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)
1. CALL TO ORDER
   Roll Call and Establishment of Quorum

2. DISCUSSION, BRIEFING, AND ACTION ITEMS
   A. Nominations and Selection of Advisory Committee Presiding Officer
   B. Refunds by Motor Vehicle Dealers and Motor Carriers Transporting Household Goods (Rulemaking Recommendation)
   C. Temporary Tags (Legislative Recommendation)
   D. Title When Motor Vehicle Dealer Go Out of Business (Legislative Recommendation)
   E. Protecting DPPA Information (Legislative Recommendation) (Deferred to next meeting)
   F. Future Meeting Schedule

3. PUBLIC COMMENT

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

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

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

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

Under that suspension, the public will not be able to physically attend this meeting in person. Instead, the public may attend this meeting by calling the
toll-free number which is posted in the agenda which was filed with the Office of Secretary of State on May 20, 2020. All advisory committee members will be participating remotely via Webex.

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

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

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

One, department staff, committee members and any commenters should identify themselves before speaking. Please speak clearly. Remember that there might be a slight delay due to the telephone conference call meeting, so please wait a little bit longer than usual before responding to participants. Do not speak over others. And finally, speakers should ask the presiding officer to proceed and be sure to get recognized before speaking.

Because the number of dial-in participants is
limited, if you wish to address the advisory committee or speak on the agenda items of today's meeting, please send an email to GCO_general@TxDMV.gov. Please identify in your email the specific item you're interested in commenting on, your name and address and whether you're representing anyone or speaking just for yourself. If your comment does not pertain to a specific agenda item, we will take your comment during the general public comment portion of the meeting.

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

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

disruption.

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

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

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

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

MR. DORAN: Sure. Thank you, David. 
And now I'd like to have a roll call of the 
advisory committee members. Please let me know if I 
pronounce your name incorrectly. When I call your name, 
please indicate if you are present. 

Member Gonzalez?

MR. GONZALEZ: Present.

MR. DORAN: Member Cheryl Johnson?

MS. JOHNSON: Present.
MR. DORAN: Member Olah? Member Olah?
(No response.)

MR. DORAN: Member Rash?

MS. RASH: Present.

MR. DORAN: Member Rigby?

MR. RIGBY: Present.

MR. DORAN: Member Snell?
(No response.)

MR. DORAN: Member Solis?
(No response.)

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

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

Now, moving on to item 2.B. Refunds by motor vehicle dealers and motor carriers transporting household goods. Members, as you know, we discussed this agenda
item at our May 19 meeting and decided upon some recommendations that will be made to the TxDMV executive director and board.

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

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

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

MR. DORAN: Sure.

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

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

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

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

MR. RICHARDS: Yes, I can hear you.

MR. DORAN: Sorry. I'm hanging up the phone.

David, I apologize, I was switching from telephone to computer there, but if I'm not mistaken, you were asking the committee members to confirm who would be presenting the recommendations to the executive director and to the board?

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

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

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

MR. DORAN: Yes, you are recognized.

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

            MR. DORAN: Thank you.

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

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

            MR. DORAN: Thank you.

            Okay. I believe we probably need a motion.

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

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

            I don't think we need another motion, we've
            already voted on it, but really I was seeking a
            confirmation that that was still the intent of the CPAC
            that the three officers, whoever they may be, will be the
ones presenting, and I think we've confirmed that. I'm fine with that and y'all want to move on to agenda item 2.C. that would be great.

MR. DORAN: Thank you, David.

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

MR. DORAN: Yes, you may.

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

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

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

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

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

MR. RICHARDS: That is correct.

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

MR. RICHARDS: 2.C., Member Doran -- David Richards for the record -- we are going to discuss that one, so it should be on the next page. You can introduce
that particular item again. We got into it briefly last
time, and we have some more commentary.

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

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

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

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

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

MR. DORAN: This is Presiding Officer Doran.

Ms. Thompson, if those are going to help inform
your presentation and comments, then I would be in favor of taking up the comments before your presentation.

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

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

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

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

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

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

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

And based on the commentary that they had provided us in previous meetings and going back quite some time, local law enforcement had expressed concern that the temporary tags, from their perspective, were very -- they
weren't quite familiar with the use of the tag, whether it was valid or invalid, and they didn't know what to look for when they were looking at a paper tag on the road, and that was one issue that they expressed to us.

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

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

Unless it's a very obvious reason to stop the vehicle, like a tail light or improper movement, lane
change and stuff like that, they don't have probable reason to stop a vehicle displaying a paper tag and it's flipping on the back license plate holder, so they're concerned about that.

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

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

Another portion of the concern that they've expressed to us that there was not enough training for them to understand how to enforce the temporary permits or the dealer tag program. So they need a little bit more information on the authorized agent tag, they're unfamiliar with that.
And usually here in El Paso, because of our awareness and commitment to this function, they seek us out and they talk to our officers, and they start a conversation as to whether it's valid or not, and that's how they become a little bit more informed. So they're always soliciting our help to give them the confidence to be able to write a ticket with the general population.

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

Some of the recommendations that they've made to us is they would like to have access to the DMV website so that they can get quicker information on specific tags. Specifically the agent-specific tag and the vehicle-specific tag, they need a little bit more information on it so they can determine what to do and determine if that tag is valid or is being used properly.

But they also need -- the majority of these tags -- and I might be repeating myself, they might already have this, but the expiration date, the year
model, of course the seller's name, the buyer's name. All
of that is important and it may already be on there, but I
think visually when you look at the heading of the paper
tag, it's not very visible for them.

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

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

I believe the cost to manufacture a single
license plate is between $1.49 or $1.67, and that fee
could be included in the fee when it's issued, so it would
be permissive possibly to generate that. And in the long
run there would be more benefit for law enforcement and it
offers a sense of accountability so that we know that it's
a legitimate issued permit and they're authorized to
operate that vehicle with that assigned permit with a
metal plate, and it avoids that paper tag being
counterfeit.
And we have knowledge because of this concern that, you know, we feel that organized crime is already using, taking advantage of these type of tags. Two or three years back, we were given inquiries from Washington, D.C. where 72-hour permits were out there on commercial vehicles. We passed that on to the FBI for their knowledge due to security reasons for our country, and so we know that our paper tags have gone to the northeast and they could be harmful to our communities.

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

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

Thank you very much.
MR. DORAN: Member Gonzalez, thank you for those comments.

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

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

MR. DORAN: Yes, you're recognized.

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

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

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

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

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

So these are similar comments that we have had
discussions with law enforcement before. We have had meetings with CLEAT, as well as some other law enforcement entities from around the state. We actually had a working group meeting to discuss some of the issues that have come up.

