



Texas Department of Motor Vehicles



# FY 2020 ANNUAL REPORT ENFORCEMENT DIVISION

12.17.2020



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All Fiscal Year 2020 Motor Vehicle and Motor Carrier information and data presented herein are derived from annualized reports of case activity as of 8/31/2020 and are accurate as of the data available at the time.

# ENFORCEMENT DIVISION

## General Information

The objective of the Enforcement Division is to 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 permitted vehicles in a fair, consistent, and predictable manner. 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 and rules. The imposition of sanctions through administrative proceedings is a secondary course of action to be pursued when educational efforts have not been successful.

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

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

## 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, review of the case by a division attorney, and, if a violation is found, initiating appropriate administrative actions. Sanctions can include civil penalties, cease and desist orders, refunds, and revocation of licenses or operating authority. 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 monthly dealer training and salvage seminars conducted at locations throughout the state, seminars for motor carriers transporting household goods, presentations and materials for motor carriers securing permits for oversize/overweight loads, and upon request an advertising seminar developed for the interests of both dealers and advertising agencies. To assist law enforcement, the division also provides programs relative to the motor vehicle, motor carrier and salvage industries informing them about relevant laws and rules.

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# Motor Vehicle



# Enforcement

## *Motor Vehicle Cases*

Motor Vehicle enforcement cases are generated upon receipt of complaints against licensed and unlicensed manufacturers, distributors, converters, motor vehicle dealers and salvage dealers. The Department receives complaints against licensees from consumers, state agencies, law enforcement, other licensees, and anonymous complainants. Cases are grouped into three categories: Motor Vehicle General, Advertising and Tax Assessor Collector/County Appraisal District (TAC/CAD).

The majority of cases are assigned to the Motor Vehicle General category. This category of cases consists of violations ranging from failure to timely transfer a title to odometer fraud. When a complaint is received through the Department's eLICENSING complaint and case management system, the complaint is assigned to a motor vehicle investigator who will contact the complainant, if possible, the licensee, and third parties as appropriate. In addition to gathering evidence of violations, the investigator will often also try to help the complainant find a resolution to their complaint.

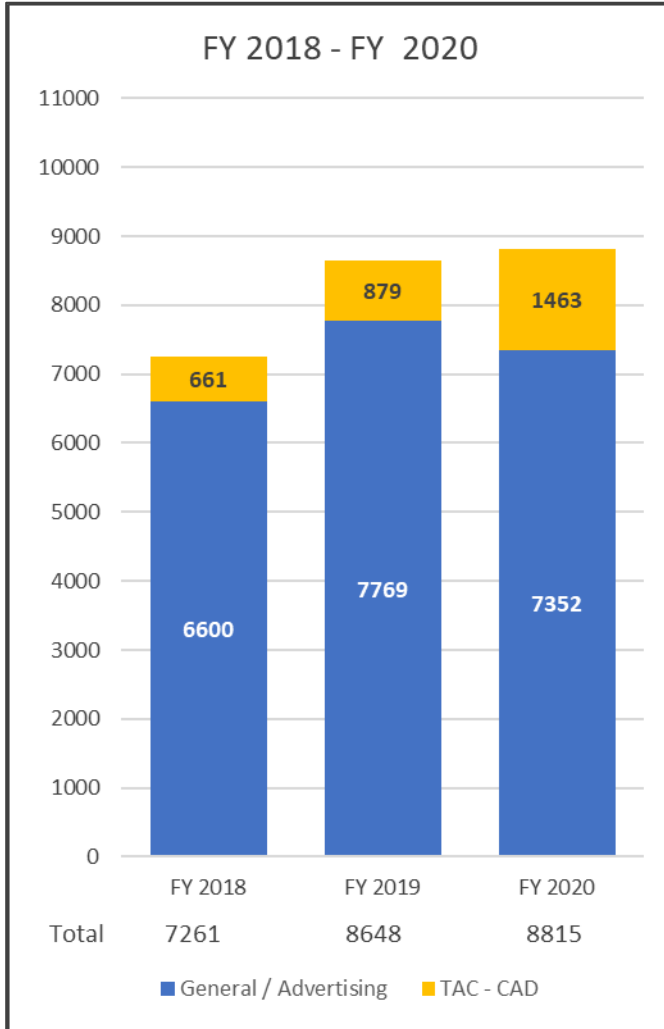
The Advertising category of cases pertain to alleged violations of the statutes and rules regulating motor vehicle advertising in Texas. Advertising complaints, much like Motor Vehicle General complaints, are received through eLICENSING. Once received, an advertising investigator reviews the advertisement, identifies any violations, and preserves any evidence of those violations.

The TAC/CAD category of cases are submitted by Tax Assessor Collectors and County Appraisal Districts (TAC/CAD) for dealers failing to timely file initial, annual or monthly declarations or for dealers failing to report the minimum vehicle sales required to maintain licensure. These cases are initially managed by the division's administrative staff and escalated to division attorneys if the licensees are unresponsive or have a history of violations for this complaint type.

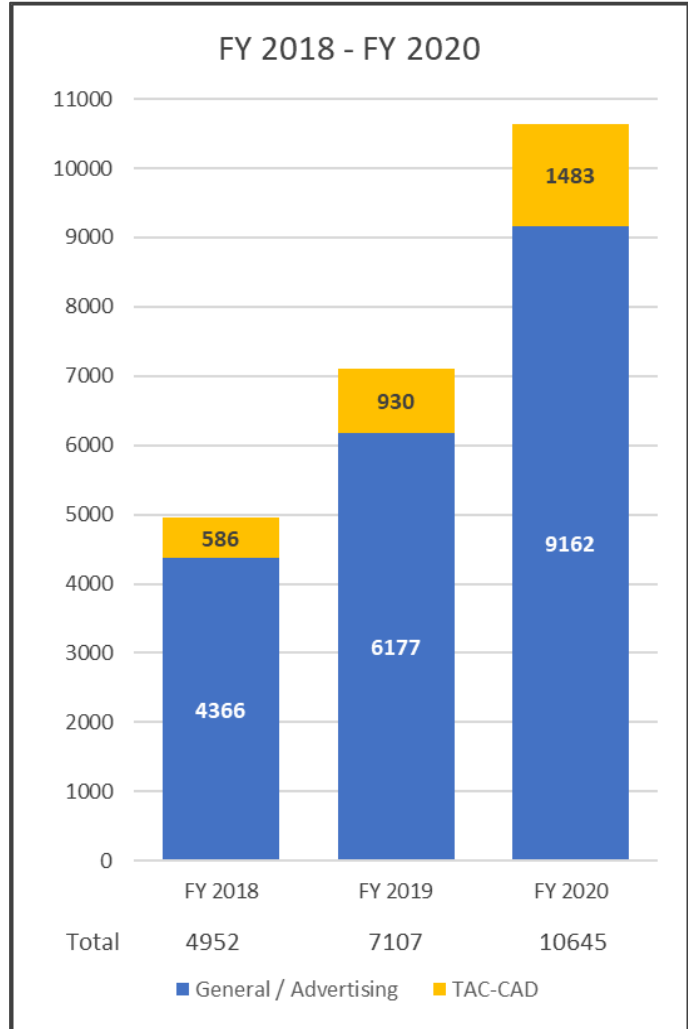
Cases that contain evidence of violations that may warrant formal administrative action are transferred to a division attorney. The attorney will review the case, evaluate the evidence, and make a recommendation for any additional administrative action needed.

# MOTOR VEHICLE

## Total Cases Opened



## Total Cases Closed

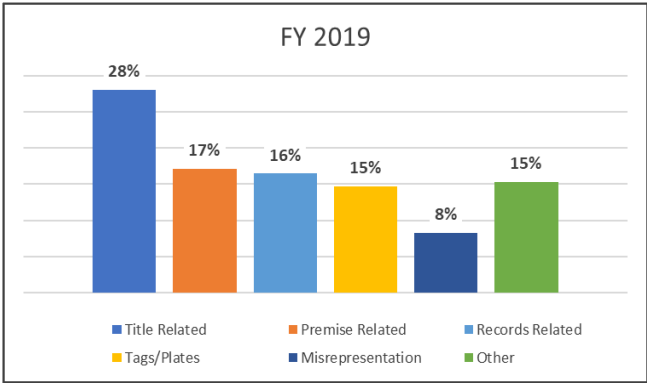
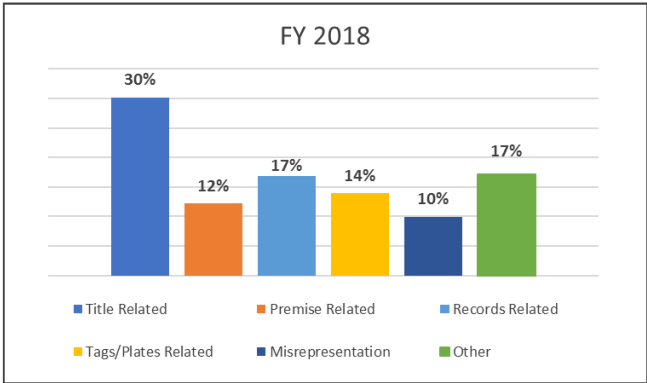
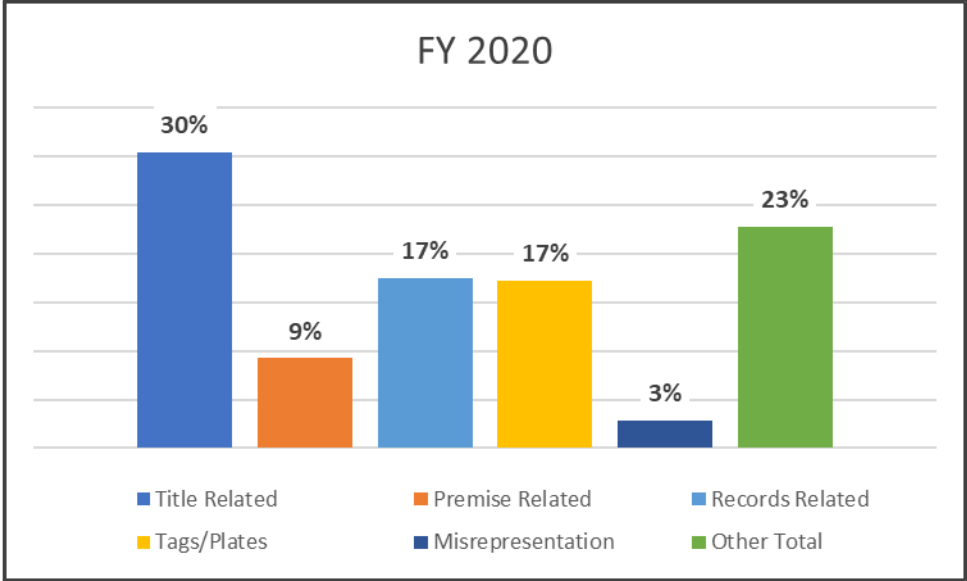


The above chart represents the total of all motor vehicle cases opened and all motor vehicle cases closed in each of the three recent fiscal years. Motor vehicle general and advertising complaint types received in the eLICENSING system are assigned by region to an enforcement investigator to inspect, examine or otherwise investigate the allegations made by a complainant. The Tax Assessor/Collector or County Appraisal District (TAC/CAD) complaint types are initially managed by the division’s administrative staff who work with the dealers to bring them into compliance with the tax assessor or appraisal district requirements.



