

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 626  
By: Carona  
Transportation & Homeland Security  
4/22/2009  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Department of Transportation (TxDOT) has historically been an agency whose main function has been to build roads. However, over time, other divisions have been created within TxDOT that are primarily customer service related and vehicle related. These divisions include the Motor Carrier Division (MCD), the Automobile and Burglary Theft Prevention Division (ABTPA), the Motor Vehicle Division (MVD), and the Vehicle Titles and Registration Division (VTR). Maintaining these divisions under the TxDOT umbrella does not allow TxDOT to focus on its core mission of financing and building Texas's transportation infrastructure.

C.S.S.B. 626 amends current law relating to the creation, organization, governance, duties, and functions of the Texas Department of Vehicles and provides penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly prohibited in SECTION 1.01 (Section 1002.002, Transportation Code) and SECTION 3I.07 (Section 2302.053, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Vehicles (department) in SECTION 1 (Sections 1003.002 and 1003.003, Transportation Code) and SECTION 3H.04 (Section 130.009, Local Government Code) of this bill.

Rulemaking authority is expressly granted to the board of the department in SECTION 1 (Sections 1002.001, 1002.003, 1003.002, and 1003.003, Transportation Code), SECTION 6.01 and SECTION 6.02 of this bill.

Rulemaking authority previously granted to the Texas Department of Transportation is transferred to the department in SECTION 2H.01 (Section 551.302, Transportation Code), of this bill.

Rulemaking authority previously granted to the Texas Transportation Commission is transferred to the board of the department in SECTION 2T.06 (Section 623.051, Transportation Code), SECTION 2T.09 (Section 623.076, Transportation Code), SECTION 2T.13 (Section 623.145, Transportation Code), SECTION 2T.16 (Sections 623.195 and 623.196, Transportation Code), SECTION 2T.18 (Section 623.239, Transportation Code), SECTION 2T.20 (Section 623.259, Transportation Code), SECTION 3I.07 (Section 2302.051, Occupations Code), SECTION 3I.08 (Section 2302.108, Occupations Code) and SECTION 3I.09 (Section 2302.204, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Texas Transportation Commission in SECTION 6.01 and SECTION 6.02 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1.01. Amends Title 7, Transportation Code, by adding Subtitle M, as follows:

SUBTITLE M. DEPARTMENT OF VEHICLES

CHAPTER 1001. ORGANIZATION OF DEPARTMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1001.001. DEFINITIONS. Defines "board" and "department."

Sec. 1001.002. CREATION OF DEPARTMENT; DUTIES. (a) Creates the Department of Vehicles (department) as an agency of this state.

(b) Requires the department, in addition to the other duties required of the department, to administer and enforce Subtitle A; Chapters 623 (Permits for Oversize or Overweight Vehicles), 642 (Identifying Markings on Commercial Motor Vehicles), 643 (Motor Carrier Registration), 645 (Commercial Motor Vehicles), 646 (Commercial Motor Vehicles), and 648 (Foreign Commercial Motor Transportation); and Chapter 2301 (Sale or Lease of Motor Vehicles) and 2302 (Salvage Vehicle Dealers), Occupations Code.

Sec. 1001.003. COMPOSITION OF DEPARTMENT. Provides that the department is composed of an executive director appointed by the board of the department (board) and other employees required to efficiently implement this subtitle, other applicable vehicle laws of this state, and other laws that grant jurisdiction to or are applicable to the department.

Sec. 1001.004. DIVISIONS. 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 vehicle board, and vehicle titles and registration.

Sec. 1001.005. SUNSET PROVISION. Provides that the department is subject to Chapter 325 (Texas Sunset Act), Government Code. Provides that the department, unless continued in existence as provided by that chapter, is abolished September 1, 2021.

Sec. 1001.006. DEFENSE BY ATTORNEY GENERAL. Requires the attorney general to defend an action brought against the board or the department or an action brought against an employee of the department as a result of the employee's official act or omission, regardless of whether at the time of the institution of the action that person has terminated service with the department.

[Reserves Sections 1001.007-1001.020 for expansion.]

#### SUBCHAPTER B. BOARD OF DEPARTMENT OF VEHICLES

Sec. 1001.021. BOARD. (a) Provides that the board consists of nine members appointed by the governor with the advice and consent of the senate.

(b) Provides that three members must be persons who hold a dealer's license issued under Chapter 2301, Occupations Code, of whom two must be franchised dealers of different classes and one must be an independent dealer; one member must be a representative of a manufacturer or distributor that holds a license issued under Chapter 2301, Occupations Code; one member must be a tax assessor-collector; one member must be a representative of a law enforcement agency of a county or municipality; and one member must be a representative of the motor carrier industry. Requires that the remaining members be public members.

(c) Provides that a person, except as necessary to comply with Subsection (b), is not eligible for appointment as a member of the board if the person or the person's spouse is employed by or participates in the management of a business entity or other organization that is regulated by or receives funds from the department; directly or indirectly owns or controls more than 10 percent interest in a business entity or other organization that is regulated by or receives funds from the department; uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses; or is registered, certified, or licensed by the department.

(d) Prohibits a person required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department from serving as a member of the board.

(e) Requires that appointments to the board be made without regard to race, color, disability, sex, religion, age, or national origin of the appointees and reflect the diversity of the population of the state as a whole.

