

TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

Thursday,
December 5, 2019

Lone Star Room
Building 1
4000 Jackson Avenue
Austin, Texas

BOARD MEMBERS:

Charles Bacarisse, Vice Chair
Guillermo "Memo" Treviño, Chair (absent)
Stacey Gillman
Brett Graham
Tammy McRae
John Prewitt
Paul Scott
Shelley Washburn

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 (Relating to:
- Sunset Advisory Commission's recommendations establishing a risk-based approach to salvage vehicle dealer inspections;
 - SB 604, eliminating salvage endorsements and salvage agent licenses; authority to set salvage license terms, and prorate fees; and
 - HB 1667, allowing independent motor vehicle general distinguishing number license holders to perform certain salvage related activities without holding a salvage dealer's license.)
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P R O C E E D I N G S

1
2 MR. BACARISSE: Good morning. My name is
3 Charles Bacarisse, and as the vice chair, I am pleased to
4 open the Board meeting of the Texas Department of Motor
5 Vehicles in the absence of our chairman, Mr. Treviño, who
6 was unable to attend today's meeting.

7 It is 8:03 a.m., and I'm now calling the Board
8 meeting for December 5, 2019 to order. I want to note for
9 the record that the public notice of this meeting,
10 containing all items on the agenda, was filed with the
11 Office of Secretary of State on November 27, 2019.

12 Before we begin today's meeting, please place
13 all cell phones and other communication devices in the
14 silent mode, and please, as a courtesy to others, do not
15 carry on side or other activities in the meeting room.

16 If you wish to address the Board or speak on an
17 agenda item during today's meeting, please complete a
18 speaker's sheet at the registration table. Please
19 identify on the sheet the specific item that you're
20 interested in commenting on and indicate if you wish to
21 appear before the Board and present your comment or if you
22 only wish to have your written comment read into the
23 record. If your comment does not pertain to a specific
24 agenda item, we'll take your comment during the general
25 public comment portion of the meeting.

1 In accordance with department administrative
2 rule, comments to the Board will be limited to three
3 minutes. To assist each speaker, a timer has been
4 provided -- it's on the top of the podium there -- and the
5 timer light will be green for the first two minutes,
6 yellow for one minute, then red when your time is over.
7 Individuals cannot accumulate time from other speakers and
8 comments should be pertinent to the issue stated on the
9 comment sheet. When addressing the Board, please state
10 your name and affiliation for the record.

11 And before we begin today, I'd also like to
12 remind all presenters and those in attendance of the rules
13 of conduct at our Board meetings. The department's rule
14 Section 206.22 outlines the conduct and decorum standards
15 for Board meetings. This includes the authority to
16 determine when a person is being disruptive of the meeting
17 or a speaker is otherwise violating the timing and
18 presentation rules that I just discussed.

19 So having that business out of the way, I'd now
20 like to be able to call roll and establish a quorum. We
21 noted that Chairman Treviño is absent today.

22 Board Member Gillman?

23 MS. GILLMAN: Present.

24 MR. BACARISSE: Board Member Graham?

25 MR. GRAHAM: Present.

1 MR. BACARISSE: Board Member McRae?

2 MS. McRAE: Here.

3 MR. BACARISSE: Board Member Prewitt?

4 MR. PREWITT: Present.

5 MR. BACARISSE: Board Member Scott?

6 MR. SCOTT: Present.

7 MR. BACARISSE: Board Member Washburn?

8 MS. WASHBURN: Present.

9 MR. BACARISSE: Let the record reflect that I,
10 Charles Bacarisse, am here too and we have a quorum.
11 Also, let the record reflect that Chairman Treviño is
12 absent today.

13 Let's all stand together now as we honor our
14 country and our state with pledges of allegiance.

15 (The Pledge of Allegiance and the Texas
16 Allegiance were recited.)

17 MR. BACARISSE: Thank you.

18 If I may take a moment under item 3, the vice
19 chair's report, I do want to highlight one issue that is
20 really important. You may have seen it on some of the
21 message boards as you drove in this morning. The Texas
22 Department of Transportation, TxDOT, has created the End
23 the Streak Texas campaign to raise awareness of the
24 prevalence of fatal crashes on Texas roads. Since
25 November 7, 2000, at least one person has died every day

1 from a vehicle crash in Texas. It's for this reason that
2 TxDOT has created the #EndTheStreakTX campaign that
3 reminds drivers that it's a shared responsibility among
4 roadway users and engineers to keep our roads safe.

5 TxDOT has asked fellow state agencies to reach
6 out and engage drivers, and the Texas Department of Motor
7 Vehicles is a natural fit for this due to the nature of
8 services provided to motorists. The department has
9 identified several initiatives to help raise awareness,
10 including reaching out to stakeholder groups with
11 opportunities to promote the campaign. Distribution of
12 materials provided by TxDOT at conferences and meetings --
13 and some of us have gotten some of that today -- and
14 developing an insert that will be placed in registration
15 renewal notices.

16 Additionally, our regional service centers
17 across the state have EndTheStreakTX signs on location to
18 inform customers of the campaign, and they also show
19 videos on the televisions in our offices. One of those
20 videos we have with us today and we're about to show you
21 right now.

22 (Video was shown.)

23 MR. BACARISSE: That is powerful and well done.
24 My thanks to those that were part of the production.

25 This issue certainly brings much needed

1 awareness to this very serious situation and the
2 devastating statistics that we just saw there and that are
3 associated with this program. The Texas DMV looks forward
4 to supporting TxDOT to raise awareness of this critical
5 situation.

6 And so y'all be careful out there, slow down,
7 and just give the other guy who's in a big hurry, let him
8 take the lead, and I'm preaching to myself on this.

9 If I may now turn to item 4 which is the
10 executive director's report. Whitney.

11 MS. BREWSTER: Thank you. This briefing will
12 be relatively short so we can get to the meat of the
13 agenda.

14 I wanted to update the Board about the Vehicle
15 Title and Registration Advisory Committee. The first
16 meeting of that committee met -- we call it VTRAC -- on
17 November 19, and 12 members attended the meeting and the
18 members unanimously elected member Robert "Bobby" Roberti
19 as the presiding officer of VTRAC.

20 In addition to summarizing the draft
21 implementation timeline for the digital license plate
22 rules and the procurement of one or more digital license
23 plate vendors, the department provided VTRAC members with
24 a draft timeline of those rules and that procurement. The
25 draft timeline is posted on our rules web page at

1 www.txdmv.gov/general-council. You can find that pretty
2 easy on our website, and it is a draft timeline.

3 Of note for the Board, we are anticipating or
4 in that timeline it shows that the advisory committee
5 would present their recommendation in the April Board
6 meeting as it pertains to the digital license plate rules.

7 So with that, are there any questions or
8 comments on item 4.A?

9 (No response.)

10 MS. BREWSTER: Moving on to 4.B, for this item
11 I just wanted to close the loop on a very important
12 contract to this organization, and that's the specialty
13 license plate contract. Just to remind members, the Board
14 voted to delegate authority to execute this contract, with
15 consultation from Chairman Treviño, in the October Board
16 meeting. Since that time negotiations completed, and I,
17 along with Aline Aucoin in the Office of General Counsel,
18 consulted with Chairman Treviño on November 12. He agreed
19 with the recommendation to execute the contract and the
20 contract was executed on November 18.

21 So the contract was awarded to My Plates for a
22 contract period of November 19, 2019 through December 31
23 of 2025. The contract has an option to renew for one
24 additional six-year term, and the contract contains a \$25
25 million minimum guarantee to the state's general fund from

1 the sale of personalized and non-personalized specialty
2 license plates.

3 With that, I'd be happy to answer any questions
4 from the Board.

5 (No response.)

6 MS. BREWSTER: All right. Moving along to item
7 number 4.C, Vice Chairman, members, guests and staff,
8 please join me in welcoming our new deputy chief of
9 information officer, Wendy Barron.

10 (Applause.)

11 MS. BREWSTER: Wendy started in this new role
12 on November 1 and we are absolutely thrilled that she is
13 here. Wendy is an experienced IT leader with a background
14 in managing IT projects and operations in governmental
15 organizations. So prior to joining our agency, Wendy
16 served as the IT director and the information resources
17 manager at both the State Office of Administrative
18 Hearings as well as the Texas Water Development Board.
19 She had various roles within those agencies, including
20 leading the water supply and strategy analysis team,
21 project manager and system analyst. She has a bachelor's
22 degree in computer information systems and a master of
23 public administration from Texas State.

24 When not at work, Wendy enjoys spending time
25 with her husband and son and helping her parents manage

1 their cattle ranch in the Texas Hill Country -- if that's
2 not cool.

3 So please, again join me in welcoming Wendy to
4 the agency. We're really excited that she's here.

5 (Applause.)

6 MS. BREWSTER: So at this time we would like to
7 recognize our recent retirees and employees who have
8 reached a major milestone. We celebrate these employees
9 as a show of our appreciation for their years of service
10 to the citizens of Texas. Martha Yancey, with our Human
11 Resources Division, will read the service announcements.