# MOTOR VEHICLE

## *Disposition of Violations for Total Cases*

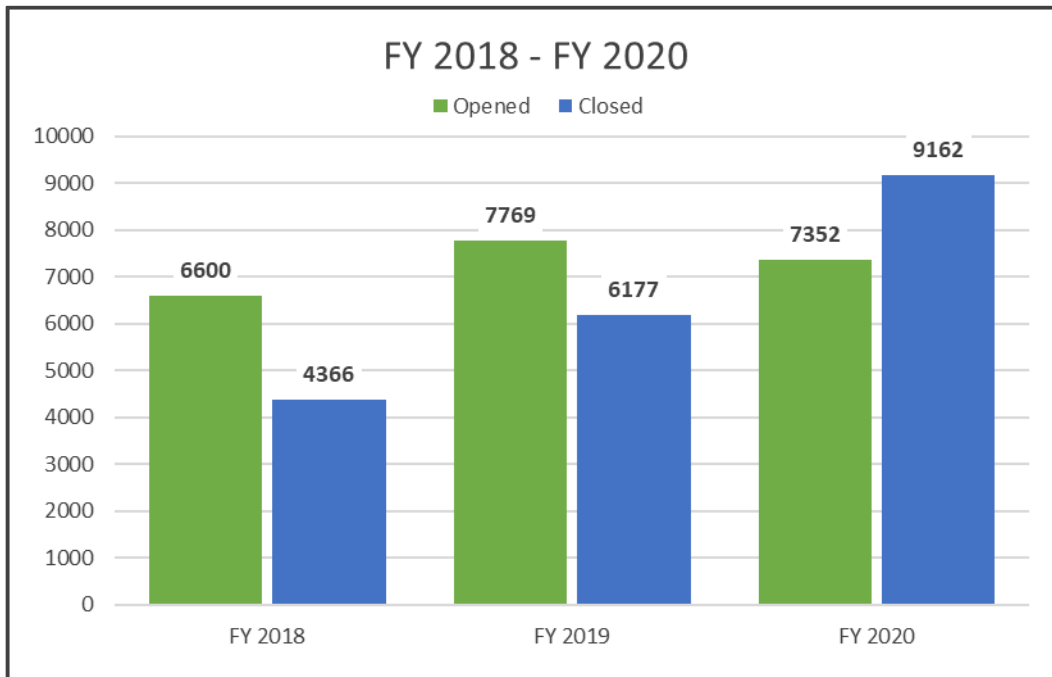


These charts include violations for general, advertising, and TAC-CAD cases closed in each of the indicated fiscal years.



# MOTOR VEHICLE

## *General & Advertising Cases Opened and Closed*



This chart reflects the total number of cases opened to address motor vehicle general and advertising complaint types received primarily from consumers, other licensees, and industry related associations, or due to intra-agency licensing concerns. A separate chart for cases opened to address complaints submitted by Tax Assessor/Collector or County Appraisal Districts (TAC/CAD). *See chart on page 12.*

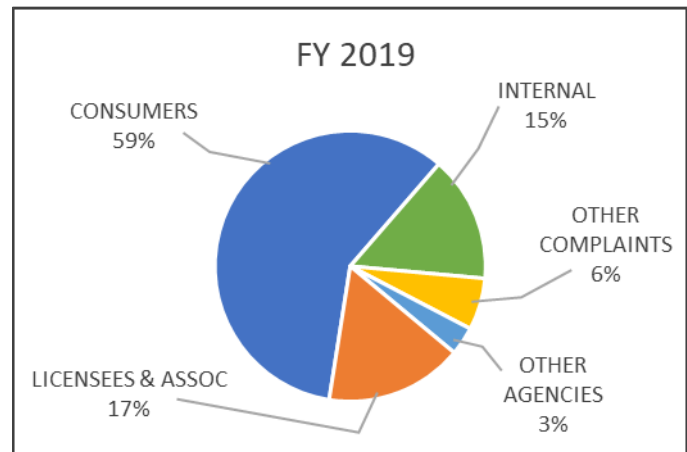
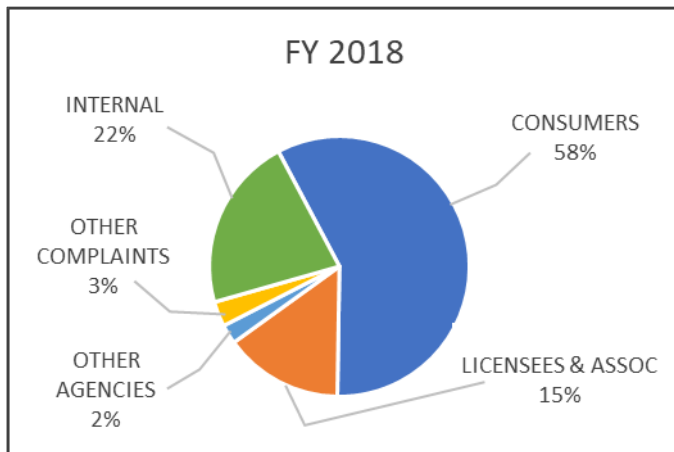
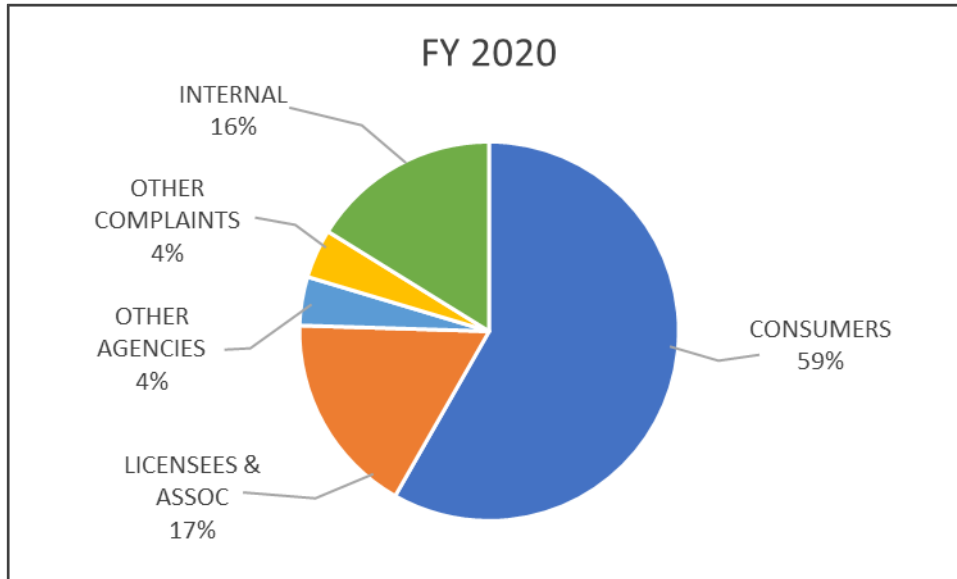
Historically, the Independent license type receives the greatest number of complaints. For FY20 the percentage of complaints against Independent license types was 80%. Salvage license types received 3% of the complaints, the combined Franchise and Other license types received 14%, and unlicensed cases received 3%. The lower number of cases opened in FY20 may be attributed to the effects of COVID-19. The upwards trend of cases from FY19 may resume for FY21.

Motor vehicle general and advertising complaint types received in the eLICENSING system are assigned by region to an enforcement investigator to inspect, examine or otherwise investigate the allegations made by a complainant. Upon completion of the investigation, the case is reviewed by a Chief or Assistant Chief within the investigative staff, who may close the case in certain circumstances, such as if there is no evidence of violation or if the dealer is out of business. If the investigator's findings warrant, the case is forwarded to a division attorney for review and determination of appropriate actions under the law.

