

By: Isett

H.B. No. 300

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the continuation and functions of the Texas Department  
3 of Transportation, including the transfer of certain functions to  
4 the Texas Department of Motor Vehicles; providing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 ARTICLE 1. ABOLITION OF TEXAS TRANSPORTATION COMMISSION

7 SECTION 1.01. Section 201.003, Transportation Code, is  
8 amended to read as follows:

9 Sec. 201.003. TITLE AND ORGANIZATIONAL CHANGES. (a) A  
10 reference in law to the State Highway Department, Texas Highway  
11 Department, or State Department of Highways and Public  
12 Transportation means the Texas Department of Transportation.

13 (b) A reference in law to the State Highway Commission, ~~[or]~~  
14 State Highway and Public Transportation Commission, or Texas  
15 Transportation Commission means the commissioner of transportation  
16 ~~[Texas Transportation Commission]~~.

17 (c) A reference in law to the State Highway Engineer, the  
18 ~~[or]~~ State Engineer-Director for Highways and Public  
19 Transportation, or ~~[means]~~ the director of the Texas Department of  
20 Transportation means the commissioner of transportation.

21 (d) ~~[A reference in law to the commissioner of~~  
22 ~~transportation means the chair of the commission.]~~

23 ~~[(e)]~~ A ~~[reference in]~~ law that authorizes the Texas  
24 Transportation Commission to authorize the director of the Texas

1 Department of Transportation to take an action shall be construed  
2 to authorize the commissioner of transportation to take that action  
3 ~~[to a member of the commission means a commissioner].~~

4 SECTION 1.02. Subchapter B, Chapter 201, Transportation  
5 Code, is amended to read as follows:

6 SUBCHAPTER B. COMMISSIONER OF [TEXAS] TRANSPORTATION [~~COMMISSION~~]

7 Sec. 201.051. COMMISSIONER [~~COMMISSION~~]. (a) The  
8 commissioner is appointed by the governor with the advice and  
9 consent of the senate for a term of two years that expires February  
10 1 of each odd-numbered year. [~~Texas Transportation Commission~~  
11 ~~consists of five members appointed by the governor with the advice~~  
12 ~~and consent of the senate.~~]

13 (b) To be eligible for appointment as commissioner, or  
14 appointment to fill a vacancy in the office of commissioner, a  
15 person:

16 (1) must:

17 (A) be experienced and skilled in transportation  
18 planning, development, financing, construction, and maintenance;  
19 or

20 (B) have appropriate finance or management  
21 experience; and

22 (2) may not have served as a member of the legislature  
23 of this state during the preceding 10 years. [~~The members shall be~~  
24 ~~appointed to reflect the diverse geographic regions and population~~  
25 ~~groups of this state. One member must reside in a rural area.]~~

26 (c) A [~~Each member of the commission must represent the~~  
27 ~~general public.~~]

1           ~~[(d) Except as provided by Subsection (e), a]~~ person is not  
2 eligible for appointment as commissioner ~~[a member of the~~  
3 ~~commission]~~ if the person or the person's spouse:

4           (1) is employed by or participates in the management  
5 of a business entity or other organization that is regulated by or  
6 receives funds from the department;

7           (2) directly or indirectly owns or controls more than  
8 10 percent interest in a business entity or other organization that  
9 is regulated by or receives funds from the department;

10           (3) uses or receives a substantial amount of tangible  
11 goods, services, or funds from the department, other than  
12 compensation or reimbursement authorized by law for ~~[commission~~  
13 ~~membership, attendance, or]~~ expenses; or

14           (4) is registered, certified, or licensed by the  
15 department.

16           (d) ~~[(f)]~~ An officer, employee, or paid consultant of a  
17 Texas trade association in the field of road construction or  
18 maintenance, aviation, or outdoor advertising or a Texas trade  
19 association of automobile dealers is not eligible for appointment  
20 as commissioner ~~[may not be a member of the commission]~~.

21           (e) ~~[(g)]~~ The spouse of an officer, manager, or paid  
22 consultant of a Texas trade association in the field of road  
23 construction or maintenance, aviation, or outdoor advertising or a  
24 Texas association of automobile dealers is not eligible for  
25 appointment as commissioner ~~[may not be a member of the~~  
26 ~~commission]~~.

27           (f) ~~[(h)]~~ A person required to register as a lobbyist under

1 Chapter 305, Government Code, because of the person's activities  
2 for compensation on behalf of a profession related to the operation  
3 of the department is not eligible for appointment as commissioner  
4 ~~[may not serve as a member of the commission]~~.

5 (g) The appointment of the commissioner ~~[(i) Appointments~~  
6 ~~to the commission]~~ shall be made without regard to race, color,  
7 disability, sex, religion, age, or national origin of the appointee  
8 ~~[appointees and shall reflect the diversity of the population of~~  
9 ~~the state as a whole]~~.

10 (h) [(j)] In this section, "Texas trade association" means a  
11 ~~[nonprofit,]~~ cooperative~~[,]~~ and voluntarily joined statewide  
12 association of business or professional competitors in this state  
13 designed to assist its members and its industry or profession in  
14 dealing with mutual business or professional problems and in  
15 promoting their common interest.

16 (i) The commissioner is a successor to the Texas  
17 Transportation Commission for all purposes, including for the  
18 purposes of Sections 49-k, 49-l, 49-m, 49-n, and 49-o, Article III,  
19 Texas Constitution.

20 Sec. 201.052. CERTAIN DUTIES. ~~[TERMS. Members of the~~  
21 ~~commission serve staggered six-year terms, with the terms of either~~  
22 ~~one or two members expiring February 1 of each odd-numbered year.~~

23 ~~[Sec. 201.053. CHAIR OF THE COMMISSION. (a) The governor~~  
24 ~~periodically shall designate one commissioner as the chair of the~~  
25 ~~commission, who shall serve as presiding officer of the commission.~~

26 ~~[(b)]~~ The commissioner ~~[chair]~~ shall:

27 (1) ~~[preside over commission meetings, make rulings on~~

1 ~~motions and points of order, and determine the order of business,~~  
2           ~~[(2)]~~ represent the department in dealing with the  
3 governor;  
4           (2) ~~[(3)]~~ report to the governor on the state of  
5 affairs of the department at least quarterly;  
6           (3) ~~[(4)]~~ ~~report to the commission the governor's~~  
7 ~~suggestions for department operations,~~  
8           ~~[(5)]~~ report to the governor on efforts, including  
9 legislative requirements, to maximize the efficiency of department  
10 operations through the use of private enterprise;  
11           (4) ~~[(6)]~~ periodically review the department's  
12 organizational structure and submit recommendations for structural  
13 changes to the governor~~[, the commission,]~~ and the Legislative  
14 Budget Board;  
15           (5) ~~[(7)]~~ designate one or more employees of the  
16 department as a civil rights division of the department and receive  
17 regular reports from the division on the department's efforts to  
18 comply with civil rights legislation and administrative rules;  
19           (6) ~~[(8)]~~ ~~create subcommittees, appoint commissioners~~  
20 ~~to subcommittees, and receive the reports of subcommittees to the~~  
21 ~~commission as a whole,~~  
22           ~~[(9)]~~ appoint a deputy commissioner to act in the  
23 commissioner's ~~[chair's]~~ absence; and  
24           (7) ~~[(10)]~~ serve as the departmental liaison with the  
25 governor and the Office of State-Federal Relations to maximize  
26 federal funding for transportation.