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

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

So the cardboard tags, if you do remember, they were preprinted cardboard tags and they were the same types of tags that we had: we had timed permits, but we also had cardboard tags that were issued by dealerships. Those cardboard tags, the only field that was on there for the dealership or anybody to print on was the expiration date, and usually those were applied with a Sharpie marker. They had like a grid in there that you would fill in the expiration date of the tag. And those tags did not have a unique identifying number on them, so they could not be queried by law enforcement. They also did not
include buyer or vehicle -- well, they had vehicle information that was handwritten on them, and it was written in a very small area on the tag.

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

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

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

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

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

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

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

So as to probable cause -- and this is the thing that I like to say all the time -- the biggest security feature on those tags is the alphanumeric pattern itself. Law enforcement can run that alphanumeric pattern, and if it's not in the system, then it's not a
legitimate tag. Only legitimate tags are going to be in
the system. So if somebody duplicates a tag and makes up
their own number or tries to falsify something, then it
will not show up in the database, and that becomes the
number one way to prevent fraud.

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

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

As far as being able to tell the difference
between timed permits and dealer tags, we have tried to
make the tag type as prominent as possible. I know we've
got some dealers that are on this committee. I would
suppose that the dealers would not want us to require a
colored tag be printed, as that would potentially drive up
the cost for printing of these tags since they are print
on demand, but that's something -- if the committee wants
to take up and consider a requirement for a color tag to be issued, then that's something that we could consider putting into rule that certain tags have different coloring when they are printed. But again, these are things that the committee would need to take up and consider.

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

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

And really, just to give everybody a little context, a vehicle-specific tag, the dealership that's entering that tag information has to enter the specific VIN and the specific vehicle that that tag is going on. Agent tags do not require that, and that's based on the business model that dealers use for going out and obtaining vehicles at auction or going and purchasing vehicles from different areas. They may hire an agent to go and pick up those vehicles and bring them back.
So let's say an agent is going to an auction and is going to purchase five vehicles for a dealership. They don't know at that time what vehicles are going to be purchased and would not want to have to leave the auction, go home, print tags, bring them back, get them on the vehicles in order to transport them over to the dealership, and so they do not require a specific VIN number to be entered in there.

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

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

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

We've got the PowerPoint presentation that
y'all have seen on tags which is the basis for some of that training, and we have conducted training for out-of-state law enforcement as well as in-state law enforcement, so that is something that is available. At the request of law enforcement we are more than happy to go out and do some training with them.

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

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

Bar codes, waves and watermarks are not effective because in many cases the receipt is photocopied. And I'll kind of talk a little bit about this. The bar codes and waves and watermarks, while they are present and are there as a deterrent, ultimately those are not the primary prevention method, and as I mentioned,
the alphanumeric pattern is really the primary method by
which to prevent fraud in temporary tags.

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

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

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

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

And then the requiring of a metal plate, this
is something that I think the committee should take a very
hard look at, and the reason I say that is the temporary
tags are -- I don't want to say they're a complete
industry standard across the nation, but many
jurisdictions use temporary tags for vehicles for a number
of reasons. They provide customer service, they allow for
dealers to move vehicles off of their lot quickly. I
bring that up because there are a multitude of issues
surrounding metal plates.

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

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

I will tell you this, we see fake metal plates
on the roadway all the time. I've seen numerous myself,
I've taken pictures of them. They can be replicated. And
I will also say that we have had cases where dealers have
misused the buyer's tag system and sold buyer's tags to
people that never purchased a vehicle from their
dealership.
If those dealerships have inventory of metal plates and registration stickers, they are just as likely to sell those to customers that otherwise would not be able to obtain registration for those vehicles, albeit fraudulently to them, and so it comes with a can of worms that gets opened up.

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

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

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

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

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

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

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

MR. DORAN: You are recognized.

MS. JOHNSON: I would say that I would not
support issuance of metal temporary tags predominantly
because if they were coming to our offices it would just
be that many more people and they would have to have driven to our offices illegally in order to obtain their tags.

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

Thank you.

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

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

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

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

The issue that ultimately came down for TxDOT and their board at that time was to use something that was the lowest common denominator, something that everybody would be able to easily access and be able to utilize in their dealership to prevent the burden of having to make
sure that they had inventory, again, potentially having to post an additional bond for that inventory. And what ultimately came down was temporary tags are temporary in nature, they are not meant to be durable, they're not meant to last.

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

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

I would say this, there is a requirement that insignias be legible, and so again, to law enforcement's probable cause, if that paper tag becomes mutilated, destroyed, it's not legible, they have cause to stop that
vehicle and make that person go and get a replacement.

    Replacements can be reprinted, they are available, but that is something that I think the committee should take up and consider. If there is a recommendation that the committee would like to change the paper or the way that it's being used, that's definitely something that the committee could take up and recommend. But that's a little bit of the history of why we have the paper with the plastic bag.

    MR. DORAN: Thank you.

    MR. GONZALEZ: Chairman, Member Gonzalez.

Permission to speak?

    MR. DORAN: Yes, you're recognized.

    MR. GONZALEZ: Thank you.

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

    However, like was mentioned before, the visibility from a law enforcement aspect, that's one of the issues, not knowing how to recognize that paper tag and whether to stop it and whether to know it's valid or not. I think it will probably go back more to an educational theme that you've already indicated, that
presentations are available for law enforcement. I guess it would fall back to them to be more proactive in trying to request this information.

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

But again, the idea and the access to the DMV web page where you say that it's available, my folks have told me that it's hard to get a quick return. I'm going to have to go back and ask them to show me what do they mean why there's not a quick return on it, so I'll look into that further. But those are the comments, the feedback that I'm getting, Jeremiah, so it might not be an issue now that you've made that point, but I'll look into it further and see if we are getting good responses, and I'm going to reinforce that alpha character for our team.
and hopefully we can resolve it here at our level and
maybe we can use it to spread the word to the rest of the
counties and law enforcement community.

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

Thank you very much, Mr. Chairman.

MR. DORAN: Thank you.

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

(No response.)

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

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

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

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

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

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

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

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

So what that means for the department is we have to fully complete an administrative enforcement case
in order to be able to turn off a license that would cut
the access to the tag database. Right now we don't have a
way to start a case and temporarily suspend that access to
stop further bad action from happening while our case
continues.

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

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

When somebody receives that document, they have
26 days from receipt to either respond and start
settlement discussions with the attorney to tell us how
they're going to fix the actions that are there or to help
provide mitigating information or information that
completely negates the allegation that staff has listed in
the document, or if they completely disagree and they
don't want to talk settlement, then they can request a
hearing at the State Office of Administrative Hearings.
And so if there's no response, then it goes on to a final
order, but what we're talking here is what we can do --
well, let me go back and finish the process now, I'm
cutting myself off.

