

TEXAS DEPARTMENT OF MOTOR VEHICLES  
CONSUMER PROTECTION ADVISORY COMMITTEE  
MEETING

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

Thursday,  
May 28, 2020  
9:09 a.m.

COMMITTEE MEMBERS:

Laird Doran, Presiding Officer  
Melissa Colvin (absent)  
Ruben Gonzalez  
Cheryl Johnson  
Will Johnson (absent)  
Ray Olah  
Jeanette Rash  
Michael Rigby  
James Snell  
Juan Solis (absent)

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P R O C E E D I N G S

1  
2 MR. RICHARDS: This is David Richards for the  
3 record again. We're going to go ahead and get started. I  
4 have not seen an indication that Mr. Doran has been able  
5 to come onto the call.

6 Good morning again. Pleased to open the third  
7 meeting of the Consumer Protection Advisory Committee.  
8 For ease of reference, I'll refer to the advisory  
9 committee as CPAC, which is the acronym for the committee.

10 It is now 9:09 a.m., and I'm calling the CPAC  
11 meeting for May 28, 2020 to order. I want to note for the  
12 record that the public notice of this meeting, containing  
13 all items on the agenda, was filed with the Office of  
14 Secretary of State on May 20, 2020.

15 This meeting is being held by telephone  
16 conference call in accordance with Texas Government Code  
17 Chapter 551, as temporarily modified under Governor Greg  
18 Abbott's authority to suspend certain statutes due to  
19 COVID-19. Governor Abbott suspended various provisions of  
20 the Texas Open Meetings Act that require government  
21 officials and members of the public to be physically  
22 present at specified meeting locations.

23 Under that suspension, the public will not be  
24 able to physically attend this meeting in person.  
25 Instead, the public may attend this meeting by calling the

1 toll-free number which is posted in the agenda which was  
2 filed with the Office of Secretary of State on May 20,  
3 2020. All advisory committee members will be  
4 participating remotely via Webex.

5 At this time please mute your phone for the  
6 entire duration of the meeting.

7 I'm asking our Webex meeting host, Tameka  
8 Harris, to make sure that all participants' phones are  
9 muted except for advisory committee members and those that  
10 are presenting. Callers will be removed for any  
11 disruption, including background noise.

12 I would like to remind all participants that  
13 this is a telephone conference call meeting to be held by  
14 telephone conference call. There are a few things that  
15 will assist in making the meeting run smoother and assist  
16 the court reporter in getting an accurate record.

17 One, department staff, committee members and  
18 any commenters should identify themselves before speaking.

19 Please speak clearly. Remember that there might be a  
20 slight delay due to the telephone conference call meeting,  
21 so please wait a little bit longer than usual before  
22 responding to participants. Do not speak over others.  
23 And finally, speakers should ask the presiding officer to  
24 proceed and be sure to get recognized before speaking.

25 Because the number of dial-in participants is

1 limited, if you wish to address the advisory committee or  
2 speak on the agenda items of today's meeting, please send  
3 an email to GCO\_general@TxDMV.gov. Please identify in  
4 your email the specific item you're interested in  
5 commenting on, your name and address and whether you're  
6 representing anyone or speaking just for yourself. If  
7 your comment does not pertain to a specific agenda item,  
8 we will take your comment during the general public  
9 comment portion of the meeting.

10 In accordance with the department's  
11 administrative rule, comments will be limited to three  
12 minutes, then the call will be muted. Comments should be  
13 pertinent to the issues stated in your email. When  
14 addressing the advisory committee, please state your name  
15 and affiliation for the record.

16 Before we begin today, I'd like to remind all  
17 presenters and those in attendance of the rules of conduct  
18 at TxDMV public meetings. In the department's rules under  
19 43 Texas Administrative Code, Section 206.22, the  
20 presiding officer is given authority to supervise the  
21 conduct of meetings. This includes the authority to  
22 determine when a speaker is being disruptive of the  
23 meeting or is otherwise violating the timing or  
24 presentation rules I just discussed. Disruptive speakers  
25 will be muted, given a warning about disruptive behavior,

1 then removed from the meeting for any continued  
2 disruption.

3 Advisory committee members, please let us know  
4 immediately if you're no longer able to participate for  
5 any reason. If your phone call drops and you are  
6 disconnected, TxDMV staff will interrupt the meeting and  
7 let us know how to get you back on the line before we  
8 proceed with the agenda.

9 Before I go to the roll call, Laird, are you on  
10 the call?

11 MR. DORAN: Yes. Good morning. I apologize, I  
12 had to dial in because I'm having some computer issues, so  
13 thank you for your patience, and I'm sorry for the delay.

14 MR. RICHARDS: Not a problem at all. I will  
15 let you take over then if you're ready to do so on agenda  
16 1.A. Roll call and establishment of quorum.

17 MR. DORAN: Sure. Thank you, David.

18 And now I'd like to have a roll call of the  
19 advisory committee members. Please let me know if I  
20 pronounce your name incorrectly. When I call your name,  
21 please indicate if you are present.

22 Member Gonzalez?

23 MR. GONZALEZ: Present.

24 MR. DORAN: Member Cheryl Johnson?

25 MS. JOHNSON: Present.

1 MR. DORAN: Member Olah? Member Olah?

2 (No response.)

3 MR. DORAN: Member Rash?

4 MS. RASH: Present.

5 MR. DORAN: Member Rigby?

6 MR. RIGBY: Present.

7 MR. DORAN: Member Snell?

8 (No response.)

9 MR. DORAN: Member Solis?

10 (No response.)

11 MR. DORAN: And for the record, I am Laird  
12 Doran, I am present as well, and I believe we have a  
13 quorum.

14 Members, we are going to move forward with  
15 taking up agenda item number 2. Discussion, briefing and  
16 action items. Members, we're going to change up the order  
17 in the agenda this morning and move item number 2.A.  
18 Nominations and selection of advisory committee presiding  
19 officer to later on in the morning. As such, I would like  
20 to move on to agenda item 2.B., and that item is Refunds  
21 by motor vehicle dealers and motor carriers transporting  
22 household goods.

23 Now, moving on to item 2.B. Refunds by motor  
24 vehicle dealers and motor carriers transporting household  
25 goods. Members, as you know, we discussed this agenda

1 item at our May 19 meeting and decided upon some  
2 recommendations that will be made to the TxDMV executive  
3 director and board.

4 Before we leave the subject, I wanted to  
5 determine if the CPAC membership or TxDMV staff had any  
6 further suggested recommendations to discuss and possibly  
7 present the TxDMV executive director and board.

8 Members, are there any other suggested  
9 recommendations that we need to discuss this morning?

10 MR. RICHARDS: Member Doran, may I be  
11 recognized, please?

12 MR. DORAN: Sure.

13 MR. RICHARDS: Members, this is David Richards,  
14 associate general counsel, for the record.

15 I just wanted to confirm if we have no other  
16 recommendations, that's fine. I wanted to confirm our  
17 understanding from the department's perspective that  
18 either the presiding officer, second and first vice chair  
19 will be presenting, or collectively the officers will be  
20 presenting. The meeting will be remote on June 11, so I  
21 just want to confirm that all three of you or one or two  
22 of you will be able to make that presentation. Could  
23 y'all confirm at this time? And then if there are no  
24 suggestions, we can move on to the next agenda item.

25 Thank you.



1 MR. DORAN: Thank you, David.

2 Before we move on, I'm just trying to switch to  
3 the computer and just wanted to see if you could hear me.

4 MR. RICHARDS: Yes, I can hear you.

5 MR. DORAN: Sorry. I'm hanging up the phone.  
6 David, I apologize, I was switching from telephone to  
7 computer there, but if I'm not mistaken, you were asking  
8 the committee members to confirm who would be presenting  
9 the recommendations to the executive director and to the  
10 board?

11 MR. RICHARDS: Yes, sir, that's correct.

12 MR. DORAN: Okay. Members, my recollection  
13 from the last hearing was that we had discussed the  
14 possibility of having the three officers present to the  
15 board. I wanted to open that up for any further  
16 discussion to make sure that, number one, my recollection  
17 is accurate, and number two, that that is still the will  
18 and intent of the committee.

19 MS. JOHNSON: Member Johnson, Galveston County,  
20 requesting to speak and be recognized.

21 MR. DORAN: Yes, you are recognized.

22 MS. JOHNSON: I can only assume that our  
23 silence we concur. If you require a motion for that, I'd  
24 be more than happy to make it. I think that as planned we  
25 would like for the leadership of the committee to present

1 to the board.

2 MR. DORAN: Thank you.

3 One other point I would just mention, since at  
4 the conclusion or towards the end of today's agenda, I  
5 believe we are going to be taking up the item of  
6 potentially electing a new presiding officer, so just  
7 wanted to confirm with the group that irrespective of who  
8 that selection is, the decision to move forward with  
9 having each of the elected officers present to the board  
10 would remain unchanged. Is there agreement among the  
11 members with respect to that as well?

12 MS. JOHNSON: Member Johnson, Galveston County,  
13 I concur.

14 MR. DORAN: Thank you.

15 Okay. I believe we probably need a motion.

16 MR. RICHARDS: Member Doran, this is David  
17 Richards again for the record.

18 You've already voted. I just wanted to confirm  
19 since we had Robert Raney had to resign and had to kind of  
20 round-robin the meeting as far as presiding. I just  
21 wanted to make sure that we confirm.

22 I don't think we need another motion, we've  
23 already voted on it, but really I was seeking a  
24 confirmation that that was still the intent of the CPAC  
25 that the three officers, whoever they may be, will be the

1 ones presenting, and I think we've confirmed that. I'm  
2 fine with that and y'all want to move on to agenda item  
3 2.C. that would be great.

4 MR. DORAN: Thank you, David.

5 MR. OLAH: This is Member Olah. Can I be  
6 recognized?

7 MR. DORAN: Yes, you may.

8 MR. OLAH: I believe during the roll call I  
9 appear to have been on mute. I just wanted to announce my  
10 presence.

11 MR. DORAN: Thank you, Member Olah. That will  
12 be reflected.

13 MR. SNELL: Member Jim Snell. I was here for  
14 roll call, but I was muted also.

15 MR. DORAN: Okay. Member Snell, we have you  
16 down as being present now as well. Thank you.

17 David, I apologize, I'm just trying to figure  
18 out where we are moving forward here on the agenda. We're  
19 now moving on to agenda item number 2.C.

20 MR. RICHARDS: That is correct.

21 MR. DORAN: And there's no need for a motion on  
22 2.C. Correct, David?

23 MR. RICHARDS: 2.C., Member Doran -- David  
24 Richards for the record -- we are going to discuss that  
25 one, so it should be on the next page. You can introduce

1 that particular item again. We got into it briefly last  
2 time, and we have some more commentary.

3 MR. DORAN: All right. Apologize for the  
4 confusion.

5 Members, we are now going to take up agenda  
6 item 2.C., this is Temporary tags (legislative  
7 recommendation); TxDMV VTR Division.

8 Members, I will now turn the meeting over to  
9 Mr. Jeremiah Kuntz, director of VTR, Vehicle Titles and  
10 Registration Division, and Mr. Brian Ge, managing  
11 attorney, the Enforcement Division.

12 MS. THOMPSON: And I hate to disappoint  
13 everybody, but this is Corrie Thompson, director of the  
14 Enforcement Division, and I will be handling the  
15 discussion on this item.

16 I also wanted to say just quickly before we get  
17 into this, I know that Member Gonzalez has submitted some  
18 comments related to temp tags, and I didn't know if you  
19 wanted him to take up those items as a point of discussion  
20 to lead us into my discussion on the potential legislative  
21 change related to temp tags. They are both related. Some  
22 of the points he wants to discuss would speak to the need  
23 for such changes that I would be recommending.

24 MR. DORAN: This is Presiding Officer Doran.

25 Ms. Thompson, if those are going to help inform

1 your presentation and comments, then I would be in favor  
2 of taking up the comments before your presentation.

3 MS. THOMPSON: Corrie Thompson again. That  
4 works for me.

5 MR. DORAN: Okay. Member Gonzalez, I would be  
6 happy to recognize you to present your comments.

7 I know there was a mute button issue earlier  
8 on, but let's just give Member Gonzalez a moment.

9 MR. GONZALEZ: This is Member Gonzalez. Can  
10 you all hear me? I'm having a little bit of difficulty.  
11 Have I been recognized?

12 MR. DORAN: Yes, you've been recognized, and we  
13 can hear you loud and clear. Thank you.

14 MR. GONZALEZ: Thank you very much. Good  
15 morning, members.

16 I had submitted a commentary on the temporary  
17 tags for timed permits and also for the dealer tags, and  
18 this has resulted after meeting with our Enforcement  
19 Division. We have a small enforcement group within the  
20 county tax office, and we have regular contact with local  
21 law enforcement.

22 And based on the commentary that they had  
23 provided us in previous meetings and going back quite some  
24 time, local law enforcement had expressed concern that the  
25 temporary tags, from their perspective, were very -- they

1 weren't quite familiar with the use of the tag, whether it  
2 was valid or invalid, and they didn't know what to look  
3 for when they were looking at a paper tag on the road, and  
4 that was one issue that they expressed to us.

5           And the second issue was that they couldn't  
6 tell the difference between a time perm and a dealer tag,  
7 because basically they were all printed on plain white  
8 paper. Previously in years past, about ten years ago,  
9 tags were prepared in cardboard fashion and they were  
10 pretty much the numbers were in orange color, red color  
11 and they were pretty visible compared to the white  
12 background that they were prepared on, so they were easier  
13 to enforce and they could read the purpose of permit on  
14 the tag, whether it was a 72-hour permit, a 144-hour  
15 permit, or a buyer's tag, or an authorized agent tag, they  
16 could tell the difference and recognize the use of the  
17 paper tag or the tag on the vehicle.

18           So now in the present they're a little bit more  
19 concerned not only because of the difference in timed  
20 permits and the dealer tags or whether the tag is valid or  
21 not, but they're concerned from a law enforcement  
22 perspective, not knowing that whether they have a probable  
23 cause to stop a vehicle and question it.

24           Unless it's a very obvious reason to stop the  
25 vehicle, like a tail light or improper movement, lane

1 change and stuff like that, they don't have probable  
2 reason to stop a vehicle displaying a paper tag and it's  
3 flipping on the back license plate holder, so they're  
4 concerned about that.

5           The other concern that they had and expressed  
6 to us was whenever they wanted to do an inquiry through  
7 the TxDMV web page, it was very hard for them to get  
8 access to vehicle-specific information, authorized dealer  
9 agent tag information on their returns. So if we could  
10 look into that and possibly help them out, it will  
11 probably improve our overall enforcement program around  
12 the state.

13           And we have this problem here on the border in  
14 El Paso. There's a lot of traffic with paper tags out  
15 there, and some are legitimate, but others, for the most  
16 part, they're operating with paper tags and they haven't  
17 paid their fees, their user's fees to be able to operate  
18 this vehicle in many cases. So there is a concern  
19 regarding that.

20           Another portion of the concern that they've  
21 expressed to us that there was not enough training for  
22 them to understand how to enforce the temporary permits or  
23 the dealer tag program. So they need a little bit more  
24 information on the authorized agent tag, they're  
25 unfamiliar with that.

1           And usually here in El Paso, because of our  
2 awareness and commitment to this function, they seek us  
3 out and they talk to our officers, and they start a  
4 conversation as to whether it's valid or not, and that's  
5 how they become a little bit more informed. So they're  
6 always soliciting our help to give them the confidence to  
7 be able to write a ticket with the general population.

8           There's not too much familiarity on the  
9 numbering system. If they see that number on the paper  
10 tag, they're very much unfamiliar with whether it's a  
11 valid number that's on the vehicle for the purpose. There  
12 used to be a sequence where you could tell whether it was  
13 one issued by the actual dealer or one issued by the  
14 county tax office. So those are some of the concerns that  
15 they've expressed to us.

16           Some of the recommendations that they've made  
17 to us is they would like to have access to the DMV website  
18 so that they can get quicker information on specific tags.

19           Specifically the agent-specific tag and the vehicle-  
20 specific tag, they need a little bit more information on  
21 it so they can determine what to do and determine if that  
22 tag is valid or is being used properly.

23           But they also need -- the majority of these  
24 tags -- and I might be repeating myself, they might  
25 already have this, but the expiration date, the year



1 model, of course the seller's name, the buyer's name. All  
2 of that is important and it may already be on there, but I  
3 think visually when you look at the heading of the paper  
4 tag, it's not very visible for them.

5 At 50 yards or 50 feet on the roadway, it's  
6 kind of hard for them to distinguish because they all look  
7 the same on white paper when printed from a tax office, a  
8 private office, so they would need some type of assistance  
9 there if possible. So that would be some of the  
10 recommendations.

11 One of the recommendations that law enforcement  
12 has mentioned to us is it would be great if we could go  
13 back to issuing a metal plate, a single plate that they  
14 can't alter. The registration receipt issued would match  
15 that metal plate.

16 I believe the cost to manufacture a single  
17 license plate is between \$1.49 or \$1.67, and that fee  
18 could be included in the fee when it's issued, so it would  
19 be permissive possibly to generate that. And in the long  
20 run there would be more benefit for law enforcement and it  
21 offers a sense of accountability so that we know that it's  
22 a legitimate issued permit and they're authorized to  
23 operate that vehicle with that assigned permit with a  
24 metal plate, and it avoids that paper tag being  
25 counterfeit.

1           And we have knowledge because of this concern  
2 that, you know, we feel that organized crime is already  
3 using, taking advantage of these type of tags. Two or  
4 three years back, we were given inquiries from Washington,  
5 D.C. where 72-hour permits were out there on commercial  
6 vehicles. We passed that on to the FBI for their  
7 knowledge due to security reasons for our country, and so  
8 we know that our paper tags have gone to the northeast and  
9 they could be harmful to our communities.

10           Those are the things that have been expressed  
11 to us, and I just wanted to share with the membership that  
12 there is a serious problem in this area. And I commend  
13 the VTR Division, Jeremiah Kuntz and his group. There is  
14 a lot of room for improvement, and if we could just piece  
15 it together and tie it together for this program, work  
16 together, I think we could become an effective team with  
17 them and the education of law enforcement so that it all  
18 contributes to making sure that everybody is using our  
19 roadways properly.

20           That's pretty much in a nutshell, Chairman  
21 Doran, that I wanted to share with the membership. I'll  
22 entertain any questions if there are any, but I'm sure  
23 that Director Thompson and Mr. Kuntz have answers for  
24 these concerns that I have.

25           Thank you very much.

1 MR. DORAN: Member Gonzalez, thank you for  
2 those comments.

3 If there are no further comments at this time,  
4 then I would turn it back over to Ms. Thompson.

5 MR. OLAH: This is Member Olah. May I be  
6 recognized?

7 MR. DORAN: Yes, you're recognized.

8 MR. OLAH: Member Gonzalez, everything you said  
9 makes perfect sense. I'm wondering if I may hear from  
10 staff, non-members on this call, if they could provide  
11 some feedback to those comments of Member Gonzalez.

12 MR. KUNTZ: Chairman, this is Jeremiah Kuntz.  
13 If you'd please recognize me.

14 MR. DORAN: Yes, Mr. Kuntz, you're recognized.

15 MR. KUNTZ: Thank you, Mr. Gonzalez, for  
16 providing the comments, and we can try and go through  
17 these. I'll try and go through them kind of as quickly as  
18 possible.