27           ~~[Sec. 201.054. COMMISSION MEETINGS. The commission shall~~

1 ~~hold regular meetings at least once a month and special meetings at~~  
2 ~~the call of the chair. Commissioners shall attend the meetings of~~  
3 ~~the commission. The chair shall oversee the preparation of an~~  
4 ~~agenda for each meeting and ensure that a copy is provided to each~~  
5 ~~commissioner at least seven days before the meeting.~~

6 ~~[Sec. 201.0545. RECOMMENDATIONS TO LEGISLATURE. (a) The~~  
7 ~~commission shall consider ways in which the department's operations~~  
8 ~~may be improved and may periodically report to the legislature~~  
9 ~~concerning potential statutory changes that would improve the~~  
10 ~~operation of the department.~~

11 ~~[(b) On behalf of the commission, the chair shall report to~~  
12 ~~the governor, the lieutenant governor, the speaker of the house of~~  
13 ~~representatives, and the presiding officers of relevant~~  
14 ~~legislative committees on legislative recommendations adopted by~~  
15 ~~the commission and relating to the operation of the department.]~~

16 Sec. 201.053 [~~201.056~~]. COMPENSATION. The commissioner [~~A~~  
17 ~~member of the commission]~~ is entitled to compensation as provided  
18 by the General Appropriations Act. [~~If compensation for members is~~  
19 ~~not provided by that Act, each member is entitled to reimbursement~~  
20 ~~for actual and necessary expenses incurred in performing functions~~  
21 ~~as a member of the commission.]~~

22 Sec. 201.054 [~~201.057~~]. GROUNDS FOR REMOVAL. (a) It is a  
23 ground for removal [~~from the commission]~~ if the [~~a~~] commissioner:

24 (1) does not have at the time of taking office  
25 [~~appointment]~~ or maintain during service as commissioner [~~on the~~  
26 ~~commission]~~ the qualifications required by Section 201.051;

27 (2) violates a prohibition provided by Section 201.051

1 or 201.401; or

2 (3) cannot discharge the commissioner's duties for a  
3 substantial part of the term for which the commissioner is  
4 appointed because of illness or disability~~;~~ ~~or~~

5 [~~(4) is absent from more than half of the regularly~~  
6 ~~scheduled commission meetings that the commissioner is eligible to~~  
7 ~~attend during a calendar year, unless the absence is excused by~~  
8 ~~majority vote of the commission].~~

9 (b) The validity of an action of the commissioner or  
10 department [~~commission~~] is not affected by the fact that it is taken  
11 when a ground for removal of the [~~a~~] commissioner exists.

12 [~~(c) If the director knows that a potential ground for~~  
13 ~~removal exists, the director shall notify the chair of the~~  
14 ~~commission of the ground, and the chair shall notify the governor~~  
15 ~~and the attorney general that a potential ground for removal~~  
16 ~~exists. If the potential ground for removal relates to the chair,~~  
17 ~~the director shall notify another commissioner, who shall notify~~  
18 ~~the governor and the attorney general that a potential ground for~~  
19 ~~removal exists.]~~

20 Sec. 201.055 [~~201.058~~]. INFORMATION ON QUALIFICATIONS AND  
21 CONDUCT. The department shall provide to the commissioner [~~members~~  
22 ~~of the commission~~], as often as necessary, information concerning  
23 the commissioner's [~~members'~~] qualifications for office and the  
24 commissioner's [~~under Subchapter B and their~~] responsibilities  
25 under applicable laws relating to standards of conduct for state  
26 officers.

27 Sec. 201.056 [~~201.059~~]. TRAINING ON DEPARTMENT AND CERTAIN

1 LAWS RELATING TO DEPARTMENT. (a) To be eligible to take office as  
2 commissioner [~~a member of the commission~~], a person appointed as  
3 commissioner [~~to the commission~~] must complete at least one course  
4 of a training program that complies with this section.

5 (b) The training program must provide information to the  
6 person regarding:

- 7 (1) this subchapter;
- 8 (2) the programs operated by the department;
- 9 (3) the role and functions of the department;
- 10 (4) the rules of the department, with an emphasis on  
11 the rules that relate to disciplinary and investigatory authority;
- 12 (5) the current budget for the department;
- 13 (6) the results of the most recent formal audit of the  
14 department;
- 15 (7) the requirements of the:
  - 16 (A) open meetings law, Chapter 551, Government  
17 Code;
  - 18 (B) open records law, Chapter 552, Government  
19 Code; and
  - 20 (C) administrative procedure law, Chapter 2001,  
21 Government Code;
- 22 (8) the requirements of the conflict of interest laws  
23 and other laws relating to public officials; and
- 24 (9) any applicable ethics policies adopted by the  
25 department [~~commission~~] or the Texas Ethics Commission.

26 [~~(c) A person appointed to the commission is entitled to~~  
27 ~~reimbursement for travel expenses incurred in attending the~~



1 ~~training program, as provided by the General Appropriations Act and~~  
2 ~~as if the person were a member of the commission.]~~

3 SECTION 1.03. The heading to Subchapter C, Chapter 201,  
4 Transportation Code, is amended to read as follows:

5 SUBCHAPTER C. COMMISSIONER'S ~~[COMMISSION'S]~~ POWERS AND DUTIES

6 SECTION 1.04. Sections 201.101, 201.102, and 201.103,  
7 Transportation Code, are amended to read as follows:

8 Sec. 201.101. RULES; RECORDS. The commissioner  
9 ~~[commission]~~ shall:

- 10 (1) adopt rules for the operation of the department;
- 11 (2) maintain a record of all proceedings and official  
12 orders; and
- 13 (3) keep on file copies of all road plans,  
14 specifications, and estimates prepared by the department or under  
15 its direction.

16 Sec. 201.102. SEPARATION OF RESPONSIBILITIES. The  
17 commissioner ~~[commission]~~ shall develop and implement policies  
18 that clearly define ~~[separate]~~ the respective ~~[policy-making]~~  
19 responsibilities of the commissioner ~~[commission]~~ and the  
20 ~~[management responsibilities of the director and]~~ staff of the  
21 department.

22 Sec. 201.103. COMPREHENSIVE SYSTEM OF HIGHWAYS AND ROADS.  
23 (a) The commissioner ~~[commission]~~ shall plan and make policies for  
24 the location, construction, and maintenance of a comprehensive  
25 system of state highways and public roads.