12 Vice Chairman Bacarisse, members, if you'd join
13 me at the front of the dais, I'd appreciate that.

14 MS. YANCEY: Good morning. My name is Martha
15 Yancey, Human Resources Division.

16 The following employee has reached 20 years of
17 state service, and she's here with us today, Lenora
18 Blakes.

19 (Applause.)

20 MS. YANCEY: She's with the Motor Carrier
21 Division. Lenora began her career with the State of Texas
22 in November 1999 with MCD's credentialing section at the
23 Department of Transportation. In November 2007, Lenora
24 left to join a group from the division who were moved to
25 the Texas Department of Licensing and Regulation. She

1 rejoined the credentialing section in August 2011 here at
2 the DMV. Throughout her many years of service she has
3 mentored numerous employees due to being knowledgeable in
4 almost every permit type. In December 2016, Lenora earned
5 a bachelor's degree in business administration while
6 working full-time for the department. Most recently in
7 June of this year, Lenora was promoted to a lead. Her
8 experience and wealth of knowledge has proven to be a
9 tremendous asset to the Permit Section.

10 Congratulations, Lenora.

11 (Applause; pause for presentation and photos.)

12 MS. YANCEY: And the following employees
13 reached a state service milestone but were unable to join
14 us this morning: 20 years, Dawn Burton, Enforcement
15 Division; 25 years, Jennifer Robbins, Finance and
16 Administrative Services Division; 35 years, Diane Kenny,
17 Motor Carrier Division.

18 And last, the following employees recently
19 retired from the department: Sylvia Cantu, Vehicle Titles
20 and Registration Division; Doug Scott, Information
21 Technology Services Division; and Vanessa Williams, Motor
22 Carrier Division.

23 Thank you.

24 (Applause.)

25 MS. BREWSTER: And Mr. Chairman, if I may, just

1 before I complete my report, I did want to recognize that
2 one of our VTRAC committee members is here. It's Shay
3 Luedeke. He's the tax assessor-collector for Bell County.

4 MR. BACARISSE: Great. Welcome.

5 MS. BREWSTER: We appreciate you being here and
6 being part of the advisory committee.

7 MR. BACARISSE: Absolutely.

8 (Applause.)

9 MS. BREWSTER: And Mr. Chairman, that completes
10 my report.

11 MR. BACARISSE: Thank you.

12 Are there any questions for Ms. Brewster at all
13 on any of her items?

14 (No response.)

15 MR. BACARISSE: Hearing none, then we'll move
16 to item 5 on the agenda, a contested case, and before we
17 move to those presentations, we'll hear first from General
18 Counsel Tracey Beaver.

19 MS. BEAVER: Thank you, Vice Chair Bacarisse.
20 This is Tracey Beaver, general counsel, for the record.

21 The department was informed that the respondent
22 and his counsel will not be attending today's meeting, and
23 after Mr. Avitia's presentation today, of course you may
24 ask questions, and Mr. Avitia will let you know if there's
25 anything that's outside of the record that would not be

1 able to be considered in the decision.

2 Thank you.

3 MR. BACARISSE: Great. Thank you, Tracey.

4 Daniel Avitia and Brian Coats will now address
5 agenda item 5 which is our contested case. Please.

6 MR. AVITIA: Vice Chairman, members, Ms.
7 Brewster, good morning. For the record, Daniel Avitia,
8 director of the Motor Vehicle Division.

9 As Vice Chair stated, Brian Coats, with me
10 here, presented the case at the State Office of
11 Administrative Hearings for us and is an attorney with the
12 Enforcement Division.

13 Agenda item 5, which can be found on page 9 of
14 your board books, is a contested case regarding the Texas
15 Department of Motor Vehicles v. Flying A Auto, LLC. Staff
16 is asking the Board this morning to issue a final order
17 that concurs with the administrative law judge's proposal
18 for decision which is to deny the renewal and revoke
19 Flying A Auto's general distinguishing number, or GDN,
20 license.

21 The ALJ in this case concluded that based on
22 the evidence and considering the applicable factors for
23 licensure, this application should be denied. The ALJ
24 found that the Board has the authority and the legal
25 grounds to deny the application due to Mr. Brad Johnson's

1 criminal history. Five months prior to filing his renewal
2 application, Mr. Johnson pled guilty to a third degree
3 felony involving misappropriation of funds, more than
4 \$30,000 but less than \$150,000, from automotive
5 dealerships.

6 Specifically, the ALJ determined that the
7 following factors do not weigh in favor of licensure: the
8 nature of Mr. Johnson's criminal activity and direct
9 relationship to the duties and responsibilities of a
10 license holder, and the criminal activity was recent and
11 occurred over a time when Mr. Johnson was approximately 40
12 years old.

13 Flying A did not file exceptions to the ALJ's
14 proposal for decision contesting the judge's findings of
15 fact or conclusions of law. That being said, staff
16 believes the ALJ's analysis of the law and the evidence
17 presented in this case is thorough and that the
18 conclusions of law reached in this case are certainly
19 reasonable.

20 The agency filed an exception only to add
21 citations to the department's fitness rules and conclusion
22 of law number 5. The ALJ subsequently issued an
23 exceptions letter adding the requested citations.

24 Therefore, staff again requests the Board issue
25 an order adopting the judge's corrected findings of fact

1 and conclusions of law and the recommendation which is to
2 deny the renewal application for Flying A Auto, LLC's
3 wholesale GDN license and to revoke the existing GDN
4 license.

5 Flying A was represented by attorney, Mr. Jason
6 Danowsky. Mr. Danowsky received two email notices of this
7 meeting, as well as a phone call yesterday, and he
8 represented, as Ms. Beaver mentioned, that he nor his
9 client would be present today to provide comment to the
10 Board.

11 So members, that concludes my remarks on this
12 item. I'm happy to answer any questions you may have.

13 MR. BACARISSE: Any questions, Board members,
14 please?

15 (No response.)

16 MR. BACARISSE: Hearing none, we will continue
17 then. As was noted by Mr. Avitia, the respondent is not
18 here, and so I would at this point entertain a motion on
19 this item.

20 MR. GRAHAM: I have a motion, Mr. Chairman.

21 MR. BACARISSE: Member Graham.

22 MR. GRAHAM: I move that the Board adopt the
23 SOAH ALJ's findings of fact and conclusions of law stated
24 in the proposal for decision. I believe we have a
25 fiduciary responsibility to the citizens of Texas to

1 provide them the best protections that's allowed by
2 statute. It was clear from the PFD that the respondent
3 admitted to misappropriations of funds from his auto
4 dealerships. Additionally, using the mitigating factors
5 under Occupations Code Section 53.023, the respondent
6 clearly did not show fitness to perform the duties as a
7 licensed wholesale automotive dealer. Because of the
8 seriousness of the crime and its direct relationship to
9 the licensed occupation, I support the conclusion reached
10 by the department and SOAH. I believe that it is
11 critically important that we have a very high bar for
12 licensed independent and franchised dealers in the state.

13 So in conclusion, I move that the Board enter a
14 final order denying the respondent's application to renew
15 his wholesale automotive dealer license and revoking
16 respondent's GDN.

17 MR. BACARISSE: We have a motion. Is there a
18 second?

19 MS. GILLMAN: Second.

20 MR. BACARISSE: Thank you, Member Gillman.

21 At this point is there any other discussion of
22 this motion?

23 MR. GRAHAM: Just one additional comment. It
24 never is a good thing to have to make a motion like this
25 and it's never a good thing for someone's business to be

1 impacted and the lives that surround that to be impacted,
2 but certainly in this case it looks like the individual is
3 making strides to getting back on the right path and
4 getting things turned around and that's very positive. I
5 weighed this very heavily and I do think that at the end
6 of the day our responsibility to the citizens of Texas
7 requires this motion.

8 Thank you.

9 MR. BACARISSE: Thank you.

10 Any other questions, comments?

11 (No response.)

12 MR. BACARISSE: At this point I will call for a
13 vote. All those in favor of the motion signify by raising
14 your hand.

15 (A show of hands.)

16 MR. BACARISSE: And any opposed?

17 (No response.)

18 MR. BACARISSE: Very good. Thank you. For the
19 record, the motion passed unanimously.

20 And Member Graham, I agree with you. Thanks
21 for your comments.

22 We'll next move to rule adoptions, and for your
23 information and for the record, agenda items 6, 9 and 11
24 will be addressed at a future Board meeting. These
25 proposed rules are currently under review by the

1 Regulatory Compliance Division in the Governor's Office,
2 and actually, this is a new policy the governor put in
3 place very recently to review all regulations coming out
4 of state agencies, and I think that certainly Ms. Beaver
5 can comment further on that for us.

6 MS. BEAVER: Thank you, Vice Chair Bacarisse.
7 This is Tracey Beaver, general counsel, for the record.

8 The Regulatory Compliance Division of the
9 Office of the Governor will provide the active supervision
10 needed over rulemaking so state boards controlled by
11 active market participants can invoke that state action
12 anti-trust immunity, so some rules that are going to be
13 proposed by the department will go before the Governor's
14 Office new Compliance Division.