Sec. 1001.022. TERMS. Establishes six-year staggered terms for members of the board, with the terms of either one or two members expiring February 1 of each odd-numbered year.

Sec. 1001.023. CHAIR AND VICE CHAIR; DUTIES. (a) Requires the board to elect one of its members chair of the board and one of its members vice chair of the board. Provides that a chair or vice chair serves at the pleasure of the board.

(b) Requires the chair to preside over board meetings, make rulings on motions and points of order, and determine the order of business; represent the department in dealing with the governor; report to the governor on the state of affairs of the department at least quarterly; report to the board the governor's suggestions for department operations; report to the governor on efforts, including legislative requirements, to maximize the efficiency of department operations through the use of private enterprise; periodically review the department's organizational structure and submit recommendations for structural changes to the governor, the board, and the Legislative Budget Board (LBB); designate one or more employees of the department as a civil rights division of the department and receive regular reports from the division on the department's efforts to comply with civil rights legislation and administrative rules; create subcommittees, appoint board members to subcommittees, and receive the reports of subcommittees to the board as a whole; appoint a member of the board to act in the chair's absence; and serve as the departmental liaison with the governor and the Office of State-Federal Relations to maximize federal funding for transportation.

Sec. 1001.024. BOARD MEETINGS. Requires the board to hold regular meetings at least once a month and special meetings at the call of the chair. Requires board members to attend the meetings of the board. Requires the chair to oversee the preparation of an agenda for each meeting and ensure that a copy is provided to each board member at least seven days prior to the meeting.

Sec. 1001.025. RECOMMENDATIONS TO LEGISLATURE. (a) Requires the board to consider ways in which the department's operations can be improved. Authorizes the board to periodically report to the legislature concerning potential statutory changes that would improve the operation of the department.

(b) Requires the chair, on behalf of the board, to report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of relevant legislative committees on legislative recommendations adopted by the board and relating to the operation of the department.

Sec. 1001.026. COMPENSATION. Entitles a member of the board to compensation as provided by the General Appropriations Act. Entitles each member, if compensation for board members is not provided by that Act, to reimbursement for actual and necessary expenses incurred in performing functions as a member of the board.

Sec. 1001.027. GROUNDS FOR REMOVAL. (a) Provides that it is a ground for removal from the board if a board member does not have at the time of appointment or maintain during service on the board the qualifications required by Section 1001.021; violates a prohibition provided by Section 1001.021; cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of

illness or disability; or is absent from more than half of the regularly scheduled board meetings that the board member is eligible to attend during a calendar year, unless the absence is excused by majority vote of the board.

(b) Provides that the validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) Requires the executive director of the department, if the executive director knows that a potential ground for removal exists, to notify the chair of the board of the ground, and the chair to notify the governor and the attorney general that a potential ground for removal exists. Requires the director, if the potential ground for removal relates to the chair, to notify another board member, who shall notify the governor and the attorney general that a potential ground for removal exists.

Sec. 1001.028. CONFLICT OF INTEREST. (a) Requires a member of the board to disclose in writing to the executive director if the member has an interest in a matter before the board or has a substantial financial interest in an entity that has a direct interest in the matter.

(b) Requires the member to recuse himself or herself from the board's deliberations and actions on the matter in Subsection (a) and prohibits the board member from participating in the board's decision on the matter.

(c) Provides that a person has a substantial financial interest in an entity if the person is an employee, member, director, or officer of the entity or owns or controls, directly or indirectly, more than a five percent interest in the entity.

Sec. 1001.029. INFORMATION ON QUALIFICATIONS AND CONDUCT. Requires the department to provide to the members of the board, as often as necessary, information regarding the members' qualifications for office and their responsibilities under applicable laws relating to standards of conduct for state officers.

Sec. 1001.030. TRAINING ON DEPARTMENT AND CERTAIN LAWS RELATING TO DEPARTMENT. (a) Requires a person appointed to the board, to be eligible to take office as a member of the board, to complete at least one course of a training program that complies with this section.

(b) Requires that the training program provide information to the person regarding this subchapter; the programs operated by the department; the role and functions of the department; the rules of the department with an emphasis on the rules that relate to disciplinary and investigatory authority; the current budget for the department; the results of the most recent formal audit of the department; the requirements of the open meetings law, Chapter 551 (Open Meetings), Government Code; open records law, Chapter 552 (Public Information), Government Code; administrative procedure law, Chapter 2001 (Administrative Procedure), Government Code; the requirements of the conflict of interest laws and other laws relating to public officials; and any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) Entitles a person appointed to the board to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the board.

Sec. 1001.031. ADVISORY COMMITTEES. (a) Requires the board to establish an advisory committee for the motor carriers, motor vehicle board, and vehicle titles and registration divisions to make recommendations to the board or executive director on the operation of the applicable division and authorizes the board to establish other advisory committees as the board determines are necessary for the performance of a regulatory function of the department. Provides that a committee has the purposes, powers, and duties, including the manner of reporting its work, prescribed by the board. Provides that a committee and each member serves at the will of the board.

(b) Requires the board to appoint persons to each advisory committee who are selected from a list provided by the executive director and have knowledge about and interests in, and represent a broad range of viewpoints about, the work of the committee or the applicable division.

(c) Prohibits a member of an advisory committee from being compensated by the board or the department for committee service but entitles the member to reimbursement for actual or necessary expenses incurred in the performance of committee service.