26 (b) The commissioner ~~[commission]~~ shall designate as part  
27 of the state highway system a highway that the commissioner ~~[it]~~

1 determines is necessary for the proper development and operation of  
2 the system. The commissioner [~~commission~~] may remove a segment of  
3 the state highway system that the commissioner [~~it~~] determines is  
4 not needed for the system. In planning and making policies, the  
5 commissioner [~~commission~~] shall consider, for incorporation into  
6 the state highway system, turnpikes that other governmental or  
7 private entities are authorized to construct.

8 (c) The commissioner [~~commission~~] biennially shall submit a  
9 report of the commissioner's [~~its~~] work to the governor and the  
10 legislature. The report must include the recommendations of the  
11 commissioner [~~commission and of the director~~].

12 (d) The commissioner [~~director, under the direction and~~  
13 ~~with the approval of the commission,~~] shall prepare a comprehensive  
14 plan providing a system of state highways.

15 SECTION 1.05. Sections 201.104(a) and (b), Transportation  
16 Code, are amended to read as follows:

17 (a) The commissioner [~~commission~~] may designate any county  
18 road as a farm-to-market road for the purposes of construction,  
19 reconstruction, and maintenance only, if the commissioners court of  
20 the county in which the county road is located by order entered in  
21 its minutes waives any rights the county may have for state  
22 participation in any indebtedness incurred by the county in the  
23 construction of the road.

24 (b) The commissioner [~~commission~~] and the county  
25 commissioners court by contract may set forth the duties of the  
26 state in the construction, reconstruction, and maintenance of the  
27 county road in consideration for the county's, road district's, or

1 defined road district's relinquishing all claims for state  
2 participation in any outstanding county or road district bond,  
3 warrant, or other evidence of indebtedness that is for the  
4 construction or improvement of the road and that was created before  
5 the road was designated by the commissioner [~~commission~~].

6 SECTION 1.06. Sections 201.105(a), (b), (d), (e), and (g),  
7 Transportation Code, are amended to read as follows:

8 (a) The commissioner [~~commission~~] shall divide the state  
9 into not more than 25 districts for the purpose of the performance  
10 of the department's duties.

11 (b) In determining a district's boundaries, the  
12 commissioner [~~commission~~] shall consider all costs and benefits,  
13 including highway activity in and the number of employees required  
14 for the proposed district.

15 (d) The commissioner [~~commission~~] shall determine the  
16 number of department offices necessary for maintenance and  
17 construction personnel in a district.

18 (e) The commissioner [~~commission~~] periodically shall review  
19 the necessity for the number of maintenance, construction, and  
20 support operations in each district. The commissioner [~~commission~~]  
21 shall include the findings of the commissioner's [~~its~~] review as a  
22 part of the department's budget request submitted to the  
23 Legislative Budget Board.

24 (g) The commissioner [~~commission~~] may require by rule that  
25 any product or material that is approved for use in any one district  
26 may be approved for use by any other district.

27 SECTION 1.07. Sections 201.1055(c) and (d), Transportation

1 Code, are amended to read as follows:

2 (c) Notwithstanding Section 202.024, the commissioner  
3 [~~commission~~] may [~~authorize the executive director to~~] execute a  
4 deed exchanging department-owned real property under Subsection  
5 (a)(2).

6 (d) The commissioner [~~commission~~] shall notify the Bond  
7 Review Board and Texas Public Finance Authority of the proposed  
8 transaction not less than 45 days before the date the commissioner  
9 [~~commission~~] signs an agreement under this section providing for  
10 the exchange of department-owned real property under Subsection  
11 (a)(2).

12 SECTION 1.08. Sections 201.107, 201.108, 201.109, 201.110,  
13 and 201.111, Transportation Code, are amended to read as follows:

14 Sec. 201.107. FINANCIAL REPORTS OF THE DEPARTMENT. (a) The  
15 commissioner [~~commission~~] shall prepare a quarterly statement  
16 containing an itemized list of all money received by the department  
17 and the source of the money and of all money paid by the department  
18 and the purpose of the payment. The statement shall be filed in the  
19 records of the department, and a copy shall be sent to the governor.

20 (b) The commissioner [~~commission~~] shall file annually with  
21 the governor and the presiding officer of each house of the  
22 legislature a complete and detailed written report accounting for  
23 all funds received and disbursed by the department during the  
24 preceding fiscal year. The report must comply with each reporting  
25 requirement applicable to financial reporting provided by the  
26 General Appropriations Act.

27 Sec. 201.108. INTERNAL AUDITOR. (a) The commissioner

1 [~~commission~~] shall appoint an internal auditor for the department.

2 (b) The auditor shall report directly to the commissioner  
3 [~~commission~~] on the conduct of department affairs.

4 Sec. 201.109. REVENUE ENHANCEMENT. (a) The commissioner  
5 [~~commission~~] shall:

6 (1) enhance existing sources of revenue; and

7 (2) create alternate sources of revenue.

8 (b) In carrying out this section, the commissioner  
9 [~~commission~~] shall provide for:

10 (1) maximizing the generation of revenue from existing  
11 assets of the department, including real estate;

12 (2) increasing the role of the private sector and  
13 public-private projects in the leasing of real estate and other  
14 assets in the development of highway projects;

15 (3) setting and attempting to meet annual revenue  
16 enhancement goals;

17 (4) reporting on the progress in meeting revenue  
18 enhancement goals in the department's annual report;

19 (5) contracting for an independent audit of the  
20 department's management and business operations in 2007 and each  
21 12th year after 2007;

22 (6) developing a cost-benefit analysis between the use  
23 of local materials previously incorporated into roadways versus use  
24 of materials blended or transported from other sources; and

25 (7) increasing private investment in the  
26 transportation infrastructure, including the acquisition of  
27 causeways, bridges, tunnels, turnpikes, or other transportation

1 facilities, in the border region, including the counties of  
2 Atascosa, Bandera, Bexar, Brewster, Brooks, Cameron, Crockett,  
3 Culberson, Dimmit, Duval, Edwards, El Paso, Frio, Hidalgo,  
4 Hudspeth, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kerr, Kimble,  
5 Kinney, Kleberg, La Salle, Live Oak, Maverick, McMullen, Medina,  
6 Nueces, Pecos, Presidio, Real, Reeves, San Patricio, Starr, Sutton,  
7 Terrell, Uvalde, Val Verde, Webb, Willacy, Zapata, and Zavala.

8       Sec. 201.110. CONTRACT WITH ADJOINING STATE FOR IMPROVEMENT  
9 OF ROAD CROSSING STATES' BOUNDARY. (a) The commissioner  
10 [~~commission~~], by the authority of the governor, may contract with  
11 an adjoining state to:

12               (1) provide for the improvement of a public road or  
13 highway that crosses the states' boundary; and

14               (2) establish respective responsibilities for the  
15 improvement.

