TEXAS DEPARTMENT OF MOTOR VEHICLES BOARD MEETING

William P. Clements Building 300 W. 15th Street Room 103 Austin, Texas 78701

> Thursday, January 27, 2022 9:00 a.m.

BOARD MEMBERS:

Charles Bacarisse, Chair Christian Alvarado Stacey Gillman Brett Graham Tammy McRae Sharla Omumu John Prewitt Manuel "Manny" Ramirez Paul R. Scott

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CLOSED SESSION					

7. 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:
Section 551.071
Section 551.074

8.	Section 551.076 Section 551.089 Action Items from Closed Session	
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PROCEEDINGS

MR. BACARISSE: Good morning. Welcome to this cozy room. Glad to see you all here, glad to be here.

My name is Charles Bacarisse, and I'm pleased to open the Board meeting of the Texas Department of Motor vehicles. It is nine o'clock straight up, and I'm calling the Board meeting for January 27 to order. And I want to note for the record that the public notice of this meeting, containing all the items on the agenda, has been filed with the Secretary of State's Office on January 19, 2022.

Before we begin today's meeting, please place all cell phones and other communication devices in the silent mode. And please, as a courtesy to others, do not carry on side conversations in this room since it's so small and intimate.

I want to welcome those who are with us for today's Board meeting. Face coverings and social distancing are not required at this meeting, and each individual attending the meeting has the right and the responsibility to decide for themselves based on their personal circumstances what you'd like to do. It's your choice and we welcome you here at this meeting of the Texas DMV.

If you wish to address the Board or speak on an

agenda item during today's meeting, please complete a speaker's sheet at the registration table or send an email to GCO General@TxDMV.gov. That's GCO General@TxDMV.gov.

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Please identify in your email the specific item you're interested in commenting on, your name and address, and whether you are representing anyone or speaking for yourself. If your comment does not pertain to a specific agenda item, we will take your comment during the general public comment portion of the meeting.

In accordance with department administrative rule, comments to the Board will be limited to three minutes. To assist each speaker, a timer has been provided. So the timer light will be green for the first two minutes, yellow for one minute, and then red when your time is up.

Individuals cannot accumulate time from other speakers, and comments should be pertinent to the issues stated on the comment sheet. When addressing the Board, please state your name and affiliation for the record.

There are a few things that will assist in making the meeting run smoother and assist the court reporter in getting an accurate record: please identify yourselves before speaking, speak clearly, do not speak over others, and please ask the chairman to proceed and be sure to get recognized before speaking.

I'd like to also thank our court reporter who is transcribing this meeting. To make sure we have an accurate recording of this meeting, it's very important that Board members and anyone presenting today identify themselves by name before speaking and speak clearly and slowly.

You might note, members, that there are little round microphones on the table. Don't cover them in any way, because that's the court reporter's ears, if you will. So keep those clear, if you would.

Before we begin today, I'd like to remind all presenters and those in attendance of the rules of conduct at our Board meetings. In the department's Rules Section 206.22, the Board chair is given authority to supervise and conduct the meetings. This includes the authority to determine when a speaker is being disruptive of the meeting or is otherwise violating the timing and presentation rules that I just discussed.

So now I'd like to have a roll call of the Board members. Please respond verbally when I call your name.

Member Alvarado, are you here?

MR. ALVARADO: Here.

MR. BACARISSE: Member Gillman?

MS. GILLMAN: Here.

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ON THE RECORD REPORTING (512) 450-0342

1	MR. BACARISSE: Member Graham?
2	MR. GRAHAM: Here.
3	MR. BACARISSE: Member McRae?
4	MS. McRAE: Here.
5	MR. BACARISSE: Member Omumu?
6	MS. OMUMU: Here.
7	MR. BACARISSE: Member Prewitt?
8	MR. PREWITT: Here.
9	MR. BACARISSE: Member Ramirez?
10	MR. RAMIREZ: Here.
11	MR. BACARISSE: Member Scott?
12	MR. SCOTT: Here.
13	MR. BACARISSE: And let the record reflect that
14	I, Charles Bacarisse, am here too, so we have a quorum.
15	And so before we move on to agenda item number
16	2 well, actually let's do agenda item number 2 and then
17	I'll speak to that. So now we're going to move to our
18	pledges of allegiance. Member Scott has the American
19	pledge, and Member Ramirez will do the pledge to the Texas
20	flag.
21	(Whereupon, the Pledges of Allegiance, U.S. and
22	Texas, were recited.)
23	MR. BACARISSE: Thank you, members.
24	Before you're seated, I'd like to have a moment
25	of silence as we recognize our law enforcement officers

who have fallen in the line of duty over the last couple of weeks. It's been a really tough week for Texas and the nation, so let's just take a moment.

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(A moment of silence was observed.)

MR. BACARISSE: Thank you. You may be seated, members.

Thank you, Member Scott and Member Ramirez, and I appreciate that very much.

I would like to note that we have public comment listed as agenda item 9, however, we'll be taking up public comment prior to our closed session.

So we'll now move to agenda item 3 which is the executive director report. Whitney.

MS. BREWSTER: Good morning, Mr. Chairman, members. My name is Whitney Brewster, executive director of the Texas Department of Motor Vehicles. Thank you for allowing me this time this morning to share with you the important actions that the agency has taken to combat temporary tag abuse.

For those listening, I want to explain what we're talking about temporary tag abuse. There is a proliferation of temporary tags on our roadways right now for several reasons. Increased vehicle sales, difficulty in obtaining titles for vehicles coming in from out of state, and the challenges of county office

closures due to COVID-19 have all contributed to additional tags being on our roadways.

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Many tags are completely valid, other tags are expired, which requires law enforcement to take action to remove them from the roadways. As an administrative agency, we do not have enforcement authority to stop the use of expired tags on our roadways.

Some tags are straight up fake. People create tags on their home computers or copy real temporary tags and put them on vehicles. TxDMV has worked very hard to include security features on the tag itself so that fake tags are more easily detectable by law enforcement.

Finally, and unfortunately, there are those tags that are legitimate tags issued fraudulently throughout eTAG system by dealers licensed by our department. It is this type of temporary tag abuse that we are working to address by the rules being considered by the TxDMV Board today.

I appreciate very much the Board accelerating this decision by holding this special Board meeting to address these provisions of HB 3927, which is limiting the number of temporary tags a dealer is allotted to be in alignment with sales and other growth factors, and then removing user access to the eTAG system immediately when it is being misused.

It takes all of us working together, TxDMV, state policy makers, law enforcement, social media platforms, and our stakeholders to address the issue of temporary tag abuse. And I'd like to talk further about the initiatives the agency has been working on to work with these various entities on this important issue.

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The department is grateful for the ongoing cooperation and engagement of law enforcement agencies across the state and their efforts to combat the fraudulent use of temporary tags. My staff are committed to working with law enforcement in every way we can to end this illegal activity.

In the last several months, we have successfully engaged with law enforcement in joint operations around the state, resulting in the identification, investigation and prosecution of illegal activities. This includes recent operations in the state's largest jurisdictions, including Montgomery County, Houston and Dallas.

I would like to very much thank the Texas

Department of Public Safety, the Montgomery County

Sheriff's Office, the Harris County Toll Road Authority,

and the Dallas, Houston and Laredo police departments for

their recent successful efforts to identify this illegal

behavior and remove the tags and, in many instances,

remove the perpetrators from Texas roadways. This is just an example of the great work by law enforcement that is underway right now all across the state.

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Great things can happen when law enforcement and our department work together collaboratively and transparently to address the issues of temporary tag abuse. We're also working with local law enforcement to embed TxDMV investigators in operations around the state to help identify the illegal sale and use of temporary tags as a part of criminal investigations. We welcome the opportunity to work with law enforcement across the state and at all levels of government as they pursue investigations into motor vehicle crimes.

Additionally, our department staff has been working with the investigators and compliance programs of social media platforms, and that is to help identify and remove the advertisements and the postings and the groups related to the attempted sale of temporary tags through only marketplace type platforms. These cooperative activities have already resulted in the removal of thousands of illicit postings, and are assisting the machine learning algorithms to better identify the tactics used by criminals to avoid detection and to more quickly act on illegal sales activity.

And finally, beginning last year, TxDMV

Licensing and Enforcement staff began reexamining
licensing application records to identify existing
licensed dealers and refer specific concerns to local law
enforcement for potential criminal investigations.

Department staff is also able to use this information
collected from these reviews to take administrative action
to reduce access to our temporary tag system when
appropriate and allowed by law.

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abusers to proactively identify commonalities in the behavior and use that information to help identify others involved in illegal activities. After a review of over 12,000 documents by our Motor Vehicle Division, 164 were referred to our Enforcement team for site visits to date, resulting in 48 dealers found not operating at their location and 52 dealers with premise defects requiring followup. The TxDMV is now reviewing all new applications for similar commonalities and, when found, requesting that our Enforcement Division staff conduct a site visit prior to licensure.

I'd like to thank very much our Motor Vehicle Division and our Enforcement staff. They have made this their top priority, and I sincerely appreciate the hard work that they have put into this very important issue.

Although the rules being considered here today

are a huge step in the right direction, it is further collaboration with those entities that I just mentioned that will really address the issue of temporary tag abuse holistically.

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And Mr. Chairman, that concludes this portion of my report and I'm happy to answer any questions.

MR. BACARISSE: Are there any questions for Ms. Brewster? Tammy, did you have something you'd like to share?

MS. McRAE: I did. Thank you, Chairman.

Whitney, I just want to thank you and your staff for reviewing them and the activities that the agency has been undertaking to address this serious issue.

And I wanted just to take a minute, if you don't mind, Chairman, to highlight for the Board one of the effective collaborations with law enforcement mentioned.

As you all know, TxDMV is not a law enforcement agency, and we're limited to our authorized regulatory and administrative functions in working toward a resolution to the problem. However, our agency is the custodian of records that can be highly beneficial to law enforcement officers on the front lines to make the distinction between tags that are used appropriately and those that are being used in criminal activities.

Just recently, I'm very proud to say, that

TxDMV staff worked closely with both the Montgomery County
Sheriff's Office and Department of Public Safety to
identify and arrest several individuals that were
illegally producing, selling or using temp tags in my
county. The effort was effective and successful because
of the joint collaboration mentioned and the use of
appropriate resources of the groups at the right stage of
the process.

I applaud Whitney and her team for their
efforts to make this so effective and to work with law
enforcement across the state, and I'm happy that we're

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I applaud Whitney and her team for their efforts to make this so effective and to work with law enforcement across the state, and I'm happy that we're seeing results in the Dallas and Houston areas. I know that the investigative work of law enforcement is critical, but at TxDMV we must continue to take these actions necessary to prevent the tags from being accessible to criminals in the first place.

So I just want to applaud everyone involved. Thank you.

MR. BACARISSE: It's a great start, more work to do, but thank you.

At this time, any other questions or comments on Ms. Brewster's report?

(No response.)

MR. BACARISSE: We're going to move on to

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agenda item 3.B. and I will now turn it back to Ms. 1 Brewster. 3 I understand also that we might have cured our audio problem, is that correct, before we move forward? 4 5 MS. BEAVER: Tracey Beaver, general counsel, 6 for the record. 7 I understand that our streaming audio may have 8 had a glitch, however, we are having the court reporter 9 recording the meeting and so we are trying to continue. I understand that the audio is turned back on for the live 10 11 stream. 12 Thank you. 13 MR. BACARISSE: Okay. So we're good to go on 14 that point? 15 MS. BEAVER: Yes. 16 MR. BACARISSE: Okay. Thank you. So we will take up item 3.B. at this point. 17 Ms. Brewster. 18 19 MS. BREWSTER: Thank you, Mr. Chairman. 20 The Motor Vehicle Industry Regulation Advisory Commissioner, or MVIRAC, met on December 16, 2021, to 21 22 discuss two primary items. And just a reminder, the 2.3 MVIRAC is composed of volunteers from the motor vehicle 24 industry, as well as law enforcement and public members. 25

And they provide recommendations both to the agency and

Board on issues of policy.

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So the MVIRAC met and they addressed two primary items. One, they addressed the metric used in the draft rule to determine temporary tag allotments following the public comment period to determine if there were further recommendations that were necessary to bring before this Board. And second, to discuss recommendations to staff on policy changes prior to licensure that could potentially help keep bad actors from getting a dealer license in the first place.

And so we are fortunate today to have the presiding officer of the MVIRAC, Presiding Officer David Earl Blassingame. I do want to thank him very much for his leadership and his service and his willingness to be here today to provide comments to the Board. And he will go into more detail in his comments about MVIRAC's activities, but I do want to mention two of the recommendations that were made to staff during that MVIRAC meeting.

So MVIRAC recommended that the department require non-franchised dealers or independent dealers to be electronically fingerprinted at their personal expense with a records review by TxDMV Licensing prior to being issued a license. And then also the committee recommended that the department conduct in-person, on-site premise

inspections of all used car applicants prior to their 1 2 being issued a license, to ensure that they are in 3 compliance with TxDMV requirements. So those recommendation to staff, I just wanted 4 5 to let the Board know and the public know that those will 6 be discussed further in an upcoming agenda item, and they 7 are scheduled to be taken up by the Legislative and Public Affairs Committee, chaired by Member Scott, on February 9. 8 9 At that meeting, TxDMV will do a deeper dive into each of 10 those recommendations so that the Board has a clearer picture and understanding of the potential impacts of 11 12 those policy changes, the operational impacts of these 13 recommendations on our agency and our stakeholder groups. 14 So Mr. Chairman, that concludes my update on 15 MVIRAC. 16 MR. BACARISSE: Members, are there any 17 questions for Ms. Brewster on this item? 18 (No response.) 19 MR. BACARISSE: I'm sorry? 20 MS. BEAVER: Chairman, Tracey Beaver, general 21 counsel, for the record. 22 We have two public commenters on this agenda 2.3 item. 24 MR. BACARISSE: Right. I was just going to ask 25 you that.

MS. BEAVER: Sorry to interrupt. 1 2 MR. BACARISSE: No, that's good. 3 MS. BEAVER: It's Mr. Escribano and Mr. Kohler. 4 MR. BACARISSE: Great. Sgt. Escribano, are you 5 ready to come and speak to us right now? Love to have 6 you. Come on up. 7 SGT. ESCRIBANO: Good morning, Mr. Chairman. I'm Jose Escribano, Constable Precinct 3, and I'm 8 9 representing the Constable's Office. 10 Is my time starting now, sir? MR. BACARISSE: I believe it is. 11 12 SGT. ESCRIBANO: Well, let me just jump right 13 into it, please, sir. 14 MR. BACARISSE: Please. 15 SGT. ESCRIBANO: Ms. Brewster stated that 16 stopping the fraudulent production and use of temporary 17 tags is the top priority of the Texas Department of Motor Vehicles. Actions speak louder than words. During the 18 2020 legislation, Texas DMV did not support House Bill 19 20 3927 or the Combined Law Enforcement Association of Texas or the Constable's Office of Precinct 3. As a matter of 21 22 fact, nobody from DMV contacted our office. 2.3 Ms. Brewster stated that we are working close 24 with law enforcement, although this is true, just not the 25

Travis County Constable's Office of Precinct 3 that is

recognized as the top expert in the field of Texas tag
fraud throughout Texas and the United States. We share
tag information across a network of over 330 law
enforcement agencies in Texas and the United States and
Canada. We also were the first to create a eight-hour
fraud tag provided for law enforcement in the State of
Texas.

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I have been waiting for over three years for someone from the Texas Department of Motor Vehicles to liaison with our office and collaborate. Director Brewster said that Texas DMV recently worked with Montgomery County Sheriff's Office and that resulted in arrests. I applaud that action.

What they don't mention is that in 2019,

Montgomery County Sheriff's Office had to run a search

warrant on the Texas DMV for IP addresses. On December

20, 2019, the Constable's Office LE met with the Texas DMV

in a roundtable meeting that was recorded. We offered our

assistance on the tag issue and asked for access to the

webDEALER and eTAG reports. Director then, Jeremiah

Kuntz, advised that it could be done by creating a law

enforcement email and we could get that done, which is an

important tool on our investigations.

Since 2019, we have been denied time and again to the point that in March of 2020 we had to execute a

search warrant on the Texas DMV. The Texas DMV has denied over ten requests for information from Det. Mike Bradburn and delayed the information by the use of attorney general's opinions.

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As recently as the last month, I was denied a location -- the location of the servers of the DMV that we needed for criminal investigation to establish venue. The AG's opinion letter from the DMV stated that the Constable of Precinct 3 and the way it was worded, we posed a threat to those servers. I assure you on the Board that the Constable's Office of Precinct 3 is not a domestic terrorist organization; we are a law enforcement agency.

Director Brewster, I would ask that you could please give me the number and the liaison for our office. We would be more than happy to cooperate and form a partnership with you, that you said you want to have that. Also, we would ask that we get access to the eTAG reports on webDEALER, just like your investigators do and the criminals that access that report.

That is my comments.

MR. BACARISSE: Thank you very much.

SGT. ESCRIBANO: Any comments?

MR. BACARISSE: Your time is up. Thank you.

SGT. ESCRIBANO: Thank you, sir.

MR. BACARISSE: Do we have any other

ON THE RECORD REPORTING (512) 450-0342 commenters? Yes, we do.

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MS. BEAVER: Mr. Kohler.

MR. BACARISSE: Mr. Kohler, are you ready?

MR. KOHLER: Good morning, Mr. Chairman. Thank you for your time. Good morning, Board members.

Does my time start now?

MR. BACARISSE: Yes, sir. Go right ahead.

MR. KOHLER: Most of you. I'll introduce myself again. David Kohler. I'm a 30-year law enforcement veteran. I work here in Central Texas, and I'm here representing myself, not my agency.

With regards to the comments of section 3, some of the comments that Sgt. Escribano made, working with law enforcement, yes, it's a top priority. It does not happen, and I can tell you it doesn't happen.

I filed a dealer complaint on September 7. The investigator reached out to me on September 8. Today is January 27, almost five months. Maybe I got the anomaly of the investigator why I don't have information back on my complaint from five months ago to look into a fraudulent dealer.

If there's a liaison to pick up a phone where I can call -- New York PD, I just communicated with them this morning. They can pick up a phone and call their local DMV and be able to speak with somebody without

filling out a DCR-275 to have to wait seven to ten days to get the information back.

I work weekends, I work holidays, so do criminals. I need access to the information with regard to criminal investigations, whether it's an email, user name and password, read only that I can -- as law enforcement, I've got access to FBI websites. I've got access to other secured websites. If I violate it, I get punished.

This should be no different from the DMV system. If I violate it, I get punished. But I should be allowed to log in, read only, not to manipulate your system, to gain access to the eTAGs for criminal activity, whether it's the death of a law enforcement officer or another loved one's family.

And that is my speech and I appreciate it. And I will be happy to answer any questions if I can.

MR. BACARISSE: Members, any questions for Mr. Kohler?

(No response.)

MR. BACARISSE: Thank you, appreciate it.

MR. RAMIREZ: I've got a few comments, Mr.

Chairman.

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MR. BACARISSE: All right, yes. Go ahead, Member Ramirez.

MR. RAMIREZ: Thank you, Sqt. Escribano, Mr. 1 2 Kohler. 3 I'll tell you from law enforcement's 4 perspective, these two gentlemen are absolutely right. 5 think that we have to, as an agency, be able to share 6 information timely when we're helping these 7 investigations. I've worked as a detective and I know how 8 critical it is that we are working directly with them in a 9 timely fashion. 10 As I mentioned, or as Vice Chairman McRae mentioned, we're not a law enforcement agency at DMV, so 11 12 we have to ensure that our law enforcement agencies have 1.3 the information and resources they need to take law 14 enforcement action, and that's our part of the puzzle. So 15 I would like to see, if there is an issue ongoing, this 16 agency work towards giving that information a lot more 17 timely. 18 Those are my comments. 19 MR. BACARISSE: Well made and well taken. 20 MS. BREWSTER: Mr. Chairman, if I may? 21 MR. BACARISSE: Whitney. 22

MS. BREWSTER: And thank you for your comments,
Member Ramirez and Mr. Kohler and Sgt. Escribano. I
appreciate those comments and I look forward to further
conversing on ways in which we can address the concerns

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that you're expressing, and I look forward to a very transparent and collaborative relationship moving forward. So I commit to you after this meeting that we can sit down and have further discussions on ways that we can collaborate as well.

