



Texas Department of Motor Vehicles



FY 2018 ANNUAL REPORT ENFORCEMENT DIVISION

08-06-19

TABLE OF CONTENTS

- Enforcement Division..... 1**
 - General Information..... 1
 - Duties and Priorities 1

- Motor Vehicle..... 2**
 - Cases..... 3**
 - Total Cases Opened and Closed..... 4
 - Total Cases Disposition of Violations 5
 - TAC/CAD Cases Opened and Closed..... 6
 - General and Advertising Cases Opened 7 - 8
 - General and Advertising Cases Closed..... 9 - 10
 - General and Advertising Contested Cases..... 11 - 12
 - General and Advertising Days in Process..... 13
 - Civil Penalties Collected..... 14

- Motor Carrier 15**
 - Cases..... 16**
 - Total Cases Opened and Closed..... 17
 - Disposition of Total Cases Closed 18
 - Insurance Cases Opened and Closed 19
 - Non-Insurance Cases Opened..... 20
 - Non-Insurance Cases Closed..... 21
 - Total Cases Notice of Violation 22
 - Days in Process..... 23
 - Civil Penalties Collected..... 24

- Outreach..... 25**
 - Training..... 26
 - Industry Appearances 27

All Fiscal Year 2018 Motor Vehicle and Motor Carrier information and data presented herein are derived from annualized reports of case activity as of 8/31/2018.

ENFORCEMENT DIVISION

General Information

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

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

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

Duties and Priorities

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

In fulfilling its responsibilities, the division conducts numerous educational programs for licensees, law enforcement, and the public. The educational programs provided by the division include monthly dealer training and salvage seminars conducted at locations throughout the state, seminars for motor carriers transporting household goods, presentations and materials for motor carriers securing permits for oversize/overweight loads, and upon request an advertising seminar developed for the interests of both dealers and advertising agencies. To assist law enforcement, the division also provides programs relative to the motor vehicle, motor carrier and salvage industries informing them about relevant laws and rules.

Motor Vehicle



Enforcement

Motor Vehicle Cases

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

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

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

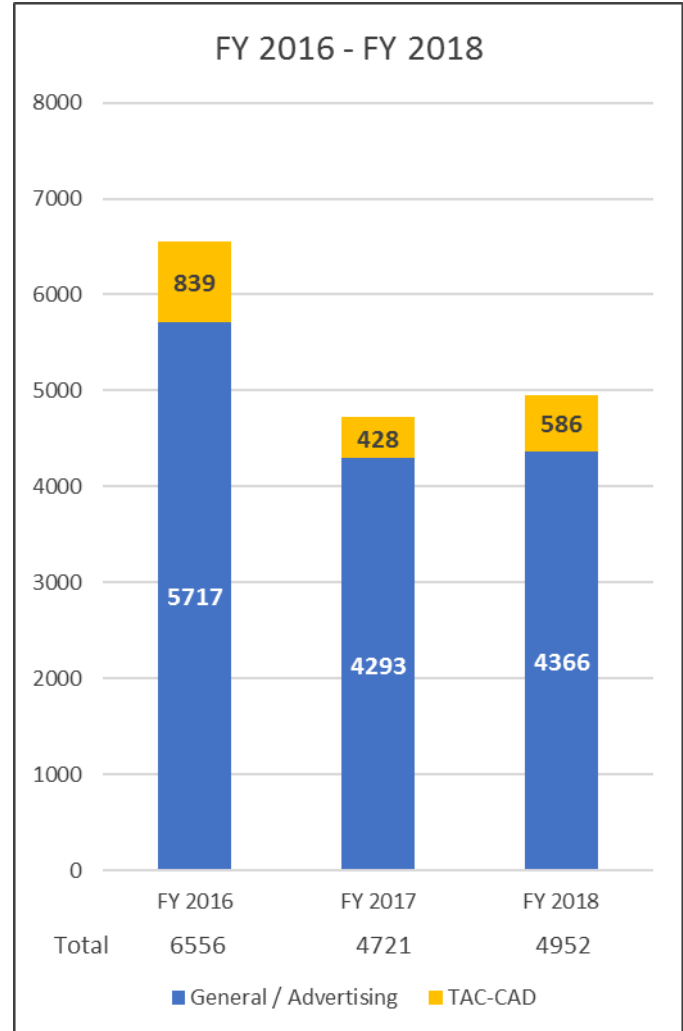
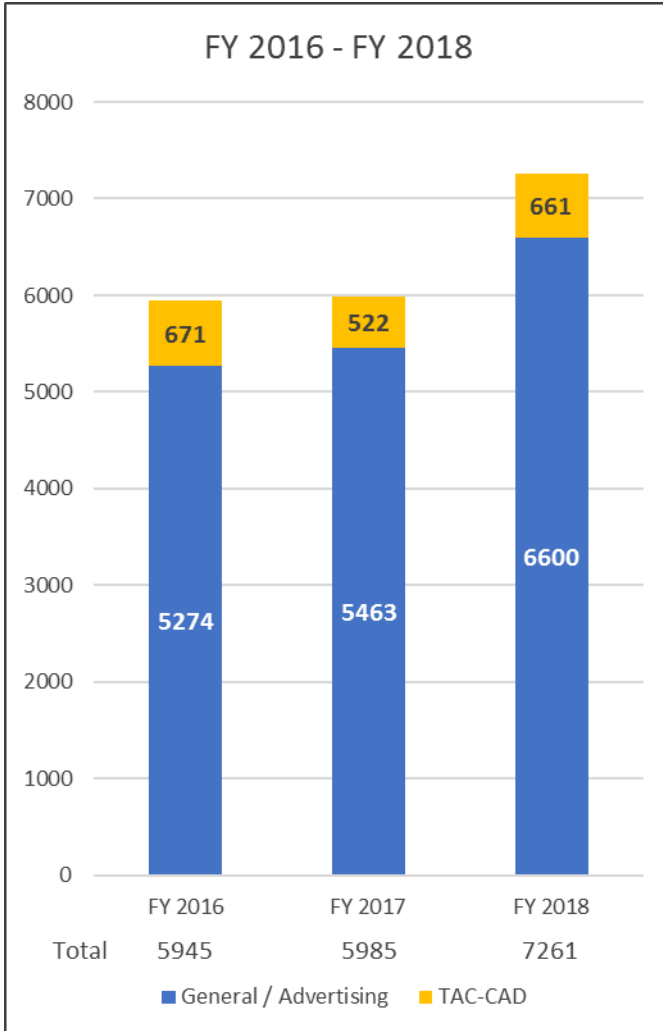
The TAC/CAD category of cases are submitted by Tax Assessor Collectors and County Appraisal Districts (TAC/CAD) for dealers failing to timely file initial, annual or monthly declarations or for dealers failing to report the minimum vehicle sales required to maintain licensure. These cases are initially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

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

MOTOR VEHICLE

Total Cases Opened

Total Cases Closed

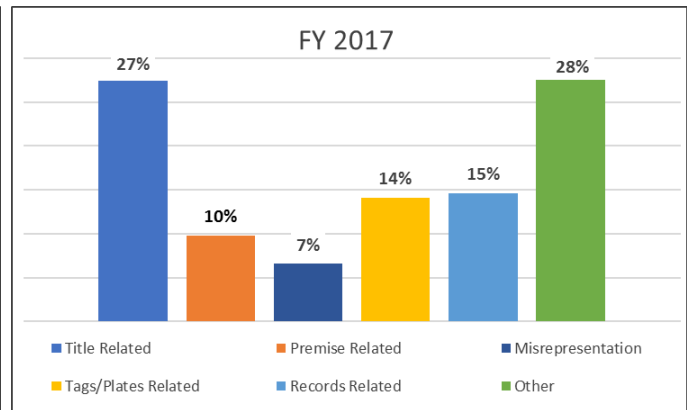
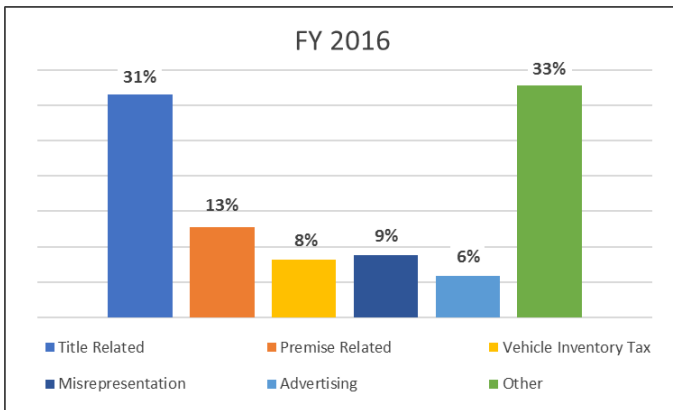
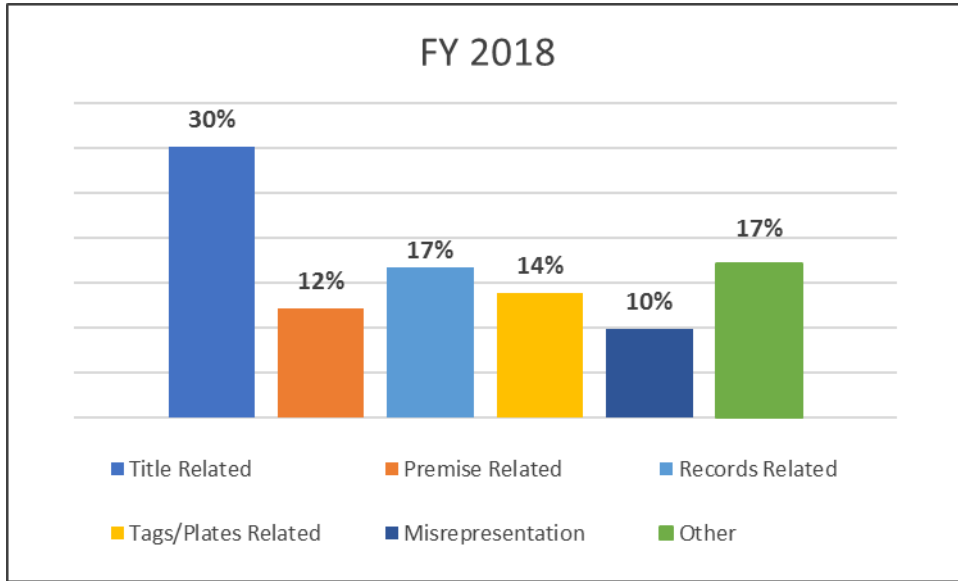


