



Texas Department of Motor Vehicles



FY 2017 ANNUAL REPORT ENFORCEMENT DIVISION

06-22-18

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All FY2017 Motor Vehicle, Motor Carrier and Oversize/Overweight available data and information presented herein is derived from annualized reports covering the period from 9/1/2016 through 8/31/2017.

Enforcement Division – General Information

The Enforcement division objective is to in a fair, consistent, and predictable manner, enforce the Texas statutes and department rules that govern the motor vehicle, salvage and the motor carrier industries, including household goods carriers and oversize/overweight vehicles. The Enforcement Division's guiding philosophy is that compliance is best achieved through education, therefore, training is provided by division staff to licensees, law enforcement, other state and local officials, and the public regarding these laws. The imposition of sanctions through administrative proceedings is a secondary course of action to be pursued when educational efforts have not proven successful.

The Enforcement division is headquartered in Austin with field offices located in Dickinson, El Paso, Fort Worth, Houston, Lubbock, Longview, Mesquite, Pharr, and San Antonio.

In addition to its traditional enforcement role, the Division also administers the Texas Lemon Law program. This program provides to consumers and manufacturers a quicker and more cost-effective administrative process to resolve disputes related to new motor vehicles and warranties. The Lemon Law program publishes an independent annual report.

Enforcement Division – Duties and Priorities

The Enforcement Division is responsible for the administration of the Texas Transportation Code, the Texas Occupations Code and the Texas Administrative Code, as those laws relate to the motor vehicle, salvage and motor carrier industries. This is accomplished in most cases by receiving and investigating complaints filed against licensees and non-licensees, review of the case by a staff attorney, and, if a violation is found, initiating appropriate administrative actions. Sanctions can include civil penalties, cease and desist orders, and revocation of licenses. In some cases, a settlement will include an agreement for the licensee to attend educational programs to correct its business operation and prevent future violations.

In fulfilling its responsibilities, the Division conducts numerous educational programs for licensees, law enforcement, and the public. The educational programs provided by the division include a monthly dealer training seminar conducted at locations throughout the state, an advertising seminar developed for both dealers and advertising agencies (presented upon request), a seminar for motor carriers transporting household goods and presentations and materials for motor carriers securing permits for oversize/overweight loads. The Division also provides programs to various law enforcement agencies in an effort to assist them in carrying out their duties relative to the motor vehicle, motor carrier and salvage industries by educating them on the relevant statutes and rules.

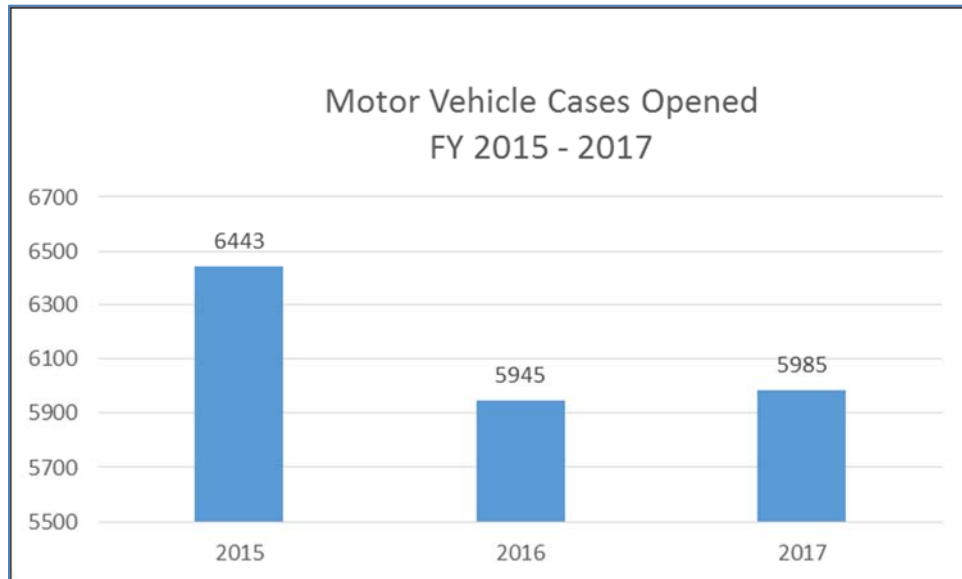
Motor Vehicle



Enforcement

MOTOR VEHICLE

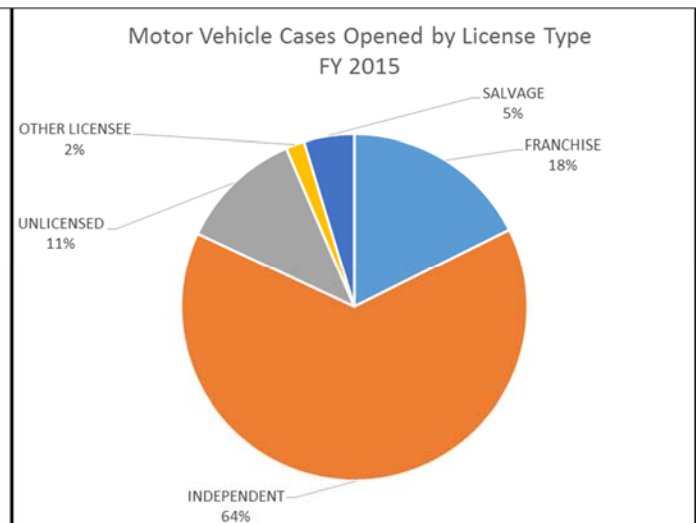
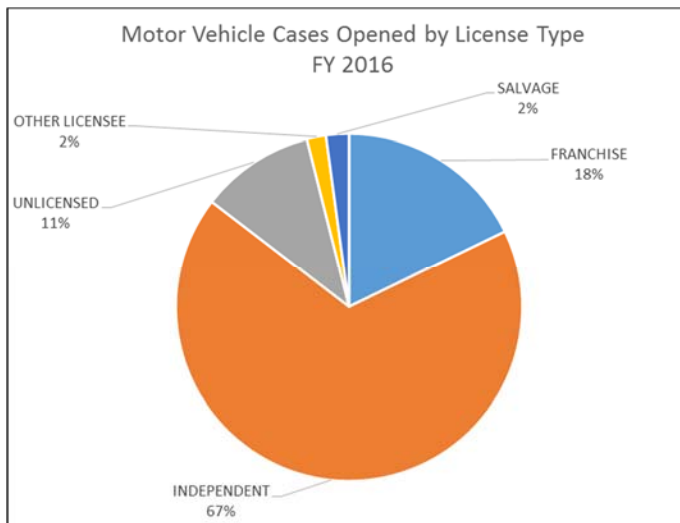
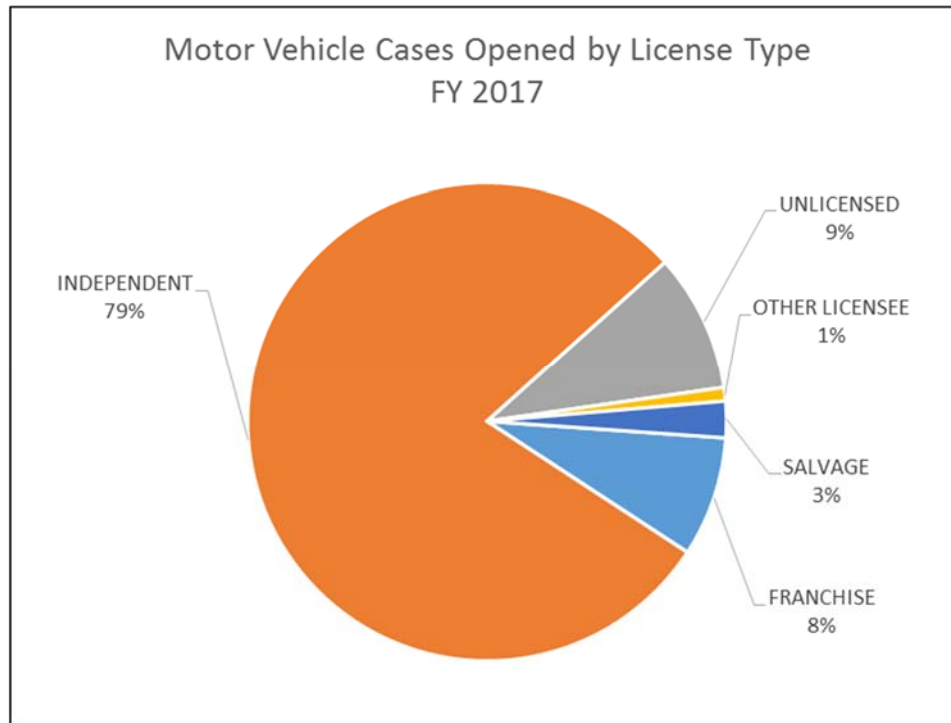
Motor Vehicle - Cases Opened



The most common cases opened for complaints received by the TxDMV Enforcement Division include: failure to apply for title, misuse of temporary tags, misrepresentation, premise violations and records violations. The division continues to work closely with law enforcement to address the unlawful sale of vehicles by persons acting as a dealer without a license (curbstoners).