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And also, I do want to make mention that we do have a section on our website specific for law enforcement, devoted to law enforcement requesting information. We do have a direct line for law enforcement to be able to ask questions as well, so we will work on getting that information out. And also, we have been meeting with the police departments, as I stated, to understand further what information law enforcement is seeking so we can make standardized reports so that we can pull that information very quickly for their use in investigations.

So I recognize that there is room for improvement there. We are committed to working with the law enforcement agencies across the state to get them the information that they need.

MR. BACARISSE: And I know for a fact that Ms. Brewster has been in touch and in contact with the leadership in Dallas's and Houston's police departments, but there are other obviously many other agencies, so we need to pick up that pace, and I think we will do that.

1 So thank you. MS. BREWSTER: Thank you. 3 MR. BACARISSE: Members, anything else? other questions? 4 5 (No response.) 6 MR. BACARISSE: All right. Let's now take up 7 agenda item B if we may, and we might want to pause just a I'm getting a message that there's still some 8 9 audio challenges going on. 10 So do we want to just take about a five-minute pause in the meeting and address that? 11 12 MS. BEAVER: Tracey Beaver, general counsel, 1.3 for the record. 14 That would be nice to take a five-minute break 15 to address any audio issues, and I'd just like to ask 16 anyone commenting as well as members to make sure that the 17 mic is as close as it can be. They don't have a very good 18 system. Thank you. 19 MR. BACARISSE: Got it. Thank you. 20 So we will be in recess for five minutes and 21 we'll return at 9:33. Thank you. 22 (Whereupon, at 9:27 a.m., a brief recess was 2.3 taken.) 24 MR. BACARISSE: Let's try to bring the meeting 25 back to order if I may, please. To make note of the time,

it is 9:37 in the morning. I'm making a note of that time for the record.

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We now want to move to item on the agenda 3.B. which is the Motor Vehicle Industry Regulation Advisory

Committee. Before we start that though, Ms. Brewster, did
you have an additional information you wanted to share?

MS. BREWSTER: Yes, sir. In fact, we already covered the Motor Vehicle Industry Advisory Committee.

MR. BACARISSE: I'm sorry. We've done that.

MS. BREWSTER: We've done that item.

MR. BACARISSE: We're going to 4.

MS. BREWSTER: We are going to item number 4, but I did want to mention that the agency just recently went through the informal rulemaking process on SB 15 and gathered initial feedback from law enforcement and other interested parties on ways that we can streamline the way in which we get information to law enforcement. And we had a lot of feedback from law enforcement, and so we are working through that feedback and will be coming forward with rules regarding implementation of SB 15 and ways in which we can streamline the process for providing information to law enforcement.

So I just wanted to provide that information since we are going through that process right now, and it was very pertinent to the comments made earlier by our law

enforcement. So thank you for the opportunity to share that information.

MR. BACARISSE: Sure.

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Before we get into agenda item 4, let me just remind the members that if you want the floor just ask for me to recognize you and I'll do that, just so we can keep the conversation separated and easier for the audio transcription to be done and for those who are listening to be able to make sense of our conversation. So I'll give all members wishing to speak obviously a turn before giving the floor to a member for a second time in the discussion.

And then just address me as the chairman and not the other Board members during the discussion, that helps as well. And then at some point, if necessary, members or the chair may ask to confer with general counsel and take a brief recess if we need to as we work through this.

Before we move to that agenda item, I'd like to note that I've asked staff to include this agenda item, the fingerprinting of applicants for licensure, so that the staff can evaluate our statutory authority very clearly and very thoroughly and also business processes to look at curbing abuse in the system.

So let me do move to agenda item 4, and I'll

turn it back over to Ms. Brewster.

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MS. BREWSTER: Thank you, Mr. Chairman. Whitney Brewster, executive director.

As I mentioned in the previous agenda item, there are different types of temp tag abuse. There are also distinctions between system abusers. We have abusers of the system that get a license and print excessive tags, and then we have a subset of those temp tag abusers who are stealing identities to get a dealer license to then misuse the system.

As you know, there have been requests from law enforcement to expedite rulemaking to require fingerprinting to address criminals circumventing our name base background check requirements by using a stolen identity. In these instances, the background check information provided by the applicant comes back clean. Tying a biometric identifier to the applicants increases the assurance that the fingerprint-based background check will verify the identity of the applicant.

The purpose of item number 4 on the agenda is to allow the department to initiate rulemaking while the agency further explores the legal and operational impacts of fingerprinting on the department, its stakeholders and the public. So this will allow us to expeditiously begin drafting the potential policy considerations while we're

also exploring the impacts of those policies so that the Board has a fuller picture of what that means prior to the Board's consideration of the rules for adoption.

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I acknowledge that this will have an impact both on the department as well as industry, and it is important that we be transparent in how we provide and seek feedback. I sincerely ask that industry and all impacted parties provide honest and constructive feedback to the department as we go through this expedited process so that the Board can determine the most appropriate policy direction on this important matter.

What is being recommended is for the TxDMV

Board to instruct the department to draft proposed rules related to fingerprinting independent and franchised dealer applicants, with all costs paid by the applicant, for the department to publish the proposed rules in the Texas Register for public comment, and for the department to bring the proposed rules and any public comment back to the Board in a future Board meeting to consider for final adoption.

Our goal here is to be responsive to our law enforcement partners, while also looking at ways to pursue policy changes that do not disrupt the over 20,000 legitimate dealers that contribute to the citizens and economy of the state.

So with that, Mr. Chairman, that ends my executive director's report and I'd be happy to answer any questions that Board members may have.

MR. BACARISSE: Members, any questions for Ms. Brewster on this item?

MR. RAMIREZ: Mr. Chairman.

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MR. BACARISSE: Yes, Mr. Ramirez.

MR. RAMIREZ: You know, this step -- the steps we're going to talk about later that we've already gone through the process of rulemaking, those are to stop the criminal activity that's already happening, stop the bleeding, so to speak. I think rulemaking that includes fingerprinting, that's to stop it from ever happening in the first place -- to stop criminals from getting in the front door. So I do think that it's an important thing that we ought to be discussing.

I will move that the department initiate rulemaking for fingerprinting of applicants for holders of franchised and independent dealer general distinguishing number. I move that the department review their statutory authority and business processes for fingerprinting of applicants for a new GDN and at renewal of a GDN for existing licensees. I move that the department publish any proposed rules in the Texas Register for public comment and for the department to bring the proposed rules

1 and any public comment back to the Board in a future Board meeting to consider for adoption. 3 MR. BACARISSE: Thank you, Mr. Ramirez. We have a motion. 4 Is there a second? 5 MR. SCOTT: Second. 6 MR. BACARISSE: There is a second by Member 7 Scott. Members, is there discussion on this item? 8 MS. GILLMAN: Yes, Mr. Chairman. 9 MR. BACARISSE: Yes, Ms. Gillman. 10 MS. GILLMAN: My only comment is while I completely agree, Member Ramirez, that fingerprinting at 11 12 the time of licensure to try and catch these guys at the 13 very beginning is absolutely the right thing to do. I 14 applaud those efforts and agree that we should press 15 forward with that. 16 However, I am opposed to the mandatory 17 fingerprinting of franchised dealers because there are no 18 violations by franchised dealers. And I respectfully 19 would like the department's factual data regarding any 20 abuse of the temp tags and illegal fraud and abuse by franchised dealers. 21 22 With that in mind and the facts to back it up, 2.3 I would like for consideration for franchised dealers to 24 be excluded from fingerprinting, and I believe that MVIRAC

also, the committee looking at this, stated the same.

25

I agree with your motion, I welcome the public comment, I appreciate the agency gathering facts and research.

And so as we look forward to the February 9 meeting where this is really going to be the discussion happening, I just ask for that consideration in rulemaking going forward.

Thank you.

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MR. BACARISSE: Members, anyone else on this?
We have a motion before us. Any other questions, comments on the motion?

MR. RAMIREZ: Mr. Chairman?

MR. BACARISSE: Yes, Mr. Ramirez.

MR. RAMIREZ: I'll address Member Gillman's comments. I completely agree with you. I believe that our great franchised dealers go through a tremendous vetting process to get set up in the State of Texas as franchised dealers already.

I do agree with Executive Director Brewster that the impacts to our great auto dealers should be minimized if there is no history of abuse or there is no exclusive potential of abuse. I do also welcome the public comments and I think this is a good jumping off point.

MR. BACARISSE: Tracey, I just have a question for you on procedure. We have a motion and a second that

Member Ramirez put on the floor and we're discussing it. Would Member Ramirez need to amend his motion to include Ms. Gillman's request, or can that be studied -- do we need to amend the motion or can we just -- you know what I'm saying?

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MS. BEAVER: Yes. Thank you, Chairman. Tracey Beaver, general counsel, for the record.

And remember to make sure that the microphones are right in front of your face as you're talking.

They're not picking up very clearly so we want to make sure that everybody in the public can hear.

But to your question, Chairman, the prior motion and a second for this particular agenda item, the request from Member Gillman that franchised dealers be excluded from fingerprinting, the motion is to ask the department to study and look into which type of licensees the department would fingerprint to, then bring that for public comment fully vetted with the public, get that comment from stakeholders and those who are interested parties and experts in the field, and then bring that back to the Board for consideration of rulemaking and adoption.

And so the motion is not to require the department to actually have rules for fingerprinting franchised and independent dealers. It's to review our statutory authority, do the research, vet it and then

1	bring it back with more knowledge and allow the Board to
2	make that consideration and decision at a later date.
3	MR. BACARISSE: Okay. Thank you.
4	Members, any other questions?
5	(No response.)
6	MR. BACARISSE: Seeing none, I'll call the vote
7	if I may. And so we have a motion from Member Ramirez and
8	a second by Member Scott, and now we're voting.
9	Member Alvarado?
10	MR. ALVARADO: Aye.
11	MR. BACARISSE: Member Gillman?
12	MS. GILLMAN: Aye.
13	MR. BACARISSE: Member Graham?
14	MR. GRAHAM: Aye.
15	MR. BACARISSE: Member McRae?
16	MS. McRAE: Aye.
17	MR. BACARISSE: Member Omumu?
18	MS. OMUMU: Aye.
19	MR. BACARISSE: Member Prewitt?
20	MR. PREWITT: Aye.
21	MR. BACARISSE: Member Ramirez?
22	MR. RAMIREZ: Aye.
23	MR. BACARISSE: Member Scott?
24	MR. SCOTT: Aye.
25	MR. BACARISSE: And I, Chairman Bacarisse, vote

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aye as well. It is unanimous, so we will send this item 1 to staff for their quick work. 3 MS. BREWSTER: Thank you, members. 4 MR. BACARISSE: You bet. 5 So let the record reflect that that was a 6 unanimous vote. 7 Agenda item 5 is now before us, and that is adoption of Chapter 215, Motor Vehicle Distribution. So I 8 9 think we need to ask Mr. Thompson to come up, or Monique. 10 Good morning. 11 MS. JOHNSTON: Good morning. 12 MR. BACARISSE: Go right ahead. 13 MS. JOHNSTON: Chairman, members, Ms. Brewster, 14 good morning. For the record, I'm Monique Johnston, 15 director of the Motor Vehicle Division. 16 First, I would like to give a brief overview of 17 House Bill 3927, which is the bill that gives the department the authority for the rules that we will be 18 19 presenting under the next two agenda items, number 5 and number 6. 20 21 In 2021, the Texas Department of Motor Vehicles 22 Board requested the legislature provide the Texas DMV with 2.3 tools to combat misuse and fraud in the issuance of 24 temporary tags. With the additional input from law 25 enforcement, motor vehicle dealers and the industry, the

legislature responded with House Bill 3927. Prior to 3927, TxDMV was specifically prohibited by statute from denying a dealer or converter who was fraudulently obtaining thousands of excess temporary tags access to the database. The department's only recourse was license revocation, and this administrative process could take months and years to complete.

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House Bill 3927 removes the statutory prohibition and authorizes TxDMV to deny a dealer's or a converter's access to the temporary tag database if the department determines a dealer or converter is fraudulently obtaining temporary tags. Now, while denial of access is a powerful tool to stop those few who are misusing the system and fraudulently misusing these tags, it addresses only stopping additional fraudulent activity. To minimize fraud on the front-end, the legislature also asked TxDMV to establish the maximum number of temporary tags a dealer or converter may obtain in a calendar year.

With that overview, I will now move on to agenda item number 5 for the Board's consideration. Today we are seeking the Board's approval to adopt the proposed amendments to Sections 215.152 and 215.158, which establish the maximum number of tags a dealer or converter may issue in a calendar year. The rule package is listed on your agenda as item number 5 and the details may be

found in the Board book beginning on page 9.

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The proposal modifies two existing sections:
215.152 which is obtaining numbers of issuance of
temporary tags, and 215.158 which is general requirements
and allocation of preprinted internet down tags. The most
significant proposed changes are in Section 215.152.

Subsections (c) through (l) describe the separate methods to establish temporary tag limits for existing dealers and converters, as well as licensees. The proposal also sets different maximums for franchised and independent dealers. This proposal establishes the process for when and how dealers and converters can request more tags and the review and appeals process.

In setting maximum temporary tag limits, our goal is to carefully balance three needs: to combat fraud, to ensure lawfully operating dealers and converters can continue to grow and conduct business efficiently, and to minimize the administrative burden for both licensed dealers and the TxDMV. We believe these proposed rule changes strike the right balance.

As part of this process, the dealer or converter will be able to monitor their temporary tags in real time through the system. The max tags and how many tags are remaining will be displayed every time an authorized user assigns a tag. The proposed rules will

allow the dealer or converter to request additional tags once they have used 50 percent of their annual allotment for a specific tag type.

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These requests would be submitted through the eLICENSING system, which is already a familiar tool for all of our license holders. This is the system they use to renew and apply for licenses and to request dealer metal plates. And the application that's going to be used for this request is similar to what a dealer would use to request metal plates, so it's going to be very easy to follow. With the proposed tag limit methodology, our legitimate dealers and converters will be able to conduct regular business without impediments or additional cost.

The Motor Vehicle Industry Regulatory Advisory
Committee, or MVIRAC, discussed tag limits during two
meetings, providing important input used in establishing
the original formula and calculating the maximum tags
dealers and converters may issue in a calendar year.

At the October Board meeting, the proposed rules were presented for publication. The Board voted to publish the rules for public comment and directed staff to reconvene the MVIRAC to review the rule package and any public comments received. Based on additional feedback from MVIRAC, the department added language clarifying that a dealer may submit information from their manufacturer or

distributor to justify a larger number of temporary tags be allotted, either initially or as part of a later request. The department also received 35 written comments from legislators, industry groups and individuals, with many expressing concerns about temporary tag fraud and support for our efforts to prevent this fraud.

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Clarifying text was added to the proposed rules in response to several specific comments, making it clear that dealers and converters may receive more tags initially based on specific circumstances, such as when an established dealer opens a new location or when a new dealer opens a high volume dealership or relocates. For example, when an established dealership applies for a new location, the dealer will be notified at the time of application what their initial tag allotment for that calendar year would be, and this will be based on the average tag allotment for their existing locations. So they would not be defaulted to the standard 300 or 600 allotment per calendar year if the average allotment for their locations exceeded that amount.

If a dealer believes this allotment will not be sufficient for the new location, they will be able to submit supporting documentation at the time of application to increase the initial calendar year allotment. This documentation could include manufacturer projections, the

franchised dealer's own projections, and also used car sales data from other locations, as well as any other kind of information the dealer would like to supply to the Board. With the submission of acceptable supporting documentation, initial calendar year allotments for the new location could then be adjusted at the time when a new license was issued.

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This process will ensure that legitimate dealers will be able to have the proper number of tags when that new location is opened, based on what they feel their projections and their sales will be.

Additionally, changes in the temporary tag allocation formula were made in response to comments. Here today with me is the deputy director of our Vehicle Titles and Registration Division, Clint Thompson. And he will provide you with an overview of the changes and the methodology that the department used to determine the initial maximum temporary tags.

MR. BACARISSE: Come on up, Clint.
Thank you, Monique.

MR. THOMPSON: Good morning, Chairman. Good morning, Executive Director Brewster. How're y'all doing?

Clint Thompson, deputy director of the Vehicle

Titles and Registration Division. I'm going to provide

y'all an overview of the mechanics of the criteria used to

establish the maximum limits. I want to make sure that there's a shared understanding of what this looks like, how this will be implemented, if adopted today, but also want to address the changes that Director Johnston referenced that we made relative to public comment.

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There are statutory considerations that we are required to factor into these maximum tag limits: sales data, license tenure, expected growth, temporary conditions that may affect the dealer, and market conditions as well, among other criteria that the department deems pertinent in order to increase maximums.

With that, we absolutely understand the nature of the fraud going on. We understand the tags are being issued fraudulently; we understand that crimes are being committed as a result of that. Even at that, we have to balance the fact that we have legitimate businesses that are not committing fraud. We've heard that from law enforcement, we've heard that in the advisory committee meetings, we've heard that at Board meetings.

The vast majority of dealers in this state are not committing fraud. That is the goal behind this is to balance the fraud and to balance the fact that we have legitimate businesses that do not need impediments created for them.

The rule text I'll be speaking to starts on

page 54. This is a similar format that y'all saw. Again, I'll walk through the mechanics of this.

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With not burdening dealers, we started out with not requiring them to submit data to us. We had the opportunity to go and say, Give us what you think your actual sales data is. Y'all provide us documentation, substantiate this for us on the front-end.

Rather than burden those folks, we looked at the various systems that the department has to determine what is actual sales, one of the factors the statute requires. We used the data available in eTAG and looked at historical tag issuance per dealer. We also looked at the title transactions processed by county tax offices through the Registration and Title System, and using that data we established the base.

And what we've done with this proposal, based on public comment originally, we looked at the higher of the buyer tags issued to Texas residents compared to title applications. We gave dealers credit for whichever one was higher. In theory you should have a one for one.

We understand that there are administrative concerns with folks changing their mind about vehicles, which results in another tag being issued. We've heard that testimony, we understand that. We're factoring in those cases where individuals return vehicles to a

dealership. That's considered in the maximums.

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So what we are doing to combat the fraud -because we understand that folks are fraudulently issuing
tags and they're not applying for titles as statutorily
required to when it's a retail sale, we are doing that
comparison for in-state buyer tags to title transfers. If
your in-state buyer tags are more than twice your title
transfers, we're not going to give credit for it. There's
something going on there that our Enforcement Division is
going to have to look at and investigate.

Other than that, assuming that the in-state buyer tags are not more than twice the number of title transfers, we will use that in-state buyer tag maximum over the prior three fiscal years. And that's one thing that we changed. We received public comment asking for us to clarify, and so we put in the actual rule language three fiscal years is what we're looking at, and we will take the higher of the in-state buyer tags over those three fiscal years.

Previously we had the out-of-state buyer tags lumped in with the title transfers and the two-to-one ratio constrained use of the out-of-state buyer tags in the base formula. We looked at that -- based on public comment, we understand there is no correlation between a buyer issued to an out-of-state resident and a title

application. Those folks are driving those vehicles out of Texas and they're applying for title in their jurisdiction. We understand that.

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As a result on that public comment, we removed that constraint. So now we have the greater of the instate buyer tags or the title transfers, with the limit of no more than two times the title transfers, added to the highest number of out-of-state buyer tags issued over the previous three fiscal years. That establishes the base.