The above chart represents the total of all motor vehicle cases opened and all motor vehicle cases closed in each of the three recent fiscal years. Motor vehicle general and advertising complaint types received in the eLICENSING system are assigned by region to an enforcement investigator to inspect,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

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

MOTOR VEHICLE

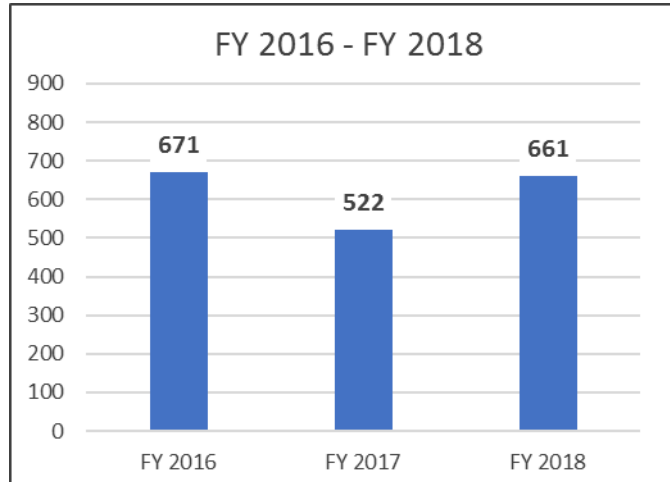
Total Cases - Disposition of Violations



A case may contain multiple violations. The number of violations cited in this year's closed Motor Vehicle cases are 8,617. Total violation counts for FY17 were 8,879 and for FY16 the violation count was 6,559.

MOTOR VEHICLE

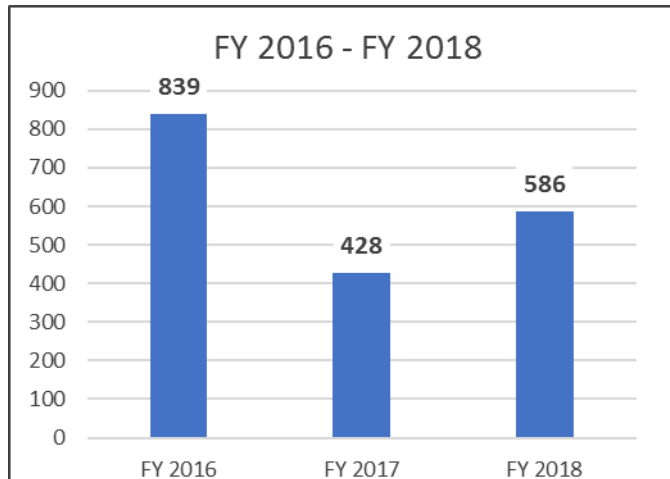
TAC/CAD Cases Opened



This new chart reflects the counts for cases opened to address complaints received by TAC/CAD for dealers failing to timely file initial, annual or monthly declarations or for dealers failing to report the minimum vehicle sales required to maintain licensure.

Rather than assignment by region to enforcement division investigators, these cases are initially managed by the division's administrative staff who work with the dealers to bring them into compliance with the county or appraisal district requirements. The cases are escalated to enforcement attorneys if the dealers are unresponsive or have a history of violations for this complaint type.

TAC/CAD Cases Closed

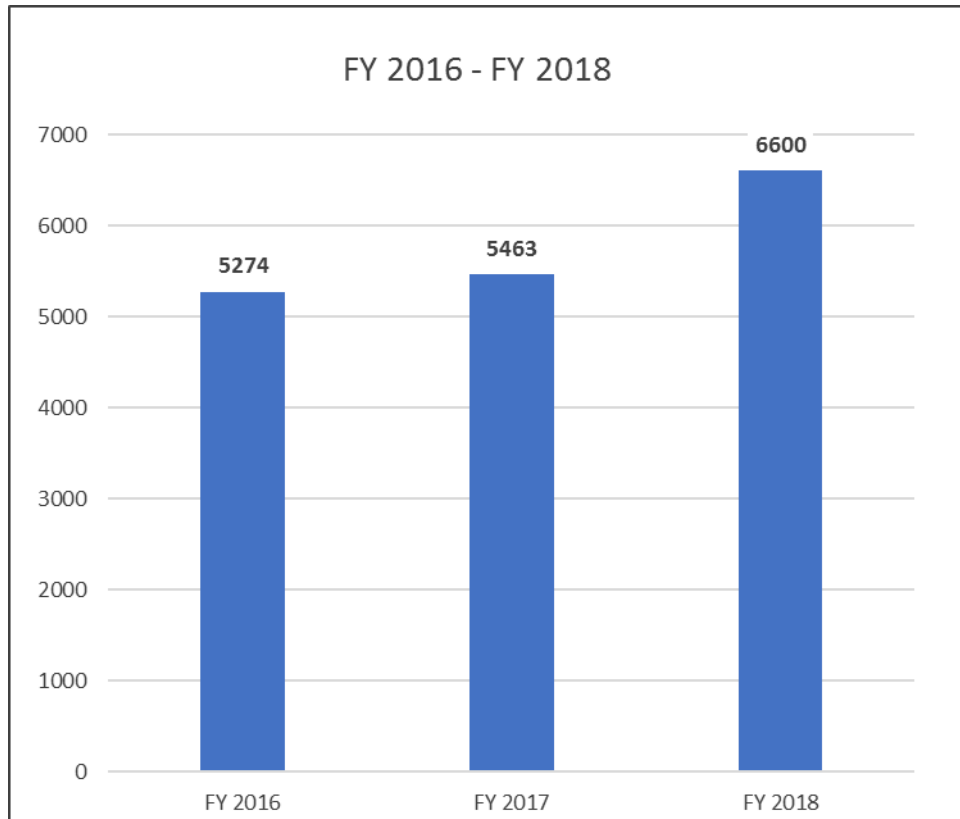


This new chart reflects the counts of Tax Assessor Collectors and County Appraisal Districts (TAC/CAD) cases closed by dealer compliance in submitting proof of filing the report with tax authority.

The vehicle inventory tax violations referenced in these case types for FY2018 are grouped in the "Other" category reflected in the Violations chart on page 5 of this report.

MOTOR VEHICLE

General & Advertising Cases Opened

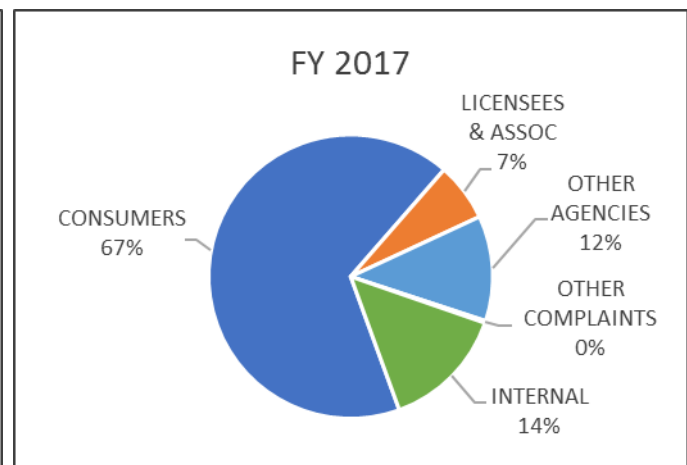
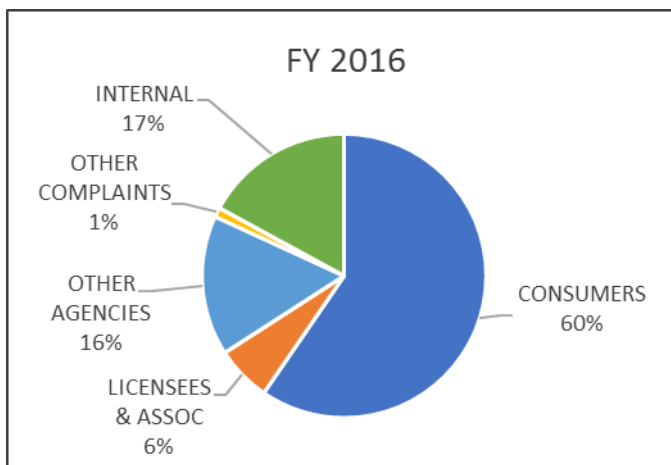
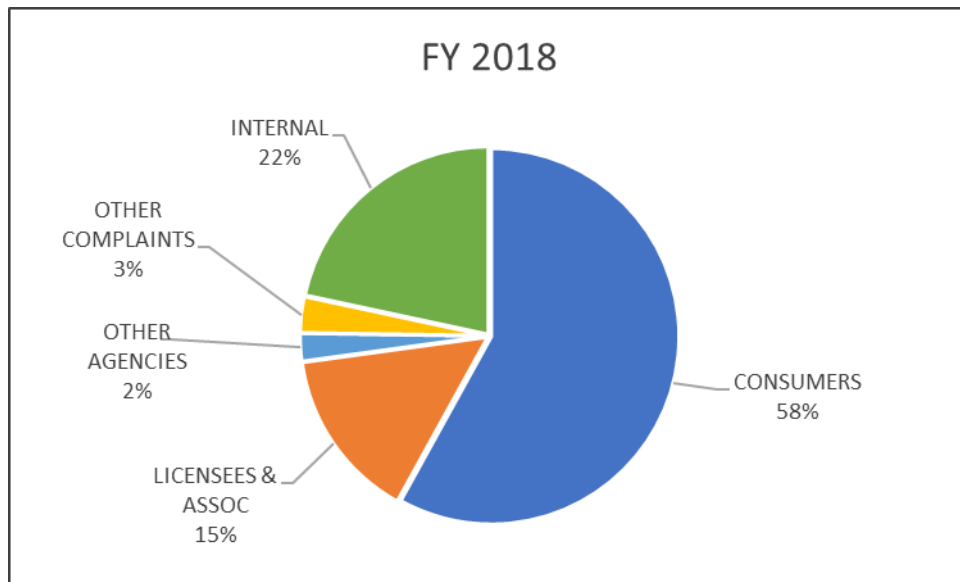


