10 up to 17 cases in fiscal year '20, and we've only seen a
11 couple so far; the fiscal year is still young. But we do
12 expect to see an increase of that as it continues to trend
13 upward in fiscal year '21.

14 And when we talk about severe abuses and the
15 number of those cases, where I'm saying eight and now 17,
16 the motor vehicle side of the Enforcement Division
17 actually closes out about 6,000 cases every fiscal year,
18 so this is a very small subset of cases that we're talking
19 about where we're seeing this abuse.

20 But we're talking about times where we're
21 seeing the issuance of 20,000 tags over a six-month
22 period, and upwards of even 50,000 tags over a two-month
23 time period.

24 And going back reviewing those closed-out cases
25 where we've had the opportunity to get that licensee out

1 of the system, we're seeing that that was a pattern with
2 people who had had licenses for some period of time and
3 also with newer licensees.

4 And so we brought this concern from law
5 enforcement and from what the department had been seeing
6 to the Consumer Protection Advisory Committee, and as you
7 well know and as you remember from the December board
8 meeting, what came out of that was a recommendation to cut
9 off earlier in the administrative process the ability for
10 dealers to access eTAG electronically through the system
11 to try to cut off that abuse after we already knew it was
12 occurring.

13 And that's because the current administrative
14 process mandates that we go through a series of notices
15 after the investigative stage, and what leads us to is
16 really on the easy, happy path a six- to eight-month
17 period where we know the abuse is occurring, we've seen
18 the severe issuance of tags with no sales to back that up,
19 and then the continued abuse while we go throughout the
20 administrative process.

21 And so the recommendation that was brought at
22 the last meeting sought to interject a new step wherein
23 the department could temporarily cut off access to the
24 system and provide dealers with an alternative method to
25 obtain tags through a different way, be that through the

1 county TAC's office, through the regional service centers,
2 or otherwise.

3 And so we were asked to come back and take a
4 look at CPAC again at some other things that we could look
5 at, and we informed CPAC that they could keep the
6 recommendation as is and attempt to bring it back to the
7 board. We could look at a completely different
8 recommendation, we could look at doing nothing to bring
9 back before the board.

10 And what Caroline is going to present towards
11 the end of this presentation is the recommendation that
12 ultimately came out of the Consumer Protection Advisory
13 Committee, and that will pertain to more of a front-end
14 fix to get those tags from not ever getting out the door
15 in the first place, whereas the suspension recommendation
16 was more of a back-end fix to stop it after we already
17 knew it was occurring.

18 And with that, if there are no questions on the
19 process, then I'll turn it over to the director of Vehicle
20 Titles and Registration Division, Roland Luna.

21 MR. LUNA: Good afternoon, board members.
22 Roland Luna, director of Vehicle Titles and Registration
23 Division.

24 I would like to discuss some research that we
25 conducted where we reached out to other states, the states

1 of Florida, Georgia and Tennessee, to see how temp tags
2 were regulated, but I'd like to mention a few things about
3 the temp tag system at TxDMV.

4 Currently each dealership has a designated
5 administrator for access to the temp tag system. Each
6 administrator is subject to a criminal history check, and
7 the administrator then authorizes access to the temp tag
8 system for additional users. There is no limit to the
9 number of users that can be added to the temp tag system,
10 and there are no background checks or criminal history
11 checks of additional users, just the initial
12 administrator.

13 We reached out to the aforementioned states and
14 had meetings to discuss temp tag regulation. We learned
15 from the State of Florida that all users of the temp tag
16 system are subject to a criminal history check. We also
17 learned from the State of Florida that they run daily
18 reports for temp tags and registration, and they share it
19 with their regional service centers, especially if they
20 sense suspicious activity based on the data contained in
21 the reports.

22 Florida also has the authority by agency rule
23 to suspend access to the eTAG system by emergency order.
24 There is a maximum number temp tags that can be printed
25 from the system, and it's based on the number of vehicles

1 sold by license type, franchise, GDN and so on.