15 Thank you.

16 MR. BACARISSE: Okay. Thank you.

17 So if you're following along on the agenda,
18 we'll now take up item number 7 which is Chapter 221,
19 Salvage Vehicle Dealers, Salvage Pool Operators, and
20 Salvage Vehicle Rebuilders. Mr. Avitia will take us
21 through that.

22 MR. AVITIA: Vice Chairman, thank you.
23 Members, Ms. Brewster, again good morning. Daniel Avitia,
24 director of the Motor Vehicle Division.

25 Today we are asking the Board's approval and

1 permission to publish the adoption of rules in the *Texas*
2 *Register*. These rule changes are listed as agenda item
3 number 7, as the vice chair stated, and begin on page 32
4 of your board book.

5 The rule changes in agenda item 7 are all
6 related to the salvage vehicle industry and implement two
7 bills from the 86th Legislature. I believe adoption of
8 these rules will further streamline the licensure process
9 within the TxDMV and will also certainly align with the
10 governor's directive to state agencies issued on October 8
11 of this year which was to reduce unnecessary and
12 burdensome licensing regulations.

13 The first bill, Senate Bill 604, contains
14 several provisions authorizing licensing statutory changes
15 recommended by the Sunset Advisory Commission. These
16 changes included eliminating salvage agent licenses,
17 eliminating salvage license endorsements, and creating a
18 single salvage license, authorizing the Board to set
19 salvage license terms to two years, currently the term is
20 one year, as well as prorating those fees accordingly.

21 The second bill, House Bill 1667, allows
22 independent motor vehicle dealers to perform salvage
23 functions without also obtaining a salvage dealer license.

24 In addition to these rule changes, they also implement
25 Sunset Advisory Commission's recommendation 3.5 which

1 directs the department to develop clear guidance and
2 criteria for prioritizing investigations and inspections.

3 Today we are proposing adoption of new 221.54
4 that adds three risk-based criteria for when the
5 department may conduct a site visit to a salvage dealer
6 location.

7 The rules in agenda item 7 were first published
8 as proposal in the *Texas Register* on August 23, 2019, and
9 public comment period closed on September 23, 2019. No
10 comments were received for the proposed 221 salvage rules.

11 Members, I request your approval to proceed
12 with adoption and publication in the *Texas Register* of the
13 rule changes included in agenda item 7. If the Board
14 adopts these amendments, new sections and repeals, staff
15 anticipates publication in the December 27, 2019 issue of
16 the *Texas Register* and an effective date of January 2,
17 2020.

18 Members, this concludes my remarks on this
19 agenda item. I'm certainly happy to answer any questions
20 you may have.

21 MR. BACARISSE: Members, any questions?

22 (No response.)

23 MR. BACARISSE: Daniel, would you just go ahead
24 and do background on item number 8, Chapter 215, Motor
25 Vehicle Distribution, as well. We're going to take

1 separate votes but I figured you could brief us on that
2 issue as well.

3 MR. AVITIA: On item number 8?

4 MR. BACARISSE: Item number 8, Chapter 215,
5 Motor Vehicle Distribution amendments, Chapter 221,
6 Salvage Vehicle Dealers, Salvage Pool Operators.

7 MR. AVITIA: Yes, I can certainly take that one
8 up as well at the same time.

9 MR. BACARISSE: Great. And we'll vote
10 separately.

11 MR. AVITIA: Correct.

12 MR. BACARISSE: Thank you.

13 MR. AVITIA: You bet.

14 Again, members, for the record, Daniel Avitia.

15 This morning again we're asking for the Board's approval
16 and permission to publish the adoption of rules in the
17 *Texas Register*. Rule changes for agenda item 8 begin on
18 page 48 of your board books.

19 The rule changes in agenda item 8 implement
20 Senate Bill 1200 from the 86th Legislature as well.
21 Senate Bill 1200 provides military spouses the opportunity
22 to engage in business or occupation without a Texas
23 license if licensed in another state with similar
24 requirements and are in good standing. Amendments to
25 215.83 in the Motor Vehicle Distribution chapter, and

1 221.17 in the Salvage chapter implement this bill.

2 Adoption of this bill will also align with the governor's
3 directive, as I mentioned in the previous agenda item.

4 These rules were first published in the *Texas*
5 *Register* on August 23, 2019 and the public comment period
6 closed on September 23. The department received one
7 comment from the Texas Independent Automobile Dealers
8 Association supporting this rule.

9 Members, I request your approval again to
10 proceed with adoption and publication of these rules,
11 adoption of these amendments, new sections and repeals. I
12 anticipate publication, if approved or adopted, in the
13 December 27, 2019 issue of the *Texas Register*, with also
14 an effective date of January 2, 2020.

15 Members, this concludes my remarks on agenda
16 item 8. Certainly happy to answer any questions.

17 MR. BACARISSE: Members, any questions? Ms.
18 Gillman.

19 MS. GILLMAN: Yes. I have one question. On
20 item number 7 under HB 1667, allowing independent motor
21 vehicle GDN license holders to perform certain salvage
22 related activities. Can you give me an example of an
23 activity?

24 MR. AVITIA: Absolutely. Thank you for that
25 question.

1 So for example, many GDN holders also hold a
2 salvage license and go to salvage yards or salvage
3 auctions to purchase vehicles, which would require a
4 salvage license. This will eliminate the requirement for
5 that salvage license and essentially allow a GDN holder to
6 function both a used car dealer as well as a salvage
7 dealer in that situation.

8 MS. GILLMAN: I guess I was wondering, I'm a
9 franchised car dealer and every once in a while, not too
10 often but every once in a while I do get a car in on trade
11 that is traded in that has a salvage title and we take it
12 immediately to the auction. I was just wondering if that
13 activity would be similar to an independent motor vehicle
14 license holder in that we both -- I'm not trying to
15 acquire but trying to sell. Is that a similar activity
16 and should franchised GDN license holders also be
17 included? I don't know.

18 MR. AVITIA: Under your GDN license, that
19 activity would be permitted.

20 MS. GILLMAN: So we already have that.

21 MR. AVITIA: You do not need a separate salvage
22 license to formalize that transaction.

23 MS. GILLMAN: Okay. And so you don't think
24 that franchised motor vehicle GDNs need to be included in
25 this HB because it's already there.

1 MR. AVITIA: Correct. All franchised dealers
2 already have a GDN.

3 MS. GILLMAN: Okay. Well, thank you.

4 MR. BACARISSE: Good to know.

5 MS. McRAE: Vice Chairman, I have a question.

6 MR. BACARISSE: Yes, Member McRae.

7 MS. McRAE: Following Stacey's question, so to
8 clarify, franchised dealers would be allowed also under
9 their GDN the same as the independent dealers?

10 MR. AVITIA: That is correct, ma'am. The law
11 states so long as you have a GDN, you can function
12 without -- you can take care of those salvage transactions
13 without also having to have a separate salvage license.

14 MS. McRAE: Okay. Thank you.

15 MR. AVITIA: Yes, ma'am.

16 MR. BACARISSE: Members, any other questions on
17 item 7?

18 (No response.)

19 MR. BACARISSE: Seeing none, I would entertain
20 a motion on item 7.

21 MS. McRAE: I'd like to make a motion.

22 MR. BACARISSE: Member McRae.

23 MS. McRAE: I move that the Board approve the
24 adoption of the amendments, the repeal and the new section
25 to Chapter 221, as recommended by staff.

1 MR. BACARISSE: There is a motion on the floor.
2 Is there a second?

3 MS. WASHBURN: Second.

4 MR. BACARISSE: There is a second by Member
5 Washburn.

6 So all in favor signify by raising your hand,
7 please.

8 (A show of hands.)

9 MR. BACARISSE: Any opposed?

10 (No response.)

11 MR. BACARISSE: Let the record reflect that was
12 unanimously passed.

13 And now we need to vote on item number 8,
14 Chapter 215. Are there any questions for Mr. Avitia on
15 item number 8?

16 MS. WASHBURN: I have a question.

17 MR. BACARISSE: Ms. Washburn.

18 MS. WASHBURN: So what is the impact on your
19 job or the department's job on having to vet these people
20 that have -- you know, the spouses of active military
21 folks with other states? That was, sorry, not very well
22 said. But is there an impact? So basically, what we're
23 saying is as long as they're in good standing, the
24 licensed is in good standing with another state that we'll
25 accept it here in the State of Texas. Is there an impact

1 on vetting that with you guys? Is that easy to do?

2 MR. AVITIA: Member Washburn, you're speaking
3 to Senate Bill --

4 MS. WASHBURN: Number 8.

5 MR. AVITIA: -- 1200, agenda item 8. And I
6 think the impact to the department will be minimal. The
7 way we looked at this, I think we may have one a year, if
8 even. I think this bill was implemented for licenses more
9 on the TDLR side of business and the myriad of licenses
10 that they have. I really see this as minimal impact for
11 this department.

12 MS. WASHBURN: Okay. Makes a lot of sense. I
13 was just curious. Thanks.

14 MR. BACARISSE: Any other questions, members?

15 (No response.)