We still have the growth factor for time in operation. We received public comment saying we want that absolute in statute. We don't want to have to go back and look at the preamble, and we appreciate that and we understand it. We put the 10 percent per year up to ten years in the rule, so now it's obvious that every year you're in operation you get an additional 10 percent increase to your base limit of in-state buyer tags plus out-of-state.

Also, we received public comment based on the growth. We originally proposed this to use the statewide growth for dealers. We understand that dealers exceed this, but that was an average that we've used initially.

So we've taken that into consideration, and we are giving dealers their actual growth in buyer tags for out-of-state tags and title transfers and making sure that

there is a cap, however, of 200 percent. If the dealer's growth does not meet or exceed the statewide average growth, which based on '19, '20 and '21 fiscal year data is about 14.5 percent, we will attribute that dealer's growth to the statewide average.

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We're not going to penalize them for being below the statewide growth. They'll get the 14.5 percent. If they exceed 14.5 percent, they will get their actual growth up to the 200 percent.

When we applied the formula initially, we had some anomalies and some outliers that we needed to make sure we took care of and did not increase their amount based on exponential growth. Mainly this was folks who were licensed at the end of the fiscal year in August, sold a couple of vehicles, issued a couple of tags, and then they come back in the subsequent fiscal year and they issued 300 or 500. Obviously they didn't have the exponential growth that we needed to account for, hence the 200 percent cap.

Again, we've got the additional market conditions. The statute contemplates the change in the market, temporary conditions that may affect sales. Those are on top of the calculations that we have.

So we've got the base established by actual tag issuance, we've got the growth for time in operation.

We've got the actual growth of the dealer, if they exceed statewide average, not more than 200 percent, and then we've got the ability to increase that.

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So the purpose of the other metrics of changes in market conditions or temporary factors affecting the dealership -- again, to keep in line with the intent of the department, folks do not have to come to us when we recognize there are fluctuations in the market. We get our chips back, we've got vehicles coming from manufacturers and lots are full, we do recognize that. We can increase the maximums without dealerships having to request that.

I just want to give one quick example of what this looks like. Obviously we can throw whatever numbers we want out there, but if we look at tag issuance, instate and out-of-state, let's assume a maximum of 500. We have a dealer who's been in business for ten or more years, that factor for time in operation automatically doubles that base, a thousand tags.

I've been in operation for ten years or more, I automatically get two years' worth of tags is what that means for a single calendar year. Then I grow, so my growth percent: if I'm below the statewide average I get 14.5 percent based on current calculations; if I'm above that I get my growth factor for my actual dealership up to

the 200 percent. At 50 percent growth, obviously that increases it by 100 percent -- 100 percent growth, that doubles it.

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So again, we've looked at this based on public comment and recognize we don't have the vast majority of dealers committing fraud in the state. We're looking at their actual sales, we're doing validations to ensure that that's not fraudulent, and we're giving them the room that they need to grow.

I will move quickly to new dealers. Obviously those are folks that we have data on, so if you'll look at page 58 and 59 for the rule text. We maintain the caps, if you will, for 600 for franchised dealers, 300 for independent, and 600 for converters.

What we did for each of those scenarios for a brand new dealer is we gave them the ability, as Director Johnston said, to ask for tags on the front-end, substantiate that through anticipated sales, the factors that are identified in subsection (h) in 215.152. That information can be provided on the front-end to get them beyond the 600 or 300, depending on what type of license that they have.

We also clarified that existing licenses -- again based on public comment, existing licensees who are opening a new location or moving locations to make sure

that they are not in fact subject to the 600 or 300 initial limit that's in subsection (f), again based on comments to clarify that. And then also, in subsection (h), we added additional information for various business operations such as a buy/sell, such as someone inheriting a dealership, and called those specific scenarios out that we heard from public comments to make sure those folks have the opportunity to request additional tags on the front-end.

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And that concludes my presentation. I am glad to answer any questions if you have them now, otherwise, I will turn it over to Presiding Officer Blassingame.

MR. BACARISSE: Great. Members, any questions for Clint?

MS. OMUMU: Mr. Chairman, I have a question.

MR. BACARISSE: Yes, Ms. Omumu.

MS. OMUMU: So in the event of a buy/sell or a new dealer, there is a cap, right, the 300 or the 600?

Will you go on record and say that you are willing to accept information from the manufacturer or the OEM to help aid in that new dealer, who may not fully understand, you know, what his capacity may be -- to help gauge the number that would be above the 300 or the 600? Will you accept that information?

MR. THOMPSON: Clint Thompson, deputy director

of the Vehicle Titles and Registration Division. 1 2 215.152(h), I believe, is one that calls out that -- that should be on page 59, I believe -- (h)(1), a 3 franchised dealer's manufacturer/distributor sales 4 5 expectations, that's criteria that we would consider when 6 submitted to the department. 7 MS. OMUMU: Okay. 8 MR. BACARISSE: So you have that language in 9 the draft? 10 MR. THOMPSON: Yes, sir. MR. BACARISSE: Is that satisfactory, Member 11 12 Omumu? Would you like to ask for an amendment or 13 something? MS. OMUMU: No. I'd like to make a motion. 14 15 MR. BACARISSE: Okay, hold on. We've got some 16 more to go. Hang on to that. 17 Member Graham. MR. GRAHAM: So I just want to make sure I 18 19 understood 100 percent. You look at the last three years 20 as sort of the base calculation, and in that number is going to include not only actual transactions but any 21 22 consideration of necessary reprints up to two times. 2.3 Right? 24 MR. THOMPSON: Correct. Clint Thompson, deputy 25 director of the Vehicle Titles and Registration Division.

Essentially what we've done, whatever the calendar year is in front of us, i.e. we get to 2023, we'll look back over -- we'll have FY 2022 data now to look at '22, '21 and '20, our new three years, and we will look at the maximum over the course of those three years, and we're picking the highest between '20, '21 and '22. You have in-state buyer tags that are highest in '20 and you may have out-of-state buyer tags that are highest in '22. We're taking both of them, taking the highest.

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opposed to '20 where your buyer tags were, we will take your title transfers in '21. So basically we've looked at the data over three fiscal years for determining what the maximum amount is, validating it for fraud, i.e. in-state versus the title transactions, and then taking the higher of those.

MR. GRAHAM: And I would love to hear Member Gillman's input, because I know that there are things that happen, tags get tore off, you know, they drive through a carwash and the tag goes away, or there's a financing issue, as I had in my last vehicle transaction and the process did not get completed before the 30-days were out and I had to get new paper tags. And so I do not know what that buffer is for those reprints, so to speak. I just want to make sure that's covered.

At the end of the day, I'm sure we can deliberate the pros and cons of all these calculations, but the most important thing in my mind is there will be a dealer one day who doesn't catch that they've run out of tags that realizes, from whoever's fault, their fault, doesn't matter, it is critical that when they have to make that request for additional tags that that not turn into a bureaucratic process that takes days or weeks, because essentially that dealer is shut down, I mean, they are out of business.

And so I would love to hear your thoughts on what that process would look like if and when that occurs, and how responsive can the agency be to those needs for a legitimate dealer doing business and has that arise.

MR. THOMPSON: Clint Thompson, deputy director of the Vehicle Titles and Registration Division. And I apologize if I didn't answer your first question sufficiently.

So back to the administrative overhead, if you will, financing falling through, somebody changing their mind, bringing their car back, we get you've issued a tag to that buyer. Yes, that comes out of your allotment, but you did that in '20, '21 and '22 when we're looking at 2023. Right? That's already factored into your maximum.

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You had five folks change their mind in 2021. Those five folks are a tag that y'all issued, and if that's your maximum, that's carried forward to your base and you get an additional multiplier for your years in operation. So basically the administrative cost of issuing those tags and folks changing their mind and whatever happens with financing, that's already factored into your maximum. You're getting credit for that.

Relative to the other, I'll speak on this just very briefly.

MR. BACARISSE: Please.

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MR. THOMPSON: This is more in Monique's wheelhouse. We did make significant changes and it's to the appeal process and submission for more tags. We want to make sure that we have flexibility, first and foremost.

We're not constraining ourselves to two documents, three documents, five documents, whatever the case may be. If a dealer can demonstrate the need for additional tags and it's substantiated, we're going to authorize it. That's just a touch point for us to make sure, again, we're running reports, we're looking at folks that are hitting their maximums and when, but this is an opportunity for us to have another touch point and look and say, okay, are you in fact a legitimate dealer rather than us go check a box and give you more tags.

So we tried to give ourselves enough flexibility to accept a variety of documents from dealers that would validate the sales and for us to approve those. Also, we would absolutely not make this an administrative burden on us or a slow process that it's going to take weeks to get this done.

We understand, hey, folks don't pay attention, and if they miss the 50 percent mark and then next thing you know it's 95, and then it's a Saturday. We get it. That's why we're factoring in the tenure to give you the additional for the base. We're factoring in the growth for your actual dealership to try and give you sufficient cushion.

Again, with the example that I provided, you've got two years' worth of tags in one year. Are you really going to have that phenomenal year and not recognize it?

May happen. If it does, yes, we want an expedited process, an efficient process when y'all contact the department to make sure that we're turning those around timely, which is also why we gave ourselves the flexibility of we don't have to just approve -- if you ask for 500, we don't have to approve the 500, we can give you 1,500 if we see it, depending on where they're at in the year.

The goal here is not for dealers to come to

us -- the goal is for them not to come to us, period, certainly we don't want them to come back to us time after time. This is not a monthly thing. This is a calendar year allocation; we're giving you that on the front-end.

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If it's not sufficient for whatever reason, provide the documentation that you have at your disposal and we'll make that determination and increase the tag limit.

MR. BACARISSE: I think Vice Chair McRae has a question.

MS. McRAE: First of all, I just want to make a comment. At the county level, we order plates and inventory from DMV and we have to track that inventory and maintain that inventory to make sure we have sufficient inventory, plates, stickers, et cetera, so that we can provide that service to our customers. I don't see why that would be an issue for our dealers.

You just track and maintain your inventory. We do it at the county level. I get pallets of plates delivered, and I keep up with that at all five of my locations to make sure that we don't run out of those plates.

But I have another comment, and I don't want to take anything from public comment later, but you made a comment about how the paper plates, you know, you go to a

carwash and they're gone, you get past the 30 days and you need a new one. What if -- or has the department considered going back to the metal plates, having dealers have an allocation of metal plates and give that to their customers instead of a paper tag which is so easily and fraudulently made. Have you given any thought to that?

MR. THOMPSON: Clint Thompson, deputy director

of the Vehicle Titles and Registration Division.

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There has been discussion about multiple solutions to the issue. I think the real issue at hand, though, is folks fraudulently obtaining a dealer's license, logging into our database and issuing tags to folks that have not bought vehicles from them. That's the primary concern.

That's the volume that we're looking at, so really that's what we're focused on right now, if you will, of any task at hand to get the maximum limits with our current system. That way we can impose those as quickly as possible, and then also move forward with the denial process, and making sure that folks that get licenses with us are legitimate and need a license. That's the primary focus.

But even with that, we have discussed options. You know, we've received public comment on plastic tags and metal tags and what are other jurisdictions doing,

things of that nature. That's something that we always
do, we reach out to other jurisdictions, we look at their
process.

Hey, if somebody has got a better way of doing
it, that's great. I'm not going to say this is the only
way to do it. There are logistical issues with that that
we would have to work through and evaluate, but it's been

MR. BACARISSE: I believe Member Ramirez has a question.

a discussion level at this point of potential solutions.

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MR. RAMIREZ: Can we get a report on what that would cost, I mean, on what the logistical complications would be and what some of those solutions would look like stacked up against these? I'd be curious. I know it's going to incur a cost to the agency or the dealer.

I'm curious what that would look like or if that would be favorable over something like this. I'm 100 percent in favor of this, but since it did come up in public comment, I'd be interested in seeing a report on what exactly it means to go back to a metal plate or a plastic plate, to have the data in front of us.

MS. BREWSTER: May I, Mr. Chairman?

MR. BACARISSE: Ms. Brewster.

MS. BREWSTER: Whitney Brewster, executive director.

We've received the comments from the Tax 1 2 Assessor-Collector Association yesterday and we look 3 forward to working through those ideas with our partners to see what the impact of that would be. And we will 4 5 certainly bring that information to the Board, as well as 6 any other items that we're evaluating to potentially 7 replace the current temporary tags. 8 MR. RAMIREZ: Anything that helps in our 9 general understanding, so yes, thank you. 10 MS. BREWSTER: Absolutely. MR. BACARISSE: Member Gillman, and you have 11 12 one? 1.3 MS. OMUMU: I do, I have another. 14 MR. BACARISSE: I'm sorry. Go ahead, Member 15 Gillman. 16 MS. GILLMAN: I'm going to ask Clint, just like 17 Sharla asked or confirmed, manufacturer input in determining the sales expectations of new. I know because 18 I've spoken with you, Clint, and Whitney, but for 19 20 clarification, there are many dealers that sell equal in volume used cars and sometimes, in many cases, more used 21 22 cars than new, and so will you just speak to that 2.3 regarding allocation as well? 24 I think what I'm asking is for a dealer's 25 allotment, in addition to manufacturer input regarding

sales expectations new, just some acknowledgment that car dealers also sell used and often equal to new or even exceeding.

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MR. THOMPSON: Clint Thompson, deputy director of the Vehicle Titles and Registration Division.

Yes, ma'am, we absolutely recognize that franchised dealers sell both new and used and understand that sales numbers, allocations, whatever the format is that's provided by a manufacturer to the franchised dealer that those represent new vehicles of the franchise or of that line make that would come to them. We recognize there's a component of used vehicles.

We did not put in the rule a constraint of you can have 600, you can have 400 used, 200 new, or the inverse of that, 400 new, 200 used. The initial tag allotment is for all sales that a franchised dealer will be conducting.

But again, we have the ability for franchised dealers and independents, for that matter, to request additional tags, if they even have to. And when I say if they even have to, if they get into the I am a brand new dealer and I'm not an existing dealer, an existing converter, and I'm moving locations or I'm opening an additional location, that 600 or that 300 doesn't even apply.

Now you're looking at where are you moving your location from. Example, north Austin to south Austin, take your allotment with you. You've got an existing dealer who's opening a new location, whether it's in the same city, a different city or a different line make, we're evaluating those situations at the time of application and have flexibility within the rule to recognize you exceed the 600 need and we're going to increase that on the front-end to include both new and used.

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If we get something from a dealership that says you have 500 new vehicles that you're going to be selling in a year, in a month, whatever the case may be, we are going to recognize there's a used vehicle component that needs to go with that. We are not bound by the 500; we can increase that beyond.

MS. GILLMAN: And last confirming question. If the sales expectations both new and used for a new dealer and they've never been a dealer before, but he's been granted a brand new Subaru store in Austin, Texas, and the sales expectation is, for both new and used, 3,000. Is it for tag allotment, do you -- is it going to be an agency norm to double it?

If a brand new dealer, never been a dealer before, gets a Subaru store and the sales expectation, new

and used, is 3,000, is it generally agency for allotment to double it -- for tag allotment?

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MR. THOMPSON: Clint Thompson, deputy director of the Vehicle Titles and Registration Division.

We have not discussed an actual process where a franchised dealer comes in to request tags beyond the 600 and gives us a number of, i.e. 3,000, and merely doubling it. What we have in the rule as presented to the Board is the flexibility to evaluate the information provided to us by each dealer and make a determination -- do you need 3,000 or do you need 4-, or do you need 2-. And it's based on the entity, it's based on the location. We've got the ability to look at things geographically, things of that nature, and considering those allotments, but we have not established just a hard and fast -- you need twice as many.

Looking at the example I gave earlier, a dealer who has been in operation for ten years or more, right off the top gets twice as many tags. So I would ask what's the rationale for a brand new dealer that they automatically need twice as many as they think they're going to need. I'm not saying that we would not allocate that depending on the information provided, but the rules do afford us the flexibility to make that determination of lower amount, same amount, increased amount, with the goal

of, again, giving a calendar year allocation without those folks having to come back and see us every month.

MR. BACARISSE: May I see if Member Omumu has a question that you need to pose?

 $\mbox{MS. OMUMU: I do. I probably have more} \\ \mbox{comments than questions.}$

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MR. BACARISSE: Sure, Member Omumu.

MS. OMUMU: But one of the challenges with the formula just in general, using the last three fiscal years, is that the last two of the three fiscal years the industry has faced a major shortage of vehicles across the board. Right? So that's just a challenge in itself, so the formula, in essence, it will be flawed. I think you guys did an excellent job in trying to come up with it, but I just wanted to point that out.

And just a couple of, I guess, concerns that I have from a manufacturer/distributor point of view is that if a dealer, a franchised dealer -- who we've all agreed, law enforcement has said, you know, they really aren't the issue whatsoever but they're going to have to deal with the implications of all of this, right? If they happen to reach their max limit of temp tags, and they will, and Member McRae made a valid point that it should be a simple process, right, but this is something that they've never done before. So we're asking them to implement a process

and do something that they've never done, they don't have staff in place to do it.

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So it's going to happen. They're going to run out of tags, make no mistake. The time that it will take to get them back in business is a concern just because the way manufacturers allocate vehicles to franchised dealers, you know, each region -- I guess each manufacturer breaks out the U.S. in different regions. Right?

So Texas is included in a region for all manufacturers, New York, California, what-have-you. If a dealer is essentially out of business, the way that they earn their allocation is through vehicle sales. So in essence, if a Texas dealer, franchised dealer is down because for whatever reason they've reached their max temp tag limit and they can't retail vehicles, well, guess what, they lose their allocation of vehicles and that allocation goes somewhere else, particularly out of the State of Texas.

That could be an issue. And I mean, we all know that vehicle sales, it's a big contributor to the revenue of sales tax here in the state, I think roughly close to 10 percent, 8 to 10 percent.

So it's just a concern that I have with, you know, if a dealer happens to get turned off and it takes five to seven days to get them turned back on, what's the

implication of that? Is it lost vehicle sales, lost allocations, lost tax revenue to the state? So we have to continue to have this conversation as to how we can rectify it.

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Just one other point I'd like to make is the fleet business as well, which has been severely depressed over this whole COVID period. They are rebuilding their business as well and growing their inventory, and dealers support the fleet businesses and they could -- you know, Stacey, for instance, could get a large fleet order just out of the blue which would take her well over whatever her max temp tag limit is. So if she's now at her max, so who's going to suffer now?

A retail customer suffers because they can't, you know, purchase a vehicle because there are no more temp tags to hand out, because you know, it's a new process in place. Oh, yeah, I forgot, we're at our max limit, we didn't notify the agency to have more tags.

It's just a concern. Right?

So now these fleet companies, if this happens once or twice, they're taking their business away from the Texas dealer and they're going elsewhere. They're not going to deal with this situation.

So that's just only two concerns of many that I have for franchised dealers, in the event that they reach

their max limit and they're shut off for a period of --1 even if it's a few days, it's a few days too many. So we 3 just need to continue to have conversations about how we 4 can, you know, improve the formula and the process 5 altogether to really support our franchised dealers. 6 MR. BACARISSE: Those are excellent points. 7 Thank you. 8 MS. GILLMAN: I have a comment. 9 MR. BACARISSE: Yes, Member Gillman. 10 MS. GILLMAN: Member Graham asked a very good question, and my biggest concern also is getting turned 11 12 off and shutting down my business. 13 I cannot sell a car if I cannot put a temporary 14 And I asked Executive Brewster what happens plate on. 15 when that happens, like the day it happens, because if it 16 will happen on a Saturday at two o'clock in the afternoon, 17 and I can't get ahold of anyone, and the machine is shut off, my biggest sales day and certainly it will be a big 18 19 holiday and Monday and Tuesday will be off too. 20 MR. BACARISSE: That's the worst scenario. 21 MS. GILLMAN: The worst. That will happen. 22 And Whitney, tell me -- I don't want to put 2.3 words in your mouth, but what you said was you get a list 24 of who's getting cut off. Is that right?

That's correct.