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

And that whole time the person has access to
the system and if they are truly the bad actor, not the
ones that are making mistakes here and there with
paperwork -- which is what a lot of administrative law
ends up being -- but there truly bad actors, the ones that
are issuing hundreds and thousands of tags potentially for
vehicles that they've never sold or that were never in
their inventory, things of that nature, are continuing to
have access to the system during that time period while
the administrative case is ongoing, and so we are looking
at a potential fix for that.
And I'm not able to provide you with specific statutory language that we could have y'all recommend to the board to the push forward, but I can discuss some concepts and ideas with you and then we can see whether or not the group agrees on any specific points that could go into legislation that would be presented to the board potentially for this next legislative session.

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

MR. DORAN: This is Presiding Officer Doran.

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

And when you're talking about situations where hundreds or thousands of tags continue to be not erroneously -- I mean, they're fraudulently, it sounds like, being issued. That might present a different situation in my mind with an independent dealer versus a franchised dealer because of the different recourse that
the franchisor might have against that dealer for taking actions that the manufacturer/distributor is apprised of and they're seen as, you know, being against the public interest, of course.

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

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

MR. DORAN: Okay. Thank you.

MS. THOMPSON: Okay. So going back to just the general question: Should the department have this ability available to them in certain situations that we will
MS. RASH: This is Member Rash. I have a question for Ms. Thompson.

MR. DORAN: You're recognized.

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

MS. THOMPSON: Corrie Thompson again.

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

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

But we do notice -- when we're receiving complaints, one of the things that we do is we look at tag
information on the dealers if we have an allegation from somebody that pertains to tags, yes. We look at the system to see the dealer's pattern of issuance for the various types of tags, and then if it comes down to it, we can get with the tax authority to look at vehicle sales information to compare that to whether it aligns with the number of vehicles that have been sold. So we do things like that. We can also -- and we have before -- looked at the system for what we believe to be excess tag issuance and started cases off of that too to see if that leads anywhere. Yes.

MR. KUNTZ: Corrie, this is Jeremiah.

Chairman, if I may?

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

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

We actually developed a report that is available to the department that actually does a comparison. It looks at tag issuance and then we've also got vehicles sold by dealer, and so the better comparison that we do is we go in and look and see, okay, how many tags did this dealership issue and then how many vehicles did they come and apply for title for. So if we see that they've issued 10,000 tags but they've only sold 500
vehicles and that's way out of balance, that's generally our indicator that there is something that is way out of balance. And so the internet-down tags just get counted the same as a buyer's tag, so we don't really differentiate those, because we're not really seeing a major difference between the two.

MS. RASH: This is Member Rash again.

MR. DORAN: You're recognized.

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

MR. KUNTZ: Yes, ma'am.

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

And so the first thing, before we can even get into the discussion about what it looks like, is whether or not the group believes the department should have the ability to do this in certain situations.
If the answer is no, then the discussion is going to end and we will have nothing further to speak on with regard to legislative changes for the temp tag system. If the answer is yes, then I will definitely proceed and go through the other items that I read off to Officer Doran.

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

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

MR. DORAN: Yes, you're recognized.

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

MR. DORAN: Is there a second?

MR. OLAH: Member Olah seconds.

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

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

David, do I need to go through the names each here?
MR. RICHARDS: Yes, sir.

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

Member Gonzalez? Member Gonzalez?

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

MR. DORAN: Member Johnson, Cheryl Johnson?

MS. JOHNSON: I support the motion.

MR. DORAN: Member Olah?

MR. OLAH: I support the motion.

MR. DORAN: Member Rash?

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

MR. DORAN: Member Rigby?

MR. RIGBY: I support the motion.

MR. DORAN: Member Snell?

MR. SNELL: Yes, I support the motion.

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

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

MR. DORAN: Yes, please.

MR. RICHARDS: If any of you have two devices that are working at the same time, would you turn off one of them? We got a lot of background noise just a second
ago, so if you have access through two separate devices, please turn one off and just use one, that way we will limit the background noise.

    Thank you, Chair Doran.

MR. DORAN: Thank you, David.

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

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

MS. THOMPSON: Thank you, Officer Doran.

Corrie Thompson again.

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

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

So there's a requirement in rule that says a dealer has to be located at their licensed premise and they have to meet certain requirements. They have to be open a certain number of days and hours per week, they
have to have a person there unless they have a "Be Back"
sign, the phone has to be answered, there are all these
requirements.

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

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

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

So I wanted to pose that as the first scenario
to the group. When there is credible evidence that the
dealer is no longer in business or that they're no longer
located at the licensed premise, should the department be
allowed to access the ability to temporarily suspend
access in that instance?
MR. DORAN: Ms. Thompson, this is Officer Doran. Could you also, in conjunction with this, just speak to whether there is a requirement as a licensed dealer to keep your information up to date and on file?

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

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

MR. DORAN: Thank you.

MR. SNELL: Member Snell requesting to be recognized.

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

MR. SNELL: (Feedback.)

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

MR. SNELL: (Feedback.)
MR. DORAN: Let's give him another minute. I'm very sympathetic to those that are having IT issues.

MR. RICHARDS: Officer Doran?

MR. DORAN: Yes.

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

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

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

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

MS. JOHNSON: Cheryl Johnson requesting to be recognized.

MR. DORAN: Yes, you are recognized.

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

MR. OLAH: Member Olah seconds.

MR. DORAN: Okay. There's been a second.
I'm sorry. The member who made the motion, can you repeat that motion?

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

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

Member Gonzalez?

MR. GONZALEZ: I favor the motion.

MR. DORAN: Member Cheryl Johnson?

MS. JOHNSON: I favor the motion.

MR. DORAN: Member Olah?

MR. OLAH: I support the motion.

MR. DORAN: Member Rash?

MS. RASH: Yes, I support the motion.

MR. DORAN: Member Rigby?

MR. RIGBY: I support the motion.

MR. DORAN: Member Snell?

MR. SNELL: I support the motion.

MR. DORAN: Okay. And this is presiding Officer Doran, I also support the motion.

The motion passes unanimously.

MS. THOMPSON: This is Corrie Thompson.

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

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

That office has the ability to put payment
holds under certain conditions specified in statute, and so that happens without notice. The hold goes on and then the provider receives notice, and so that could be any percentage of their funding, up to and including.

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

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

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

MR. DORAN: Okay.

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

MS. THOMPSON:

MR. DORAN: Member Johnson, you're recognized.
MS. JOHNSON: I would move to provide the department the authority to immediately suspend access to the database upon credible evidence of an offense.

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

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

Is that correct, Ms. Thompson?

