

BILL ANALYSIS

C.S.H.B. 3097
By: McClendon
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The primary mission of the Texas Department of Transportation (TxDOT) is developing and constructing transportation projects. Yet TxDOT is charged with providing administrative support to three divisions associated with vehicles and motor carriers: the vehicle titles and registration division, the motor vehicle division, and the motor carrier division. TxDOT also supports the Automobile Burglary and Theft Prevention Authority.

The Sunset Advisory Commission (SAC) adopted the recommendation to establish a Texas Department of Motor Vehicles to address issues that were identified during the review of TxDOT. During the 2008 review, SAC concluded that various administrative, licensing, and enforcement processes in the statutes and rules governing motor vehicle dealers, salvage vehicle dealers, and household goods carriers were not being carried out in line with model standards developed by SAC staff. The bill is presented as a blueprint for implementing the SAC recommendations.

Creating a separate agency to handle commercial and noncommercial drivers and their vehicles will promote greater efficiency and accountability. A faster turnaround time to process vehicle title transactions, for example, will cause commercial vehicles to have less down time and also serve noncommercial vehicle owners in a more timely manner. When commercial vehicles must be sidelined to wait for vehicle documentation to be completed or required permits to be issued, each day of standby time represents lost income and delays in delivery. Managing the motor vehicle functions in a separate agency would make the renewal, registration, permitting, and licensing processes more user-friendly for drivers and owners and keep wait times at an acceptable level. There is precedent for creating a stand-alone agency to handle motor vehicle functions in Texas. In 1971, the legislature established the Texas Motor Vehicle Commission, and another agency, the Texas Mass Transit Commission, that coordinated public transportation. The Texas Motor Vehicle Commission remained a separate agency until 1991, when it merged with the Department of Aviation into the State Department of Highways and Public Transportation, which was renamed the Texas Department of Transportation.

C.S.H.B. 3097 creates an independent Texas Department of Motor Vehicles to administer these motor vehicle functions. The nine-member governing board appointed by the governor includes: three members to represent motor vehicle dealers; one member who is a county tax assessor-collector; one member to represent the motor carrier industry; one member who is a law enforcement officer; and two members to represent the general public. Board members serve staggered six-year terms. The bill directs the department to administer and enforce laws relating to certificates of title and registration of vehicles, identifying markings on commercial motor vehicles, motor carrier registration, single state registration under the federal motor carrier registration program, motor transportation brokers, foreign commercial motor transportation, the sale or lease of motor vehicles, and the regulation of salvage vehicle dealers. The bill establishes the Automobile Burglary and Theft Prevention Authority in the office of the governor. The bill sets forth the provisions of the Texas Used Automotive Parts Recycling Act administered by the Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the board of the Texas Department of Motor Vehicles in SECTION 1.01 of this bill.

It is the committee's opinion that rulemaking authority previously granted to the Texas Department of Transportation is transferred to the Texas Department of Motor Vehicles in SECTIONS 2H.01, 2J.01, 2N.01, and 3H.04 of this bill.

It is the committee's opinion that rulemaking authority previously granted to the Texas Transportation Commission is transferred to the board of the Texas Department of Motor Vehicles in SECTIONS 3I.07, 3I.09, and 3I.10 of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 3I.11 of this bill.

ANALYSIS

Texas Department of Motor Vehicles

C.S.H.B. 3097 amends the Transportation Code to create the Texas Department of Motor Vehicles as an agency of the state. The bill requires the department, in addition to other required duties, to administer and enforce laws relating to certificates of title and registration of vehicles, identifying markings on commercial motor vehicles, motor carrier registration, single state registration under the federal motor carrier registration program, motor transportation brokers, foreign commercial motor transportation, the sale or lease of motor vehicles under the Occupations Code, and the regulation of salvage vehicle dealers under that code. The bill establishes that the department is composed of an executive director appointed by the board of the department and other employees required to efficiently implement the provisions of the bill and other applicable laws. The bill requires the board to organize the department into divisions to accomplish the department's functions and the duties assigned to it, including divisions for administration, motor carriers, motor vehicles, and vehicle titles and registration. The bill makes the department subject to the Texas Sunset Act, and provides that the department is abolished September 1, 2015, unless continued in existence under the act.