[Reserves Sections 1001.032-1001.040 for expansion.]

#### SUBCHAPTER C. PERSONNEL

Sec. 1001.041. DEPARTMENT PERSONNEL. (a) Requires the executive director, subject to the General Appropriations Act or other law, to appoint deputies, assistants, and other personnel as necessary to carry out the powers and duties of the department under this code, other applicable vehicle laws of this state, and other laws granting jurisdiction or applicable to the department.

(b) Requires a person appointed under this section to have the professional and administrative experience necessary to qualify the person for the position to which the person is appointed.

Sec. 1001.042. DIVISION OF RESPONSIBILITIES. Requires the board to develop and implement policies that clearly define the respective responsibilities of the director and the staff of the department.

Sec. 1001.043. EQUAL EMPLOYMENT OPPORTUNITY POLICY; REPORT. (a) Requires the executive director or the director's designee to prepare and maintain a written policy statement to ensure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. Requires the policy statement to include certain criteria.

(b) Requires that a policy statement prepared under this section cover an annual period, be updated annually, be reviewed by the Commission on Human Rights for compliance with Subsection (a), and be filed by the governor.

(c) Requires the governor to deliver a biennial report to the legislature based on the information received under Subsection (b). Authorizes the report to be made separately or as part of other biennial reports made to the legislature.

Sec. 1001.044. QUALIFICATIONS AND STANDARDS OF CONDUCT. Requires the executive director to provide to department employees, as often as necessary, information regarding their qualification for office or employment under this subtitle and responsibilities under applicable laws relating to standards of conduct for state employees.

Sec. 1001.045. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS. (a) Requires the executive director or the director's designee to develop an intra-agency career ladder program. Requires that the program require intra-agency posting of all non-entry level positions concurrently with any public posting.

(b) Requires the executive director or the director's designee to develop a system of annual performance evaluations. Requires that all merit pay for department employees be based on the system established under this subsection.

#### CHAPTER 1002. RULES

Sec. 1002.001. GENERAL RULEMAKING AUTHORITY. Authorizes the board to adopt any rules necessary and appropriate to implement the powers and duties of the department under this code and other laws of this state.

Sec. 1002.002. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. Prohibits the board from adopting rules restricting advertising or competitive bidding by a person regulated by the department except to prohibit false, misleading, or deceptive practices by the person.

#### CHAPTER 1003. DEPARTMENT PROCEDURES

Sec. 1003.001. APPLICABILITY OF CERTAIN LAWS. Provides that, except as specifically provided by law, the department is subject to Chapters 2001 (Administrative Procedure) and 2002 (Texas Register and Administrative Code), Government Code.

Sec. 1003.002. SUMMARY PROCEDURES FOR ROUTINE MATTERS. (a) Authorizes the board or department by rule to create a summary procedure for routine matters and designate department activities that otherwise would be subject to Chapter 2001, Government Code, as routine matters to be handled under the summary procedure.

(b) Authorizes that an activity be designated as a routine matter only if the activity is voluminous, repetitive, believed to be noncontroversial, and of limited interest to anyone other than persons immediately involved in or affected by the proposed department action.

(c) Authorizes the rules to establish procedures different from those contained in Chapter 2001, Government Code. Requires that the procedures require, for each party involved, notice of a proposed negative action not later than the fifth day before the date the action is proposed to be taken.

(d) Authorizes that a rule adopted by the board under this section provide for the delegation of authority to take action on a routine matter to a salaried employee of the department designated by the board.

Sec. 1003.003. REVIEW OF ACTION ON ROUTINE MATTER. (a) Entitles a person directly or indirectly affected by an action of the board or the department on a routine matter taken under the summary procedure adopted under Section 1003.002 to a review of the action under Chapter 2001, Government Code.

(b) Requires the person to apply to the board not later than the 60th day after the date of the action to be entitled to the review.

(c) Provides that the timely filing of the application for review immediately stays the action pending a hearing on the merits.

(d) Authorizes the board and department to adopt rules relating to an application for review under this section and consideration of the application.

Sec. 1003.004. INFORMAL DISPOSITION OF CERTAIN CONTESTED CASES. Authorizes the board or department, as applicable, on written agreement or stipulation of each party and any intervenor, to informally dispose of a contested case in accordance with Section 2001.056 (Informal Disposition of Contested Case), Government Code, notwithstanding any provision of this code or other law that requires a hearing before the board or the department, as applicable.

#### CHAPTER 1004. PUBLIC ACCESS

Sec. 1004.001. ACCESS TO PROGRAMS AND FACILITIES. (a) Requires the department to prepare and maintain a written plan that describes how a person who does not speak English may be provided reasonable access to the department's programs.

(b) Requires the department to comply with federal and state laws for program and facility accessibility.

Sec. 1004.002. PUBLIC COMMENT. Requires the board and the department to develop and implement policies that provide the public with a reasonable opportunity to appear before the board or the department and to speak on any issue under the jurisdiction of the board or the department.

Sec. 1004.003. PUBLIC REPRESENTATION ON ADVISORY BODY. (a) Requires that at least one-half of the membership of each advisory body appointed by the board, other than an advisory body whose membership is determined by this code or by other law, represent the general public.