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

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

MS. THOMPSON: Correct. Corrie Thompson, just for clarification purposes here. So what we'd be talking about, I'm talking about the timeline that we actually press the button in Jeremiah's temp tag system that says, hey, we're going to turn the temp tag off, you can't do it anymore, does that occur first or does the department send notice first?
The notice is still going to give the dealer an opportunity for a hearing. So are we cutting off access and then issuing that notice that provides the opportunity for a hearing, or are we sending the notice to let the dealer know that, hey, within three days, five days, whatever, we're going to suspend your access.

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

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

MR. DORAN: Yes, you're recognized.

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

MS. THOMPSON: It could potentially be three days, but it would depend on the information that was submitted. So just by way of example, if we looked at the report Jeremiah mentioned and we said vehicles sold by dealer was X number but dealer had issued X number of
tags, that could be potentially be thousands of line items that department staff is having to look at to determine whether or not the information that we had alleged is in fact in alignment with what the dealer submitted to us as proof of not having committed the violation or not.

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

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

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

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

Thank you.

MS. JOHNSON: And I apologize. I thought under
Robert's Rules of Order, I thought discussion had to occur after a motion was on the floor, but I understand receiving information. But I will withdraw the motion if that's the will of the committee, or the will of the officer that presides.

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

MR. GONZALEZ: Chairman Doran, this is Gonzalez.

MR. DORAN: Yes, you're recognized.

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

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

But will there be a process identified for
giving that opportunity to a dealer that is innocent, maybe possibly there's circumstances beyond his control that he could remedy? I'd like to hear your alternatives to that situation, if you may.

Thank you.

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

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

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

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

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

MR. GONZALEZ: Thank you very much.

MR. SNELL: Member Snell asking to be recognized.

MR. DORAN: Member Snell, you are recognized.

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

MS. THOMPSON: Sure. And so again, that is very case-specific. So some of the examples that have been discussed on this call would be one of the reasons that I would think the department would want to suspend
access, so we received complaints from it could be 100, 200 consumers, it might just be ten, that they've received multiple buyers' tags from dealers, they don't have their title, could be months, could be a year.

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

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

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

But you have to think about this too, as I just mentioned about the notice process, it's easier for us to get in touch with a dealer to resolve the case, we want to keep good actors in the system, we are just trying to ferret out the bad actors.
The department has limited staff and limited resources and we can't be taking all 7,000 cases to expedited hearing to determine whether temp tag access should be cut off. This is not something we're talking about utilizing in every case where there's a violation of department rule. This would be an extreme measure that would be utilized to stop risk of public harm or the continued commission of fraud.

MR. RIGBY: Michael Rigby. Permission to speak?

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

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

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

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

Thank you.
MS. THOMPSON: Sure. Corrie Thompson again.

So again, I think it could go two different ways here. So I envision it just like a regular case, just like you would receive a notice for one failure to timely transfer title, you get your notice, you're like, oh, dang it, like that's not good, I know that I timely transferred that title, these people are wrong. You call the attorney and you provide us with proof that we're wrong, and we send you a settlement agreement and we close the case.

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

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

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

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

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

MR. RIGBY: Michael Rigby. Permission to speak?

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

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

I mean, I agree that most of the bad actors are not going to challenge getting cut off, but if there was some mistake or dispute and the parties couldn't agree to whether the dealer should have access, what's the remedy for the dealer? Do they go to SOAH, do they go to district court, are they just out of luck until, you know,
the revocation action gets teed up at SOAH six, nine months later?

Thank you.

MS. THOMPSON: Corrie Thompson.

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

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

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

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

MS. JOHNSON: Ms. Thompson, the one thing that we're not talking about here is the other options. We're talking about cutting off access to the database so these
tags can't be indiscriminately printed, basically fraudulent activity. What are the dealer's other options? Can they not go to the county tax office and obtain the proper paperwork in the proper manner through a county office?

MS. THOMPSON: Corrie Thompson again.

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

And the two points that I have listed right now, if we want to take this up before the notice timing, I'm fine with that. What I have is tax assessor-collector offices versus Texas Department of Motor Vehicle offices. So that I figured would definitely be a point of discussion for the group. So I am free to have everyone discuss that now if you'd like.

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

MR. DORAN: Sure, please proceed.

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

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

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

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

And then the access is either turned off over the weekend or during a period of time when they're engaged in a high volume of business. Because it is the
weekend, the dealer is unable to reach either a DMV attorney or somebody at the tax assessor's office in order to continue to conduct business, whether it's under some level of -- I'm talking about the webDEALER functionality is shut off so they're trying to continue to be able to issue tags but they're unable to do so through the usual channel.

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

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

That's where my head is. I'm worried about a
dealer getting -- you know, this landing on their desk and them missing it on a Friday, and the next thing they know, access is cut off. And maybe that just ties into more of an operational question related to webDEALER which is dealers having a process in place already for when access goes down how they continue to operate in issuing tags and registration.

MS. THOMPSON: Sure. Corrie Thompson again. So this should not be a problem -- should not because if dealers are properly utilizing their stash of internet-down tags, then they will have a preprinted stash based on the number of sales volume that they do. There's a way they can contact the department to get an increased number of them if they are selling more than they were previously allotted, it's specified in Administrative Code rule. They would have internet-down tags to issue over the weekend to any buyers who they sold vehicles to.

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

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

MR. DORAN: You are recognized, Member Rash.

MS. RASH: I think my concern more is for a consumer who goes that day and purchases a vehicle and if notice was given -- because I would assume the notice would say you will not be able to issue permits so that
they would know that they shouldn't sell a vehicle unless
they have another way to get a permit for that customer.

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

MS. THOMPSON: Sure. Corrie Thompson again.

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

And so in that instance, whether it was with or
without the notice, the dealer would be able to access
that stash of internet-down tags to issue to anybody they
should a vehicle to so that we're not catching those
consumers in the dealer's potential wrongdoing.
MR. RIGBY: Michael Rigby. Permission to speak?

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

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

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

Thank you.

MS. THOMPSON: Corrie Thompson again.

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

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

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

MS. RASH: But don't you think that the new
changes where we're connecting the driver's license to the permit and the other things that we discussed that would help with the fraud may have a good impact to where they couldn't -- or they wouldn't want to be able to do that because then they would be in bigger trouble because the fraud would be so evident with their driver's license connected to it.

    MS. THOMPSON: This is Corrie Thompson again.

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

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

    MR. GONZALEZ: This is Member Gonzalez.

    Permission to speak?

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

    MR. GONZALEZ: Yes. Ms. Thompson, I'd like to
get clarification. I know we've been talking about the ability to deny access to the dealers, but if you deny access to the dealer, is that to be interpreted that they cannot transfer a title at the county tax office, or are we talking about the same thing?