19 Ms. Thompson sent over the comments that you  
20 had submitted in writing, so I've got some notes that I'll  
21 try and follow through for the benefit of the other  
22 members, and I think this could potentially spur some  
23 discussion on the committee as we kind of talk through  
24 this.

25 So these are similar comments that we have had

1 discussions with law enforcement before. We have had  
2 meetings with CLEAT, as well as some other law enforcement  
3 entities from around the state. We actually had a working  
4 group meeting to discuss some of the issues that have come  
5 up.

6 And I will try and address some of the concerns  
7 that have been raised by El Paso law enforcement, and  
8 hopefully this will give the committee some context around  
9 kind of where we are, where we've been, all that kind of  
10 stuff.

11 So what I've always liked to do is start kind  
12 off in the beginning, because I know some folks may or may  
13 not be familiar with the cardboard tags that were  
14 referenced.

15 So the cardboard tags, if you do remember, they  
16 were preprinted cardboard tags and they were the same  
17 types of tags that we had: we had timed permits, but we  
18 also had cardboard tags that were issued by dealerships.  
19 Those cardboard tags, the only field that was on there for  
20 the dealership or anybody to print on was the expiration  
21 date, and usually those were applied with a Sharpie  
22 marker. They had like a grid in there that you would fill  
23 in the expiration date of the tag. And those tags did not  
24 have a unique identifying number on them, so they could  
25 not be queried by law enforcement. They also did not

1 include buyer or vehicle -- well, they had vehicle  
2 information that was handwritten on them, and it was  
3 written in a very small area on the tag.

4 And so the biggest jump in technology, if you  
5 will, that occurred when we went to eTAGs when the statute  
6 was changed, was the issue of the unique identifying  
7 number.

8 So just like a license plate has a unique  
9 identifying number on it that law enforcement can query,  
10 that was added with bringing to market the eTAG system.  
11 And this is going to go to one of those questions -- that  
12 unique number is unique to the different types of tags  
13 that were issued. So there is a specific sequence of  
14 numbers, depending on what kind of tag is on the vehicle.

15 So buyer's tags, agent tags, all of those tags  
16 have a set series of numbers, and there is a sequence that  
17 law enforcement should -- you know, if they are wondering  
18 what that sequence is, we are more than happy to give them  
19 kind of that sequence that occurs on those, but that is  
20 unique to those kind of tags.

21 So maybe it's the first digit is an alpha and  
22 then all of the rest of the digits are all numerals, and  
23 that's different depending on if it's a timed permit  
24 versus a buyer's tag.

25 So that does exist, and that was one of the

1 recommendations that was on there about training and  
2 education. We do have those sequences that we can provide  
3 to law enforcement if they are wanting to know that. But  
4 we don't generally post those on the website, because we  
5 don't want to give the keys to the kingdom to go and  
6 replicate those, but we do have that in case law  
7 enforcement is interested in that number sequence.

8           The issue of law enforcement needing access for  
9 all types of tags, they have access. That access is  
10 through the same access that they would use to run a  
11 license plate. So law enforcement uses in the State of  
12 Texas something known as TLETS, which I believe is the  
13 Texas Law Enforcement Telecommunications System, something  
14 like that.

15           That's their onboard computer that they use to  
16 run a license plate roadside. That is also tied into  
17 what's known as NLETS, which is the national version of  
18 that, and so all of these tags that are issued officially  
19 by the State of Texas and can be queried using that same  
20 system that they would use to query a license plate.

21           So as to probable cause -- and this is the  
22 thing that I like to say all the time -- the biggest  
23 security feature on those tags is the alphanumeric pattern  
24 itself. Law enforcement can run that alphanumeric  
25 pattern, and if it's not in the system, then it's not a

1 legitimate tag. Only legitimate tags are going to be in  
2 the system. So if somebody duplicates a tag and makes up  
3 their own number or tries to falsify something, then it  
4 will not show up in the database, and that becomes the  
5 number one way to prevent fraud.

6 So they should be able to tell if a tag is  
7 valid or invalid by running that tag number in the system  
8 and determining whether, one, it's in the system and, two,  
9 whether it's still valid. The system should tell you if  
10 it's expired, if it's for a different vehicle.

11 Let's say the tag was originally issued to a  
12 red Honda Accord and they see a tag on a black Chevy  
13 Suburban, then they would know that that's not a  
14 legitimate tag and they should at that point -- again, I'm  
15 not an attorney -- but they should at that point have  
16 probable cause to stop the vehicle because the tag is not  
17 issued to the right vehicle that it says in the system.

18 As far as being able to tell the difference  
19 between timed permits and dealer tags, we have tried to  
20 make the tag type as prominent as possible. I know we've  
21 got some dealers that are on this committee. I would  
22 suppose that the dealers would not want us to require a  
23 colored tag be printed, as that would potentially drive up  
24 the cost for printing of these tags since they are print  
25 on demand, but that's something -- if the committee wants

1 to take up and consider a requirement for a color tag to  
2 be issued, then that's something that we could consider  
3 putting into rule that certain tags have different  
4 coloring when they are printed. But again, these are  
5 things that the committee would need to take up and  
6 consider.

7 Let's see, as far as authorized agent versus  
8 vehicle-specific tags, we are aware of this issue. This  
9 is something that law enforcement has brought to our  
10 attention. We have a technology change request that we  
11 put in to to try and resolve this issue.

12 Unfortunately, we have a backlog of IT tickets  
13 and so it's sitting on the list of things for the agency  
14 to get to, but we do have a technology solution that we  
15 believe will resolve much of what is wrong with the agent  
16 tags.

17 And really, just to give everybody a little  
18 context, a vehicle-specific tag, the dealership that's  
19 entering that tag information has to enter the specific  
20 VIN and the specific vehicle that that tag is going on.  
21 Agent tags do not require that, and that's based on the  
22 business model that dealers use for going out and  
23 obtaining vehicles at auction or going and purchasing  
24 vehicles from different areas. They may hire an agent to  
25 go and pick up those vehicles and bring them back.



1           So let's say an agent is going to an auction  
2 and is going to purchase five vehicles for a dealership.  
3 They don't know at that time what vehicles are going to be  
4 purchased and would not want to have to leave the auction,  
5 go home, print tags, bring them back, get them on the  
6 vehicles in order to transport them over to the  
7 dealership, and so they do not require a specific VIN  
8 number to be entered in there.

9           We have a technology solution that we're  
10 looking at that would allow for basically an agent using a  
11 mobile phone to be able to activate tags and enter that  
12 information via a web-based system like on a phone or  
13 something.

14           That way, if they were at an auction, they  
15 could pull up their phone, enter the vehicle information  
16 and activate a tag at that time. We believe that that  
17 would resolve the issue for law enforcement in that that  
18 tag would be issued to a specific vehicle and have the  
19 information entered into the system for them to query.

20           So the training for law enforcement, we've done  
21 numerous trainings, and we will do any trainings that are  
22 requested by local law enforcement relating to these  
23 specific tags, timed permits, and dealer-issued tags. We  
24 stand ready to do that at any time.

25           We've got the PowerPoint presentation that

1 y'all have seen on tags which is the basis for some of  
2 that training, and we have conducted training for out-of-  
3 state law enforcement as well as in-state law enforcement,  
4 so that is something that is available. At the request of  
5 law enforcement we are more than happy to go out and do  
6 some training with them.

7 Let me see. I'm trying to go through this and  
8 make sure I'm covering all of the -- so requiring all  
9 dealer tags, temporary permits to have expiration date,  
10 year, make, color, VIN, seller's name, buyer's name,  
11 permit number.

12 There were a couple of tags that were, I  
13 believe, missing one of those data elements when law  
14 enforcement queried the tag in TLETS. I will have to  
15 check, but I know we either have already made that change  
16 or have it on our list of changes to make, and so we are  
17 aware there were a couple of fields on, I believe, a  
18 couple of tags that were missing some information and  
19 we're trying to rectify that.

20 Bar codes, waves and watermarks are not  
21 effective because in many cases the receipt is  
22 photocopied. And I'll kind of talk a little bit about  
23 this. The bar codes and waves and watermarks, while they  
24 are present and are there as a deterrent, ultimately those  
25 are not the primary prevention method, and as I mentioned,

1 the alphanumeric pattern is really the primary method by  
2 which to prevent fraud in temporary tags.

3 And like I said, if you take a tag number from  
4 a different year, make, model, VIN of a vehicle and put it  
5 on a different vehicle, then that should be able to be  
6 identified by law enforcement.

7 Those watermarks and such are there to become  
8 blurry when they are photocopied and so it is there as a  
9 deterrent and we're only as good as the deterrent -- you  
10 know, what criminals are willing to go and expend  
11 resources on. As y'all are fully aware, people duplicate  
12 the U.S. dollar bills and with really good technology and  
13 machines, that's possible.

14 Again, this is one of those things that I don't  
15 think there's ever going to be a perfect solution here.  
16 We have tried to put things on the tags to deter criminals  
17 from replicating or duplicating these, but at the end of  
18 the day they are only as effective as they can be.

19 Getting rid of authorized agent tags, like I  
20 said, we've got some technology changes that I believe  
21 will address that issue.

22 And then the requiring of a metal plate, this  
23 is something that I think the committee should take a very  
24 hard look at, and the reason I say that is the temporary  
25 tags are -- I don't want to say they're a complete

1 industry standard across the nation, but many  
2 jurisdictions use temporary tags for vehicles for a number  
3 of reasons. They provide customer service, they allow for  
4 dealers to move vehicles off of their lot quickly. I  
5 bring that up because there are a multitude of issues  
6 surrounding metal plates.

7 One is in order for metal plates to be used in  
8 lieu of a buyer's tag, a temporary tag, the county tax  
9 assessor-collector would be required to deputize every  
10 dealership in the State of Texas to have metal plates on  
11 inventory in their dealership.

12 Those metal plates -- if you have that  
13 inventory of plates and registration stickers, there is  
14 going to be a heightened level of oversight and bond  
15 requirements on those dealers in order to have those metal  
16 plates and registration stickers, because they are worth  
17 money and, as everybody believes, they are harder to  
18 replicate.

19 I will tell you this, we see fake metal plates  
20 on the roadway all the time. I've seen numerous myself,  
21 I've taken pictures of them. They can be replicated. And  
22 I will also say that we have had cases where dealers have  
23 misused the buyer's tag system and sold buyer's tags to  
24 people that never purchased a vehicle from their  
25 dealership.

1           If those dealerships have inventory of metal  
2 plates and registration stickers, they are just as likely  
3 to sell those to customers that otherwise would not be  
4 able to obtain registration for those vehicles, albeit  
5 fraudulently to them, and so it comes with a can of worms  
6 that gets opened up.

7           And I would tell you it becomes harder for law  
8 enforcement to spot fraudulent activity because right now  
9 I would argue that law enforcement has said, hey, there's  
10 been a rise in fraudulent activity due to temporary tags,  
11 what I would respond is they were able to see that  
12 fraudulent activity. They can't make the statement that  
13 they've seen an increase in it and say that we can't see  
14 it.

15           Obviously they are seeing the fraudulent  
16 activity, meaning that it is evidenced in what they're  
17 seeing on the roadway, that fraudulent activity is  
18 occurring with these paper tags. I do not believe that  
19 that fraudulent activity would be as evident if metal tags  
20 and registration stickers were issued out in lieu of the  
21 paper tags. I think it would be harder for law  
22 enforcement to see that there's somebody that's got a  
23 metal tag that shouldn't have had that metal tag to begin  
24 with.

25           So I throw that out there for the committee to

1 consider because I know we've got two county tax assessor-  
2 collectors on the phone here. That recommendation would  
3 require you to deputize every dealership in your county  
4 and issue all of them an inventory of metal plates and  
5 stickers so that those vehicles that they sold could be  
6 driven off the lot.

7 If that does not occur, then that means when  
8 you purchase a vehicle at a dealership, it would not be  
9 able to leave the lot until that dealer had made  
10 application for title and registration at the county  
11 office.

12 And I know we've got dealers on this committee,  
13 I don't know that you would want to see a delay in being  
14 able to sell vehicles until everything has been completed  
15 with financing and title and application has been made at  
16 the county office.

17 With that, I will kind of open that up for  
18 discussion, because I think that is a pretty major  
19 recommendation that warrants a lot of discussion.

20 MS. JOHNSON: Cheryl Johnson, Galveston County,  
21 asking to speak and be recognized.

22 MR. DORAN: You are recognized.

23 MS. JOHNSON: I would say that I would not  
24 support issuance of metal temporary tags predominantly  
25 because if they were coming to our offices it would just

1 be that many more people and they would have to have  
2 driven to our offices illegally in order to obtain their  
3 tags.

4 And I agree with Mr. Kuntz, about half of my  
5 webDEALER dealers do not want to pay for the bond right  
6 now to have inventory. So I think, you know, that would  
7 necessitate the bonds and these are some pretty big  
8 dealers and they're just choosing not to have that  
9 additional burden as well as the business overhead.

10 Thank you.

11 MR. DORAN: Jeremiah, this is Officer Doran. I  
12 had a question. Visibility was one of the issues that  
13 Member Gonzalez mentioned earlier, and I was just  
14 wondering if you could share with us if there's a policy  
15 around putting temporary tags in plastic bags, because  
16 I've heard from law enforcement and toll road authorities  
17 that that impedes visibility as well, and that seems to be  
18 a practice that is occurring more with these paper tags  
19 that are self-printed than back when cardboard tags were  
20 more widely used.

21 MR. KUNTZ: Yes. So there is a policy to  
22 require that the paper tag be inserted into a plastic  
23 sleeve and be attached to the vehicle. Those plastic  
24 sleeves are provided to dealerships and to the counties  
25 when they issue the tags for the customer to put them into

1 those plastic bags.

2 As to the visibility issue, I'll kind of bring  
3 something up -- it's not on here but I'll bring it up  
4 anyway because, again, I'll leave it to the committee to  
5 kind of chew on. There are companies that have special  
6 paper, it costs more and there would be an increased cost  
7 for purchasing and distributing that paper. What we have  
8 seen is paper becomes the currency that everybody is  
9 looking for. As far as when activity occurs, they would  
10 want to get ahold of the paper that is supposed to be used  
11 to print these.

12 I've got a little bit of background and history  
13 on this in that I worked at TxDOT when these rules were  
14 first adopted as far as the paper stock that would be  
15 used, and a lot of the discussion that occurred during  
16 that time, because there were vendors that were advocating  
17 for the department to adopt a thicker stock of paper that  
18 would be required to be used by all dealers, some of that  
19 paper requires special printers, it requires inventorying  
20 all of that paper and distributing it to dealers.

21 The issue that ultimately came down for TxDOT  
22 and their board at that time was to use something that was  
23 the lowest common denominator, something that everybody  
24 would be able to easily access and be able to utilize in  
25 their dealership to prevent the burden of having to make



1 sure that they had inventory, again, potentially having to  
2 post an additional bond for that inventory. And what  
3 ultimately came down was temporary tags are temporary in  
4 nature, they are not meant to be durable, they're not  
5 meant to last.

6           You know, really the longest permit that we've  
7 got is a 30-day permit, and we did some weatherization  
8 testing using those plastic bags with just standard, you  
9 know, 20-bond paper, and what everybody found was using  
10 the plastic bag, 20-bond paper, the tags would last  
11 approximately thirty days, even if it was raining, in the  
12 hot sun, all those kind of things. And that's all we  
13 wanted them to do.

14           We didn't want them to last for a year, we  
15 didn't want them to look good for an extended period of  
16 time because if they did, then they would look more  
17 legitimate and folks would want to leave them on their car  
18 longer or whatever if they had a fraudulent one. And so  
19 that was ultimately the decision that was made, was to go  
20 with a degrading paper, something that would degrade  
21 quickly and not last a long period of time.

22           I would say this, there is a requirement that  
23 insignias be legible, and so again, to law enforcement's  
24 probable cause, if that paper tag becomes mutilated,  
25 destroyed, it's not legible, they have cause to stop that

1 vehicle and make that person go and get a replacement.

2 Replacements can be reprinted, they are  
3 available, but that is something that I think the  
4 committee should take up and consider. If there is a  
5 recommendation that the committee would like to change the  
6 paper or the way that it's being used, that's definitely  
7 something that the committee could take up and recommend.

8 But that's a little bit of the history of why we have the  
9 paper with the plastic bag.

10 MR. DORAN: Thank you.

11 MR. GONZALEZ: Chairman, Member Gonzalez.  
12 Permission to speak?

13 MR. DORAN: Yes, you're recognized.

14 MR. GONZALEZ: Thank you.

15 Mr. Kuntz, Jeremiah, thank you for your  
16 comments. I certainly was not aware of the alternative of  
17 generating a metal plate and the additional work that it  
18 might create for the county tax assessor-collectors around  
19 the state, so thank you for that awareness.

20 However, like was mentioned before, the  
21 visibility from a law enforcement aspect, that's one of  
22 the issues, not knowing how to recognize that paper tag  
23 and whether to stop it and whether to know it's valid or  
24 not. I think it will probably go back more to an  
25 educational theme that you've already indicated, that

1 presentations are available for law enforcement. I guess  
2 it would fall back to them to be more proactive in trying  
3 to request this information.

4 But the idea of the paper tag and the  
5 visibility, that's one of the biggest things -- like the  
6 agent authorized, dealer agent, we know that the auctions  
7 here in El Paso are Tuesdays and Wednesdays so that's when  
8 they would be more apropos, but when you're seeing them on  
9 a Friday, Saturday or Sunday when there's no auction, and  
10 the main reason is for them to be used for that purpose,  
11 it just does not make sense. And those are the little  
12 tidbit things that law enforcement isn't aware of of when  
13 they could be primarily used for, so a good indoc of  
14 that -- of those tags would probably be beneficial to them  
15 to look into it further.

16 But again, the idea and the access to the DMV  
17 web page where you say that it's available, my folks have  
18 told me that it's hard to get a quick return. I'm going  
19 to have to go back and ask them to show me what do they  
20 mean why there's not a quick return on it, so I'll look  
21 into that further. But those are the comments, the  
22 feedback that I'm getting, Jeremiah, so it might not be an  
23 issue now that you've made that point, but I'll look into  
24 it further and see if we are getting good responses, and  
25 I'm going to reinforce that alpha character for our team

1 and hopefully we can resolve it here at our level and  
2 maybe we can use it to spread the word to the rest of the  
3 counties and law enforcement community.

4 But I appreciate your commentary on the  
5 suggestions, and that's all they are, just suggestions to  
6 let y'all know what's going on in the actual field of  
7 vehicle activity on the border.

8 Thank you very much, Mr. Chairman.

9 MR. DORAN: Thank you.

10 Was there any further discussion related to  
11 Member Gonzalez's comments before moving on?

12 (No response.)

13 MR. DORAN: Okay. I believe at this point I  
14 was going to turn it over to Ms. Thompson for her  
15 presentation.

16 MS. THOMPSON: Yes. Thank you, Officer Doran.

17 Corrie Thompson, director of the Enforcement  
18 Division for the Department of Motor Vehicles.

19 I do think it would be a good idea to just go  
20 back and get a little primer again on temp tags so that  
21 everybody is aware of what we're talking about, what tags  
22 are available to licensees in our system, and just to give  
23 that reminder that we're talking about basically two  
24 populations.