(b) Prohibits a public representative from being an officer, director, or employee of a business entity regulated by the department; a person required to register with the Texas Ethics Commission under Chapter 305, Government Code; or a person related within the second degree by affinity or consanguinity to a person described by this subsection.

## CHAPTER 1005. STANDARDS OF CONDUCT

Sec. 1005.001. APPLICATION OF LAW RELATING TO ETHICAL CONDUCT. Provides that the board, executive director, and each employee or agent of the department is subject to the code of ethics and the standard of conduct imposed by Chapter 572 (Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest), Government Code, and any other law regulating the ethical conduct of state officers and employees.

## ARTICLE 2. TRANSFER OF DUTIES AND FUNCTIONS OF THE TEXAS DEPARTMENT OF TRANSPORTATION

### PART A. GENERAL PROVISIONS AND ADMINISTRATION

SECTION 2A.01. Amends Section 201.202(a), Transportation Code, to delete existing text requiring the Texas Transportation Commission (TTC) to create the division of motor vehicle titles and registration to accomplish the Texas Department of Transportation's (TxDOT) functions and duties.

SECTION 2A.02. Amends Section 201.931(2), Transportation Code, to delete existing text from the definition of "license" relating to a salvage vehicle dealer or agent license issued under Chapter 2302 Occupations Code; specially designated or specialized license plates issued under Subchapters E and F, Chapter 502 (Registration of Vehicles), Transportation Code; and an apportioned registration issued according to the International Registration Plan under Section 502.054 (Agreements With Other Jurisdictions; Offense), Transportation Code.

SECTION 2A.03. Repealer: Sections 201.202(c) (relating to preference for similar experience when appointing personnel), Transportation Code.

### PART B. STATE HIGHWAY TOLL PROJECTS

SECTION 2B.01. Amends Sections 228.055(b) and (h), Transportation Code, regarding vehicle registration records from the department rather than TxDOT, and makes conforming changes.

SECTION 2B.02. Amends Section 228.056(b), Transportation Code, by making a conforming change.

### PART C. CAUSEWAYS, BRIDGES, TUNNELS, TURNPIKES, FERRIES, AND HIGHWAYS IN CERTAIN COUNTIES

SECTION 2C.01. Amends Sections 284.0701(b), (e), and (h), Transportation Code, to change references to TxDOT to the department.

#### PART D. CERTIFICATE OF TITLE ACT

SECTION 2D.01. Amends Section 501.002(3), Transportation Code, to redefine "department" to mean the Department of Vehicles, rather than TxDOT.

#### PART E. REGISTRATION OF VEHICLES

SECTION 2E.01. Amends Section 502.001, Transportation Code, to redefine "department" to mean the Department of Vehicles, rather than TxDOT and to make conforming changes.

SECTION 2E.02. Amends Sections 502.053(a) and (b), Transportation Code, to redefine "department" to mean the Department of Vehicles, rather than TxDOT.

#### PART F. DEALER'S AND MANUFACTURER'S VEHICLE LICENSE PLATES

SECTION 2F.01. Amends Sections 503.001(2) and (5), Transportation Code, to redefine "commission" to mean the board of the Department of Vehicles rather than TTC and "department" to mean the Department of Vehicles, rather than TxDOT.

#### PART G. MISCELLANEOUS PROVISIONS

SECTION 2G.01. Amends Section 520.001, Transportation Code, to redefine "department" as the Department of Vehicles, rather than TxDOT.

#### PART H. OPERATION OF BICYCLES, MOPEDS, AND PLAY VEHICLES

SECTION 2H.01. Amends Section 551.302, Transportation Code, to transfer rulemaking authority relating to the registration and issuance of license plates to neighborhood electric vehicles from TxDOT to the department.

#### PART I. MOTOR VEHICLE SAFETY RESPONSIBILITY ACT

SECTION 2I.01. Amends Section 601.023, Transportation Code, to change references to TxDOT to the department.

SECTION 2I.02. Amends Section 601.451, Transportation Code, to redefine "implementing agencies."

SECTION 2I.03. Repealer: Subchapter N (Database Interface System to Verify Financial Responsibility), Chapter 601 (Motor Vehicle Safety Responsibility Act), Transportation Code, as added by Chapter 1325 (H.B. 3588), Acts of the 78th Legislature, Regular Session, 2003.

#### PART J. IDENTIFYING MARKINGS ON CERTAIN COMMERCIAL MOTOR VEHICLES

SECTION 2J.01. Amends Section 642.002(d), Transportation Code, to make a conforming change.

#### PART K. MOTOR CARRIER REGISTRATION

SECTION 2K.01. Amends Section 643.001(1), Transportation Code, to redefine "department" to mean the Department of Vehicles, rather than TxDOT.

#### PART L. SINGLE STATE REGISTRATION

SECTION 2L.01. Amends Section 645.001, Transportation Code, to authorize the department, rather than TxDOT, to the fullest extent practicable, to participate in a federal motor carrier registration program under the unified carrier registration system as defined by Section 643.001 or a single state registration system established under federal law, rather than the single state registration system established under 49 U.S.C. Section 14504.



## PART M. MOTOR TRANSPORTATION BROKERS

SECTION 2M.01. Amends Section 646.003(a), Transportation Code, to make a conforming change.

## PART N. FOREIGN COMMERCIAL MOTOR TRANSPORTATION

SECTION 2N.01. Amends Section 648.002, Transportation Code, to make a conforming change.