C.S.H.B. 3097 sets forth the membership of the board, including the appointment, terms, meetings, representation, and compensation of board members. The bill establishes that the nine members of the board are appointed by the governor with the advice and consent of the senate to serve staggered six-year terms and represent motor vehicle dealers, the motor carrier industry, and the general public; additionally, one member must be a county tax assessor-collector and one member must be a law enforcement officer who is not a state employee. The bill requires that of the three members appointed to represent motor vehicle dealers, one must be a new vehicle dealer, one must be a used vehicle dealer, and one must be a heavy-duty truck dealer. The bill establishes that certain persons are not eligible to serve as public members of the board. The bill requires the board to hold meetings at least quarterly or at the call of the presiding officer. The bill establishes that a member of the board is not entitled to compensation, but that each member is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a board member, as provided by the General Appropriations Act. The bill establishes that it is a ground for removal from the board if a member does not at the time of taking office have the qualifications required by the bill; does not maintain during service on the board those required qualifications; is ineligible for membership under provisions of the bill regarding the prohibition of certain persons from serving as a public member of the board, conflicts of interest, or lobbying activities; cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an approved

excuse. The bill includes across-the-board standards for state agencies regarding unbiased appointments to the board, designation of the presiding officer, grounds for removal, board member training, technology use, alternative dispute resolution, conflicts of interest, separation of functions, public input, and complaint procedures.

C.S.H.B. 3097 requires the board to establish separate advisory committees for the motor carrier, motor vehicles, and vehicle titles and registration divisions to make recommendations to the board or the executive director on the operation of the applicable division. The bill establishes that a committee has the purposes, powers, and duties, including the manner of reporting its work, prescribed by the board, and that a committee and each committee member serves at the will of the board. The bill requires the board to appoint persons to each advisory committee who are selected from a list provided by the executive director, and who have knowledge about and interests in, and represent a broad range of viewpoints about, the work of the committee or applicable division. The bill requires the advisory committee for the motor vehicles division to include a member to represent motor vehicle manufacturers and a member to represent the recreational vehicle industry, and requires the committee for the motor carrier division to include a member to represent the motor transportation industry. The bill prohibits a member of an advisory committee from being compensated by the board or the department for service. The bill prohibits a person who is an officer, employee, or paid consultant of a Texas trade association in the field of motor dealers or motor carriers, or a person whose spouse is an officer, manager, or paid consultant of a Texas trade association in the motor vehicle or motor carrier industry or of a tax assessor-collector or law enforcement trade association from being a member of the board and from being a department employee employed in certain capacities. The bill prohibits a person from being a member of the board, serving as the executive director, or acting as the general counsel to the department if the person is required, under state law, to register as a lobbyist because of the person's activities for compensation on behalf of an occupation related to the operation of the department. The bill defines "Texas trade association" for purposes of these provisions.

C.S.H.B. 3097 requires the board and the Texas Transportation Commission to establish mutually agreeable procedures to ensure that the Texas Department of Transportation (TxDOT) has access to information contained in the electronic database of vehicle titles and registrations as needed for toll operations and other functions. The bill makes the board, the executive director, and each employee or agent of the department subject to laws regulating the ethical conduct of state officers and employees. The bill authorizes the board to adopt any rules necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of Texas. The bill requires the board to develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the department.

Transfer of Duties and Functions of the Texas Department of Transportation

C.S.H.B. 3097 makes conforming changes relating to the transfer, from TxDOT or the Texas Transportation Commission to the Texas Department of Motor Vehicles or the board of the department, of duties and functions relating to general provisions and administration; state highway toll projects; causeways, bridges, tunnels, turnpikes, ferries, and highways in certain counties; the Certificate of Title Act; registration of vehicles; dealer's and manufacturer's vehicle license plates; certain miscellaneous provisions of the Transportation Code; operation of bicycles, mopeds, and play vehicles; the Motor Vehicle Safety Responsibility Act; identifying markings on certain commercial motor vehicles; motor carrier registration; single state registration; motor transportation brokers; foreign commercial motor transportation; abandoned motor vehicles; contracts for enforcement of certain arrest warrants; a photographic traffic signal enforcement system; and the Automobile Burglary and Theft Prevention Authority under provisions of the Revised Statutes.