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

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

MS. THOMPSON: Yes.

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

Thank you.

MS. THOMPSON: Corrie Thompson again.

So we're talking about keeping more of these tags from getting onto the streets, so stopping the bleeding for the tags leaking out everywhere for, you
know, them to be used on vehicles that are used in the commission of crimes, in drug trafficking, things like that.

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

MR. GONZALEZ: Thank you very much.

MS. THOMPSON: Absolutely.

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

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

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

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

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

And we all know that that takes longer because then you have to put the contested case -- you have to wait for the SOAH PFD to come out, then there's a period to file exceptions from both sides, and then the case ultimately gets added to a board meeting agenda as an item to be discussed. And then there's a period of time after that following the board meeting for the issuance of the final order to come out.
So that is still an option, but it's also an option for the department by rule to say that SOAH is the final decision-maker in the case, which would further help the expedited nature of the hearing, because then you wouldn't have to wait for the case to go to be heard at a board meeting before the board.

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

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

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

Just for the group, can you clarify, there's not a type of injunctive relief that SOAH could issue before -- you painted a picture of probably a good scenario with an expedited hearing being maybe thirty days out. There's no way to go to SOAH seeking the equivalent
of a TRO or temporary injunction to prevent that dealer
from issuing any further tags until such time as the
hearing occurred? Or conversely, that would give the
dealer the immediate -- a more immediate attempt at trying
to be able to stay open until -- or be able to issue those
tags until the hearing occurred let's say thirty days out.

MS. THOMPSON: Not that I'm familiar with.

Corrie Thompson again.

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

MR. DORAN: Okay. Thank you.

MR. RICHARDS: Officer Doran?

MR. DORAN: Yes, David.

MR. RICHARDS: David Richards, for the record.

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

MR. DORAN: Thank you.

MR. RIGBY: Michael Rigby. Permission to
speak?

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

MR. RIGBY: I think I would agree -- or
propose, in response to Ms. Thompson's comments, that you
allow SOAH to be the final decision-maker in an expedited
hearing. If there is some kind of mistake, you want that dealer to be able to prove that up as quickly as possible so they can get access back immediately or as close to immediately as possible.

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

Thank you.

MS. THOMPSON: Corrie Thompson again.

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

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

MS. THOMPSON: Corrie Thompson again.

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

MR. RICHARDS: Officer Doran?

MR. DORAN: Yes.

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

MR. DORAN: Please, yes.

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

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

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

MR. RIGBY: Michael Rigby. Permission to speak?

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

MR. RIGBY: I would move that DMV be granted the authority under statute to immediately cut off access to issue the tags, that the dealer who is cut off be allowed to request a hearing within twenty days, that the hearing be held no later than ten days after the request, and that the administrative law judge issue a decision no later than ten days after the hearing.
MR. DORAN: Is there a second to the motion?

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

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

MR. RICHARDS: Officer Doran?

MR. DORAN: Yes. David, go ahead.

MR. RICHARDS: David Richards. Permission to speak?

MR. DORAN: Yes.

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

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

MS. JOHNSON: Member Johnson. I concur.

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

MR. RICHARDS: That's right.

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

MR. RIGBY: I'll try. All right. So my motion is that DMV be granted the authority under statute to immediately cut off access to issue tags by a dealer, that
the dealer may request a hearing on the denial of access within twenty days after the access is denied, that SOAH conduct a hearing no later than ten days after the request for hearing, that the ALJ, the administrative law judge, issue a decision no later than ten days after the hearing, and that SOAH is the final decision-maker in this process.

I think I've covered everything.

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

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

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

Member Gonzalez?

MR. GONZALEZ: I support the motion.

MR. DORAN: Member Cheryl Johnson?

MS. JOHNSON: Support the motion.

MR. DORAN: Member Olah?

MR. OLAH: I support the motion.

MR. DORAN: Member Rash?

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

MR. DORAN: Okay. Member Rigby?

MR. RIGBY: I support the motion.
MR. DORAN: Member Snell?

MR. SNELL: I oppose the motion.

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

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

MR. RICHARDS: That is correct.

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

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

MS. THOMPSON: Yes. Thank you.

Corrie Thompson again.

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

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

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

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

Given that independent dealers obviously don't
have that kind of relationship with a franchisor, I don't
want to call it oversight, but there is just a level of
communication that exists between a franchisor and
franchisee dealer that is very regular and continuous and
my impression is that the conduct that we're concerned
about here is less likely to be taking place on the scale
of which would be harmful to a large number of individuals
if we're talking about a franchised dealership.

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

MS. THOMPSON: Corrie Thompson here.

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

What I see in the Enforcement Division -- and
it could be just based sheerly on that volume -- that the
majority of our complaints do come from independent GDN
holders.
And so just my thoughts on this, if we are talking about the types of abuses of the tag system that we're discussing here, that regardless of the type of licensee that it would be in the public's interest that we treat all license holders the same, but again, that's a point of discussion for the group.

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

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

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

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

MS. THOMPSON: Corrie Thompson again.
Yes, that could potentially pose a barrier or, you know, bring up points of disagreement if this were to move outside of the department during session. Yes.

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

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

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

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

Member Gonzalez?

MR. GONZALEZ: I support the motion.

MR. DORAN: Member Cheryl Johnson?

MS. JOHNSON: I support the motion.

MR. DORAN: Member Olah?

MR. OLAH: I support the motion.

MR. DORAN: Member Rash?

MS. RASH: I'm a yes.

MR. DORAN: Member Rigby?

MR. RIGBY: I support the motion.

MR. DORAN: Member Snell?
MR. SNELL: I support the motion.

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

MS. THOMPSON: Okay. So Corrie Thompson again. Going back to a point of discussion I brought up earlier, how do dealers access the tags while they're suspended so that they can continue conducting business with just kind of an additional level of oversight when those tags are released.

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

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

MR. GONZALEZ: Member Gonzalez. Permission to speak?

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

MR. GONZALEZ: Thank you.

Well, from the dealer community aspect, I believe if they've been denied access to issue any type of temporary tag and then they want to be able -- demonstrate that vehicle to a prospective buyer for any reason,
they're only alternative is to seek a temporary permit. Now, in this particular case, the only option available pretty much is going to be a 30-day permit. There's no other option unless it's a big commercial vehicle where they qualify for a 72-hour permit or 144 or even a one trip. The one trip is very restrictive so that's not of value to the dealer community at all, so it would almost have to be a 30-day permit. There's no other permits available.

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

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

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

MS. THOMPSON: Corrie Thompson again. Officer Doran, if I could be recognized?
MR. DORAN: Yes. Please proceed.