MOTOR VEHICLE

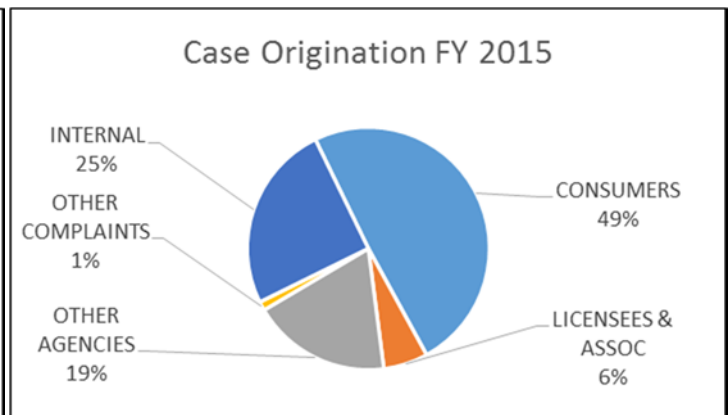
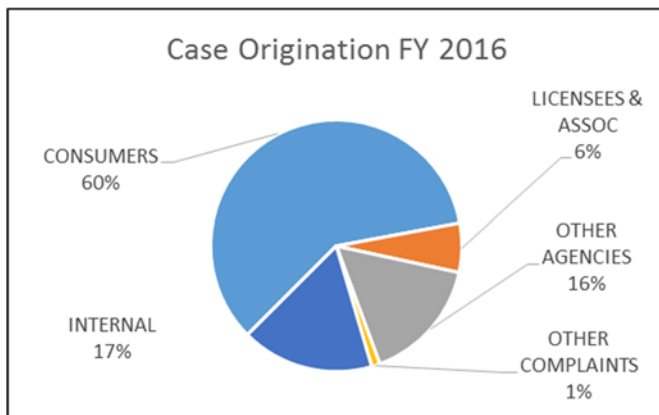
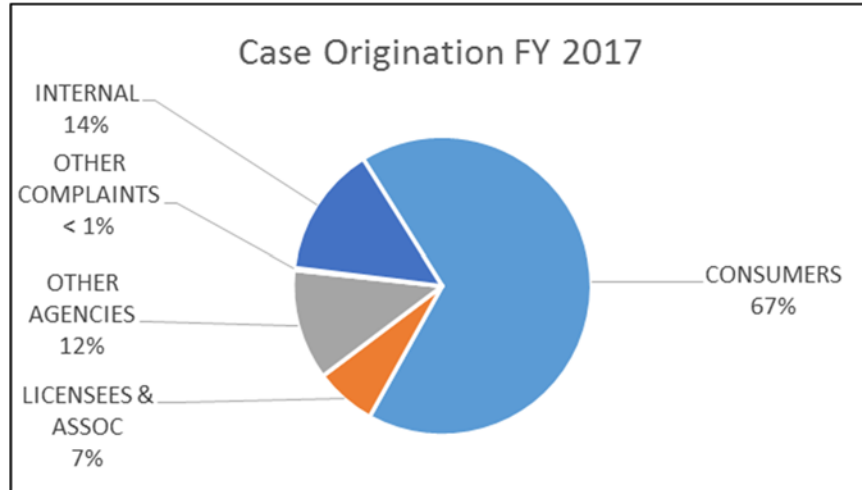
Motor Vehicle Cases Opened- By License Type



As indicated in the charts above, the largest category of dealer type for which cases are opened is Independent dealers. It should be noted that the opening of a case does not always result in a sanction action.

MOTOR VEHICLE

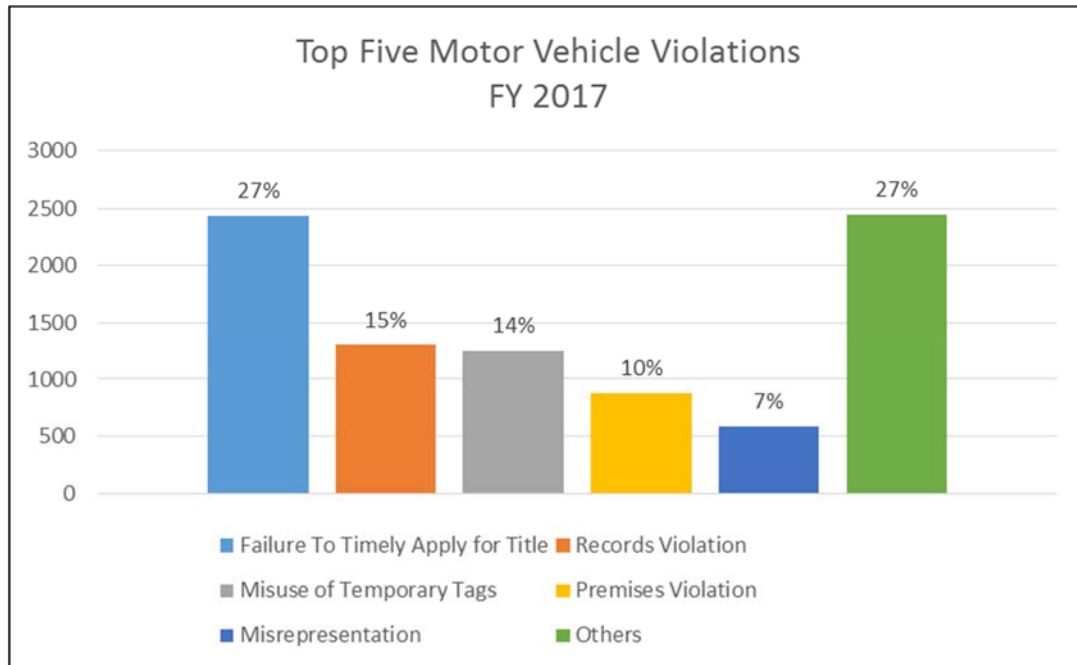
Motor Vehicle Cases Opened by Origination



While Motor Vehicle Cases originate primarily with the public, cases are also opened as a result of field inspections, licensing application reviews or vehicle titling concerns. Through the use of the online submission portal available on the TxDMV website, cases are also generated by other dealers and from various governmental agencies, including county Tax Assessor Collectors, county Appraisal Districts, and law enforcement.

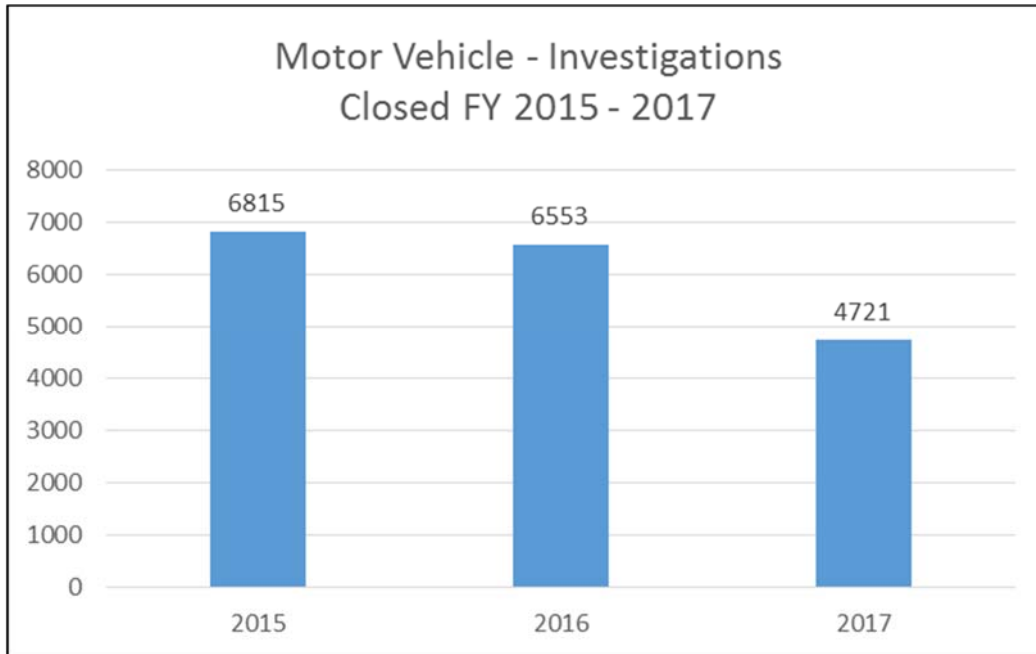
MOTOR VEHICLE

Top Five Motor Vehicle Violations



A case opened with the TxDMV may contain multiple violations. The number of violations addressed in this year's closed Motor Vehicle cases is 8,879.