C.S.H.B. 3097 prohibits the department from being appropriated, for any state fiscal year, more

than \$100 million from money in the state highway fund. The bill makes conforming changes in the Certificate of Title Act relating to the Texas Used Automotive Parts Recycling Act set forth in the bill. The bill clarifies that the term "salvage vehicle dealer" does not include a person who casually repairs, rebuilds, or reconstructs fewer than five, rather than three, salvage vehicles in the same calendar year or a person who deals in used automotive parts. The bill defines "used parts dealer" and "used automotive parts recycler," and makes conforming changes to provisions regarding nonrepairable and salvage motor vehicles and to the Occupations Code.

C.S.H.B. 3097 amends the Revised Statutes to establish the Automobile Burglary and Theft Prevention Authority in the office of the governor rather than TxDOT, and makes conforming changes. The bill clarifies that the authority is not an advisory body to the governor. The bill adds the governor to those state officials to whom the authority is required to report on its activities, not later than April 1 of each year. The bill requires the authority, in addition to any report accounting for all funds received and disbursed by the authority during the preceding fiscal year, to prepare and submit an annual financial report in the form and manner required of a state agency under state law. The bill prohibits the authority from making a grant of appropriated funds unless the grant application is submitted to and approved by the governor, or a person in the office of the governor designated by the governor. The bill requires money received by the authority under provisions relating to the authority to be sent to the comptroller of public accounts for deposit in a separate account in the treasury. The bill requires the legislature, as part of the appropriation process, to determine and in the General Appropriations Act specify the amount of money the authority may use to make grants or provide financial assistance during each of the state fiscal years covered by that act. The bill requires the Department of Public Safety, rather than TxDOT, to issue to the owner of a motor vehicle registered under the authority's motor vehicle registration program a decal or other appropriate identifying marker to be affixed to the vehicle to indicate that the vehicle is registered with that program.

C.S.H.B. 3097 repeals sections of the Transportation Code relating to a study on the feasibility of using a database interface system to verify financial responsibility of motor vehicle owners. The bill repeals a provision of the Occupations Code defining, for purposes of the sale or lease of motor vehicles, "transportation commission." The bill repeals provisions of the Revised Statutes defining "director" for purposes of the Automobile Burglary and Theft Prevention Authority, and makes conforming changes.

C.S.H.B. 3097 amends the Transportation Code to transfer from TxDOT to the Texas Department of Motor Vehicles rulemaking authority relating to the registration and issuance of license plates to neighborhood electric vehicles, the prescription of additional requirements regarding the form of required identifying markings on commercial motor vehicles, and the regulation of foreign commercial motor transportation.

Conforming Amendments Pertaining to the Texas Department of Transportation in Other Codes

C.S.H.B. 3097 makes conforming changes in the Business & Commerce Code, Code of Criminal Procedure, Family Code, Finance Code, Government Code, Health and Safety Code, Human Resources Code, Local Government Code, Occupations Code, Penal Code, and Tax Code. The bill amends definitions in several codes to make conforming changes.

C.S.H.B. 3097 amends the Local Government Code to transfer from TxDOT to the Texas Department of Motor Vehicles rulemaking authority relating to the acceptance of checks or credit card invoices by a county tax-assessor-collector and for the collection of dishonored checks or credit card invoices.

C.S.H.B. 3097 amends the Occupations Code to exempt a used automotive parts recycler licensed under provisions added by the bill from provisions regarding salvage vehicle dealers.

The bill removes the classification of a used vehicle parts dealer from those endorsements of a salvage vehicle dealer license for which an applicant for that license may apply.