This chart also reflects the count of cases for which the investigative and legal processing was completed. There is a separate chart for cases closed that address the Tax Assessor/Collector or County Appraisal Districts (TAC/CAD) complaints. *See chart on page 12.*

# MOTOR VEHICLE

## *General & Advertising Cases Opened by Origination*

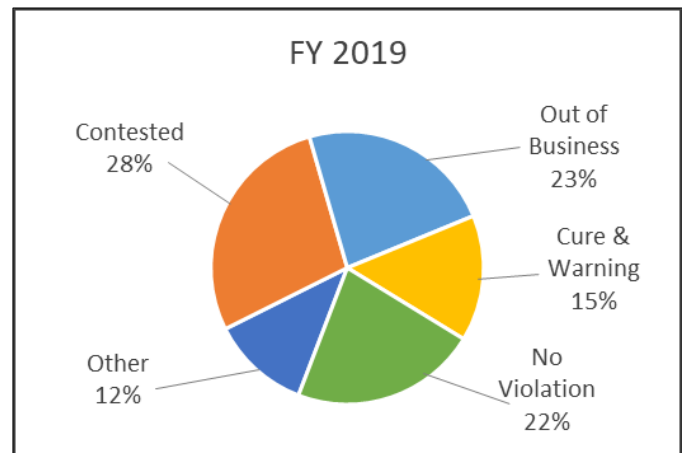
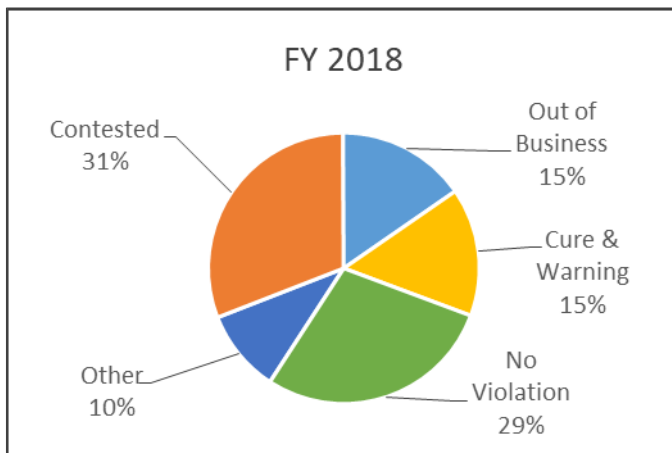
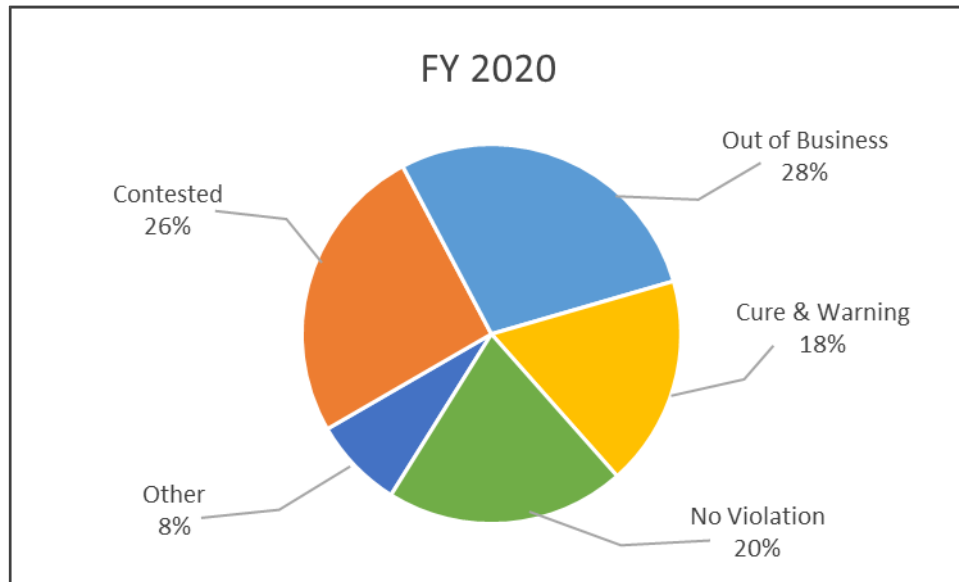


While motor vehicle cases originate primarily with the public, other sources for complaints are the result of field inspections, licensing, or vehicle titling concerns. Cases are also submitted by other agencies, law enforcement, financial institutions, and insurance companies.

In FY20, 75% of cases were opened utilizing the eLICENSING complaint submission process available on the department's website, 12% were self-initiated by division investigators, 9% were opened by division administrative staff from paper or emailed complaints sent directly by complainants, and 4% were created by the Motor Vehicle Division and referred to Enforcement.

# MOTOR VEHICLE

## *General & Advertising Cases Closed by Category*

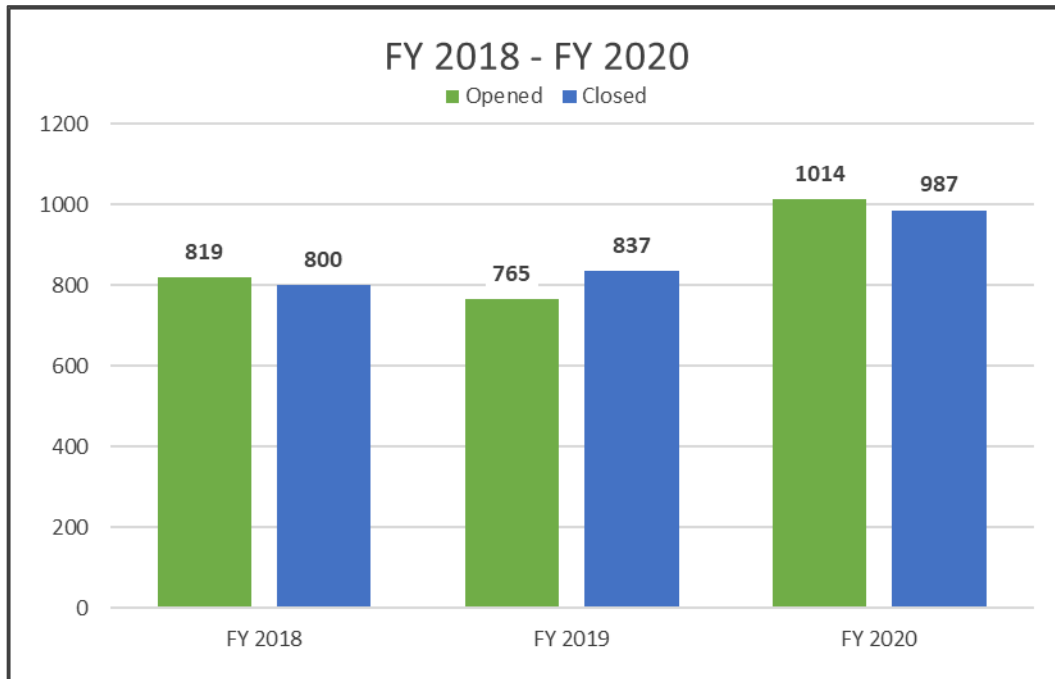


Cases are closed by a Chief or Assistant Chief Investigator when a dealer is found to be out of business or if no evidence of a violation is detected during the investigation. Cases closed with a warning provide the dealer with an opportunity to correct minor or first-time minor violations. Cases in the “Other” category include cases closed by mediation, referrals to other entities and site inspections connected to licensing applications.

Due to the nature of the violation(s), approximately one-third of motor vehicle cases require further action by division attorneys. These cases are identified in the above graphs as “contested”. *See charts on pages 9 and 10.*

## MOTOR VEHICLE

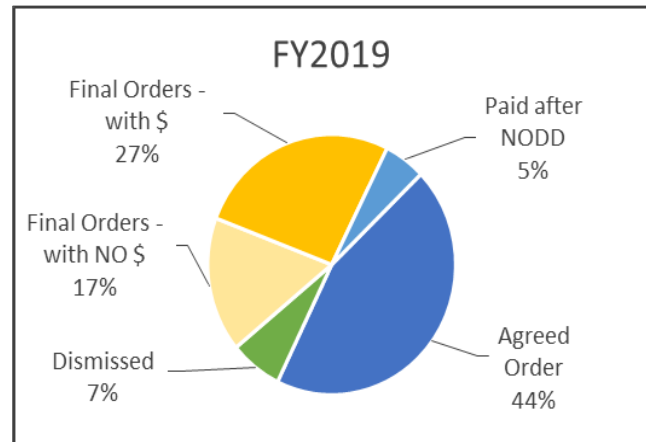
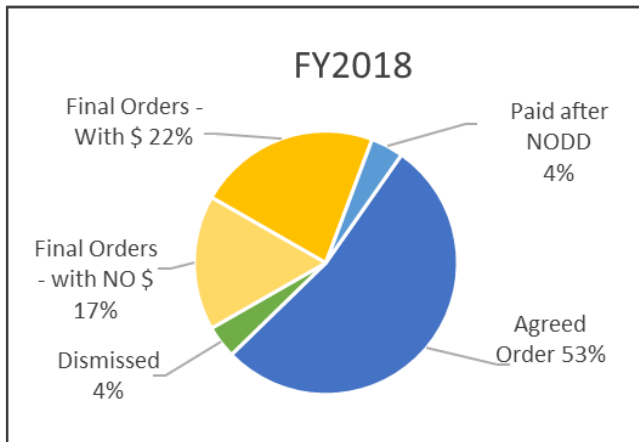
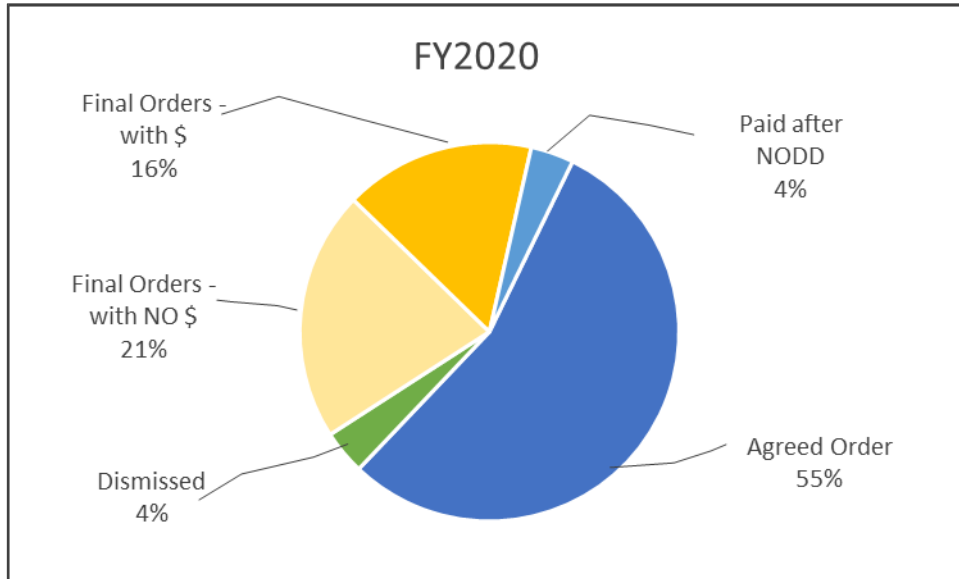
### *General & Advertising Contested Cases Opened and Closed*



In appropriate cases, the division attorney will initiate a contested case by filing a Notice of Department Decision (NODD) describing the alleged violation(s). These documents explain the rights of the licensee and invite settlement discussions. Most of these contested cases are settled through agreed orders as a result of discussion between the division attorney and the licensee. *See chart on page 10.*