We will be able

MS. BREWSTER:

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to track on our end the number of tags printed by dealer, 1 based on their allotment, to be able to determine where 3 they are in that allotment, and the ability to then reach 4 out to the dealer. 5 If we see that a dealer is making great strides 6 in sales and putting temp tags on and that we foresee them 7 blowing through that allotment, we have the ability to then reach out to the dealer as well. So we have that 8 9 ability. 10 Also, when a dealer is logging into the system to print the tag, they will see how many they have. 11 12 MS. GILLMAN: But I've got a brand-new sales 13 manager who just started yesterday, he has no idea. He's 14 just not trained, and I'm not there on Saturdays, 15 whatever. 16 MS. BREWSTER: If it would be of help to provide some training the stakeholders on this, we'd be 17 18 happy to do that. MS. GILLMAN: Well, I think what I'm asking for 19 20 is kind of an alert system within the agency and where 21 there's --22 MR. THOMPSON: Chairman, can I? 2.3 MR. BACARISSE: Yeah, go ahead. 24 MS. GILLMAN: Please. 25

MR. THOMPSON: Clint Thompson, deputy director

of the Vehicle Titles and Registration Division.

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To Executive Director Brewster's point, we're going to be reaching out, and we're probably going to be reaching out because we think you're committing fraud.

You blow through your maximum and we see you getting there, you're on another report, and we're contacting you and we're asking for records. So it's going to be a self-service submission for additional data to be able to get an increase, I promise you that.

The other side of that is, unfortunately, given the time frame that we're moving these rules forward as quickly as possible, we can't get all the programming that we want in the system; we recognize that.

That's true for a lot of things that we do. We are putting the programming in place that we can right now to facilitate the threshold, i.e., the 50 percent, the notification in the system when folks log in.

And I get it, it's new. To Executive Director Brewster's point, we can conduct outreach, we can let folks know this is coming. Obviously we've published the fact that we've adopted rules. We have a means of communication with our licensees, obviously, to let them know this is a new thing -- here's what you're going to see -- to give them that awareness.

But again, there is some -- Member Omumu, I get

it, and I get that folks are new. You know, we've got challenges all the time, we get a COVID closure, and then I forget that we've got hoteling stations on the floor below us and then the next thing I know I'm sending folks home with laptops.

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And I get it; we forget sometimes. I recognize that this is new and we're going to have to change and we're going to have to educate our dealer community; I get that.

But the key is there is an onus on an entity who is licensed in the state of Texas to maintain their license. We don't renew your motor vehicle license for you every year automatically. There's a process that you have to follow to make sure that you're still licensed to conduct business in the state.

I get that's probably not the comfortable answer, but there is a requirement for the dealers to maintain their license and to conduct operations efficiently to make sure that they can sell those vehicles on Saturday and not run up against that.

All that aside, yes, we absolutely are going to build in eventually alerts, 50 percent, 75 percent, 95 percent. They'll get emails. We get the more robust implementation in at a future date. That way it's more evident, and it's not I've got to log in and pay attention

to the counter over on the side.

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I get when you log in every day you start ignoring it; I recognize that. But when we start pushing emails with a subsequent release, that will make it evident for folks.

And on top of us reaching out and letting dealers know that this is coming, here's the implication of this: You need to pay attention; here's what happens if you run out of tags. I think those things coupled will be beneficial.

MR. BACARISSE: I believe Member McRae -- Vice Chair McRae, you had a question?

MS. McRAE: I have a comment, and you made some great points, Sharla, some points that I hadn't really considered. But I think there is an alternative. It's not convenient for the dealer, but they can come into the county. Right, Clint? We can issue temp tags for them?

MR. THOMPSON: Clint Thompson, deputy director of the Vehicle Titles and Registration Division.

A dealer conducting a retail sale is statutorily required to issue a buyer tag. Do they have the ability to obtain a 30-day permit from a county tax office? Absolutely. But again, there's a statutory requirement for that buyer tag to be issued.

Is that something that they could obtain on the

front-end when they don't have tags? That's a 1 2 possibility, but there is still a statutory requirement to 3 issue it. I get the argument that y'all aren't open on 4 Saturdays either. 5 MS. McRAE: Right. 6 MR. THOMPSON: So I get that; I get both sides 7 of it. MS. McRAE: 8 I mean, it's just an alternative 9 that I thought we could throw out there in the event that 10 something did happen. 11 MS. GILLMAN: That I'm turned off, but on Monday I could go to the county and request a temp tag. 12 1.3 MS. McRAE: A 30-day. 14 MR. BACARISSE: Request a 30-day. 15 MS. McRAE: I mean, it's an option. It would still be inconvenient. 16 17 It would -- that would not be a MS. GILLMAN: 18 good solution for us, but I appreciate it, I appreciate 19 it. 20 The conversation, Mr. Chairman, is I know the 21 purpose of this meeting is to curb criminal activity, and 22 based on the department's history and the agency's facts, 2.3 if franchised dealers are not part of the problem, the 24 administration of this may be more cumbersome for all

than -- the cure may be worse than the disease.

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And I think if we can go forward with our 215 1 2 rulemaking -- but it is a strong concern that the cure is 3 worse than the disease for some. And I promise you, 4 franchised dealers want to catch the bad guys also. 5 MR. BACARISSE: Sure. 6 MS. GILLMAN: However, the problems that come 7 with some of these rules may impede business, and I know the State of Texas is not really wanting that. 8 9 That's right. Your point is MR. BACARISSE: 10 well made, absolutely. We must find the balance. 11 On point, sir. MR. GRAHAM: 12 MR. BACARISSE: Member Graham. 13 MR. GRAHAM: In the event that it's determined 14 that some adjustments need to be made to these 15 calculations, would that require a complete rewrite of the 16 rule, starting the whole process over? 17 And you made the point about -- Member Omumu, you made the point about commercial vehicles. I mean, I 18 19 probably need to buy ten right now, and I have bought one 20 in a year, and when those trucks come available, guess 21 what I'm going to do? I'm going to run out there and buy 22 it. 2.3 MS. GILLMAN: You're not the only one; everyone 24 is needing them.

MR. GRAHAM: Yeah, I know. In the commercial

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world it's been bad.

MR. BACARISSE: Okay. One at a time, please,

just for the record. Everybody is making great points.

MR. GRAHAM: But my question is can these -- if

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MR. GRAHAM: But my question is can these -- if a revision needs to occur to these calculations, can that be done without a complete rewrite of the rule, or does that require the whole process to start over?

MR. THOMPSON: Clint Thompson, deputy director of the Vehicle Titles and Registration Division.

I'll tread lightly here. Y'all have already got me doing math up here, and that's never good. Y'all got me talking about licensing, that's never good either.

And now I'm going to talk for our General Counsel's Office.

(General laughter.)

MR. BACARISSE: I'm glad it's you rather than me.

MR. THOMPSON: It depends on the nature of the change. I'll give you an example. If we want to now change the 10 percent per year in business, that's obviously in our rule and the Board has adopted that. Should that happen today, now we have to come back and change that to 20.

That's the challenge, if you will, of us being very prescriptive in our rule. The way we proposed it

initially was you would be give credit for time in 1 operation. We had some flexibility. 3 Of course, the inverse of that, if you don't believe that we're going to up it to 15 percent, we're 4 5 going to drop it down to 5 percent, well, then there's 6 concern there as well. 7 But what you're describing, again, the fleet issue, the vehicles come back, that's a change in the 8 9 market. That's a temporary condition affecting a dealer. 10 We have statutory authority to do that, and the rule just supports that. 11 12 Okay. That's great. MR. GRAHAM: Thank you. 13 MR. BACARISSE: Member Scott, did I see you? MR. SCOTT: Can we entertain a motion at this 14 15 point? 16 MR. BACARISSE: I believe we can. We have some 17 public comment to do first. I'm sorry. Right. And then we also need to hear from Mr. Blassingame -- thank you --18 19 who was an integral part of this. 20 Are there any more questions that pertain to 21 Mr. Thompson and his work? 22 MS. GILLMAN: I have a clarifying questions. 2.3 MR. BACARISSE: Yes, Member Gillman. 24 MS. GILLMAN: Member Graham, you asked if we 25 approve something today and then in practice going along

we realize, oh, my goodness, we need to make a change. How do you make a change?

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MR. BACARISSE: I think that question is best asked of Ms. Beaver to talk to process, not only between now and the next meeting but also after we actually promulgate a rule.

MS. BEAVER: Tracey Beaver, general counsel.

The process that is going to be put into place to support these rules at the department is something that we have some flexibility with. If we see that more communication is needed, more reports in the system, more up-front notifications, that is something that the department can and has flexibility and wants to do as we work through these rules.

If there is something that is a substantive change to these rules that affects the metrics, the underlying foundation of how the temp tag allotment is made, that would be a new rule proposal, most likely, and then adoption before the Board.

So it depends on what type of change is needed. The department has a great deal of flexibility in these rules to be able to make changes to communications and processes without amending the rules in the future.

MR. BACARISSE: But if there was a point at which the Board and the department believed we needed to

amend the rule, there is a process for that which is 1 they're drafted, they're put out for public comment, so it 3 takes some time. 4 MS. BREWSTER: Put on the agenda. 5 MR. BACARISSE: Yeah, right, but it takes some 6 time to do that. It can't be done quickly, so we have to 7 follow that process. Mr. Chairman? 8 MS. BREWSTER: 9 MR. BACARISSE: Ms. Brewster. 10 MS. BREWSTER: If I may? Whitney Brewster, executive director. 11 12 We are anticipating in April having a Project 13 and Operations Committee meeting. Perhaps it would be 14 appropriate for us to give an update on how this is 15 working in operations so that we can inform the Board if 16 there are any unintended consequences and how we're 17 working through those, so that the Board has some visibility and hopefully some assurances that the issue is 18 19 being handled appropriately. 20 And I would like to also just remind everyone as we're moving forward, it's hard to believe that we're 21 22

as we're moving forward, it's hard to believe that we're not that far away from a legislative session, and we are going to start going through the process of looking at

24 legislative recommendations.

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If there are things that this Board would like

to recommend to the legislature to change things at the 1 statutory level, that is the process that we would pursue 2 3 if there were items wishing to be changed that are of 4 statutory nature. 5 MR. BACARISSE: And may I -- I'm sorry' just 6 one moment -- may I make a suggestion to the collective 7 group here, the agency. 8 Mr. Prewitt chairs Projects and Operations. 9 would like to ask Vice Chair McRae to join him on that 10 committee. I think there's some important work not only on this subject but other subjects that Tammy could add to 11 from her perspective, if that's acceptable. 12 13 MS. BREWSTER: Absolutely. 14 MR. BACARISSE: Are you good with that? 15 MS. McRAE: Absolutely. 16 MR. BACARISSE: Did you have a comment, Vice Chair McRae? 17 18 MS. McRAE: Thank you. 19 I'm just thinking out loud here, because we 20 certainly don't want to impede the dealer industry or the manufacturing industry at all, and I don't know, I know 21 22 that we have 15-16 regional service centers? 2.3 MS. BREWSTER: Sixteen. 24 MS. McRAE: Sixteen. I realize that storage

may become an issue, but just a thought. If you have

overflow inventory for these temp tags, I don't know, is 1 2 that possible so that it wouldn't be -- but they're 3 issuing from the system, though. 4 MR. BACARISSE: No. 5 MS. McRAE: So never mind; that's not a valid 6 thought. 7 MR. BACARISSE: I think a lot of these 8 questions and ideas are very important. And in addition 9 to what we're doing here today, ongoing through Projects 10 and Operations Committee we need to flesh this out and make this work. 11 12 At the end of the day, it has to work. It has 13 to work for our industry, it has to work for the people of 14 Texas, and the balance between keeping Texas a great place 15 to come and do business and also to live safely and 16 securely. Those are two very important things. 17 This is hard work, folks. I'm glad you're here 18 and doing it with us. Thank you. 19 Any other questions or comments before we go to 20 Mr. Blassingame? 21 (No response.) 22 MR. BACARISSE: Clint, thank you, appreciate 2.3 it. 24 Monique, thank you. 25 Mr. Blassingame, would you approach the podium,

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please, sir? Glad you're here. Thank you.

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MR. BLASSINGAME: Hi. My name is David
Blassingame. I'm the chair of the MVIRAC committee, and
I'm here to speak about the committee today.

We previously met in December of 2021 and discussed TxDMV's proposed maximum tag limit rules that implement House Bill 3927, which gives the department authority to deny a dealer or a converter access to the temporary tag database if it is found that the tags have been fraudulently obtained from the system.

The MVIRAC reviewed the proposed formula of the TxDMV and created a set of maximum tag limits and provided advice, based on our expertise, to combat temporary tag fraud but also that were reasonable and ensured the limit of dealers' tags that they were able to operate in the marketplace.

I appreciate the Board and the committee's work on this to curb the fraudulent tag problem, and I'm here to answer any questions, and I appreciate the opportunity to speak in front of the Board at this time.

MR. BACARISSE: Mr. Blassingame, we appreciate your service in this way. This is a heavy lift, and it's an important issue. So thank you to you and your committee for the work that you've done there. We appreciate it deeply.

MR. BLASSINGAME: Thank you. 1 2 MR. BACARISSE: Members, any questions for Mr. 3 Blassingame? 4 MS. GILLMAN: Thank you. 5 Thank you. MR. BACARISSE: 6 MR. BLASSINGAME: I'm going to turn the floor 7 over to Director Johnston. 8 MR. BACARISSE: Oh, good. 9 Come on up, Monique. 10 MS. JOHNSTON: Monique Johnston, director of the Motor Vehicle Division. 11 12 The rule proposal package was published for comment in the November 12, 2021 issue of the Texas 13 14 Register. The comment period closed on December 13, 2021. 15 As I mentioned earlier, the department received 16 35 written comments from legislators, industry groups and 17 several individuals. All comments received were addressed in the preamble section, and the rule text was clarified 18 19 and modified as we discussed earlier in response to some 20 of the comments. 21 If the Board adopts the rules during its 22 January 27, 2022 open meeting, staff anticipates the rules 2.3 will be effective and filed with the Secretary of State 24 and published in the February 11, 2022 issue of the Texas

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Register.

We request approval to adopt the rule package, 1 2 and members, this concludes my remarks. We are happy to 3 answer any additional questions the Board might have on 4 this rule package. 5 Thank you. 6 MR. BACARISSE: Thank you. 7 Any questions for Ms. Johnston, members, before 8 we go to public comments? 9 (No response.) 10 MR. BACARISSE: Thank you, Monique. Ms. Beaver, I understand we have several 11 members of the public who wish to make comment on this 12 13 item, if I'm correct. 14 MS. BEAVER: Correct. First we have Sqt. 15 Escribano. 16 MR. BACARISSE: Welcome back, Sergeant. I 17 would ask you to make sure that mic is elevated up since 18 you're tall and gets right to you. Yes, sir, that's 19 great. Thank you. 20 SGT. ESCRIBANO: Mr. Chairman, I'm Sqt. Joe Escribano with the Travis County Constable's Office 21 22 Precinct 3, and I am representing the Constable's Office 23 Precinct 3, and I will be commenting on agenda item number 24 4. I will also be commenting on 5 later on, but number 4,

the Board will instruct the staff to propose rules for

fingerprinting.

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The one item that we found that was interesting about this was that the department seeks the Board authorization to draft a proposed rule requiring all GDN applicants to submit on initial licensure and a renewal of a complete set of fingerprints.

Our comment to this means that the initial person, the brand-new one, will get a license and be fingerprinted. The people renewing will get a license, but the other criminal dealers that we're looking at that got their licenses in like, let's say, September-October of last year will have a grace period of probably, what, another year and a half, so you're not covering them.

Hopefully when you put these rules together, you will include that all dealers will be immediately fingerprinted, or at least they'll be fingerprinted and give them a 90-day period, a 60-day period, whatever it might be, because you have 22 outlets throughout the state of Texas, according to the Department of Public Safety, that you may do it.

Actually, fingerprinting can come to you. They have a rolling fingerprinting that they can come all the way to your house and fingerprint you if that's what you want to do. It will cost you, but we'll get them all identified, just like we have Realtors, just like we have

police officers, just like when you get your concealed 1 2 carry, you have to get fingerprinted. Nobody should be 3 exempt. 4 That is my comment on number 4. 5 MR. BACARISSE: Thank you. Did you have a 6 number 5 comment too, sir? 7 SGT. ESCRIBANO: Yes, sir. 8 MR. BACARISSE: Why don't we rewind and give 9 you three more minutes and go on number 5 because that's 10 where we are on the agenda. SGT. ESCRIBANO: Thank you, sir. I appreciate 11 12 that very much. MR. BACARISSE: Sure. 13 I don't want to miss 14 011t. 15 SGT. ESCRIBANO: Oh, no, no, no. 16 Again, on number 5 we can all agree that House Bill 3927 was designed for fingerprinting, the tag limits 17 and fraud in general, and it was brought about because of 18 19 tag fraud. 20 Tag fraud is an LE function, a law enforcement 21 function, and I want you to listen to this. In the last 22 five years -- and I am expert on tags; matter of fact, I 2.3 can take anybody on in the state of Texas and the United 24 States on tags, because I am an expert, not boasting about

it, but that's just the reality of what we do -- and I'm

telling you in the last five years, franchised dealers -I want you to listen to this -- franchised dealers are not
the problem. They've never been the problem, they have
never been the problem.

So much so that we opposed House Bill 1816 -or Senate Bill 1816 because Senate Bill 1816 was in
relationship to limits of tags. We knew that that was
futile, that was not -- that was just taking care of a
symptom and not the disease and we opposed it.

That bill died, it died in that committee, and it died for a reason because it was bad, it was no good. Tag limits for franchised dealers is just not going to work; they're not the problem you're addressing here.

And when I read the materials -- which was kind of funny, 100 pages worth -- I did that for the last two or three days -- and you look at it and you probably need a degree in quantum physics to figure out who is the person, how many tags, so forth and so on, when it's very simple: Scrap it.

House Bill 3927 gives you the ability to go ahead and limit tags. Okay, limit the tags for the used car dealers, because they're the ones -- I'm not saying all of them, but that's where we find the criminal dealers that have embedded themselves in there. Again, not the franchised dealers; they are not the problem. And in my

five-year investigation I have yet to find one. 1 2 That is my comments. MR. BACARISSE: Thank you. 3 4 MS. GILLMAN: Amen. 5 MR. BACARISSE: Points well made. Thank you. 6 SGT. ESCRIBANO: Thank you, sir. 7 MR. BACARISSE: Appreciate it. 8 Tracey, do we have our next commenter? 9 MS. BEAVER: Yes. Mr. Kohler. 10 MR. KOHLER: Good morning. Thank you again, Mr. Chairman, Board members. Dave Kohler. 11 12 So to support Sqt. Escribano, yes, Senate Bill 13 1816 was filed by Senator Seliger. In the legislature I 14 opposed it because it's a euphoria of limiting tags. It 15 makes people fell good, that's all it does. It doesn't 16 stop the bleeding, it doesn't stop the fraudulent 17 activity. HB 3927, the original intent was to give the 18 19 DMV the approval to stop a fraudulent dealer on the 20 front-end of an emergency hearing; that's all it did. 17, Senate Bill 1816 found its way into HB 3927, and 21 22 that's why we're here listening to formulas about criminal 2.3 dealers who are not going to submit vehicle tax reports. 24 This tag right here is a legitimate tag, and

you'll see it on a VTR and you'll see it in your county

tax office. These tags right here, you will never see the 1 money coming in, because that's what this is about, 3 turning off fraudulent dealers. 4 So again, I support Board Member Graham, Ms. 5 McRae, and I didn't think that I was going to side with 6 Ms. Gillman, but I understand the potential frustrations 7 of having eTAG problems on a Saturday at two o'clock. 8 So to support Senator Paul Bettencourt's 9 statement, Ms. McRae's, I think the entire eTAG system 10 needs to be scrapped and started over. Thank you. 11 12 MR. BACARISSE: Thank you, Mr. Kohler. 13 MS. GILLMAN: Thank you. 14 MR. BACARISSE: We don't always agree, but we 15 always hear you. We appreciate that. All right? And 16 that's for you as well, Sqt. Escribano. We appreciate 17 what you do out there. Don't ever second-quess that. 18 Our next public commenter, Tracey? 19 MS. BEAVER: Shay Luedecke. 20 MR. BACARISSE: Yes, Mr. Luedecke. 21 MR. LUEDECKE: Chairman, Board members, 22 Executive Director, thank you for having me today. 2.3 name is Shay Luedecke. I am the tax assessor-collector 24 for Bell County, and I am here representing the Tax

Assessor-Collector Association of Texas.