2 But Florida also uses software to detect
3 fraudulent VINs called VINTelligence. They've been using
4 it for a few months and they're pleased with it, but we
5 didn't have an opportunity to get into the intricacies of
6 the tool, but this program is tied into their systems and
7 programs and detects fraudulent activities related to VIN
8 numbers.

9 In the State of Georgia they approach
10 allegations of fraud related to temp tags from a single
11 division. Once an allegation of temp tag fraud is
12 asserted, the allegation is referred to the Office of
13 Special Investigations, OSI, and handled by OSI through
14 fruition.

15 At the TxDMV when there is an allegation of any
16 type fraud involving temp tags, we could potentially have
17 many divisions involved: Vehicle Titles and Registration,
18 Enforcement Division, Motor Vehicle Division, Compliance
19 and Investigations Division, they could all be involved
20 throughout the course of the investigation. What differs
21 in Georgia is that when there's an allegation of fraud for
22 temp tags it's handled exclusively by their Office of
23 Special Investigations.

24 We have completed some enhancements at the
25 TxDMV over the last few months. We've taken steps to

1 further develop our agency-wide anti-fraud strategy as it
2 relates to temp tags. Recently, in December of 2019, we
3 had an RTS application that was enhanced to validate
4 whether or not the dealer's license is active at the time
5 the license is entered in the title application process.

6 If the dealer's license is not active, the
7 county is required to enter an authorization code issued
8 by one of our regional service centers after validating
9 the dealer's license was active at the time of sale.

10 We have also upgraded the eTAG administrator
11 form to ensure the owner or authorized officer has
12 requested an additional administrator. The agency
13 continues to examine our systems and processes, policies
14 and rules, and coordinate internally to find opportunities
15 to improve temp tag regulation.

16 That's what I've learned over the last few
17 months working with other states, and those are some of
18 the enhancements that we've taken over the last few months
19 to improve temp tag regulation.

20 And with that, Member Scott, I'll take any
21 questions that you or any of the board members have.

22 MR. SCOTT: Thank you.

23 Are there any questions for staff at this
24 point?

25 MS. McRAE: I don't have any questions. I

1 would just add that is a problem that we do see, and I
2 commend the agency for attempting to address this problem,
3 and I would like to make a motion if we're ready to do
4 that.

5 MR. SCOTT: At this point I think we have some
6 public comment

7 MS. THOMPSON: And if I could, I was going to
8 explain the recommendations, the revised recommendations,
9 and I can do that now.

10 Once again, Caroline Love with the department,
11 and I just wanted to follow up and say thank you to Corrie
12 and to Roland for the background information.

13 The Consumer Protection Advisory Committee also
14 heard this information and wanted to convey to this
15 committee and to the board that they understand the
16 importance of these issues and far-reaching impacts that
17 it has on customers and also the stakeholder groups that
18 run these businesses.

19 They did consider more stringent
20 recommendations but obviously, given the feedback
21 received, came up with two recommendations that, as Ms.
22 Thompson mentioned, have a little bit of a different
23 approach.

24 And so the first recommendation, as outlined on
25 page 6 of your materials today, would relate to having the

1 board recommend the legislature grant this board authority
2 to limit the issuance of temporary tags through the
3 temporary tag system at the time of issuance or renewal of
4 a dealer license, and so the factors that would go into
5 all that would be considered during that rulemaking
6 process and include significant amount of feedback from
7 the stakeholder community. So this recommendation is
8 purely about providing that rulemaking authority to the
9 board.

10 And then the second recommendation relates to
11 the bond, the surety bond that dealers have, so currently
12 only independent auto dealers are required to have a
13 \$25,000 surety bond to help protect customers should they
14 go out of business.

15 The recommendation that was brought forward
16 previously expanded the application of that bond to
17 franchised dealers and raised it to \$50,000. This new
18 recommendation before you today applies only to the
19 independent auto dealers, and it would raise that surety
20 bond from \$25,000 to \$50,000.