16       (b) In a contract for an improvement of the state highway  
17 system that is subject to a contract under Subsection (a), the  
18 commissioner [~~commission~~] may provide for the improvement of a  
19 segment of a public road or highway located in the adjoining state  
20 if:

21               (1) the improvement of that segment is necessary for  
22 the health, safety, and welfare of the people of this state and for  
23 the effective improvement and operation of the state highway  
24 system;

25               (2) that segment is an extension or continuation of a  
26 segment of the state highway system;

27               (3) the contract under Subsection (a) is authorized

1 and executed under the law of the adjoining state; and

2 (4) all costs associated with the improvement of that  
3 segment are the responsibility of the adjoining state.

4 (c) In this section, "improvement" includes construction,  
5 reconstruction, and maintenance.

6 Sec. 201.111. RECOMMENDATION OF ENGINEER; DETERMINATION OF  
7 FITNESS. (a) On formal application by a county, road district of a  
8 county, or municipality, the commissioner [~~commission~~] may  
9 recommend for appointment a competent civil engineer who is a  
10 graduate of a first-class school of civil engineering and who is  
11 skilled in highway construction and maintenance.

12 (b) The commissioner [~~commission~~] shall adopt rules  
13 necessary to determine the qualifications of engineers who apply  
14 for highway construction work.

15 SECTION 1.09. Section 201.112(a), Transportation Code, is  
16 amended to read as follows:

17 (a) The commissioner [~~commission~~] may by rule establish  
18 procedures for the informal resolution of a claim arising out of a  
19 contract described by:

- 20 (1) Section 22.018;
- 21 (2) Chapter 223;
- 22 (3) Chapter 361;
- 23 (4) Section 391.091; or
- 24 (5) Chapter 2254, Government Code.

25 SECTION 1.10. Section 201.113(a), Transportation Code, is  
26 amended to read as follows:

27 (a) Notwithstanding Sections 221.003 and 224.031, the

1 commissioner [~~commission~~] and a regional tollway authority  
2 governed by Chapter 366 may enter into an agreement for the  
3 improvement by a regional tollway authority of portions of the  
4 state highway system.

5 SECTION 1.11. Sections 201.114(b), (c), and (d),  
6 Transportation Code, are amended to read as follows:

7 (b) The coordinator shall serve on the Border Trade Advisory  
8 Committee as presiding officer. The commissioner [~~commission~~]  
9 shall appoint the other members of the committee, which to the  
10 extent practicable must include:

11 (1) the presiding officers, or persons designated by  
12 the presiding officers, of the policy boards of metropolitan  
13 planning organizations wholly or partly in the department's Pharr,  
14 Laredo, Odessa, or El Paso transportation district;

15 (2) the person serving, or a person designated by the  
16 person serving, in the capacity of executive director of each  
17 entity governing a port of entry in this state; and

18 (3) a representative each from at least two institutes  
19 or centers operated by a university in this state that conduct  
20 continuing research on transportation or trade issues.

21 (c) The commissioner [~~commission~~] shall establish the  
22 Border Trade Advisory Committee to define and develop a strategy  
23 and make recommendations to the commissioner [~~commission~~] and  
24 governor for addressing the highest priority border trade  
25 transportation challenges. In determining action to be taken on  
26 the recommendations, the commissioner [~~commission~~] shall consider  
27 the importance of trade with the United Mexican States, potential



1 sources of infrastructure funding at border ports, and the value of  
2 trade activity in the department's districts adjacent to the border  
3 with the United Mexican States.

4 (d) The commissioner [~~commission~~] may adopt rules governing  
5 the Border Trade Advisory Committee.

6 SECTION 1.12. Sections 201.115(a) and (b), Transportation  
7 Code, are amended to read as follows:

8 (a) The commissioner [~~commission~~] may authorize the  
9 department to borrow money from any source to carry out the  
10 functions of the department.

11 (b) A loan under this section may be in the form of an  
12 agreement, note, contract, or other form as determined by the  
13 commissioner [~~commission~~] and may contain any provisions the  
14 commissioner [~~commission~~] considers appropriate, except:

15 (1) the term of the loan may not exceed two years;

16 (2) the amount of the loan, combined with any amounts  
17 outstanding on other loans under this section, may not exceed an  
18 amount that is two times the average monthly revenue deposited to  
19 the state highway fund for the 12 months preceding the month of the  
20 loan; and

21 (3) the loan may not create general obligation of the  
22 state and is payable only as authorized by legislative  
23 appropriation.

24 SECTION 1.13. Sections 201.116(b) and (d), Transportation  
25 Code, are amended to read as follows:

26 (b) To assist the secretary of state in preparing the report  
27 required under Section 405.021, Government Code, the commissioner

1 ~~[commission]~~ on a quarterly basis shall provide a report to the  
2 secretary of state detailing any projects funded by the department  
3 that serve colonias by providing paved roads or other assistance.

4 (d) The commissioner ~~[commission]~~ shall require an  
5 applicant for funds administered by the commissioner ~~[commission]~~  
6 to submit to the commissioner ~~[commission]~~ a colonia classification  
7 number, if one exists, for each colonia that may be served by the  
8 project proposed in the application. If a colonia does not have a  
9 classification number, the commissioner ~~[commission]~~ may contact  
10 the secretary of state or the secretary of state's representative  
11 to obtain the classification number. On request of the  
12 commissioner ~~[commission]~~, the secretary of state or the secretary  
13 of state's representative shall assign a classification number to  
14 the colonia.

15 SECTION 1.14. Sections 201.201 and 201.202, Transportation  
16 Code, are amended to read as follows:

17 Sec. 201.201. GOVERNANCE OF DEPARTMENT. The commissioner  
18 ~~[commission]~~ governs the Texas Department of Transportation.

19 Sec. 201.202. DIVISIONS; DIVISION PERSONNEL. (a) The  
20 commissioner ~~[commission]~~ shall organize the department into  
21 divisions to accomplish the department's functions and the duties  
22 assigned to it, including divisions for:

- 23 (1) aviation;
- 24 (2) highways and roads;
- 25 (3) public transportation; and
- 26 (4) rail transportation ~~[motor vehicle titles and~~  
27 ~~registration]~~.

1 (b) The person designated by the commissioner [~~director~~] to  
2 supervise the division responsible for highways and roads must be a  
3 registered professional engineer experienced and skilled in  
4 highway construction and maintenance.

5 (c) A [~~In appointing a~~] person designated by the  
6 commissioner as the department's chief financial officer must  
7 report directly to the commissioner [~~to supervise a function~~  
8 ~~previously performed by the former State Department of Highways and~~  
9 ~~Public Transportation, Texas Department of Aviation, or Texas~~  
10 ~~Turnpike Authority, preference shall be given to a person employed~~  
11 ~~in a similar position in that former agency)].~~

12 SECTION 1.15. Section 201.204, Transportation Code, is  
13 amended to read as follows:

14 Sec. 201.204. SUNSET PROVISION. The Texas Department of  
15 Transportation is subject to Chapter 325, Government Code (Texas  
16 Sunset Act). Unless continued in existence as provided by that  
17 chapter, the department is abolished September 1, 2013 [~~2009~~].