This chart reflects the total number of cases opened to address motor vehicle general and advertising complaint types received primarily from consumers, other licensees and industry related associations, or due to intra-agency licensing concerns. The historical counts from 2016 and 2017 have been modified to accommodate a separate chart for cases opened to address complaints submitted by Tax Assessor/Collector or County Appraisal Districts (TAC/CAD). *See chart on page 6.*

Historically, the Independent license type receives the greatest number of complaints. For FY18 the percentage of complaints against Independent license types was 93%. Salvage license types received 5% of the complaints and the combined Franchise and Other license types received 2 %.

MOTOR VEHICLE

General & Advertising Cases Opened by Origination

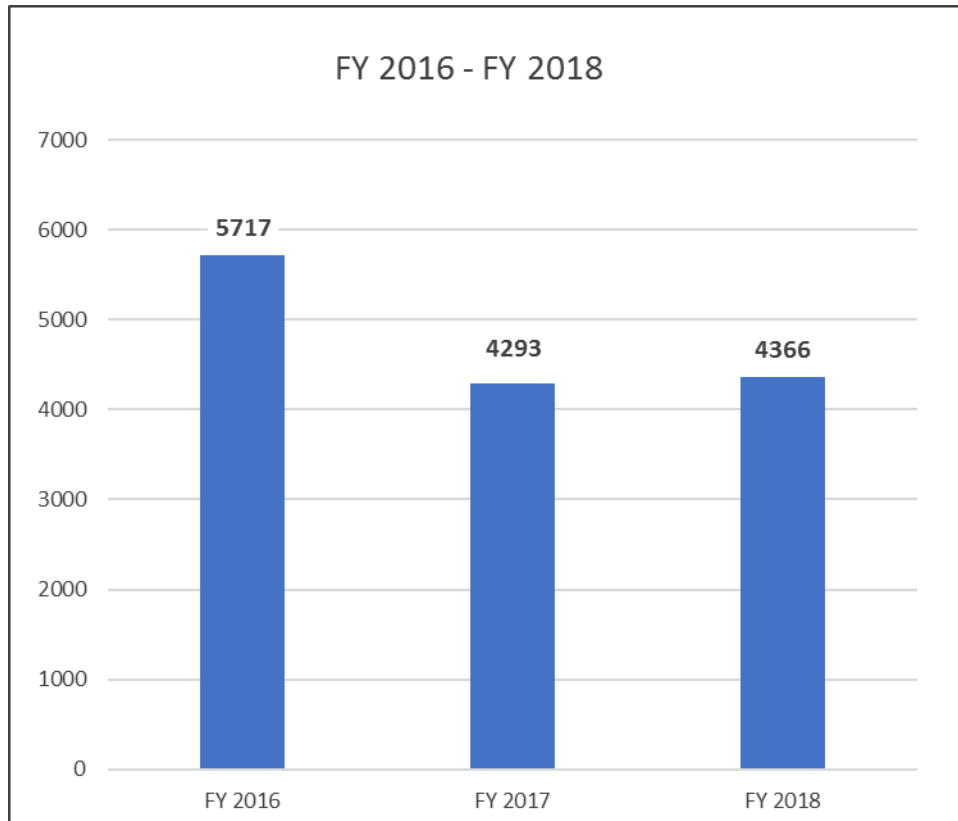


While motor vehicle cases originate primarily with the public, other sources for complaints are the result of field inspections, licensing, or vehicle titling concerns. Cases are also submitted by other agencies and law enforcement.

In FY16, 100% of cases opened were based on written complaints received. In FY18, that number was reduced to less than 20% because of the online complaint submission form available through eLICENSING on the department's website.

MOTOR VEHICLE

General & Advertising Cases Closed

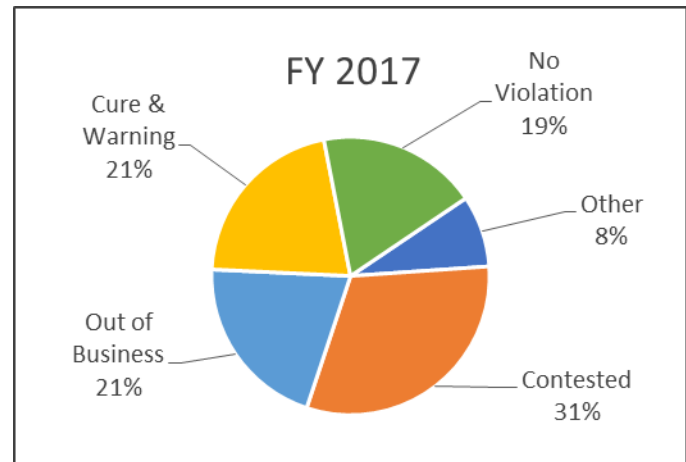
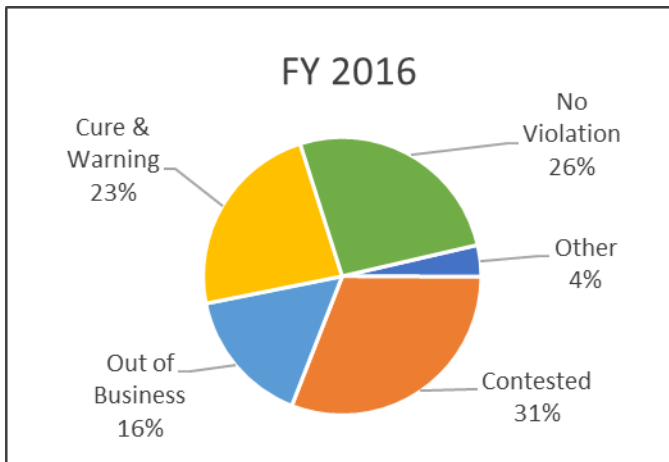
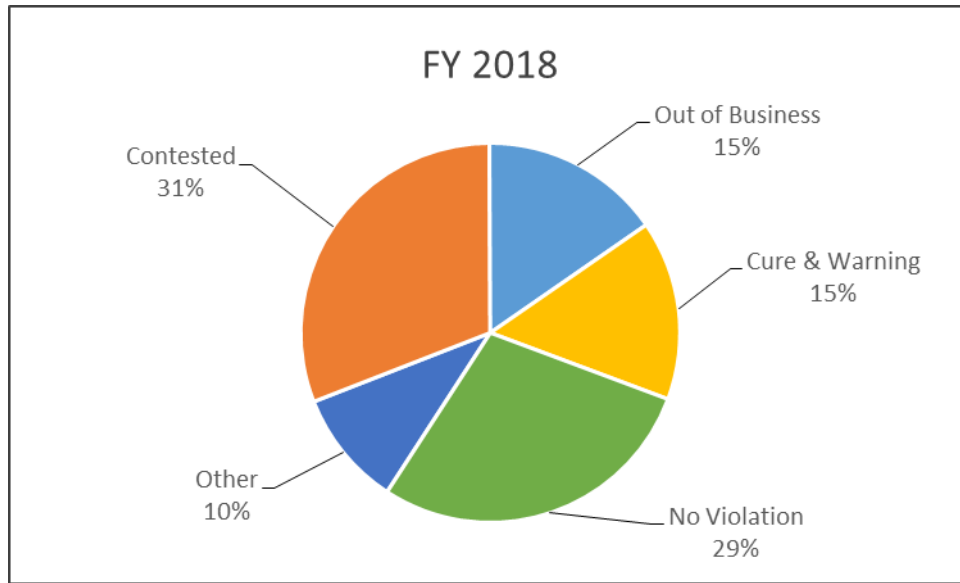


Motor vehicle general and advertising complaint types received in the eLICENSING system are assigned by region to an enforcement investigator to inspect, examine or otherwise investigate the allegations made by a complainant. Upon completion of the investigation, the case is reviewed by a Chief or Assistant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

This chart reflects the count of cases for which the investigative and legal processing was completed. The counts reflected for FY16 and FY17 have been adjusted from previously posted counts to accommodate reporting the Tax Assessor/Collector or County Appraisal Districts (TAC/CAD) complaints in a separate chart. *See chart on page 6.*