16 MR. BACARISSE: Seeing none, I would entertain
17 a motion on item number 8.

18 MS. WASHBURN: I'd like to make a motion.

19 MR. BACARISSE: Member Washburn.

20 MS. WASHBURN: I move that the Board approve
21 the adoption of the amendments to Section 215.83 and
22 221.17, as recommended by staff.

23 MR. BACARISSE: We have a motion on the floor.
24 Is there a second?

25 MR. GRAHAM: Second.

1 MR. BACARISSE: Member Graham seconds.

2 All in favor please signify by raising your
3 hand.

4 (A show of hands.)

5 MR. BACARISSE: Any opposed?

6 (No response.)

7 MR. BACARISSE: Let the record reflect the
8 motion passed unanimously.

9 Thank you, Mr. Avitia.

10 MR. AVITIA: Members, thank you.

11 MR. BACARISSE: We'll move to agenda item
12 number 10 regarding rule adoption for Section 217.15,
13 which will be presented by Jeremiah Kuntz.

14 Mr. Kuntz, I turn it over to you.

15 MR. KUNTZ: Good morning, members. Jeremiah
16 Kuntz, director of the Vehicle Titles and Registration
17 Division.

18 Before you for your consideration is a new
19 Section 217.15. These rules are relating to House Bill
20 2315. That bill required the department to adopt rules
21 relating to the evidence of ownership of temporary housing
22 provided by governmental agencies in response to a natural
23 disaster. More specifically, what this bill did is
24 allowed for other state agencies that are providing
25 temporary housing, i.e., travel trailers, for individuals

1 that are impacted by a natural disaster, such as a
2 hurricane, to come to the department directly to obtain
3 titles for those vehicles and they would not have to go to
4 the local county tax assessor-collector in order to obtain
5 those titles.

6 During natural disaster, you could have county
7 offices that are closed, you could have impacted areas
8 there. This allows for a streamlined process for those
9 agencies to come to the department in order to obtain
10 title quickly so that we can provide temporary housing to
11 those impacted by the disaster.

12 MR. BACARISSE: Any questions for Mr. Kuntz on
13 this item?

14 (No response.)

15 MR. BACARISSE: Seeing none, I'd entertain a
16 motion.

17 MS. GILLMAN: I'd like to move.

18 MR. BACARISSE: Member Gillman.

19 MS. GILLMAN: I'd like to move that the Board
20 approve the adoption of new Section 217.15, as recommended
21 by staff.

22 MR. BACARISSE: There's a motion on the floor.
23 Is there a second?

24 MS. McRAE: I second.

25 MR. BACARISSE: Seconded by Member McRae.

1 All in favor signify by raising your hand,
2 please.

3 (A show of hands.)

4 MR. BACARISSE: Any opposed?

5 (No response.)

6 MR. BACARISSE: Let the record reflect the
7 motion passed unanimously. Thank you.

8 Now we move to item number 12. Again, Mr.
9 Kuntz, you can present that for us, please.

10 MR. KUNTZ: Again for the record, Jeremiah
11 Kuntz, director of the Vehicle Titles and Registration
12 Division.

13 Before you for your consideration are rule
14 amendments to Chapter 217.27. These rules are related to
15 House Bill 1262 which allows the department to provide
16 extended registration to certain vehicles. Specifically,
17 these would be trailers that are not subject to
18 inspection; those are trailers that are under 7500 pounds.

19 What the bill allowed and what these rules will allow is
20 for individuals to get up to five years of registration
21 for those trailers, and part of the reason for this is to
22 allow somebody to not have to come in frequently to
23 register their trailers.

24 These vehicles do not have to be inspected
25 annually. Because of their weight they're exempt from the

1 inspection requirements, and therefore inspection does not
2 have to be validated every year at the time of
3 registration, so the legislature saw fit to allow those
4 individuals to get up to five years of registration in
5 order to simplify this process for consumers.

6 MR. BACARISSE: Thank you, Mr. Kuntz.

7 Members, are there any questions on this item,
8 item 10?

9 (No response.)

10 MR. BACARISSE: I would entertain a motion on
11 item 10.

12 MS. McRAE: I'll make a motion, but aren't we
13 on 12?

14 MR. BACARISSE: I'm sorry. How about that?

15 MR. GRAHAM: He was just checking.

16 MR. BACARISSE: Good job, Tammy.

17 MR. GRAHAM: Good catch.

18 (General laughter.)

19 MS. McRAE: I move that the Board approve the
20 adoption of amendments to Section 217.27, as recommended
21 by staff.

22 MR. BACARISSE: Great. Thank you, Member
23 McRae.

24 MS. McRAE: You're welcome.

25 MR. BACARISSE: There is a motion on the floor.

1 Is there a second?

2 MR. GRAHAM: I'll second that, and my wife will
3 second it too.

4 MR. BACARISSE: Good. Member Graham.

5 MR. GRAHAM: She's very appreciative of this,
6 so yes, absolutely.

7 (General laughter.)

8 MR. BACARISSE: We'll hear the rest of that
9 story in a minute.

10 All in favor of the motion please signify by
11 raising your hand.

12 (A show of hands.)

13 MR. BACARISSE: Any opposed?

14 (No response.)

15 MR. BACARISSE: Thank you. Let the record
16 reflect the motion passed unanimously.

17 Now we'll move to item number 13. Again, Mr.
18 Kuntz, please.

19 MR. KUNTZ: Again for the record, Jeremiah
20 Kuntz, director of the Vehicle Titles and Registration
21 Division.

22 Before you, agenda item 13, are amendments to
23 Section 217.41 of the Administrative Code. These changes
24 are related to House Bill 643 which expands the county
25 locations in which somebody who is needing a handicapped

1 placard or disabled parking placard to be able to obtain
2 those.

3 Prior to this statutory change, an individual
4 coming into the state from another state who is receiving
5 treatment in a county could apply for a disabled parking
6 placard in the county in which they were receiving
7 treatment. This bill actually expanded so that anyone in
8 the State of Texas can apply for a disabled parking
9 placard in whatever county they are receiving treatment.
10 So for example, if somebody lived in El Paso and traveled
11 to Houston for cancer treatment, then they would be able
12 to go to the Harris County tax office in order to obtain
13 that parking placard rather than having to go all the way
14 back to El Paso to get that. So it is definitely
15 something that's friendly for our citizens.

16 MR. BACARISSE: Thank you, sir.

17 Any questions, members, on this item?

18 (No response.)

19 MR. BACARISSE: Seeing none, I would entertain
20 a motion on item 13.

21 MS. WASHBURN: I'd like to make a motion.

22 MR. BACARISSE: Member Washburn.

23 MS. WASHBURN: I move that the Board approve
24 the adoption of the amendments to Section 217.41, as
25 recommended by staff.

1 MR. BACARISSE: There is a motion on the floor.
2 Is there a second?

3 MS. McRAE: I'll second.

4 MR. BACARISSE: Member McRae seconds.

5 Please signify a yay vote by raising your hand,
6 please.

7 (A show of hands.)

8 MR. BACARISSE: Any opposed?

9 (No response.)

10 MR. BACARISSE: Let the record reflect the
11 motion passed unanimously. Thank you.

12 Now we move to item number 14, and I believe
13 you'll lay that one out for us as well, Mr. Kuntz.

14 MR. KUNTZ: I will.

15 MR. BACARISSE: Okay.

16 MR. KUNTZ: For the record, Jeremiah Kuntz,
17 director of the Vehicle Titles and Registration Division.

18 Before you is agenda item number 14 for your
19 consideration. These will be laid out for proposal and
20 public comment, so you're not taking final action on these
21 rules, they will be published for public comment.

22 These rules are a long time in the making, if
23 you will. We have been working on assembled vehicles for
24 some time now, working with industry folks, stakeholders,
25 and trying to make sure that we come up with a process by

1 which the state could title and register assembled
2 vehicles. These would be vehicles that are built at home
3 or otherwise. Many of these are classic vehicles, those
4 kinds of things, replicas. And so what you see before you
5 are the results of many hours of coming up with the rule
6 language to implement House Bill 1755 from this last
7 legislative session.

8 The primary purpose is to implement the
9 legislative goal of titling and registering these
10 assembled vehicles that was enacted in that bill and to
11 achieve that goal the proposed procedures differ
12 significantly from standard titling and registration
13 procedures due to the nature of assembled vehicles. And I
14 want to really kind of point that out, that this is a new
15 process, if you will, for the titling and registering of
16 vehicles that is different than a standard vehicle that
17 would be coming through the titling and registration
18 process.

19 The proposed amendments to 217.3(5) delete
20 references to assembled vehicles because those are now
21 addressed in a new Subchapter L, so there was a lot of
22 line through, striking out of language that was taken out
23 of an existing section and moved to a whole new subchapter
24 so that we could try and address all of the separate and
25 new ways that we're going to be titling and registering

1 these vehicles in a different subchapter.

2 Additionally, proposed amendments to 217.3 make
3 changes concerning motor-driven cycles. This was to clean
4 up some legislation from another bill that passed as well.