I do have a prepared statement that I believe 1 2 was emailed yesterday. 3 MR. BACARISSE: Yes, sir, we received it. 4 Thank you. 5 MR. LUEDECKE: And this is on agenda items 5 6 and 6. 7 MR. BACARISSE: Great. MR. LUEDECKE: The Tax Assessor-Collectors 8 9 Association of Texas, TACA, is in full support of measures 10 taken to address issues discussed in Chapter 215, Motor 11 Vehicle Distribution adoptions of rules. The Tax Assessor-Collectors of Texas 12 13 understands and agrees that the process is managed by the 14 department. We respectfully submit the following 15 recommendations to address these very serious concerns. 16 TACA recommends the agency establish a public 17 relations campaign to explain the predatory activities from various online marketplaces, targeting those who may 18 19 not understand where or how one obtains a temporary dealer 20 Include information that motor vehicle temporary 21 dealer tags obtained anywhere other than a dealership is 22 illegal. 2.3 TACA recommends the agency work with the dealer 24 community to make dealer licensing and information more 25 accessible on the Texas DMV website.

TACA recommends the agency work with the dealer community to identify those who may most benefit from mandatory dealer training, such as title clerks and sales teams, as well as the owner and CEO of a dealership.

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TACA recommends making the motor vehicle dealer license holder responsible for what occurs under their dealer license.

And finally, Member McRae brought this up already, but TACA recommends a temporary halt for up to two years for the issuance of eTAGs in its present form and to institute a hybrid eTAG system in the following manner: allocating metal license plates to the dealership which would be issued using the eTAG database. The metal plates would be allocated to each dealership based on their assessed needs.

The metal plate could be set up with a suffix indicating that it's a buyer's tag, such as a B for Buyer or P for Purchaser. The costs associated with the alternative system could be paid for by the \$5 buyer's tag.

The Tax Assessor-Collectors Association of
Texas appreciates this opportunity to provide the comments
and hopes these recommendations are helpful.

Thank you.

MR. BACARISSE: Thank you.

ON THE RECORD REPORTING (512) 450-0342

1	Members, any questions for Mr. Luedecke?
2	MS. GILLMAN: I have a question.
3	MR. BACARISSE: Yes, Member Gillman.
4	MS. GILLMAN: So I'm also interested in a
5	better solution and exploring different options, and so
6	what you're suggesting is, possibly, a metal tag for a car
7	dealer, and if I sell 300 a month I might need 350
8	temporary tags, temporary tags that might be metal, and I
9	would give those out as I sold a car, and when they came
10	back for their license plates, I would get that back.
11	And so I would need about, I don't know, one,
12	or two, three months' worth of inventory of these metal
13	tags, and as customers came back, I would replenish my
14	inventory, and so that would be my same stack of maybe
15	1,000 temporary plates that just live to be reused,
16	recycled.
17	MR. LUEDECKE: Rotated and recycled. Yes.
18	MS. GILLMAN: And is there a state that does
19	that right now?
20	MR. LUEDECKE: I'm unsure.
21	MR. BACARISSE: Do we know? Do we know that
22	question perhaps?
23	MS. BEAVER: Tracey Beaver, general counsel,
24	for the record.
25	We would appreciate the opportunity to look

1	into this option a little bit further and bring back any
2	information to the Board at a future date.
3	MR. BACARISSE: Okay. I think it certainly has
4	merit for us to study.
5	Do we have a feeling for that here on this
6	group?
7	Mr. Prewitt, do I see you have a question?
8	MR. PREWITT: No, Mr. Chairman, point of
9	information. I believe from prior conversations we talked
10	about our inventory of metal tags that we do and we do
11	have sufficient inventory. We'd have to explore it,
12	obviously, but just initially the thought was we had like
13	an 18-month supply of metal plates in our inventory. So I
14	mean, conceivably we could support an effort like that if
15	it were to come about.
16	That's just a point of information, Mr.
17	Chairman.
18	MR. BACARISSE: Okay.
19	Mr. Luedecke, thank you for your service to the
20	people of Texas.
21	MR. LUEDECKE: Thank you, appreciate it.
22	MR. BACARISSE: Absolutely. Thank you.
23	Do we have another public comment?
24	MS. BEAVER: Yes. Earl Cooke.
25	MR. BACARISSE: Mr. Cooke, good morning.

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MR. COOKE: Good morning.

Thank you, Mr. Chairman and members of the Board for the opportunity to speak here today. My name is Earl Cooke, and I'm with the Texas Independent Automobile Dealers Association, and we represent over 1,000 businesses, ranging from large publicly traded companies to small micro businesses.

We appreciate all the work that TxDMV has done and their attention to this matter and the consideration of our comments, written comments. However, we still have some concerns.

Our main concern on this, if you look at the appeal process, it's found on page 59 starting on line 14, Section 215.152(I). This section gives a dealer the right to additional tags after reaching 50 percent of the allotted maximum. In section (i)(4) on page 60, line 16, it clearly states a dealer may appeal a decision if denied by the director.

So I ask you what's a denial? Well, the answer is found on page 60, line 7, which states: Allocation of a lesser or greater amount is not a denial. So effectively you could issue one tag and say, hey, the request is not denied. You would not be able to have due process; there would be no way to appeal the process.

But you know, you can keep asking and they can

keep giving just one tag and the amount you were issuing would be much higher than that. While I don't believe the current administration would have reviewed such a thing, rules stay in code much longer than people stay in offices.

MR. BACARISSE: Yes, they do.

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MR. COOKE: This should be changed so that if you do get a lesser amount, you can ask for a judge to review it. Judicial review is a cornerstone of our democracy, and it's something that we need to consider in this rule.

My next concern, we made a comment about a change of business practice. The comment is found on page 37, line 5, related to Section 215.152(d), which is found on page 55, line 15.

Our comment expressed concerns about this method for a change in business practice. During COVID a lot of dealers went from agent-specific tags to vehicle-specific tags. With that change in practice you're going to issue a whole bunch more vehicle-specific tags than agent-specific tags, and the formula is going to be flawed. You're not going to get a fair amount.

Thank you for your consideration of these. I'd be happy to accept any questions.

MR. BACARISSE: Thank you.

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Members, any questions for Mr. Cooke? 1 2 (No response.) 3 MR. BACARISSE: We appreciate your time in 4 coming before us today. Thank you. 5 Tracey, any other commenters? 6 MS. BEAVER: Yes. Tracey Beaver, general 7 counsel. We have two additional commenters, William 8 9 Daniel and then Karen Phillips. 10 MR. BACARISSE: Thank you. Mr. Daniel. 11 MR. DANIEL: Thank you, Chair and members. 12 13 name is William Daniel. I'm a practicing lawyer here in 14 Austin, and my practice is primarily in motor vehicle law. 15 I'm appearing today on behalf of Vroom. Vroom 16 had made comments regarding several sections in the 17 initial proposal. Its primary concern is related to the treatment of dealers that had substantial sales to out-of-18 19 state buyers and to dealers that were experiencing 20 substantial growth. 21 The revised proposal that Mr. Thompson has 22 discussed has addressed those concerns, and Vroom is very 2.3 appreciative that those issues have been addressed. 24 As to his other comments, I know you have other 25 commenters, and in the interest of time I'll conclude my

remarks, and again, we do appreciate your attention to 1 Vroom's concerns. 3 MR. BACARISSE: Thank you, appreciate it. 4 Members, any questions before we let you go? 5 Any questions here? 6 (No response.) 7 Thank you. MR. DANIEL: 8 MR. BACARISSE: Thank you very much. 9 appreciate it. 10 Ms. Phillips, are you here? There she is. 11 Good morning. 12 MS. PHILLIPS: Good morning, Mr. Chairman, 13 Board members, Director and staff. Karen Phillips, GC for 14 the Texas Auto Dealers Association. TADA thanks you very 15 much for your time and effort that you've put with respect to HB 3927. 16 17 At the outset it's been stated by law enforcement -- and I very much appreciate the distinction 18 19 between independent and franchised dealers -- that the 20 franchised dealer is not the issue with respect to the 21 sale and the fraudulent printing of the temp tags. 22 The 87th Legislature made a reasoned and 23 measured response to the concerns expressed as to the 24 intentional and the fraudulent overprinting of temp tags.

As of today's proposal, TADA is unaware of available data

that makes a differentiation regarding fraudulent temp tags that are printed on the copy machine and those that are printed from the temp tag database. Such information would be valuable, as there is no regulation of the industry that will stop the fraudulent fabricating of a copied temp tag.

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TADA is in support of those base formulas that we heard Clint go through very succinctly, and we believe that they are very well thought out. However, going forward, as has already been asked and discussed, TADA would hope that if there is need for an amendment to those rules and base formulas, that the agency will be responsive to that particular request.

As to the initial allocation of the 600 particular tags that would be allocated to a new point, TADA is very concerned that that is not sufficient. And even though the new language gives a dealer the ability to request additional temp tags, this may resolve the concern, but only if the information that that dealer imparts back to the agency is considered credible.

For example, the average dealer in Texas, average franchised dealer sells about 630 vehicles, new and used, per year; 600 will not get us there. We also know that we have very large metropolitan dealers who sell 1,600 vehicles per month, so 600 won't get us there

either.

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We would also like to ask the agency to consider that with respect to a new licensed that is newly licensed because of a buy/sell agreement or because they have inherited that particular dealership, that the allocation from that previous owner be transferred over to that particular new licensee.

As to the 50 percent allotment, we would request that the dealership be informed when that 50 percent is available and up and when we need to make an additional request, and I understand that programming is not available right now for that to be tickled or added into the system --

MR. BACARISSE: Go ahead and finish your thought, if you will, please.

MS. PHILLIPS: Okay. Did I get a one-minute warning?

MR. BACARISSE: That's all right. Finish your thought.

MS. PHILLIPS: Anyway, we would ask that that information be incorporated into the rules. Even though the agency hasn't concurred that they will be programming to incorporate that information into the rule, we would ask that it actually be stated within the rules.

MR. BACARISSE: Thank you. We would take any

additional comments and input that you have for us in 1 writing at any time, obviously. That's important. You 2 3 may send them to me and/or to Whitney. I'm sorry your 4 time has expired. 5 MS. PHILLIPS: No, that's fine. I appreciate 6 it. Thank you. 7 MR. BACARISSE: Wait a minute before you leave. 8 Any questions of Ms. Phillips, members, before 9 she steps away from the podium? 10 MS. GILLMAN: I have a question. MR. BACARISSE: Yes, Ms. Gillman. 11 12 MS. GILLMAN: Number one, you mentioned that in 13 order to amend what the legislature has already passed for 14 us to -- us being all dealers, if we were to amend it to exclude franchised dealers, is it correct -- and I'm 15 16 asking you and Ms. Beaver -- that you have to go back to 17 the legislature? Is that a correct statement? In my opinion, the statute 18 MS. PHILLIPS: 19 allows for the agency to have different standards for 20 different licensees, and in fact, different standards. Today's proposal has different standards for different 21 22 licensees. 2.3 You've got the multiplier of 10 percent based 24 on the number of years up to ten that you are in business. 25 You have a separate allotment established for new

dealers, a separate allotment established for used car dealers.

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And so in our previous written request we had asked that the agency consider that if a dealer has been in business a certain number of years, a franchised dealer, and they have not printed any fraudulent temp tags, that they return to their actual use allotment and not have to be subjected to a specific number and not have to be subjected to ask for additional allotment if need be. We believe that the statutory language allows for it.

We also believe that the rule as written also incorporates these different standards, and to allow for a dealer who has not printed anything fraudulently and who has been in business for a certain number of years, whatever years and number you think would be reasonable, that particular number allotment would not be applicable to that particular licensee.

MR. BACARISSE: Okay.

MS. GILLMAN: And final question. With regard to the 600, it's your recommendation that if a -- with regard to allocation to a new owner, such as inheriting a store, inheritance, death of the dealer and passing it on, that his prior temp tag allocation for usage automatically switch over to the new owner.

MS. PHILLIPS: For both buy/sells as well as

1	for inherited dealerships, allow the previous owner's
2	allotment to be transferred over to that new licensee.
3	MR. BACARISSE: Okay?
4	MS. PHILLIPS: Thank you very much.
5	MR. BACARISSE: Thank you very much, Ms.
6	Phillips, appreciate it.
7	MS. GILLMAN: I'll just ask that that happens.
8	MR. BACARISSE: Yes, indeed.
9	MS. GILLMAN: When my father passed away and
10	I'm thankful that I didn't have to apply to have an
11	increase in temp tags business just carried on as
12	usual, so that amendment or change would be very
13	important.
14	MR. BACARISSE: It's very important.
15	Absolutely. And it's a point well made.
16	MR. SCOTT: Can I make a comment about that?
17	MR. BACARISSE: Yes, Member Scott. Speak into
18	the mic.
19	MR. SCOTT: I'm sorry.
20	MR. BACARISSE: That's all right.
21	MR. SCOTT: Paul Scott, for the record.
22	The license, the GDN number is not given
23	specifically to an individual; it's given to an
24	enterprise, to a business. So if you have a situation
25	where there is a death of a principal owner, there should

be an ownership structure in existence so that that business who has the license continues to receive the benefits and the requirements associated with that GDN.

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If I die, the license that I have and we operate with is not in my name; it's in my business. So some of this is already provided for in the way things are done. Right?

MR. BACARISSE: That's right.

MR. SCOTT: The other thing is the question about do we have the authority as an agency to change, make a change that's contrary to what the statute says. I don't see how that could possibly be allowed.

If we have that discussion, maybe we should read aloud for the Board the exact wording of that statute that was passed. If we have a concern about what that statute allows us to do or requires us to do, maybe it would be appropriate to read the statute at this time.

MR. BACARISSE: Ms. Beaver.

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

HB 3927 that passed this last legislative session has a section that amended and added language to Section 73.0632. The language is: "Department regulation of temporary tags and access to temporary tag databases. Department by rule may establish the maximum number of

temporary tags that a dealer or converter may obtain in a calendar year under Sections 503.062, .062-5, and .063.

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"The maximum number of temporary tags that the department determines a dealer or converter may obtain under this section must be based on the dealer's or converter's anticipated need for temporary tags, taking into consideration the dealer's or converter's time in operation, sales data and expected growth, expected changes in the dealer's or converter's market, temporary conditions that may affect sales by the dealer or converter, and any other information the department considers relevant.

"At the request of a dealer or converter, the department may authorize additional temporary tags of any type for he dealer or converter if they show a need for additional temporary tags resulting from business operations, including anticipated need."

The section goes on, but I think that's the relevant portion.

MR. SCOTT: It's applicable to anyone who has a GDN. Correct?

MS. BEAVER: Tracey Beaver, general counsel.

That's correct. It's applicable to anybody who has a GDN, a dealer or converter under that section.

However, it does state that the anticipated need for each

1 type of license would need to be taken into consideration. 2 So to the prior commented's point, Ms. 3 Phillips, it is something that can be different standards 4 for different types of licensees, which is what we have 5 done in this rule. 6 Thank you. 7 MR. SCOTT: Thank you. 8 MR. BACARISSE: Thank you. 9 Any other questions, members? Yes, Mr. 10 Ramirez. 11 MR. RAMIREZ: Just a question and comment. So 12 that statute, so that I'm clear, says you "may establish" 1.3 instead of "shall." So in making these rules apply to 14 everybody, we've exercised our "may" and we are 15 establishing these rules. 16 Now, they've already been published, they've 17 already gone through the process, they've already been 18 subjected to public comment. Is there anything that we 19 talked about, if we implement these rules, the flexibility 20 to change the rules if they're not working out? 21 Is there any mechanism by which we could 22 implement the rules for all dealers except for franchised 2.3 dealers at this time, and then if we decided to implement 24 for the franchised dealers if there were a need in the

future, since it's already gone through the process, could

1 we just flip that switch and turn them on by a vote of this Board, or would it have to go through a completely 3 different process? That's my question. 4 MS. BEAVER: Tracey Beaver, general counsel. 5 Thank you for the question. 6 HB 3927 doesn't give the authority to the 7 department to carve out a particular licensee, because the statute is specifically effective to dealers or 8 9 converters, which by statute is defined as franchised and 10 independent dealers. 11 However, the department does have the authority 12 to have different standards for the allotment of temp tags 1.3 under this rulemaking. And it is a "may" -- under statute 14 it's a "may." The department may authorize a temp tag allotment and issue rules to determine what that allotment 15 16 would be, but the "may" does not apply to the 17 legislature's intent under the statute, that it does apply to both franchised dealers and independent dealers. 18 19 Thank you. 20 MR. BACARISSE: Okay. I'm sorry. 21 MR. GRAHAM: 22 MR. BACARISSE: Yes, Member Graham. 2.3 MR. GRAHAM: I think it would be reasonable to 24 anticipate that this will need some tweaks. You know,

we're trying to hit a moving target here, and I would just

1	agree that we've put together a pretty good plan, but I
2	think it's just going to be necessary to make some
3	adjustments with additional rules down the line, whether
4	that's two months, three months, six months or twelve
5	months.
6	I would just ask that staff continue to work
7	closely with these stakeholders so that we can be ready to
8	make tweaks where we see necessary. It's hard to imagine
9	it won't be needed.
10	So thank you.
11	MR. BACARISSE: Good point, well made.
12	Any questions, any other questions, members?
13	Member Ramirez.
14	MR. RAMIREZ: I'll make a motion.
15	MR. BACARISSE: Absolutely. The chair will
16	entertain a motion.
17	MR. RAMIREZ: Unless Member Omumu would like
18	to.
19	MR. BACARISSE: How would we like to do it?
20	MS. OMUMU: No. I will second your motion, but
21	go ahead.
22	(General laughter.)
23	MR. RAMIREZ: I move that the Board approve the
24	adoption of amendments to Chapter 215 concerning the
25	maximum number of temporary tags that a dealer or

1	converter may issue from the temporary tag database for
2	immediate effect upon filing, as recommended by staff.
3	I also move that the Board grant the department
4	the ability to make changes to the adopted sections based
5	on non-substantive corrections made by the Texas Register.
6	MR. BACARISSE: Thank you.
7	Is there a second to that motion?
8	MS. OMUMU: Second.
9	MR. BACARISSE: Member Omumu seconds. So we
10	have a motion and a second. Is there any further
11	discussion before we call a vote?
12	MS. GILLMAN: When is the
13	MR. BACARISSE: Member Gillman.
14	MS. GILLMAN: Mr. Chairman, when is the
15	appropriate time to ask for an amendment to the motion?
16	MR. BACARISSE: I believe parliamentarily you
17	may do that now, and what you would want to do is ask for
18	a friendly amendment, state that, and then Member Ramirez
19	would have to decide whether to accept or not your
20	friendly amendment. Okay?
21	MS. GILLMAN: Okay.
22	MR. BACARISSE: And then we'd have to do a
23	second; you'd have to find a second for the amendment. So
24	go ahead and state what you'd like.