# MOTOR VEHICLE

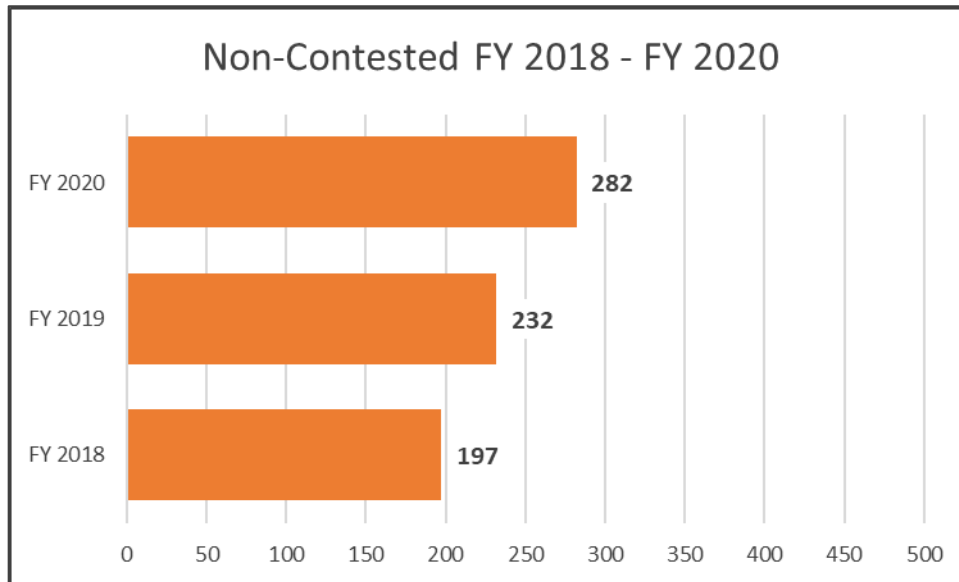
## *General & Advertising Contested Cases Closed by Category*



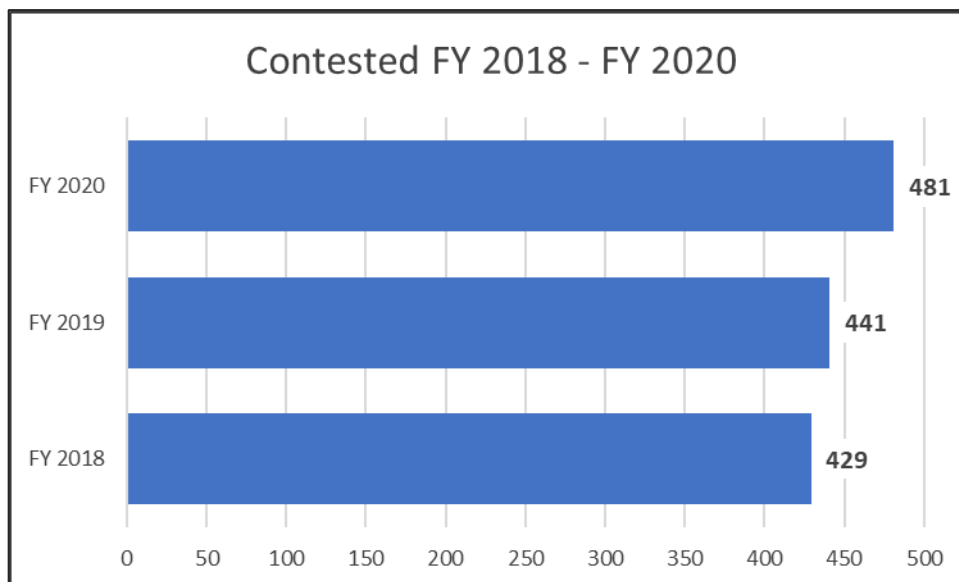
This chart reflects the final disposition of closed contested cases that imposed administrative sanctions. Reference the “Contested” category of cases on the General & Advertising Cases Closed by Category chart shown on page 8.

# MOTOR VEHICLE

## *General & Advertising Days in Process*



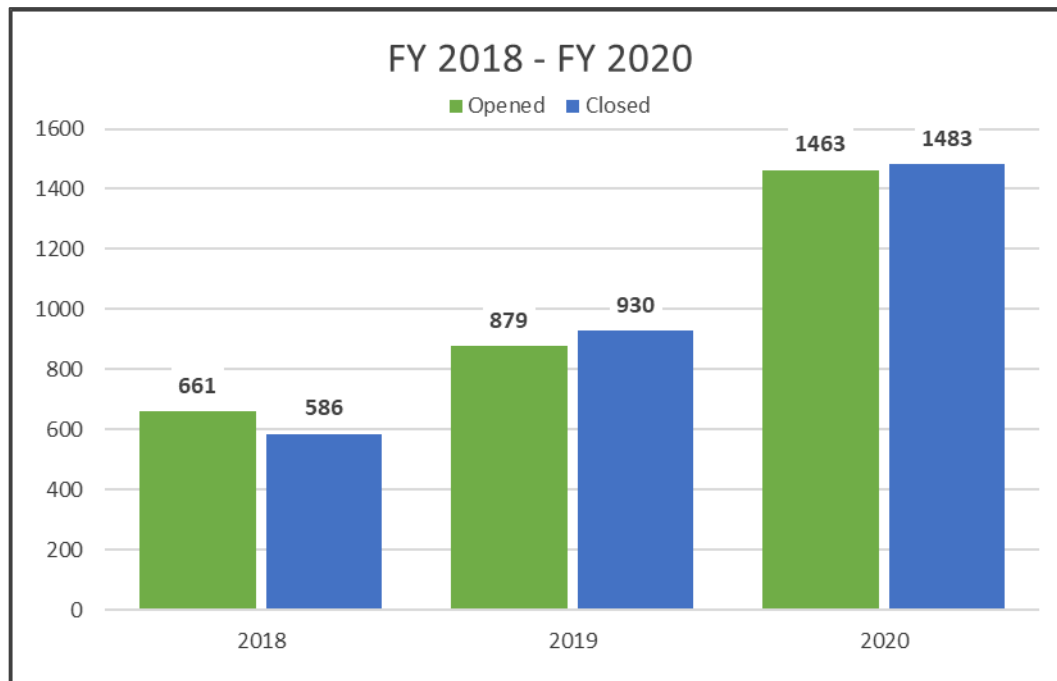
Non-contested cases consist of cases where review or formal administrative action by a division attorney is not required. Note: Per the policy adopted by the board in October 2018, non-contested cases aged beyond three years, if any, are reported to the board as they occur, rather than included in the annual report.



Contested cases are those where a division attorney took formal administrative action by issuing a Notice of Department Decision. They may be complicated and may involve multiple cases opened in response to complaints received within the same time frame on the same dealer. These cases may be consolidated into a single contested case to address all the complaints and violations when escalated to the assigned attorney.

## MOTOR VEHICLE

### *TAC/CAD* *Cases Opened and Closed*



This chart reflects the counts for cases opened to address complaints received by Tax Assessor Collectors and County Appraisal Districts (TAC/CAD) for dealers failing to timely file initial, annual or monthly declarations or for dealers failing to report the minimum vehicle sales required to maintain licensure.

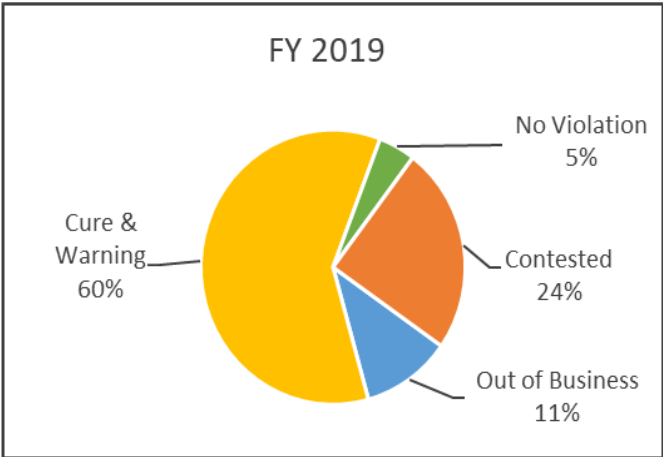
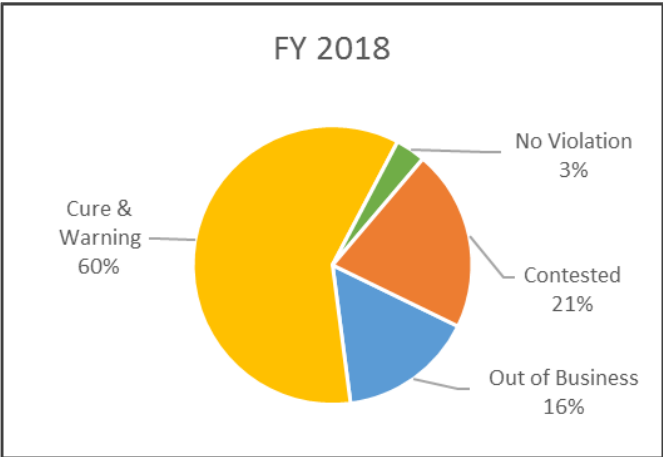
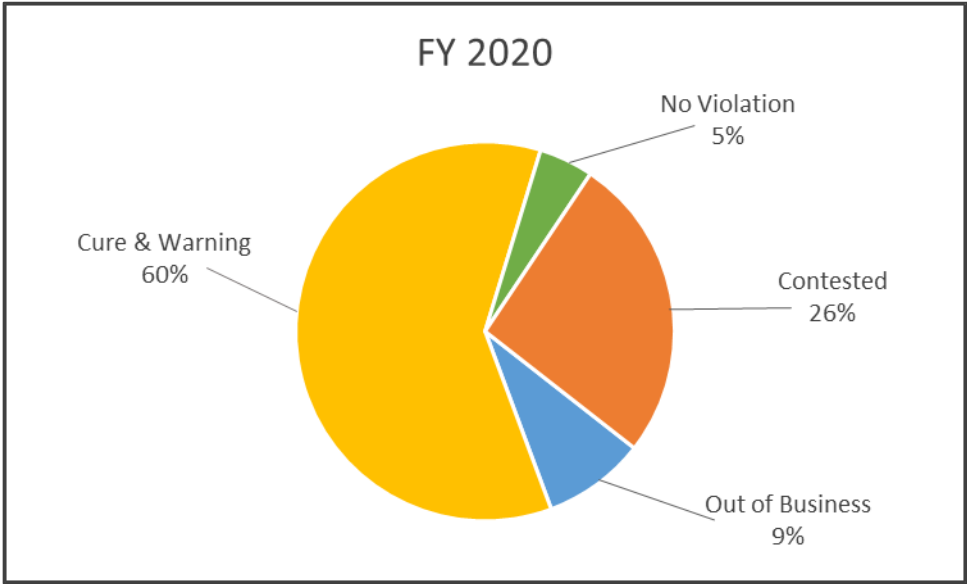
This chart reflects the counts of TAC/CAD cases closed by dealer compliance upon receipt of proof of filing with the tax authority.