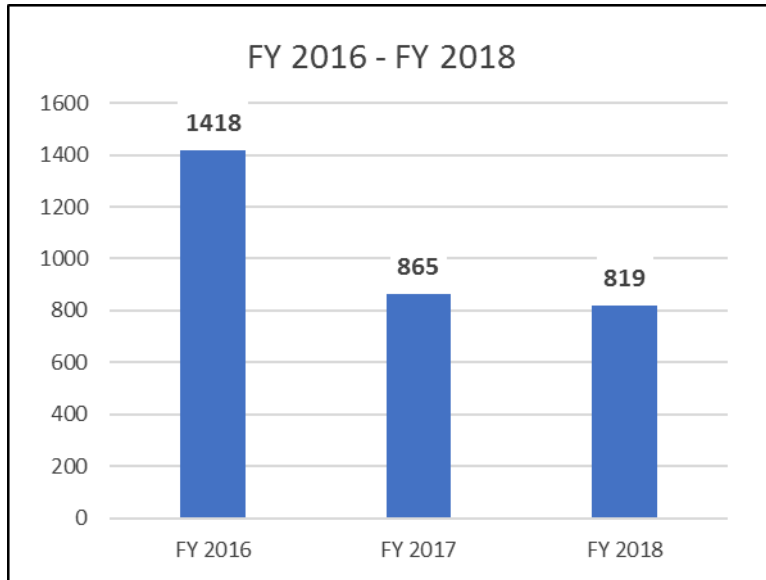
MOTOR VEHICLE

General & Advertising Cases Closed by Category

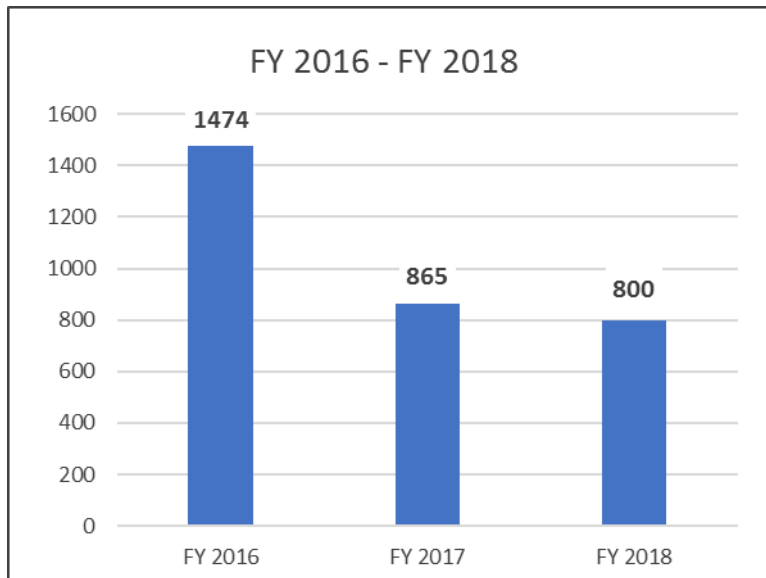


Cases are closed by a Chief or Assistant Chief Investigator when a dealer is found to be out of business or if no evidence of a violation is detected during the investigation. Cases closed with a warning provide the dealer with an opportunity to correct minor or first time minor violations. Due to the nature of the violation(s), approximately one-third of motor vehicle cases require further action by the division's legal staff. These cases are identified in the above graphs as "contested". See charts on pages 11 and 12.

General & Advertising Contested Cases Opened



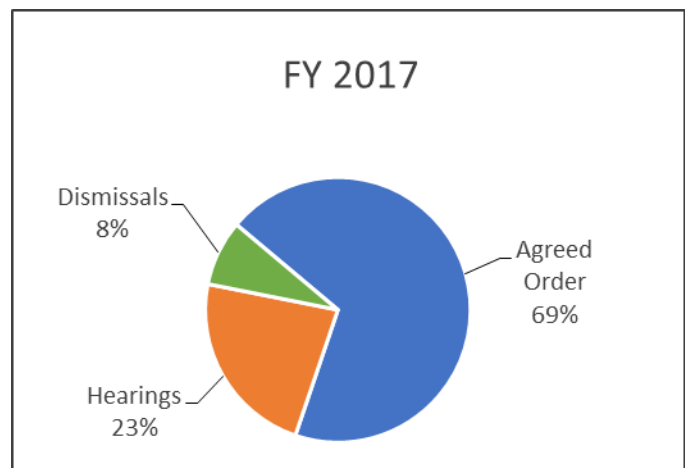
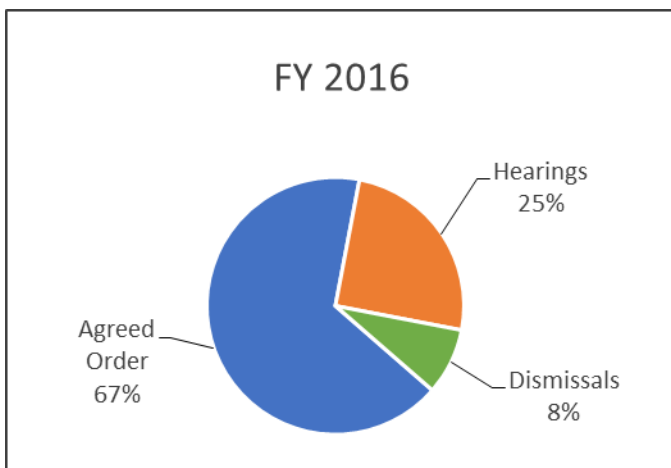
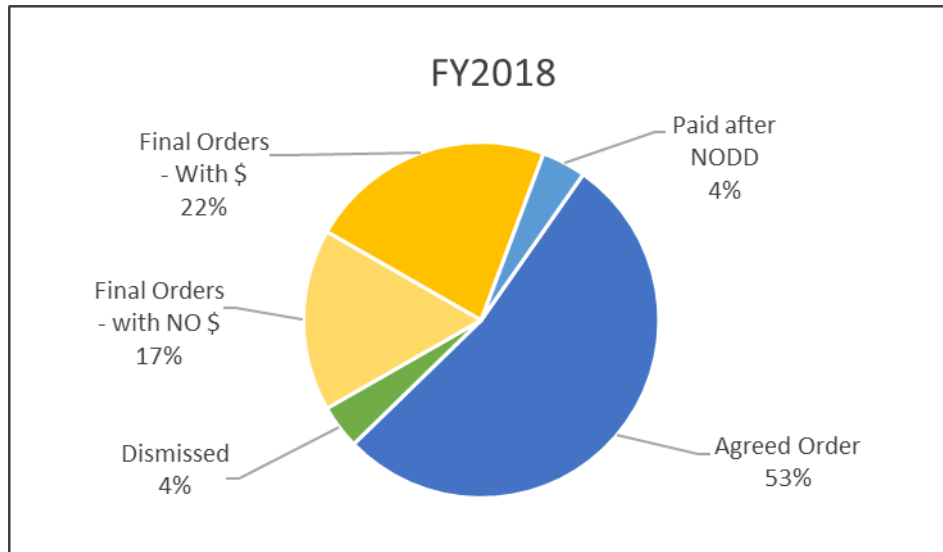
Contested Cases Closed



In appropriate cases, the Enforcement attorney will initiate a contested case by filing a Notice of Department Decision (NODD) describing the alleged violation(s). These documents explain the rights of the licensee and invite settlement discussions. Most of these contested cases are settled through agreed orders as a result of discussion between the department attorney and the licensee. *See chart on page 11.*

MOTOR VEHICLE

General & Advertising Contested Cases Closed by Category

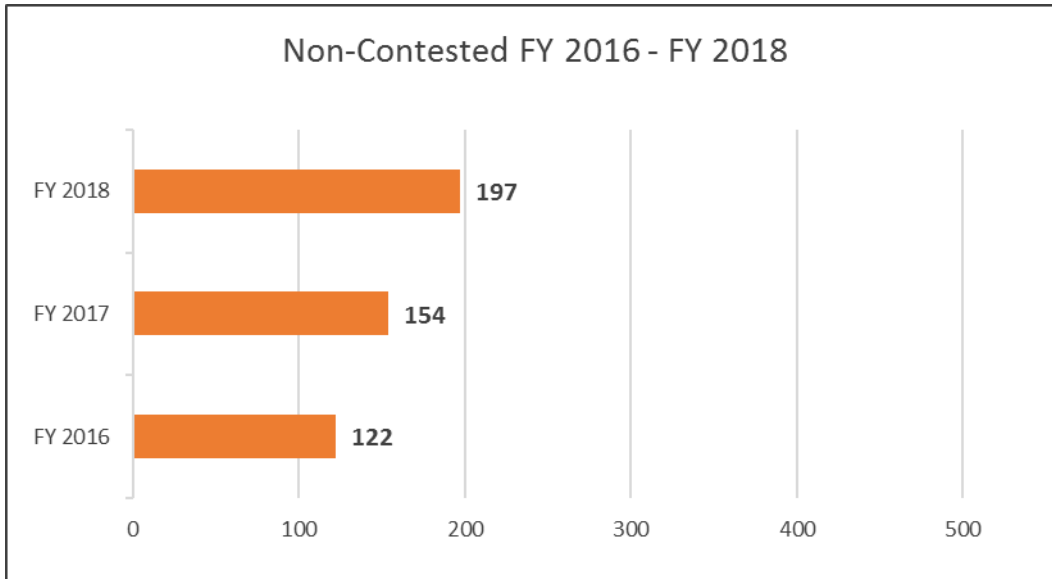


This chart reflects the final disposition of closed contested cases that imposed administrative sanctions. Reference the “Contested” category of cases on the **Motor Vehicle-Cases Closed by Category** chart shown on page 6.