## PART O. ABANDONED MOTOR VEHICLES

SECTION 2O.01. Amends Section 683.001(1), Transportation Code, to redefine "department" to mean the Department of Vehicles, rather than TxDOT.

## PART P. CONTRACTS FOR ENFORCEMENT OF CERTAIN ARREST WARRANTS

SECTION 2P.01. Amends Section 702.001(1), Transportation Code, to redefine "department" to mean the Department of Vehicles rather than TxDOT.

## PART Q. PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM

SECTION 2Q.01. Amends Section 707.001(2), Transportation Code, to redefine "owner of a motor vehicle."

SECTION 2Q.02. Amends Section 707.011(b), Transportation Code, to make conforming changes.

SECTION 2Q.03. Amends Section 707.017, Transportation Code, to make a conforming change.

## PART R. SALE OR LEASE OF MOTOR VEHICLES

SECTION 2R.01. Amends Section 2301.002(9), Occupations Code, to redefine "department" as the Department of Vehicles rather than TxDOT.

SECTION 2R.02. Repealer: Section 2301.002(33) (relating to defining transportation commission), Occupations Code.

## PART S. AUTOMOBILE BURGLARY AND THEFT PREVENTION AUTHORITY

SECTION 2S.01. Amends Section 1(3), Article 4413(37), V.T.C.S., to redefine "department" to mean the Department of Vehicles rather than TxDOT.

SECTION 2S.02. Amends Section 2, Article 4413(37), V.T.C.S., to establish the Automobile Burglary and Theft Prevention Authority in the Department of Vehicles, rather than TxDOT. Provides that the authority is not an advisory body to the department, rather than to TxDOT.

## PART T. PERMITS FOR OVERSIZE AND OVERWEIGHT VEHICLES

SECTION 2T.01. Amends Section 547.304(c), Transportation Code, to provide that, except for Section 547.323 and 547.324, a provision of this chapter that requires a vehicle to be equipped with lamps, reflectors, and lighting equipment does not apply to a mobile home if the mobile home is moved under a permit issued by the department, rather than TxDOT.

SECTION 2T.02. Amends Section 621.353(a), Transportation Code, to authorize that money deposited to the credit of the state highway fund under this subsection be appropriated only to TxDOT and the department to administer this section and Sections 623.011 (Permit for Excess Axle or Gross Weight), 623.0111 (Additional Fee for Operation of Vehicle Under Permit), and 623.0112 (Additional Administrative Fee).

SECTION 2T.03. Amends Section 621.354, Transportation Code, as follows:

Sec. 621.354. DISPOSITION OF FEES FOR PERMIT FOR MOVEMENT OF CYLINDRAL HAY BALES. Requires the department, rather than TxDOT, to deposit each fee collected under Section 623.017 (Permit for Movement of Cylindrical Hay Bales) in the state treasury to the credit of the state highway fund.

SECTION 2T.04. Amends Section 623.001, Transportation Code, by amending Subdivision (1), and adding Subdivision (1-a), to define "board" and redefine "department" as the Department of Vehicles, rather than TxDOT.

SECTION 2T.05. Amends Section 623.012(b), Transportation Code, to require that the bond or letter be conditioned that the applicant will pay TxDOT, rather than the department, for any damage to a state highway, and a county for any damage to a road or bridge of the county, caused by the operation of the vehicle for which the permit is issued at a heavier weight than the maximum weights authorized by Subchapter B (Weight Limitations) of Chapter 621 (General Provisions Relating to Vehicle Size and Weight) or Section 621.301 (County's Authority to Set Maximum).

SECTION 2T.06. Amends Section 623.051, Transportation Code, as follows:

Sec. 623.051. CONTRACT ALLOWING OVERSIZE OR OVERWEIGHT VEHICLE TO CROSS ROAD; SURETY BOND. (a) Authorizes a person to operate a vehicle that cannot comply with one or more of the restrictions of Subchapter C (Size Limitations) of Chapter 621 or Section 621.101 (Maximum Weight of Vehicle or Combination) to cross the width of any road or highway under the jurisdiction of the department, rather than TxDOT, other than a controlled access highway as defined by Section 203.001 (Definitions) , from private property to other private property if the person contracts with the board, rather than TTC to indemnify TxDOT for the cost of maintenance and repair of the part of the highway crossed by the vehicle.

(b) Requires the board, rather than TTC, to adopt rules relating to the forms and procedures to be used under this section and other matters that the board considers necessary to carry out this section.

(c)-(d) Makes conforming changes.

SECTION 2T.07. Amends Section 623.052(b), Transportation Code, to make a conforming change.

SECTION 2T.08. Amends Section 623.075(a), Transportation Code, to make conforming changes.

SECTION 2T.09. Amends Sections 623.076(b) and (c), Transportation Code, as follows:

(b) Authorizes the board, rather than TTC, to adopt rules for the payment of a fee under Subsection (a). Authorizes the rules to authorize the use of a credit card issued by the board, rather than TTC.

(c) Makes a conforming change.

SECTION 2T.10. Amends Section 623.080(a), Transportation Code, to require that a permit under this subchapter, except as provided by Subsection (b), include the signature of the director of the department or a person designated by the director, rather than the division engineer.

SECTION 2T.11. Amends Section 623.126(a), Transportation Code, to require that a permit issued under this subchapter be dated and signed by the director of the department, or a person designated by the director, rather than an agent. Makes a conforming change.