C.S.H.B. 3097 amends the Occupations Code to transfer from the Texas Transportation Commission to the board of the Texas Department of Motor Vehicles rulemaking authority relating to salvage vehicle dealers, including rules relating to enforcement powers, duty to set fees, restriction of advertising or competitive bidding, grounds for denial, suspension, revocation, or reinstatement of a salvage dealer license, and casual sales by salvage vehicle dealers.

Texas Used Automotive Parts Recycling Act

C.S.H.B. 3097 amends the Occupations Code to add the Texas Used Automotive Parts Recycling Act, administered by the Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation (TDLR). The bill exempts a transaction to which a metal recycler is a party, a transaction in which a salvage vehicle dealer is a party, and an insurance company from the provisions of that act. The bill establishes that the act is applicable to transactions in which a motor vehicle is sold, transferred, released, or delivered to a metal recycler or to a salvage vehicle dealer as a source of used automotive parts, and is used as a source of those parts. The bill establishes the used automotive parts recycling advisory board, and sets forth the membership, terms, presiding officer, powers and duties, compensation, and meetings of the board. The bill requires the advisory board to provide advice and recommendations to TDLR on technical matters relevant to the administration and enforcement of the act, including licensing standards, continuing education requirements, and examination content, if applicable.

C.S.H.B. 3097 authorizes the executive director of TDLR or the Texas Commission of Licensing and Regulation, as appropriate, to take action as necessary to administer and enforce the act. The bill requires the commission to adopt rules for licensing used automotive parts recyclers, and by rule to adopt standards of conduct for license holders under the act. The bill authorizes TDLR to conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law. The bill requires the commission to establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of administering the act. The bill prohibits the commission from adopting a rule restricting advertising or competitive bidding by a person who holds a license issued under the act except to prohibit false, misleading, or deceptive practices by the person. The bill prohibits the commission from including in its rules to prohibit those practices a rule that restricts the use of any advertising medium, restricts the person's personal appearance or use of the person's voice in an advertisement, relates to the size or duration of an advertisement by the person, or restricts the use of a trade name in advertising by the person.

C.S.H.B. 3097 authorizes TDLR to enter and inspect at any time during business hours the place of business of any person regulated under the act, or any place in which TDLR has reasonable cause to believe that a license holder is in violation of the act or in violation of a rule or order of the commission or executive director. The bill requires TDLR to conduct additional inspections based on a schedule of risk-based inspections using the following criteria: the type and nature of the used automotive parts recycler, the inspection history, any history of complaints involving such a recycler, and any other factor determined by the commission by rule. The bill requires a recycler to pay a fee for each risk-based inspection performed, and requires the commission by rule to set the amount of that fee. The bill authorizes TDLR, in conducting an inspection, to inspect a facility, a used automotive part, a business record, or any other place or thing reasonably required to enforce the act or a rule or order adopted under the act, and to employ personnel necessary to administer and enforce the act.

C.S.H.B. 3097 adds a provision that takes effect September 1, 2010, prohibiting a person from owning or operating a used automotive parts recycling business or selling used automotive parts

unless the person holds an appropriate license issued under the act. The bill requires an applicant for a license under the act to submit to TDLR a completed application, the required fees, and any other information required by commission rule. The bill requires an applicant to establish proof of financial responsibility in the manner prescribed by the executive director, provide proof of ownership or lease of the property where the applicant will operate a used automotive parts recycling facility, and provide a storm water permit if the applicant is required by the Texas Commission on Environmental Quality (TCEQ) to obtain such a permit. The bill establishes that a license issued by the executive director is valid throughout Texas and is not transferable. The bill requires the commission by rule to recognize or prepare and administer continuing education programs for license holders. The bill requires each license holder to complete a continuing education program before the holder may renew the holder's license. The bill requires a person recognized by the commission to offer a continuing education program to register with TDLR and comply with rules adopted by the commission relating to continuing education. The bill makes a license issued under the act valid for one year, and authorizes TDLR to adopt a system under which licenses expire at different times during the year. The bill requires TDLR to notify the license holder in writing at least 30 days before the date a license expires, and requires the notice to be sent to the holder's last known address according to TDLR's records. The bill authorizes a holder to renew a license by paying a renewal fee, providing to TDLR evidence of financial responsibility, providing proof of ownership or lease of the property where the holder operates the holder's recycling facility, providing a storm water permit if required by TCEQ to obtain such a permit, and completing the required continuing education.