5 It's really more cleanup, not necessarily associated with
6 the assembled vehicles, but is in the same section of the
7 Administrative Code that we were opening up, so we needed
8 to try and address that at the same time.

9 As well, farm trailers and farm semitrailers
10 there are some changes to those definitions as well that
11 were actually a long time in the making as well from the
12 previous legislative session that we have been needing to
13 get done but because we've been working on these rules and
14 these rules were not able to be published we could not
15 address, so we're finally getting around to addressing
16 that issue.

17 The proposed amendments to 217.141 through .143
18 implement the assembled vehicle inspection requirements
19 under Transportation Code 731.101 through 731.102. This
20 is really a very large portion of what these rules are
21 needed to do in order to implement the statutory changes.

22 Statute required us to come up with an inspection process
23 to inspect an assembled vehicle prior to titling and
24 registration of the vehicle. That's primarily because it
25 has been assembled by someone who is not necessarily in

1 the business. These are hobbyists that are assembling
2 these vehicles, they're not major manufacturers, and so
3 there's an additional requirement for a certified master
4 mechanic to actually inspect these vehicles and the
5 various component parts used to assemble the vehicles to
6 ensure their safety and safe operation on the roadways.
7 So that new section handles what that inspection process
8 will look like, what items of equipment will be inspected,
9 and lays out the requirement for a certified master
10 mechanic to be the person that conducts that inspection.

11 The proposed new Subchapter L, 217.401 through
12 .407 implements the assembled vehicle titling and
13 registration requirements under Chapter 731. The proposed
14 new sections address the titling application review
15 process, vehicle inspection numbers, and evidence of
16 ownership, including a process to obtain a title using a
17 bond as evidence of ownership.

18 So with these assembled vehicles there's not a
19 manufacturer's certificate of origin, so with a new
20 vehicle that's rolling off an assembly plant from a major
21 manufacturer, a manufacturer's certificate of origin is
22 issued to that vehicle with a VIN number laying out the
23 make, model, year, all of those critical important things
24 that we would need. With these vehicles there's not
25 always that document, so we would not have a

1 manufacturer's certificate of origin for a vehicle that's
2 been built by a hobbyist. It won't necessarily have a VIN
3 number assigned to it, so what these rules do are lay out
4 the procedures for somebody to obtain a VIN number to be
5 affixed to the vehicle, assigned by the department, and
6 lay out the different requirements for what evidence of
7 ownership must be presented at the time of title to ensure
8 that the person that's applying for title is actually the
9 owner of the vehicle so that we can positively identify
10 the owner.

11 And with that, that completes my layout, and
12 I'll be happy to answer any questions.

13 MR. BACARISSE: Members, any questions for Mr.
14 Kuntz?

15 MR. GRAHAM: I do.

16 MR. BACARISSE: Go ahead, Mr. Graham.

17 MR. GRAHAM: So just to be clear, this
18 assembled vehicle language includes what we previously
19 called dune buggies?

20 MR. KUNTZ: Yes, sir.

21 MR. GRAHAM: And does it include what was
22 described as a replica?

23 MR. KUNTZ: Yes, sir.

24 MR. GRAHAM: Okay. And does this mean, if this
25 rule passes, that I can ditch this chart I've carried

1 around for my entire DMV career?

2 MR. KUNTZ: We worked very hard on that chart.

3 MR. GRAHAM: I'm sorry. I got excited. I
4 thought I could finally ditch it.

5 MR. BACARISSE: That's awesome.

6 MR. GRAHAM: Sorry about that, Mr. Chairman.

7 MR. BACARISSE: Don't stand up and yell amen,
8 hold on a second.

9 MR. GRAHAM: Well, I will retain the chart
10 then. I'm good.

11 MR. BACARISSE: You were just trying to see if
12 I was awake after missing that agenda item.

13 MR. GRAHAM: I know. I'm sorry about that.

14 (General laughter.)

15 MR. BACARISSE: We're good. Any other
16 questions?

17 MS. GILLMAN: So we're not voting on this?

18 MR. BACARISSE: We are voting to actually
19 propose the rules and they will be published for a public
20 comment period of one month, or how long is that comment
21 period?

22 MR. KUNTZ: Thirty days.

23 MR. BACARISSE: Thirty days. Okay. So that
24 would be the action before us under this agenda item would
25 be just to vote to publish and receive public comment,

1 which I'm sure there will be plenty of when these rules
2 are pushed out for comment.

3 MR. GRAHAM: Do you think this is where the
4 hobbyists want it to be?

5 MR. KUNTZ: I sure hope so.

6 MR. GRAHAM: To the best of your knowledge.

7 MR. KUNTZ: To the best of my knowledge.

8 MR. GRAHAM: There's some good solid agreement
9 with the language.

10 MR. KUNTZ: We have not gone out to seek input
11 up until this point from the industry. I mean, that's
12 what the public comment period is intended to do is to
13 seek that input from them. In order to get these before
14 the public for public comment in the most expeditious way,
15 we are trying to bring these forward to publish them for
16 public comment so that we can solicit those comments from
17 them and make sure that we are in line with what the
18 industry is expecting on this.

19 MR. GRAHAM: Thank you.

20 MR. BACARISSE: And of course, that process is
21 taken, obviously, very seriously. The public is very
22 welcome to make these comments and they will be all of
23 them read and we listen.

24 MR. KUNTZ: We welcome the comments.

25 MR. GRAHAM: For sure.

1 MR. KUNTZ: Obviously, we hope that we have hit
2 the mark on the rules but if there's things that we've
3 missed or things that need to be changed, that's what the
4 public comment period is for is for members of the public
5 to provide us with their input so that we can ensure that
6 the rules are in a way that folks can actually get through
7 this process.

8 MR. BACARISSE: Members, any other questions
9 for Mr. Kuntz?

10 MS. GILLMAN: I have one.

11 MR. BACARISSE: Yes, Member Gillman.

12 MS. GILLMAN: I guess instead of classic car
13 hobbyist, my first thought was a manufacturer that is not
14 necessarily -- has not met the standards by which to be a
15 manufacturer, could you ship the body of a car to you one
16 month and an engine the next month and as long as you put
17 it all together you can build your own car and obtain a
18 VIN number and the title.

19 MR. KUNTZ: So under state and federal law,
20 essentially the final producer of the vehicle, the person
21 who actually puts all of the parts and pieces together in
22 that final assembly is the ultimate builder of the
23 vehicle. I'll use that term instead of manufacturer or
24 hobbyist, they're the person that did the final assembly.
25 So if there is a company that is mass producing kits,

1 they're producing bodies, frames, all of the steering
2 components, they can ship those unassembled to an
3 individual for final assembly.

4 Usually what is contemplated is that they are
5 not including the engine in those kits, so in most
6 instances what you will see, we see kit manufacturers all
7 the time that will send you a kit that's 90 percent,
8 you've got to add the engine, basically, and you'll reach
9 out to a major manufacturer, Chevy, Ford, Mopar, whoever,
10 to obtain an engine to put into that vehicle. And the
11 person, the hobbyist, that is assembling that vehicle in
12 their garage, they would use this process by which to
13 title and register that vehicle.

14 MR. BACARISSE: Member Scott.

15 MS. GILLMAN: I guess I was thinking that it
16 would be a way, a manufacturer that's not meeting
17 emissions guidelines or unable to pass the NHTSA standards
18 could enter the market. I don't know, that was my
19 thought. Maybe I'm wrong on that. That it's just a way
20 to bypass and yet get their vehicles -- I don't know.

21 MR. KUNTZ: The vehicles that are being
22 constructed and assembled through this process are not
23 necessarily going to meet the federal standard. They will
24 not have airbags, they will not have been crash tested as
25 a manufacturer would have to crash test a vehicle, they

1 will not have a 17 digit conforming VIN attached to them,
2 as is required by NHTSA. So yes, many of the requirements
3 that are required under federal regulations for a newly
4 manufactured vehicle will be avoided through this process.

5 You are absolutely correct.

6 MR. BACARISSE: Member Scott, do you have a
7 question?

8 MR. SCOTT: Is there any limitation as to how
9 many vehicles an individual or an entity can process in
10 the course of a year?

11 MR. GRAHAM: That would be my question.

12 MS. GILLMAN: That's a good question.

13 MR. KUNTZ: So these rules do not lay out a
14 specific number. The statute defines a hobbyist as
15 somebody who is constructing a vehicle for personal use.
16 That's the standard by which these rules are being
17 proposed.

18 MR. SCOTT: And that's in like House Bill 1755?

19 MR. KUNTZ: Yes, sir.

20 MR. SCOTT: And it says hobbyist, or what does
21 the language say?

22 MR. KUNTZ: It defines a hobbyist as somebody
23 who is constructing an assembled vehicle for personal use,
24 and that's an assembled motor vehicle, assembled trailer,
25 or assembled motorcycle.

1 MR. SCOTT: So the assumption there is that
2 would limit. I guess the question is how many vehicles
3 can a hobbyist build in a year?