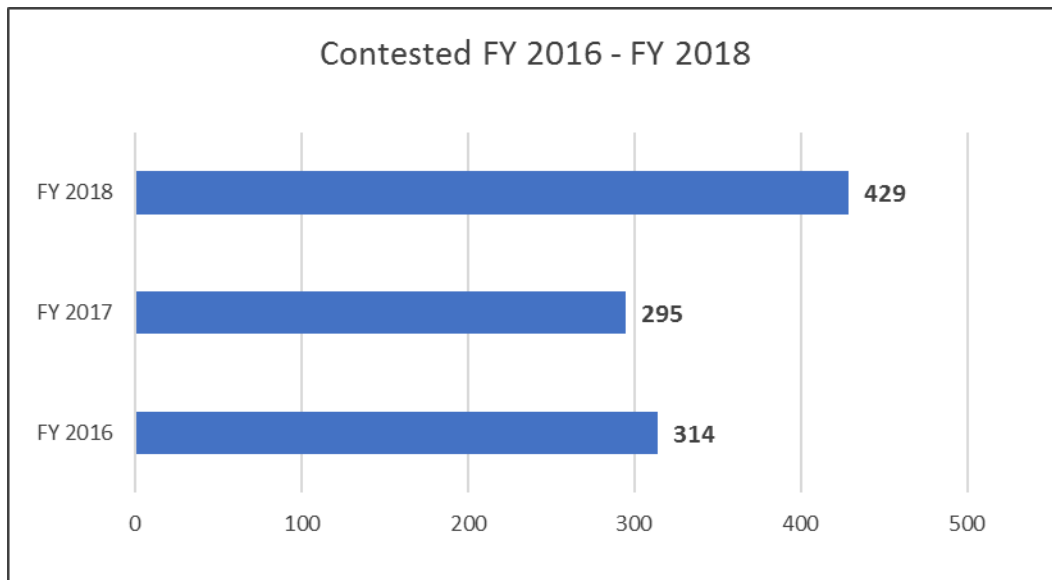
Additional codes and reporting enhancements available in FY18 allow a more detailed view of how contested cases were closed. In FY16 and FY17 the Hearings section on the above graphs included any cases not settled by Agreed Order.

In FY18, the percent of closed contested cases presented for hearing at the State Office of Administrative Hearings (SOAH) was 5%.

General & Advertising Days in Process



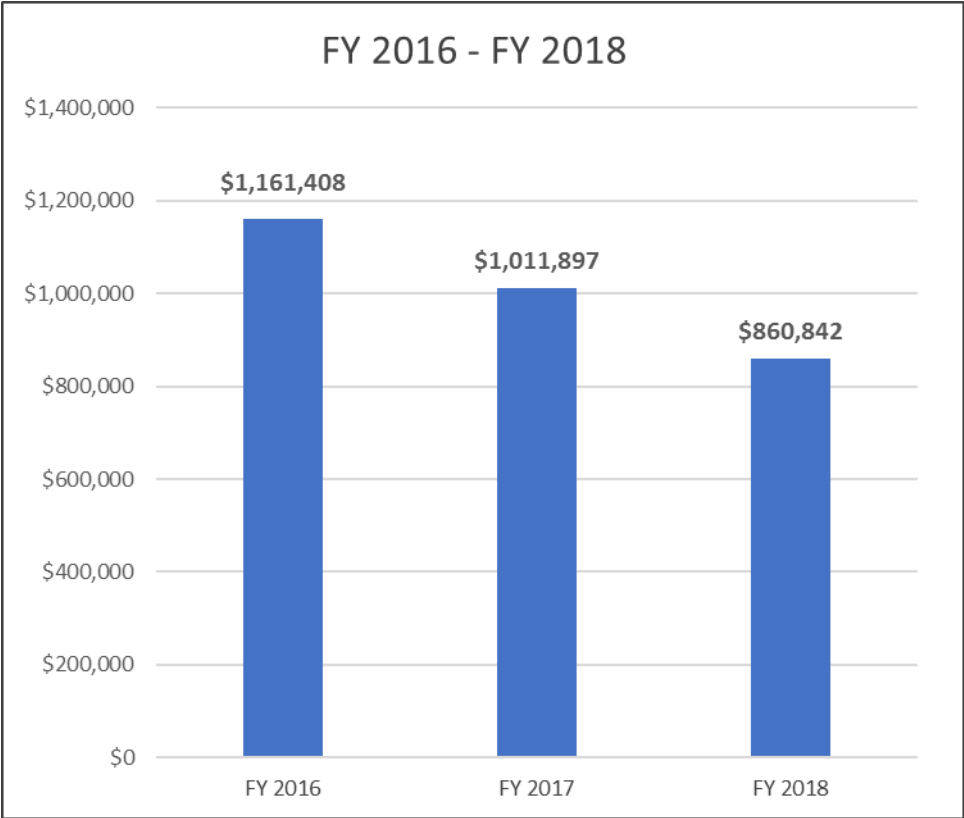
Non-contested cases consist of cases where review or formal administrative action by a division attorney is not required. These case types may be closed by the Chief or Assistant Chief Investigator if no evidence of a violation is found or if the dealer is out-of-business.



Contested cases can be complicated and may involve multiple cases opened in response to complaints received within the same time frame on the same dealer. These cases may be consolidated into a single contested case to address all the complaints and violations when escalated to the assigned attorney.

MOTOR VEHICLE

Civil Penalties Collected



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

Motor Carrier



Enforcement

Motor Carrier Cases

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

The Household Goods (HHG) category of cases consists primarily of consumer complaints against moving companies regarding; unlicensed movers, moving contract disputes, claims for damaged or missing goods, advertising violations, tariff filings, and improper vehicle markings

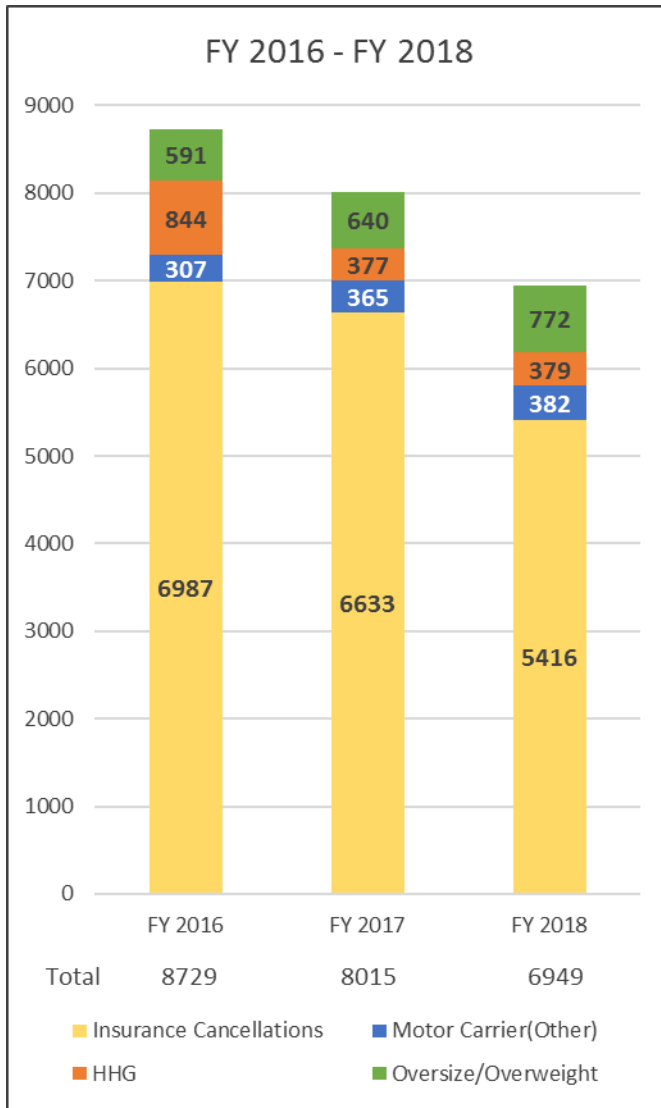
The Motor Carrier (Other) category consists of all types of general motor carrier investigations such as; motor carrier operating authority, bus company registration, Unified Carrier Registration (UCR) violations, active USDOT filings, and Texas Department of Public Safety (TxDPS) complaints against unsafe motor carriers.

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

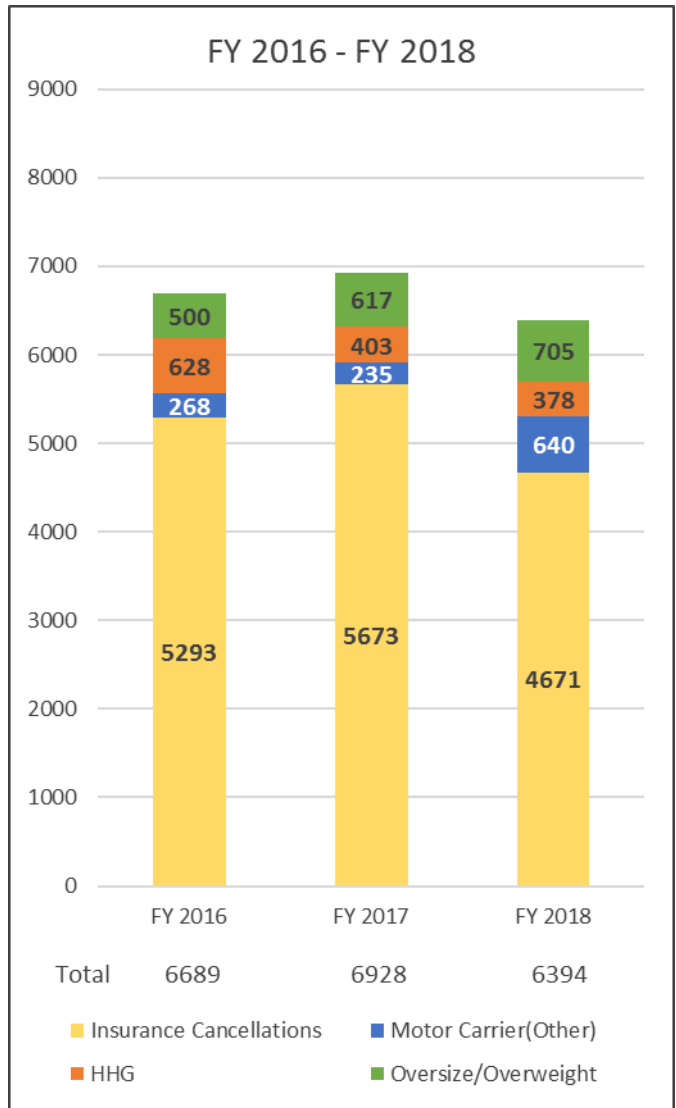
The Insurance category is the largest of the case types and originates from a department initiative to identify and administratively address violations for failure to properly file and maintain the required minimum amounts of liability, cargo or any additional insurance coverage as required by law. Insurance cases do not require investigation by division investigators as the cases originate from the registration records of the carriers in Motor Carrier Credentialing System (MCCS). These cases are considered as 'contested' when referenced in the following charts.