MS. GILLMAN: Member Ramirez, I'd like to make

1 a friendly amendment. 2 MR. BACARISSE: Go right ahead, lay it out. 3 MS. GILLMAN: Okay. I thought he had to say 4 yes. 5 MR. BACARISSE: Well, he has to hear it first, 6 and then he'll decide whether or not to accept it. 7 (General talking and laughter.) 8 MS. GILLMAN: The amendment that I'm proposing 9 is with regard to the language regarding new dealers that 10 are applying, and specifically with regard to the 600 11 maximum. I'd like to move that the Board amend Section 12 215.152 to clarify that a dealer can provide credible 1.3 evidence for anticipated sales and growth for both new and 14 used vehicles, and then double it for tag allotment. 15 I also move that the Board amend Section 16 215.152 to clarify that opening an additional location 17 will allow a dealer to receive a maximum allotment of temp tags based on the greater of allotment provided to 18 19 existing locations -- which has already been discussed by 20 Clint and Monique -- including those dealers opening locations for different line makes or allocated temporary 21 22 tags under subsection (f), whichever is greater. 2.3 Further, I move that the Board amend subsection 24 (q) to include that if a dealership is inherited or

purchased, that the new owner will receive the maximum

allotment of temp tags provided to that location. 1 comment earlier. 3 The amendments are consistent with the 4 department's intent to prevent dealers or converters from 5 having to request additional tags when established sales 6 data is available to the department. 7 The current rule contemplates licensees in these scenarios being able to provide additional 8 9 documentation to obtain an increase beyond the initial 10 allotment for a new dealer beyond that 600. 11 This change would also allow licensees to 12 request an increase based on the criteria identified but 1.3 would not require them to do so and would continue the 14 allotment previously established for the licensee for the 15 current formula. MR. BACARISSE: That's the reasoning behind 16 17 your friendly amendment. MS. GILLMAN: Yes. 18 19 MR. BACARISSE: I don't want to cut you off. 20 I'm sorry. 21 MS. GILLMAN: I'm finished. 22 MR. BACARISSE: All right. Thank you. 2.3 Member Ramirez, your decision? 24 MR. RAMIREZ: Question for general counsel. 25 Does anything -- any language in that amendment, does that require us to go back through a different process, or can we approve her amendment?

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MS. BEAVER: Tracey Beaver, general counsel.

The only question I would have would be in the addition to the language under Section 215.152(f)(1) regarding the consideration of new and used car sales and the statement about double it. I wasn't clear if that was going to take the place of the current metric or if that was going to be on the base calculation, which then had a multiplier on top of it.

MS. GILLMAN: My intent is that the page 58 says and 59 says that a new dealer can submit credible information supporting sales expectations, and specifically from the manufacturer, and that would be new car, but I feel like used car sales must be included, so we need to have that language of both new and used.

And sales expectations are one thing, but you need a bit extra in order to accomplish the goal, because you can't be perfect every single time; people change their mind.

So in being generous for a new dealer -- we're talking about that is under the current guideline 600, which is terribly insufficient; it's way too low of a number for even an average dealer in the state of Texas, franchised dealer. I am suggesting that you not only

submit credible information for new and used but in order 1 2 to provide a cushion, double it. 3 MR. BACARISSE: Meaning 1,200. MS. GILLMAN: Well, if the credible sales 4 5 expectation is 2,000, then your temp tag allotment is 4-. 6 If your credible sales expectation is 5,000, then your 7 temp tag allotment is doubled. 8 MR. BACARISSE: Yeah, you get to double the 9 number. 10 MS. GILLMAN: So whatever the department approves, whether it's 800, 1,000, 2,000, whatever the 11 12 number is, then in order to provide enough cushion, it's 1.3 doubled. And I don't think for a new dealer it's 14 15 outlined there, that department discretion, and so I'm just adding language so it's written that it is enough. 16 17 MR. BACARISSE: Member Ramirez? 18 MR. RAMIREZ: My question is the same to 19 general counsel. Is there anything outlined, as you 20 understand it now, that requires us to go back to public 21 comment for that, or can we accept that amendment? 22 MS. BEAVER: The only question I would have is 2.3 on the double it statement, and I would ask if the 24 chairman would allow for Clint Thompson, deputy director 25 of VTR, to come up and talk a little bit about the

1 metrics. MR. BACARISSE: Sure. 3 Clint, can you come back, please. Thank you. 4 MR. THOMPSON: Yes, sir. Howdy again. Clint 5 Thompson, deputy director of the Vehicle Titles and 6 Registration Division. 7 MR. BACARISSE: So the question was on the 8 metric. 9 Is it -- so expected sales, or if MS. GILLMAN: 10 I'm a brand-new dealer, you're going to get from me, 11 hopefully at the time of licensure, hopefully, I would 12 submit what my sales forecast is, and then I know that you 13 need a tag allotment larger than that number just in case 14 you blow past it -- which hopefully that's a good sign. 15 Right? Business is good, sales are good. So doubling it 16 is -- and that's my scientific math -- is a way of doing 17 it. Is it correct, it would be a way of doing it? MR. THOMPSON: Clint Thompson, deputy director 18 19 of the Vehicle Titles and Registration Division. 20 That's essentially what we've done with the 21 time in operation and growth factor, is we're creating a 22 multiplier there. 2.3 Exactly. Which, by the way, was MS. GILLMAN: 24 very -- I don't know if generous is probably too liberal

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of a word, but it was --

1 MR. BACARISSE: Insightful? 2 MS. GILLMAN: -- insightful, thoughtful, and 3 appreciated. And so I'm only trying to do similar mechanism for the new car dealer. 4 5 MR. THOMPSON: General Counsel, I think the 6 implication there of making the change in subsection 7 (f)(1) would be that they provide the data to us. If it exceeds the 600, based on what I'm hearing, we would go 8 9 with that, and then the formula would constitute a 10 multiplier of times two. 11 MS. BEAVER: Tracey Beaver, general counsel, for the record. 12 1.3 This would not likely require us to re-propose; 14 these are mostly clarifying changes with the addition of 15 the multiplier, but the Regulatory Compliance Division 16 will likely need to review any amendments made at the 17 meeting today to do a supplemental determination letter, 18 but I don't see any reason why we would need to re-propose 19 the rules. 20 MR. RAMIREZ: I accept the friendly amendment. MR. BACARISSE: All right. Thank you both. 21 22 So we have an amended motion on the floor. 23 everybody clear about where we're going and prepared to 24 vote? I don't want to move forward if we have further

questions on this. Are we good?

1	(No response.)
2	MR. BACARISSE: I sense that we are, so I will
3	now call for your vote.
4	I'm sorry. We need a second on the friendly
5	amendment.
6	MR. PREWITT: Mr. Chairman, John Prewitt, Board
7	member. I second that motion as amended.
8	MR. BACARISSE: Thank you. Now I have a motion
9	and a second on the amendment. Thank you all for keeping
10	me out of the ditch.
11	So we're now going to call for the vote on
12	agenda item number 5.
13	Member Alvarado?
14	MR. ALVARADO: Aye.
15	MR. BACARISSE: Member Gillman?
16	MS. GILLMAN: Aye.
17	MR. BACARISSE: Member Graham?
18	MR. GRAHAM: Aye.
19	MR. BACARISSE: Member McRae?
20	MS. McRAE: Aye.
21	MR. BACARISSE: Member Omumu?
22	MS. OMUMU: Aye.
23	MR. BACARISSE: Member Prewitt?
24	MR. PREWITT: Aye.
25	MR. BACARISSE: Member Ramirez?

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1	MR. RAMIREZ: Aye.
2	MR. BACARISSE: Member Scott?
3	MR. SCOTT: Aye.
4	MR. BACARISSE: And I, Chairman Bacarisse vote
5	aye. This is unanimous and item number 5 passes. Thank
6	you all very much.
7	Can we take about a five-minute break?
8	(General agreement.)
9	MR. BACARISSE: Let's take about a five-minute
10	break. We'll recess and reconvene.
11	(Whereupon, at 11:28 a.m., a brief recess was
12	taken.)
13	MR. BACARISSE: I'd like to call the meeting of
14	the DMV Board back to order now. It is 11:44 in the
15	afternoon.
16	We are actually on agenda item number 6 at this
17	time, and this is regarding the rule adoption of Chapter
18	215 relating to the denial of access to the temp tag
19	database and the issuance of temp tags to certain vehicles
20	without inspection.
21	Mr. Brian Ge will come up and brief us on this
22	item. Good afternoon or good morning still. Glad
23	you're hear.
24	MR. GE: Chairman, members, Ms. Brewster, good
25	morning, almost afternoon. My name is Brian Ge, and I'm

the managing attorney for the Enforcement Division.

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Agenda item number 6, which can be found on page 65 of your materials, is a recommendation to adopt, pursuant to amendment, Section 215.150, .151, .153, .154, .155, and New Section 215.505.

As stated in the draft rules at the time this agenda was prepared, the proposed rules for this agenda item were awaiting approval by the Regulatory Compliance Division of the Office of the Governor. That approval was granted on Tuesday, January 25, 2022.

These rule proposals relate to the implementation efforts associated with HB 3927, namely allowing the department to deny access to the temporary tag database for temporary tag misuse and fraud, the department's management of the temporary tag database, and addressing the issuance of temporary tags for certain vehicles without an inspection.

The department recommends adoption of Sections 215.151, .153 and .155 without changes to the proposed text as published in the November 12, 2021, issue of the Texas Register.

Based on comments received during the public comment period, the department recommends adoption of Sections 215.150, .154 and .505 with changes to the proposed text. The changes to .150 and .154 were fairly

minor; the changes to .150 addressed examples of how a dealer might secure printed tags or destroy expired tags.

The changes to .154 clarify that dealer temporary tags may be used on courtesy cars.

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The biggest change, though, was made in response to 215.505, which relates to denial of access to the temporary tag database.

As originally proposed, .505 provided for a ten-day period after giving a dealer notice before the department would deny access to the temporary tag database. After reviewing public comments, the department's processes, and analyzing the behavior of prior offending dealers and other external factors, the department is now recommending that the Board adopt rules that would allow the department to deny a dealer who fraudulently obtains temporary tags access to the temporary tag database immediately.

Generally speaking, when a dealer is investigated for any violation, not just temp tag violations, we send an investigator out, we try to contact that dealer by phone, by email, even snail mail if we have to, and for temporary tag violations we actually take the extra step of going to their location. So for these tag cases, at a minimum we're trying to contact them four different ways, and this is all before we send out any

kind of notice to that dealer.

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We've already tried to get in contact with them at a minimum four different ways, and so we feel that even if we reduce that ten-day window to an immediate effect, he already had a significant amount of notice and the opportunity to present any evidence to suggest that we could be incorrect in our assessment that they were issuing tags fraudulently or that they were selling tags.

They can talk to the investigator, they can talk to our attorney, there really is no shortage of opportunities for a dealer who's actually operating a dealership to present their case on why their access should not be denied before they ever get that denial letter.

And really, the only people who would be caught off guard by getting a denial of access letter is someone who's not operating at their licensed location. If they're a "dealer" on paper only, you know what, they probably will find out on the very first time when they find that they can't print any more tags.

That said, if we were to allow a dealer to continue issuing tags after we send that denial letter, so if we kept that original ten-day period or a shortened time, we would just be giving that fake fraudulent dealer the opportunity to continue printing tags unabated until

whatever that time period is.

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And for some of the recent tag sellers that we've identified, we looked at their behavior after we sent out our notice of department decision or a final order, and we found that those dealers, once they get that notice that they know we're on their scent, they will print an inhuman amount of tags.

And it's not just the dealer, it's the dealer, all the criminals that they're working with, they will create tons of sub-user accounts, and they will just print an inhuman amount, and that behavior would be allowed to continue unabated if we were to give them time after we tell them we're turning them off. They just think they have nothing more to lose, so why not.

Even in cases where law enforcement is involved -- and any of the constables can tell you -- that process takes time. It takes time for law enforcement to do their investigation, it takes time for law enforcement to get a warrant, it takes time to get a judge to sign that warrant, and then assuming a prosecutor actually agrees to take that case, it could take months before that tag seller is ever taken before a jury.

So really, while collaboration with law enforcement is integral for holding these criminals ultimately accountable, only this Board and the department

1	can stop these temp tag printing bad actors from printing
2	more tags.
3	And I'm happy to take any questions.
4	MR. BACARISSE: Thank you, Mr. Ge.
5	Members, any questions of Mr. Ge?
6	Member Scott.
7	MR. SCOTT: Let's get some timing. If we come
8	in Monday morning and we see that someone has printed
9	10,000 tags on Saturday, how long does it take you to shut
10	that guy off?
11	MR. GE: If someone has printed 10,000 tags
12	over the weekend, I can probably say we will have an
13	investigator out to that location on Monday.
14	MR. SCOTT: But that wasn't my question. My
15	question was how long is going to take you to turn off
16	that dealer's access to temp tags.
17	MR. GE: Ten minutes.
18	MR. SCOTT: Okay. So it can be done in ten
19	minutes?
20	MR. GE: Yes, sir.
21	MR. SCOTT: You can come in and see it in the
22	morning, shut off the access, and then send an
23	investigator out?
24	MR. GE: That's not the order I would prefer to
25	do things in, but that is certainly something that we can
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1 do. 2 MR. SCOTT: So what's the order that you prefer to do it? 3 MR. GE: I prefer to follow the process that's 4 5 outlined in rule. If we suspect a dealer is doing 6 something bad, we want to give them the due process. 7 want to properly investigate the case, we want to have the 8 evidence ready before we make the decision whether to turn 9 them off. 10 For dealers where it's very, very obvious that they are selling tags, we can do that very quickly, but I 11 would prefer to go through the entire investigative 12 13 process before we actually turn a dealer off. 14 MR. SCOTT: I mean, I would think that the 15 situation I outlined is prima facie evidence of some sort 16 of fraud. Nobody can sell 10,000 cars in a weekend. 17 think we should shut the access to that dealer now and 18 then we start the investigation. 19 MR. GE: I think that's certainly something we can look into. In consultation with the executive 20 21 director and her office, we can streamline those types of 22 investigations.

MR. BACARISSE: Please.

MR. BACARISSE: Ms. Brewster.

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MS. BREWSTER: Mr. Chairman, if I may?

MS. BREWSTER: Whitney Brewster, executive 1 2 director. 3 I think what Brian just laid out is if we 4 suspected not a huge amount potentially where it's 5 egregious printing where we may have -- this is the happy 6 path normal kind of investigation where we have a 7 situation where we have a dealer printing 10,000 tags over 8 the weekend. We do have the ability and the flexibility 9 in the rules to immediately shut them off and address the 10 issue immediately. MR. SCOTT: We have the ability. Do we have 11 the intent to do that? 12 1.3 MS. BREWSTER: I think, yes, sir, we do. 14 MR. SCOTT: Okay. 15 MS. BREWSTER: If we see 10,000 tags being 16 printed, we will have a process for turning those folks 17 off as quickly as possible. MR. BACARISSE: I just have a question --18 19 Chairman Bacarisse here -- just for anyone. We're talking 20 about 10,000, but what constitutes an anomaly and how do we know? 21 22 MR. GE: Brian Ge, managing attorney. 2.3 So with the max tag limits rules that you just 24 adopted, that should hopefully never happen again. Once 25 they hit that threshold, they're never going to be able to

get to that 10,000, so we're talking a maximum of 300 tags.

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I can tell you our investigators, they will pull up reports on a weekly basis -- they already do -- to identify people who print tags above a certain break, so those people are going to be caught fairly immediately, and we're going to be able to take action on them fairly immediately.

If they already printed the 300 tags, they're not going to be able to print any more. We can still do our investigation, and we can shut them off the right way.

For cases where they somehow escape that trap, or if they really were a legitimate dealer at one time and then they decide, hey, I need some money, I'm going to start selling tags, I have 2,000 left, let's go wild, well, we're going to find them real fast.

At Member Scott's suggestion, if we detect that activity, we can turn them off and launch their investigation later. I mean, the rule really does give us the flexibility to do what's needed to end temp tag abuse.

MR. BACARISSE: I don't want to get -- Member Graham, go ahead.

MR. GRAHAM: I don't know if this is fact; I would presume that the majority of these bad actors are getting a GDN that are a small dealer, like projected to

sell five cars a month. Right?

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MR. GE: Maybe.

MR. GRAHAM: The first rule essentially stops that in its tracks. I mean, if your intent is to do fraud, you get a license and you somehow say you're going to sell five a month but because of the grace of how it's structured you get ten a month, 120 a year, okay, you know. So I mean, really there is no scenario where someone prints 10,000 tags. I mean, I appreciate your question.

MR. SCOTT: I think that clarified it for me that you can't do 10,000. I guess my point -- I'm sorry;

I'm kind of interrupting -- but my point is --

MR. BACARISSE: Member Scott.

MR. SCOTT: -- I just don't want us to be in a position where we don't have the ability to act when we can clearly see someone is doing something wrong.

We've got a problem here, and some of it is to defend public safety and law enforcement, and so we just need to have the ability, and I just want to be sure that in these rules that we're coming with that we're giving the department, giving staff, our Enforcement people, tools that they need to combat it and combat it quickly and address the issue now rather than, you know, send a letter.

Due process is due process. Okay? But if you 1 2 catch someone in the middle of a crime, you don't have to 3 wait until you get them convicted before you can stop 4 them. 5 That's my point. I think the combination of 6 the two rules will probably address that, but I just want 7 to emphasize that we to give ourselves, give our people 8 the tools we need to put a stop to some of this stuff. 9 MR. BACARISSE: Member Graham. 10 MR. GRAHAM: There will be a period of time before we have that fully in place. Right? Potentially 11 12 several months before the rules we're doing today are in 13 place, so there could be opportunities in the coming 14 months for that to happen still. Right? 15 MR. SCOTT: From what I heard earlier, if we 16 pass these today and they're posted in the Register, these 17 tools are available to us on February 11. Is that correct? Is that what I heard? 18 19 MS. BEAVER: Chairman, if I may? 20 MR. BACARISSE: Yes, Ms. Beaver. 21 MS. BEAVER: Tracey Beaver, general counsel. 22 The two rule adoptions are effective 2.3 immediately that are up for consideration today. 24 means that as soon as they're filed with the Texas

Register, they will be effective.

The temp tag rule that was just passed by the 1 2 Board does need to go through the Regulatory Compliance 3 Division review, but that does not normally take months 4 for a supplemental review for a determination letter. 5 If the Board approves this adoption for the 6 denial, it will be effective immediately upon filing with 7 the Texas Register. 8 MR. BACARISSE: How long does that filing take, 9 Ms. Beaver? 10 MS. BEAVER: Usually a day. It will be effective today or tomorrow if the Board approves today's 11 12 final rules for adoption. 1.3 MR. BACARISSE: Thank you. 14 Vice Chair McRae. 15 MS. McRAE: I have a question on the eTAG 16 system, the programming side of it. Has the programming 17 been corrected so that only a 17-digit VIN and it has to be the correct format of an actual VIN -- has that been 18 19 corrected? 20 MR. GE: Brian Ge, managing attorney. 21 Yes, it has. 22 MS. McRAE: Okay. 2.3 MR. GE: It was corrected when it was first 24 brought up several years ago, and then we noticed a defect 25

that was brought to our attention in December, and that

1	was corrected the day after.
2	MR. BACARISSE: Any other questions for Mr. Ge?
3	MS. GILLMAN: I have a comment.
4	MR. BACARISSE: Yes, Member Gillman.
5	MS. GILLMAN: Of course, we've all gone through
6	exhaustive measures between the staff and the Board and
7	conversations to come up with different ways to end this
8	abuse and catch the bad guys.
9	Can we in encouraging good results, can we
10	get a report back and hear of some success in the short
11	term, long term? I'd love to know, you know, we had 20
12	violators last year that printed an inhuman amount, and
13	then after these adopted rules we only have two or we've
14	caught them. So can we please have updates and
15	transparency to report success?
16	MR. GE: Absolutely, yes, ma'am.
17	MS. GILLMAN: Hopefully success.
18	MR. BACARISSE: Yeah, right. Good point, good
19	point.
20	Members, anything else for Mr. Ge?
21	(No response.)
22	MR. BACARISSE: Thank you, Brian. Thanks for
23	your good work. Keep it up.
24	MR. GE: Yes, sir.
25	MR. BACARISSE: I guess do we need to have

1	comment first and then hear
2	MS. BEAVER: Tracey Beaver, general counsel.
3	Yes, we have seven signed up.
4	MR. BACARISSE: Seven public commenters. Okay.
5	So let's open that portion up on this particular agenda
6	item, if I may. Who's our first?
7	MS. BEAVER: Our first is Ms. Tawny Solbrig.
8	MR. BACARISSE: Okay. Ms. Solbrig.
9	MS. SOLBRIG: Good afternoon.
10	MR. BACARISSE: Good afternoon. Thanks for
11	being patient with us.
12	MS. SOLBRIG: Thank you for having me here, but
13	truly I wish I wasn't here at this time.
14	Mr. Chairman, members of the Board, I'm Tawny
15	Solbrig from New Braunfels, Texas and I represent my
16	family, and I'm here today to talk to you about the
17	shameful problem exploited by criminals with temporary
18	paper tags.
19	I'm sorry
20	MR. BACARISSE: Take your time.
21	MS. SOLBRIG: On October 4, 2020, my 18-year-
22	old son, Tarrin, was killed in Lockhart, Texas. This
23	accident would never have happened if the other driver did
24	not obtain illegal paper tags through your failed system.
25	It has been discovered the F250 that hit my son

head-on was illegally on the road since 2018 with illegal paper tags. They were able to obtain these paper tags without liability insurance or an active state inspection.