4 MR. KUNTZ: There is not a limit on the number
5 of vehicles a hobbyist can construct in a year. If they
6 are falling under the definition of a hobbyist, then the
7 vehicles have to be constructed for personal use.

8 MR. SCOTT: Their personal use?

9 MR. KUNTZ: For personal use.

10 MR. SCOTT: Not necessarily their personal use.

11 MR. GRAHAM: Personal use.

12 MR. KUNTZ: For personal use.

13 MR. BACARISSE: It's a little ambiguous. The
14 statutory language sounds like it's a bit ambiguous.
15 Would that be fair to say, Mr. Kuntz? I don't want to put
16 you on the spot too hard. It's broad.

17 MR. KUNTZ: I'll go ahead and say that this is
18 the particular provision that is probably the most complex
19 in 1755 that caused us to really take a very deep dive
20 into this. 1755 lays out quite a few definitions around
21 assembled vehicles. Those definitions are very carefully
22 crafted, I would say, but there are three definitions for
23 assembled vehicles, there are also replicas, there are
24 also what are known as glider kits that are also included
25 in the definition of an assembled vehicle. Glider kits

1 and replicas are not required to be built by a hobbyist
2 under that statute under 1755. However, assembled motor
3 vehicles, assembled trailers, and assembled motorcycles
4 are all required to be built by hobbyists. So there are a
5 couple of vehicle classes under this definition, which
6 would include custom vehicles and street rods, that are
7 not required to be built by hobbyists.

8 MS. McRAE: I have a question.

9 MR. BACARISSE: Member McRae.

10 MS. McRAE: Jeremiah, if once the vehicle is
11 initially titled -- kind of following up with Member
12 Scott's question -- and it is titled in that individual's
13 name that assembled the vehicle, would there be a notation
14 or anything that would indicate that it's assembled for
15 subsequent sales? Let's say you assembled and then later
16 you sold it to me, and then you sell five or more, then
17 that would fall under, I would think, having to obtain a
18 GDN. Is that correct?

19 MR. KUNTZ: Because we have assembled vehicles
20 today, we have custom vehicles and street rods fall into
21 that category, that we title today and those are titled as
22 ASVE brands, so on the title you would have a brand that
23 says this is an assembled vehicle. ASVE is the acronym
24 that we use on the title for assembled vehicles. We also
25 have a replica brand that we would apply to vehicles that

1 will continue as well, so there will be brands that are
2 applied to those titles. There is no tracking of how many
3 assembled vehicles John Smith has assembled in a year. We
4 don't have a mechanism, a regulatory mechanics, by which
5 to go in and see that John Smith assembled five in order
6 to do the kind of tracking that you're referring to.

7 MR. SCOTT: Do we have the authority under the
8 statute to limit that or regulate that to a certain
9 number?

10 MR. KUNTZ: That's a good question for general
11 counsel.

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

14 HB 1755 does provide that a hobbyist is someone
15 who assembles these vehicles for personal use and also
16 does not engage in continuous sale of these vehicles, and
17 the rule proposal does define continuous sale, as Mr.
18 Kuntz was mentioning earlier. Continuous sale is
19 considered offering for sale or selling five or more
20 assembled vehicles, and the time frame for that is within
21 a calendar year if those vehicles are not owned and titled
22 in the name of the owner.

23 MR. SCOTT: Thank you. That answers my
24 question.

25 MR. BACARISSE: Members, any other questions at

1 this point? Member Gillman.

2 MS. GILLMAN: Just to complement what Paul
3 said, I think it should be -- I think I would feel better
4 if it was clearly defined and limited to something;
5 otherwise, the hobbyist becomes a manufacturer.

6 MR. KUNTZ: I want to make sure that we're
7 clear. The hobbyist only applies to assembled motor
8 vehicles, assembled motorcycles, and assembled trailers.
9 The hobbyist definition does not apply to custom vehicles,
10 street rods, replicas and glider kits. So that
11 restriction that we've just laid out does not apply to
12 those three categories of vehicles.

13 MR. BACARISSE: But to clarify or maybe amplify
14 Member Gillman's question, Ms. Beaver, what you read from
15 or what you quoted was the statute itself, is that
16 correct, under definition of hobbyist in terms of building
17 only a limit of five, or being able to sell only five a
18 year? Is that in statute, or where is that language
19 coming from?

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

22 So HB 1755 defines a hobbyist, and I can read
23 from that.

24 MR. BACARISSE: Please.

25 MS. BEAVER: "A hobbyist means a person who

1 builds or assembles an assembled vehicle for personal use,
2 does not engage in the continuous sale of vehicles, as
3 defined by the department." And I'll stop there. So the
4 word "continuous sale" is statutory in HB 1755. The
5 department then, in the proposed rules, has defined
6 continuous sale, and that's what I read from earlier
7 regarding the offering for sale or selling five or more
8 assembled vehicles in a calendar year.

9 MR. BACARISSE: That's our language that we've
10 defined. Right?

11 MS. BEAVER: Yes.

12 MR. BACARISSE: As per statute's direction.

13 MS. BEAVER: Yes.

14 MR. BACARISSE: Okay, great. Thank you.

15 Members, any other questions? Member Graham.

16 MR. GRAHAM: So the conclusion there is it is
17 defined, it is essentially defined as written.

18 MR. BACARISSE: Could be if this rule is passed
19 as proposed.

20 MR. GRAHAM: Would you agree with that?

21 MR. KUNTZ: Yes. For assembled motor vehicles,
22 assembled trailers, and assembled motorcycles, not for
23 replicas, custom vehicles, street rods, and glider kits.

24 MR. GRAHAM: Okay, great. Thank you.

25 MR. BACARISSE: Member Scott.

1 MR. SCOTT: So you could have someone who is --
2 the replicas, I know that this is an issue we're trying to
3 engineer our way around to help those people, the
4 hobbyists and so forth, but I'm just curious with the
5 replica kits and so forth, does this open up a channel for
6 distribution of those vehicles that doesn't currently
7 exist?

8 MR. KUNTZ: Tracey.

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

11 Assembled vehicles that are replicas may only
12 be transferred to and by dealers, so there's that
13 restriction as well.

14 MR. BACARISSE: I have a question of Mr. Scott,
15 if I may, just to add or amplify. So if I'm a hobbyist
16 and I'm putting a replica together for my own personal
17 use, that's one thing, but if I attempt to want to sell
18 them, then I would have to either obtain a dealer's
19 license or I'm limited by what you just said, Ms. Beaver,
20 basically it would have to be a dealer that would sell
21 them. I could build them for that dealer. Right? Is
22 that the way I read that or is that what I'm hearing?

23 MR. KUNTZ: The way that I understand the
24 statute is an auto dealer is not allowed to engage in the
25 sale of assembled motor vehicles, assembled trailers, or

1 assembled motorcycles. That restriction does not apply to
2 replicas, custom vehicles and street rods where a dealer
3 may sell those vehicles, which is what the statute was
4 clarifying, that if somebody builds a replica 1967 hot rod
5 or whatever, that those can be sold by licensed dealers in
6 the state, however, a dune buggy, for example, is not
7 allowed to be sold by a dealer.

8 MR. GRAHAM: New or used.

9 MR. KUNTZ: New or used.

10 MR. BACARISSE: Any other questions, members?

11 (No response.)

12 MR. BACARISSE: Hearing none, at this point I
13 would entertain a motion to approve item number 14 which
14 is the publication of this rule for public comment.

15 MR. PREWITT: Mr. Chairman, I'd like to make a
16 motion, please.

17 MR. BACARISSE: Member Prewitt.

18 MR. PREWITT: I move that the Board approve the
19 proposed amendments to Sections 217.3 and 217.141 through
20 217.143, and new Subchapter L, Chapter 217 rules for
21 publication in the *Texas Register* for public comment.

22 MR. BACARISSE: We have a motion on the floor.
23 Is there a second?

24 MR. SCOTT: Second.

25 MR. BACARISSE: Member Scott seconds the

1 motion.

2 All in favor raise your hand, please.

3 (A show of hands.)

4 MR. BACARISSE: All opposed?

5 (No response.)

6 MR. BACARISSE: Let the record reflect that
7 motion passed unanimously. We look forward to the
8 activity that will be generated from the publication of
9 this proposed rule.

10 Thank you, Mr. Kuntz.

11 MR. GRAHAM: I think I'll hold on to my
12 spreadsheet a little longer.

13 (General laughter.)

14 MR. BACARISSE: You may want to frame it.

15 We now move to item number 15 on our agenda
16 which is a briefing on specialty plate designs.

17 And gosh, Mr. Kuntz, you're up again, we won't
18 let you go.

19 MR. KUNTZ: Sorry.

20 MR. BACARISSE: That's all right. This is item
21 15.A. We actually have two items under 15, A and B. So
22 do you want to brief us on both and then we'll vote on the
23 two of them?

24 MR. KUNTZ: For the record, Jeremiah Kuntz,
25 director of the Vehicle Titles and Registration Division.

1 Before you are two license plate redesigns, so
2 you can see them on the board here. Both of these are for
3 the Texas A&M University.