MOTOR CARRIER

Total Cases Opened



Total Cases Closed

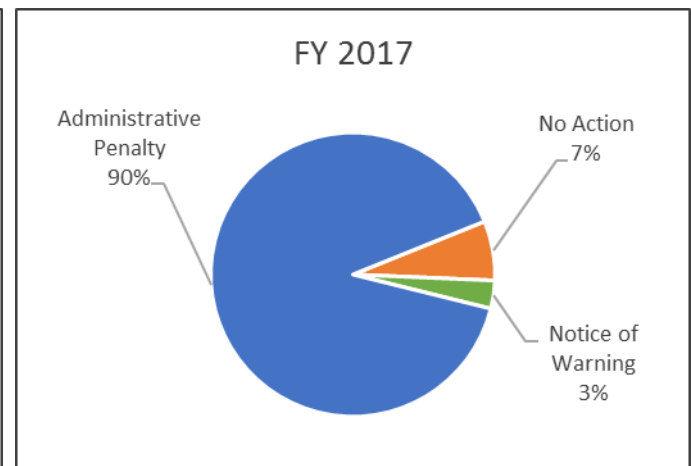
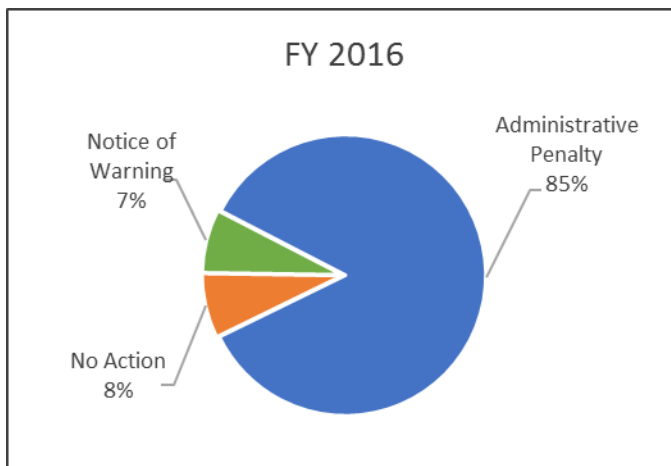
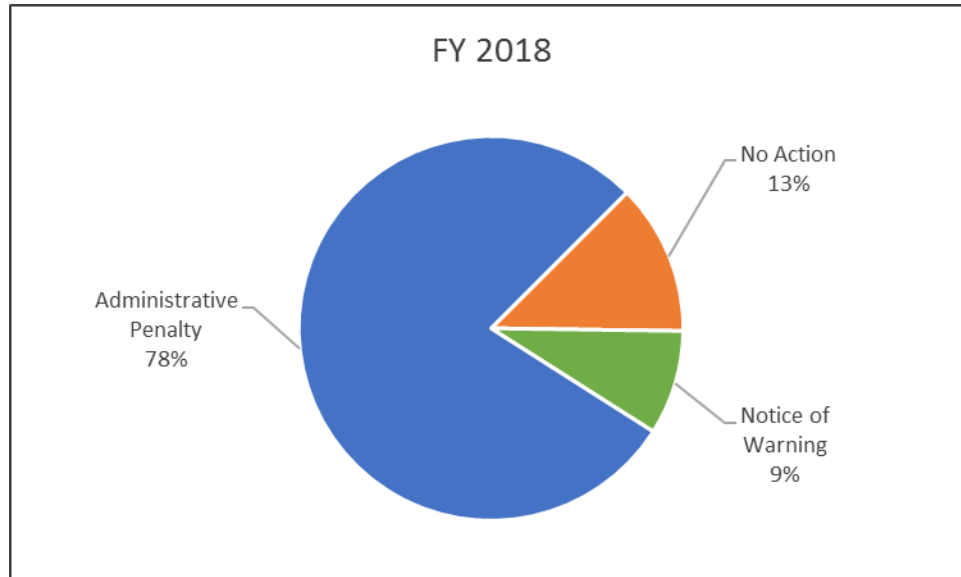


The above chart represents the total of all motor carrier cases opened and all motor carrier cases closed in each of the three recent fiscal years. Oversize/Overweight (OS/OW) cases consist primarily of self-initiated permit enforcement investigations. Household Goods (HHG) cases consist primarily of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

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

MOTOR CARRIER

Disposition of Total Cases Closed



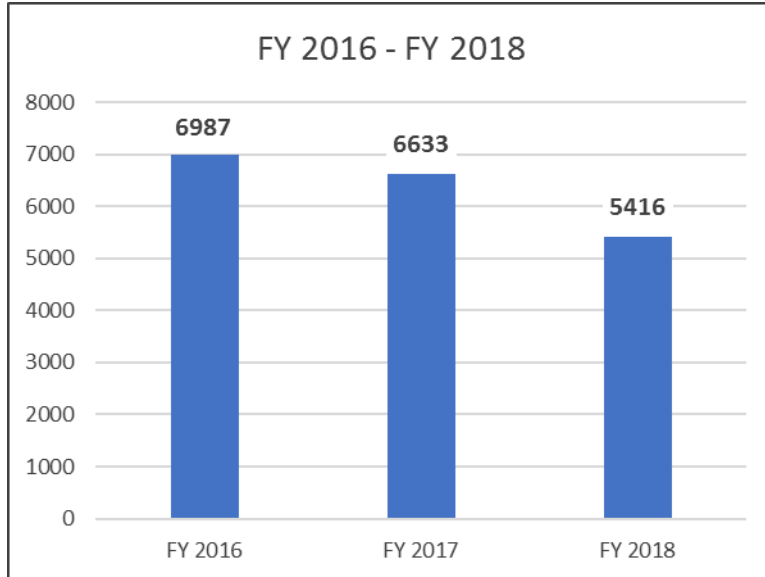
The Chief Investigator and the Assistant Chief Investigator have closing authority in certain cases where the alleged violations are not substantiated or where the alleged violations are minor.

A case is closed as 'no action' when violations are unsubstantiated. A case may be closed with a Notice of Warning, providing an opportunity for the motor carrier to come into compliance, if the alleged violations are minor and the motor carrier has made attempts to correct the violation(s) or has already corrected the violation(s).

Investigations that result in substantial violations by the motor carrier, are forwarded to a division attorney for review and processing.