SECTION 2T.12. Amends Section 623.142(a), Transportation Code, to make a conforming change.

SECTION 2T.13. Amends Sections 623.145 and 623.146, Transportation Code, as follows:

Sec. 623.145. RULES; FORMS AND PROCEDURES; FEES. (a) Requires the board, rather than TTC, by rule to provide for the issuance of permits under this subchapter. Makes a conforming change.

(b) Requires the board, rather than TTC, in adopting a rule, to consider and be guided by certain highway-related factors.

Sec. 623.146. VIOLATION OF RULE. Makes a conforming change.

SECTION 2T.14. Amends Section 623.149(b), Transportation Code, to prohibit a vehicle authorized by TxDOT, rather than the department, before August 22, 1963, to operating without registration under Chapter 502 from being required to register under that chapter.

SECTION 2T.15. Amends Section 623.192(a), Transportation Code, to make a conforming change.

SECTION 2T.16. Amends Sections 623.195 and 623.196, Transportation Code, as follows:

Sec. 623.195. RULES; FORMS AND PROCEDURES; FEES. (a) Requires the board, rather than TTC, by rule to provide for the issuance of a permit under this subchapter. Makes a conforming change.

(b) Requires the board, rather than TTC, in adopting a rule, or establish a fee to consider and be guided by certain highway-related factors.

Sec. 623.196. VIOLATION OF RULE. Makes a conforming change.

SECTION 2T.17. Amends Section 623.199(b), Transportation Code, to make a conforming change.

SECTION 2T.18. Amends Sections 623.232 and 623.239, Transportation Code, as follows:

Sec. 623.232. ISSUANCE OF PERMITS. Makes a conforming change.

Sec. 623.239. RULES. Authorizes the board, rather than TTC, to adopt rules necessary to implement this subchapter.

SECTION 2T.19. Amends Section 623.252(a), Transportation Code, to make a conforming change.

SECTION 2T.20. Amends Section 623.259, Transportation Code, as follows:

Sec. 623.259. RULES. Authorizes the board, rather than TTC, to adopt rules necessary to implement this subchapter.

SECTION 2T.21. Amends Sections 623.271(a) and (f), Transportation Code, as follows:

(a) Authorizes the department or TxDOT, as applicable, to investigate and, except as provided by Subsection (f), to impose an administrative penalty or revoke an oversize or overweight permit issued under this chapter if the person or the holder of the permit, as applicable, violates certain laws.

(f) Prohibits the department or TxDOT from imposing an administrative penalty against a person or the holder of an overweight permit if the weight of the vehicle or combination involved in the violation did not exceed the allowable weight by more than three percent.

### ARTICLE 3. CONFORMING AMENDMENTS PERTAINING TO TEXAS DEPARTMENT OF TRANSPORTATION IN OTHER CODES

#### PART A. BUSINESS AND COMMERCE CODE

SECTION 3A.01. Amends Section 51.003(b), Business and Commerce Code, as effective April 1, 2009, to replace TxDOT with the Department of Vehicles.

SECTION 3A.02. Amends Section 105.004(b), Business and Commerce Code, as effective April 1, 2009, to make a conforming change.

#### PART B. CODE OF CRIMINAL PROCEDURE

SECTION 3B.01. Amends Section 1(1), Article 42.22, Code of Criminal Procedure, to define "department" as the Department of Vehicles rather than TxDOT.

SECTION 3B.02. Amends Article 59.04(c), Code of Criminal Procedure, to make conforming changes.

#### PART C. FAMILY CODE

SECTION 3C.01. Amends Section 157.316(b), Family Code, to change references to TxDOT to the Department of Vehicles.

SECTION 3C.02. Amends Section 232.0022(a), Family Code, to make a conforming change.

SECTION 3C.03. Amends Section 232.014(b), Family Code, to make a conforming change.

SECTION 3C.04. Amends Section 264.502(b), Family Code, to make a conforming change.

#### PART D. FINANCE CODE

SECTION 3D.01. Amends Section 306.001(9), Finance Code, to change references to TxDOT to the Department of Vehicles.

SECTION 3D.02. Amends Section 348.001(10-a), Finance Code, to make a conforming change.

SECTION 3D.03. Amends Section 348.518, Finance Code, to make a conforming change.

#### PART E. GOVERNMENT CODE

SECTION 3E.01. Amends Section 411.122(d), Government Code, to change a reference to the Board of Examiners of Perfusionist to the Texas State Perfusionist Advisory Committee, and adding the Department of Vehicles to the list of agencies subject to this section.

#### PART F. HEALTH AND SAFETY CODE

SECTION 3F.01. Amends Section 382.209(e), Health and Safety Code, to change references to TxDOT to the Department of Vehicles.

SECTION 3F.02. Amends Section 382.210(f), Health and Safety Code, to make a conforming change.

SECTION 3F.03. Amends Section 461.017(a), Health and Safety Code, to change references to the executive director of the Texas Commission on Alcohol and Drug Abuse (TCADA) to the commissioner of the Department of State Health Services (DSHS); the Department of Protective

and Regulatory Services to the Department of Family and Protective Services; the Texas Commission on Alcohol and Drug Abuse to DSHS; the Texas Department of Health and the Texas Department of Human Services to the Texas Health and Human Services Commission; the Texas Department of Mental Health and Mental Retardation to the Department of Aging and Disability Services; the Texas Rehabilitation Commission to the Department of Assistive and Rehabilitative Services; and the Texas Department of Transportation to the Department of Vehicles. Makes nonsubstantive changes.