21 And so that concludes the summary of the
22 recommendations, and I'm happy to answer any questions.

23 MR. SCOTT: Thank you, Caroline.

24 Tracey, do we have any public comments, please?

25 MS. BEAVER: Yes. For the record, Tracey

1 Beaver, general counsel.

2 We have four public commenters who have signed
3 up on this agenda item, and the first person is Sgt.
4 Escribano. He has been given instructions on how to raise
5 their hand so when you're ready to call him, he may
6 proceed.

7 MR. SCOTT: Okay. Thank you.

8 We will now hear from Sgt. Escribano. Please
9 raise your hand using the instructions provided to you and
10 be mindful about limiting any background noise.

11 Also, please state your name for the record and
12 if you are representing anyone. You will have three
13 minutes and you will be given a prompt after two minutes
14 that you have one minute remaining. Your line may be
15 muted by the host after speaking for three minutes.
16 Please proceed.

17 (No response.)

18 MS. BEAVER: Chairman Scott, Tracey Beaver. If
19 I may?

20 MR. SCOTT: Yes, ma'am.

21 MS. BEAVER: I just wanted to mention that we
22 don't see a hand raised for Sgt. Escribano, so if we could
23 go on to the next commenter and come back to Sgt.
24 Escribano and have staff reach out to him.

25 MR. SCOTT: Okay. Who's next up?

1 MS. BEAVER: The next commenter is Mr. Kohler.

2 MR. SCOTT: Okay. Thank you.

3 We'll now hear from Mr. Kohler. I'll repeat
4 the instructions: Please raise your hand using the
5 instructions provided to you and be mindful about limiting
6 background noise; state your name for the record and if
7 you're representing anyone.

8 You have three minutes, you'll be given a
9 prompt after two minutes that you have one minute
10 remaining, your line may be muted by the host after
11 speaking for three minutes. Please proceed.

12 (No response.)

13 MR. SCOTT: What do you think, Tracey?

14 MS. BEAVER: Tracey Beaver, general counsel,
15 for the record.

16 It does look like call-in user number 8 has
17 their hand raised, and IT has unmuted them so they may go
18 ahead and start speaking when they're ready.

19 MR. SCOTT: Thank you.

20 MR. KOHLER: Yes. Mr. Chairman, can you hear
21 me now?

22 MR. SCOTT: Yes, I can. Thank you.

23 MR. KOHLER: I had to remember the prompts on
24 my cell phone to do the hand raising. I apologize.

25 MR. SCOTT: No problem. We're glad to have you

1 here.

2 MR. KOHLER: Thank you very much, Mr. Chairman
3 and board members. May I speak now?

4 MR. SCOTT: Yes, please.

5 MR. KOHLER: Okay. So in regards to the
6 legislative proposal changes, there seems to be three
7 statutes in the Transportation Code that contradict each
8 other that give DMV the authority to suspend somebody's
9 eTAG access that are selling tags in excess of more than
10 20- or 50,000.

11 And specifically Statute 503.038 does appear to
12 give the DMV authority to suspend somebody's access to the
13 eTAG system; however, 503.0626 and 503.0361, those two
14 statutes looks like they were generated -- they came on
15 board in 2007 -- I'm talking about the database and eTAG
16 system -- those two statutes say that the DMV may not deny
17 anybody access to the system, and hopefully some
18 legislative proposal changes can take the word "not" out
19 of those two statutes that will help complement 503.038 to
20 help DMV stop the fraudulent sale of Texas buyer's tags.

21 And I appreciate your time. Thank you.

22 MR. SCOTT: Thank you. Appreciate hearing from
23 you.

24 Next up, Tracey?

25 MS. BEAVER: Tracey Beaver, general counsel.

1 The next commenter is Karen Phillips, and Ms.
2 Phillips has been given instructions on how to raise her
3 hand, when you're ready, Chairman.

4 MR. SCOTT: Thank you.

5 We'll now hear from Karen Phillips. Please
6 raise your hand using the instructions provided to you and
7 also be mindful about limiting any background noise.
8 Also, please state your name for the record and if you're
9 representing anyone.

10 You'll have three minutes, you will be given a
11 prompt after two minutes that you have one minute
12 remaining, and your line may be muted by the host after
13 speaking for three minutes.