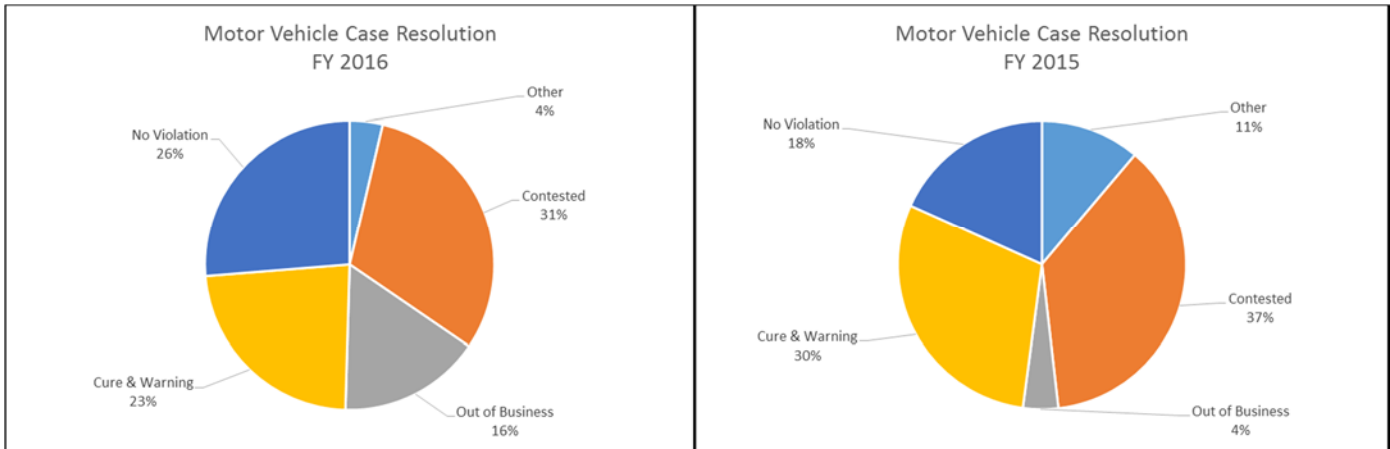
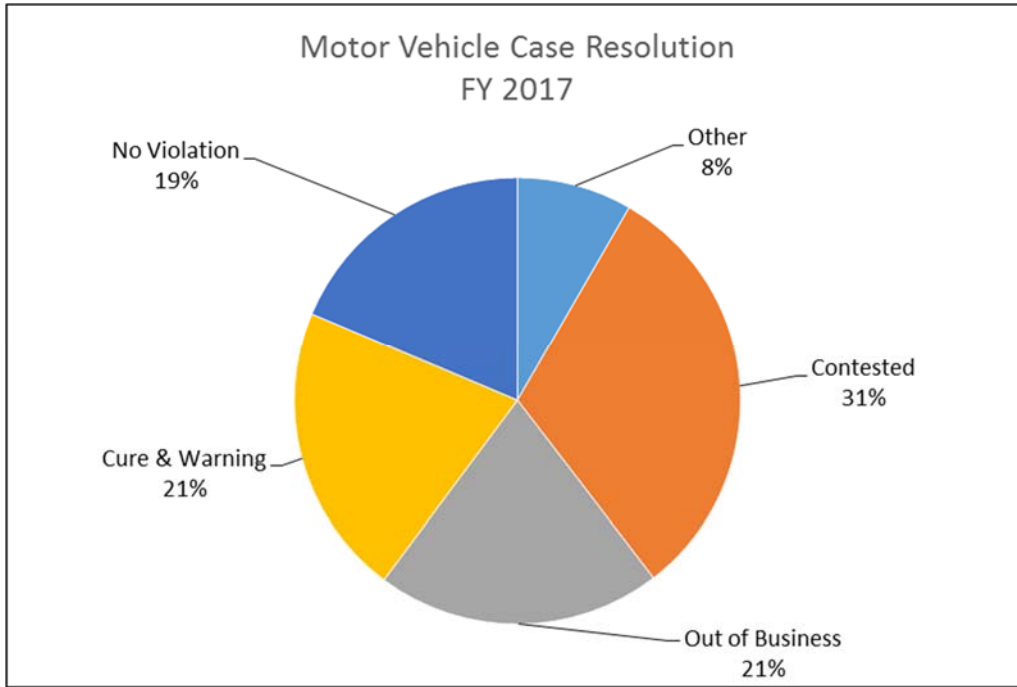
Motor Vehicle - Cases Closed



All cases are initially reviewed by the Chief Investigator for assignment to an enforcement investigator where any allegations by a complainant are thoroughly investigated. The chart above reflects the total number of cases “closed” for each of the last three fiscal years after all action has been taken.

MOTOR VEHICLE

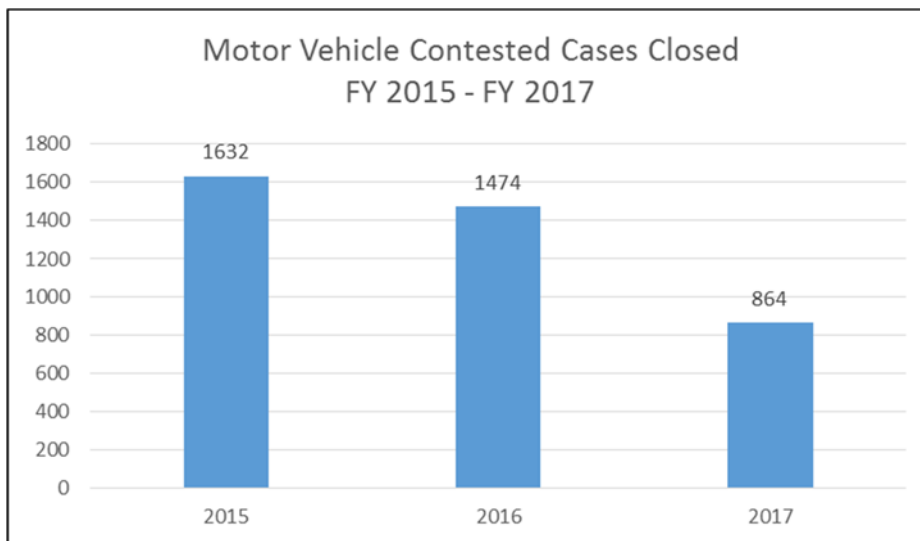
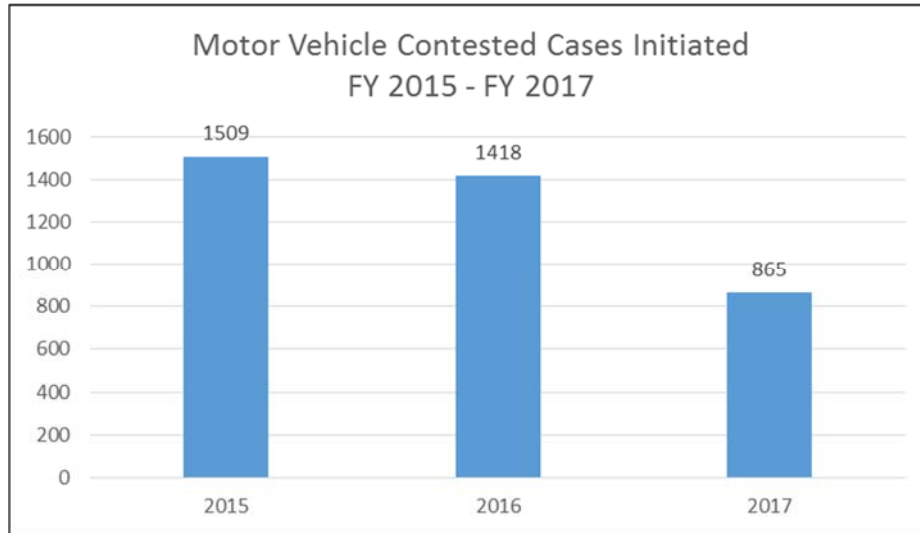
Motor Vehicle – Investigations Closed by Category



Upon completion of the investigation, the case is submitted for review by a Chief or Assistant Chief Investigator who may close the case where no evidence of violation is found, or where the dealer is out of business. The case may also be escalated to a staff attorney to determine what actions are appropriate under the law. Many cases are closed with a warning letter providing an opportunity for the dealer to correct a first time, or minor violation. Approximately one-third of the cases require further action by the Division's legal staff due to the nature of the violation(s). These cases are identified in the above graphs as "contested".