25 We're talking about unlicensed bad actors and

1 then we're talking about licensed bad actors. So the  
2 unlicensed bad actors can be counterfeiting tags, you  
3 know, just completely making their own tags, they can be  
4 stealing dealer tags, and then licensed dealers in our  
5 system are actually utilizing our system to generate these  
6 tags and potentially using them improperly.

7 And so what we're looking for is something to  
8 address that, because right now on the books in statute in  
9 Transportation Code Chapter 503, there are two provisions,  
10 503.0626 and 503.0631, the first one speaking to dealer  
11 and converters temporary tags and the second provision  
12 speaking specifically to buyers' tags.

13 So those would be the ones that you're issuing  
14 to consumer public or anybody that you sell a vehicle to  
15 that's not a dealer, and then that first subset of dealer  
16 tags being the ones Member Gonzalez mentioned pretty  
17 frequently there, the dealer agent tags and the dealer  
18 vehicle-specific tags.

19 Both of those statutory subsections state that  
20 the department cannot deny access to that temporary tag  
21 database to any dealer who holds a general distinguishing  
22 number issued under the chapter or who is licensed under  
23 Occupations Code Chapter 2301.

24 So what that means for the department is we  
25 have to fully complete an administrative enforcement case

1 in order to be able to turn off a license that would cut  
2 the access to the tag database. Right now we don't have a  
3 way to start a case and temporarily suspend that access to  
4 stop further bad action from happening while our case  
5 continues.

6 And I gave you a little bit of information on  
7 how the administrative enforcement process works last  
8 time, but just as a reminder, when we start formal  
9 administrative action, it starts with the attorney with  
10 the department issuing a notice of department decision  
11 document.

12 That document lays out the reasons in law that  
13 we're allowed to issue a licensee this document, it tells  
14 them the allegations, the things we think they've done  
15 that are bad and that are in violation of department law  
16 or rule, and then it tells the person who is receiving  
17 that notice the specific sanction action that we intend to  
18 take as a result of this notice of department decision  
19 that we're issuing.

20 When somebody receives that document, they have  
21 26 days from receipt to either respond and start  
22 settlement discussions with the attorney to tell us how  
23 they're going to fix the actions that are there or to help  
24 provide mitigating information or information that  
25 completely negates the allegation that staff has listed in

1 the document, or if they completely disagree and they  
2 don't want to talk settlement, then they can request a  
3 hearing at the State Office of Administrative Hearings.  
4 And so if there's no response, then it goes on to a final  
5 order, but what we're talking here is what we can do --  
6 well, let me go back and finish the process now, I'm  
7 cutting myself off.

8           So after that notice of department decision  
9 goes out, we have 16 days. There could be any period of  
10 time that someone is engaging in settlement discussions or  
11 giving more information, and the case ultimately, if it  
12 goes to SOAH, could end up taking six to nine months; it  
13 could take longer if there are continuances of the SOAH  
14 hearing.

15           And that whole time the person has access to  
16 the system and if they are truly the bad actor, not the  
17 ones that are making mistakes here and there with  
18 paperwork -- which is what a lot of administrative law  
19 ends up being -- but there truly bad actors, the ones that  
20 are issuing hundreds and thousands of tags potentially for  
21 vehicles that they've never sold or that were never in  
22 their inventory, things of that nature, are continuing to  
23 have access to the system during that time period while  
24 the administrative case is ongoing, and so we are looking  
25 at a potential fix for that.

1           And I'm not able to provide you with specific  
2 statutory language that we could have y'all recommend to  
3 the board to the push forward, but I can discuss some  
4 concepts and ideas with you and then we can see whether or  
5 not the group agrees on any specific points that could go  
6 into legislation that would be presented to the board  
7 potentially for this next legislative session.

8           I know we discussed should the department be  
9 allowed to in certain instances -- which we'll discuss  
10 later -- should we be allowed to suspend access  
11 temporarily to licensees in the system, and so I would  
12 like to get a consensus on that, should we have the  
13 ability or not.

14           MR. DORAN: This is Presiding Officer Doran.

15           Ms. Thompson, has there been any discussion  
16 about perhaps differentiating franchised dealers from  
17 independent dealers? Because a franchised dealer, of  
18 course, always has the risk of potentially losing their  
19 franchise for nefarious behavior and whatnot.

20           And when you're talking about situations where  
21 hundreds or thousands of tags continue to be not  
22 erroneously -- I mean, they're fraudulently, it sounds  
23 like, being issued. That might present a different  
24 situation in my mind with an independent dealer versus a  
25 franchised dealer because of the different recourse that



1 the franchisor might have against that dealer for taking  
2 actions that the manufacturer/distributor is apprised of  
3 and they're seen as, you know, being against the public  
4 interest, of course.

5 MS. THOMPSON: Sure. That could definitely be  
6 a point of discussion that it could be differentiated for  
7 the different types of licensees. With this -- just to  
8 lay it out for everybody -- I've got should we be allowed  
9 to temporarily suspend access, then in what instances --  
10 and I will go over a couple of instances with the group --  
11 then the timing of when the department would send notice,  
12 so the procedural considerations.

13 Also consideration how would the dealers access  
14 tags while access is suspended, because when you are  
15 cutting off somebody's ability to do business, in my  
16 opinion, we would need to give them another way to  
17 continue doing business. The group may disagree with that  
18 and so that will be open for discussion as well. And then  
19 who the final decision-maker would be. So then I can add  
20 to that point when we get to it to discuss different types  
21 of licensees.

22 MR. DORAN: Okay. Thank you.

23 MS. THOMPSON: Okay. So going back to just the  
24 general question: Should the department have this ability  
25 available to them in certain situations that we will

1 discuss in a moment?

2 MS. RASH: This is Member Rash. I have a  
3 question for Ms. Thompson.

4 MR. DORAN: You're recognized.

5 MS. RASH: Do you have a way that you track at  
6 the department say the internet-down tag that a dealer has  
7 issued an out of the ordinary amount or continues to do  
8 that? Is that something that y'all track already?

9 MS. THOMPSON: Corrie Thompson again.

10 With regard to internet-down tags -- which for  
11 those who are not familiar, those are the same as buyer's  
12 tags -- if dealers don't for any specific period of time  
13 have access to the internet, they can use an internet-down  
14 tag to fill in the information to provide to a consumer  
15 who buys a vehicle, and then they have to go in and enter  
16 that information into the database as soon as access  
17 resumes.

18 They have a specific allocation of internet-  
19 down tags that they should have preprinted in the event  
20 that they do not have access to the internet, but as to  
21 tracking of those specifically on internet-down tags, no,  
22 we don't have a way that we are looking at them, just kind  
23 of scanning to see if they're misusing those.

24 But we do notice -- when we're receiving  
25 complaints, one of the things that we do is we look at tag

1 information on the dealers if we have an allegation from  
2 somebody that pertains to tags, yes. We look at the  
3 system to see the dealer's pattern of issuance for the  
4 various types of tags, and then if it comes down to it, we  
5 can get with the tax authority to look at vehicle sales  
6 information to compare that to whether it aligns with the  
7 number of vehicles that have been sold. So we do things  
8 like that. We can also -- and we have before -- looked at  
9 the system for what we believe to be excess tag issuance  
10 and started cases off of that too to see if that leads  
11 anywhere. Yes.

12 MR. KUNTZ: Corrie, this is Jeremiah.

13 Chairman, if I may?

14 MR. DORAN: Yes, please. You're recognized.

15 MR. KUNTZ: So probably, I don't know that we  
16 necessarily look at it from the internet-down tags side  
17 per se, as Ms. Thompson was talking about.

18 We actually developed a report that is  
19 available to the department that actually does a  
20 comparison. It looks at tag issuance and then we've also  
21 got vehicles sold by dealer, and so the better comparison  
22 that we do is we go in and look and see, okay, how many  
23 tags did this dealership issue and then how many vehicles  
24 did they come and apply for title for. So if we see that  
25 they've issued 10,000 tags but they've only sold 500

1 vehicles and that's way out of balance, that's generally  
2 our indicator that there is something that is way out of  
3 balance. And so the internet-down tags just get counted  
4 the same as a buyer's tag, so we don't really  
5 differentiate those, because we're not really seeing a  
6 major difference between the two.

7 MS. RASH: This is Member Rash again.

8 MR. DORAN: You're recognized.

9 MS. RASH: I know one of the ways that some of  
10 the unscrupulous dealers were getting around were  
11 inverting the VIN number so it would be a no record, and  
12 again, that's why I asked if there was some kind of  
13 pattern that y'all have a way of watching whenever dealers  
14 do the same thing over and over again which is out of the  
15 norm. And thank you for clarifying.

16 MR. KUNTZ: Yes, ma'am.

17 MS. THOMPSON: So okay, let me try this again.  
18 So again, I'm looking to go through some different points  
19 of discussion that I previously mentioned, and the last  
20 time we spoke on the phone I apprised the group that I was  
21 going to be coming to y'all with this information.

22 And so the first thing, before we can even get  
23 into the discussion about what it looks like, is whether  
24 or not the group believes the department should have the  
25 ability to do this in certain situations.

1           If the answer is no, then the discussion is  
2 going to end and we will have nothing further to speak on  
3 with regard to legislative changes for the temp tag  
4 system. If the answer is yes, then I will definitely  
5 proceed and go through the other items that I read off to  
6 Officer Doran.

7           So again, I'll pose the question: Should the  
8 department be allowed to have the ability to temporarily  
9 suspend access for licensees who use the temporary tag  
10 system?

11           MS. JOHNSON: Cheryl Johnson requesting to be  
12 recognized and speak.

13           MR. DORAN: Yes, you're recognized.

14           MS. JOHNSON: If a motion is required, I would  
15 move that this committee support the department having the  
16 ability to temporarily suspend access to the database when  
17 certain violations occur.

18           MR. DORAN: Is there a second?

19           MR. OLAH: Member Olah seconds.

20           MR. DORAN: Okay. Member Olah seconds the  
21 motion.

22           Okay. So now we need to take a vote on the  
23 motion.

24           David, do I need to go through the names each  
25 here?

1 MR. RICHARDS: Yes, sir.

2 MR. DORAN: A motion has been made by Ms.  
3 Johnson, and now I will go through the list of the members  
4 and please indicate whether you are in favor or in  
5 opposition of the motion.

6 Member Gonzalez? Member Gonzalez?

7 MR. GONZALEZ: I'm in favor of the motion.

8 MR. DORAN: Member Johnson, Cheryl Johnson?

9 MS. JOHNSON: I support the motion.

10 MR. DORAN: Member Olah?

11 MR. OLAH: I support the motion.

12 MR. DORAN: Member Rash?

13 MS. RASH: Yes, I'll support the motion.

14 MR. DORAN: Member Rigby?

15 MR. RIGBY: I support the motion.

16 MR. DORAN: Member Snell?

17 MR. SNELL: Yes, I support the motion.

18 MR. DORAN: And I, Laird Doran, also support  
19 the motion. The motion passes unanimously.

20 MR. RICHARDS: Presiding Officer Doran, may I  
21 make a comment real quick? This is David Richards.

22 MR. DORAN: Yes, please.

23 MR. RICHARDS: If any of you have two devices  
24 that are working at the same time, would you turn off one  
25 of them? We got a lot of background noise just a second

1 ago, so if you have access through two separate devices,  
2 please turn one off and just use one, that way we will  
3 limit the background noise.

4 Thank you, Chair Doran.

5 MR. DORAN: Thank you, David.

6 Ms. Thompson, we'll turn it back over to you.

7 The committee has passed the motion in favor of the  
8 department having the authority that you mentioned.

9 MS. THOMPSON: Thank you, Officer Doran.

10 Corrie Thompson again.

11 So now that we've agreed that the department  
12 should be allowed to have the ability to suspend access  
13 temporarily in certain instances, I want to go into a talk  
14 about in what instances, what does that mean, what does  
15 that look like?

16 So one that I will discuss first should be  
17 fairly simple, and I will give you an example of when we  
18 see this. So what I've got written down here in my notes  
19 is the dealer is no longer in business or they're no  
20 longer located at their licensed premise, they're  
21 continuing to issue tags.

22 So there's a requirement in rule that says a  
23 dealer has to be located at their licensed premise and  
24 they have to meet certain requirements. They have to be  
25 open a certain number of days and hours per week, they

1 have to have a person there unless they have a "Be Back"  
2 sign, the phone has to be answered, there are all these  
3 requirements.

4 But what we see a lot of times when we are  
5 looking into complaints and conducting investigations, so  
6 we'll go out to do a site inspection. Say we've looked on  
7 a tag report and a dealer has issued 2,000 tags in a  
8 month, they're no longer there at the licensed premise,  
9 closed down, maybe it's a warehouse and it doesn't even  
10 look like they've been there for a year.

11 So the normal process would be for us to go  
12 back, let the attorney know that, give them the evidence  
13 so that they can start the process of getting that license  
14 revoked so that we can get that dealer cut off from the  
15 system.

16 As I mentioned, right now we don't have the  
17 ability to do that. Right now the dealer is continuing to  
18 issue those tags the whole time our administrative  
19 enforcement case is pending.

20 So I wanted to pose that as the first scenario  
21 to the group. When there is credible evidence that the  
22 dealer is no longer in business or that they're no longer  
23 located at the licensed premise, should the department be  
24 allowed to access the ability to temporarily suspend  
25 access in that instance?



1 MR. DORAN: Ms. Thompson, this is Officer  
2 Doran. Could you also, in conjunction with this, just  
3 speak to whether there is a requirement as a licensed  
4 dealer to keep your information up to date and on file?

5 In other words, the hypothetical here would be  
6 that somehow the dealer was not apprised appropriately  
7 prior to having their system suspended and that maybe they  
8 were operating lawfully in another location but just were  
9 not on notice.

10 MS. THOMPSON: Ten days. So they have to  
11 notify the department by filing an amendment within ten  
12 days of any such change, whether that's mailing address,  
13 physical address, phone number, email address. The  
14 contact information has to be updated within ten days, and  
15 not doing so is also a violation that would be written up  
16 by department staff.

17 MR. DORAN: Thank you.

18 MR. SNELL: Member Snell requesting to be  
19 recognized.

20 MR. DORAN: Yes, Member Snell, you are  
21 recognized.

22 MR. SNELL: (Feedback.)

23 MR. DORAN: Member Snell, you are sending off  
24 quite a bit of feedback there.

25 MR. SNELL: (Feedback.)

1 MR. DORAN: Let's give him another minute. I'm  
2 very sympathetic to those that are having IT issues.

3 MR. RICHARDS: Officer Doran?

4 MR. DORAN: Yes.

5 MR. RICHARDS: Hi. David Richards again.  
6 We're showing that Member Snell has three devices on, so  
7 we need for him to just get off two of them and be on only  
8 one. That would help and alleviate the background noise.  
9 Thank you.

10 MR. DORAN: Okay. Thank you. Thanks for  
11 letting us know.

12 This is Officer Doran. Perhaps we can come  
13 back to Member Snell here in a minute when he is able to  
14 rejoin.

15 In the meantime, if there as further  
16 discussion, we can entertain that.

17 MS. JOHNSON: Cheryl Johnson requesting to be  
18 recognized.

19 MR. DORAN: Yes, you are recognized.

20 MS. JOHNSON: I'd like to make a motion that  
21 the department have the authority to temporarily suspend  
22 access to the database if credible evidence exists of an  
23 offender.

24 MR. OLAH: Member Olah seconds.

25 MR. DORAN: Okay. There's been a second.

1 I'm sorry. The member who made the motion, can  
2 you repeat that motion?

3 MS. JOHNSON: I would move that the department  
4 have the authority to temporarily suspend access to the  
5 database when credible evidence exists of an offense.

6 MR. DORAN: Okay. Motion has been made, there  
7 was a second. We'll now ask for a vote. Can each member  
8 please state whether they oppose or favor the motion.

9 Member Gonzalez?

10 MR. GONZALEZ: I favor the motion.

11 MR. DORAN: Member Cheryl Johnson?

12 MS. JOHNSON: I favor the motion.

13 MR. DORAN: Member Olah?

14 MR. OLAH: I support the motion.

15 MR. DORAN: Member Rash?

16 MS. RASH: Yes, I support the motion.

17 MR. DORAN: Member Rigby?

18 MR. RIGBY: I support the motion.

19 MR. DORAN: Member Snell?

20 MR. SNELL: I support the motion.

21 MR. DORAN: Okay. And this is presiding

22 Officer Doran, I also support the motion.

23 The motion passes unanimously.

24 MS. THOMPSON: This is Corrie Thompson.

25 I like that language, an offense. So the types

1 of things, just to summarize for the group, that would be  
2 deemed an offense are specified in our Texas  
3 Administrative Code that is utilized by department staff  
4 in pursuing an enforcement case, but just again for the  
5 group for summary purposes, that would include things like  
6 not meeting premises requirements, not meeting the  
7 requirement on updating information that we discussed, and  
8 as the previous example; also things that pose a risk to  
9 public safety or may result in the continued commission of  
10 fraud, so issuing these temporary tags for vehicles that  
11 the dealer does not own or have offered for sale, the  
12 unauthorized production, purchase, use or sale of these  
13 temporary tags, and that would include use of these tags  
14 for personal use when that is not permitted pursuant to  
15 rule or statute.

16 Okay. So then I wanted to go into the timing  
17 of the notice. I know this is a new concept for many, but  
18 there's different ways that you can do things. So just by  
19 way of example, when you're talking about a Medicaid  
20 provider case, the Office of Inspector General, Health and  
21 Human Services pays doctors and dentists to perform  
22 Medicaid services, so for some of those providers, that's  
23 the sole source of their income, they're either wholly  
24 Medicaid or partially Medicaid.

25 That office has the ability to put payment

1 holds under certain conditions specified in statute, and  
2 so that happens without notice. The hold goes on and then  
3 the provider receives notice, and so that could be any  
4 percentage of their funding, up to and including.

5 Here what I would like to get consensus from  
6 the group on, now that we have the ability to suspend  
7 access, do we suspend and then issue notice within a  
8 certain number of days, or would the group like the  
9 department to issue notice and then suspend the access  
10 after a certain number of days? And when I say a certain  
11 number of days, I'm thinking three to five.

12 MR. DORAN: Member Thompson, this is Officer  
13 Doran. On one of your options or hypotheticals there  
14 about issuing notice and then the suspension taking  
15 effect, is it contemplated that there would be an  
16 opportunity for the dealer to cure or remedy the situation  
17 in some way between the time that they receive notice and  
18 when the suspension would take effect?

19 MS. THOMPSON: We can discuss that. All things  
20 are open.

21 MR. DORAN: Okay.

22 MS. JOHNSON: Member Cheryl Johnson requesting  
23 to be recognized and to speak.

24 MS. THOMPSON:

25 MR. DORAN: Member Johnson, you're recognized.

1 MS. JOHNSON: I would move to provide the  
2 department the authority to immediately suspend access to  
3 the database upon credible evidence of an offense.

4 MR. DORAN: Ms. Johnson, that sounds a lot like  
5 the motion that was just made and passed. Can you explain  
6 just a little bit for the group how that differs.

7 MS. JOHNSON: It sounded like they wanted to  
8 know whether there should be an interval between the time  
9 lag.

10 Is that correct, Ms. Thompson?

11 MR. DORAN: Okay. So it's your position that  
12 it be an immediate suspension as opposed to notice being  
13 issued and then a suspension occurring at some point  
14 thereafter, shortly thereafter. Is that correct?