C.S.H.B. 3097 makes the requirements of the act applicable in addition to the requirements of any applicable municipal ordinance relating to the regulation of a person who deals in nonrepairable or salvage motor vehicles or used automotive parts. The bill establishes that the act does not prohibit the enforcement of an applicable municipal license or permit requirement related to an activity regulated by the act.

C.S.H.B. 3097 adds provisions that take effect September 1, 2010, authorizing the commission to impose an administrative penalty on a person under provisions relating to the enforcement powers of TDLR, regardless of whether the person holds a license under the act, if the person violates the act or a rule adopted under the act, or a rule or order of the executive director or the commission. The bill prohibits an administrative penalty from being imposed unless the person charged with a violation is provided the opportunity for a hearing. The bill authorizes the executive director to issue a cease and desist order as necessary to enforce the act if the executive director determines that the action is necessary to prevent a violation of the act and to protect public health and safety. The bill authorizes the attorney general or executive director to institute an action for an injunction or a civil penalty under the act as provided by state law. The bill authorizes TDLR to impose administrative sanctions as provided by state law. The bill establishes that a person commits a Class C misdemeanor offense if the person violates the licensing requirements of the act, deals in used parts without a license, or employs an individual who does not hold the appropriate license required by the act.

C.S.H.B. 3097 requires a used automotive parts recycler who acquires ownership of a salvage motor vehicle to obtain a properly assigned title from the vehicle's previous owner. The bill requires a recycler who acquires ownership of a motor vehicle, nonrepairable motor vehicle, or salvage motor vehicle for the purpose of dismantling, scrapping, or destroying that vehicle, to submit to TxDOT before the 61st day after the date of acquiring the vehicle a report stating that the vehicle will be dismantled, scrapped, or destroyed. The bill requires the recycler to submit the report on a form prescribed by TxDOT, and to submit with the report a properly assigned manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state ownership document for the vehicle. The bill requires TxDOT, after receiving the report and title or document, to issue the recycler a receipt for the certificate, title, or comparable document. The bill requires the recycler to comply with provisions of the Certificate of Title Act regarding nonrepairable and salvage motor vehicles. The bill requires a recycler to maintain a record of each vehicle, salvage vehicle, nonrepairable

vehicle, and used automotive part purchased. The bill requires a recycler, before moving a place of business or opening an additional place of business, to notify TDLR of the new location, and provide a storm water permit for the location if a permit is required by TCEQ.

C.S.H.B. 3097 requires a used automotive parts recycler, immediately on receipt of a vehicle, to remove any unexpired license plates and place the plates in a secure place until destroyed by the recycler. The bill prohibits such a recycler from taking delivery of a vehicle unless the recycler first obtains a certificate of authority to dispose of the vehicle, a sales receipt, or a transfer document for the vehicle issued under provisions regarding abandoned motor vehicles, or a certificate of title showing that there are no liens on the vehicle or that all recorded liens have been released. The bill requires a recycler to keep an accurate and legible inventory of each used component part purchased by or delivered to the recycler. The bill requires the inventory to contain a record of each part that includes the date of purchase or delivery; the driver's license number of the seller and a legible photocopy of the seller's driver's license; the license plate number of the vehicle in which the part was delivered; a complete description of the part and, if applicable, the make, model, color, and size of the part; and the vehicle identification number of the vehicle from which the part was removed. The bill authorizes a recycler, as an alternative to the requirements described above, to record the name of the person who sold the part or the motor vehicle from which the part was obtained and the Texas certificate of inventory number or the federal taxpayer identification number of the person. The bill requires TDLR to prescribe the form of the record for the required inventory of parts and to make the form available to recyclers. The bill exempts from these provisions an interior component part or special accessory part from a vehicle more than 10 years old, or a part delivered to a recycler by a commercial freight line, commercial carrier, or licensed used automotive parts recycler.