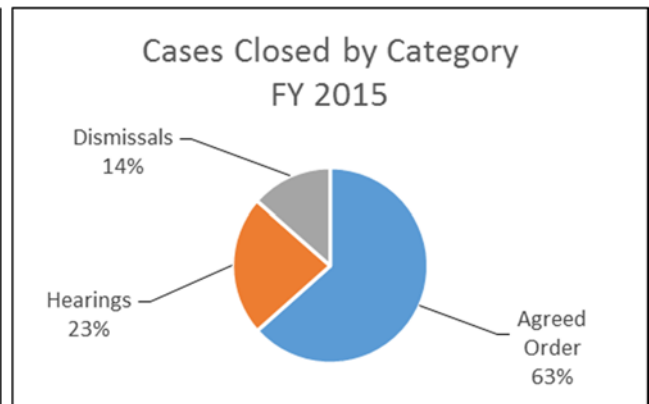
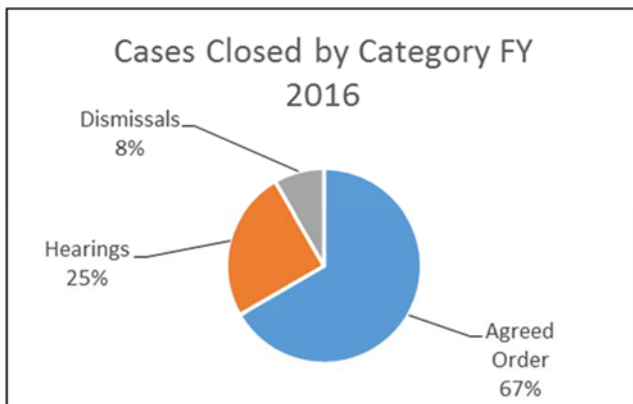
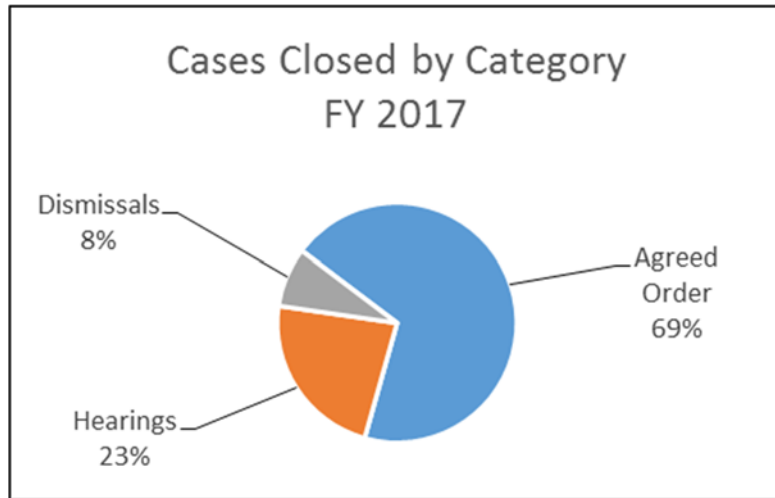
MOTOR VEHICLE

Contested Cases



In appropriate cases, the Enforcement attorney will initiate a contested case by filing a Notice of Department Decision (NODD) describing the alleged violation. These documents explain the rights of the licensee and invite settlement discussions. The vast majority of these contested cases are settled through agreed orders between the attorney and the licensee.

Motor Vehicle – Contested Cases Closed by Category

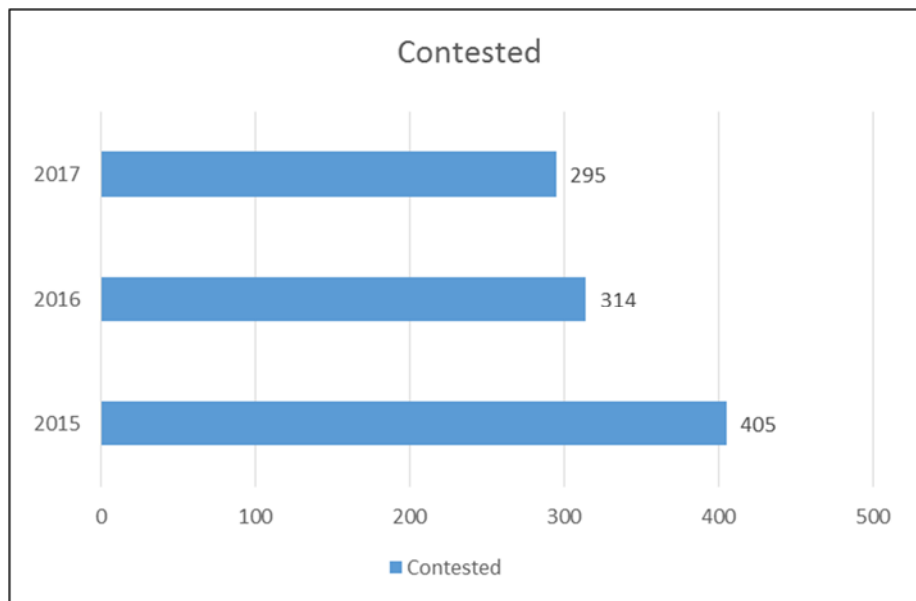
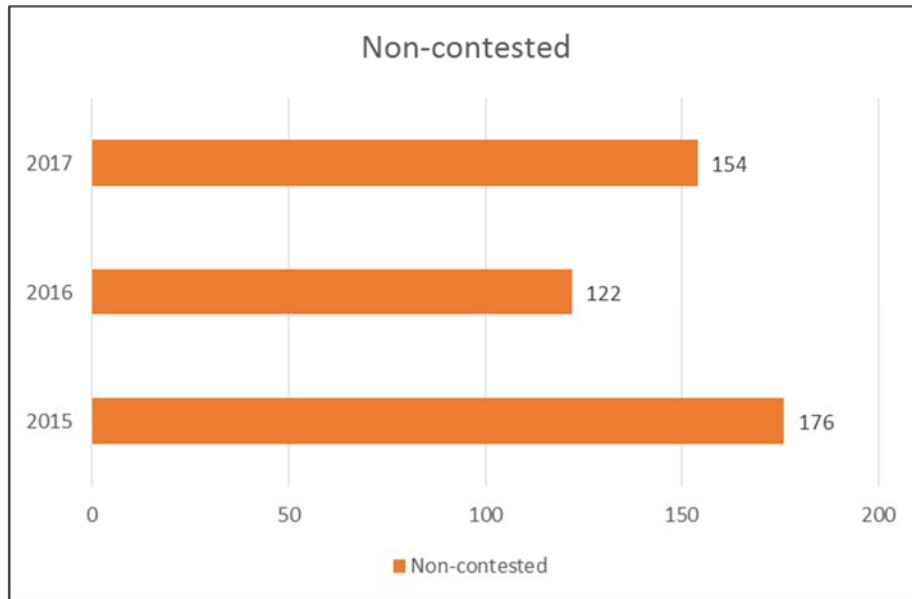


If a settlement is reached, an Agreed Order is drafted and sent to the licensee for signature.

If a hearing is requested by the licensee, the case is scheduled for hearing with the State Office of Administrative Hearings (SOAH). Most of the cases referred to SOAH result in a default when the licensee does not appear at the hearing.

A dismissal occurs if the attorney receives evidence negating the allegation(s) after the contested case is initiated.