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

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

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

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

So what I was thinking about -- again, I'm a blank slate on this, but when I was thinking about it, I was thinking I don't have access to the system, I'm a
dealer, I need to go get a buyer's tag. You know, if I was going to get a 30-day permit, I would go to the tax office, so let's just say for discussion purposes, I know I'm suspended, and now because the DMV has told me to get a buyer tag, now I need to go to the tax office and they're the ones that would be issuing me the tag.

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

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

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

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

MS. JOHNSON: You know, I have full confidence
in my staff at our various locations. We have four
locations in Galveston County, and then we are part of the
Houston Region of which there's many, many tax offices
within that region.

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

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

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

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

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

(No response.)

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

MS. JOHNSON: I would move that dealers who
have been temporarily suspended access to the database be
permitted the ability to seek in-person services at any
county tax office or regional office, as appropriate.

MR. DORAN: Members, you've heard the motion. Is there a second?

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

MR. DORAN: Okay. There's a second. Okay. I will now call for a vote on the motion. Please indicate your support for the motion by saying yes, or no if you do not support the motion.

Member Gonzalez?

MR. GONZALEZ: Yes, I support the motion.

MR. DORAN: Member Cheryl Johnson?

MS. JOHNSON: I support the motion.

MR. DORAN: Member Olah?

MR. OLAH: Yes, I support the motion.

MR. DORAN: Member Rash?

MS. RASH: Yes.

MR. DORAN: Member Rigby?

MR. RIGBY: I support the motion.

MR. DORAN: Member Snell?

MR. SNELL: Yes.

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

The motion passes unanimously.

MS. THOMPSON: Corrie Thompson again.
I have no further points of discussion on this item.

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

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

MR. DORAN: Yes, please.

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

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

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

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

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

MR. RICHARDS: David Richards again.
Let me confirm with our IT staff that we're okay and good to do that.

David Eng, I would ask you to respond.

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

MR. RICHARDS: That's perfect.

Members, is that okay with y'all?

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

MR. RICHARDS: Thank you.

MR. DORAN: Thank you.

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

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

MR. DORAN: Yes, please proceed.

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

MR. DORAN: Okay. Thank you, David.

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

Is that correct, Ms. Thompson.

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

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

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

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

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

MR. RICHARDS: Yes, sir, we may.

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

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

Order of presentation will be -- actually, I
will turn it over to Mr. Kuntz and Mr. Richards at this time for presentation.

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

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

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

So we kind of went over this process a little bit the last time. The department has created some processes around applying to the department for a letter asking for that determination that the dealership has been closed and the department issuing a letter and itemizing the fees that can be waived by the county tax assessor-collector's office when the customer comes in to apply for
So really, what we want to kind of talk about here, obviously this is the Consumer Protection Advisory Committee, and there's definitely great harm or there's great inconvenience that's caused when a dealership goes out of business to customers that have purchased from that dealership and the dealer is required to apply for title on their behalf, in accordance with the Title Act, and they've paid those fees to that dealership.

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

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

And I'll just kind of bring out this actual case that's out there because it's in the public domain and everybody has been very aware of it.
The Reagor Dykes bankruptcy has had a pretty vast and large impact on many consumers that had purchased vehicles from that dealership, and that is something that is not covered here. Bankruptcies are not covered in this; however, they have a very similar impact on consumers' ability to get timely title and registration for vehicles that they purchased.

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

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

That's the most common complaint that we receive from consumers, and so really we're trying to figure out are there additional protections that should be put in place to protect consumers.
MR. DORAN: Jeremiah, this is Officer Doran. Question for you. My recollection -- and trying to remember if this is accurate or not -- but I believe there was a legislative change either this past session or the session before that lowered the bond that, I believe, dealers were required to have. I think it went from maybe $100,000 down to 25-, or maybe it went from $125,000 down to $25,000.

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

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

The bond actually did not change. The bill that passed this law actually would have sought to increase the bond amount that is currently required by a dealer. I believe it is at $25,000, and I believe the bill was going to increase it to $50,000, and if Corrie has got a different recollection, she can help me out here. That provision was removed from the bill and the bond remained unchanged.
There was, however, provisions in that statute that allow the department to call on that bond for recovery of any fees that are waived in this process, so if a customer is seeking to have the fees waived for title and registration and the department waives those fees, then the department could make a claim against that $25,000 bond to try and recover any fees that were waived by the department.

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

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

MR. DORAN: And that provision -- I'm sorry -- Laird Doran -- that provision did not pass. Is that correct, Jeremiah? That's not current law?
MR. KUNTZ: The increase in the bond amount did not pass; the ability for the department to call the bond, I believe, did, and I'll look it up here real quick to verify that.

MR. DORAN: Thank you.

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

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

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

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

MR. KUNTZ: Jeremiah Kuntz, director of Vehicle Titles and Registration Division.
The purpose of requiring those documents is kind of twofold. One, normally for proper transfer of ownership of a vehicle we would require a title document, a secure document in order to properly transfer title, and that is to ensure that we actually have the owner of the vehicle that is making application, that we've got orderly transfer of title that is occurring.

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

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

So we do see -- and I'm sure the tax assessor-collectors could speak to this as well -- we do see that dealerships do not always properly assess the taxes and fees when they're doing a transaction and those transactions have to be redone or they have to be rejected so the dealership can go back and correct the fee amounts,
and so we would not want to waive a fee that a customer has not properly paid for.

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

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

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

MR. RIGBY: Michael Rigby. Permission to speak?

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

MR. RIGBY: Mr. Kuntz, can you help me understand this bond process? I'm trying to get a sense of how complicated that is. Do you have to go to court, you know, to access the bond, who gets it, how is it distributed? Has anybody used that to date, or is it
something that's just kind of sitting there that's
collected but not ever acted upon?

Thank you.

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

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

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

So the second question: How does that work?

Well, that provision just passed and became effective on
September 1 of -- let's see, I'm trying to make sure -- it
was immediately effective, I guess, so it just became
effective in 2019.

I am not aware that the department has called
any of those bonds to date. My understanding is that they
have to file those bonds with the department when they
apply for a license. Again, I'm going to draw this analogy, I'm assuming it's similar to an insurance policy where we would have to contact the bonding company and put them on notice that we have a claim against their bond and go through whatever process is required in order to try and obtain payment from them.

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

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

MS. THOMPSON: Corrie Thompson again.

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

As to consumers accessing the bond, I've never had anybody call me up and discuss the process that they've gone through to try to seek money from a dealer's bond. I have talked to consumers who wanted to receive money from the dealer's bond, and because that came up as something that was discussed during our Sunset review, I
think that's how the refund discussion came up also, that
the department didn't have a way to mandate that the
dealer repay any money to a consumer.