The vehicle inventory tax violations referenced in these case types for FY20 are grouped in the "Other" category reflected in the [Disposition of Violations for Total Cases](#) chart on page 5 of this report.



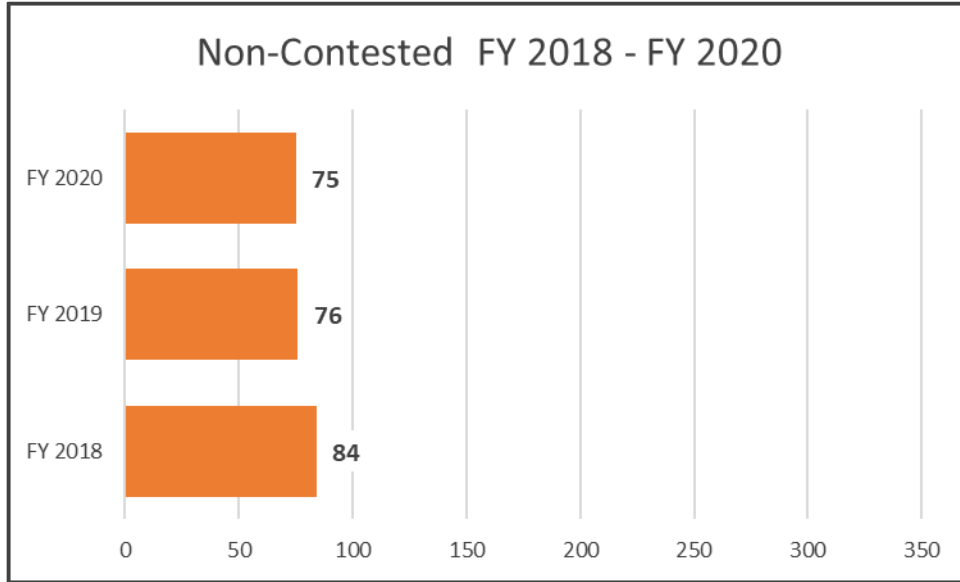
MOTOR VEHICLE

*TAC/CAD Cases Closed by Category*

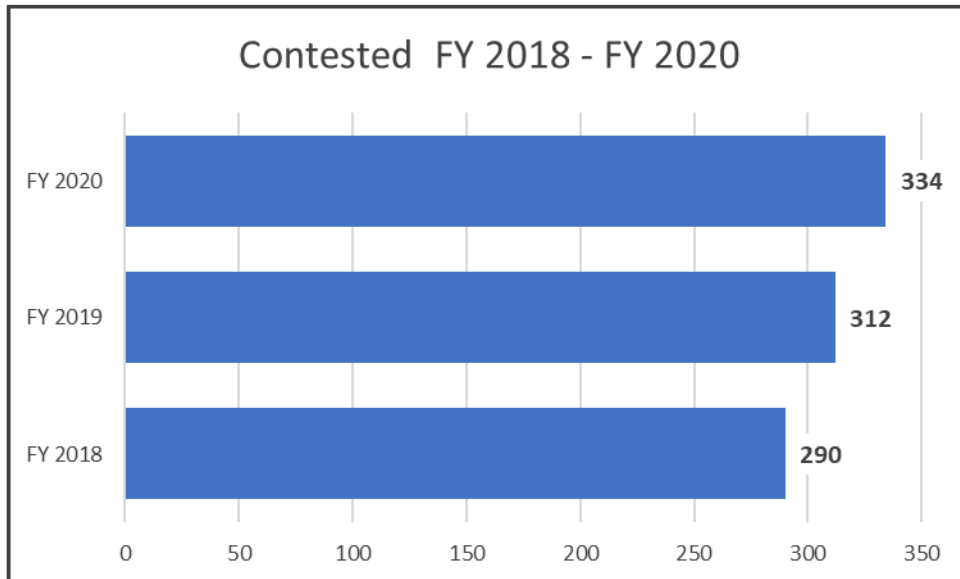


# MOTOR VEHICLE

## *TAC/CAD Days in Process*

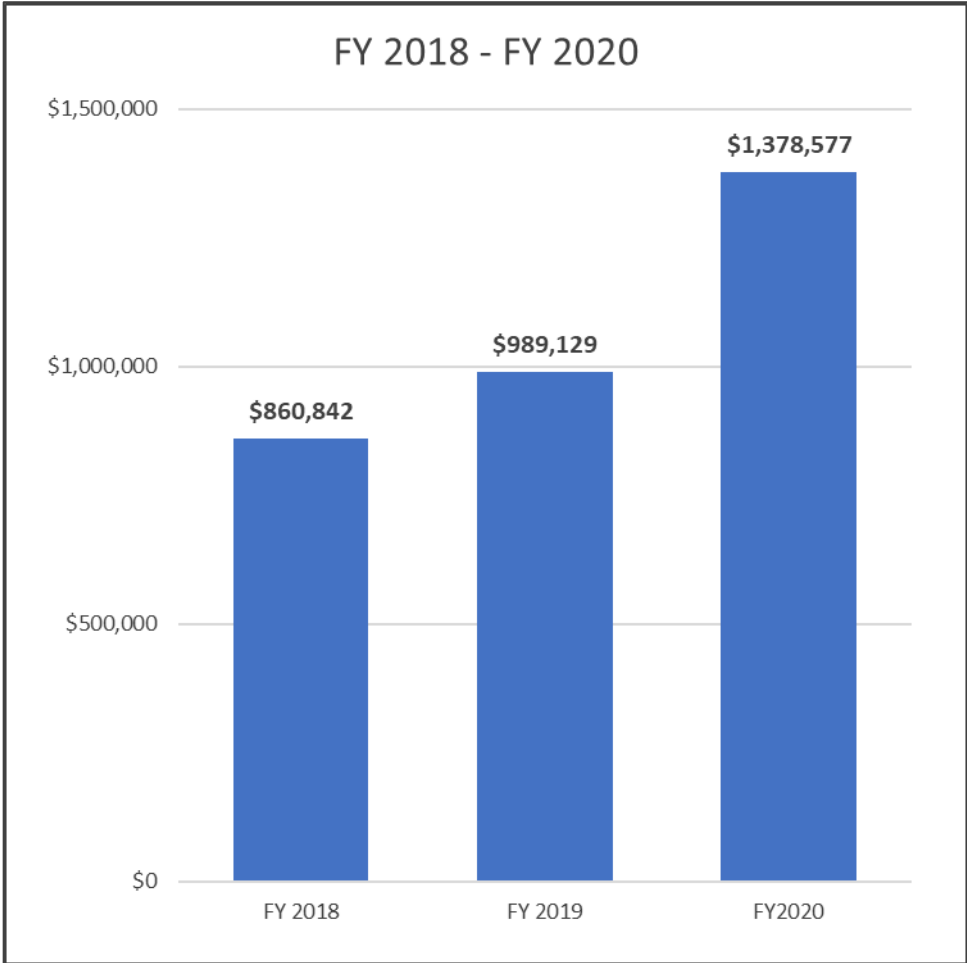


Non-contested cases consist of cases where review or formal administrative action by a division attorney is not required. Note: Per the policy adopted by the board in October 2018, non-contested cases aged beyond three years, if any, are reported to the board as they occur.



Contested cases are those where a division attorney initiated formal administrative action by issuing a Notice of Department Decision. These case types can be complicated and may involve multiple cases opened in response to complaints received within the same time frame on the same dealer. The multiple cases may be consolidated into a single contested case to address all the complaints and violations when escalated to the assigned attorney.

*Civil Penalties Collected*



# Motor Carrier



# Enforcement

## *Motor Carrier Cases*

Enforcement cases for motor carriers are generated upon receipt of complaints against motor carriers from the public, law enforcement, other motor carriers and by monitoring records for compliance with public safety and consumer protection guidelines. Cases are initially grouped into two categories, Non-insurance and Insurance, based on the processing required.

The Household Goods (HHG) category of cases consists primarily of consumer complaints against moving companies regarding unlicensed movers, moving contract disputes, claims for damaged or missing goods, advertising violations, tariff filings, and improper vehicle markings. Cases can also be initiated if the department discovers compliance issues against moving companies. Investigations are also conducted against interstate HHG moving companies in potential HHG hostage load situations in connection with our partnership with the Federal Motor Carrier Safety Administration (FMCSA).

The Motor Carrier (Other) category consists of all types of general motor carrier investigations such as motor carrier operating authority, bus company registration, inactive USDOT filings, and Texas Department of Public Safety (TxDPS) complaints against unsafe motor carriers. Additionally, the department pursues enforcement of Unified Carrier Registration (UCR) payments.