#### PART G. HUMAN RESOURCES CODE

SECTION 3G.01. Amends Section 22.041, Human Resources Code, to change references to TxDOT to the Department of Vehicles.

SECTION 3G.02. Amends Section 32.026(g), Human Resources Code, to make a conforming change.

#### PART H. LOCAL GOVERNMENT CODE

SECTION 3H.01. Amends Section 130.006, Local Government Code, to replace TxDOT with the Department of Vehicles.

SECTION 3H.02. Amends Section 130.007, Local Government Code, to make conforming changes.

SECTION 3H.03. Amends Section 130.008, Local Government Code, to make a conforming change.

SECTION 3H.04. Amends Section 130.009, Local Government Code, to make a conforming change.

#### PART I. OCCUPATIONS CODE

SECTION 3I.01. Amends Section 554.009(c), Occupations Code, to change references to TxDOT to the Department of Vehicles.

SECTION 3I.02. Amends Section 2301.002(9), Occupations Code, to redefine "department."

SECTION 3I.03. Amends Sections 2301.005(a) and (b), Occupations Code, as follows:

(a) Provides that a reference in law, including a rule, to the Texas Motor Vehicle Commission or to the board means the board of the department, rather than the director, except that a reference to the board means the TTC if it is related to the adoption of rules.

(b) Provides that a reference to law, including a rule, to the executive director of the Texas Motor Vehicle Commission means the executive director of the department.

SECTION 3I.04. Amends Sections 2302.001(2) and (3), Occupations Code, to redefine "board" and "department."

SECTION 3I.05. Amends Section 2302.0015(b), Occupations Code, to make conforming changes.

SECTION 3I.06. Amends the heading to Subchapter B, Chapter 2302, Occupations Code, to read as follows:

#### SUBCHAPTER B. BOARD POWERS AND DUTIES

SECTION 3I.07. Amends Sections 2302.051, 2302.052, and 2302.053, Occupations Code, as follows:

Sec. 2302.051. RULES AND ENFORCEMENT POWERS. Requires the board to adopt rules a necessary to administer this chapter and may take other action as necessary to enforce this chapter.

Sec. 2302.052. DUTY TO SET FEES. Makes conforming changes.

Sec. 2302.053. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) Makes a conforming change.

(b) Makes a conforming change.

SECTION 3I.08. Amends Section 2302.108(b), Occupations Code, to require the board, rather than TTC, by rule to establish the grounds for denial, suspension, revocation, or reinstatement of a license issued under this chapter and the procedures for disciplinary action.

SECTION 3I.09. Amends Section 2302.204, Occupations Code, as follows:

Sec. 2302.204. CASUAL SALES. Requires the board, rather than TTC, to adopt rules as necessary to regulate casual sales by salvage vehicle dealers, insurance companies, or salvage pool operators and to enforce this section.

SECTION 3I.10. Repealer: Section 2301.002(33) (relating to the definition of "transportation commission"), Occupations Code.

#### PART J. PENAL CODE

SECTION 3J.01. Amends Section 31.03(c), Penal Code, to replace TxDOT with the Department of Vehicles.

SECTION 3J.02. Amends Section 31.11(b), Penal Code, to provide that it is an affirmative defense to prosecution under this section that the person was acting with respect to a number assigned to a vehicle by TxDOT or the department, as applicable.

#### PART K. TAX CODE

SECTION 3K.01. Amends Section 21.02, Tax Code, to replace TxDOT with the Department of Vehicles.

SECTION 3K.02. Amends Section 22.04(d), Tax Code, to make conforming changes.

SECTION 3K.03. Amends Sections 23.121(a)(3), (11), and (14), Tax Code, to redefine "dealer," "sales price," and "towable recreational vehicle."

SECTION 3K.04. Amends Sections 23.121(f), (g), and (h), Tax Code, to make nonsubstantive and conforming changes.

SECTION 3K.05. Amends Section 23.123(c), Tax Code, to make nonsubstantive and conforming changes.

SECTION 3K.06. Amends Section 23.124(a)(11), Tax Code, to redefine "sales price."

SECTION 3K.07. Amends Section 113.011, Tax Code, as follows:

Sec. 113.011. New heading: LIENS FILED WITH THE TEXAS DEPARTMENT OF VEHICLES. Requires the comptroller to furnish to the Department of Vehicles, rather than TxDOT, each release of a tax lien filed by the comptroller with that department.

SECTION 3K.08. Amends Sections 152.0412(a) and (f), Tax Code, to make conforming changes.

SECTION 3K.09. Amends Section 152.042, Tax Code, to make a conforming change.

SECTION 3K.10. Amends Section 152.121(b), Tax Code, to make a conforming change.

SECTION 3K.11. Amends Section 162.001(52), Tax Code, to redefine "registered gross weight."