14 MS. PHILLIPS: Good afternoon, Chairman Scott.
15 My name is Karen Phillips, and I'm general counsel for
16 TADA, and here today to support the CPAC recommendations,
17 the most current ones that have been outlined by Caroline
18 Love today.

19 In addition to the limiting to the printing of
20 temporary tags by licensees of the agency and providing
21 the licensee with a number that can be printed to be a
22 reasonable response to deter any overprinting and sale of
23 fraudulent temp tags, I think we all know that that is a
24 reasonable response, and I think CPAC vetted this issue
25 very much, and so I'm here to support that.

1 As far as metrics for current licensees, I
2 think you can review past years' vehicle inventory tax
3 statements to give guidance to the agency, adding a
4 percentage over the previous year for growth, perhaps 10
5 percent.

6 You might want to look at an average because we
7 know 2020 will show a decrease in sales because of COVID,
8 and the supply in 2021 is also looking to be very much of
9 a challenge for the dealers because of product
10 availability, as I'm certain you've heard about the chip
11 issue.

12 As far as new licensees, the agency may want to
13 look at similarly situated franchised dealers in similar
14 markets or size, similar line make, same line make, look
15 at capitalization that a dealer has, the inventory, ask
16 the licensee himself, because the factory typically gives
17 a retail sales index as a measurement for any new
18 licensee.

19 So I would also suggest that the RV and
20 motorcycle dealers associations may also have some
21 additional information that would be very useful to guide
22 the agency. Also, a provision to be able to request --

23 MEETING HOST: You have one minute remaining.

24 MS. PHILLIPS: Thank you -- for additional tags
25 should be provided as the state doesn't want to lose the

1 sale of a vehicle with respect to the revenue generated.
2 So if a dealer is doing more sales than what was believed
3 he would be doing, then they should be able to obtain more
4 tags.

5 As far as the dealer bond, again supporting the
6 recommendation that it not be applicable to franchised
7 dealers, as they have capitalization requirements,
8 building requirements, staffing, sales, et cetera prior to
9 entering into a franchise with an OEM, and OEMs regularly
10 audit not only sales but the dealer's financials and
11 inventory.

12 Happy to respond to any questions.

13 MR. SCOTT: Thank you, Ms. Phillips. We
14 appreciate you coming in, giving us your insight.

15 And we will now go to the next presenter. We
16 have another one, Tracey?

17 MS. BEAVER: Yes, Chairman. Sgt. Escribano has
18 his hand raised, so he would be the next commenter.

19 MR. SCOTT: Okay. We'll now hear from Sgt.
20 Escribano. Please be mindful about limiting any
21 background noise, please state your name for the record
22 and if you are representing anyone.

23 You will have three minutes, you will given a
24 prompt after two minutes that you have a minute remaining,
25 and your line may be muted by the host after speaking for

1 three minutes.

2 SGT. ESCRIBANO: Thank you, Mr. Chairman. Can
3 you hear me now?

4 MR. SCOTT: Yes, we can. Thank you.

5 SGT. ESCRIBANO: This is Sgt. Escribano with
6 the Clean Air Task Force, Constable's Office Precinct 3,
7 and I'm going to be speaking about prevention and
8 deterrence of the temp tag problem that we've got
9 currently.

10 I went ahead and shared this with Ms. Beaver
11 concerning the legislation that we would like to see
12 looked at, because we feel there are three statutes in the
13 Transportation Code that are in conflict with each other,
14 and if we do some changes to 503.0626 and 503.038 and make
15 correction to .0631, and make 503.038 the ruling statute,
16 that would assist the DMV in being able to do what they're
17 going to do.

18 The other thing that we'd like to see, again,
19 of course, is a rule change of the vetting of the dealers
20 when they obtain their GDNs.

21 And the third, of course, one that is a public
22 safety issue to us and for public safety all the way
23 around is being able to see the actual dealer. When we
24 actually run a tag we'll be able to see, for example, it's
25 going to be, you know, Texas Motors, something like that

1 on there that we will actually see the dealer.