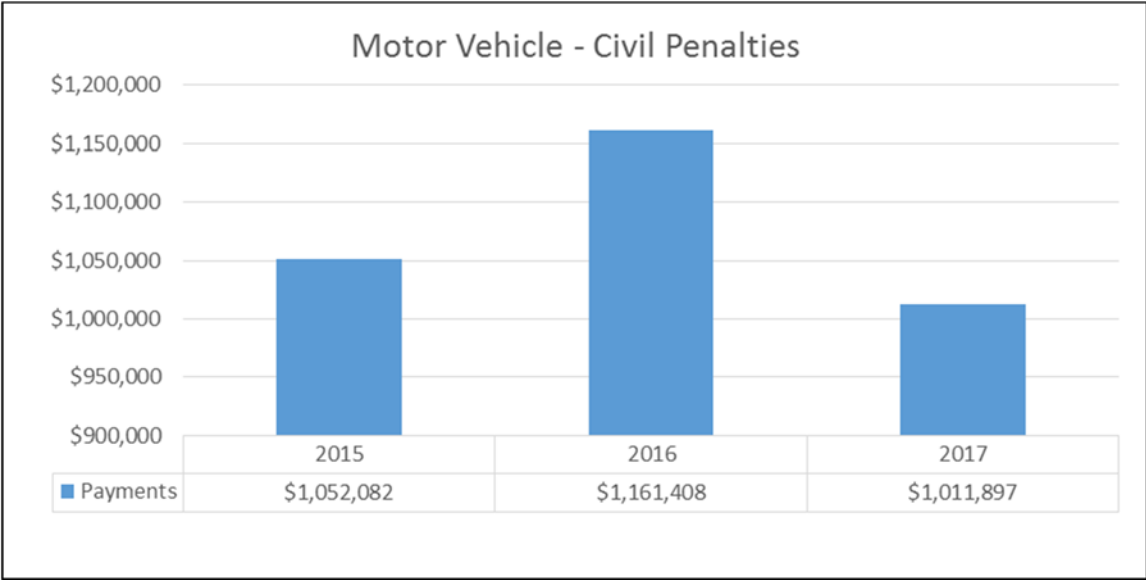
Motor Vehicle Days in Process



Non-contested cases consist of cases closed with warnings, a finding that the respondent is out of business, a referral made to another agency or other similar dispositions where review or formal sanction action by a division attorney is not warranted.

MOTOR VEHICLE

*Motor Vehicle
Civil Penalties Collected*



The chart above reflects a historical view of the payments received for civil penalties in motor vehicle cases over the last three years.

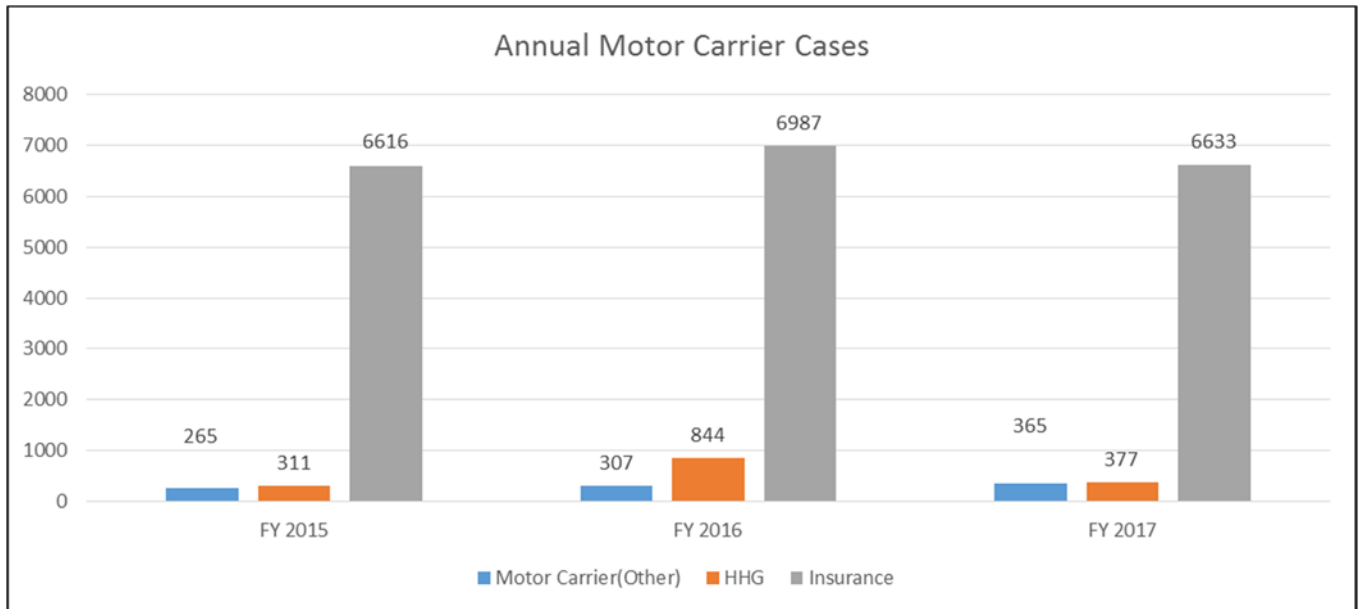
Motor Carrier Household Goods



Enforcement

MOTOR CARRIER

Motor Carrier Cases Opened



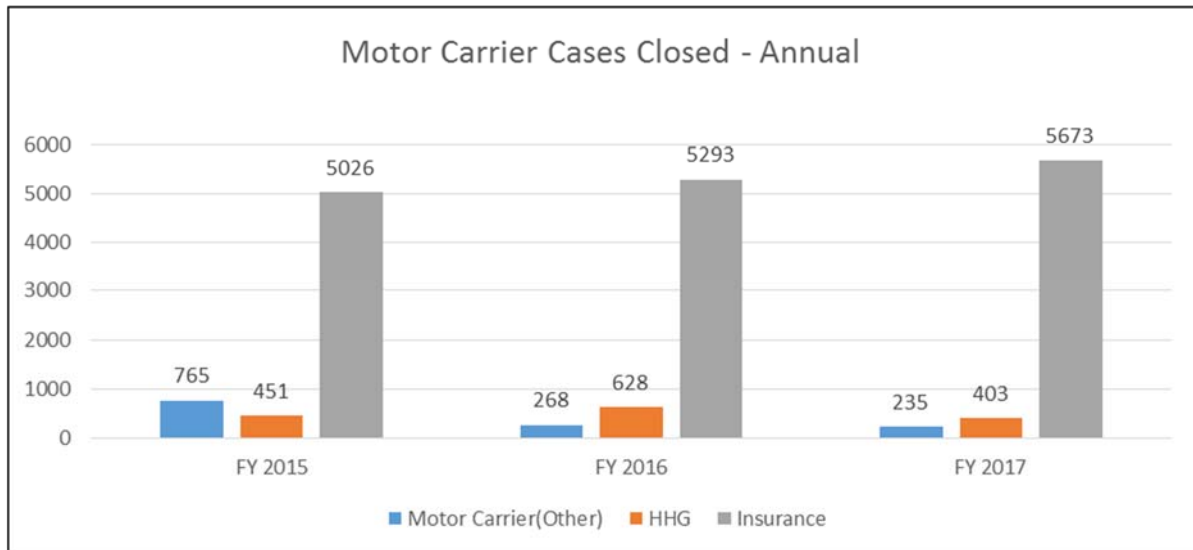
The Motor Carrier (Other) category of cases are primarily Unified Carrier Registration (UCR) violations and Department of Public Safety complaints for multiple safety violations.

The HHG (Household Goods) category of cases consists primarily of consumer complaints against moving companies regarding claims for damaged or missing goods, advertising violations, and operating a vehicle without proper markings.

The Insurance category originates from an internal initiative to identify and administratively address violations by motor carriers operating on Texas highways that are not properly registered because their insurance has lapsed or the carrier has failed to provide evidence that they are maintaining the proper insurance required by law.