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The dealer that issued these paper tags was only investigated by your department because of consumer complaints yet never caught him, but come to find out, they issued over 50,000 tags in six weeks in 2020: 50,000.

Your top dealerships are not going to be doing that. Okay? This dealership has been indicted only because of those people over there, not because of y'all, because y'all failed the system. How is this not a red flag? How is this not a red flag for your department?

50,000 tags, people. There are no dealers that are going to do that.

Unfortunately, the Board is aware of paper tag issues and has not chosen to make sweeping changes within the last couple of years. We know the Board has had numerous recommendations from law enforcement without the State of Texas with little or no effective change as the fraud is increasing daily.

The current system is making the streets less safe by allowing unworthy vehicles continue to operate, which is only part of the problem. There is more than just the State of Texas not getting their inspection fees or the registration fees.

Most of these cars are getting paper tags because they don't have insurance, they can't get insurance, or they can't be titled. More and more they're being used in criminal activities, as you've been told, and they're almost impossible to track down.

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The last thing you want and your Board members to get is that phone call that my family got that day saying your son is not coming home, and then have to live with the fact that it could have been prevented in 2018 because your system failed. My son could still be here but he's not because a car had illegal paper tags for these years.

MR. BACARISSE: Please finish your thoughts.

MS. SOLBRIG: It is time for change, not talk, because this can happen to anybody. When I go to the local tax assessor's office to get my registration renewed, I'm required to meet all Texas requirements. Why is not the same on the temporary tag system, why are they not to meet the same requirements?

We talk about fingerprinting, and that's great; that's a step in the right direction, but other changes have to be made. We have to be proactive here. Criminals are getting smarter every day.

Temporary tags should not be able to hide past

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the yearly state inspection requirements, the liability 1 2 insurance requirements, and there should be some sort of 3 red flag about VIN numbers being issued multiple ones past 4 more than two times. 5 We ask the Board to be proactive and not 6 reactive. Now is the time to not pat each other on the 7 back and talk about what few changes have been made but to 8 take action. If this happened to you and your family, you 9 wouldn't worry about if a dealer ran out of tags because 10 somebody didn't pay attention to their inventory. Thank you for your time and appreciate it. 11 12 MR. BACARISSE: Thank you for being here. 13 MS. SOLBRIG: Any questions. 14 MR. BACARISSE: Members, any questions? 15 (No response.) 16 MS. SOLBRIG: Thank you. 17 MR. BACARISSE: Thank you. 18 MS. GILLMAN: I have a comment, Mr. Chairman. 19 MR. BACARISSE: Member Gillman. MS. GILLMAN: Ms. Silver -- is it Silver? 20 21 MR. PREWITT: Solbrig. 22 Ms. Solbrig, thank you for coming MS. GILLMAN: 2.3 before this Board. It must be extremely difficult for you

to have done so, and very brave. I applaud you coming

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before this Board.

I also appreciate what you said that -- and I 1 2 didn't know -- it was only investigated because of a 3 complaint. I appreciate your call for more proactive 4 measures to try and catch these bad guys. 50,000 tags in 5 on month is absolutely ridiculous, and I also encourage 6 Enforcement to come down on them and come down on them 7 hard. 8 Thank you. 9 MR. BACARISSE: Thank you, Member Gillman. 10 Anyone else? 11 (No response.) 12 MR. BACARISSE: Thank you. 13 Any further public comment? 14 MS. BEAVER: Tracey Beaver, general counsel. 15 We have Sqt. Escribano and Mr. Kohler. 16 MR. BACARISSE: Gentlemen, do you wish to speak 17 with us again? I think we've heard the message, 18 personally. 19 Okay, Mr. Kohler. 20 MR. KOHLER: Again, Dave Kohler, law enforcement. 21 22 I'm not going to beat a dead horse, but let's 2.3 look forward. Number one, fingerprint and verify who 24 you're giving a GDN to, not what somebody puts on an 25

electronic application, because I can submit a GDN with

your ID and you won't even know it. You have to know who 1 you're giving a license to. 3 Number two, vet the locations and make sure they're selling. 4 5 Number three, it's a privilege to have a GDN, 6 and if it takes ten minutes to flip a switch to turn them 7 off, it can take ten minutes to turn it back on. 8 called an attention-getter. 9 We're not here to violate franchised or 10 legitimate dealers, we're here to prevent -- and of course, now we're preventing 430,000 from this criminal 11 dealer, we're limiting to 600, but enough is enough. 12 13 And you have to listen to law enforcement and 14 from citizens and not stakeholders all the time. We're 15 trying to work with the DMV to make a better product. 16 Unfortunately, the last three years I've been on the 17 sidelines, not having that opportunity. 18 And I'll be happy to answer any questions I 19 can. 20 MR. BACARISSE: Any questions, members? Mr. Graham. 21 22 MR. GRAHAM: Is there any reservations from 2.3 staff -- I mean, just to ask one question -- do we have 24 any reservations working with law enforcement in any way?

I mean, I've heard what the speakers have said that they

1	feel like they've been frustrated, that they've been on
2	the sidelines and haven't had the response that they felt
3	like they needed. And I just want to make sure that as an
4	agency that we're pointed in the right direction and
5	willing to work with them.
6	MS. BREWSTER: Absolutely. The whole reason
7	that a tag is on a vehicle is so that it can be detected
8	by law enforcement, and so, yes, we're committed to
9	working with law enforcement, whether that's Mr. Kohler,
10	whether that's Dallas PD, whether that's Houston PD.
11	We're absolutely willing to work with you.
12	MR. KOHLER: Maybe the Board can discuss I
13	don't know when this will happen, if I need help to pick
14	up a phone to call somebody without submitting an Open
15	Records request, how does that start and when does that
16	happen, who do I call?
17	MR. BACARISSE: What's the mechanism,
18	procedure?
19	MS. BEAVER: Tracey Beaver, general counsel,
20	for the record.
21	We'd be happy to look into the internal
22	department processes to get a phone number for somebody
23	that law enforcement can directly contact as a liaison to
24	assist with getting records through the agency.

I know law enforcement has processes and

paperwork as well, and so we want to make sure that we're being as effective and efficient as possible in getting those records to law enforcement and having some system to make sure that we're getting it to the right folks in the right amount of time, and continuing to work on what type of data, what types of reports are helpful for law enforcement, so hopefully we can provide those same types of reports to multiple jurisdictions. We're looking at the same types of investigations for temp tags.

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And so we're happy to commit to following up and also receiving and providing that information. We'd like to provide it more generally to law enforcement, and so we do. To Executive Director Brewster's earlier point, have a website for law enforcement for records, and so we'll look at getting that updated and having contact with y'all directly after this meeting.

MS. BREWSTER: Mr. Chairman, if I may?

MR. BACARISSE: Ms. Brewster.

MS. BREWSTER: Could I ask Brian -- if it's okay with you -- Brian Ge from our Enforcement Division to come up and must maybe share how we might be able to work with specifically Mr. Kohler and Sgt. Escribano, if they need a contact to work with within our department.

Can you kind of explain how we might address that?

MR. GE: Yes, absolutely. Brian Ge, managing 1 2 attorney for Enforcement. 3 If law enforcement ever needs assistance from 4 the DMV, they can email Enforcement@TxDMV.gov and we'll 5 see that email. If they need help from an investigator, 6 I'll have one of my investigators reach out to them fairly 7 quickly. 8 The response time is not long. All of our 9 investigators, most of them are ex law enforcement, they 10 get it. So subject to what we are able to release, we'll release that information. 11 12 MR. BACARISSE: Can we speak to a moment -- I 13 just have a question -- Chair Bacarisse -- for Ms. 14 Brewster and for the three of you, perhaps, and Tracey. 15 Can you speak to the process of what information can be released and what in that process is 16 17 most efficient and effective? MS. BEAVER: Tracey Beaver, general counsel. 18 19 We have an Open Records law, like very state 20 agency, like law enforcement agencies. We are able to release information that's not confidential. 21 22 In certain circumstances we're able to release 2.3 motor vehicle records for permitted purposes under 24 statute, and we are able to create reports for law 25 enforcement with information that we deem to be useful for

their investigations.

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These cases are complex, difficult, have a lot of underlying data that's needed to be comparable from the department, so I know that not only is the request for records but the department has provided expert witness, provided specialized reports, and we hope to be able to have that communication amplified so that it's more efficient and effective and also streamlined if there's similar reports that different jurisdictions could benefit from.

I think we are in a moment of continuous improvement. We're happy to work on having efficient collaboration and communication with law enforcement.

MR. BACARISSE: Thank you.

MR. SCOTT: Chairman?

MR. BACARISSE: Yes, Member Scott.

MR. SCOTT: Could I ask Mr. Kohler to come back up, please?

MR. KOHLER: Yes, sir.

MR. SCOTT: Thank you.

So you brought all this up. You've heard the response from our general counsel, from Enforcement, from the executive director. Our chairman said specifically what do we need.

I was just going to give you an opportunity to

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MR. KOHLER: I appreciate the Board taking the direction that it's taking. I still think there's more to do, and when I say that, again, law enforcement works 24/7, holidays and weekends. DMV members, investigators, attorneys, staff members do not.

In the event of a homicide, kidnapping, aggravated robbery that involves a paper tag, what do we do, wait till Monday? We need the access with most urgency in those exigent circumstances to work the criminal investigation to try to find out who the car was sold to, what dealer issued it, verify and cross-reference other VIN numbers to try to make those connections, and the various investigative methods that take place.

But without that we sit here and wait till

Monday. We'll send an email, wait for somebody to call

me. I'm still waiting almost five months for just a

dealer complaint on one paper tag. Imagine if this is a

criminal offense that happened on Thanksgiving. I have to

wait till Monday?

I hope that answered your question. I don't know if I did or not, sir.

MR. SCOTT: Thank you. I just wanted to get a sense of your reaction.

MR. KOHLER: I understand Open Records Act.

This is law enforcement, this is criminal. I'm not an

Open Records. I don't understand why law enforcement -
maybe I don't understand the system, maybe I don't

understand a lot of the Attorney General's opinions, et

cetera.

Why does law enforcement requesting information

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you.

Why does law enforcement requesting information for a criminal investigation have to go through Open Records procedures and hoops? Maybe it's my misunderstanding. I don't know.

MR. BACARISSE: Can we speak to that?

(Inaudible person speaking from audience.)

MR. BACARISSE: Just a moment, please. Thank

General Counsel Beaver.

MS. BEAVER: So there is a legal answer, there is applicability of the VIA, the Government Code. This last session there was Senate Bill 15 that addressed law enforcement access to records.

I really think that that conversation, though, is not what's relevant here. I really feel what's relevant here, to Mr. Kohler's point and other law enforcement, is that we need to be more effective and efficient. We need to find ways that we can work together to get the information that's needed.

If that's working together with future 1 2 statutory changes, that's one thing, but for today and 3 right now and to get the information that's needed, I 4 think having a liaison, having that contact and working 5 together to get those standardized reports that might be 6 useful for the future are steps we can make right now, as 7 we're looking for the immediate, short-term and long-term solutions. 8 9 Thank you. 10 MR. BACARISSE: Great. Vice Chair McRae, did you have a question? 11 12 Hang in there, Mr. Kohler. 13 MS. McRAE: Well, first of all, I want to thank 14 you for being here. 15 MR. KOHLER: Thank you, ma'am. 16 MS. McRAE: And I've been taking notes. 17 think when y'all first made public comment y'all were asking for a direct line so that you could talk to a 18 19 person here at DMV. 20 MR. KOHLER: Correct. 21 MS. McRAE: Y'all were asking for accessibility 22 to reports. You would like to have a liaison, someone 2.3 that would be the mediator between law enforcement and the 24 agency that y'all could go directly to. Is that correct?

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MR. KOHLER: For assistance, yes.

MS. McRAE: Right. And then I think -- I don't 1 remember if it was you or Mr. Escribano that mentioned 2 3 that y'all have access to the FBI system, DPS, and other 4 systems. 5 MR. KOHLER: Correct. 6 MS. McRAE: Is there something preventing them 7 from having access, Tracey, to the DMV system for law 8 enforcement purposes? 9 MS. BEAVER: Tracey Beaver, general counsel. 10 There are several different systems that have information regarding vehicle titles and registration at 11 the department, and law enforcement also has access to 12 13 TLETS, so much of the information is available to law 14 enforcement. 15 There's different ways to get access to the 16 system, so I think this is probably a broader discussion 17 that hasn't been noticed on the agenda about what types of 18 system, what types of data and what types of access could 19 be granted. 20 But since we're just talking about public information right now, something that would be on the 21 22 website, I will say granting access to folks outside of 2.3 the agency to our internal systems is not something that

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But that's not say that we can't give

has been authorized by statute for the department.

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information to law enforcement from our databases through our processes and under the law and get everybody the information they need when they need it. I just think we need to have more discussion about how to do that effectively and efficiently and with the contacts that are available and liaisons for law enforcement.

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MS. McRAE: Certainly we can take everything y'all are saying, and I would like to come up with some agency -- I know that we are pro law enforcement, I think everyone up here can say that, but I would like to see us do more to support our law enforcement agencies that are trying -- they're the boots on the ground that are trying to stop the fraud as it happens.

MS. GILLMAN: I concur.

MR. ALVARADO: May I, Chairman?

MR. BACARISSE: Yes, please, Mr. Alvarado.

MR. ALVARADO: And the concept of the liaison is interesting as well, because that would help with the structure; that would help with there always being some resource to go to in an emergency situation because they sound like they're most interested in emergency situations.

The volume is probably not going to be prohibitive to a position like that, there wouldn't be an overflow of demand, I imagine. That's an interesting

1	concept and something that maybe we could explore.
2	MS. BREWSTER: Mr. Chairman, if I may?
3	MR. BACARISSE: Ms. Brewster.
4	MS. BREWSTER: Thank you. Whitney Brewster,
5	executive director.
6	We have had internal discussions about creating
7	just what we're talking about here to address the
8	communication and the quick communication that needs to
9	occur oftentimes with these criminal cases. So this is
10	something that is under review at the department
11	currently, but I very much appreciate the affirmation that
12	that would be something that's useful.
13	MR. BACARISSE: I think it's the sense of this
14	Board, that we want you to move with all due haste to
15	create that liaison position.
16	Am I correct, members, do I have a sense that
17	you concur?
18	(A chorus of assent.)
19	MR. KOHLER: If I may, Mr. Chairman?
20	MR. BACARISSE: Mr. Kohler.
21	MR. KOHLER: Maybe my interpretation of a
22	liaison was not properly brought forth. Just having the
23	ability to pick up the phone and call, this is the person
24	you call, or this is the group, this is the people you
25	call. You don't necessarily have to create a position.

MR. BACARISSE: Just a hotline. 1 2 MR. KOHLER: Just somebody, you know, you can 3 call these three people any time, Monday through Friday, 4 8:00 to 5:00. Right now I don't know. Who do I call? 5 MR. BACARISSE: Right. 6 MR. KOHLER: Whoever answers the phone, I don't 7 know. 8 MR. BACARISSE: Yeah, we want to create that 9 communication. I think it's the sense of this Board that 10 we agree with your point and want to see that done with all proper haste. 11 12 MR. KOHLER: And if it's statutorily preventing 13 us from getting user access to the eTAG system, is that 14 something that can be worked on as far as identifying that 15 statute and getting that on the ball rolling now instead 16 of two years from now. 17 MR. BACARISSE: Yeah, right. I think we have 18 an interim and certainly Member Ramirez and law 19 enforcement and all of you who work with the members of the legislature. If we need legislative change, we're 20 21 happy to be a partner with you in that effort. 22 But I think there are things we can today, 23 right now to tighten the communication loops and the 24 information flow loops so that you can do your jobs

better, because we all want you to do that.

I am the public member here. I've only been 1 2 the chair for four months, five months, but I want to tell 3 you I think about this every night. I'm on it. If you 4 ask her, I call her every day. 5 I'm on it, we're with you, and we're moving as 6 fast as we can move this battleship, which is really just 7 a regulatory agency; we're not law enforcement. But we'll 8 help you and we're with you.

The most dangerous thing you do is a traffic stop, one of the most dangerous, so we want you to know who you're pulling up on, we want you to have all that information. You never need to be blind in what you're doing.

MR. KOHLER: Thank you.

MR. BACARISSE: Okay? So we're with you, and we're pushing as fast as we can, but we want you to be on our team too, because I think we're only going to be really effective if we're all on this same team together moving in the same direction as a team. And that's what I personally would appreciate.

Members, anything else?

Mr. Scott?

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MR. SCOTT: Yes, thank you.

I just wanted to thank the chairman. I think he spoke well for all of us, and I think he said what

1	needed to be said. I think our sense is that there's a
2	situation here that needs to be addressed, it needs to be
3	addressed with some urgency, and I think we've got
4	leadership here in the chairman to get it done.
5	We need to listen to you and listen to others,
6	but it's time for some action and time to push this
7	further.
8	I also agree with general counsel: This
9	conversation is not really a part of our agenda today, but
10	I would say this, it's a conversation that we needed to
11	have. We've had it and we need to figure out what the
12	forum is to continue to have a discussion that's
13	appropriate to get these things taken care of.
14	So I'd like to see us return to our agenda, but
15	we've got our marching orders from the boss over here, and
16	we're going to keep moving.
17	MR. BACARISSE: There you go.
18	MR. KOHLER: Thank you.
19	MR. BACARISSE: I thank all of y'all,
20	appreciate it.
21	MS. GILLMAN: Good job, Mr. Chairman.
22	MR. BACARISSE: Well, listen, I'm thankful for
23	this team.
24	MS. GILLMAN: Well said.
25	MR. BACARISSE: I'm thankful for this team,

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1	absolutely.
2	Let's go back to agenda item number 6, which is
3	relating to the adoption of Chapter 215 related to denial
4	of access to temp tag database and issuance of temp tags
5	for certain vehicles without inspection.
6	That is agenda item 6. We've heard from Mr.
7	Ge. I would entertain a motion on this item.
8	MS. BEAVER: Mr. Chairman?
9	MR. BACARISSE: Oh, I'm sorry. Yes.
10	MS. BEAVER: Sorry to interrupt.
11	MR. BACARISSE: We have other speakers, don't
12	we?
13	MS. BEAVER: We have four other commenters that
14	have signed up for comment.
15	MR. BACARISSE: Right, okay.
16	MS. BEAVER: One is Travis Ward.
17	MR. BACARISSE: Please, Mr. Ward. Is it Ward?
18	Mr. Ward?
19	(No response.)
20	MS. BEAVER: We also have Shay Luedecke and
21	Karen Phillips.
22	MR. BACARISSE: Okay. Mr. Luedecke and Ms.
23	Phillips, are you here?
24	MR. LUEDECKE: (Speaking from audience.) My
25	comments have already been made.