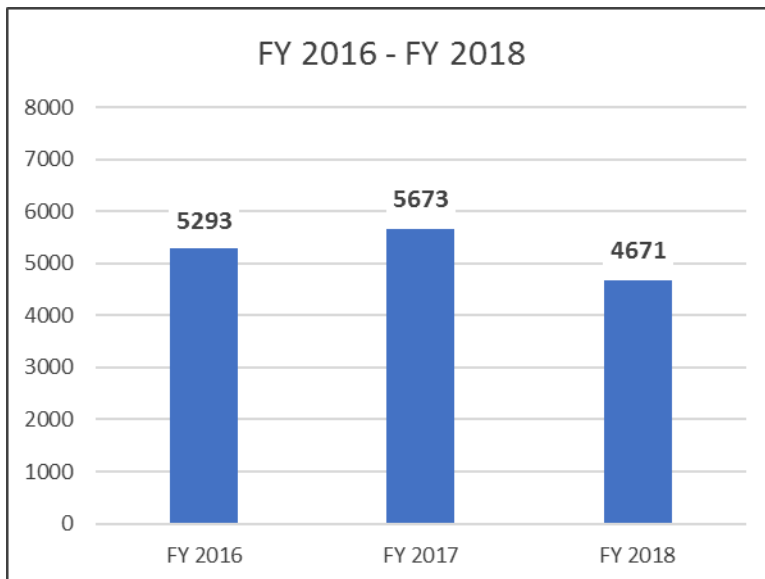
MOTOR CARRIER

Insurance Cases Opened



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

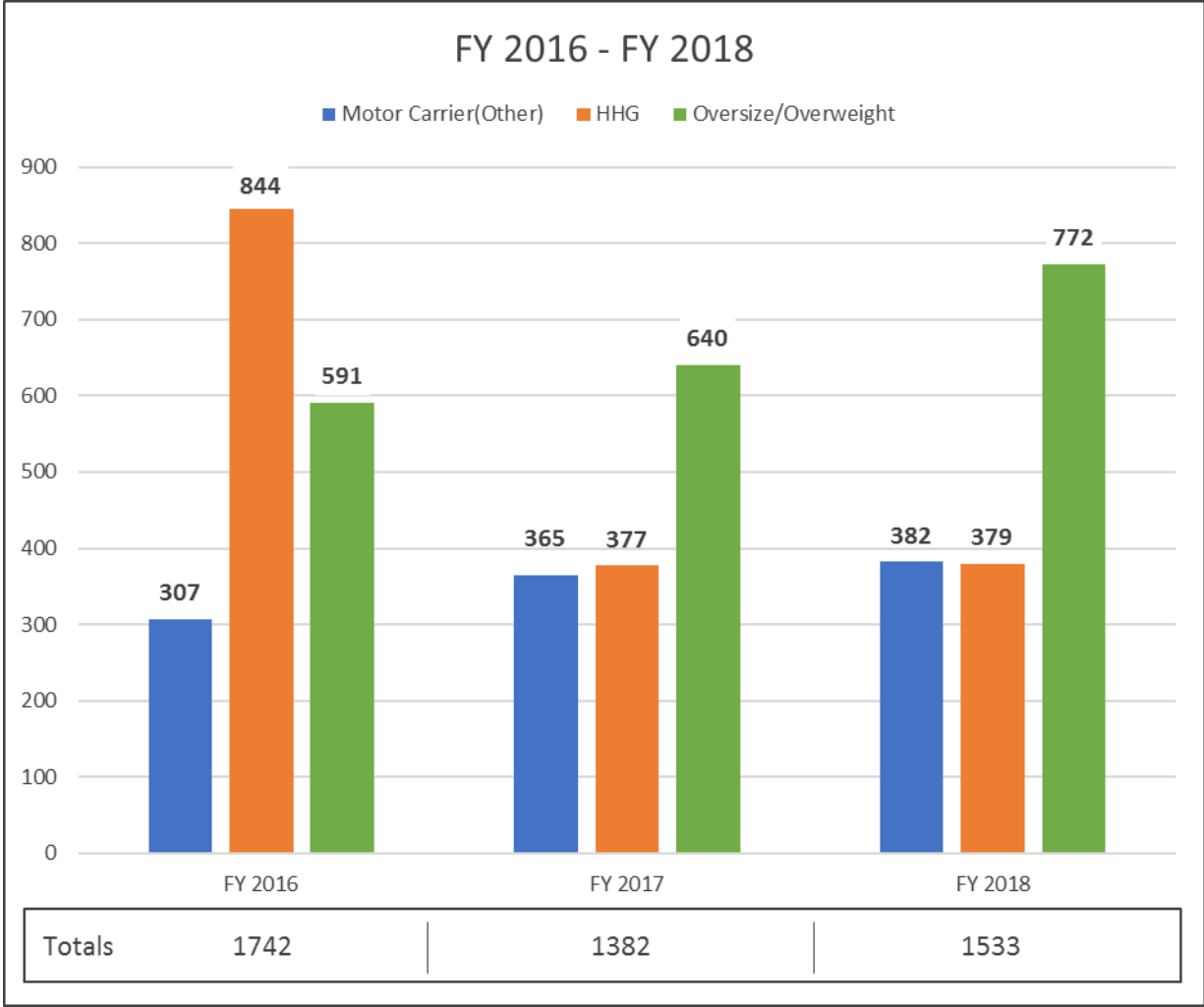
Insurance Cases Closed



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

MOTOR CARRIER

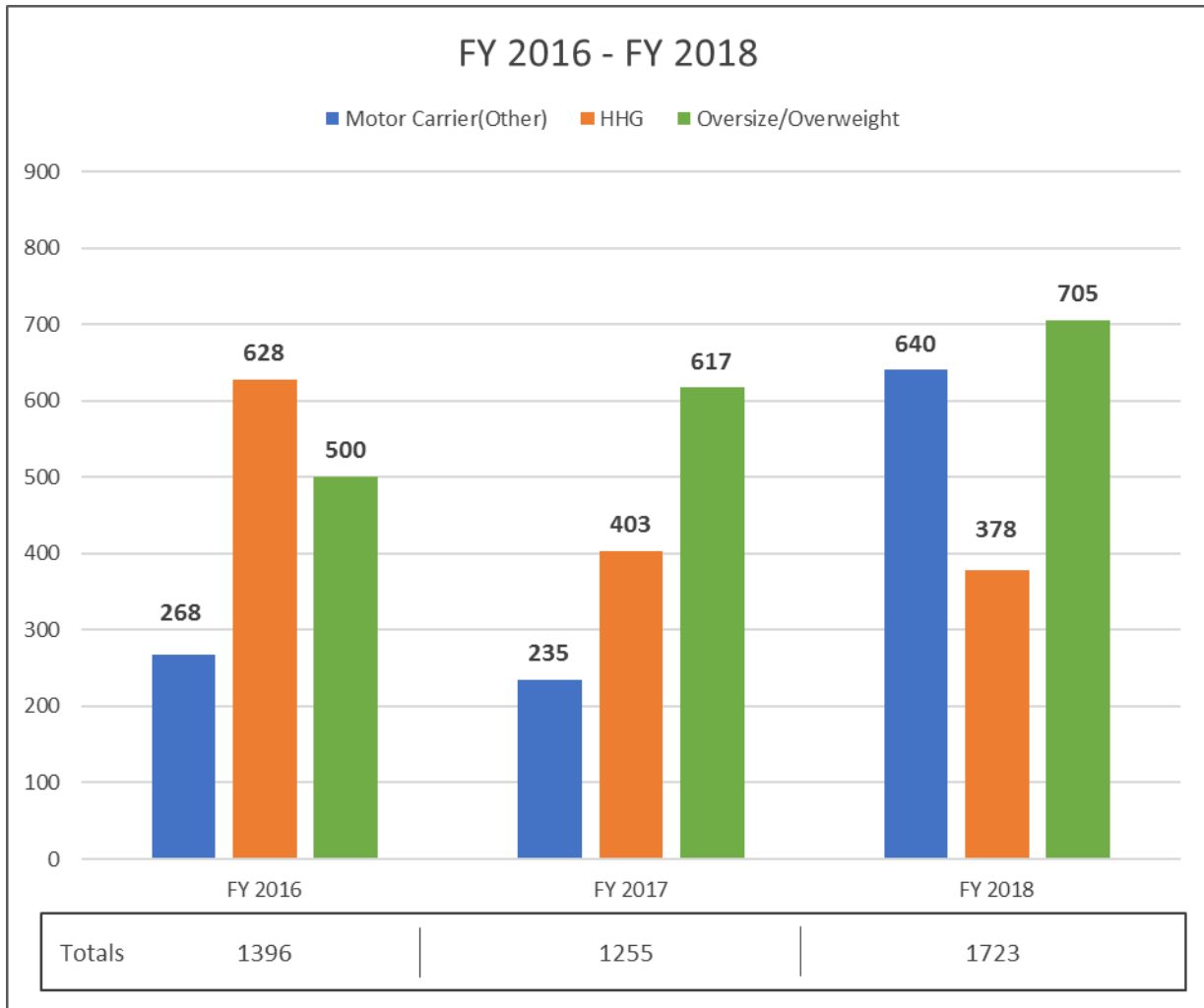
Non-Insurance Cases Opened



The chart above reflects the total non-insurance cases opened for FY16 through FY18 and the counts per category as described on page 16.