MOTOR CARRIER

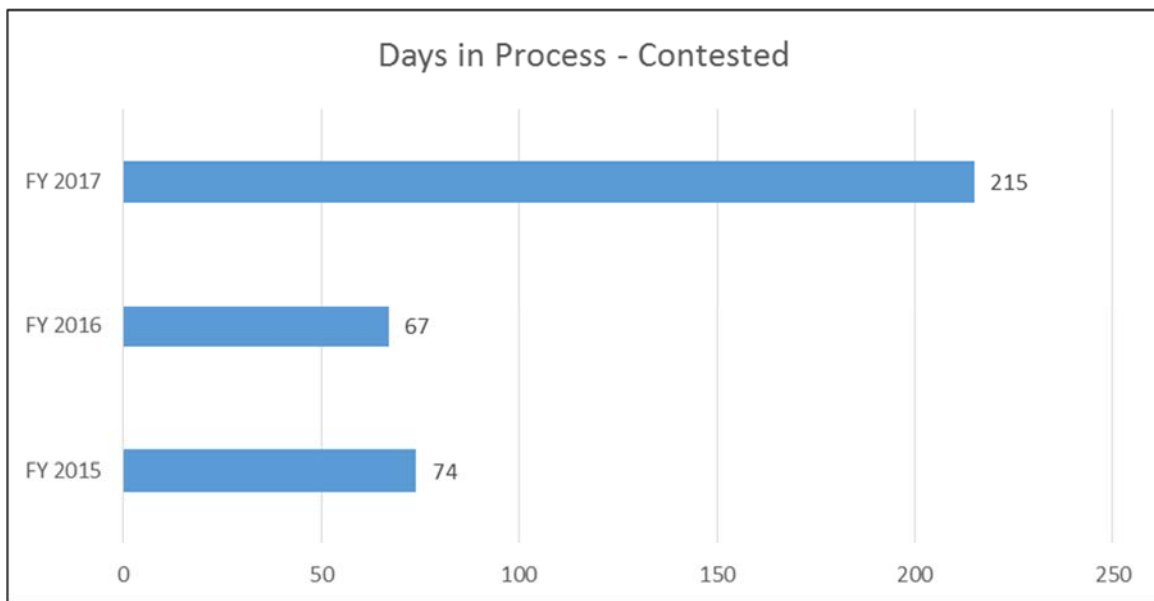
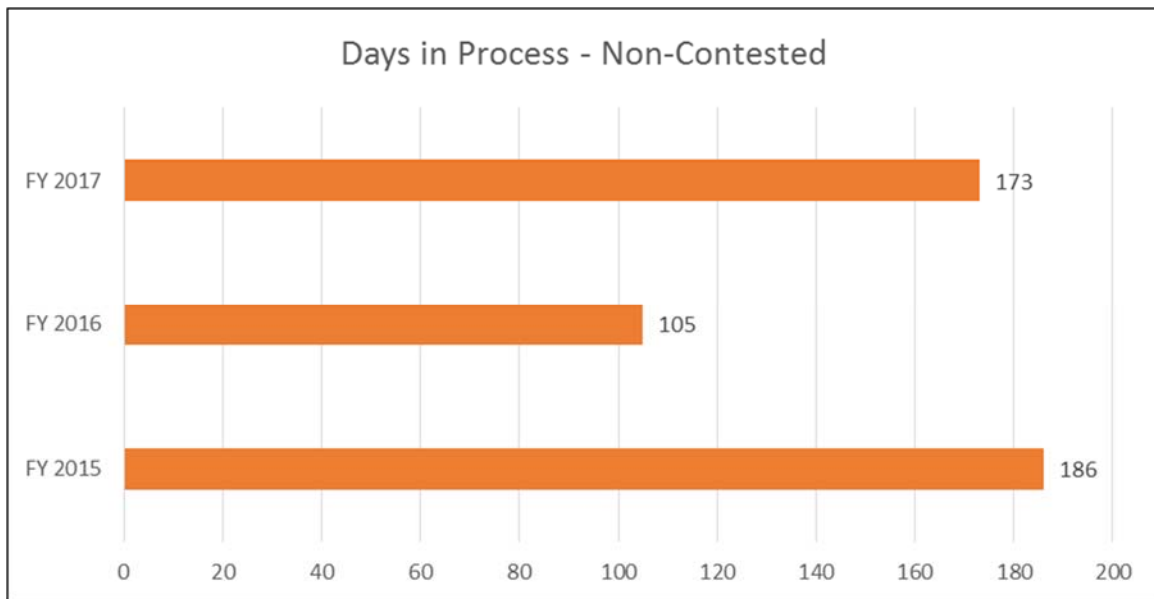
Motor Carrier Cases Closed by Case Type



Insurance cases represent the highest volume case type processed and closed by the motor carrier section.

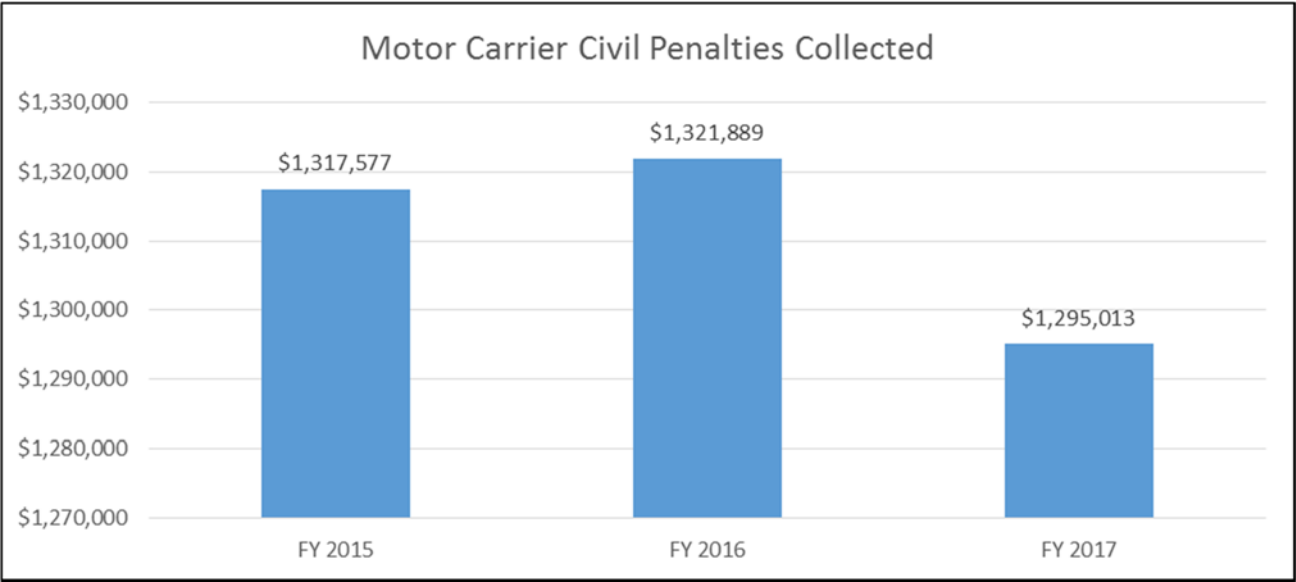
MOTOR CARRIER

Motor Carrier Days in Process



The majority of contested cases are Insurance cases in which the “investigation” has already been conducted and the attorney can immediately proceed with issuing a Notice of Department Decision (NODD).

Motor Carrier Civil Penalties



The chart above reflects a historical view of the payments received for civil penalties in motor carrier cases during the last three years.

Over Size/Over Weight



Enforcement

Over Size/Over Weight Vehicles & Loads Enforcement Program Introduction

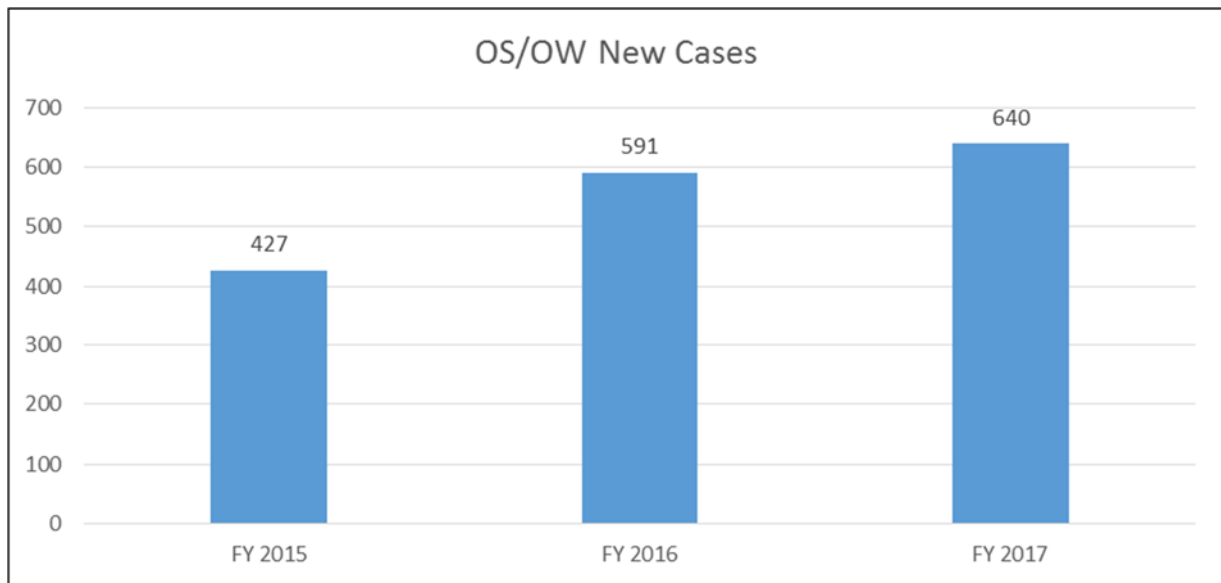
Texas roadways and bridges are engineered and constructed to withstand usage within certain size and weight parameters. Structural damage, excessive road-wear, and road hazards can result when these parameters are exceeded. To ensure the safety of the travelling public and to extend the life of our roadways and structures, restrictions are placed on Over Size/Over Weight (OS/OW) loads. These restrictions are established in the Texas Transportation Code. When loads exceeding legal size and weight restrictions cannot be reasonably dismantled for shipment, motor carriers must obtain permits to allow for their safe transport over state roadways.