4 (General talking and laughter.)

5 MR. KUNTZ: So these redesigns are at the
6 request of the university in order to update their logo
7 that is on the plate but also to change the background as
8 well. So as you can see, we've got one of them that is now
9 going to have an all black background that was requested
10 by the university as well.

11 I really wanted to kind of go into a little bit
12 just to help understand, there's a word in here, crossover
13 plates that we wanted to make sure that the Board
14 understood what a crossover plate was. So we have three
15 ways that a license plate is brought up or I guess offered
16 for public sale: we have statutory license plates, we
17 have sponsored license plates by a state agency, and then
18 we have our My Plates program.

19 The My Plates program provides marketing
20 services for a license plate. They go out, they push
21 these license plates, they've got call centers for call
22 center support, those kind of things, to really try and
23 get the word out on a specific license plate. If a
24 license plate is not in the My Plates program, it is up to
25 the sponsoring entity, whether it be the state agency, the

1 nonprofit organization, whoever it is, to market their
2 license plates for sale. At certain times we will have
3 individuals that have a license plate that is not in the
4 My Plates program that wants to cross over into the My
5 Plates program so they can enjoy the benefits of having
6 that marketed service, the sale online, all of those
7 things that My Plates provides to the State of Texas.

8 And so what you have here is one license plate
9 that is a crossover plate -- where that term is from --
10 that is being marketed by My Plates and it was getting
11 redesigned as well. So just wanted to make sure y'all
12 understood what that term was in case there were any
13 questions, but really, it's just a matter of a plate
14 that's crossing over from not being marketed into the
15 marketing program.

16 For your consideration are the two redesigned
17 license plates before you.

18 MR. BACARISSE: Mr. Kuntz, the plates on our
19 left as we look at them vertically -- should I look at it
20 vertically or horizontally? I mean, the plate on the left
21 is the current plate, the plate on the right would be the
22 new plate. Is that correct?

23 MR. KUNTZ: The redesigns -- hold on, I've got
24 to look at these.

25 MR. BACARISSE: Sorry. I want to know what the

1 Aggies are doing; I've got to keep track.

2 MR. KUNTZ: (Not at microphone.) So this
3 license plate and this license plate, the ones on the
4 bottom.

5 MR. BACARISSE: Oh, those are the two new ones
6 on the bottom. Okay. All right. Thank you.

7 MR. KUNTZ: Let me say that back into the
8 record. The two license plates on the bottom are the new
9 license plate designs. There is a very slight nuance that
10 you will see in the logo itself. There's the highlight is
11 in maroon on the previous logos, it is now a silver
12 highlight on the new logo, which was one of the primary
13 reasons for the redesign request.

14 MR. BACARISSE: Okay, good.

15 Members, any other questions?

16 (No response.)

17 MR. BACARISSE: I'd entertain a motion on item
18 15.A.

19 MS. GILLMAN: I would like to make a motion.

20 MR. BACARISSE: Member Gillman.

21 MS. GILLMAN: I move that the Board approve the
22 Texas A&M maroon redesign specialty plate. That's item
23 15.A.

24 MR. BACARISSE: There is a motion on the floor.
25 Is there a second?

1 MS. McRAE: I second.

2 MR. BACARISSE: Member McRae seconds.

3 All in favor please raise your hand.

4 (A show of hands.)

5 MR. BACARISSE: All opposed?

6 (No response.)

7 MR. BACARISSE: Let the record reflect that was
8 unanimous. Thank you, members.

9 MS. GILLMAN: Again, on agenda item 15.B, I
10 move that the Board approve the Texas A&M classic crossover
11 redesign specialty plate.

12 MR. BACARISSE: Very good. There is a motion
13 on the floor. Is there a second?

14 MR. SCOTT: Second.

15 MR. BACARISSE: Mr. Scott is our second.

16 All in favor please raise your hand.

17 (A show of hands.)

18 MR. BACARISSE: Opposed?

19 (No response.)

20 MR. BACARISSE: That is unanimous as well.

21 Thank you, Mr. Kuntz. I think we're finally
22 going to let you go now. Thank you.

23 We're going to move now to item 16, Finance and
24 Audit, and Mr. Archer is here to present to us. We have
25 two items under item number 16, one is for a vote.

1 So please, Mr. Archer.

2 MR. ARCHER: Good morning, Vice Chair Bacarisse
3 and Board members. For the record, my name is Jimmy
4 Archer and I'm the director of the Motor Carrier Division.

5 This agenda item may be found on page 217 of
6 your board books.

7 Today I'm requesting the Board delegate
8 authority to the executive director, Whitney Brewster, for
9 the approval and execution of a new services contract for
10 the Commercial Vehicle Information Exchange Window, also
11 known as CVIEW. CVIEW is the main component of the
12 Innovative Technology Deployment program, also called ITD.

13 The Innovative Technology Deployment program is a
14 national program administered by the Federal Motor Carrier
15 Safety Administration that facilitates data sharing within
16 and between states and the FMCSA.

17 A new contract is needed for a vendor to
18 provide software maintenance for CVIEW hosting and support
19 and maintain Core ITD compliance that can assist in
20 developing projects that fit within Federal Motor Carrier
21 safety. The current vendor contract expires on January
22 31, 2020.

23 With the CVIEW tool, the State of Texas
24 receives and shares motor carrier safety data with other
25 states. This includes real-time out of service status for

1 on the road police enforcement. CVIEW is critical
2 nationwide for data transference 24/7. ITD is important
3 to the state for achieving a statewide intelligent
4 transportation system that improves safety and security,
5 improves productivity of motor carriers, commercial
6 vehicles and their drivers, improves efficiency and
7 effectiveness of safety programs through targeted
8 enforcement, and reduces federal and state industry and
9 regulatory and administrative costs.

10 DMV is an ITD designated lead agency for the
11 state. The program is governed by a steering committee
12 and working group comprised of representatives of DMV,
13 Texas Department of Transportation, Texas Department of
14 Public Safety, TxDOT, the Comptroller's Office, Federal
15 Motor Carrier Safety Administration, the Federal Highway
16 Administration, and the Texas Trucking Association. Texas
17 has successfully achieved and maintained Core ITD
18 compliance by meeting FMCSA requirements for safety
19 information exchange, credentialing administration and
20 electronic screening.

21 This contract will have an initial term of two
22 years and three two-year renewals. If the cost proposal
23 for the successful vendor on the proposed contract is
24 consistent with the current contract, the total estimated
25 cost of the proposed contract will be \$600,000 per year,

1 for a total of \$4.8 million over eight years.

2 Again, I'm requesting that the Board delegate
3 authority to the executive director to approve and execute
4 this contract.

5 MR. BACARISSE: Thank you, Mr. Archer.

6 Is there a motion, or any questions for Mr.
7 Archer first?

8 (No response.)

9 MR. BACARISSE: If not, I'd entertain a motion
10 on item A.

11 MR. GRAHAM: So I'm prepared to make a motion,
12 Mr. Chairman.

13 MR. BACARISSE: Okay, Mr. Graham.

14 MR. GRAHAM: I'm going to make the motion to
15 include a term of two years with three two-year renewal
16 options, and then it's up to the Board's discretion as to
17 whether or not that's fine or shorten it or whatever.

18 So I will make at motion that I will move to
19 delegate authority to the executive director, after
20 consultation with the Board chairman or the chairman of
21 the Finance and Audit Committee, to approve and execute
22 the Innovative Technology Deployment Commercial Vehicle
23 Information Exchange Window services contract, with an
24 initial term of two years and three two-year renewal
25 options.

1 MR. BACARISSE: There is a motion on the floor.
2 Is there a second to that?

3 MS. GILLMAN: Second.

4 MR. BACARISSE: Okay. There is a second by
5 Member Gillman.

6 Is there any further discussion before we vote,
7 members? Mr. Scott.

8 MR. SCOTT: The two-year limitation on that,
9 does that work for the provider and everything? If we say
10 we're going to give the authority for two years, is that
11 going to put a hitch in something?

12 MR. ARCHER: I don't believe so, no, sir. It
13 gives the executive director the authority to negotiate
14 and approve the contract.

15 MR. SCOTT: Okay.

16 MR. BACARISSE: So we have a motion and a
17 second to Mr. Graham's motion.

18 All in favor please raise your hand.

19 (A show of hands.)

20 MR. BACARISSE: Opposed by same.

21 (No response.)

22 MR. BACARISSE: Okay. Let the record reflect
23 that it was unanimous approval.

24 MR. ARCHER: Thank you.

25 MR. BACARISSE: And we have item B, and item B

1 is briefing only, and Sandra is coming, but she's a bit
2 under the weather today.

3 Hope you're feeling better.

4 MS. MENJIVAR-SUDDEATH: My allergies are acting
5 up more than anything.

6 MR. BACARISSE: I understand.

7 MS. MENJIVAR-SUDDEATH: Good morning. Sandra
8 Menjivar-Suddeath, Internal Audit director.

9 On page 219 you'll find the Internal Audit
10 Division status update. I'm actually going to have
11 Derrick Miller, our senior auditor, do the update since I
12 will probably get into a coughing fit.