C.S.H.B. 3097 requires a recycler to assign a unique inventory number to each transaction in which the recycler purchases or takes delivery of a component part, to attach that number to each component part the recycler obtains in the transaction, and to retain each component part in its original condition on the business premises of the recycler for at least three calendar days, excluding Sundays, after the date the recycler obtains the part. The bill prohibits an inventory number attached to a component part from being removed while the part remains in the inventory of the recycler. The bill exempts from these provisions the purchase by a recycler of a nonoperational engine, transmission, or rear axle assembly from another recycler or an automotive-related business. The bill requires a recycler to keep a record required in connection with motor vehicle component parts on a form prescribed by TDLR or TxDOT. The bill requires the recycler to maintain copies of each required record until the first anniversary of the purchase date of the item for which the record is maintained. The bill requires a recycler, on demand, to surrender to TxDOT for cancellation a certificate of title or authority, sales receipt or transfer document, license plate, or inventory list that the recycler is required to possess or maintain. The bill requires TxDOT to provide a signed receipt for a surrendered certificate of title.

C.S.H.B. 3097 authorizes a recycler to sell salvage or nonrepairable vehicles only at the recycler's business location, and requires a recycler, before reselling either type of vehicle, to post notice on the vehicle of the type of title appropriate to that vehicle. The bill authorizes a peace officer at any reasonable time to inspect a record required in connection with motor vehicle component parts, including an inventory record. The bill requires a recycler, on demand by a peace officer, to provide a copy of a record required to be maintained under those provisions. The bill authorizes a peace officer to inspect the inventory on the premises of such a recycler at any reasonable time to verify, check, or audit the records required to be maintained under those provisions. The bill requires a recycler or an employee of the recycler to allow, and prohibits either individual from interfering with, a peace officer's inspection of the recycler's inventory, premises, or required inventory records.

C.S.H.B. 3097 establishes provisions regarding motor vehicle salvage yards in certain counties that are applicable only to a used automotive parts facility located in a county with a population

of 2.8 million or more. The bill prohibits a recycler from operating heavy machinery in a used automotive parts recycling facility between the hours of 7 p.m. of one day and 7 a.m. of the following day. The bill exempts conduct necessary to a sale or purchase by the recycler from that prohibition.

C.S.H.B. 3097 defines "insurance company," "metal recycler," "motor vehicle," "nonrepairable motor vehicle," "nonrepairable vehicle title," "salvage motor vehicle," "salvage vehicle title," "salvage vehicle dealer," "commission," "department," "executive director," "used automotive part," "used automotive parts recycler," and "used automotive parts recycling" for the purposes of the act and defines "component part," "interior component part," "minor component part," and "special accessory part" for the purposes of provisions of the act regarding additional duties of a used automotive parts recycler in connection with motor vehicle component parts.

C.S.H.B. 3097 requires the Texas Commission of Licensing and Regulation to adopt rules for licensing used automotive parts recyclers as required by the act not later than January 1, 2010.

C.S.H.B. 3097 repeals a provision of the Occupations Code regarding the receipt of a motor vehicle by a holder of an endorsement as a used vehicle parts dealer.

Transfer of Certain Powers, Duties, Obligations, and Rights of Action

C.S.H.B. 3097 transfers all powers, duties, obligations, and rights of action of the motor vehicle division and the vehicle titles and registration division of TxDOT, and of the portion of the motor carrier division of TxDOT responsible for motor carrier registration and the enforcement of provisions regarding commercial motor vehicles, to the Texas Department of Motor Vehicles and transfers all powers, duties, obligations, and rights of action of the Texas Transportation Commission in connection or association with those divisions to the board of the department on November 1, 2009. The bill establishes that the unobligated and unexpended balance of any appropriations made to TxDOT in connection with or relating to those divisions for the state fiscal biennium ending August 31, 2009, is transferred and reappropriated to the department for the purpose of implementing the powers, duties, obligations, and rights of action transferred to the department under the bill's provisions.