2 And that has several purposes as far as public
3 safety goes, because we have identified over 22 dealers
4 that are just printing tags, and we have a rash of
5 aggravated circumstances here in Austin that we are
6 working with the Austin Police Department and several
7 other agencies that they're using these tags to do
8 aggravated robberies and such, and that would alert or at
9 least help officers to identify some of the things that
10 are going on, not only here but also throughout the United
11 States, because we're working with them too.

12 And as you know, we already know that LETS has
13 uploaded well over one million of these tags fraudulently
14 and that is, in my opinion, a big threat to law
15 enforcement right now and the general public, especially
16 when I learned what I learned yesterday in another
17 investigation that we're involved in that involved --

18 MEETING HOST: You have one minute remaining.

19 SGT. ESCRIBANO: Thank you, ma'am.

20 And I just wanted to go ahead and get that out
21 there again. I have shared that with Texas DMV, Ms.
22 Beaver has all the specifics on that, and with three
23 minutes I really can't go over all of that.

24 But thank you very much, Mr. Chairman and
25 board, I appreciate it.

1 MR. SCOTT: Thank you.

2 General Counsel Beaver, is it appropriate for
3 us to ask a question after public testimony of that
4 person? Is that permitted, or we just move on?

5 MS. BEAVER: Tracey Beaver, general counsel.
6 Absolutely you can ask question of the
7 commenters. Thank you.

8 MR. SCOTT: Okay. My questions is, Sergeant,
9 you were talking about the ability to see the name of the
10 selling dealer. That's not something that you can do now?

11 That information is not available to you at this time?

12 SGT. ESCRIBANO: Mr. Chairman, may I speak?

13 MR. SCOTT: Yes, please.

14 SGT. ESCRIBANO: Okay. Right now, for example,
15 if I see a buyer's tag rolling down the highway and I run
16 the numbers, I will get the information, the VIN number,
17 the person that got the tag, so forth and so on. What I
18 will not see is the dealer's name.

19 For example, let's say the dealer's name is
20 Texas Motor Company. That would mean something to us,
21 because let's say that we're investigating because they're
22 selling these tags on the internet. Instantaneously I
23 would know that that vehicle right there that I'm looking
24 at did not obtain it from a legitimate dealer and that
25 would alert the officer and help them.

1 Let me give you an example. I was involved in
2 a pursuit two weeks ago of where I had that problem, and I
3 was chasing this car and there is no way that you're going
4 to be able to see that. We have had other aggravated
5 situations where they have done robberies and two
6 homicides where we have the tag.

7 Again, it's hard to see what dealer is doing
8 that instantaneously so these officers can be aware of it
9 and start looking out for those vehicles.

10 That's just the issues that we've got. You
11 can't see it right now. We have proposed that two times
12 already, and it has not been done for whatever reason.
13 I'm sure that the department has their reasons behind it.

14 MR. SCOTT: Thank you. I appreciate the
15 follow-up on that.

16 Does anyone else have any questions for the
17 Sergeant?

18 (No response.)

19 MR. SCOTT: Thanks again.

20 And we have another commenter?

21 MS. BEAVER: Yes, we do. Tracey Beaver,
22 general counsel, for the record.

23 If I might make a comment, Chair Scott?

24 MR. SCOTT: Please.

25 MS. BEAVER: I just wanted to thank Sgt.

1 Escribano for his comments and working with the department
2 so closely on this very important issue, and it's a safety
3 issue for law enforcement, so we take this very seriously.

4 We also are looking at doing some programming to address
5 the issue that Sgt. Escribano just brought up.

6 Because law enforcement brought it up, we think
7 it's a very important item for the department to look at.

8 We're hoping to have some of that programming in the near
9 future, so I can get some more information for the board
10 and also for Sgt. Escribano on time frames for when we
11 hope to have that implemented.

12 MR. SCOTT: Thank you. Good comment.

13 Okay. Next up?

14 MS. BEAVER: We have one last commenter, and it
15 is Jeff Martin.

16 MR. SCOTT: We'll now hear from Jeff Martin,
17 and be mindful about limiting any background noise.

18 Please state your name for the record and if you are
19 representing anyone.

20 You'll have three minutes and be given a prompt
21 after two minutes that you have one minute remaining.
22 Your line may be muted by the host after speaking for
23 three minutes. Please go ahead.