15 MS. JOHNSON: Yes. And in the first motion I  
16 think that we were building to the further specifications  
17 because it was to temporarily suspend, and now I think  
18 that we're looking at the time frame.

19 MS. THOMPSON: Correct. Corrie Thompson, just  
20 for clarification purposes here. So what we'd be talking  
21 about, I'm talking about the timeline that we actually  
22 press the button in Jeremiah's temp tag system that says,  
23 hey, we're going to turn the temp tag off, you can't do it  
24 anymore, does that occur first or does the department send  
25 notice first?

1           The notice is still going to give the dealer an  
2 opportunity for a hearing. So are we cutting off access  
3 and then issuing that notice that provides the opportunity  
4 for a hearing, or are we sending the notice to let the  
5 dealer know that, hey, within three days, five days,  
6 whatever, we're going to suspend your access.

7           And we can talk about further whether or not  
8 the dealer can do things to mitigate, which just to speak  
9 to Officer Doran's comment a second ago, in most  
10 administrative cases there are ways that a dealer can  
11 respond, as I mentioned, by providing mitigating  
12 information or information that negates the allegation the  
13 department has made during the pendency of the case.

14           MS. JOHNSON: May I ask a question of  
15 clarification?

16           MR. DORAN: Yes, you're recognized.

17           MS. JOHNSON: Ms. Thompson, if there are  
18 mitigating circumstances, how much time would the  
19 department have to respond to that? Would it be same day,  
20 could it potentially be three days?

21           MS. THOMPSON: It could potentially be three  
22 days, but it would depend on the information that was  
23 submitted. So just by way of example, if we looked at the  
24 report Jeremiah mentioned and we said vehicles sold by  
25 dealer was X number but dealer had issued X number of

1 tags, that could be potentially be thousands of line items  
2 that department staff is having to look at to determine  
3 whether or not the information that we had alleged is in  
4 fact in alignment with what the dealer submitted to us as  
5 proof of not having committed the violation or not.

6 MS. JOHNSON: In support of my motion, I would  
7 like to state living in a coastal community where the  
8 fraud is rampant immediately before evacuation of a storm  
9 that this would need to be swift to prevent that fraud, so  
10 my motion would still stand as immediate suspension.

11 MR. RICHARDS: David, can we entertain some  
12 further discussion on this before moving forward with the  
13 motion?

14 MR. RICHARDS: Chairman Doran, yes. That  
15 actually is what we contemplated before a motion had been  
16 made. Not to take anything away from Member Johnson's  
17 motion, the department would like all members to who are  
18 willing to discuss a particular agenda item to do so,  
19 preferably before a motion is made.

20 So yes, if Member Johnson is willing to hold  
21 her motion, that way it will allow for some more  
22 discussion on a given issue, then we would appreciate  
23 that.

24 Thank you.

25 MS. JOHNSON: And I apologize. I thought under



1 Robert's Rules of Order, I thought discussion had to occur  
2 after a motion was on the floor, but I understand  
3 receiving information. But I will withdraw the motion if  
4 that's the will of the committee, or the will of the  
5 officer that presides.

6 MR. DORAN: Ms. Johnson has offered to withdraw  
7 her motion.

8 MR. GONZALEZ: Chairman Doran, this is  
9 Gonzalez.

10 MR. DORAN: Yes, you're recognized.

11 MR. GONZALEZ: Ms. Thompson, in my part of  
12 Texas I have a lot of dealers that do not speak English  
13 very well, there's a communication gap there. Would there  
14 be an opportunity to address those type of individuals  
15 that may not get your notice, or is there a quick fix  
16 solution where they're required to have internet access  
17 where you communicate with them quickly?

18 But if you did it through the mail service, I'm  
19 assuming that it's sent certified mail. I'm looking at  
20 the response time from the dealer, the reaction time from  
21 the dealer, they may not respond because they're already  
22 away and closed down and just issuing tags, and it would  
23 require an immediate suspension to prevent more harm to  
24 the community.

25 But will there be a process identified for

1 giving that opportunity to a dealer that is innocent,  
2 maybe possibly there's circumstances beyond his control  
3 that he could remedy? I'd like to hear your alternatives  
4 to that situation, if you may.

5 Thank you.

6 MS. THOMPSON: I will try to not express my  
7 feelings about dealers and their explanation for failure  
8 to timely respond to notices, but department notice is  
9 proper when we send to the last known mailing address on  
10 file, and so that's updated by the dealer in the  
11 eLICENSING system which is processed very quickly with the  
12 amendment application, and again, they're required as a  
13 licensee to have that information updated within ten days  
14 of any such change.

15 So if we found ourselves within that ten-day  
16 time period and the dealer could provide us with proof  
17 that they were within that time period of the change and  
18 their application had not yet been submitted or processed,  
19 that would be on a very case-specific basis but that would  
20 be something that we would consider.

21 And with regard to the Spanish speaker, we do  
22 have Spanish speakers within the Enforcement Division and  
23 we have them on the phone with dealers on a regular basis  
24 whenever they need translation help.

25 Also, our notice is sent via certified mail,

1 with these notice of department decisions we also send  
2 regular mail. And again, email notice is not the method  
3 that is recognized in our rule, but we do have email  
4 addresses on file for these dealers and we are generally  
5 sending these notices via email as well.

6 Our goal for department staff is to get in  
7 touch with the dealer because it is much easier for us to  
8 resolve our cases. We do about 7,000 a year on the motor  
9 vehicle side and I only have eight now -- it used to be  
10 six -- motor vehicle attorneys processing these cases, so  
11 for us we want to notice the dealer and we want them to  
12 respond, so we are using any means possible to get in  
13 touch with them when we send these notices.

14 MR. GONZALEZ: Thank you very much.

15 MR. SNELL: Member Snell asking to be  
16 recognized.

17 MR. DORAN: Member Snell, you are recognized.

18 MR. SNELL: Okay. Two comments or two -- yeah,  
19 two comments. Could you give a definition of credible  
20 evidence? And then secondly, I would be in favor of some  
21 sort of notice being given before you get cut off.

22 MS. THOMPSON: Sure. And so again, that is  
23 very case-specific. So some of the examples that have  
24 been discussed on this call would be one of the reasons  
25 that I would think the department would want to suspend

1 access, so we received complaints from it could be 100,  
2 200 consumers, it might just be ten, that they've received  
3 multiple buyers' tags from dealers, they don't have their  
4 title, could be months, could be a year.

5 Or they haven't been able to reach their  
6 dealer, buy-here/pay-here dealer, they can't get in touch  
7 with them. The dealer can't be located, the dealer is not  
8 operating at their licensed location but we continue to  
9 see that activity in the database. That for investigative  
10 staff would be a clear indicator of misuse of the system.

11 Also another one, the comparison of the buyers  
12 tags issued to the report that shows vehicles sold by  
13 dealers, if there is a very clear discrepancy there with  
14 the numbers, that would be indicative of misuse of the  
15 system as well.

16 We also receive information from law  
17 enforcement indicating tags are being sold on platforms  
18 like Craigslist, Facebook, things of that nature. We're  
19 talking about some very clear-cut extreme examples that it  
20 would take for the department to utilize this authority.

21 But you have to think about this too, as I just  
22 mentioned about the notice process, it's easier for us to  
23 get in touch with a dealer to resolve the case, we want to  
24 keep good actors in the system, we are just trying to  
25 ferret out the bad actors.

1           The department has limited staff and limited  
2 resources and we can't be taking all 7,000 cases to  
3 expedited hearing to determine whether temp tag access  
4 should be cut off. This is not something we're talking  
5 about utilizing in every case where there's a violation of  
6 department rule. This would be an extreme measure that  
7 would be utilized to stop risk of public harm or the  
8 continued commission of fraud.

9           MR. RIGBY: Michael Rigby. Permission to  
10 speak?

11           MR. DORAN: Member Rigby, you're recognized.

12           MR. RIGBY: I have some questions I think for  
13 Ms. Thompson.

14           So I think I agree that if we're really talking  
15 about the truly bad actors that you would want to cut off  
16 their access immediately, and I would assume that you  
17 would have strict criteria in place to identify those  
18 folks who are bad actors.

19           But my question kind of relates to one of your  
20 earlier comments. If for whatever reason DMV happens to  
21 be wrong about their assumptions, how does the dealer  
22 quickly regain access to the system? What's the method  
23 that they can use to continue to stay in business while  
24 this challenge plays out?

25           Thank you.

1 MS. THOMPSON: Sure. Corrie Thompson again.  
2 So again, I think it could go two different  
3 ways here. So I envision it just like a regular case,  
4 just like you would receive a notice for one failure to  
5 timely transfer title, you get your notice, you're like,  
6 oh, dang it, like that's not good, I know that I timely  
7 transferred that title, these people are wrong. You call  
8 the attorney and you provide us with proof that we're  
9 wrong, and we send you a settlement agreement and we close  
10 the case.

11 Here if we're looking into some information and  
12 let's say you have -- well, a rogue employee is not a good  
13 example because you're still as the licensee responsible  
14 for access to the system, and so while that might be a  
15 mitigating factor to consider, it wouldn't necessarily  
16 absolve the dealer of the entire problem. It's very fact-  
17 specific to be reviewed within each case.

18 But I would see this working as the notice --  
19 we either suspend and then send the notice, or the notice  
20 goes out and then we suspend, and the dealer contacts us  
21 and says, Hey, you have the wrong dealer.

22 I don't know, I'm trying to think of a good  
23 example here. And then we go back and we say, Oh, wow, we  
24 denied access to the wrong person. I would say that we  
25 would immediately turn back on access if we were wrong in

1 who we noticed.

2 I can't speak to this easily because I haven't  
3 had one of these bad actors in the past ever contact us  
4 and say, Oh, hey, it wasn't me. These people that we're  
5 talking about usually avoid all contact with the  
6 department and end up with default final orders with cases  
7 with penalties assessed and revocations that end up at the  
8 AG's office for collection.

9 So when I think of these cases, that's what I  
10 have in my mind, and so I'm sorry, I'm not able to come up  
11 with a more specific example of when that could be  
12 remedied.

13 MR. RIGBY: Michael Rigby. Permission to  
14 speak?

15 MR. DORAN: Member Rigby, you're recognized.

16 MR. RIGBY: So, Ms. Thompson, if for example  
17 you cut off the access and then through this new statutory  
18 authority could you not afford the dealer some opportunity  
19 for an expedited hearing at SOAH?

20 I mean, I agree that most of the bad actors are  
21 not going to challenge getting cut off, but if there was  
22 some mistake or dispute and the parties couldn't agree to  
23 whether the dealer should have access, what's the remedy  
24 for the dealer? Do they go to SOAH, do they go to  
25 district court, are they just out of luck until, you know,

1 the revocation action gets teed up at SOAH six, nine  
2 months later?

3 Thank you.

4 MS. THOMPSON: Corrie Thompson.

5 You're the lawyer on the line, so, yes, you're  
6 going where I'm going next with my additional questions.

7 So with these notices I contemplate an  
8 expedited hearing, and just for me speaking, I don't want  
9 to feed information to the group, but generally what we  
10 see with expedited hearings is we're looking to docket  
11 those within twenty days. So within the time period  
12 expires, say it's like our regular NOD it's twenty-six  
13 days, that if there's a hearing requested in that time,  
14 then we get it docketed within, say, ten days and then we  
15 look to have an expedited hearing. And for us those would  
16 go to SOAH, and we can talk about what that means. I have  
17 that as further points of discussion as to who the final  
18 decision-maker would be, board versus SOAH, in these  
19 cases.

20 MS. JOHNSON: Member Johnson requesting to be  
21 recognized and to speak.

22 MR. DORAN: Member Johnson, you're recognized.

23 MS. JOHNSON: Ms. Thompson, the one thing that  
24 we're not talking about here is the other options. We're  
25 talking about cutting off access to the database so these



1 tags can't be indiscriminately printed, basically  
2 fraudulent activity. What are the dealer's other options?

3 Can they not go to the county tax office and obtain the  
4 proper paperwork in the proper manner through a county  
5 office?

6 MS. THOMPSON: Corrie Thompson again.

7 So that's my next line item that I have laid  
8 out to discuss. So I have notice timing here first, and  
9 then my next point of question is how would dealers access  
10 tags while they are suspended.

11 And the two points that I have listed right  
12 now, if we want to take this up before the notice timing,  
13 I'm fine with that. What I have is tax assessor-collector  
14 offices versus Texas Department of Motor Vehicle offices.

15 So that I figured would definitely be a point of  
16 discussion for the group. So I am free to have everyone  
17 discuss that now if you'd like.

18 So as I mentioned -- I'm sorry, Officer Doran,  
19 I just had one more thing to say.

20 MR. DORAN: Sure, please proceed.

21 MS. THOMPSON: I mentioned that, yes, if we are  
22 cutting off someone's access to the system, we should  
23 still give them a way to continue doing business so that  
24 we're not putting somebody out of business that might  
25 ultimately end up not being a truly bad actor who should

1 be kicked out.

2 How do we let them continue to access these  
3 tags while they're on the suspension? They need somewhere  
4 to go to get these tags. They're accessing through an  
5 online portal through webDEALER, which eTAG is integrated  
6 into right now, and so when we shut that off, I'm  
7 envisioning a physical place that they would need to go  
8 and access those tags or somebody they could contact to  
9 have that information sent to them. I'm completely open  
10 to that so that will be to the group to discuss.

11 MR. DORAN: Ms. Thompson, this is Officer  
12 Doran. I wanted to offer a hypothetical to kind of bring  
13 some of these concerns and examples into plan, and perhaps  
14 you could walk us through this in order to help the  
15 discussion.

16 So let's say it's the Friday before Memorial  
17 Day weekend, and the department has made a good faith  
18 effort to try and contact the dealer and the notice  
19 arrives by certified mail. It lands on somebody's desk at  
20 the dealership on Friday, although they're unable to open  
21 it given the volume of business that they have going on,  
22 et cetera.

23 And then the access is either turned off over  
24 the weekend or during a period of time when they're  
25 engaged in a high volume of business. Because it is the

1 weekend, the dealer is unable to reach either a DMV  
2 attorney or somebody at the tax assessor's office in order  
3 to continue to conduct business, whether it's under some  
4 level of -- I'm talking about the webDEALER functionality  
5 is shut off so they're trying to continue to be able to  
6 issue tags but they're unable to do so through the usual  
7 channel.

8 In that scenario, in line with what we're  
9 talking about, it would seem to me that one possible way  
10 to address this would be -- since we seem to be very  
11 worried about a high volume of these tags being issued  
12 when they're being done in a manner that's inappropriate  
13 and unlawful -- I'm just concerned about that dealer not  
14 being able to -- especially in this economic environment,  
15 not being able to conduct business over the weekend, a  
16 busy weekend for them when they are able to -- they have a  
17 legitimate reason for why this has occurred and there's a  
18 plausible defense here, and just financially it would be  
19 very crippling for them to have the access turned off.

20 I'm wondering if there's maybe a volume cap  
21 that could be put on them for a day or two until the  
22 expedited hearing could occur or DMV could be open so that  
23 that dealer could then reach out and try and get more  
24 information about the situation.

25 That's where my head is. I'm worried about a

1 dealer getting -- you know, this landing on their desk and  
2 them missing it on a Friday, and the next thing they know,  
3 access is cut off. And maybe that just ties into more of  
4 an operational question related to webDEALER which is  
5 dealers having a process in place already for when access  
6 goes down how they continue to operate in issuing tags and  
7 registration.

8 MS. THOMPSON: Sure. Corrie Thompson again.

9 So this should not be a problem -- should not  
10 because if dealers are properly utilizing their stash of  
11 internet-down tags, then they will have a preprinted stash  
12 based on the number of sales volume that they do.

13 There's a way they can contact the department  
14 to get an increased number of them if they are selling  
15 more than they were previously allotted, it's specified in  
16 Administrative Code rule. They would have internet-down  
17 tags to issue over the weekend to any buyers who they sold  
18 vehicles to.

19 MR. DORAN: Thank you. That's helpful.

20 MS. RASH: Member Rash. I have a question.

21 MR. DORAN: You are recognized, Member Rash.

22 MS. RASH: I think my concern more is for a  
23 consumer who goes that day and purchases a vehicle and if  
24 notice was given -- because I would assume the notice  
25 would say you will not be able to issue permits so that

1 they would know that they shouldn't sell a vehicle unless  
2 they have another way to get a permit for that customer.

3           So I don't know how you could just turn it off  
4 without some kind of notice so that we wouldn't get the  
5 public caught in the midst of what's going on,  
6 particularly if there might be an error. Because, yes,  
7 you've got a group that are fraudulent and I hate them and  
8 have complained about them myself, but on the same hand,  
9 this is everybody that has -- you know, is a used car  
10 dealer or at this point maybe a franchised, but I would  
11 have a concern for the public's ability to buy a vehicle  
12 and then have a permit to put on it at that time.

13           MS. THOMPSON: Sure. Corrie Thompson again.

14           And I think that situation would, again, be  
15 addressed by the issuance of internet-down tags. So the  
16 dealers are supposed to be preprinting those, and they're  
17 supposed to have them locked away and ready to use in case  
18 the internet goes down, and they're supposed to have that  
19 so they could be covered for a couple of days' time period  
20 based on their sales volume.

21           And so in that instance, whether it was with or  
22 without the notice, the dealer would be able to access  
23 that stash of internet-down tags to issue to anybody they  
24 should a vehicle to so that we're not catching those  
25 consumers in the dealer's potential wrongdoing.

1 MR. RIGBY: Michael Rigby. Permission to  
2 speak?

3 MR. DORAN: You're recognized, Member Rigby.

4 MR. RIGBY: Ms. Thompson, I guess I'm concerned  
5 that if you gave prior notice to the dealer that they  
6 would be cut off that a truly bad actor would simply print  
7 out a stash of 1,000 tags so they can continue to do  
8 business, you know, even if they get revoked.

9 Can you talk about that? Is that possible, is  
10 it not possible? How would that work if you did give  
11 prior notice of whatever it is, three days, five days, ten  
12 days, twenty days?

13 Thank you.

14 MS. THOMPSON: Corrie Thompson again.

15 With these dealers that we are talking about,  
16 yes, I foresee that that would be a problem, that if we  
17 gave them notice they would go in, print as many as they  
18 possibly could, and then disappear off the face of the  
19 earth. Yes, there is the potential that that could  
20 happen, so that's a good point that you bring up for the  
21 group to know.

22 MS. RASH: Member Rash again. I'd like to make  
23 a comment.

24 MR. DORAN: Member Rash, you're recognized.

25 MS. RASH: But don't you think that the new

1 changes where we're connecting the driver's license to the  
2 permit and the other things that we discussed that would  
3 help with the fraud may have a good impact to where they  
4 couldn't -- or they wouldn't want to be able to do that  
5 because then they would be in bigger trouble because the  
6 fraud would be so evident with their driver's license  
7 connected to it.

8 MS. THOMPSON: This is Corrie Thompson again.

9 I believe -- are you speaking to the points  
10 that we brought up during the last meeting or the things  
11 that VTR has already implemented when it comes to dealers  
12 coming in to transfer title to make sure that everything  
13 was proper with that transaction?