C.S.H.B. 3097 transfers and reappropriates, in connection with the establishment of the Automobile Burglary and Theft Prevention Authority in the office of the governor, the unobligated and unexpended balance of any appropriations made to TxDOT in connection with or relating to the authority for the state fiscal biennium ending August 31, 2009, to the office of the governor for the purpose of allowing the authority to continue to exercise its powers, duties, and obligations under the auspices of that office.

C.S.H.B. 3097 requires the Transportation Legislative Oversight Committee established under bills before the 81st Texas Legislature to oversee the coordination and collaboration between TxDOT and the Texas Department of Motor Vehicles during the transition period for the required transfers under the bill's provisions.

Appointment of Board

C.S.H.B. 3097 requires the governor, not later than October 1, 2009, to appoint the members of the board of the Texas Department of Motor Vehicles in accordance with the provisions of the bill.

Repealers

C.S.H.B. 3097 repeals the following provisions of law:

- Sections 2301.002(33) and 2302.253, Occupations Code

- Section 1(4), Article 4413(37), Revised Statutes
- Subchapter N, Chapter 601, Transportation Code, as added by Chapter 1325 (H.B. 3588), Acts of the 78th Legislature, Regular Session, 2003

EFFECTIVE DATE

Except as otherwise provided, September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3097 differs from the original by requiring the Texas Department of Motor Vehicles to administer and enforce provisions of the Occupations Code relating to salvage vehicle dealers. The substitute removes a provision in the original requiring the department to administer and enforce provisions of the Revised Statutes relating to the Automobile Burglary and Theft Prevention Authority and makes conforming changes. The substitute differs from the original by providing for a division for motor vehicles, rather than for a motor vehicle board as in the original. The substitute removes a provision in the original requiring the attorney general to defend an action brought against the board or the department, or against an employee of the department, as a result of an employee's official act or omission. The substitute establishes that the board of the department consists of nine members, rather than seven members as in the original. The substitute requires three, rather than two as in the original, board members to be appointed to represent motor vehicle dealers, and adds a provision not in the original to specify the type of dealer each of the three members should be. The substitute differs from the original by requiring one member of the board to be a county tax assessor-collector and one to be a law enforcement officer, whereas the original requires one member to represent the county tax assessor-collectors and one to represent law enforcement agencies.

C.S.H.B. 3097 removes provisions in the original requiring certain actions of the presiding officer of the board. The substitute differs from the original by requiring the board to hold meetings at least quarterly or at the call of the presiding officer, whereas the original requires the board to hold regular meetings at least once a month and special meetings at the presiding officer's call. The substitute removes a provision in the original authorizing the board and requiring the presiding officer to make certain reports to the legislature relating to the operation of the department. The substitute establishes that a board member is not entitled to compensation but is entitled to reimbursement for actual and necessary expenses as provided by the General Appropriations Act, whereas the original establishes that a board member is entitled to compensation as provided by that act, and that if compensation is not provided by that act, each member is entitled to reimbursement for that member's actual and necessary expenses. The substitute removes a provision in the original requiring the department to provide to board members information regarding the members' qualifications for office and their responsibilities in connection with standards of conduct for state officers.

C.S.H.B. 3097 removes provisions in the original relating to department personnel; rulemaking authority to restrict advertising or competitive bidding or to comply with federal requirements; procedures for routine matters and other department procedures; general subpoena powers and witnesses and production of records; and judicial review. The substitute adds a provision not in the original to require the board to establish separate advisory committees for the motor carrier, motor vehicles, and vehicle titles and registration divisions.

C.S.H.B. 3097 prohibits a person from being a member of the board or a department employee employed in a certain capacity if the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the motor vehicle or motor carrier industry or of a tax assessor-collector or law enforcement trade association, rather than in the field of motor dealers or motor carriers as in the original. The substitute adds a provision not in the original relating to cooperation between the board and the Texas Department of Transportation (TxDOT).