18 SECTION 1.16. Subchapter D, Chapter 201, Transportation  
19 Code, is amended by adding Sections 201.210, 201.211, 201.212, and  
20 201.213 to read as follows:

21 Sec. 201.210. COMPLIANCE CERTIFICATION. (a) Not later  
22 than September 1 of each year, the commissioner and the  
23 department's chief financial officer shall each certify in writing  
24 that the commissioner or the officer, as applicable:

25 (1) is responsible for establishing and maintaining  
26 the department's internal controls;

27 (2) has evaluated the effectiveness of the

1 department's internal controls;

2 (3) has presented conclusions about the effectiveness  
3 of the department's internal controls and applicable reporting  
4 requirements; and

5 (4) has effectively complied with all applicable  
6 legislative mandates.

7 (b) The commissioner and the department's chief financial  
8 officer shall submit the certifications required by Subsection (a)  
9 to the governor, the lieutenant governor, the speaker of the house  
10 of representatives, the chair of the standing committee of each  
11 house of the legislature with primary jurisdiction over  
12 transportation matters, and the Transportation Legislative  
13 Oversight Committee created under Chapter 205.

14 (c) The Transportation Legislative Oversight Committee  
15 shall recommend to the 82nd Legislature appropriate penalties for  
16 failure to submit the certifications required by Subsection (a).

17 Sec. 201.211. LEGISLATIVE LOBBYING. (a) In addition to  
18 Section 556.006, Government Code, the commissioner or a department  
19 employee may not use money under the department's control or engage  
20 in an activity to influence the passage or defeat of legislation.

21 (b) Violation of Subsection (a) is grounds for dismissal of  
22 an employee.

23 (c) This section does not prohibit the commissioner or  
24 department employee from using state resources to:

25 (1) provide public information or information  
26 responsive to a request; or

27 (2) communicate with officers and employees of the

1 federal government in pursuit of federal appropriations.

2 Sec. 201.212. ETHICS AFFIRMATION AND HOTLINE. (a) A  
3 department employee shall annually affirm the employee's adherence  
4 to the ethics policy adopted under Section 572.051(c), Government  
5 Code.

6 (b) The department shall establish and operate a telephone  
7 line to be known as the Ethics Hotline that enables a person to call  
8 the hotline number, anonymously or not anonymously, to report an  
9 alleged violation of the ethics policy adopted under Section  
10 572.051(c), Government Code.

11 Sec. 201.213. LEGISLATIVE APPROPRIATIONS REQUEST.  
12 Department staff shall deliver the department's legislative  
13 appropriations request to the commissioner in an open meeting not  
14 later than the 30th day before the commissioner adopts the  
15 legislative appropriations request for submission to the  
16 Legislative Budget Board.

17 SECTION 1.17. Subchapter E, Chapter 201, Transportation  
18 Code, is amended to read as follows:

19 SUBCHAPTER E. STATE ROAD MAP; UNIVERSITY LABORATORIES [~~DIRECTOR~~]

20 Sec. 201.301. [~~EXECUTIVE DIRECTOR.~~ (a) ~~The commission~~  
21 ~~shall elect an executive director for the department. The director~~  
22 ~~must be a registered professional engineer in this state and~~  
23 ~~experienced and skilled in transportation planning, development,~~  
24 ~~construction, and maintenance.~~

25 [~~(b) The director serves at the will of the commission.~~]

26 [~~(d) The director shall:~~]

27 [~~(1) serve the commission in an advisory capacity,~~]

1 ~~without vote, and~~

2 ~~[(2) submit to the commission, quarterly, annually,~~  
3 ~~and biennially, detailed reports of the progress of public road~~  
4 ~~construction, detailed reports of public and mass transportation~~  
5 ~~development, and detailed statements of expenditures.]~~

6 ~~[(c) The director is entitled to actual expenses for and~~  
7 ~~related to travel away from Austin in performance of the director's~~  
8 ~~duties under the direction of the commission.]~~

9 ~~[Sec. 201.302.]~~ STATE ROAD MAP. The commissioner  
10 ~~[director]~~ shall make, regularly revise, and keep in a form  
11 convenient for examination in the office of the department a  
12 complete road map of the state that shows road construction in the  
13 counties.

14 Sec. 201.302 ~~[201.303]~~. USE OF UNIVERSITY LABORATORIES FOR  
15 ANALYZING MATERIALS. The commissioner ~~[director]~~ may use  
16 laboratories maintained at Texas A&M University and The University  
17 of Texas to test and analyze road and bridge material. Persons in  
18 charge of the laboratories shall cooperate with and assist the  
19 commissioner ~~[director]~~ with those tests and analyses.

20 SECTION 1.18. Section 201.404(b), Transportation Code, is  
21 amended to read as follows:

22 (b) The commissioner ~~[director]~~ or the commissioner's  
23 ~~[director's]~~ designee shall develop a system of annual performance  
24 evaluations that are based on documented employee performance. All  
25 merit pay for department employees must be based on the system  
26 established under this subsection. If an annual performance  
27 evaluation indicates that an employee's performance is

1 unsatisfactory, the commissioner shall consider whether the  
2 employee should be terminated. The annual performance evaluations  
3 developed under this subsection must include the evaluation of an  
4 employee's:

- 5           (1) professionalism;  
6           (2) diligence; and  
7           (3) responsiveness to directives and requests from the  
8 commissioner and the legislature.

9           SECTION 1.19. (a) Subtitle A, Title 6, Transportation  
10 Code, is amended by adding Chapter 205 to read as follows:

11           CHAPTER 205. TRANSPORTATION LEGISLATIVE OVERSIGHT COMMITTEE

12           Sec. 205.001. DEFINITION. In this chapter, "committee"  
13 means the Transportation Legislative Oversight Committee.

14           Sec. 205.002. ESTABLISHMENT; COMPOSITION. (a) The  
15 Transportation Legislative Oversight Committee is established to  
16 provide objective research, analysis, and recommendations on the  
17 operation and needs of the state transportation system.

18           (b) The committee is composed of six members as follows:

19           (1) the chair of the Senate Committee on  
20 Transportation and Homeland Security;

21           (2) the chair of the House Committee on  
22 Transportation;

23           (3) two members of the senate appointed by the  
24 lieutenant governor; and

25           (4) two members of the house of representatives  
26 appointed by the speaker of the house of representatives.

27           (c) An appointed member of the committee serves at the

1 pleasure of the appointing official.

2 Sec. 205.003. PRESIDING OFFICER; TERM. (a) The lieutenant  
3 governor and the speaker of the house of representatives shall  
4 appoint the presiding officer of the committee on an alternating  
5 basis.

6 (b) The presiding officer of the committee serves a two-year  
7 term that expires February 1 of each odd-numbered year.