On January 1, 2012, the size and weight enforcement program was transferred from the Texas Department of Transportation to the Texas Department of Motor Vehicles (TxDMV). The OS/OW section of the Enforcement Division is charged with enforcing the applicable statutes and related administrative rules as set forth in the Transportation Code and the Texas Administrative Code.

To meet statutory mandates and to support the Enforcement Division goals, the OS/OW program uses a three-fold approach of education, complaint investigation and an appropriate imposition of sanctions, when needed. These activities help maintain public safety and they protect the transportation system and the loads transported within the state.

OVER SIZE / OVER WEIGHT

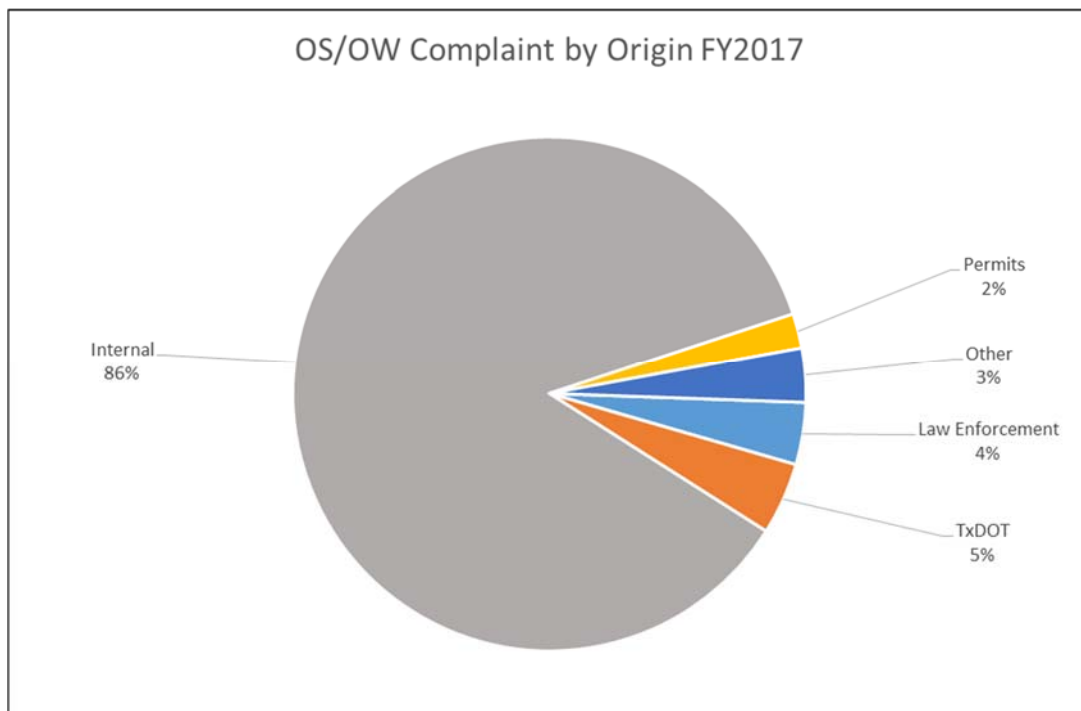
Over Size/Over Weight Complaints Opened - Historical



The Enforcement Division's OS/OW investigators review citations issued by law enforcement and conduct audits of motor carriers where there appears to be a pattern of violations. An online complaint management system is also available to encourage involvement by the public.

OVER SIZE / OVER WEIGHT

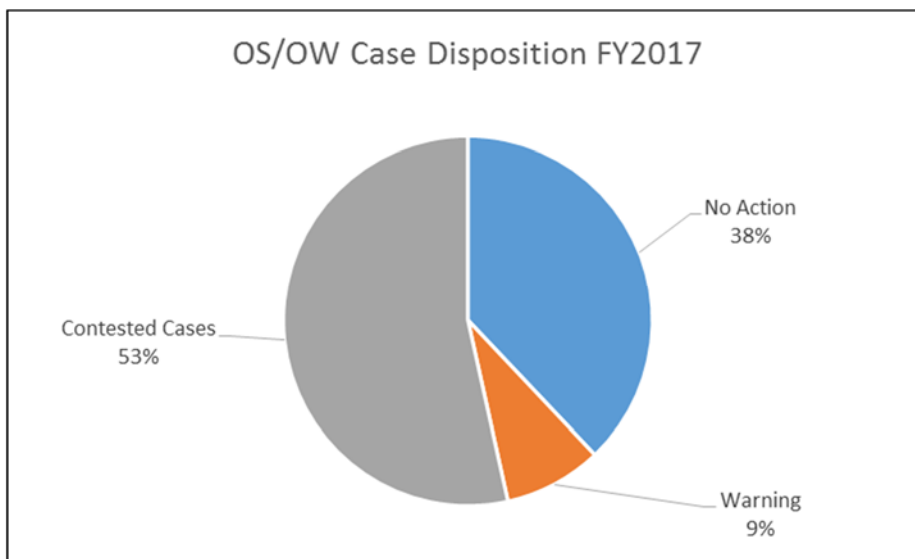
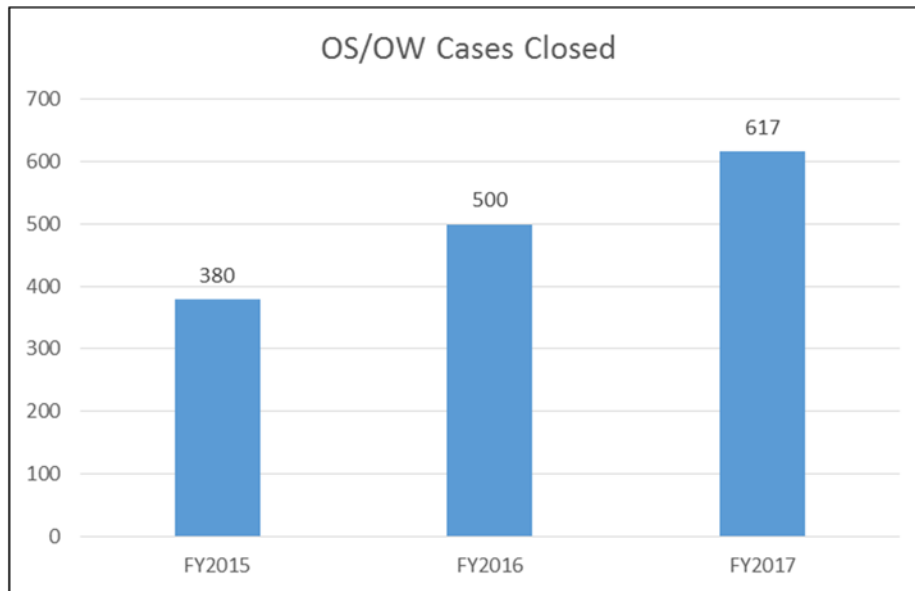
Over Size/Over Weight Complaints by Origination FY2017



As illustrated above, the majority of complaints for OS/OW are self-initiated. Investigative staff utilizes the Texas Department of Public Safety (DPS) violations database to identify repeat offenders or motor carriers whose use of the Texas roadways poses a significant safety hazard as identified by DPS. The OS/OW section also conducts investigations where there have been bridge hits or other instances where the highways have been damaged.