14 Because those changes that were already  
15 implemented by the Vehicle Titles and Registration  
16 Division were absolutely implemented to try to curb some  
17 of the fraud and misuse in the system that we've seen, and  
18 we do believe that those changes that VTR has put in place  
19 and is working to put in place in the future will help  
20 with the problem that we know is rampant with the misuse  
21 and abuse of these tags.

22 MR. GONZALEZ: This is Member Gonzalez.  
23 Permission to speak?

24 MR. DORAN: You're recognized, Member Gonzalez.

25 MR. GONZALEZ: Yes. Ms. Thompson, I'd like to

1 get clarification. I know we've been talking about the  
2 ability to deny access to the dealers, but if you deny  
3 access to the dealer, is that to be interpreted that they  
4 cannot transfer a title at the county tax office, or are  
5 we talking about the same thing?

6 Because I'm concerned if you're trying to deny  
7 access based on the eTAG program and they're still  
8 continuing to transfer titles and we get paperwork at the  
9 tax office and then all of a sudden they're canceled, then  
10 it brings up a lot of issues with breaking the rejection  
11 or processing the rejection.

12 So I don't know if there's a method to inform  
13 the tax collector that you're going to do this that we can  
14 have a heads-up on the title paperwork. Please clarify  
15 that for my general understanding. Are we talking two  
16 different things?

17 MS. THOMPSON: Yes.

18 MR. GONZALEZ: Or are we talking the same where  
19 you denied access is the same as canceling a license to  
20 transfer title?

21 Thank you.

22 MS. THOMPSON: Corrie Thompson again.

23 So we're talking about keeping more of these  
24 tags from getting onto the streets, so stopping the  
25 bleeding for the tags leaking out everywhere for, you



1 know, them to be used on vehicles that are used in the  
2 commission of crimes, in drug trafficking, things like  
3 that.

4 We're talking about stopping that flow of tags,  
5 so that's why we're also contemplating still giving the  
6 dealer a way to get a tag, so the rest of it should be  
7 business as usual. So yes, there might be other problems,  
8 but the department has ways already to deal with that. We  
9 do not currently have a way to deal with the bleeding,  
10 misuse, and abuse of the tags getting out on the road.

11 MR. GONZALEZ: Thank you very much.

12 MS. THOMPSON: Absolutely.

13 So I know neither of these are palatable points  
14 of discussion, but the timing of the notice being issued  
15 being suspend and then issue notice, or notice and then do  
16 the suspension, or where do dealers access tags while they  
17 are suspended from the system, so maybe we can move to a  
18 different point and then come back to those.

19 So Member Rigby mentioned this a little while  
20 ago, but I do envision this being an expedited hearing  
21 process, and so in my mind expedited is usually, you know,  
22 we're having it within the month after it's been docketed,  
23 so we're requesting expedited at the State Office of  
24 Administrative Hearings. So for me, that's a no-brainer,  
25 like we're denying someone's access to the system and

1 they're a current licensee of the department, we need to  
2 give them an expedited hearing.

3 But the way administrative law works -- and I  
4 will just give everybody a refresher from what I mentioned  
5 last time -- is that you can have different decision-  
6 makers. So you think about a case with a judge and when  
7 you think about that in normal, non-administrative law  
8 life, you think whatever decision is issued from that  
9 judge, that's final. You know, it can be appealed  
10 somewhere but that's the final decision.

11 In administrative law, SOAH can either be the  
12 final decision-maker and issue that final order, or they  
13 can issue a proposal for a decision and then it can go  
14 back to the agency's board for issuance of a final order.

15 So that's what currently happens with our regular cases  
16 that relate to sanctions or license application denials,  
17 things of that nature.

18 And we all know that that takes longer because  
19 then you have to put the contested case -- you have to  
20 wait for the SOAH PFD to come out, then there's a period  
21 to file exceptions from both sides, and then the case  
22 ultimately gets added to a board meeting agenda as an item  
23 to be discussed. And then there's a period of time after  
24 that following the board meeting for the issuance of the  
25 final order to come out.

1           So that is still an option, but it's also an  
2 option for the department by rule to say that SOAH is the  
3 final decision-maker in the case, which would further help  
4 the expedited nature of the hearing, because then you  
5 wouldn't have to wait for the case to go to be heard at a  
6 board meeting before the board.

7           And again, the decision on this would be just  
8 can the suspension stay in place or not, that's the only  
9 decision being made. The rest of the case that involves  
10 any potential license sanction action or penalty option  
11 would still go on its own to the board.

12           We're only talking about the point of whether  
13 or not that temporary hold remains in place. And so I did  
14 want to bring that to the membership to say would you like  
15 to see it still go to the board, like the other cases do,  
16 or would you like SOAH to be the final decision-maker  
17 here, which again, the point of that being would be to  
18 speed up the process to get the decision quicker.

19           MR. DORAN: Ms. Thompson, this is Officer Doran  
20 again.

21           Just for the group, can you clarify, there's  
22 not a type of injunctive relief that SOAH could issue  
23 before -- you painted a picture of probably a good  
24 scenario with an expedited hearing being maybe thirty days  
25 out. There's no way to go to SOAH seeking the equivalent

1 of a TRO or temporary injunction to prevent that dealer  
2 from issuing any further tags until such time as the  
3 hearing occurred? Or conversely, that would give the  
4 dealer the immediate -- a more immediate attempt at trying  
5 to be able to stay open until -- or be able to issue those  
6 tags until the hearing occurred let's say thirty days out.

7 MS. THOMPSON: Not that I'm familiar with.  
8 Corrie Thompson again.

9 Anybody from Office of General Counsel is  
10 welcome to speak up on that. The current agency process  
11 for seeking an injunction goes through the Attorney  
12 General's Office.

13 MR. DORAN: Okay. Thank you.

14 MR. RICHARDS: Officer Doran?

15 MR. DORAN: Yes, David.

16 MR. RICHARDS: David Richards, for the record.

17 I would agree with Corrie Thompson. There is  
18 no vehicle, it does go to the AG's office.

19 MR. DORAN: Thank you.

20 MR. RIGBY: Michael Rigby. Permission to  
21 speak?

22 MR. DORAN: Member Rigby, you're recognized.

23 MR. RIGBY: I think I would agree -- or  
24 propose, in response to Ms. Thompson's comments, that you  
25 allow SOAH to be the final decision-maker in an expedited

1 hearing. If there is some kind of mistake, you want that  
2 dealer to be able to prove that up as quickly as possible  
3 so they can get access back immediately or as close to  
4 immediately as possible.

5 There's another kind of issue here. Once you  
6 have the hearing at SOAH, even if SOAH is the final  
7 decision-maker, it often takes sixty days for an  
8 administrative law judge to issue a decision, so in the  
9 recommended legislative change, you might want to include  
10 something that requires the ALJ to issue a decision  
11 within, say, ten days.

12 Thank you.

13 MS. THOMPSON: Corrie Thompson again.

14 Yes, I have no issue with that. If the group  
15 would like to discuss that, that would not be a problem,  
16 in my opinion, to write that into the statutory change  
17 recommendation.

18 MR. DORAN: This is Officer Doran. I would  
19 support what Member Rigby just proposed on requiring the  
20 ALJs to issue a decision within ten days.

21 MS. THOMPSON: Corrie Thompson again.

22 I have on additional information on this point,  
23 so again, we're just discussing who is the final decision-  
24 maker, does the case with the expedited hearing go to SOAH  
25 or does it go to the board, so that's the decision point

1 here.

2 MR. RICHARDS: Officer Doran?

3 MR. DORAN: Yes.

4 MR. RICHARDS: David Richards. May I have  
5 permission to speak?

6 MR. DORAN: Please, yes.

7 MR. RICHARDS: Members, I believe Ms. Thompson  
8 would like a motion on this particular issue. We'd like  
9 to kind of piece this together through motions that will  
10 ultimately be recommendations to the board.

11 So, Corrie, unless I misinterpreted what you  
12 were saying, you'd like a motion from the membership as to  
13 the final decision-maker and all these other points.

14 MS. THOMPSON: Yes. Thank you, David. Corrie  
15 Thompson again.

16 MR. RIGBY: Michael Rigby. Permission to  
17 speak?

18 MR. DORAN: You're recognized, Member Rigby.

19 MR. RIGBY: I would move that DMV be granted  
20 the authority under statute to immediately cut off access  
21 to issue the tags, that the dealer who is cut off be  
22 allowed to request a hearing within twenty days, that the  
23 hearing be held no later than ten days after the request,  
24 and that the administrative law judge issue a decision no  
25 later than ten days after the hearing.

1 MR. DORAN: Is there a second to the motion?

2 MS. JOHNSON: Member Johnson. I will second  
3 that motion.

4 MR. DORAN: Okay. There's a motion, there is a  
5 second.

6 MR. RICHARDS: Officer Doran?

7 MR. DORAN: Yes. David, go ahead.

8 MR. RICHARDS: David Richards. Permission to  
9 speak?

10 MR. DORAN: Yes.

11 MR. RICHARDS: Member Rigby, was your motion  
12 also that the SOAH judge is the final decision-maker?

13 MR. RIGBY: Yes, that is my motion to include  
14 that in the motion. I'm not sure I worded it, but include  
15 that.

16 MS. JOHNSON: Member Johnson. I concur.

17 MR. DORAN: Okay. David, perhaps we can revise  
18 the motion to reflect Mr. Rigby's last addition?

19 MR. RICHARDS: That's right.

20 Member Rigby, if you wouldn't mind, would you  
21 restate that with the addition, if you're willing to do  
22 so, and then we'd need a second, please.

23 MR. RIGBY: I'll try. All right. So my motion  
24 is that DMV be granted the authority under statute to  
25 immediately cut off access to issue tags by a dealer, that

1 the dealer may request a hearing on the denial of access  
2 within twenty days after the access is denied, that SOAH  
3 conduct a hearing no later than ten days after the request  
4 for hearing, that the ALJ, the administrative law judge,  
5 issue a decision no later than ten days after the hearing,  
6 and that SOAH is the final decision-maker in this process.

7 I think I've covered everything.

8 MR. DORAN: Is there a second for the motion?

9 MS. JOHNSON: Member Johnson. I'll second that  
10 motion.

11 MR. DORAN: All right. For the members,  
12 please -- we're going to vote on the motion -- please  
13 indicate whether you support the motion or oppose the  
14 motion when I call your name.

15 Member Gonzalez?

16 MR. GONZALEZ: I support the motion.

17 MR. DORAN: Member Cheryl Johnson?

18 MS. JOHNSON: Support the motion.

19 MR. DORAN: Member Olah?

20 MR. OLAH: I support the motion.

21 MR. DORAN: Member Rash?

22 MS. RASH: If there's no notice, I don't  
23 support the motion.

24 MR. DORAN: Okay. Member Rigby?

25 MR. RIGBY: I support the motion.



1 MR. DORAN: Member Snell?

2 MR. SNELL: I oppose the motion.

3 MR. DORAN: And Laird Doran, I also oppose the  
4 motion, but I oppose the motion because of the lack of the  
5 notice issue being fully vetted at this point.

6 Okay. There being four in support of the  
7 motion and three opposed, I presume the motion passes,  
8 David, four to three?

9 MR. RICHARDS: That is correct.

10 MR. DORAN: Okay. All right. The motion  
11 passes.

12 Ms. Thompson, we'll turn it back over to you.

13 MS. THOMPSON: Yes. Thank you.

14 Corrie Thompson again.

15 I know everybody loves this temp tag  
16 discussion, but we have two more points to go before we  
17 will get moving on to our next item on the agenda.

18 So, Officer Doran, you mentioned a point that I  
19 said I would add to my list of talking points about should  
20 it be different for different types of licensees, and so  
21 if you wanted to expound a little bit more on that so that  
22 I have a greater understanding and so that the rest of the  
23 membership has a greater understanding, I would like to  
24 hear what you have to say about that.

25 MR. DORAN: Sure. Well, let me say this in a

1 very diplomatic way, and I want to say this because in my  
2 practice of law in my day-to-day job, I interact with very  
3 sophisticated franchised dealers who have sufficient  
4 compliance and checks and balances and operational  
5 safeguards in place, and it's my impression from having  
6 sat through years of board meetings that at least with  
7 respect to the majority of the cases involving some type  
8 of misconduct, be it related to tags and registration or  
9 maybe conducting vehicle inspections improperly, that type  
10 of thing, that these events have occurred -- at least as  
11 they have made it all the way up to the board meeting  
12 level -- by independent non-franchised dealers.

13           And so if there was a situation where a  
14 franchisor became aware, if they were alerted by the  
15 department or if they were alerted by law enforcement or  
16 they were alerted by a customer or they were alerted by  
17 the press that there was a franchised dealer that was  
18 engaging in the practice of improperly issuing tags on  
19 vehicles, I would presume that the franchisor would be at  
20 a place where there would be counseling and engaging in  
21 discussions with that franchised dealer in order to  
22 rectify that situation as quickly as possible.

23           Given that independent dealers obviously don't  
24 have that kind of relationship with a franchisor, I don't  
25 want to call it oversight, but there is just a level of

1 communication that exists between a franchisor and  
2 franchisee dealer that is very regular and continuous and  
3 my impression is that the conduct that we're concerned  
4 about here is less likely to be taking place on the scale  
5 of which would be harmful to a large number of individuals  
6 if we're talking about a franchised dealership.

7           Again, that is my impression based upon just my  
8 personal work experience, but I, of course, value whatever  
9 data or experiences and enforcement actions that staff  
10 would be willing to share, if that impression is beared  
11 out in terms of the statistics of the types of licensees  
12 that have had to come before the board and been subject to  
13 enforcement actions in the past.

14           MS. THOMPSON: Corrie Thompson here.

15           Daniel, the director of the Motor Vehicle  
16 Division, may want to jump in and correct me if I'm wrong,  
17 but I believe we have a total of 30,000-some-odd licensees  
18 in the system, and about 3,000 of those are franchised  
19 dealers, the rest being a subset of the manufacturers,  
20 distributors, converters, independent dealers, things of  
21 that nature, salvage dealers.

22           What I see in the Enforcement Division -- and  
23 it could be just based sheerly on that volume -- that the  
24 majority of our complaints do come from independent GDN  
25 holders.

1           And so just my thoughts on this, if we are  
2 talking about the types of abuses of the tag system that  
3 we're discussing here, that regardless of the type of  
4 licensee that it would be in the public's interest that we  
5 treat all license holders the same, but again, that's a  
6 point of discussion for the group.

7           And if nobody else has anything -- Corrie  
8 Thompson again -- if nobody else has anything to add onto  
9 that, then again, the motion I'm seeking is for whether  
10 the ability to suspend access pertains across the board to  
11 all types of entities licensed by the department or  
12 whether or not it is different for certain categories of  
13 license holders.

14           MS. JOHNSON: Member Johnson requests to be  
15 recognized and to speak.

16           MR. DORAN: Member Johnson, you're recognized.

17           MS. JOHNSON: Ms. Thompson, having sat on that  
18 board and knowing politically how much the legislature is  
19 interested in furthering business and that the various  
20 automobile dealer associations are very active and  
21 ultimately could result in legislation being drafted, do  
22 you believe that there would be a fear or concern that  
23 treating the different licensees differently could pose a  
24 problem moving forward?

25           MS. THOMPSON: Corrie Thompson again.

1           Yes, that could potentially pose a barrier or,  
2 you know, bring up points of disagreement if this were to  
3 move outside of the department during session. Yes.

4           MS. JOHNSON: Then, Mr. Chairman, I would like  
5 to make a motion that the department be able to  
6 temporarily suspend access to the database for habitual  
7 offenders despite -- without regard to the type of license  
8 that they hold.

9           MR. DORAN: Okay. Is there a second to the  
10 motion?

11          MR. RIGBY: Michael Rigby. I'll second that.

12          MR. DORAN: Okay. We'll proceed forward with  
13 having a vote. Please state whether you support or oppose  
14 the motion when I call your name.

15          Member Gonzalez?

16          MR. GONZALEZ: I support the motion.

17          MR. DORAN: Member Cheryl Johnson?

18          MS. JOHNSON: I support the motion.

19          MR. DORAN: Member Olah?

20          MR. OLAH: I support the motion.

21          MR. DORAN: Member Rash?

22          MS. RASH: I'm a yes.

23          MR. DORAN: Member Rigby?

24          MR. RIGBY: I support the motion.

25          MR. DORAN: Member Snell?

1 MR. SNELL: I support the motion.

2 MR. DORAN: Okay. And I, Laird Doran, also  
3 support the motion. So the motion passes unanimously.

4 MS. THOMPSON: Okay. So Corrie Thompson again.

5 Going back to a point of discussion I brought  
6 up earlier, how do dealers access the tags while they're  
7 suspended so that they can continue conducting business  
8 with just kind of an additional level of oversight when  
9 those tags are released.

10 So are they going to a tax office, are they  
11 going to a DMV office, a regional service center, are they  
12 doing so in person, are they able to call in and provide  
13 information, email information, what does that look like  
14 for everyone?

15 And I am a blank slate on this so I am really  
16 interested in hearing any comments that the group has to  
17 interject on that.

18 MR. GONZALEZ: Member Gonzalez. Permission to  
19 speak?

20 MR. DORAN: Member Gonzalez, you're recognized.

21 MR. GONZALEZ: Thank you.

22 Well, from the dealer community aspect, I  
23 believe if they've been denied access to issue any type of  
24 temporary tag and then they want to be able -- demonstrate  
25 that vehicle to a prospective buyer for any reason,

1 they're only alternative is to seek a temporary permit.  
2 Now, in this particular case, the only option available  
3 pretty much is going to be a 30-day permit. There's no  
4 other option unless it's a big commercial vehicle where  
5 they qualify for a 72-hour permit or 144 or even a one  
6 trip. The one trip is very restrictive so that's not of  
7 value to the dealer community at all, so it would almost  
8 have to be a 30-day permit. There's no other permits  
9 available.

10 The three-day tag transfer permit that's there  
11 is of no use to the dealer, so it almost has to be a  
12 30-day permit if they wish to make that vehicle available  
13 to the customer.

14 And of course, along with that goes the  
15 requirement of having valid insurance. So there's no  
16 other option for them, so I don't know if the dealer  
17 community would like that. Then again, if they're  
18 motivated for a sale, it almost seems that they have to do  
19 that, and unless they can get it through the online  
20 system, they would have to revert and go to the county tax  
21 office and buy a permit.

22 So I share that with you for information  
23 purposes. Thank you.

24 MS. THOMPSON: Corrie Thompson again. Officer  
25 Doran, if I could be recognized?

1 MR. DORAN: Yes. Please proceed.

2 MS. THOMPSON: So Member Gonzalez brings up a  
3 good point. He is discussing something that, I guess, is  
4 an additional point to think on. So right now if a buyer  
5 has an expired buyer's tag, the dealer can go and get them  
6 a 30-day permit -- they should go and get them a 30-day  
7 permit at the tax office if they're having an issue  
8 transferring the title.

9 And so what I was contemplating with this ask  
10 was an alternate method, introducing a new method to get a  
11 buyer's tag or a dealer's tag, same type of tag that you  
12 would have issued yourself in the system, from an  
13 alternate source. So same type of tag.

14 And so you've introduced something else, Member  
15 Gonzalez, which is do we utilize a different type of  
16 existing tag or permit and issue it in lieu of issuing the  
17 same type of tag the dealer would have been issuing  
18 themselves. So that's just, in my opinion, an added point.