24 MR. MARTIN: Thank you, Chairman Scott and
25 members of the committee. For the record, my name is Jeff

1 Martin, and I represent the Texas Independent Automobile
2 Dealers Association.

3 Chairman Scott, let me ask -- or maybe this
4 goes to Ms. Beaver. Are you looking for me to address
5 both the buyer's tag and the dealer bond at this point, or
6 do you want me to separate those two?

7 MS. BEAVER: Tracey Beaver, general counsel,
8 for the record.

9 If I may respond, Chair Scott?

10 MR. SCOTT: Yes, please do.

11 MS. BEAVER: Yes, that's fine for you to go
12 ahead and comment on both items at this time. That would
13 be perfectly appropriate.

14 MR. MARTIN: All right, very well.

15 I want to be clear, our association agrees with
16 the agency that is necessary to address the dealer temp
17 tag abuse, and we applaud DMV's effort. I also want to
18 thank Director Thompson and Director Love for their work
19 on this issue.

20 TIADA feels confident that we're moving in the
21 right direction with addressing this issue on the
22 front-end by limiting the number of buyer's tags a dealer
23 may issue. We also believe that it has the potential to
24 work without great intrusion upon the dealers, and that's
25 something that we're very excited about.

1 As I stated in the Consumer Protection Advisory
2 Committee, until the details of how this program will work
3 or until we better understand the provisions for
4 authorizing additional tags, the association cannot
5 wholeheartedly offer our support. but we do support the
6 direction. and we would be more than happy to work with
7 the staff or with this committee as a resource in the
8 future.

9 Does anyone have any questions related to the
10 temporary tags?

11 MR. SCOTT: No, I don't see any.

12 MR. MARTIN: One thing I do want to mention, I
13 don't know that as an association we necessarily agree
14 that it would take a statutory change.

15 I think that looking at 503.0631 and 503.0626,
16 I think the section that we're looking at is the
17 department may not deny access to the database. I think
18 giving some better clarification on what "deny access"
19 means, maybe we could find a way to address this via rule,
20 and we'd certainly be happy to have that conversation. I
21 know the rules as it relates to internet down tags is tied
22 directly to the number of vehicles sold annually, and it
23 would be interesting --

24 MEETING HOST: You have one minute remaining.

25 MR. MARTIN: It would be interesting to explore

1 that direction as opposed to requiring statutory change.

2 I will say as it relates to the surety bond, I
3 was pleased to see the information found in the memorandum
4 that starts on page 73; however, I was not surprised by
5 the finding.

6 Before I address that information in the memo,
7 I want to be clear TIADA supports increasing the dealer
8 surety bond from \$25,000 to \$50,000. Our association
9 officially took that position in July of 2020, and we
10 currently are working toward that initiative.

11 But let me address the information provided in
12 the memorandum. While I think we can all agree six months
13 is not enough time to draw any significant conclusion, it
14 does provide some anecdotal information. It appears that
15 less than 1 percent of the used car dealers had a claim
16 against their bond in the time frame given. That's
17 fantastic. That's a number that this industry, the used
18 car industry, the men and women which I represent, as well
19 as this committee, the DMV Board and the DMV agency and
20 the public should all be celebrating. I believe this is
21 one of those rare times when we take --

22 MEETING HOST: Your three minutes are up.

23 MR. MARTIN: All right.

24 MR. SCOTT: General Counsel, since he was
25 addressing two different spots, would it be appropriate to

1 give him more time?

2 MS. BEAVER: Tracey Beaver, general counsel,
3 for the record.

4 It's one agenda item, but if you'd like to ask
5 him a question regarding his comments, he would be
6 perfectly able to continue talking to answer those
7 questions.