13 MR. BACARISSE: Understood.

14 Mr. Miller, please.

15 MR. MILLER: Good morning, members. Derrick
16 Miller, senior auditor, Internal Audit Division. I'll be
17 providing a brief update on the status of the Internal
18 Audit Plan and external coordination items. These are on
19 page 220 of your board book.

20 We're currently working on two audit projects,
21 the patch management audit and the Title and Registration
22 customer support audit. Both of these projects are
23 currently in field work and scheduled to move into draft
24 reporting next week which puts them in schedule for a
25 final report release date of January 2020.

1 We're also working on the FY2020 recommendation
2 follow-up for the first quarter of this fiscal year.
3 Included in the first quarter is 19 recommendations.
4 Within those 19 are two information security
5 recommendations and three procurement recommendations, and
6 that report will be issued later this month towards the
7 end of December.

8 We have two external coordination items to
9 report on. Firstly, the Texas Workforce Commission Civil
10 Rights Division will be conducting a compliance review of
11 the department beginning December 17, this month. And the
12 State Auditor's Office released its analysis of quality
13 assurance team projects report last month in November.
14 That report included a review of the webDEALER
15 application. That review was just informational only,
16 looking at the completion status of the project; it was
17 not an audit and there's no recommendations for us.

18 And those are all the items on our briefing.

19 MR. BACARISSE: Members, any questions for Mr.
20 Miller?

21 (No response.)

22 MR. BACARISSE: Okay, great. Thank you all.
23 Appreciate it. Thank you.

24 We're going to just change the agenda slightly
25 so that we can get to the public comments before we go

1 into executive session. No sense in asking you all to
2 wait through that.

3 I think we do have two members or two items
4 having to do with TACA. So Cathy Talcott is here.
5 Welcome. Please come forward and speak with us.

6 MS. TALCOTT: Good morning.

7 MR. BACARISSE: Good morning. And do state
8 your name for the record. I didn't want to mess it up.

9 MS. TALCOTT: Gladly. My name is Cathy
10 Talcott. I am proud to be the president⁵ of TACA this
11 year, the Tax Assessor Collectors Association. I also
12 serve as tax assessor-collector for Comal County in New
13 Braunfels, just down the road.

14 This is just a good morning welcome and I
15 wanted to get to see each of you and let you know the face
16 behind this year's president of TACA. I'm sorry I wasn't
17 able to attend last meeting, I was quite under the
18 weather, but I'm so glad to be here this morning and see
19 the faces, and thank you all for your service.

20 And I'm especially pleased and our entire board
21 is -- by the way, we do have several other tax assessor-
22 collectors here this morning. On the back row, Shay
23 Luedeke from Bell County, John Ames from Dallas County, of
24 course, Michelle French from Denton County, of course, who
25 is our liaison with TxDMV. Appreciate all the work that

1 she does, and Shay coming up for sure.

2 But as soon as I became president in June, our
3 board decided to have a retreat and we came up with five
4 goals that we really wanted to work on this year. One of
5 those goals has to do with our state agencies that we
6 partner with, and of course, y'all are at the top of the
7 list because you affect every one of our offices
8 throughout the state, and want to strengthen our
9 relationship with all of you. We appreciate so much the
10 reaching out that y'all have done this year to us, asking
11 for our input on different items, we've been having
12 quarterly meetings, a few of us, with the IT department
13 regarding reports and how things are culminating well, and
14 we've been so well received and we've really had wonderful
15 results from our meetings that we've had. We are
16 partners, we look forward to working with you all.

17 And I also want to thank you all for every time
18 we have a conference, whether it be our V.G. Young
19 conference or our June conference -- which will be in
20 Austin this year, by the way -- your whole staff, all of
21 the upper echelon has attended in full force, and they're
22 always there, they're so accessible, they want to make
23 sure we're on top of everything as far as the new rules
24 go. And we thank you so much, Ms. Brewster, for you
25 allowing all of your staff, so many of them, to attend and

1 be there and be so accessible to the rest of the tax
2 assessor-collectors in the State of Texas at those times.

3 So thank you again. Please let me know if
4 there's anything I can do to help and work with y'all in
5 any way possible. Thank you.

6 MR. BACARISSE: Thank you.

7 In another life I was the district clerk in
8 Harris County, and so I greatly appreciate the work that
9 county officials do, I know it, and you are invaluable
10 partners to us. So thank you for your interactions with
11 us.

12 I know we have Michelle French who has signed
13 up as well, to speak with us, and so look forward to
14 hearing from her.

15 MS. FRENCH: Good morning, good morning.
16 Michelle French, Denton County tax assessor-collector, and
17 the DMV's liaison for TACA.

18 And I just want to echo Cathy's comments. We
19 just appreciate so much the working relationship we have
20 with DMV, and we certainly want to be a resource to you
21 all. If at any time there's anything that we on the board
22 or any of your county tax assessors can be of assistance,
23 a resource or feedback or input or you just need someone
24 to say, hey, how does this really work in the real world,
25 we are here to help you. We are absolutely here to help

1 you.

2 I did want to just touch on a couple of things.

3 Thank you very much for your consideration, for your
4 thoughtfulness in considering the rules and certainly in
5 reviewing the comments. I know our association, we try
6 really hard to vet through all of the rules when they are
7 proposed, to review through them, to help you as a
8 resource, to really say this is how this might really work
9 in the real world. You know, positive, negative, in
10 between, we feel like it's important to see what impact it
11 might be, and so when our association submits a response,
12 it's really on behalf of all 254 of our county tax
13 assessors.

14 We work very hard to keep our tax assessors in
15 the loop, and we have an actual committee, it's a pretty
16 broad committee, it's a DMV liaison committee, so we have
17 a great group of people, a large group of people, and then
18 kind of a smaller group that is sort of a subcommittee
19 that we really go through and vet everything. And so we
20 appreciate your thoughtful consideration on everything as
21 well.

22 And just to finish up, thank you very much for
23 considering and actually approving the rules on the
24 disabled placards. I think that's really going to help
25 people as they're dealing with sometimes life or death

1 decisions. The last thing you want to have to worry about
2 is, oh, my goodness, I didn't get my placard, I'm going to
3 have to figure out how to get back home, and home 2- or 3-
4 or 400 miles away. So thank you very much for that.

5 And that's all I have. Thank you.

6 MR. BACARISSE: Thank you. Thank you all for
7 the work you do.

8 Okay. At this point we're going to move to
9 item number 17 which is executive session, and we are
10 going to go into a closed session. It is now 9:26 a.m. on
11 December 5, 2019. We'll go into closed session under
12 Texas Government Code Section 551.071, 551.074, and
13 551.076, and 551.089.

14 For those of you in the audience, I anticipate
15 being in executive session for about half an hour, so
16 we'll reconvene in open session after that if any of you
17 are still here. We'll be recessed from the public meeting
18 at that time, but right now we're going to go into
19 executive session.

20 Thank you.

21 (Whereupon, at 9:26 a.m., the meeting was
22 recessed, to reconvene this same day, Thursday, December
23 5, 2019, following conclusion of the executive session.)

24 MR. BACARISSE: Good morning still. It is
25 10:37 a.m., and the Board of the Texas DMV is now back in

1 open session.

2 There are no actions arising from the executive
3 session that the Board must act upon in open session
4 pursuant to Section 551.102 of the Texas Government Code.

5 Ms. Beaver, who had something she wanted to
6 point out to the Board.

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

9 I just wanted to clarify that on agenda item
10 number 7, the rule does not change any of the requirements
11 for what activities a franchised dealer can do.

12 And also, for the record, no additional public
13 comments were received, commenters for the meeting today.

14 MR. BACARISSE: Other than the two that we had
15 heard from previously.

16 MS. BEAVER: Absolutely. No additional.

17 MR. BACARISSE: Agenda item number 7. I just
18 wanted to make sure I knew what you were referring to.

19 Okay, great.

20 Members, any other questions?

21 MR. GRAHAM: I'd just like to make a comment
22 that it is absolutely spectacular to have John Prewitt
23 back. We've missed you, brother.

24 (Applause.)

25 MR. BACARISSE: John, we wish you Godspeed in

1 that journey, and we're with you at all times.

2 MR. PREWITT: Thank you, Chairman.

3 MR. BACARISSE: Any other announcements or
4 anything?

5 MS. BREWSTER: No, sir.

6 MR. BACARISSE: Whitney, we're good.

7 I would entertain a motion to adjourn.

8 MS. McRAE: I make a motion we adjourn.

9 MR. BACARISSE: Is there a second?

10 MS. GILLMAN: Second.

11 MR. BACARISSE: Okay. We are adjourned. Thank
12 you.

13 (Whereupon, at 10:38 a.m., the meeting was
14 adjourned.)

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C E R T I F I C A T E

MEETING OF: TxDMV Board
LOCATION: Austin, Texas
DATE: December 5, 2019

I do hereby certify that the foregoing pages, numbers 1 through 71, 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: December 13, 2019

/s/ Nancy H. King
(Transcriber)

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