8 Sec. 205.004. POWERS AND DUTIES. (a) The committee shall:

9 (1) monitor the department's planning, programming,  
10 and funding of the state transportation system;

11 (2) conduct an in-depth analysis of the state  
12 transportation system that includes:

13 (A) an assessment of the cost-effectiveness of  
14 the use of state, local, and private funds in the transportation  
15 system;

16 (B) an identification of critical problems in the  
17 transportation system, such as funding constraints; and

18 (C) a determination of the long-range needs of  
19 the transportation system;

20 (3) recommend to the legislature:

21 (A) strategies to solve the problems identified  
22 under Subdivision (2)(B); and

23 (B) policy priorities to address the long-range  
24 needs determined under Subdivision (2)(C); and

25 (4) advise and assist the legislature in developing  
26 plans, programs, and proposed legislation to improve the  
27 effectiveness of the state transportation system.



1       (b) The committee has all other powers and duties provided  
2 to a special committee by:

3           (1) Subchapter B, Chapter 301, Government Code;

4           (2) the rules of the senate and the house of  
5 representatives; and

6           (3) policies of the senate and house committees on  
7 administration.

8       Sec. 205.005. REVIEW OF RESEARCH PROGRAM. (a) The  
9 department shall present the department's entire research program  
10 to the committee for review and comment before adopting or  
11 implementing the program.

12       (b) The committee shall review and comment on the  
13 department's research program, including each of the individual  
14 research projects and activities. The review of a proposed  
15 research project must take into consideration the purpose of the  
16 project, the proposed start and ending dates for the project, and  
17 the cost of the project.

18       (c) The department shall provide to the committee quarterly  
19 updates and an annual summary on the progress of the department's  
20 research projects and activities.

21       (d) The committee may request the results of any of the  
22 department's research projects, including draft reports from the  
23 department or the contracted entities performing the research.

24       (e) A university transportation research program in this  
25 state may:

26           (1) perform transportation research projects  
27 requested by the committee; and

1           (2) initiate and propose transportation research  
2 projects to the committee.

3           (f) The committee may request assistance from a university  
4 transportation research program in this state in conducting  
5 transportation research and in reviewing, evaluating, and  
6 comparing elements of the state transportation system to the  
7 transportation systems in other states to set needed benchmarks.

8           Sec. 205.006. CONTRACT WITH CONSULTING FIRM. (a) The  
9 committee may contract with an outside management consulting firm  
10 that is independent of the department to make recommendations  
11 regarding an effective and efficient organizational structure for  
12 the department, such as recommending appropriate performance  
13 measurements and staffing levels for each major function of the  
14 department including comparisons to best practices, after review  
15 and analysis under Section 205.007.

16           (b) In performing its functions, the consulting firm shall  
17 coordinate with the Legislative Budget Board, the State Auditor's  
18 Office, and the department to minimize the duplication of efforts  
19 and to perform cost effectively and in a timely manner.

20           (c) The committee shall:

21           (1) oversee the implementation of the recommendations  
22 under this section with the goal of making the department more  
23 efficient, transparent, and accountable, including through  
24 reducing staff and streamlining processes; and

25           (2) assess the department's progress in implementing  
26 the recommendations under this section and report on the progress  
27 to the Senate Finance Committee and House Appropriations Committee

1 for consideration in establishing the department's budget as part  
2 of the appropriations process.

3 Sec. 205.007. FUNCTIONS OF CONSULTING FIRM. The primary  
4 functions of a management consulting firm the committee contracts  
5 with under Section 205.006 include:

6 (1) evaluating the department's financial condition  
7 and business practices;

8 (2) evaluating the department's administrative  
9 practices and performance, including statewide transportation  
10 planning, the department's relationship with metropolitan planning  
11 organizations, as defined by Section 472.031, the performance of  
12 the department's district and central offices, and the need for  
13 standardization of the department's operations across the state;

14 (3) evaluating the current guidelines of metropolitan  
15 planning organizations and all other transportation entities  
16 within the state involved with project delivery or transportation  
17 policy by identifying duplicative practices and providing  
18 recommendations for better efficiency and transparency;

19 (4) identifying ways to streamline all processes and  
20 procedures of policy implementations of the department, including  
21 the environmental process;

22 (5) examining and evaluating the use and benefits of  
23 performance-based maintenance contracting by the department;

24 (6) examining and presenting recommendations on how to  
25 maximize the department's use of multimodal solutions;

26 (7) analyzing the department's compliance with  
27 applicable laws and legislative intent;

1           (8) examining the efficient use of the department's  
2 available funding, personnel, equipment, and office space;

3           (9) evaluating the establishment in statute of a state  
4 pavement quality goal of having 85 percent of state roads in good or  
5 better condition; and

6           (10) considering significantly expanding the use of  
7 the private sector for planning, design, and delivery of projects  
8 and a commitment to excellence in project and program management.

9           Sec. 205.008. MEETINGS. The committee shall meet at the  
10 call of the presiding officer.

11           Sec. 205.009. STAFF; AUTHORITY TO CONTRACT. The committee  
12 may hire staff or may contract with universities or other suitable  
13 entities to assist the committee in carrying out the committee's  
14 duties. Funding to support the operation of the committee shall be  
15 provided from funds appropriated to the department.

16           Sec. 205.010. REPORT. Not later than January 1 of each  
17 odd-numbered year, the committee shall submit to the legislature a  
18 report that contains the recommendations described by Section  
19 205.004(a)(3).

20           (b) The speaker of the house of representatives and the  
21 lieutenant governor shall appoint members to the Transportation  
22 Legislative Oversight Committee under Chapter 205, Transportation  
23 Code, as added by this section, not later than January 1, 2010.

24           (c) Notwithstanding Section 205.003, Transportation Code,  
25 as added by this section, the lieutenant governor, not later than  
26 January 15, 2010, shall appoint a presiding officer for the  
27 Transportation Legislative Oversight Committee. The presiding

1 officer appointed by the lieutenant governor under this section  
2 serves a one-year term that begins on February 1, 2010, and ends on  
3 February 1, 2011.

4 (d) On the effective date of this Act:

5 (1) all employees of the Texas Department of  
6 Transportation who primarily perform duties related to the  
7 department's government and public affairs research section become  
8 employees of the Transportation Legislative Oversight Committee  
9 under Chapter 205, Transportation Code, as added by this section;  
10 and

11 (2) all funds appropriated by the legislature to the  
12 Texas Department of Transportation for purposes related to the  
13 department's government and public affairs research section are  
14 transferred to the Transportation Legislative Oversight Committee  
15 under Chapter 205, Transportation Code, as added by this section.

16 SECTION 1.20. (a) The first commissioner of transportation  
17 appointed under the changes in law made by this article shall be  
18 appointed to serve for a term that begins January 1, 2011.

19 (b) Until the first commissioner of transportation  
20 appointed under this Act takes office, the members of the Texas  
21 Transportation Commission and the executive director of the Texas  
22 Department of Transportation serving on the effective date of this  
23 Act shall, unless otherwise removed as provided by law, continue in  
24 office under the prior law that governed the composition of the  
25 Texas Transportation Commission, and that prior law is continued in  
26 effect for that purpose. At the time the first commissioner of  
27 transportation that is appointed under this Act takes office, the

1 Texas Transportation Commission is abolished.

2 (c) The commissioner of transportation succeeds to all  
3 powers, duties, rights, and obligations of the Texas Transportation  
4 Commission, and the abolition of the Texas Transportation  
5 Commission does not affect the validity of any right, duty,  
6 decision, rule, or action of any kind taken by or under the  
7 authority of the commission.