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

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

MR. RICHARDS: Officer Doran?

MR. DORAN: Yes, David, go ahead.

MR. RICHARDS: David Richards. Permission to
speak?

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

MR. GONZALEZ: Permission to speak? This is
Member Gonzalez.
MR. DORAN: Member Gonzalez, you're recognized.

MR. GONZALEZ: Thank you, sir.

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

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

Thank you.

MR. KUNTZ: So in reading that statute, my understanding is that the department can recover against a surety bond the amount of any fees waived for title or permit issued under that section, so to the extent that
any fees that were local in nature were waived, then my assumption is that those would be allowed to be recovered on in the bond.

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

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

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

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

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

MR. GONZALEZ: Yes. My personal experience on the bond situation regarding a dealer, that was always set up for any citizen that bought a vehicle from that dealer and they would have that opportunity to challenge that dealer and get any type of reimbursement that was owed because the dealer failed to transfer title.
The problem has been in the beginning years when the bond was implemented, $25,000 was a lot of money, and it would cover pretty much two or three sales, four sales at that time. Nowadays if there's a sale that occurs from that dealership and they're selling a $30,000 Ghia, that bond amount just doesn't cover if somebody wants to recover any fees because of the dealer not providing title.

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

But I know things are changing in this aspect. It's a shame that the bond amount was not raised, because vehicles are more expensive nowadays, but that was kind of like the original intent of the bond requirement. The title bond requirement is patterned after this dealer bond requirement for a dealer to be issued a GDN license to operate as a business.

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

MR. DORAN: Thank you, Member Gonzalez.

MR. SNELL: Jim Snell requests permission to speak.

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

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

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

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

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

MS. JOHNSON: So although the DMV has worked hard since it was created to establish standards among county tax offices, I think everybody still remains doing some things differently, and so to answer Jeremiah's
question, but also to address this discussion, I asked my
staff what do we do in the instance of sales tax, and as
long as we have a document to prove that the sales tax was
paid, we do not collect it again.

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

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

Going back to the question that Jeremiah said
is are there other consumer protections that the board
should be considering, I would ask a couple of questions.
Do you see those other consumer protections outside of
the bond -- which is almost going to require some type of
civil action -- do you see a need for the regulations to
be tightened to prevent dealers from -- I know the
regulations are pretty tight now, but do you see any need
to tighten those regulations with regard to the timely
transfer of title or to establish additional penalties for
failure to transfer title, or do you see a need to
establish a hotline that might enable people to call to
report these to enforcement to know what the appropriate
action is moving forward?

MS. THOMPSON: This is Corrie Thompson.

Officer Doran, may I be recognized?

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

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

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

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

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

So I mean, any additional protections that the
committee has to bring up that would help consumers
affected by late title transfers would be a welcome
discussion by the department.

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

    MR. DORAN: You're recognized.

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

    MR. KUNTZ: For the record, Jeremiah Kuntz.

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

        And so I think that's a very large issue that
we see out there that I think we are seeking input from
the committee on how to handle bankruptcy issues, whether
or not the committee think that that's something that
should be taken up statutorily or otherwise to handle.
There's a lot of aspects to bankruptcy, and I'm, again, no expert in bankruptcy law, but there's definitely things that are occurring during a bankruptcy that could potentially cause problems for consumers.

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

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

MR. DORAN: Member Olah, you are recognized.

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

Once you have the Bankruptcy Court involved, there's really not much you can do without leave of the court, so I think what needs to be considered is at what point you might ask, for instance, the Attorney General's Office on behalf of the public interest or consumers to go into court and get the court's permission to -- and especially if it's more than one consumer -- to get leave
of the court to proceed to perfect titles or to obtain
titles for those affected consumers who would need relief
right away.

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

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

And respectfully -- now, this is me shooting
off the top of my head on these issues -- respectfully, I
think you might be able to do it with administrative rules
to define how a claim against a dealer bond can be
perfected. So I'm just throwing that out there for consideration.

That's it for me.

MR. DORAN: Thank you, Member Olah.

MR. RIGBY: Michael Rigby. Permission to speak?

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

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

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

Thank you.

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

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

MS. THOMPSON: So I don't see Daniel Avitia,
Motor Vehicle Division director, on the line. His division is the one who licenses the dealers, reviews the applications for sufficiency, checks the bonds, things of that nature, so he may be better to speak to this. But I was looking up the provision while you were speaking so, of course, I will provide that information. We are also talking about the security requirement that is laid out in Transportation Code 503.033 and subsection (d) says "a person may recover against a surety bond or other security if the person obtains against a person issued a motor vehicle general distinguishing number or a wholesale motor vehicle action general distinguishing number a judgment assessing damages and reasonable attorney fees based on an act or omission on which the bond is conditioned that occurred during the term for which the general distinguishing number was valid."

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

MR. RICHARDS: Officer Doran?

MR. DORAN: Yes, please proceed.

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

Thank you.

MR. DORAN: Thank you, David.

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

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

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

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

The provisions for title hearings, I do not
believe, would appropriately contemplate this scenario, and I'll say that because I think that there would be statutory changes that would be needed in order to use a title hearing in order to award title. The title hearing process today in statute is basically an appellate process if the department has incorrectly denied title. And I know that this provision is a very weird provision of law. It's something that we were seeking to try and correct last legislative session.

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

So it is a weird section of law currently the way it's written, and I don't know that there would be a reason for a TAC hearing in this situation because the department would not be misapplying the law in denial of application for title. In order to properly apply for title, you would have to have the actual title and/or
other documentation that's required to apply for title and pay all the fees associated with it. To the extent that you have not properly applied for the title and not properly paid all the fees, then the department was acting in accordance with the statute when it denied application.

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

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

I know Member Gonzalez was referencing, you know, can the county recover its fees. Well, if we waive those fees during a bankruptcy, I don't think that there's going to be a guarantee that the state or county is going to be made whole. Now, that may be perfectly acceptable
and maybe that's where the committee wants to make the recommendation, but I just wanted to bring that up as consideration.

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

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

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

MR. RICHARDS: Officer Doran?

MR. DORAN: Yes, David.

MR. RICHARDS: David Richards. Permission to speak?

MR. DORAN: Please proceed.

MR. RICHARDS: Members, I believe probably the best remedy -- I think we have all addressed the issue that once the Bankruptcy Court assumes jurisdiction over a matter then we're pretty much out of luck, save and except the suggestion that Member Olah made. We've done that, we
did that with the Reagor Dykes bankruptcy, albeit perhaps not as soon as we should have, but I think to have the AG's Office to go into -- and this is no knock on the AG's Office; Reagor Dykes was a different breed of cat altogether -- to seek permission for the leave of court to get some sort of -- and that's what we ended up doing, or the AG's Office ended up doing was getting the appointment of an ombudsman with a pool of money set aside for that ombudsman to deal specifically with title transfer issues for the many consumers.