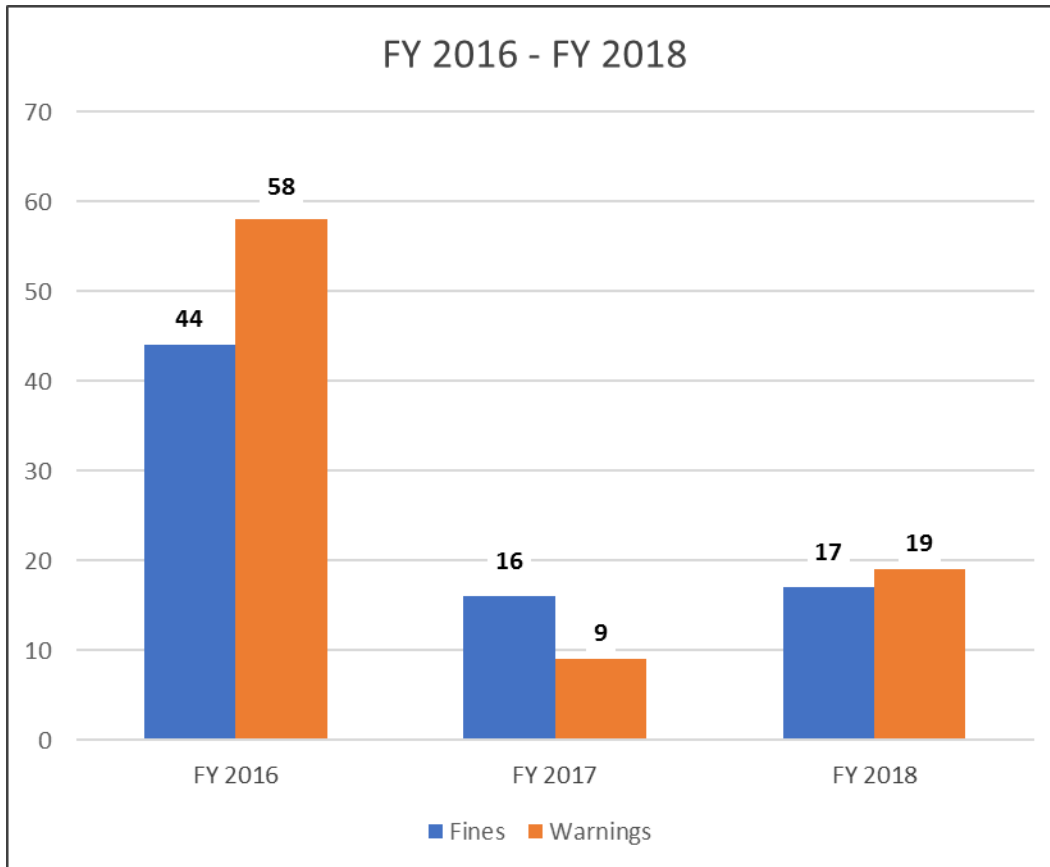
MOTOR CARRIER

Non-Insurance Cases Closed



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

Notice of Violation (NOV) Process

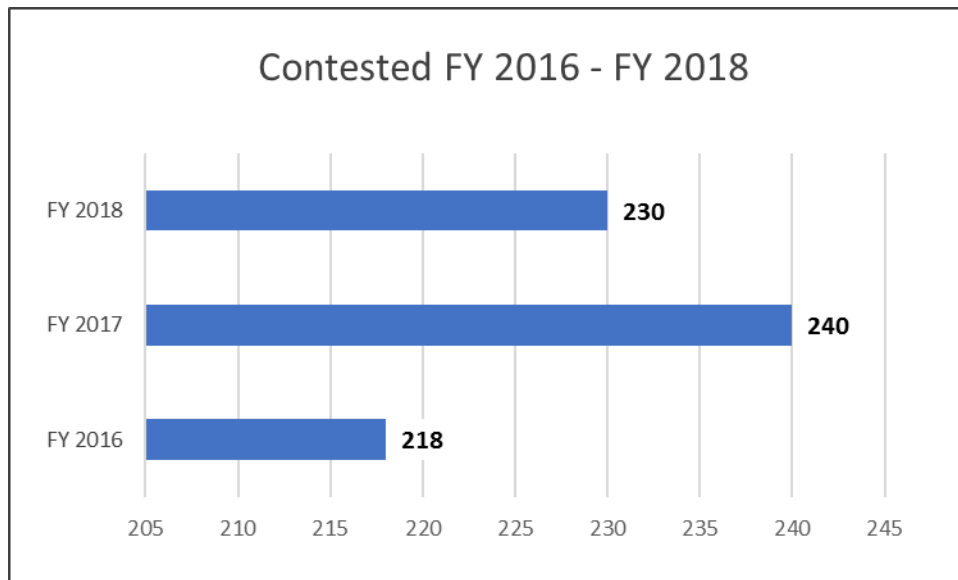
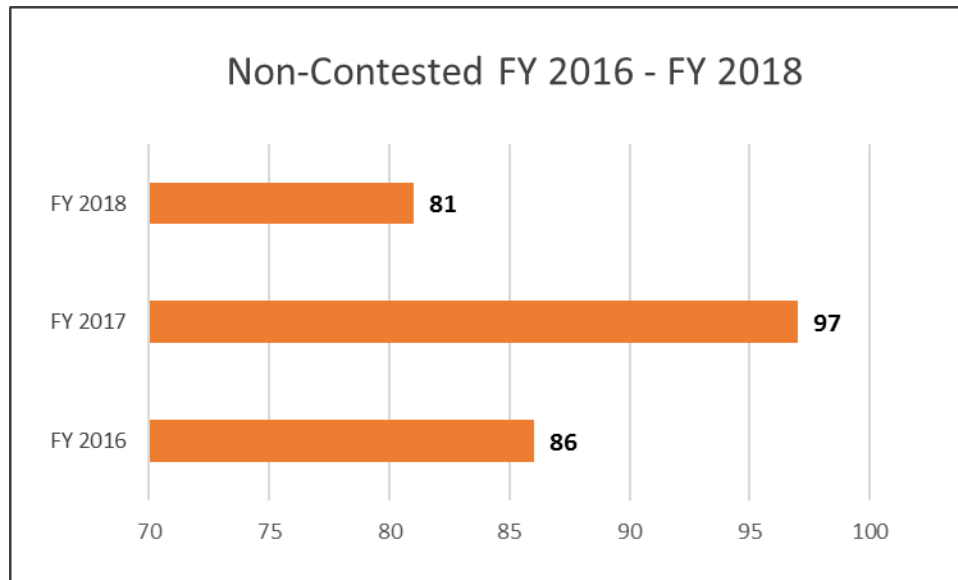


The Notice of Violation (NOV) process was developed to address common violations in a more cost effective and efficient manner. Investigators can immediately address a limited list of violations by a motor carrier by issuing a pre-numbered citation indicating the violation(s). This type of violation is typically witnessed by the investigator and issued to the motor carrier while on site. For example, an NOV can be issued to an unlicensed moving company when found to be operating unlawfully by the investigator.

NOVs can result in a warning or an administrative penalty and therefore the carrier is afforded all due process rights, including the right to request a hearing. Once an NOV is written, whether a warning or a fine, the citation is entered into the Complaint Management System (CMS) database to create a historical record in the motor carrier’s account, as is done with the standard complaint process.

MOTOR CARRIER

Days in Process

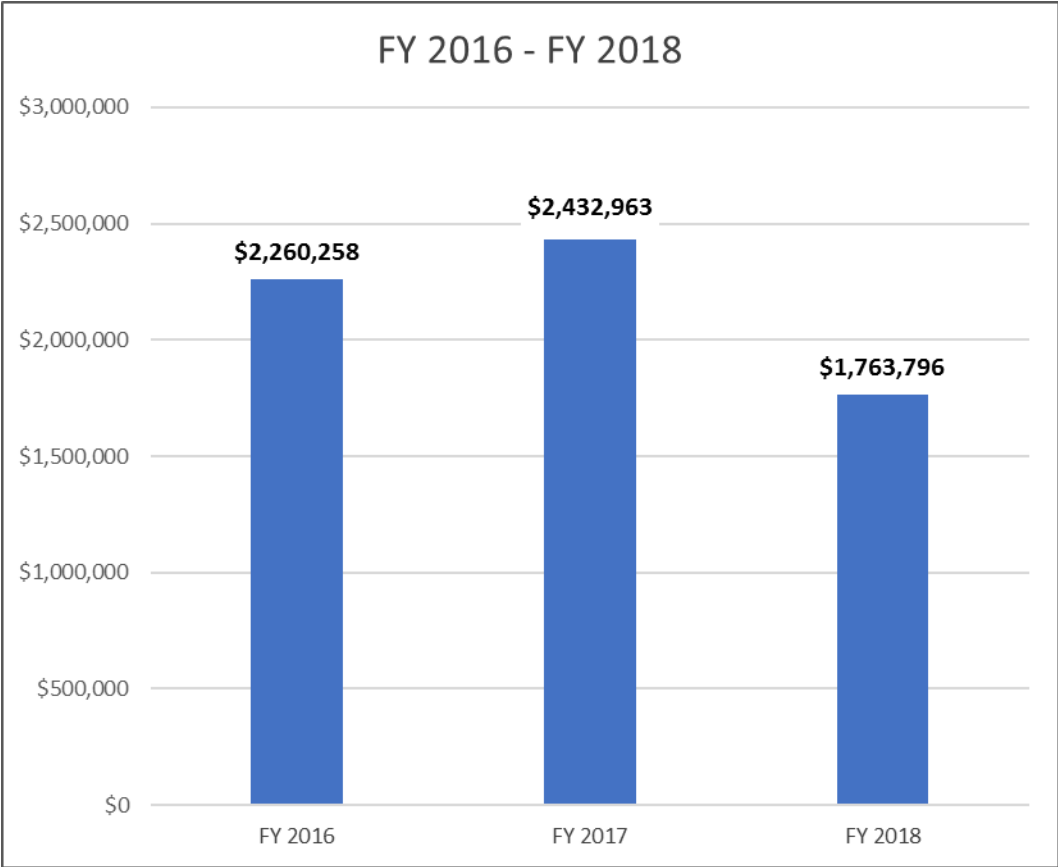


Non-Contested cases consist of cases closed with a formal warning or other non-sanction action. These case types are closed by the Chief or an Assistant Chief Investigator.

Contested cases result in administrative sanction actions by an attorney which may include an administrative penalty or revocation of a motor carrier's operating authority.

MOTOR CARRIER

Civil Penalties Collected



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

Enforcement Division Outreach



Efforts

OUTREACH

Dealer Training Seminars

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

The Dealer Training Seminar, Salvage Dealer Training Seminar, and Advertising Seminar are presented at different locations throughout the state each year. This year these seminars were held in 11 different locations providing dealers and other stakeholders with a total of 26 days (140 hours) of instruction. The free seminars are scheduled and located in such a manner that every dealer currently registered in the eLICENSING system receives an email invitation at least once every two years.

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

DTS provides an excellent opportunity to educate the dealer population and gives the licensees an opportunity to meet and discuss issues with agency personnel. Many licensees take advantage of the opportunity to talk with agency representatives and ask questions they have been unable to resolve.

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

Mover Training Seminars

The Motor Carrier Section continued its efforts to educate household goods movers by providing the Mover Training Seminar (MTS). The seminar provides information on how licensees can comply with the basic rules, regulations, and responsibilities of their registration or operating authority such as, how to properly advertise, how to complete required documents, and how to properly mark any vehicle being used for transporting household goods for the company. The four-hour course is presented free of charge in several Texas regions with the potential for a large consumer base for movers. Seminars were presented in San Antonio, Tyler, Houston, Lubbock, Mesquite, and Austin during the 2018 fiscal year.

MTS provides an opportunity to educate a motor carrier population that has no mandated education requirements, and gives the licensees an opportunity to meet and discuss issues with agency personnel.

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

Law Enforcement Training

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

The Enforcement Division continues training programs regarding rules and regulations that govern oversize/overweight vehicles and other motor carrier operations. These training sessions have been approved for Texas Commission on Law Enforcement (TCOLE) credit. Enforcement staff provided 12 training sessions in 2018 that informed law enforcement attendees of the issues unique to the motor vehicle and/or motor carrier industries.

Other Industry Appearances

The division participated in a number of dealer and industry events this year, including conferences for the Texas Assessor Collector Association (TACA) in Frisco, and the National Insurance Crime Bureau (NICB) Auto Theft groups in both San Antonio and El Paso.

For the sixth consecutive year, the Enforcement Division Director addressed the Texas Independent Automobile Dealers Association's (TIADA) at the annual conference held in Dallas along with the Motor Vehicle Chief Investigator. The director was also a guest speaker at the Texas Recreational Vehicle Association convention in San Antonio.

In total, the Enforcement Division provided training through 49 separate outreach engagements and provided information to over 3,218 attendees.