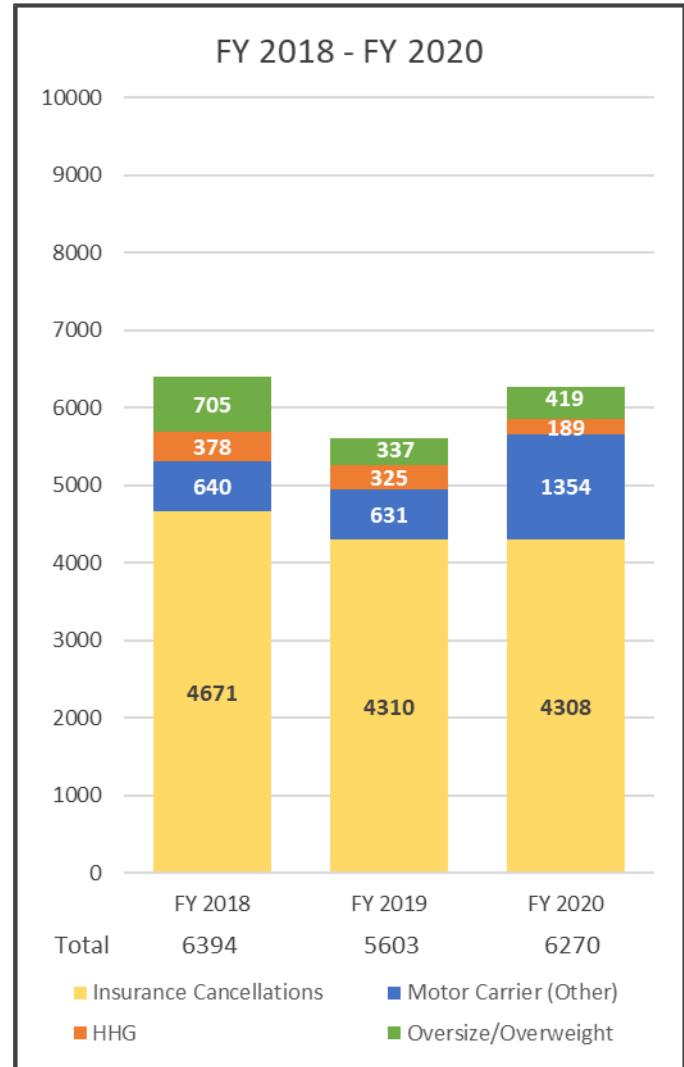
The Oversize/Overweight (OS/OW) category of cases consists primarily of self-initiated permit enforcement investigations to ensure the safety of the travelling public and to extend the life of the roadways and structures in this state. Motor carriers identified as possible permit or OS/OW offenders are investigated to ensure they are educated on applicable regulations when transporting OS/OW loads. Investigations are also conducted on motor carriers that are involved in bridge hits which cause significant safety hazards.

The Insurance category is the largest of the case types and originates from a department initiative to identify and administratively address violations for failure to properly file and maintain the required minimum amounts of liability, cargo or any additional insurance coverage as required by law. Insurance cases do not require investigation by division investigators as the cases originate from the registration records of the carriers in the Motor Carrier Credentialing System (MCCS). The system conducts a daily check of active insurance filings and will notify the motor carrier in advance (30 days) if a filing is set to expire/cancel and allows the motor carrier sufficient time to ensure compliance. These cases are considered as 'contested' when referenced in the following charts.

# MOTOR CARRIER

## Total Cases Opened

## Total Cases Closed

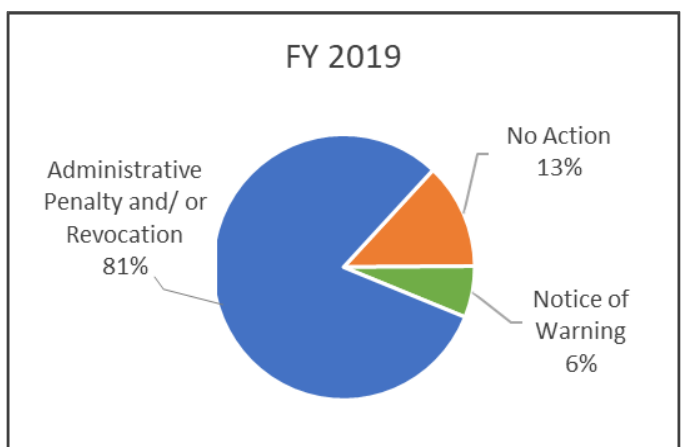
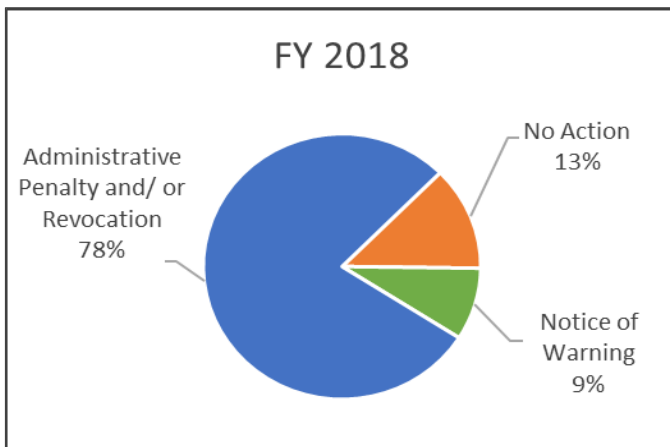
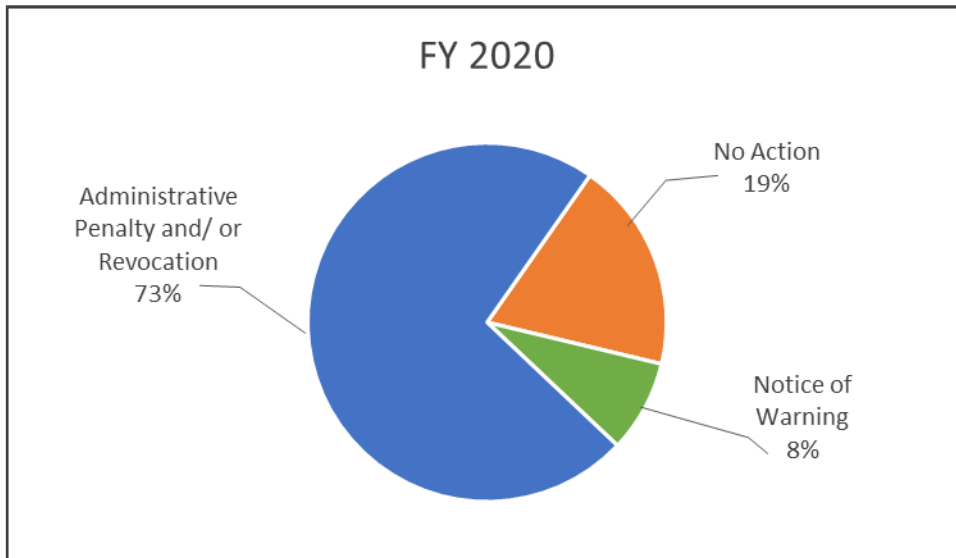


The above chart represents the total of all motor carrier cases opened and all motor carrier cases closed in each of the three recent fiscal years. Oversize/Overweight (OS/OW) cases consist primarily of self-initiated permit enforcement investigations. Household Goods (HHG) cases consist primarily of consumer complaints against moving companies. Motor Carrier (Other) cases consist of general motor carrier investigations. Insurance cases are initiated from the registration records of the carriers in the Motor Carrier Credentialing System (MCCS).

Charts displaying various segments of operational case processing for the subsets of all motor carrier case types will be compared by fiscal year in the charts that follow.

# MOTOR CARRIER

## *Disposition of Total Cases Closed*



The Chief Investigator and the Assistant Chief Investigator have closing authority in certain cases where the alleged violations are not substantiated or where the alleged violations are corrected during the investigation.

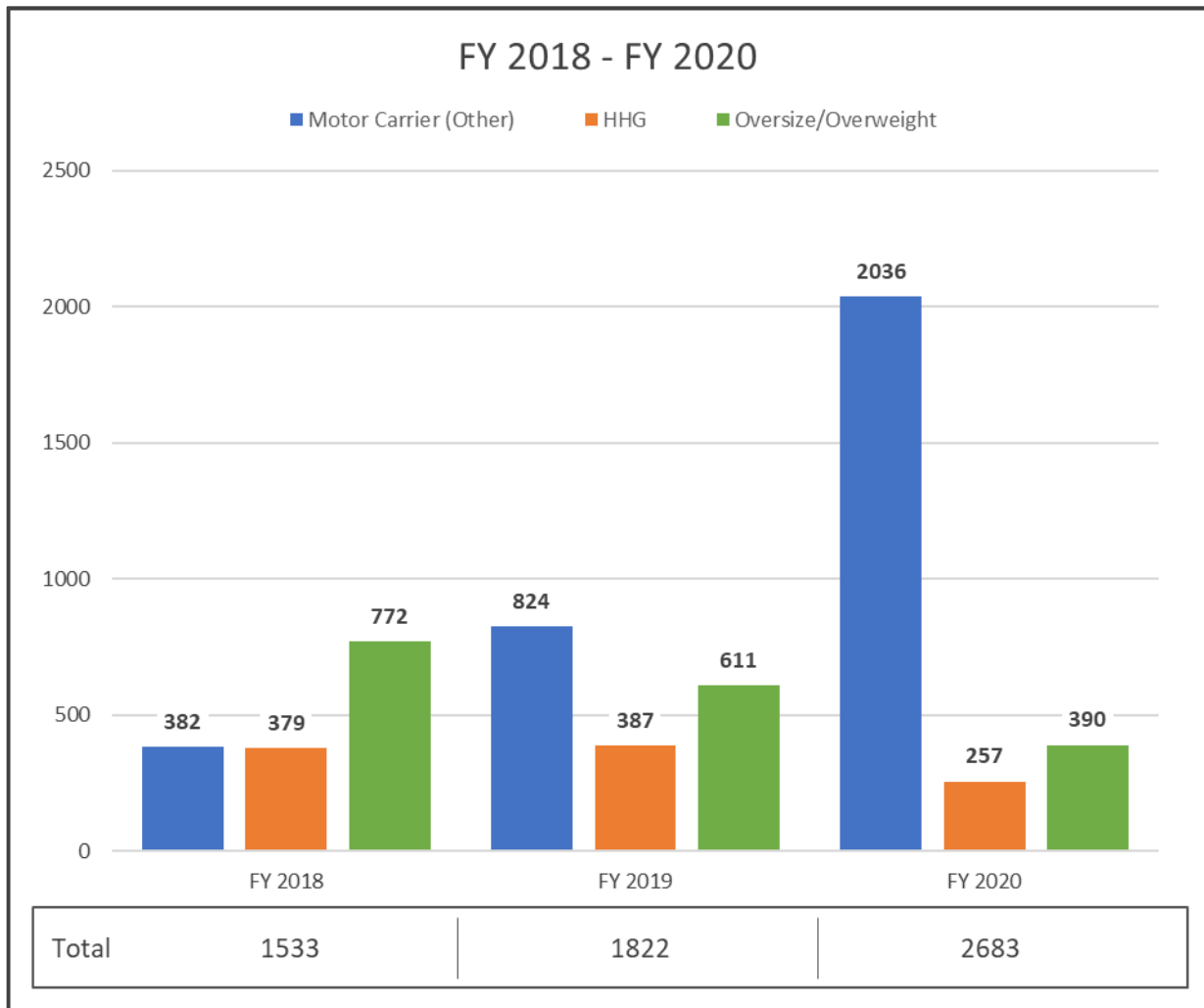
A case is closed as 'no action' when allegations are not substantiated. A case may be closed with a Notice of Warning, providing an opportunity for the motor carrier to come into compliance, if the alleged violations are minor and the motor carrier has made attempts to correct the violation(s) or has already corrected the violation(s).