C.S.H.B. 3097 removes provisions in the original repealing Section 201.202(c), Transportation Code, and Section 201.805, Transportation Code, as added by Chapter 1407 (S.B. 766), Acts of the 80th Legislature, Regular Session, 2007, relating to the appointment of division personnel from a predecessor agency to TxDOT and to accident data reporting by TxDOT. The substitute adds a provision not in the original prohibiting the department from being appropriated more than \$100 million from the state highway fund for any state fiscal year. The substitute adds provisions not in the original to amend the definition of "salvage vehicle dealer," and define "used parts dealer" and "used automotive parts recycler," and make conforming changes related to those definitions.

C.S.H.B. 3097 differs from the original by establishing the Automobile Burglary and Theft Prevention Authority in the office of the governor, whereas the original makes the authority a division of the Texas Department of Motor Vehicles, and by making subsequent conforming changes. The substitute adds a provision not in the original to require the authority, in addition to other required reports, to prepare and submit an annual financial report in the form and manner required of a state agency. The substitute adds a provision not in the original prohibiting the authority from making a grant of appropriated funds unless the grant application is submitted to and approved by the governor or a person designated by the governor. The substitute adds provisions not in the original requiring money received by the authority to be sent to the comptroller of public accounts for deposit in a separate account in the treasury, and requiring the legislature to determine and specify the amount of money the authority may use to make grants or to provide financial assistance. The substitute adds a provision not in the original requiring the Department of Public Safety, rather than TxDOT, to issue a decal or other appropriate identifying marker to indicate that the vehicle is registered with the authority's motor vehicle registration program.

C.S.H.B. 3097 removes a provision in the original repealing Sections 6(d) and (i), Article 4413(37), Revised Statutes, requiring the authority annually to report on its activities to certain legislative officials and to prepare a written report accounting for all funds received and disbursed by the authority during the preceding fiscal year. The substitute adds a provision not in the original repealing Section 1(4), Article 4413(37), Revised Statutes, defining "director" for the purposes of the Automobile Burglary and Theft Prevention Authority. The substitute adds provisions not in the original to make conforming changes.

C.S.H.B. 3097 adds provisions not in the original to make conforming changes to the Occupations Code related to the transfer of certain duties and functions from TxDOT, certain divisions of TxDOT, and the Texas Transportation Commission to the Texas Department of Motor Vehicles or the board of that department, and to the definition of "used automotive parts recycler" under the Transportation Code, as added by the bill. The substitute adds a provision not in the original exempting such a recycler licensed under the Texas Used Automotive Parts Recycling Act added by the bill from provisions regarding salvage vehicle dealers. The substitute adds a provision not in the original removing a used vehicle parts dealer from the endorsement classifications of a salvage vehicle dealer license for which an applicant for that license may apply.

C.S.H.B. 3097 adds provisions not in the original to enact the Texas Used Automotive Parts Recycling Act, including provisions relating to the general provisions of that act, the creation of the used automotive parts recycling advisory board, the powers and duties of Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation, under the act, license requirements, local regulation, enforcement, conducting business, additional duties of a used automotive parts recycler in connection with motor vehicle component parts, and motor vehicle salvage yards in certain counties. The substitute adds a provision not in the original to require rules under the act to be adopted by January 1, 2010. The substitute adds a provision not in the original to repeal Section 2302.253, Occupations Code, regarding the receipt of a motor vehicle by a holder of an endorsement as a used vehicle parts dealer.

C.S.H.B. 3097 differs from the original by transferring the powers, duties, obligations, and rights of action of the portion of the motor carrier division of TxDOT that is responsible for motor carrier registration and the enforcement of provisions regarding commercial motor vehicles to the Texas Department of Motor Vehicles, rather than the motor carrier division as in the original. The substitute differs from the original by providing for the transfer of personnel and services provided to the Automobile Burglary and Theft Prevention Authority by TxDOT to the office of the governor. The substitute removes provisions in the original relating to the transfer of all powers, duties, obligations, and rights of action of the authority to the automobile burglary and theft prevention authority division of the Texas Department of Motor Vehicles.