ARTICLE 4. TRANSFERS OF CERTAIN POWERS, DUTIES, OBLIGATIONS, AND RIGHTS OF ACTION

SECTION 4.01. (a) Provides that all powers, duties, obligations, and rights of action of the Motor Carrier Division, the Motor Vehicle Division, and the Vehicle Titles and Registration Division of TxDOT, and those of the Motor Carrier Division of that department that relate to the permitting of oversize and overweight vehicles, are transferred to the department. Provides that all powers, duties, obligations, and rights of action of TTC in connection or associated with the Motor Vehicle Division and the Vehicle Titles and Registration Division of TxDOT and those of the Motor Carrier Division of that department that relate to the permitting of oversize and overweight vehicles, are transferred to the board of TxDOT on November 1, 2009.

(b) Provides that in connection with the transfers required by Subsection (a) of this section, the personnel, furniture, computers, other property and equipment, files, and related materials used by the Motor Carrier Division, the Motor Vehicle Division, and the Vehicle Title and Registration Division of TxDOT or by the Motor Carrier Division of that department in connection with the permitting of oversize and overweight vehicles are transferred to the department.

(c) Requires the department to continue any proceeding involving the Motor Vehicle Division, or the Vehicle Title and Registration Division of TxDOT or of the Motor Carrier Division of that department that was brought before the effective date of this Act in accordance with the law in effect on the date the proceeding was brought, and the former law is continued in effect for that purpose.

(d) Provides that a certificate, license, document, permit, registration, or other authorization issued by the Motor Carrier Division, the Motor Vehicle Division, or the Vehicle Titles and Registration Division of TxDOT or the Motor Carrier Division of that department in connection with the permitting of oversize or overweight vehicles that is in effect on the effective date of this Act remains valid for the period for which it was issued unless suspended or revoked by the department.

(e) Provides that a rule adopted by the TTC or the director of TxDOT in connection with or relating to the Motor Carrier Division, the Motor Vehicle Division, and the Vehicle Titles and Registration Division of that department or by the Motor Carrier Division of that department in connection with the permitting of oversize or overweight vehicles continues in effect until it is amended or repealed by the board of the department or the department, as applicable.

(f) Provides that the unobligated and unexpended balance of any appropriations made to TxDOT in connection with or relating to the Motor Carrier Division, the Motor Vehicle Division, and the Vehicle Titles and Registration Division of that department or in connection with or relating to the Motor Carrier Division of that department for the permitting of oversize or overweight vehicles 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 that department under Subsection (a) of this section.

SECTION 4.02. (a) Provides that, in connection with the establishment by this Act of the Automobile Burglary and Theft Prevention Authority in the department and with the transfer by this Act of the duty to provide personnel and services to the Automobile Burglary and Theft Prevention Authority Division from TxDOT to the department, the personnel, furniture, computers, other property and equipment, files, and related materials used by the Automobile Burglary and Theft Prevention Authority are transferred to the department.

(b) Provides that the unobligated and unexpended balance of any appropriations made to TxDOT in connection with or relating to the office for the state fiscal biennium ending August 31, 2009, is transferred and reappropriated to the department for the purpose of allowing the authority to continue to exercise its powers, duties, and obligations under the auspices of that department.

SECTION 4.03. (a) Provides that, in addition to the positions of TxDOT assigned to the Vehicle Titles and Registration Division, Motor Vehicle Division, Motor Carrier Division, and Automobile Burglary and Theft Prevention Authority Division that are transferred to the department, it is estimated that 75 other full-time equivalent employee positions of TxDOT primarily support the transferred decisions and, subject to this section, those positions are also transferred to the department. Authorizes the number of positions transferred under this subsection to be modified by agreement of the two agencies in a memorandum of understanding.

(b) Prohibits the number of positions transferred under Subsection (a) of this section, if in another Act of the 81st Legislature, Regular Session, 2009, the legislature establishes a maximum number of full-time equivalent employee positions for the department, from resulting in a number of full-time equivalent employee positions of that department that exceeds the maximum.

(c) Requires the department, when filling a position described by Subsection (a) of this section, to give first consideration to an applicant who, as of September 1, 2009, was a full-time employee of TxDOT and primarily supported one or more of the transferred divisions.

#### ARTICLE 5. APPOINTMENT OF BOARD

SECTION 5.01. Requires the governor, not later than October 1, 2009, to appoint the members of the board in accordance with Subchapter B, Chapter 1001, Transportation Code, as added by this Act.

#### ARTICLE 6. MEMORANDUM OF UNDERSTANDING

SECTION 6.01. (a) Requires the board of the department and TTC by rule to adopt or revise a joint memorandum of understanding to coordinate the department's and TxDOT's information systems to allow for the sharing of information so that each department may effectively and efficiently perform the functions and duties assigned to it.

(b) Requires the department and TxDOT to implement the joint memorandum of understanding using existing personnel and resources.

(c) Provides that otherwise confidential information shared under the memorandum of understanding remains subject to the same confidentiality requirements and legal restrictions on access to the information that are imposed by law on the department that originally obtained or collected the information.

(d) Authorizes information to be shared under the memorandum of understanding without the consent of the person who is the subject of the information.

SECTION 6.02. (a) Authorizes the board of the department and TTC, in addition to the memorandum of understanding required by Section 6.01 of this article, by rule to adopt or revise one or more other joint memoranda of understanding as considered necessary or appropriate to effectuate the transfer of the powers and duties of TxDOT to the department under this Act.

(b) Provides that Subsections (b), (c), and (d) of Section 6.01 apply to a memorandum of understanding adopted or revised under Subsection (a) of this section.

#### ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. Effective date: September 1, 2009.