19 So when they are accessing the tags when their  
20 system access has been denied, are they getting some other  
21 alternate kind of tag or are they getting these same exact  
22 type of tags just from a different place?

23 So what I was thinking about -- again, I'm a  
24 blank slate on this, but when I was thinking about it, I  
25 was thinking I don't have access to the system, I'm a



1 dealer, I need to go get a buyer's tag. You know, if I  
2 was going to get a 30-day permit, I would go to the tax  
3 office, so let's just say for discussion purposes, I know  
4 I'm suspended, and now because the DMV has told me to get  
5 a buyer tag, now I need to go to the tax office and  
6 they're the ones that would be issuing me the tag.

7 So we are, of course, talking about additional  
8 workload. If we interject any requirement like that and  
9 we're sourcing it either to the DMV or to the tax offices  
10 or to some other alternate place, then that's an added  
11 workload that we do not currently have imposed on anyone,  
12 just like the expedited hearing is an added workload on  
13 the Enforcement Division.

14 We're doing that, obviously welcoming it, in  
15 order to curb the problem with the temp tags. And so I  
16 want to start this discussion with that knowledge, that we  
17 are talking about, in my opinion, I thought interjecting  
18 something new, but then there's also the option now that  
19 Member Gonzalez has brought up which is using something  
20 that's existing and that you can access from a source  
21 currently.

22 MS. JOHNSON: Member Johnson requesting to be  
23 recognized and to speak.

24 MR. DORAN: Member Johnson, you're recognized.

25 MS. JOHNSON: You know, I have full confidence

1 in my staff at our various locations. We have four  
2 locations in Galveston County, and then we are part of the  
3 Houston Region of which there's many, many tax offices  
4 within that region.

5 And if Ms. Thompson is seeking a position from  
6 this committee on which access should be provided, the  
7 least detrimental to the business would be to provide the  
8 dealer the ability to attend any county tax office or  
9 regional office in order to obtain the tags or other  
10 services needed to further their business.

11 And if you need that in the form of a motion,  
12 then I'd be more than happy to do so.

13 MS. THOMPSON: Sure. Yes, I was looking for a  
14 motion on this so that we did have this as a decision  
15 point. Corrie Thompson again.

16 MS. JOHNSON: Mr. Chairman, is it too early for  
17 me to make a motion on this?

18 MR. DORAN: Let me ask if there's any further  
19 discussion before we take up the motion.

20 (No response.)

21 MR. DORAN: Not hearing any, please proceed  
22 with making your motion.

23 MS. JOHNSON: I would move that dealers who  
24 have been temporarily suspended access to the database be  
25 permitted the ability to seek in-person services at any

1 county tax office or regional office, as appropriate.

2 MR. DORAN: Members, you've heard the motion.

3 Is there a second?

4 MR. RIGBY: This is Michael Rigby. I'll  
5 second.

6 MR. DORAN: Okay. There's a second.

7 Okay. I will now call for a vote on the  
8 motion. Please indicate your support for the motion by  
9 saying yes, or no if you do not support the motion.

10 Member Gonzalez?

11 MR. GONZALEZ: Yes, I support the motion.

12 MR. DORAN: Member Cheryl Johnson?

13 MS. JOHNSON: I support the motion.

14 MR. DORAN: Member Olah?

15 MR. OLAH: Yes, I support the motion.

16 MR. DORAN: Member Rash?

17 MS. RASH: Yes.

18 MR. DORAN: Member Rigby?

19 MR. RIGBY: I support the motion.

20 MR. DORAN: Member Snell?

21 MR. SNELL: Yes.

22 MR. DORAN: And I, Laird Doran, also support  
23 the motion.

24 The motion passes unanimously.

25 MS. THOMPSON: Corrie Thompson again.

1 I have no further points of discussion on this  
2 item.

3 MR. DORAN: Okay. David, let me get over to  
4 you for a second just to see where we need to move forward  
5 on the agenda.

6 MR. RICHARDS: Officer Doran, this is David  
7 Richards. May I have permission to speak?

8 MR. DORAN: Yes, please.

9 MR. RICHARDS: Members, normally if we were  
10 meeting in person, quite frequently we take a quick break,  
11 restroom break. I don't want to keep everybody sitting  
12 and avoiding that, and if we can recess just for a couple  
13 of minutes, just don't disconnect from the call, or you  
14 can get up during the meeting and we can go ahead and  
15 proceed.

16 Is there any particular desire on any member's  
17 part to recess for just a minute or two, or is everybody  
18 okay to continue?

19 MS. JOHNSON: Member Johnson. I'd be pleased  
20 if we would do so.

21 MR. DORAN: This is Officer Doran. I would as  
22 well.

23 David, could we, say, take a short break until  
24 11:40 and resume? Would that be sufficient time?

25 MR. RICHARDS: David Richards again.

1           Let me confirm with our IT staff that we're  
2 okay and good to do that.

3           David Eng, I would ask you to respond.

4           MS. HARRIS: David, this is Tameka Harris, for  
5 the record. I'm not sure if David Eng is available at the  
6 moment but I will set a timer for ten minutes. Is that  
7 okay?

8           MR. RICHARDS: That's perfect.

9           Members, is that okay with y'all?

10          MR. DORAN: Thank you. And I think silence is  
11 acquiescence there. So we will reconvene at 11:40.

12          MR. RICHARDS: Thank you.

13          MR. DORAN: Thank you.

14          (Whereupon, at 11:28 a.m., a brief recess was  
15 taken.)

16          MR. RICHARDS: Officer Doran, this is David  
17 Richards. Permission to speak?

18          MR. DORAN: Yes, please proceed.

19          MR. RICHARDS: I guess we're at 11:40 now. You  
20 may proceed with the meeting if you'd like.

21          MR. DORAN: Okay. Thank you, David.

22          Back on the record at 11:40, continuing  
23 discussion on item 2.C. Temporary tags, (legislative  
24 recommendations), and I think we left off at a place where  
25 we were, I think, determining that Ms. Thompson was at the

1 end of her presentation.

2 Is that correct, Ms. Thompson.

3 MS. THOMPSON: That is correct. Thank you,  
4 Officer Doran.

5 MR. DORAN: All right. Ms. Thompson, were  
6 there any other recommendations related to agenda item  
7 2.C. that you were seeking for the members to take up or  
8 to offer a motion on?

9 MS. THOMPSON: I was not. I don't know if  
10 Vehicle Titles and Registration Division Director Jeremiah  
11 Kuntz had anything that he needed to add.

12 MR. KUNTZ: This is Jeremiah Kuntz. I did not  
13 have anything further on that agenda item. Thank you.

14 MR. DORAN: All right. David, let me ask if  
15 there's nothing further then may we proceed to the next  
16 agenda item, agenda item 2.D?

17 MR. RICHARDS: Yes, sir, we may.

18 MR. DORAN: Okay. Members, we are now going to  
19 move on to agenda item number 2.D. Title when motor  
20 vehicle dealers go out of business.

21 Members, this discussion will be led by  
22 Jeremiah Kuntz, division director, VTR, and/or David  
23 Richards, associate general counsel, the Office of General  
24 Counsel at TxDMV.

25 Order of presentation will be -- actually, I

1 will turn it over to Mr. Kuntz and Mr. Richards at this  
2 time for presentation.

3 MR. KUNTZ: Members, for the record, Jeremiah  
4 Kuntz, director of the Vehicle Titles and Registration  
5 Division.

6 So each time that we discussed this topic, we  
7 discussed that the board had recently adopted some rules,  
8 and those rules are in 217.16, and they cover application  
9 for title and registration when a dealer has gone out of  
10 business.

11 If you remember, there was some legislation  
12 that passed this last legislative session that required  
13 the department to adopt rules to clarify when a dealer has  
14 gone out of business and to provide some remedies to the  
15 customer by means of waiving the title and registration  
16 fee as well as the fee for a 30-day permit when the dealer  
17 has gone out of business and the customer can show proof  
18 that they had paid the dealer for those fees.

19 So we kind of went over this process a little  
20 bit the last time. The department has created some  
21 processes around applying to the department for a letter  
22 asking for that determination that the dealership has been  
23 closed and the department issuing a letter and itemizing  
24 the fees that can be waived by the county tax assessor-  
25 collector's office when the customer comes in to apply for

1 title and registration.

2 So really, what we want to kind of talk about  
3 here, obviously this is the Consumer Protection Advisory  
4 Committee, and there's definitely great harm or there's  
5 great inconvenience that's caused when a dealership goes  
6 out of business to customers that have purchased from that  
7 dealership and the dealer is required to apply for title  
8 on their behalf, in accordance with the Title Act, and  
9 they've paid those fees to that dealership.

10 I think that part of our discussion is --  
11 there's really kind of two parts in my mind. One is has  
12 the department adequately defined what out of business  
13 means, and right now that is the dealer license has been  
14 closed or has expired or operations have ceased at the  
15 licensed location as determined by the department.

16 So is that sufficient, or should the department  
17 evaluate other criteria for determining that a dealership  
18 has closed? And should there be any additional statutory  
19 recommendations made by the Texas Department of Motor  
20 Vehicles Board to the legislature for any statutory  
21 changes to enhance the protections for consumers in these  
22 situations?

23 And I'll just kind of bring out this actual  
24 case that's out there because it's in the public domain  
25 and everybody has been very aware of it.



1           The Reagor Dykes bankruptcy has had a pretty  
2 vast and large impact on many consumers that had purchased  
3 vehicles from that dealership, and that is something that  
4 is not covered here. Bankruptcies are not covered in  
5 this; however, they have a very similar impact on  
6 consumers' ability to get timely title and registration  
7 for vehicles that they purchased.

8           And so that's really a discussion that I  
9 believe the department would like the advisory committee  
10 to have, is do you see that there's any other things that  
11 could be done to assist consumers in your day-to-day  
12 operations -- y'all potentially see some of these -- and  
13 should that definition be expanded or should there be  
14 legislative requirements to expand to possibly include  
15 bankruptcies or other scenarios where a dealership is not  
16 applying for title on behalf of the customer in compliance  
17 with Chapter 501.

18           I know I've heard Corrie say this, but I'll let  
19 her kind of speak to this as well. I know that she has  
20 mentioned the most prominent enforcement case that we get  
21 on dealerships is not timely applying for title.

22           That's the most common complaint that we  
23 receive from consumers, and so really we're trying to  
24 figure out are there additional protections that should be  
25 put in place to protect consumers.

1           MR. DORAN: Jeremiah, this is Officer Doran.  
2 Question for you. My recollection -- and trying to  
3 remember if this is accurate or not -- but I believe there  
4 was a legislative change either this past session or the  
5 session before that lowered the bond that, I believe,  
6 dealers were required to have. I think it went from maybe  
7 \$100,000 down to 25-, or maybe it went from \$125,000 down  
8 to \$25,000.

9           I'm not sure if my recollection is accurate  
10 there, but I was wondering if you could speak to that, as  
11 well as how the dealer's bond is currently used to provide  
12 any financial assistance or recourse for those that have  
13 not been able to procure their titling and registration as  
14 they normally would.

15           MR. KUNTZ: Absolutely. So again, for the  
16 record, Jeremiah Kuntz, director of Vehicle Titles and  
17 Registration Division.

18           The bond actually did not change. The bill  
19 that passed this law actually would have sought to  
20 increase the bond amount that is currently required by a  
21 dealer. I believe it is at \$25,000, and I believe the  
22 bill was going to increase it to \$50,000, and if Corrie  
23 has got a different recollection, she can help me out  
24 here. That provision was removed from the bill and the  
25 bond remained unchanged.

1           There was, however, provisions in that statute  
2 that allow the department to call on that bond for  
3 recovery of any fees that are waived in this process, so  
4 if a customer is seeking to have the fees waived for title  
5 and registration and the department waives those fees,  
6 then the department could make a claim against that  
7 \$25,000 bond to try and recover any fees that were waived  
8 by the department.

9           And to me that makes sense in that the bond is  
10 like having an insurance policy and if the dealer did not  
11 properly pay the department -- i.e., the State of Texas  
12 and the county tax assessor-collector, the counties -- for  
13 the fees, the taxes and fees that were owed, then that  
14 bond allows the state to be made whole when it waives  
15 those fees because the dealership collected them from the  
16 customer.

17           We are not waiving any fees unless we have  
18 evidence that the customer has paid those fees, and so the  
19 dealers have got the money, they're holding it, and have  
20 not made application and paid the state and the county,  
21 and so that provision would allow the department to go  
22 after the bond to make recovery on those.

23           MR. DORAN: And that provision -- I'm sorry --  
24 Laird Doran -- that provision did not pass. Is that  
25 correct, Jeremiah? That's not current law?

1           MR. KUNTZ: The increase in the bond amount did  
2 not pass; the ability for the department to call the bond,  
3 I believe, did, and I'll look it up here real quick to  
4 verify that.

5           MR. DORAN: Thank you.

6           This is Officer Doran. While Mr. Kuntz is  
7 looking that information up, I did want to open it up for  
8 any further discussion.

9           MS. RASH: This is Member Rash. I have just a  
10 comment.

11          MR. DORAN: Member Rash, you're recognized.

12          MS. RASH: Under number one -- I think it's  
13 number one -- you have to have a copy of the contract or  
14 sales contract. What we see here for proof of ownership,  
15 the used car dealers that are suspected to be the ones,  
16 independent car dealers that are going out of business,  
17 these documents a lot of times are not even legible, so I  
18 didn't know whether there could be something else that a  
19 buyer would have, like proof of having insurance on it, or  
20 something else. Surely probably would have their buyer's  
21 tag still on the vehicle since they wouldn't have had it  
22 transferred yet, but having to have one of those documents  
23 is probably going to be difficult.

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

1           The purpose of requiring those documents is  
2 kind of twofold. One, normally for proper transfer of  
3 ownership of a vehicle we would require a title document,  
4 a secure document in order to properly transfer title, and  
5 that is to ensure that we actually have the owner of the  
6 vehicle that is making application, that we've got orderly  
7 transfer of title that is occurring.

8           In this situation we're relying upon a lesser  
9 document, we're relying upon a sales contract, something  
10 else where we do not have a title present, because  
11 obviously the dealer had the title, they don't release  
12 those to the customer, and so we have to have some  
13 documentation that a transaction actually occurred to rely  
14 upon in order to make application for title.

15           Secondly, we have to have some evidence that  
16 the consumer has paid a dealership some amount of money  
17 for the transaction and for the fees that they are  
18 claiming need to be waived that they have properly paid  
19 for.

20           So we do see -- and I'm sure the tax assessor-  
21 collectors could speak to this as well -- we do see that  
22 dealerships do not always properly assess the taxes and  
23 fees when they're doing a transaction and those  
24 transactions have to be redone or they have to be rejected  
25 so the dealership can go back and correct the fee amounts,

1 and so we would not want to waive a fee that a customer  
2 has not properly paid for.

3 So I'll use for an example, let's say they  
4 purchased a vehicle that is over 6,000 pounds and they  
5 should have paid \$54 in registration but the dealership  
6 instead of charging \$54 had only charged \$50.75.

7 We would only waive \$50.75. The consumer would  
8 be required to pay that difference, the correct amount for  
9 registration to make sure that all of that was properly  
10 collected because they didn't pay the dealership that  
11 amount.

12 And so when we're looking at this we've got to  
13 have some documentation so we have something to rely upon  
14 that would show us what they paid, and so that's the  
15 documents that the department had identified as being  
16 available that would potentially have that information on  
17 it.

18 MR. RIGBY: Michael Rigby. Permission to  
19 speak?

20 MR. DORAN: Member Rigby, you're recognized.

21 MR. RIGBY: Mr. Kuntz, can you help me  
22 understand this bond process? I'm trying to get a sense  
23 of how complicated that is. Do you have to go to court,  
24 you know, to access the bond, who gets it, how is it  
25 distributed? Has anybody used that to date, or is it

1 something that's just kind of sitting there that's  
2 collected but not ever acted upon?

3 Thank you.

4 MR. KUNTZ: I'm going to have to phone a  
5 friend, if you will, and I don't know if our Enforcement  
6 Division is going to have this information or not.

7 And I'll go ahead and answer the first  
8 question, which was from Member Doran, which that section  
9 of code did pass. It is in 501.0236(e), and it states  
10 that "notwithstanding Section 501.033(e), the department  
11 may recover against a surety bond executed by the dealer  
12 under Section 503.033 the amount of any fees waived for a  
13 title or permit issued under this section."

14 So that did become law last session where the  
15 department can call that bond in order to recover against  
16 any fees that were waived for a title or permit issued  
17 under this section. So that answers the first question.

18 So the second question: How does that work?  
19 Well, that provision just passed and became effective on  
20 September 1 of -- let's see, I'm trying to make sure -- it  
21 was immediately effective, I guess, so it just became  
22 effective in 2019.

23 I am not aware that the department has called  
24 any of those bonds to date. My understanding is that they  
25 have to file those bonds with the department when they

1 apply for a license. Again, I'm going to draw this  
2 analogy, I'm assuming it's similar to an insurance policy  
3 where we would have to contact the bonding company and put  
4 them on notice that we have a claim against their bond and  
5 go through whatever process is required in order to try  
6 and obtain payment from them.

7 I'm assuming they're going to require some  
8 evidence of what occurred, similar to filing an insurance  
9 claim, but I do not know specifically because I'm not  
10 aware that the department has filed on any of these bonds.

11 But I don't know, Corrie, are you aware of any  
12 filing on bonds?

13 MS. THOMPSON: Corrie Thompson again.

14 As to the new provision passing, no, I am not  
15 familiar with any instances where the department would  
16 have accessed that new provision. That would be something  
17 that I would think our Office of General Counsel or  
18 outside legal assistance would be helping the department  
19 with.

20 As to consumers accessing the bond, I've never  
21 had anybody call me up and discuss the process that  
22 they've gone through to try to seek money from a dealer's  
23 bond. I have talked to consumers who wanted to receive  
24 money from the dealer's bond, and because that came up as  
25 something that was discussed during our Sunset review, I



1 think that's how the refund discussion came up also, that  
2 the department didn't have a way to mandate that the  
3 dealer repay any money to a consumer.

4 The bond provision is totally separate and  
5 apart as far as the consumer is concerned. It's a civil  
6 remedy for them to go and try to get money from that  
7 dealer's bond, which is only \$25,000. So in the case of  
8 Jeremiah mentioning the larger dealership who's filed for  
9 bankruptcy, that wouldn't get you very far.

10 And so that's why we discussed the refund  
11 issue, giving the department a way for consumers to be  
12 made whole again, but I'm not familiar specifically with  
13 the process used by consumers or the department to date.

14 MR. RICHARDS: Officer Doran?

15 MR. DORAN: Yes, David, go ahead.

16 MR. RICHARDS: David Richards. Permission to  
17 speak?

18 Member Rigby, to date I will confirm that we  
19 have not as a department gone after the bond. It's  
20 relatively new that discussion procedurally how that would  
21 go. It has not been had, to my knowledge, as well.  
22 There's been no instance in which we've gone after the  
23 bond to date.

24 MR. GONZALEZ: Permission to speak? This is  
25 Member Gonzalez.

1 MR. DORAN: Member Gonzalez, you're recognized.

2 MR. GONZALEZ: Thank you, sir.

3 Mr. Kuntz, Jeremiah, I have a question, and I'd  
4 like to get just a general overview from you. How does  
5 the department do it in being able to go against a surety  
6 bond from a dealer? I know that you're waiving the title  
7 fees and road and bridge fees and the delinquent transfer  
8 penalty fees.