8 ARTICLE 2. TRANSPORTATION PLANNING AND PROJECT DEVELOPMENT PROCESS

9 SECTION 2.01. Section 201.601, Transportation Code, is  
10 amended to read as follows:

11 Sec. 201.601. STATEWIDE TRANSPORTATION PLAN. (a) The  
12 department shall develop a statewide transportation plan covering a  
13 period of 20 years that contains all modes of transportation,  
14 including:

- 15 (1) highways and turnpikes;
- 16 (2) aviation;
- 17 (3) mass transportation;
- 18 (4) railroads and high-speed railroads; and
- 19 (5) water traffic.

20 (a-1) The plan must:

21 (1) contain specific, long-term transportation goals  
22 for the state and measurable targets for each goal;

23 (2) identify priority corridors, projects, or areas of  
24 the state that are of particular concern to the department in  
25 meeting the goals established under Subdivision (1); and

26 (3) contain a participation plan specifying methods  
27 for obtaining formal input on the goals and priorities identified

1 under this subsection from:

2 (A) other state agencies;

3 (B) political subdivisions;

4 (C) local planning organizations; and

5 (D) the general public.

6 (b) [~~In developing the plan, the department shall seek~~  
7 ~~opinions and assistance from other state agencies and political~~  
8 ~~subdivisions that have responsibility for the modes of~~  
9 ~~transportation listed by Subsection (a).~~] As appropriate, the  
10 department and the entities listed in Subsection (a-1)(3) [~~such an~~  
11 ~~agency or political subdivision~~] shall enter into a memorandum of  
12 understanding relating to the planning of transportation services.

13 (c) The plan must include a component that is not  
14 financially constrained and identifies transportation improvements  
15 designed to relieve congestion. In developing this component of  
16 the plan, the department shall seek opinions and assistance from  
17 officials who have local responsibility for modes of transportation  
18 listed in Subsection (a).

19 (d) [~~The plan shall include a component, published~~  
20 ~~annually, that describes the evaluation of transportation~~  
21 ~~improvements based on performance measures, such as indices~~  
22 ~~measuring delay reductions or travel time improvements.~~] The  
23 department shall consider the goals and measurable targets  
24 established under Subsection (a-1)(1) [~~the performance measures~~]  
25 in selecting transportation projects [~~improvements~~].

26 (e) The department annually shall provide to the lieutenant  
27 governor, the speaker of the house of representatives, and the

1 chair of the standing committee of each house of the legislature  
2 with primary jurisdiction over transportation issues an analysis of  
3 the department's progress in attaining the goals under Subsection  
4 (a-1)(1). The department shall make the information under this  
5 subsection available on its Internet website.

6 (f) The department shall update the plan every five years.

7 SECTION 2.02. Subchapter H, Chapter 201, Transportation  
8 Code, is amended by adding Sections 201.6015 and 201.621 to read as  
9 follows:

10 Sec. 201.6015. INTEGRATION OF PLANS AND POLICY EFFORTS. In  
11 developing each of its transportation plans and policy efforts, the  
12 department must clearly reference the 20-year plan under Section  
13 201.601 and specify how the plan or policy effort supports or  
14 otherwise relates to the specific goals under that section.

15 Sec. 201.621. COORDINATION WITH METROPOLITAN PLANNING  
16 ORGANIZATIONS TO DEVELOP LONG-TERM PLANNING ASSUMPTIONS. The  
17 department shall collaborate with metropolitan planning  
18 organizations to develop mutually acceptable assumptions for the  
19 purposes of long-range federal and state funding forecasts and use  
20 those assumptions to guide long-term planning in the statewide  
21 transportation plan under Section 201.601.

22 SECTION 2.03. Subchapter D, Chapter 472, Transportation  
23 Code, is amended by adding Section 472.035 to read as follows:

24 Sec. 472.035. COORDINATION WITH METROPOLITAN PLANNING  
25 ORGANIZATIONS TO DEVELOP LONG-TERM PLANNING ASSUMPTIONS. Each  
26 metropolitan planning organization shall work with the department  
27 to develop mutually acceptable assumptions for the purposes of



1 long-range federal and state funding forecasts and use those  
2 assumptions to guide long-term planning in the organization's  
3 long-range transportation plan.

4 SECTION 2.04. (a) Subchapter J, Chapter 201,  
5 Transportation Code, is amended by adding Sections 201.807,  
6 201.808, 201.809, and 201.810 to read as follows:

7 Sec. 201.807. PROJECT INFORMATION REPORTING SYSTEM. (a)  
8 The department shall establish a project information reporting  
9 system that makes available in a central location on the  
10 department's Internet website easily accessible and searchable  
11 information regarding all of the department's transportation  
12 plans, including the unified transportation program required by  
13 Section 201.992. The project information reporting system shall  
14 contain information about:

- 15 (1) each department project, including:  
16 (A) the status of the project;  
17 (B) each source of funding for the project;  
18 (C) benchmarks for evaluating the progress of the  
19 project;  
20 (D) timelines for completing the project;  
21 (E) a list of the department employees  
22 responsible for the project, including information to contact each  
23 person on that list; and  
24 (F) the results of the annual review required  
25 under Subsection (d);

26 (2) each construction work zone for a project that has  
27 a construction phase timeline that exceeds one month or the cost of

1 which exceeds \$5 million, including information about:

2 (A) the number of lanes that will remain open  
3 during the project's construction phase;

4 (B) the location and duration of each lane  
5 closure; and

6 (C) the expected and actual traffic delay  
7 resulting from each lane closure;

8 (3) road maintenance projects, including:

9 (A) the criteria for designating a project as a  
10 road maintenance project; and

11 (B) the condition of each road before the road  
12 maintenance project; and

13 (4) the department's funds, including each source for  
14 the department's funds and each expenditure made by the department  
15 reported by each:

16 (A) department district;

17 (B) program funding category as required by  
18 Section 201.992(b)(2); and

19 (C) type of revenue, including revenue from a  
20 comprehensive development agreement or a toll project.

21 (b) In developing the project information reporting system,  
22 the department shall collaborate with:

23 (1) the legislature;

24 (2) local transportation entities as defined by  
25 Section 201.991; and

26 (3) members of the public.

27 (c) The department shall make the statistical information

1 provided under this section available on the department's Internet  
2 website in more than one downloadable electronic format.

3 (d) As a component of the project information reporting  
4 system required by this section, the department shall conduct an  
5 annual review of the benchmarks and timelines of each project  
6 included in the department's transportation plans, including the  
7 unified transportation program, to determine the completion rates  
8 of the projects and whether the projects were completed on time.

9 (e) The department shall continuously update the  
10 information contained in the project information reporting system.