OVER SIZE / OVER WEIGHT

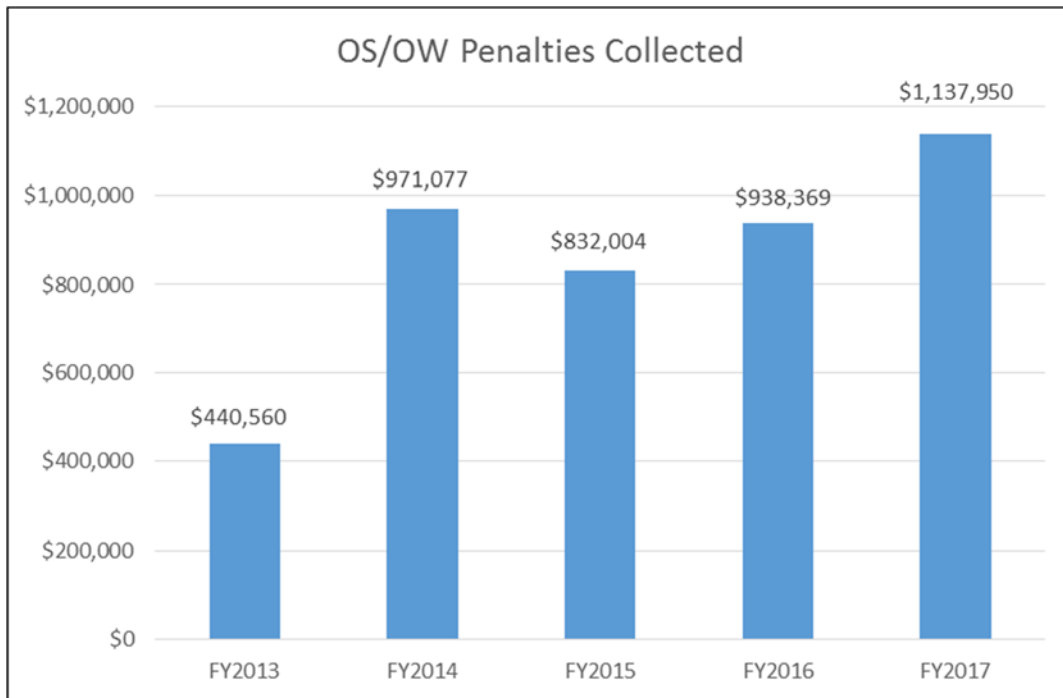
Over Size/Over Weight Cases Closed - Historical



Historically, approximately one-half of the investigations conducted result in the staff attorney filing a contested case proceeding.

OVER SIZE / OVER WEIGHT

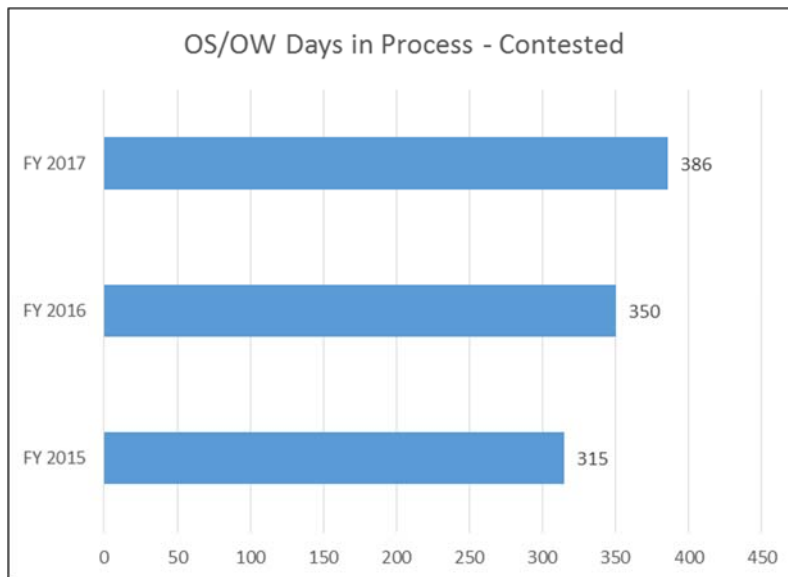
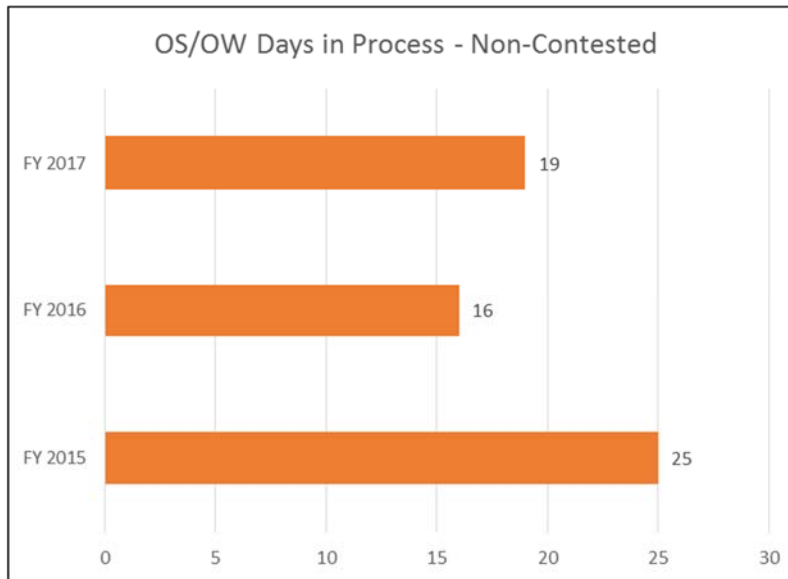
Over Size/Over Weight Penalties Collected – Historical



In 2012, the TxDMV Board amended 43 Texas Administrative Code §219.121 to limit the amount of administrative penalties for multiple violations to \$30,000.

OVER SIZE / OVER WEIGHT

Over Size/Over Weight Days in Process



The Advisory Contact program started in early FY 2014 allows for a complaint to be closed on the same day it is opened. These cases are included in the Non-Contested chart above.

Enforcement Division Outreach



Efforts

OUTREACH

Dealer Training Seminars - DTS

In an effort to better inform our licensees and other stakeholders regarding the many laws affecting the motor vehicle distribution industry, the Enforcement division launched the Dealer Training Seminar program in 1999 and the Advertising Seminar in 2014; adding the Salvage Dealer Seminar in 2015. All presentations are reviewed and revised periodically to ensure the most current educational topics are covered in a thorough and understandable manner.

The Dealer Training Seminar, Salvage Dealer Training Seminar, and Advertising Seminar are presented at different locations throughout the state each year. This year these seminars were held in 12 different locations providing dealers and other stakeholders with a total of 27 days (152 hours) of instruction. The free seminars are scheduled and located in such a manner that every dealer in the state receives an invitation at least once every two years.

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

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

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

Mover Training Seminars - MTS

This training was developed as part of a 2016 internal initiative to expand division efforts to educate household goods movers. The seminar provides information on how licensees can comply with the basic rules, regulations and responsibilities of their license such as, how to properly advertise, complete required documents and properly mark any vehicle being used for transporting household goods for the company. The four hour course is presented free of charge in several Texas regions with the potential for a large consumer base for movers. In FY17 the seminar was presented in San Antonio, Houston and Dallas.

As with other enforcement seminars, MTS provides an opportunity to educate a dealer population that has no mandated education requirements, and gives the licensees an opportunity to meet and discuss issues with agency personnel.

MTS also provides the ability to directly poll the licensee body on issues that affect the industry. Survey information is useful to the agency in developing and modifying policies and rules.

OUTREACH

Law Enforcement Training

Enforcement Division personnel continue to provide training to various law enforcement agencies. Our staff is comprised of many employees who have served in law enforcement, giving them a unique perspective on the training requirements of officers in the field. Subjects covered in different courses include: temporary tags and dealer plates, dealer laws, curbstoning and general information on dealer operations and laws governing salvage operations.

The Enforcement Division continues training programs regarding rules and regulations that govern oversized/overweight vehicles and other motor carrier operations. These training sessions have been approved for Texas Commission on Law Enforcement (TCOLE) credit. Our staff provided training at six sessions in 2017 which have informed law enforcement attendees of the issues unique to the motor vehicle and/or motor carrier industries.

Other Industry Appearances

The division participated in a number of dealer and industry events this year, including conferences for the Texas Association of Vehicle Theft Investigators (TAVTI), the Valley Automobile Dealers Association, Texas Automobile Dealers Association (TADA), the Ad Review Camp with the Austin Better Business Bureau (BBB), the National Odometer and Title Fraud Enforcement Association, the Southwest Movers Association, the Houston Movers Association, and the Austin Board of Realtors Association meetings.

The Enforcement Division Director was honored once again as he addressed independent dealers at the Texas Independent Automobile Dealers Association's annual conference and was a guest speaker at the Texas Recreational Vehicle Association.

In total, the Enforcement division provided training through 48 outreach engagements and provided information to over 3,255 attendees at various events.