9 Is there a thought process in place where the  
10 county will be able to get reimbursed for their title fee  
11 and road and bridge fees and any delinquent transfer  
12 penalties that were paid to the dealer that subsequently  
13 went bankrupt, and if y'all go against the dealer's bond,  
14 is there already a process being identified where the tax  
15 collector can be made whole for those lost funds to  
16 providing, in essence, a service they're not going to be  
17 compensated for because we're waiving the fees for this  
18 consumer? Can you share any light to that process, or has  
19 it been presented or has it been thought out at this point  
20 in time?

21 Thank you.

22 MR. KUNTZ: So in reading that statute, my  
23 understanding is that the department can recover against a  
24 surety bond the amount of any fees waived for title or  
25 permit issued under that section, so to the extent that

1 any fees that were local in nature were waived, then my  
2 assumption is that those would be allowed to be recovered  
3 on in the bond.

4 But that's not something, again, we've not gone  
5 out and tried to pursue recovery of any of these. The  
6 fees that are specifically referenced here are in 501,  
7 which are obviously the title fees.

8 I know that there are other registration fees  
9 in other places in statute that can be waived as well, and  
10 those are waived on a regular basis. Prior to this law,  
11 there was a different provision in 520 that the department  
12 and the county tax assessor-collectors were relying upon  
13 for the waiver of those fees.

14 I'm not so sure if there's ever been a recovery  
15 of any fees from a dealership to date that I'm aware of.  
16 We can obviously look at that and see, but that may need  
17 statutory clarification as well.

18 MR. GONZALEZ: Permission to speak, Mr. Chair?

19 MR. DORAN: Member Gonzalez, you're recognized.

20 MR. GONZALEZ: Yes. My personal experience on  
21 the bond situation regarding a dealer, that was always set  
22 up for any citizen that bought a vehicle from that dealer  
23 and they would have that opportunity to challenge that  
24 dealer and get any type of reimbursement that was owed  
25 because the dealer failed to transfer title.

1           The problem has been in the beginning years  
2 when the bond was implemented, \$25,000 was a lot of money,  
3 and it would cover pretty much two or three sales, four  
4 sales at that time. Nowadays if there's a sale that  
5 occurs from that dealership and they're selling a \$30,000  
6 Ghia, that bond amount just doesn't cover if somebody  
7 wants to recover any fees because of the dealer not  
8 providing title.

9           And that's the whole purpose of the bond, is  
10 when the dealer fails to provide title to the buyer and  
11 that bond amount surely is low in today's standards but  
12 the whole intent was to allow an individual to seek a  
13 court order, the court order be presented to the  
14 department, and the department would utilize it and return  
15 fees based on the bond that was issued to have the dealer  
16 be in business.

17           But I know things are changing in this aspect.

18           It's a shame that the bond amount was not raised, because  
19 vehicles are more expensive nowadays, but that was kind of  
20 like the original intent of the bond requirement. The  
21 title bond requirement is patterned after this dealer bond  
22 requirement for a dealer to be issued a GDN license to  
23 operate as a business.

24           That might help some of the board members to  
25 kind of understand this program. I hope it does.

1 Thank you.

2 MR. DORAN: Thank you, Member Gonzalez.

3 MR. SNELL: Jim Snell requests permission to  
4 speak.

5 MR. DORAN: Member Snell, you're recognized.

6 MR. SNELL: I think in any case when a dealer  
7 goes out of business -- and I know that sales tax does not  
8 fall under the jurisdiction of the Department of  
9 Transportation, but the sales tax number is a lot bigger  
10 number than the title fees to be waived, and so I really  
11 feel like if there needs to be some kind of committee  
12 established to work with the Comptroller's Office to come  
13 up with a way, because that's the bigger issue.

14 You can waive the fees, but the consumer is  
15 still going to have to come up with the sales tax a second  
16 time if he's already paid it. So I think the problem is  
17 more of a sales tax issue dollar-wise than it is a fees  
18 issue.

19 MS. JOHNSON: Cheryl Johnson requests to be  
20 recognized and to speak.

21 MR. DORAN: Member Johnson, you're recognized.

22 MS. JOHNSON: So although the DMV has worked  
23 hard since it was created to establish standards among  
24 county tax offices, I think everybody still remains doing  
25 some things differently, and so to answer Jeremiah's

1 question, but also to address this discussion, I asked my  
2 staff what do we do in the instance of sales tax, and as  
3 long as we have a document to prove that the sales tax was  
4 paid, we do not collect it again.

5 And so there are processes in place to work  
6 with the comptroller on these things and to prove it if  
7 need be. They would inquire if they had any concerns.  
8 And then I feel certain that they have an enforcement  
9 division that would go after people that have not provided  
10 sales tax appropriately.

11 So hopefully that will address some of the tax  
12 office concerns on the need to collect the sales tax  
13 again. I don't think that we are.

14 Going back to the question that Jeremiah said  
15 is are there other consumer protections that the board  
16 should be considering, I would ask a couple of questions.

17 Do you see those other consumer protections outside of  
18 the bond -- which is almost going to require some type of  
19 civil action -- do you see a need for the regulations to  
20 be tightened to prevent dealers from -- I know the  
21 regulations are pretty tight now, but do you see any need  
22 to tighten those regulations with regard to the timely  
23 transfer of title or to establish additional penalties for  
24 failure to transfer title, or do you see a need to  
25 establish a hotline that might enable people to call to

1 report these to enforcement to know what the appropriate  
2 action is moving forward?

3 MS. THOMPSON: This is Corrie Thompson.  
4 Officer Doran, may I be recognized?

5 MR. DORAN: Yes, Ms. Thompson. Please proceed.

6 MS. THOMPSON: I know there was mention of the  
7 hotline last time we met, and I just wanted to say that  
8 online eLICENSING portal is where consumers that are  
9 affected by dealers who haven't timely transferred title  
10 filed complaints, if they have any questions about how to  
11 file those complaints.

12 They do regularly call department staff, be  
13 that directly to the Enforcement Division or to our  
14 Consumer Relations Division, who takes calls about that.

15 And again, the failure to timely transfer title  
16 is the number-one violation that we receive across the  
17 board from year to year where we see the dealers are  
18 failing to do that.

19 And again, it can be for a number of reasons,  
20 but there again, that's why there are so few instances  
21 that dealers are supposed to be hanging onto the car and  
22 not selling it until they actually have established that  
23 they are able to obtain a title.

24 So I mean, any additional protections that the  
25 committee has to bring up that would help consumers

1 affected by late title transfers would be a welcome  
2 discussion by the department.

3 MS. JOHNSON: Mr. Chairman, Cheryl Johnson  
4 still.

5 MR. DORAN: You're recognized.

6 MS. JOHNSON: Do you feel like we -- I don't  
7 want to beat a dead horse -- is there anything that we're  
8 missing that you should bring forward at another meeting  
9 for us to determine whether additional consumer  
10 protections are needed?

11 MR. KUNTZ: For the record, Jeremiah Kuntz.

12 I think probably the big outstanding two  
13 questions that we have been discussing is, one, should  
14 anything be done regarding bankruptcy. And the reason I'm  
15 bringing bankruptcy up is in that situation the dealership  
16 has not gone out of business, they are still operational,  
17 there is an entity there, but many times the Bankruptcy  
18 Court is handling the situation and customers are at the  
19 mercy of the court and waiting until decisions are being  
20 made at that level in order to obtain title.

21 And so I think that's a very large issue that  
22 we see out there that I think we are seeking input from  
23 the committee on how to handle bankruptcy issues, whether  
24 or not the committee think that that's something that  
25 should be taken up statutorily or otherwise to handle.



1 There's a lot of aspects to bankruptcy, and I'm, again, no  
2 expert in bankruptcy law, but there's definitely things  
3 that are occurring during a bankruptcy that could  
4 potentially cause problems for consumers.

5 And then obviously the committee has brought up  
6 the issue of bonds. The legislature did not increase that  
7 bond the last legislative session, but I believe that the  
8 agency is interested in whether or not the committee  
9 recommends attempting to try and do anything with bonds or  
10 leave them alone, if that's not seen as a viable option  
11 for providing consumer protection.

12 MR. OLAH: Member Olah asks to be recognized to  
13 speak.

14 MR. DORAN: Member Olah, you are recognized.

15 MR. OLAH: I'd like to speak to two issues, and  
16 it just seems like there's a lot out there right now for  
17 us to discuss and consider, but one is with respect to  
18 bankruptcy issues.

19 Once you have the Bankruptcy Court involved,  
20 there's really not much you can do without leave of the  
21 court, so I think what needs to be considered is at what  
22 point you might ask, for instance, the Attorney General's  
23 Office on behalf of the public interest or consumers to go  
24 into court and get the court's permission to -- and  
25 especially if it's more than one consumer -- to get leave

1 of the court to proceed to perfect titles or to obtain  
2 titles for those affected consumers who would need relief  
3 right away.

4 I think it would be too much for individual  
5 consumers to have to hire their own lawyers, but it may be  
6 that there's a way to proceed in the public interest where  
7 the Attorney General's Office -- our Bankruptcy  
8 Division -- I work at the Attorney General's Office -- is  
9 staffed by some very knowledgeable and fine lawyers who  
10 may be able to go to the court, again, to allow consumers  
11 to proceed to get their titles.

12 The other thing is with respect to a bond.  
13 Bonds aren't regulated by the insurance code. I mean,  
14 essentially they can be drafted in any way that is  
15 required. What has to be clear is how do you perfect a  
16 claim on a bond, and it's not necessary that there's an  
17 adjudication of an amount in court -- which I think would  
18 be a phenomenally expensive thing to do for an individual  
19 consumer -- there just has to be some methodology set  
20 forth that the bonding companies are aware of before they  
21 issue the bond that defines how a claim can be perfected.

22 And respectfully -- now, this is me shooting  
23 off the top of my head on these issues -- respectfully, I  
24 think you might be able to do it with administrative rules  
25 to define how a claim against a dealer bond can be

1 perfected. So I'm just throwing that out there for  
2 consideration.

3 That's it for me.

4 MR. DORAN: Thank you, Member Olah.

5 MR. RIGBY: Michael Rigby. Permission to  
6 speak?

7 MR. DORAN: Member Rigby, you're recognized.

8 MR. RIGBY: I guess I'm asking for a little  
9 clarification. The citation that we've been talking about  
10 for the bond is 501.0236(e), and section (f), the  
11 following subsection, allows the department to adopt rules  
12 necessary to implement the section, which is the point  
13 that Mr. Olah was making. Have those rules been adopted  
14 already? If not, are you seeking guidance from this  
15 committee on what those rules should look like? So those  
16 are my two primary questions.

17 In addition, the discussion about the bonds  
18 seemed to wander off into perhaps some other bonds that  
19 are in the Transportation Code. I'm not aware of those.  
20 Are there other bonds other than the one under 501.0236?

21 Thank you.

22 MS. THOMPSON: Corrie Thompson. Officer,  
23 Doran, may I be recognized?

24 MR. DORAN: Yes, Ms. Thompson, please proceed.

25 MS. THOMPSON: So I don't see Daniel Avitia,

1 Motor Vehicle Division director, on the line. His  
2 division is the one who licenses the dealers, reviews the  
3 applications for sufficiency, checks the bonds, things of  
4 that nature, so he may be better to speak to this. But I  
5 was looking up the provision while you were speaking so,  
6 of course, I will provide that information. We are also  
7 talking about the security requirement that is laid out in  
8 Transportation Code 503.033 and subsection (d) says "a  
9 person may recover against a surety bond or other security  
10 if the person obtains against a person issued a motor  
11 vehicle general distinguishing number or a wholesale motor  
12 vehicle action general distinguishing number a judgment  
13 assessing damages and reasonable attorney fees based on an  
14 act or omission on which the bond is conditioned that  
15 occurred during the term for which the general  
16 distinguishing number was valid."

17 So that's the provision that we're talking  
18 about when we're talking about consumers specifically  
19 going after the dealer's bond, and then separately, the  
20 new statutory provision that Jeremiah is mentioning with  
21 regard to the ability for the department to recover  
22 against the bond for those fees.

23 MR. RICHARDS: Officer Doran?

24 MR. DORAN: Yes, please proceed.

25 MR. RICHARDS: David Richards for the record.

1           Member Rigby, yes, I think it would be very  
2 much welcome for the committee to address -- recommend,  
3 rather, their recommendations to the department for  
4 rulemaking, how that would unfold, what that would look  
5 like. So if we need to come back to our next meeting and  
6 address that, that's fine. If anyone on the advisory  
7 committee has some suggestions or recommendations now,  
8 we'd welcome those as well.

9           Thank you.

10          MR. DORAN: Thank you, David.

11          MS. JOHNSON: Cheryl Johnson requests to be  
12 recognized and speak.

13          MR. DORAN: Member Johnson, you're recognized.

14          MS. JOHNSON: Mr. Kuntz, do you think it would  
15 be in the best interests of the consumer, looking at the  
16 environment that we're in right now and likely increase in  
17 the number of bankruptcies for the board to adopt a rule  
18 to add bankruptcies as a reason that a tax assessor-  
19 collector could be authorized to hold a title hearing and  
20 issue a title so that these people do not get bogged down  
21 in that process?

22          MR. KUNTZ: Well, that's a tricky question. I  
23 will try and discuss title hearings to the best of my  
24 ability.

25          The provisions for title hearings, I do not

1 believe, would appropriately contemplate this scenario,  
2 and I'll say that because I think that there would be  
3 statutory changes that would be needed in order to use a  
4 title hearing in order to award title. The title hearing  
5 process today in statute is basically an appellate process  
6 if the department has incorrectly denied title. And I  
7 know that this provision is a very weird provision of law.  
8 It's something that we were seeking to try and correct  
9 last legislative session.

10 But right now the only proper use of a title  
11 hearing is when the department has incorrectly denied  
12 application for title to an individual, and so the  
13 standard by which you have to hold that hearing is to show  
14 that the consumer had a proper application for title and  
15 the department incorrectly denied that application. And  
16 the only times that we generally deny applications for  
17 title -- which obviously the counties are the ones that  
18 are actually reviewing and accepting those applications --  
19 is when that title is not a properly applied for title.

20 So it is a weird section of law currently the  
21 way it's written, and I don't know that there would be a  
22 reason for a TAC hearing in this situation because the  
23 department would not be misapplying the law in denial of  
24 application for title. In order to properly apply for  
25 title, you would have to have the actual title and/or

1 other documentation that's required to apply for title and  
2 pay all the fees associated with it. To the extent that  
3 you have not properly applied for the title and not  
4 properly paid all the fees, then the department was acting  
5 in accordance with the statute when it denied application.

6 So in this instance what we're looking for is  
7 an exception -- and that's the way the statute is written  
8 is there's an exception to having all of that  
9 documentation and we're putting that into administrative  
10 rule allowing somebody to bring in alternate  
11 documentation. That recommendation could be made for  
12 statutory changes but it would still, I believe,  
13 necessitate discussion of the waiver of those fees.

14 The tricky part -- and again, I'm not an expert  
15 in bankruptcy law -- but the tricky part about that is if  
16 we waive fees during a bankruptcy, we then become a  
17 debtor, a creditor, if you will, that is seeking to get  
18 relief from the party that file bankruptcy, and so we  
19 would then have to stand in line with everybody else, so  
20 that creates other issues.

21 I know Member Gonzalez was referencing, you  
22 know, can the county recover its fees. Well, if we waive  
23 those fees during a bankruptcy, I don't think that there's  
24 going to be a guarantee that the state or county is going  
25 to be made whole. Now, that may be perfectly acceptable

1 and maybe that's where the committee wants to make the  
2 recommendation, but I just wanted to bring that up as  
3 consideration.

4 MS. RASH: This is Member Rash. I have a  
5 statement to make.

6 MR. DORAN: Member Rash, you're recognized.

7 MS. RASH: We've dealt with bankruptcy issues  
8 for years and what you get into, and you don't want to get  
9 into, is the vehicle itself is an asset and you really get  
10 into murky water, and since it's federal, we absolutely  
11 don't go there, we just can't go there. And I don't think  
12 that we can in this situation. You know, that's my  
13 opinion, I'm not an attorney, just having dealt with it  
14 over the years. No more than we can sell a vehicle that  
15 is an active military person, that's federal law too.

16 MR. RICHARDS: Officer Doran?

17 MR. DORAN: Yes, David.

18 MR. RICHARDS: David Richards. Permission to  
19 speak?

20 MR. DORAN: Please proceed.

21 MR. RICHARDS: Members, I believe probably the  
22 best remedy -- I think we have all addressed the issue  
23 that once the Bankruptcy Court assumes jurisdiction over a  
24 matter then we're pretty much out of luck, save and except  
25 the suggestion that Member Olah made. We've done that, we



1 did that with the Reagor Dykes bankruptcy, albeit maybe  
2 perhaps not as soon as we should have, but I think to have  
3 the AG's Office to go into -- and this is no knock on the  
4 AG's Office; Reagor Dykes was a different breed of cat  
5 altogether -- to seek permission for the leave of court to  
6 get some sort of -- and that's what we ended up doing, or  
7 the AG's Office ended up doing was getting the appointment  
8 of an ombudsman with a pool of money set aside for that  
9 ombudsman to deal specifically with title transfer issues  
10 for the many consumers.

11 And I do know, having followed this case --  
12 it's one of mine that I monitor -- that the number of  
13 consumers who were hung out to dry has dwindled  
14 considerably from what that number used to be.

15 I will tell you that when the AG's Office  
16 argued the point a couple, two or three months ago to the  
17 bankruptcy judge, she was very sympathetic, jumped on it  
18 right away. And I know there's a couple of hearings still  
19 yet to be, one in July that was moved to July because of  
20 COVID-19, but an ombudsman is going to be appointed.

21 Some of the creditors are pointing at the  
22 money -- I think that there's a pool of a couple hundred  
23 thousand dollars, which may increase to even more money --  
24 to specifically address consumer issues.

25 So from the department's perspective going

1 forward, once we get similar types of cases like this,  
2 this is what we're going to work with our attorney general  
3 partners with to get this as part of the proceeding,  
4 because other than that, we really don't have a mechanism  
5 to help consumers. We want to do that, and I think that's  
6 probably the best way to do it.

7 Like I said, the bankruptcy judge in Lubbock  
8 was very sympathetic and an ombudsman that's going to  
9 represent consumer interests has been appointed and a pool  
10 of money has been set aside for him to address those  
11 issues.

12 So I would echo Member Olah's suggestion that  
13 that's probably the best way to go.

14 Thank you.

15 MR. DORAN: Thank you, David.

16 MR. OLAH: This is Member Olah. I ask to be  
17 recognized to speak.

18 MR. DORAN: Member Olah, you're recognized.

19 MR. OLAH: This is actually directed at Ms.  
20 Thompson. Again, I'm going back to the bonds, and I'll  
21 admit to not having done a lot of research beforehand, but  
22 it sounded to me like there were two situations in which a  
23 claim could be made on a bond. And one would involve an  
24 individual consumer obtaining a judgment for damages that  
25 included an amount that would be covered by the bond,

1 which, respectfully -- and I think the lawyers on this  
2 committee will know -- that's pretty much a financial  
3 impossibility to hire a lawyer for thousands of dollars to  
4 perhaps get something significant less in a recovery from  
5 a bond.