Investigations that result in substantial violations by the motor carrier are forwarded to a division attorney for review and processing and could result in sanctions such as an administrative penalty and/or revocation of intrastate operating authority.



# MOTOR CARRIER

## *General Cases Opened*

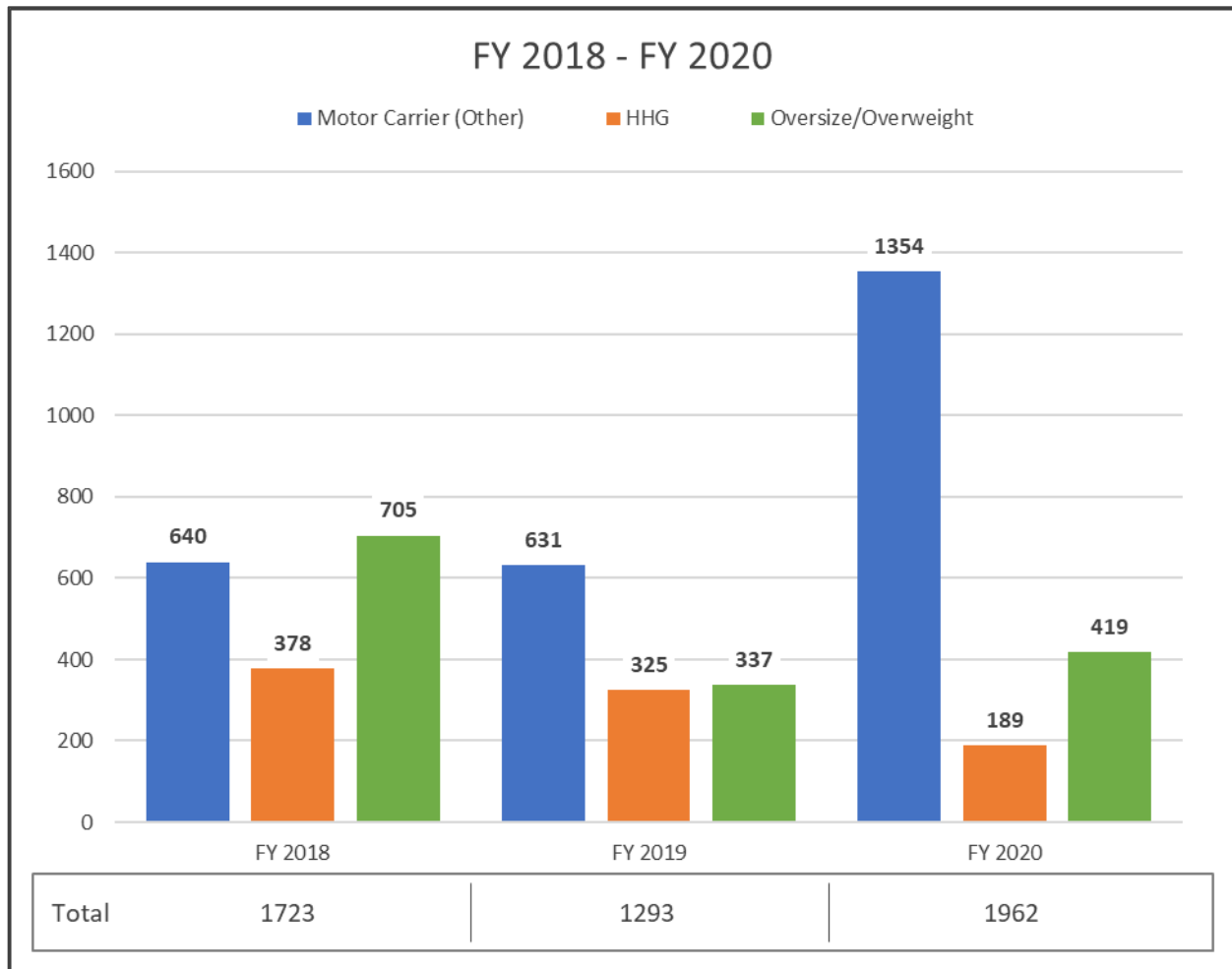


The chart above reflects the total non-insurance cases opened for FY18 through FY20 and the counts per case category as described on page 17.

The increase in Motor Carrier (Other) cases opened in FY20 is due to an increase in Unified Carrier Registration cases referred by the Motor Carrier Division (MCD). MCD coordinated with ENF to report motor carriers that had not paid UCR fees in both FY19 and FY20. ENF Investigators worked to obtain compliance or determine if the motor carriers were still in operation.

# MOTOR CARRIER

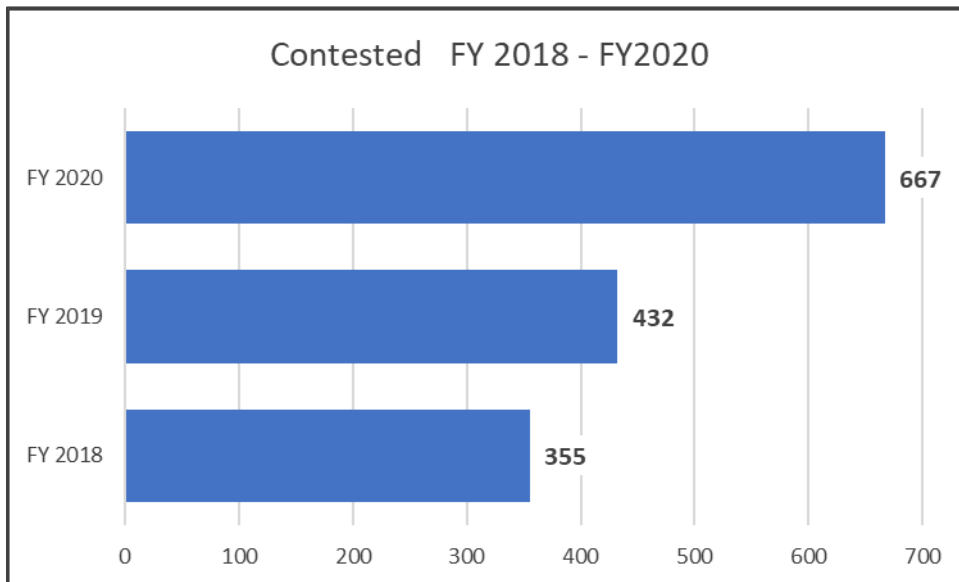
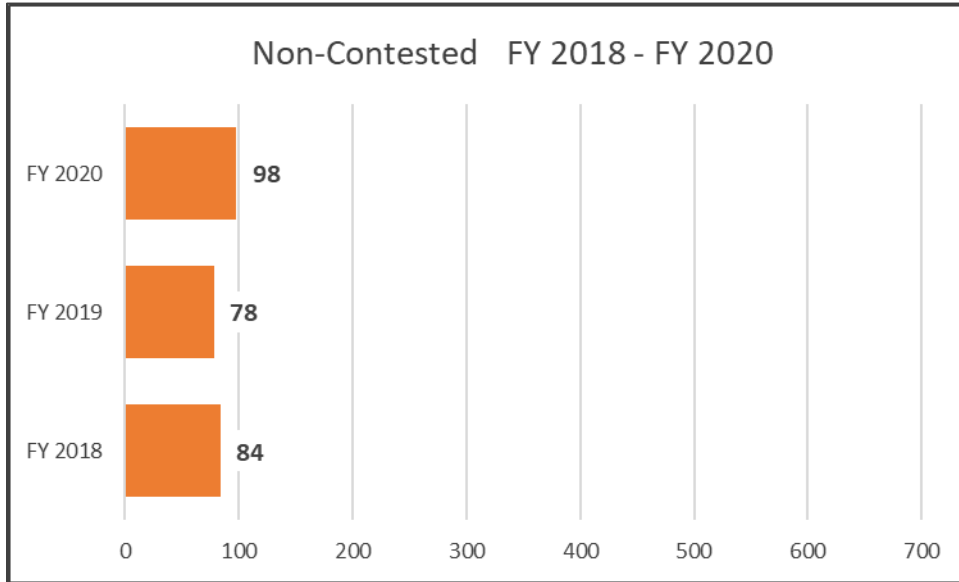
## *General Cases Closed*



All non-insurance motor carrier cases are initially reviewed and approved by the Chief or an Assistant Chief Investigator to determine if any further enforcement action, up to and including revocation of the motor carrier's operating authority, if necessary. Cases warranting formal administrative action are forwarded to division attorneys.