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MR. BACARISSE: Okay. Thank you.

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Ms. Phillips, do you wish to address the group again, address the Board?

MS. PHILLIPS: Good afternoon. Again, my name is Karen Phillips, GC for TADA, and thank you again to the Board, Chairman, Director and agency staff.

TADA agrees with the rationale for removing the sample copies of the temp tags from the Texas Register.

As it is stated in the Board briefing book, unauthorized persons may be able to use computer software to manipulate the sample to create a high quality tag or at least a better quality temp tag thank can be obtained by photography or scanning. So removing those sample copies from the Texas Register, we believe, will assist in keeping the fraudulent temp tags from being reproduced.

One thing that we would ask is that the verbiage in 215.150(d) that the words "for all" be removed from that statement. Currently the proposal mandates that a dealer is responsible for all use of and access to the temp tag database under their account.

There's some recognition that that temp tag
database may be hacked, the dealer's computer system may
be hacked, and simply to remove the word "all" is all
we're asking for, because we're still responsible for that
database as well as responsible for access to it.

With respect to the fraud definition, the proposal defines fraudulently obtained temp tags from the database to be misusing the temp tag database to obtain an excessive number relative to dealer sales, temp tags for vehicles not in the inventory; i.e. the presumption is that that vehicle is not shown on the monthly VIT statement, that the presumption is that it is fraudulent even though we may have a rescission, access to the database by a fictitious person or user.

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Undefined is what is excessive, undefined is what is misuse. Unfortunately, we're concerned that we'll have different interpretations and different outcomes depending on the person in charge of enforcement, and what is misuse and excessive will be considered subjective.

And so we would ask that we have guideposts or more specific definitions so that we don't have presumptions of intent and that we don't have uneven enforcement, and we're very hopeful that the numerical limits that you imposed previously today will assist in deflecting from any fraud, but again, we're concerned very much with uneven enforcement with respect to how fraud is determined.

Thank you.

MR. BACARISSE: Thank you.

Members, any questions for Ms. Phillips?

1	MS. GILLMAN: Yes.
2	MR. BACARISSE: Member Gillman.
3	MS. GILLMAN: Ms. Phillips, in and I was
4	trying to write it down 215.150(d) you requested
5	removal of the word "all".
6	MS. PHILLIPS: On page 97.
7	MS. GILLMAN: I have no idea.
8	MS. PHILLIPS: Page 97.
9	MS. GILLMAN: Page 97, line?
10	MS. PHILLIPS: Seventeen. A dealer or
11	converter is responsible for all use of and access to the
12	applicable temp tag database, et cetera. We are
13	responsible for it, and simply removing "all" will give me
14	a better level of comfort for inexcusable, unknown
15	excessive access to the database whether that be from an
16	unknown entity, whether it's fraudulent hacking, whether
17	it is somebody that is accessing the database that we have
18	never intended to access that database. We would just
19	like to have that "all" word removed.
20	MS. GILLMAN: Thank you.
21	MR. BACARISSE: Any other questions for Ms.
22	Phillips, members?
23	MR. GRAHAM: I have a question.
24	MR. BACARISSE: Member Graham.
25	MR. GRAHAM: Thank you. Just a question for

general counsel regarding your thoughts on implications for that.

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MS. BEAVER: Tracey Beaver, general counsel.

That change would not likely require us to resubmit to the Regulatory Compliance Division, but I would need to ask the Governor's Office if that's something that we would need to supplement to.

That change would not require us to repropose the rules. Removing the word "all" still leaves the requirement that the dealer or converter is responsible for access to the database, including any unauthorized access or unauthorized access by any other users, and that they still have those duties to monitor the usage, maintain their account, manage their account access, and take timely and appropriate action to maintain the system security.

I think that that change would clarify then that it's not any action that happens in a database that the dealer would be responsible for, but that would then also limit the number of actions the department could take against the dealer who had misused the system if they were to provide a reason such as hacking that would be used to suggest that they weren't responsible for their account.

MR. GRAHAM: Okay. That's fair enough.

MR. BACARISSE: Member McRae, Vice Chair McRae.

MS. McRAE: And I would just like for the Board to be made aware that as a county tax assessor-collector, there's 254 of us that have personal liability.

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We have personal liability that comes with that system that we use in our offices and all of our employees, and if something happens I am responsible, and I have five office locations, 59 employees, and I am responsible for that.

So I am not in favor of removing "all". I think as a department it is important that that be in there, because there's other stakeholders that are involved that we are responsible for all.

MR. BACARISSE: Member Prewitt.

MR. PREWITT: Mr. Chairman, I would just echo what Member McRae just said. I think it's a slippery slope. All dealers are responsible for all activity under their GDN -- at least that's my impression -- when they're given that GDN by the State of Texas. And so how can you say they're responsible for all activities of their GDN except for this activity.

I don't think you can do that. And I think

Tammy is well spoken in her personal liability, and it's a

call for them, you know, we're all grownups here and you

got to take care of your business. Right? And if you

don't, then there's consequences. I think that's what the

1	intent of that was.
2	MR. BACARISSE: Questions from any other
3	members at this point?
4	Member Gillman.
5	MS. GILLMAN: Of course, I've been in the car
6	business for 32 years. I appreciate the microscope on the
7	dealer temp tag usage, never happened before in my sphere
8	of influence, but it is a worry that if I have a hacked
9	system that I can be turned off.
10	All of the conversations regarding alerts and
11	formula to allow enough tags is definitely appreciated,
12	but I would be in favor of eliminating the word "all."
13	Even just eliminating the word "all" does not excuse the
14	rest of the language that I need to as a dealer and it
15	says: monitor usage, managing the account and taking
16	timely and appropriate actions.
17	So anyway I would vote
18	MR. BACARISSE: You're supportive of the
19	speaker's comment.
20	MS. GILLMAN: Supportive of the speaker's
21	comment to eliminate the word "all."
22	MR. BACARISSE: Members, anyone else have a
23	question?
24	Yes, Member Ramirez.
25	MR. RAMIREZ: And it's not for you, Ms.

Phillips; it's just an additional comment.

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MS. PHILLIPS: Okay. I'll sit down.

MR. BACARISSE: Thank you, Ms. Phillips.

MR. RAMIREZ: Thank you very much.

The rules we discussed today and the rule we approved in item number 5 is very, very important, but I'll say that the most important rule that we're discussing today, aside from moving forward with the fingerprinting conversation, is this one.

I think this allows us the option to stop the bleeding, stop this from happening immediately, and that's something we've not had in the last two to three years.

As Ms. Solbrig said, if we had the ability to turn this off three years ago, four years ago, this may not have happened. So I think that it's all of our duty to consider the implications of any changes we make to staff recommendations, because this item, this rule has been vetted over and over and over again. And yes, we've moved this process quickly, but I think we've moved it quickly responsibly.

With that, I would move that the Board approve the adoption of amendments to Chapter 215 concerning access to the temporary tag database and the temporary tag requirements, and the new section concerning denial of access to the temporary tag database for immediate effect

1	upon filing, as recommended by staff.
2	I also move that the Board grant the department
3	the ability to make changes to the adopted sections based
4	on non-substantive corrections made by the Texas Register.
5	MR. BACARISSE: There is a motion. Is there a
6	second?
7	MS. McRAE: Second.
8	MR. BACARISSE: It's been seconded by Member
9	McRae, Vice Chair McRae. Any discussion, members?
10	I'm sorry, Ms. Beaver?
11	MS. BEAVER: Chairman, Tracey Beaver, general
12	counsel.
13	Before the vote there is one other public
14	commenter, Mr. Earl Cooke.
15	MR. BACARISSE: I'm sorry.
16	Mr. Cooke, my apologies.
17	MR. COOKE: That's okay. Earl Cooke with the
18	Texas Independent Auto Dealers Association. Thank you,
19	Mr. Chairman, members of the Board for the opportunity to
20	speak.
21	I want to reiterate something that the Texas
22	Automobile Dealers Association said. They weren't sure
23	how many it would take to be shut off, or actually we know
24	that number; just one is enough.
25	If you look at the DMV's comments, response to

a comment on page 50, starting on line 15, an individual commenter recommended the DMV immediately revoke access to the temporary tag base for any dealer that duplicates a tag. Let me repeat that: a tag. If you look at the language, page 105, section 11, Section 215.505(a)(2), it says a vehicle or vehicles.

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so what about a backout? Well, that's rebuttable. If you look at the comment on page 105, 83, line 8, it talks about rescinded sales, not backouts. Well, guess what, it's rebuttable but you can shut off, you have no access to the system until that rebuttal is heard. So you go without temporary tag access until the rebuttal is heard.

And if somebody wanted to, they could shut off for one car being backed out because it's not on your VIT form. It said that specifically, the DMV has actually acknowledged that one tag is enough.

We ask that you change that very slightly and get rid of "a vehicle" from section (2) and just have vehicles not in the dealer's or converter's inventory. A vehicle is presumed not to be in the dealer's or converters inventory if the vehicle is not listed.

That is all that we have suggested. If there are any question, I'd be happy to answer them.

MR. BACARISSE: Any questions, members? You're

thinking, Member Graham. 1 2 MR. GRAHAM: Yeah, I want to give consideration 3 to what he's saying. Can you take me back to the -- going 4 from page 105 to page 55 is pretty hard; my battery is 5 dead on my laptop. 6 You mentioned that as the rule was written, a 7 single duplication of a tag could give the agency 8 authority to shut down a dealer's ability to print tags. 9 Is that right? 10 MR. COOKE: That's correct. It says a vehicle. 11 MR. SCOTT: What page is that on, please? MR. COOKE: That is on page -- so there's a 12 13 comment where they discussed it, and then on page --14 MR. SCOTT: I'm talking the page that you want 15 it taken out. 16 MR. COOKE: So 105, line 5, Section 215.505(a)(2). 17 Initially we'd asked for "grossly excessive" to 18 19 be added to that, but even just eliminating "a vehicle" 20 would be better than what we currently have there, because we're here talking about fraud, people issuing massive 21 22 amounts, not a dealer doing legitimate business. 2.3 You're going to have backouts, so no reason to

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impact those. It happens; financing falls through -- I

heard that discussed earlier -- there can be numerous

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reasons that vehicles are backed out. 1 2 And that's not what this bill is about, that's 3 not what the legislature was worried about. They were 4 worried about people printing massive amounts that aren't 5 really even dealers, they have no intention of selling a 6 car. 7 But you shouldn't have to lose your 8 livelihood -- and getting a 30-day tag, if you're in 9 certain counties, they're only open for three days a week for an hour and a half still because of COVID -- I won't 10 name which one, but most of you probably know. How are 11 you going to do business? You're done; you just lost 12 13 everything you worked for. 14 MR. GRAHAM: I'm on 105, line 5, and I'm not --15 (Simultaneous discussion.) 16 MS. BEAVER: Tracey Beaver, general counsel, 17 for the record. Just to make sure we're not getting information 18 19 into the record that isn't available to all members, I can 20 clarify. Sorry to interrupt. 21 Thank you, Mr. Cooke, I know you're trying to 22 be helpful, I appreciate it. But it is on page 105. 2.3 MR. GRAHAM: I'm not seeing that. 24 MS. BEAVER: It's line 5. It is the section

(a)(2) -- and please correct me if I'm wrong, Mr. Cooke --

it looks like it's (a)(2), where it says "temporary tags 1 for a vehicle or vehicles not in a dealer's or converter's 3 inventory." Is that the section you're referencing? 4 MR. COOKE: Correct. 5 MS. BEAVER: Do you see that, Member Graham? 6 MR. GRAHAM: I do. 7 MS. BEAVER: And so the statement about whether 8 it should say "a vehicle" or whether it should just be 9 "vehicles" is what I understand the comment is. 10 MR. BACARISSE: Mr. Alvarado has a question. Member Alvarado. 11 12 MR. ALVARADO: Ms. Beaver, is that a global 13 change that would need to be made throughout or is that 14 one change, if it were to be accepted, to remedy the 15 issue? 16 MS. BEAVER: As discussed, it could be more 17 changes, but on this particular section that is going to the definition of what fraudulent use is defined as, and 18 19 so if dealer or converter were to enter a vehicle into a 20 database and then issue multiple tags based on one 21 vehicle, then we wouldn't have enforcement authority 22 potentially on that issue if it has to be multiple 2.3 vehicles. 24 However, the issue could be addressed by

pointing to section (a)(1), if it was an excessive number

1 of tags. So the long explanation is that it's a vehicle to prevent a loophole for somebody who used similar information for a vehicle that is issued several tags 3 4 fraudulently. But that doesn't mean that there's not a 5 fix or something that the Board would consider amending. 6 MR. BACARISSE: Member Ramirez. 7 MR. RAMIREZ: And I appreciate the deep dive in and the concern that it could be to shutter commerce for a 8 9 moment, one tag. However, I don't think by policy the 10 DMV, in what they've articulated their intent is, is to shutter a dealer's ability to print tags based upon a 11 12 violation of one tag. 1.3 Now, I understand you're saying that there is 14 the opportunity for that and the ability written into 15 this, but I also think that if we don't include just a vehicle, then we're limiting the scope of what our 16 17 Enforcement Division can do. So if our Enforcement Division has a case where 18 19 they actually have to shutter somebody because of one 20

violation, because maybe this person has a history or charges, we're taking that tool out of the toolbox.

MR. COOKE: If they had a history, you would actually have the other violations on top of that.

MR. RAMIREZ: Understood.

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MR. COOKE: And the other thing, as a

constitutional republic, one of our foundations is that we 1 want things in writing. You know, it's so important, it's 3 so vital that we have written rules, because as much as I 4 trust and have faith in the current DMV, that may not be 5 the case five years from now. 6 MR. BACARISSE: Yeah, people come and go. 7 Member Graham. 8 MR. GRAHAM: So if I'm reading this correctly, 9 I believe it is actually important for that to remain 10 there in the event that a dealer took one vehicle and printed off a thousand paper tags. If we remove it, that 11 12 individual action, egregious action, would not be covered. 1.3 Am I understanding that right? 14 MR. BACARISSE: General Counsel? 15 MS. BEAVER: Tracey Beaver, general counsel. It is possible that it could still be covered 16 under (a)(1); however, I do believe that it could also 17 remove some of the enforcement ability, a tool from our 18 19 toolbox, if we remove the words "a vehicle." 20 Alternatively, we could put the MR. COOKE: 21 prefatory clause "an excessive number of temporary tags 22 for a vehicle or vehicles," kind of like it's done in the 2.3 first one. That would resolve the drafting problem. 24 MR. GRAHAM: Would you repeat that, please.

MR. COOKE: So the clause in (a)(1) "an

1	excessive number of temporary tags" so have (a)(2)
2	match that kind of statement.
3	MR. GRAHAM: IN other words, (2) would begin
4	with "excessive number of temporary tags for a vehicle".
5	MR. COOKE: Or vehicles.
6	MR. GRAHAM: Vehicle or vehicles, excessive.
7	MR. BACARISSE: Member Scott.
8	MR. SCOTT: So what's the process here? We've
9	got a motion.
10	MR. BACARISSE: We do have a motion and a
11	second.
12	MR. SCOTT: Made and seconded. We kind of got
13	that out of order.
14	MR. BACARISSE: Yeah, may fault. My apologies.
15	Any advice, General Counsel?
16	MS. BEAVER: Tracey Beaver, general counsel.
17	It's fine for the Board during the deliberation
18	portion to talk about any potential amendments might want
19	to be made, and if somebody wanted to make an amendment,
20	this follows the same process if the maker of the motion
21	would accept a friendly amendment or could bring up the
22	amendment for a vote before the full Board to change the
23	language in the rule.
24	I'm also happy to have a side conversation with
25	anybody who would like legal advice on the implications on

any changes in this section. 1 2 MR. BACARISSE: Members, do you have a question 3 for general counsel on the particulars of the language here? 4 5 Member Graham. 6 MR. GRAHAM: I'll just conclude that by saying 7 I know that this was -- all these are important stakeholders to this agency in consideration of these 8 9 rules. I just want to be open to any of those considerations. I will defer this to the folks on this 10 Board who, if they believe this is a critical change, we 11 12 can explore that further, but I appreciate it. 13 MR. BACARISSE: Any other questions? We have a 14 motion and a second on the floor here. 15 (No response.) 16 MR. BACARISSE: I hear none, so I will call for 17 the vote, please. This is to approve the motion. Member Ramirez, would you like to just restate 18 your motion so that we have it fresh? 19 20 MR. RAMIREZ: Yes. MR. BACARISSE: Go ahead. 21 22 MS. GILLMAN: I move that the Board approve the 2.3 adoption of amendments to Chapter 215 concerning access to 24 the temporary tag database on temporary tag requirements 25 and the new section concerning denial of access to the

1	temporary tag database for immediate effect upon filing,
2	as recommended by staff.
3	I also move that the Board grant the department
4	the ability to make changes to the adopted sections based
5	on non-substantive corrections made by the Texas Register.
6	MR. BACARISSE: Okay. So that is the motion
7	and we have a second, so I will call the vote.
8	Member Alvarado?
9	MR. ALVARADO: Aye.
10	MR. BACARISSE: Member Gillman?
11	MS. GILLMAN: Aye.
12	MR. BACARISSE: Member Graham?
13	MR. GRAHAM: Aye.
14	MR. BACARISSE: Member McRae?
15	MS. McRAE: Aye.
16	MR. BACARISSE: Member Omumu?
17	MS. OMUMU: Aye.
18	MR. BACARISSE: Member Prewitt?
19	MR. PREWITT: Aye.
20	MR. BACARISSE: Member Ramirez?
21	MR. RAMIREZ: Aye.
22	MR. BACARISSE: Member Scott?
23	MR. SCOTT: Aye.
24	MR. BACARISSE: And I, Chairman Bacarisse, vote
25	aye as well. That vote is unanimous. Thank you.

All right, we are now at item number 7, which 1 2 is closed session, so I just have a couple of things to 3 say as we go into that. MS. BEAVER: Chairman? 4 5 MR. BACARISSE: Yes. 6 MS. BEAVER: Tracey Beaver, general counsel, 7 for the record. I just wanted to confirm that there are no 8 9 public commenters for agenda number 9 that you were taking 10 up before closed session. Thank you. 11 12 MR. BACARISSE: Thank you, thank you. 13 We'll now take up agenda item number 7. 14 going into closed session, and it is now 12:52 p.m. on 15 January 27, and we'll go into closed session under Texas 16 Government Code Sections 551.071, 551.074, 551.076, and 551.089. 17 For those of you in the audience, I anticipate 18 19 being in executive session for approximately one hour and 20 a half. We'll reconvene in open session after that. 21 We are recessed from the public meeting and 22 we're going to closed session. 2.3 (Whereupon, at 12:52 p.m., the meeting was 24 recessed, to reconvene this same day, Thursday, January 25 27, 2022, following conclusion of the executive session.)

1	MR. BACARISSE: All right. It is now 1:54 in
2	the afternoon, and the Board of the Texas DMV is now back
3	in open session.
4	No action items will be taken up from the
5	closed session, and we will now move on to agenda item
6	number 10, adjournment. Does anybody have a motion to
7	make there?
8	MR. GRAHAM: So moved.
9	MS. GILLMAN: Second.
10	MR. BACARISSE: I have a motion and a second to
11	adjourn. All in favor say aye.
12	(A chorus of ayes.)
13	MR. BACARISSE: Opposed nay.
14	(No response.)
15	MR. BACARISSE: Thank you. We are adjourned at
16	1:55.
17	(Whereupon, at 1:55 p.m., the meeting was
18	adjourned.)

1 <u>CERTIFICATE</u>

MEETING OF: TxDMV Board

LOCATION: Austin, Texas

DATE: January 27, 2022

I do hereby certify that the foregoing pages, numbers 1 through 163, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Motor Vehicles.

DATE: February 7, 2022

/s/ Nancy H. King (Transcriber)

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