6 But I understood the other situation would be a  
7 situation involving the department where the department  
8 could potentially make a claim on the bond on the  
9 consumer's behalf, and I was wondering if I could get  
10 clarification on that, either if not now perhaps at our  
11 next convened meeting. And again, this is directed to Ms.  
12 Thompson.

13 MS. THOMPSON: Corrie Thompson.

14 So with that clarification on the second item,  
15 the statute that Jeremiah has been speaking to where the  
16 department may recover?

17 MR. OLAH: Yes.

18 MS. THOMPSON: Corrie Thompson again.

19 Jeremiah may be able to speak to that now. Was  
20 there anything specifically that you wanted clarification  
21 on? He was talking about the statute that was passed that  
22 would be implemented by Vehicle Titles and Registration --  
23 or it could be now, that we have just not acted on.

24 MR. OLAH: Yes. If I may answer. I'm looking  
25 for a clarification on the procedure whether there are

1 administrative procedures already in place, if the  
2 department is looking for guidance from the committee on  
3 what type of procedures to put in place.

4 In other words, with respect to a bond, there  
5 has to be a way to perfect the claim. In other words, it  
6 has to be set in writing these are the types of documents  
7 you need, Mr. Automobile Purchaser, to present to us that  
8 would affirmatively show that you've incurred those  
9 expenses and that you're seeking reimbursement for those  
10 expenses.

11 So I'm trying to get clarification. I  
12 understand there's a statute that permits the claim, but  
13 there has to be a way for the bonding company to know when  
14 it is supposed to pay, and respectfully, I would suggest  
15 that that needs to be done through some sort of  
16 administrative procedures. And I guess my question is do  
17 those procedures exist or are we talking about putting  
18 those together at this point?

19 MR. KUNTZ: This is Jeremiah Kuntz. If I can  
20 be recognized?

21 MR. DORAN: Please proceed, Jeremiah

22 MR. KUNTZ: So the only rules that exist  
23 regarding this statute are in 217.16 of the Administrative  
24 Code, and basically what the department has done in those  
25 rules are a couple of things.

1           We have described and determined what a dealer  
2 that has gone out of business is, and then we have put in  
3 place the required documentation that an applicant for  
4 title would present to the department, and that would be a  
5 sales contract, retail installment agreement, or buyer's  
6 order in lieu of evidence of vehicle ownership, i.e., in  
7 lieu of a title. And then they would also provide to the  
8 county tax assessor-collector the letter that the  
9 department issues when they go to the county tax assessor-  
10 collector's office to apply for title.

11           Procedurally the way that this would work is a  
12 consumer would go to a regional office, they would show  
13 those pieces of evidence to a regional service center.  
14 The department will make a determination as to whether or  
15 not the dealership is closed, so we will look up their  
16 license to see if it's closed or if it's expired and if it  
17 is not, somebody from Ms. Thompson's office, the  
18 Enforcement Division, would go to the licensed location  
19 and try and make a determination of operations have  
20 ceased, i.e., for sale signs on the building, it's boarded  
21 up, there's no cars on the lot, it's clear that the dealer  
22 has gone out of business.

23           At that point in time, once we've made that  
24 determination, we would issue a letter to the consumer  
25 stating that the dealership has gone out of business, and

1 we would itemize for the tax assessor-collector the fees  
2 that may be waived at the time of title application. That  
3 letter is the evidence that the consumer would have in  
4 order to provide to the county tax office that those fees  
5 were paid to the dealership and have been waived by the  
6 department.

7           When the department sees these -- and I'll just  
8 use this for an example -- because we don't have any  
9 actual real-life examples to date that I'm aware of --  
10 let's say we saw a hundred customers come in for a  
11 specific dealership and we made a determination on the  
12 first one and then all the ninety-nine remaining customers  
13 we've just issued the letter, we don't have to do another  
14 determination.

15           We will collect all of the information in the  
16 registration and title system on how many fees have been  
17 waived for that dealership, and at that point we would use  
18 that as evidence to go and try and attempt to recover from  
19 the bond.

20           Now, if our general counsel believes that we're  
21 going to need further evidence or further administrative  
22 procedures put in place in order to call that bond, then  
23 we can look at that.

24           It sounds like you maybe believe that our  
25 administrative rules need to be beefed up on how the

1 department is going to go and try and collect. But my  
2 assumption would be that we would provide to the bond  
3 company -- the State of Texas would provide to the bond  
4 company an itemized listing of all of the vehicles,  
5 owners' names, and various fees that were waived for each  
6 and every customer as our evidence to the bonding company  
7 that those fees were waived and not paid for by the  
8 dealership.

9 MR. OLAH: Thank you. That helps my  
10 understanding.

11 I think what I meant to hear -- I'm getting a  
12 bit of feedback -- is when you make a claim with a bonding  
13 company or any kind of insurance company, there has to be  
14 a process for making the claim, something that the bonding  
15 company would consider to be a claim, so for instance, a  
16 letter, as you described, that was itemized. But there  
17 needs to be the language, you know, we're hereby making a  
18 claim against bond number whatever for this company.

19 So beefed up could be a way to think of it or  
20 just formalized, this is how a claim shall be made with a  
21 bonding company so that the bonding company will  
22 understand that deadlines are triggered at that point and  
23 that obligations are triggered.

24 And I guess that's the additional thing that I  
25 was looking for and I haven't heard yet.

1 MR. RICHARDS: Office Doran?

2 MR. DORAN: Yes, David.

3 MR. RICHARDS: David Richards, for the record.

4 Member Olah, your point is well taken. Why  
5 don't we do this, why don't we go back as an agency and  
6 we'll look into this a little bit further.

7 I personally think we need to have some sort of  
8 rulemaking on this particular item. We are, for the most  
9 part, at the mercy of the bonding company, because they do  
10 have their own claims processes that we'd have to follow,  
11 but I think it would not hurt -- and we can discuss this,  
12 my office, Jeremiah's office and Corrie's office, about  
13 how that would play out, how that would look. But we  
14 definitely have the ability, as Member Rigby has pointed  
15 out, in subsection (f) to promulgate rules.

16 So that may be the way to go, and we'll try and  
17 bring that back to the committee at the next meeting.

18 Thank you.

19 MR. DORAN: Thank you.

20 MR. RIGBY: Michael Rigby. Permission to  
21 speak?

22 MR. DORAN: Member Rigby, you're recognized.

23 MR. RIGBY: Yeah. I have a further point of  
24 clarification or request for clarification.

25 If I'm understanding this correctly, the bond



1 under which DMV could recover the fees that have been  
2 waived is the same bond that's issued under 503.033, and  
3 that statute under section (b) (1) says that the surety  
4 bond must be in a form approved by the attorney general.

5 So my question is has the attorney general  
6 approved the form? Is that what is generally used in the  
7 industry? Does the form approved by the attorney general  
8 prescribe procedures for making a claim against the bond?

9 And has the form approved by the attorney general been  
10 updated to include a claim by DMV under Section 501.236  
11 for waiver of fees?

12 Thank you.

13 MS. THOMPSON: Corrie Thompson. Officer Doran,  
14 if I may?

15 MR. DORAN: Yes, please proceed, Corrie.

16 MS. THOMPSON: I would like to be able to  
17 answer that question for you, but unfortunately that would  
18 be something that would have to come from our Motor  
19 Vehicle Division, and again, I don't see that Mr. Avitia  
20 is on the line right now. So that could be something  
21 that, again, we will let the Mr. Avitia know we need  
22 information on, and then we can come back to the group  
23 with that when we meet next.

24 MR. DORAN: Members, is there further  
25 discussion on agenda item 2.D?

1 MR. RICHARDS: Officer Doran?

2 MR. DORAN: Go ahead.

3 MR. RICHARDS: I'm sorry. We're on the same  
4 wavelength.

5 David Richards, for the record.

6 Presiding Officer Doran and members, I would  
7 suggest at this time that we move on into the agenda, that  
8 we will come back to agenda item 2.D. with some more  
9 information for the membership so we can glean from all of  
10 y'all some recommendations that we can go forward with or  
11 y'all can go forward with to the TxDMV Board.

12 And also agenda item 2.E. as in Edward,  
13 protecting DPPA, we'll save that for the next meeting, so  
14 that's going to be a pretty wide open discussion and a lot  
15 of material to present.

16 I would recommend, Presiding Officer Doran,  
17 that we move on to agenda item 2.F., the future meeting  
18 schedule, and then continue with the agenda from there,  
19 with the understanding at the next meeting we'll take up  
20 continued discussion on the title issue when dealers go  
21 out of business, as well as the DPPA information, or  
22 protecting it, as well.

23 So I will let you proceed accordingly.

24 MR. DORAN: Thank you, David.

25 Members, we will proceed to agenda item 2.F.

1 Future meeting schedule. Would any of the members or  
2 TxDMV staff like to discuss this item and/or suggest any  
3 dates for our next meetings or a set schedule for the next  
4 two months? Are there any suggested dates that are  
5 preferred by a majority of the committee as we task DMV  
6 staff to set the next meeting?

7 Well, let me just open this up for discussion  
8 to the members, just looking at the cadence of the  
9 meetings, we seem to be on a roll here having them about  
10 once every two weeks.

11 Do any of the committee members have any dates  
12 in the month of June that they have conflict with or some  
13 strong objection to?

14 MS. JOHNSON: Member Johnson requesting to be  
15 recognized to speak, please.

16 MR. DORAN: Member Johnson, you're recognized.

17 MS. JOHNSON: Thursdays are working for me, I'm  
18 fine with that, I tend to carve those days out anyway,  
19 although we'll have some conflicts later in the month of  
20 June. In the interest of time for the deadline of June 11  
21 for the DMV Board meeting, do we need to meet the 4th of  
22 June to try and wrap up these other items for the board?

23 MR. DORAN: David, let me punt that one to you  
24 in terms of what the board's expectations are for items  
25 that we would be presenting to the board at their upcoming

1 meeting.

2 MR. RICHARDS: David Richards, associate  
3 general counsel, for the record.

4 Members, the main issue that we want to get  
5 before the board is the refund issue, which y'all have  
6 thoroughly discussed, and DMV staff will put together the  
7 recommendations that you voted upon and approved so that  
8 your officers can present.

9 To the extent that you can meet on the 4th,  
10 that would be great, the 11th obviously is a problem, but  
11 we'd like to keep these going to the extent we can, and we  
12 know each of you have a crowded schedule, and we do  
13 sincerely appreciate all your help and assistance in this  
14 and your membership on the committee. The 4th would be  
15 great if you could. Again, I don't know if everybody can  
16 arrange their schedule accordingly.

17 What I propose that we try to do -- and I  
18 apologize our meeting last time went a little bit long,  
19 I'm sure everybody was famished and whatnot and we didn't  
20 take a break, so we will incorporate, going forward, a  
21 break as we did today and try to finish up much earlier  
22 than the time we did last time.

23 So any thoughts on the 4th. Well, the next  
24 week is going to be the DMV meeting, so all of us will be  
25 busy from the staff, so the following week, the beginning

1 of the week of the 15th, would the 18th work or the 25th,  
2 since Thursdays seem to be a good day? I'll be quiet and  
3 hear from members.

4 MR. OLAH: Member Olah asks to be recognized to  
5 speak.

6 MR. DORAN: Member Olah, you are recognized.

7 MR. OLAH: As for me personally, any day of the  
8 week or date in June is fine; however, I would request  
9 that we start by no later than 9:00 a.m. and conclude by  
10 no later than 1:00 p.m.

11 MR. DORAN: Thank you, Member Olah.

12 This is Presiding Officer Doran. Both the 18th  
13 and the 25th would be fine by me. I would be more than  
14 happy to concur in Member Olah's recommendation in terms  
15 of the time frame for the meeting anticipated as 9:00 a.m.  
16 to 1:00 p.m.

17 MS. JOHNSON: Cheryl Johnson requesting to be  
18 recognized.

19 MR. DORAN: Member Johnson, you're recognized

20 MS. JOHNSON: Thank you. I'm available on the  
21 18th or the 4th, because I know the 11th is out of the  
22 question. The 25th I'm out unless we have a later  
23 meeting. I'm already making a presentation on the island  
24 that day and won't be able to make a nine o'clock meeting,  
25 or I can come into it late, if that's not a problem.

1 MR. GONZALEZ: This is Member Gonzalez.

2 Permission to speak?

3 MR. DORAN: Member Gonzalez, you're recognized.

4 MR. GONZALEZ: Thank you.

5 I'm available on the 4th and on the 18th also,  
6 I don't see any issues coming up for me at this point in  
7 time for the month of June, so I'm available for any  
8 subsequent meetings.

9 Thank you.

10 MR. DORAN: Thank you.

11 MR. RICHARDS: Officer Doran?

12 MR. DORAN: Yes, David, go ahead.

13 MR. RICHARDS: David Richards again, office of  
14 general counsel.

15 My trusty and trusted assistant reminded me we  
16 have open meetings posting issues for the 4th, so let's  
17 look at -- I mean, if the 18th works for everybody, and  
18 let's continue to go through the roll call here to make  
19 sure everybody is okay with that date. Let's look at the  
20 18th as the first possible date.

21 And she also reminded me, as well, our  
22 executive director has to approve of the dates, so we want  
23 to get a date nailed down by the committee, run that by  
24 Whitney Brewster, and then we'll get back with you. But  
25 it looks like the 18th so far, unless others tell me

1 otherwise, looks to be the first possible date.

2 So I will mute my phone and let's hear from the  
3 other members if the 18th is okay. Thanks.

4 MR. DORAN: Thank you, David.

5 MR. RIGBY: Michael Rigby. The 18th is fine  
6 with me.

7 MR. DORAN: Okay. Thank you.

8 MS. JOHNSON: Cheryl Johnson. The 18th is fine  
9 by me.

10 MR. DORAN: Thank you.

11 MR. SNELL: Jim Snell. The 18th works for me.

12 MR. DORAN: Okay. Thank you.

13 MR. GONZALEZ: Member Gonzalez. The 18th is  
14 okay with me.

15 MR. OLAH: Member Olah. The 18th is fine with  
16 me.

17 MS. RASH: Member Rash. The 18th is fine with  
18 me.

19 MR. DORAN: And this s Presiding Officer Doran,  
20 that would work with my schedule as well. I think we  
21 would have a quorum on the 18th.

22 So, David, that would be our recommendation for  
23 staff to check with the executive director on the 18th.

24 MR. RICHARDS: David Richards again, for the  
25 record.

1           We will do that, and we appreciate everyone  
2 agreeing to that date. We will pass that on to Whitney  
3 Brewster and get back with everybody.

4           Thank you.

5           MR. DORAN: Thank you.

6           Okay. I believe at this point we need to  
7 entertain a motion, if a member would like to make one,  
8 about -- or taking up a motion, if we can get a member to  
9 make one, related to electing a presiding officer.

10          MS. JOHNSON: Member Johnson requesting to be  
11 recognized to speak.

12          MR. DORAN: Yes, Member Johnson, please  
13 proceed.

14          MS. JOHNSON: Now I need to find my piece of  
15 paper with everybody's names on it, and I apologize.

16           I would move that Member Doran be moved up into  
17 the position of chairman, that the second vice chair be  
18 moved into the position of first vice chair, and that  
19 Michael Rigby assume the position of second vice chair.

20          MR. DORAN: May I take a step back here. I see  
21 that I skipped around on the agenda, so this is actually  
22 agenda item number 2.A. Nominations and selection of  
23 advisory committee presiding officer. So we have skipped  
24 forward with your motion, Member Johnson. I apologize,  
25 that's my mistake.



1           So there is a motion to have Mr. Doran as the  
2 chief presiding officer, and I think it was the vice chair  
3 was going to be Ms. Johnson?

4           MS. JOHNSON: Ms. Colvin.

5           MR. DORAN: Ms. Colvin, who is not on the call  
6 today. Correct. And then for the second vice chair the  
7 recommendation was Mr. Rigby?

8           MS. JOHNSON: Yes, sir.

9           MR. DORAN: There is a motion that has been  
10 made by Ms. Johnson. Is there a second? First off, is  
11 there discussion on the motion?

12           (No response.)

13           MR. DORAN: Just a quick question for David  
14 before we proceed. Is staff comfortable with the  
15 recommendations that have been made?

16           MR. RICHARDS: David Richards, for the record.

17           Yes, I am fine with that.

18           MR. DORAN: Okay. All right. A motion has  
19 been made. Is there a second to the motion?

20           MR. OLAH: Member Olah seconds.

21           MR. DORAN: Okay. There is a second by Member  
22 Olah.

23           Okay. We will proceed to vote on the motion.  
24 Please respond by answering yes when I call your name if  
25 you're in favor of the motion, please state no if you're

1       opposed.

2                   Member Gonzalez?

3                   MR. GONZALEZ: Yes, I approve.

4                   MR. DORAN: Member Cheryl Johnson?

5                   MS. JOHNSON: Yes, I support the motion.

6                   MR. DORAN: Member Olah?

7                   MR. OLAH: Yes, I support the motion.

8                   MR. DORAN: Member Rash?

9                   MS. RASH: Yes.

10                  MR. DORAN: Member Rigby?

11                  MR. RIGBY: Yes.

12                  MR. DORAN: Member Snell?

13                  MR. SNELL: Yes.

14                  MR. DORAN: And I, Laird Doran, also support  
15 the motion, vote yes.

16                  Members, the vote is unanimous and the motion  
17 passes.

18                  Okay. Members, I believe we are now ready to  
19 take up agenda item number 3. Public comment.

20                  David, are there any comments from the public?

21                  MR. RICHARDS: David Richards, for the record.

22                  Presiding Officer Doran, no, there are no  
23 comments for the record to be made today.

24                  MR. DORAN: Okay. All right. If not, then we  
25 will move on to agenda item number 4. Adjournment.

1           Unless there is any further business, I would  
2 like to entertain a motion to adjourn. Do I have a motion  
3 from anyone to adjourn the meeting.

4           MS. JOHNSON: Member Johnson requesting to  
5 speak and be recognized.

6           MR. DORAN: Member Johnson, you're recognized.

7           MS. JOHNSON: I'd like to make a motion to  
8 adjourn.

9           MR. DORAN: Okay. Motion to adjourn is made by  
10 Member Johnson. Is there a second?

11          MR. OLAH: Member Olah seconds.

12          MR. DORAN: There's been a second by Member  
13 Olah.

14          The motion has been made and seconded. All in  
15 favor, I'm assuming everyone is in favor, but any  
16 opposition to the motion by any member?

17          (No response.)

18          MR. DORAN: There being none, let the record  
19 reflect that the vote is unanimous.

20          It is now 12:54, and we are adjourned.

21          (Whereupon, at 12:54 p.m., the meeting was  
22 adjourned.)

C E R T I F I C A T E

1  
2  
3 MEETING OF: TxDMV Consumer Protection Advisory  
4 Committee  
5 LOCATION: Austin, Texas  
6 DATE: May 28, 2020

7 I do hereby certify that the foregoing pages,  
8 numbers 1 through 140, inclusive, are the true, accurate,  
9 and complete transcript prepared from the verbal recording  
10 made by electronic recording by Elizabeth Stoddard before  
11 the Texas Department of Motor Vehicles.

12 DATE: June 5, 2020  
13  
14  
15  
16  
17

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

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