# MOTOR CARRIER

## *General Cases Days in Process*

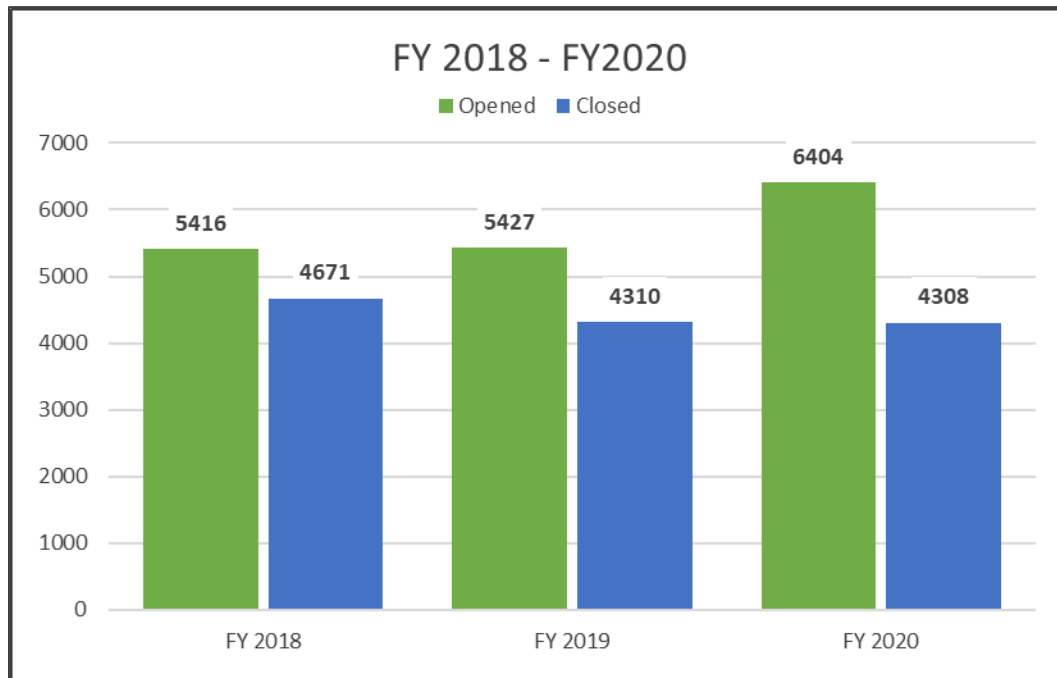


Non-Contested cases consist of cases closed with a formal warning or other non-sanction action. These case types are closed by the Chief or an Assistant Chief Investigator.

Note: Non-contested cases aged beyond three years, if any, are reported to the Motor Carrier Division Director as they occur, rather than included in the annual report.

## MOTOR CARRIER

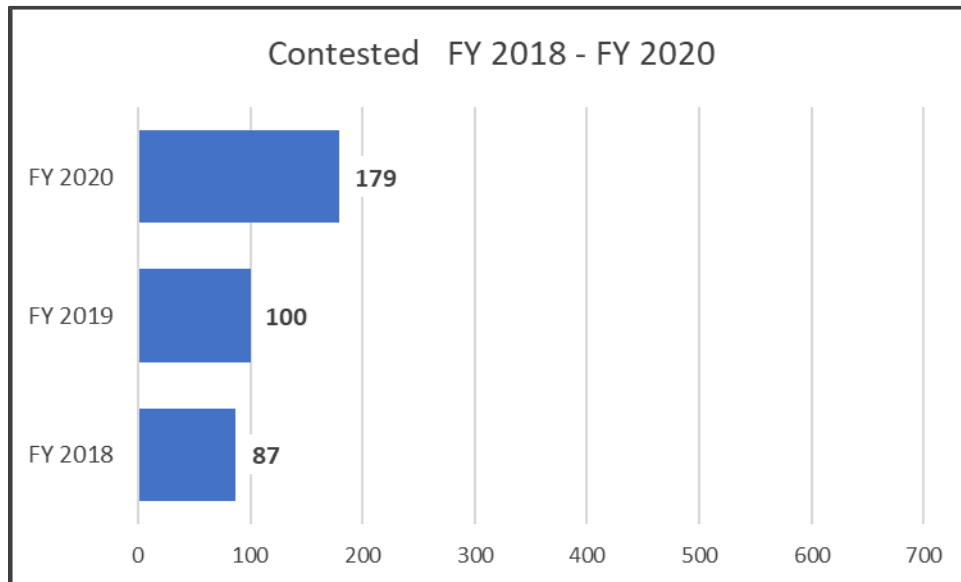
### *Insurance Cases Opened and Closed*



Administrative staff manually prepare and mail all initial notifications and monitor any responses received.

Enforcement attorneys ensure that motor carriers are properly notified and provide due process while verifying that all insurance filing requirements are met.

## *Insurance Cases Days in Process*

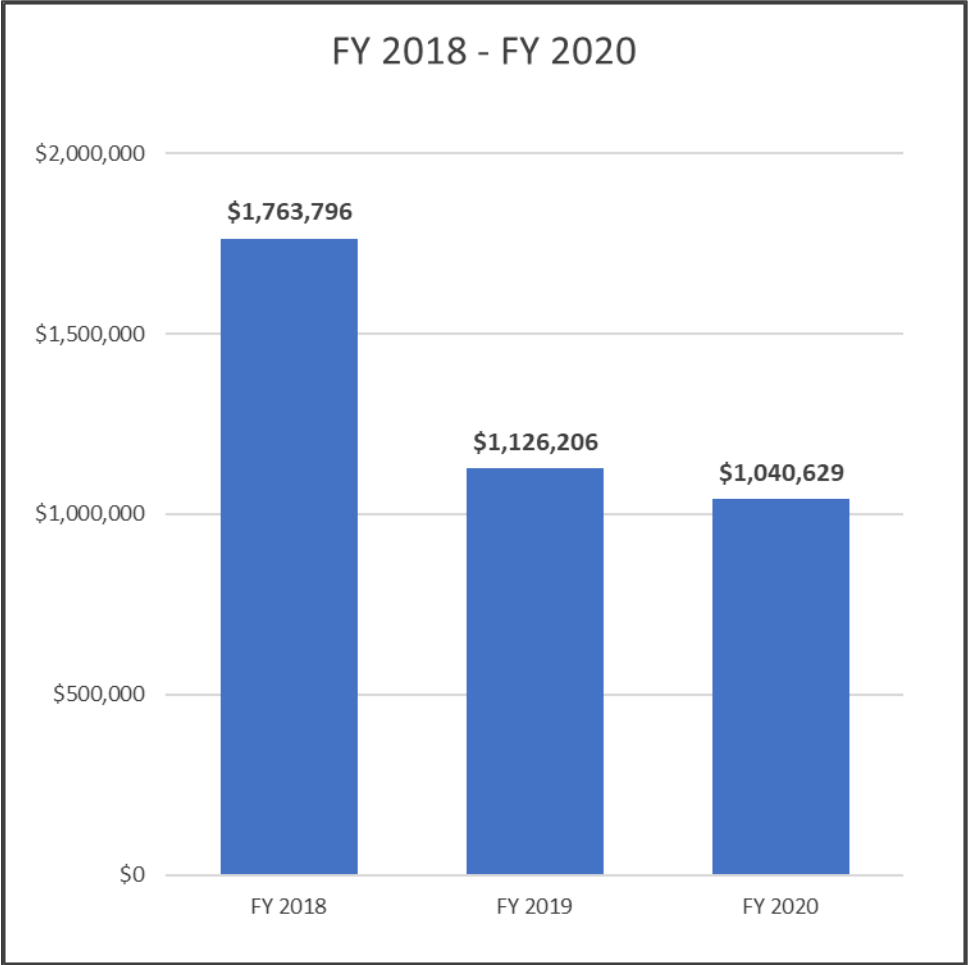


The Insurance cases originate from the registration records of the carriers in the Motor Carrier Credentialing System (MCCS) and follow the automated process that allows the cases to be opened and closed with minimal waiting periods. Administrative staff print and mail the Notice of Department Decision (NODD) packet which includes the notice letter and option responses which the carrier can email, fax or mail back to the division in response to the NODD.

When the response option is received, the administrative staff print the appropriate order and upon compliance with insurance coverage renewals and payment of the minimal assessment penalty by the carrier, the cases can be closed.

The Insurance category originated from a department initiative to identify and administratively address violations for failure to properly file and maintain the required minimum amounts of liability, cargo or any additional insurance coverage as required by law.

***Civil Penalties Collected***



The chart above provides a historical view of the civil penalty payments received for all categories of motor carrier cases during the last three fiscal years.

# Enforcement Division Outreach



## Efforts



## **Dealer Training Seminars**

To better inform our licensees and other stakeholders regarding the many laws and rules affecting the motor vehicle distribution industry, the Enforcement Division launched the Dealer Training Seminar (DTS) program in 1999, adding the Advertising Seminar in 2014, and the Salvage Dealer Seminar in 2015. All presentations are reviewed and revised periodically to ensure the most current educational topics are thoroughly covered.

Training seminars have historically been presented at different locations throughout the state. This year the Dealer Training Seminar and the Salvage Dealer Training Seminar were presented in five different locations and then transitioned to a webinar format beginning in May of 2020 following the COVID-19 pandemic. Over the course of the year, the motor vehicle dealer industry was received a total of 99 hours of instruction.

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 and Registration Division, and the Office of the Consumer Credit Commissioner.

DTS provides an excellent opportunity to educate the dealer population and gives the 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.

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

## **Mover Training Seminars**

The Enforcement Division continues efforts to educate household goods movers by providing the Mover Training Seminar (MTS). The seminar provides information on how licensees can comply with the basic rules, regulations, and responsibilities concerning intrastate operating authority. Movers are taught how to register, how to properly advertise, how to complete required documents, and how to properly mark any vehicle being used for transporting household goods for the company. The four-hour course is presented free of charge and is available in-person and online via webinar following the COVID-19 pandemic. In FY20, in-person seminars were provided in Houston and San Antonio prior to the pandemic. Monthly online training sessions began in May 2020 for a total of 31 hours of training provided across both platforms.

MTS provides an opportunity to educate a motor carrier 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 carriers on issues that affect the industry. Industry feedback is useful to the agency in developing and modifying policies and rules.

## **Motor Carrier Oversize/Overweight Training**

In FY20, Enforcement Division personnel initiated an additional training module to educate motor carriers involved in the transportation of oversized/overweight cargo. This training module includes registration functions, legal size and weight configurations, available OS/OW permits, and introduction into the department's TxPROS application. This training is provided monthly and is listed on the department's website. In FY20, four training webinars were presented, providing a total of 16 hours of training.

## **Law Enforcement Training**

Enforcement Division personnel continue to provide training approved for Texas Commission on Law Enforcement (TCOLE) credit to various law enforcement agencies. Division 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, curb-stoning, general information on dealer operations, laws governing salvage operations, rules and regulations that govern oversize/overweight vehicles, and general motor carrier operation requirements.

## **Other Industry Appearances**

During FY20, the Enforcement Division Director and the Motor Vehicle Chief Investigator were guest speakers at the Texas Independent Automobile Dealers Association's (TIADA) annual conference held virtually due to the COVID-19 pandemic.

In total, the Enforcement Division provided information to over 3,298 attendees through 33 separate outreach opportunities in FY20.