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

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

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

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

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

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

Thank you.

MR. DORAN: Thank you, David.

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

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

MR. OLAH: This is actually directed at Ms. Thompson. Again, I'm going back to the bonds, and I'll admit to not having done a lot of research beforehand, but it sounded to me like there were two situations in which a claim could be made on a bond. And one would involve an individual consumer obtaining a judgment for damages that included an amount that would be covered by the bond,
which, respectfully -- and I think the lawyers on this committee will know -- that's pretty much a financial impossibility to hire a lawyer for thousands of dollars to perhaps get something significant less in a recovery from a bond.

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

MS. THOMPSON: Corrie Thompson.

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

MR. OLAH: Yes.

MS. THOMPSON: Corrie Thompson again.

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

MR. OLAH: Yes. If I may answer. I'm looking for a clarification on the procedure whether there are
administrative procedures already in place, if the department is looking for guidance from the committee on what type of procedures to put in place.

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

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

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

MR. DORAN: Please proceed, Jeremiah

MR. KUNTZ: So the only rules that exist regarding this statute are in 217.16 of the Administrative Code, and basically what the department has done in those rules are a couple of things.
We have described and determined what a dealer that has gone out of business is, and then we have put in place the required documentation that an applicant for title would present to the department, and that would be a sales contract, retail installment agreement, or buyer's order in lieu of evidence of vehicle ownership, i.e., in lieu of a title. And then they would also provide to the county tax assessor-collector the letter that the department issues when they go to the county tax assessor-collector's office to apply for title.

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

At that point in time, once we've made that determination, we would issue a letter to the consumer stating that the dealership has gone out of business, and
we would itemize for the tax assessor-collector the fees that may be waived at the time of title application. That letter is the evidence that the consumer would have in order to provide to the county tax office that those fees were paid to the dealership and have been waived by the department.

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

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

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

It sounds like you maybe believe that our administrative rules need to be beefed up on how the
department is going to go and try and collect. But my assumption would be that we would provide to the bond company -- the State of Texas would provide to the bond company an itemized listing of all of the vehicles, owners' names, and various fees that were waived for each and every customer as our evidence to the bonding company that those fees were waived and not paid for by the dealership.

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

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

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

And I guess that's the additional thing that I was looking for and I haven't heard yet.
MR. RICHARDS: Office Doran?

MR. DORAN: Yes, David.

MR. RICHARDS: David Richards, for the record.

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

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

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

Thank you.

MR. DORAN: Thank you.

MR. RIGBY: Michael Rigby. Permission to speak?

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

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

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

So my question is has the attorney general
approved the form? Is that what is generally used in the
industry? Does the form approved by the attorney general
prescribe procedures for making a claim against the bond?
And has the form approved by the attorney general been
updated to include a claim by DMV under Section 501.236
for waiver of fees?

Thank you.

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

MR. DORAN: Yes, please proceed, Corrie.

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

MR. DORAN: Members, is there further
discussion on agenda item 2.D?
MR. RICHARDS: Officer Doran?

MR. DORAN: Go ahead.

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

David Richards, for the record.

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

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

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

So I will let you proceed accordingly.

MR. DORAN: Thank you, David.

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

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

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

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

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

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

MR. DORAN: David, let me punt that one to you in terms of what the board's expectations are for items that we would be presenting to the board at their upcoming
MR. RICHARDS: David Richards, associate general counsel, for the record.

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

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

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

So any thoughts on the 4th. Well, the next week is going to be the DMV meeting, so all of us will be busy from the staff, so the following week, the beginning
of the week of the 15th, would the 18th work or the 25th, since Thursdays seem to be a good day? I'll be quiet and hear from members.

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

MR. DORAN: Member Olah, you are recognized.

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

MR. DORAN: Thank you, Member Olah.

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

MS. JOHNSON: Cheryl Johnson requesting to be recognized.

MR. DORAN: Member Johnson, you're recognized

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

Permission to speak?

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

MR. GONZALEZ: Thank you.

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

Thank you.

MR. DORAN: Thank you.

MR. RICHARDS: Officer Doran?

MR. DORAN: Yes, David, go ahead.

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

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

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

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

MR. DORAN: Thank you, David.

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

MR. DORAN: Okay. Thank you.

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

MR. DORAN: Thank you.

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

MR. DORAN: Okay. Thank you.

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

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

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

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

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

MR. RICHARDS: David Richards again, for the record.
We will do that, and we appreciate everyone agreeing to that date. We will pass that on to Whitney Brewster and get back with everybody.

Thank you.

MR. DORAN: Thank you.

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

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

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

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

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

MR. DORAN: May I take a step back here. I see that I skipped around on the agenda, so this is actually agenda item number 2.A. Nominations and selection of advisory committee presiding officer. So we have skipped forward with your motion, Member Johnson. I apologize, that's my mistake.
So there is a motion to have Mr. Doran as the chief presiding officer, and I think it was the vice chair was going to be Ms. Johnson?

MS. JOHNSON: Ms. Colvin.

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

MS. JOHNSON: Yes, sir.

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

(No response.)

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

MR. RICHARDS: David Richards, for the record.

Yes, I am fine with that.

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

MR. OLAH: Member Olah seconds.

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

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

Member Gonzalez?

MR. GONZALEZ: Yes, I approve.

MR. DORAN: Member Cheryl Johnson?

MS. JOHNSON: Yes, I support the motion.

MR. DORAN: Member Olah?

MR. OLAH: Yes, I support the motion.

MR. DORAN: Member Rash?

MS. RASH: Yes.

MR. DORAN: Member Rigby?

MR. RIGBY: Yes.

MR. DORAN: Member Snell?

MR. SNELL: Yes.

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

Members, the vote is unanimous and the motion passes.

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

David, are there any comments from the public?

MR. RICHARDS: David Richards, for the record. Presiding Officer Doran, no, there are no comments for the record to be made today.

MR. DORAN: Okay. All right. If not, then we will move on to agenda item number 4. Adjournment.
Unless there is any further business, I would like to entertain a motion to adjourn. Do I have a motion from anyone to adjourn the meeting.

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

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

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

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

MR. OLAH: Member Olah seconds.

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

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

(No response.)

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

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

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

MEETING OF: TxDMV Consumer Protection Advisory Committee

LOCATION: Austin, Texas

DATE: May 28, 2020

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

DATE: June 5, 2020

/s/ Nancy H. King
(Transcriber)

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