8 MR. SCOTT: Thank you very much.

9 So does anyone have any questions for Mr.
10 Martin?

11 Yes, Member McRae?

12 MS. McRAE: Thank you, Chairman.

13 I would be interested to hear what Mr. Martin
14 did not get to complete in his initial comments.

15 MR. MARTIN: What a great question, Member
16 McRae.

17 The point I was going to make is that this is a
18 situation -- one of those rare instances where maybe we've
19 looked at the situation and nothing actually needs to be
20 done. I don't know that posting a notice beside the
21 dealer license is going to accomplish any more as it
22 relates to the dealer bond.

23 I strongly suggest the committee recommend to
24 the board that the bond notice be posted on the DMV
25 website in an effort to assist consumers who are looking

1 for that information.

2 Thank you, and I'll be happy to answer any
3 questions.

4 MR. SCOTT: Okay. Anyone have any questions?
5 Member Ramirez maybe?

6 MR. RAMIREZ: No, I don't. I did have a few
7 comments and maybe some questions for staff about whether
8 or not they feel like the measures that we're considering
9 here to bring to the full board will sufficiently allow
10 Corrie and her team to address the issues.

11 I know that we've gone a little back and forth
12 on the rules we're proposing, but putting the cap on the
13 eTAG system, do they believe that that's going to amount
14 to a substantive change and really address the problem, or
15 are there still some steps that are going to be needed to
16 be taken in the future?

17 MS. THOMPSON: Corrie Thompson, director of
18 Enforcement. Chair Scott, if I may?

19 MR. SCOTT: Yes, please.

20 MS. THOMPSON: Yes, I do believe that trying a
21 front-end fix to limit the number of tags that are able to
22 go out the door in the first place is going to prevent the
23 situation that we're currently seeing, where we have
24 thousands and thousands of tags that are being issued in a
25 very short time period.

1 I think if that cap is placed on the front-end
2 that that will absolutely stop the pattern that we're
3 seeing now, so yes, it will be the case that until
4 something is put in place.

5 Of course, it would be nice to have something
6 to deal with the situation that we're currently
7 experiencing until we get that rulemaking and programming
8 for the system in place. Right now we are still able to
9 utilize the current administrative process.

10 As Sgt. Escribano outlined, Transportation Code
11 503.038 does give the department the ability to cancel or
12 revoke a dealer's license for misuse or abuse of the
13 system, which includes excessive issuance of tags, and so
14 that is the administrative process that we currently take
15 on.

16 We find out that there's abuse occurring, we're
17 running monthly reports on that to identify people who are
18 abusing the system at the lower levels, initiating cases
19 on that, taking action, and in most instances we are able
20 to move through what I mentioned as the shorter, happy
21 path, which is still six to eight months to get through
22 the administrative process.

23 So then once the license is revoked we can
24 terminate access to the system, because again, as Sgt.
25 Escribano mentioned, 503.0626 and 503.0631 do currently

1 say that the department cannot deny that tag system access
2 while somebody still has a license issued by the
3 department. And so we do still have an action that we can
4 take; it just does take that longer time period that I
5 mentioned during my initial presentation.

6 MR. RAMIREZ: Excellent. Thank you very much
7 for the response, Director Thompson.

8 And thank you, Director Luna, for giving us the
9 rundown on how you can also work on the background checks
10 for the eTAG system on the front-end.

11 I think that's really going to be an important
12 fix for us, because whenever we're talking about the
13 applications process, the background checks for users with
14 access, really stopping it at the front door so that it
15 never turns to abuse. I think that is the key here, so
16 thank you guys for your work.

17 MR. SCOTT: Okay. Are there any more questions
18 for staff?

19 (No response.)

20 MR. SCOTT: And General Counsel, are there any
21 more commenters?

22 MS. BEAVER: For the record, Tracey Beaver,
23 general counsel.

24 No other public commenters. Thank you.

25 MR. SCOTT: Okay.

1 At this point I'm going to entertain two
2 separate motions for item 4.B. First I will entertain a
3 motion on methods to stop temporary tag abuse.

4 MS. McRAE: Chairman, I would like to make a
5 motion for that item, please.

6 MR. RAMIREZ: I'll second.

7 MS. McRAE: I move that the committee recommend
8 that the board adopt the proposed legislative
9 recommendation to give the department rulemaking authority
10 to limit the temp tag abuse as adopted by the Consumer
11 Protection Advisory Committee with input from stakeholder
12 involvement.

13 MR. SCOTT: Okay. And we have a second. We
14 have a motion from Committee Member McRae and a second
15 from Committee Member Ramirez. Any further discussion?

16 (No response.)

17 MR. SCOTT: Hearing none, I will call for the
18 vote.

19 Member McRae?

20 MS. McRAE: Aye.

21 MR. SCOTT: Member Ramirez?

22 MR. RAMIREZ: Aye.

23 MR. SCOTT: And I, Chair Scott, vote aye. Let
24 the record reflect that there are three votes for and no
25 votes against; the vote is unanimous.

1 I will now entertain a motion for 4.B regarding
2 surety bonds. I would like to make this motion. I move
3 that the committee recommend that the board adopt the
4 proposed legislative recommendations as developed by the
5 department staff with stakeholder input and involvement,
6 with two changes to the recommendation regarding statutory
7 changes to help consumers when a franchised or independent
8 dealer goes out of business.

9 And this recommendation is changed to require
10 the department update its website with information on how
11 consumers can find out more information on making a claim
12 on the dealer's surety bond or insurance policy, along
13 with department contact information.

14 The recommendation is changed to require that
15 the independent dealer post notice of how consumers can
16 access the surety bond in the same location as their post
17 their license in their office. The recommendation is
18 changed to delete the requirement that the dealer present
19 a copy of the notice and maintain that copy in the deal
20 folder at the point of sale.

21 Do we have a second?

22 MS. McRAE: I will second, Chairman.

23 MR. SCOTT: Okay. We have a motion from
24 myself, Chairman Scott, and a second from Committee Member
25 McRae. Is there any further discussion?

1 (No response.)

2 MR. SCOTT: Hearing none, I call for the vote.
3 When I call your name, state your vote for the record.

4 Member McRae?

5 MS. McRAE: Aye.

6 MR. SCOTT: Member Ramirez?

7 MR. RAMIREZ: Aye.

8 MR. SCOTT: And I, Chairman Scott, vote aye.

9 Let the record reflect that the vote was unanimous.

10 Next item up will be a closed session, but we
11 will not have a closed session today, so we're not taking
12 up any items there.

13 We will now move to agenda item 7, public
14 comment.

15 Tracey, do we have any comments from the
16 public?

17 MS. BEAVER: Tracey Beaver, general counsel.

18 No public comments for agenda item 7. Thank
19 you.

20 MR. SCOTT: Okay. Hearing none, we will now
21 move to agenda item 8, which is adjournment. Unless there
22 is any further business, I would like to entertain a
23 motion to adjourn.

24 MR. RAMIREZ: I move.

25 MR. SCOTT: We have a motion from Committee

1 Member Ramirez. Second from?

2 MS. McRAE: I second.

3 MR. SCOTT: Committee Member McRae.

4 Board members, when I call your name, please
5 state your vote for the record.

6 Member McRae?

7 MS. McRAE: Aye.

8 MR. SCOTT: Member Ramirez?

9 MR. RAMIREZ: Aye.

10 MR. SCOTT: And I, Chairman Scott, vote aye.

11 Let the record reflect that the vote is unanimous; this
12 meeting is adjourned.

13 (Whereupon, at 2:58 p.m., the meeting was
14 adjourned.)

C E R T I F I C A T E

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2
3 MEETING OF: TxDMV Legislative & Public Affairs
4 Committee

5 LOCATION: Austin, Texas

6 DATE: February 3, 2021

7 I do hereby certify that the foregoing pages,
8 numbers 1 through 45, inclusive, are the true, accurate,
9 and complete transcript prepared from the verbal recording
10 made by electronic recording by Nancy H. King before the
11 Texas Department of Motor Vehicles.

12 DATE: February 8, 2021
13
14
15
16
17

18 /s/ Nancy H. King
19 (Transcriber)
20

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