11 Sec. 201.808. TRANSPORTATION EXPENDITURE PRIORITIES. (a)  
12 The department shall develop a process to identify and distinguish  
13 between the transportation projects that are required to maintain  
14 the state infrastructure and the transportation projects that would  
15 improve the state infrastructure in a manner consistent with the  
16 statewide transportation plan required by Section 201.601.

17 (b) The department shall establish a transportation  
18 expenditure reporting system that makes available in a central  
19 location on the department's Internet website easily accessible and  
20 searchable information regarding the priorities of transportation  
21 expenditures for the identified transportation projects.

22 (c) The department shall include in the transportation  
23 expenditure reporting system:

24 (1) a list of the most significant transportation  
25 problems in each department district as described by the statewide  
26 transportation plan developed under Section 201.601, including the  
27 component required by Section 201.601(c);

1           (2) the evaluation of the effectiveness of  
2 expenditures by the department required by Section 201.601(d);

3           (3) reports prepared by the department or an  
4 institution of higher education that evaluate the effectiveness of  
5 the department's expenditures on transportation projects to  
6 achieve the transportation goal;

7           (4) information about the condition of the pavement  
8 for each highway under the jurisdiction of the department,  
9 including:

10           (A) the international roughness index issued by  
11 the United States Department of Transportation Federal Highway  
12 Administration; and

13           (B) the percentage of pavement that the  
14 department determines to be in good or better condition;

15           (5) the condition of bridges, including information  
16 about:

17           (A) bridges that are structurally deficient or  
18 functionally obsolete; and

19           (B) bridge deterioration scores;

20           (6) information about traffic congestion and traffic  
21 delays, including:

22           (A) the locations of the worst traffic delays;

23           (B) the variable travel time for major streets  
24 and highways in this state; and

25           (C) the effect of traffic congestion on motor  
26 vehicle travel and motor carriers; and

27           (7) information about traffic accidents, injuries,

1 and fatalities, including a list of the locations in each  
2 department district for the highest number of traffic accidents,  
3 injuries, or fatalities.

4 (d) The department shall provide the information made  
5 available under Subsection (c) in a format that allows a person to  
6 conduct electronic searches for information regarding a specific  
7 county, highway under the jurisdiction of the department, or class  
8 of road.

9 (e) The department shall establish criteria to prioritize  
10 the transportation needs for the state that is consistent with the  
11 statewide transportation plan.

12 (f) Each department district shall enter information into  
13 the transportation expenditure reporting system, including  
14 information about:

- 15 (1) each district transportation project; and  
16 (2) the priority category to which the project has  
17 been assigned according to Section 201.996.

18 (g) The transportation expenditure reporting system shall  
19 allow a person to compare information produced by that system to  
20 information produced by the project information reporting system.

21 Sec. 201.809. STATEWIDE TRANSPORTATION REPORT. (a) The  
22 department annually shall evaluate and publish a report about the  
23 status of each transportation goal for this state. The report must  
24 include:

- 25 (1) information about the progress of each long-term  
26 transportation goal that is identified by the statewide  
27 transportation plan;

1           (2) the status of each project identified as a major  
2 priority;

3           (3) a summary of the number of statewide project  
4 implementation benchmarks that have been completed; and

5           (4) information about the accuracy of previous  
6 department financial forecasts.

7           (b) The department shall disaggregate the information in  
8 the report by legislative district and by department district.

9           (c) The department shall provide a copy of the legislative  
10 district report to each member of the legislature, and at the  
11 request of a member, a department employee shall meet with the  
12 member to explain the report.

13           (d) The department shall provide a copy of each district  
14 report to the political subdivisions located in the department  
15 district that is the subject of the report, including:

16                   (1) a municipality;

17                   (2) a county; and

18                   (3) a local transportation entity as defined by  
19 Section 201.991.

20           Sec. 201.810. DEPARTMENT INFORMATION CONSOLIDATION. (a)  
21 To the extent practicable and to avoid duplication of reporting  
22 requirements, the department may combine the reports required under  
23 this subchapter with reports required under other provisions of  
24 this code.

25           (b) The department shall develop a central location on the  
26 department's Internet website that provides easily accessible and  
27 searchable information to the public contained in the reports

1 required under this subchapter and other provisions of this code.

2 (b) Not later than September 1, 2009, the Texas Department  
3 of Transportation shall establish the central location on the  
4 department's Internet website required by Section 201.810,  
5 Transportation Code, as added by this section.

6 SECTION 2.05. Chapter 201, Transportation Code, is amended  
7 by adding Subchapter P to read as follows:

8 SUBCHAPTER P. UNIFIED TRANSPORTATION PROGRAM

9 Sec. 201.991. DEFINITION. In this subchapter, "local  
10 transportation entity" means any entity that participates in the  
11 transportation planning process. The term includes a metropolitan  
12 planning organization as defined by Section 472.031, a regional  
13 tollway authority organized under Chapter 366, a regional  
14 transportation authority operating under Chapter 452, and a rural  
15 transit district as defined by Section 458.001.

16 Sec. 201.992. UNIFIED TRANSPORTATION PROGRAM. (a) The  
17 department shall develop a unified transportation program covering  
18 a period of 11 years to guide the development of and authorize  
19 construction of transportation projects. The program must:

- 20 (1) annually identify target funding levels; and  
21 (2) list all projects that the department intends to  
22 develop or begin construction of during the program period.

23 (b) The department shall adopt rules that:

- 24 (1) specify the criteria for selecting projects to be  
25 included in the program;

- 26 (2) define program funding categories, including  
27 categories for safety, maintenance, and mobility; and

1           (3) define each phase of a major transportation  
2 project, including the planning, programming, implementation, and  
3 construction phases.

4           (c) The department shall publish the entire unified  
5 transportation program and summary documents highlighting project  
6 benchmarks, priorities, and forecasts in appropriate media and on  
7 the department's Internet website in a format that is easily  
8 understandable by the public.

9           (d) In developing the rules required by this section, the  
10 department shall collaborate with local transportation entities.

11           Sec. 201.993. ANNUAL UPDATE TO UNIFIED TRANSPORTATION  
12 PROGRAM. (a) The department shall annually update the unified  
13 transportation program.

14           (b) The annual update must include:

15                   (1) the annual funding forecast required by Section  
16 201.994;

17                   (2) the list of major transportation projects required  
18 by Section 201.995(b); and

19                   (3) the projects included in each program priority  
20 category established by Section 201.996.

21           (c) The department shall collaborate with local  
22 transportation entities to develop the annual update to the unified  
23 transportation program.

24           Sec. 201.994. ANNUAL FUNDING AND CASH FLOW FORECASTS. (a)  
25 The department annually shall:

26                   (1) develop and publish a forecast of all funds the  
27 department expects to receive, including funds from this state and



1 the federal government; and

2 (2) use that forecast to guide planning for the  
3 unified transportation program.

4 (b) The department shall collaborate with local  
5 transportation entities to develop scenarios for the forecast  
6 required by Subsection (a) based on mutually acceptable funding  
7 assumptions.

8 (c) Not later than January 31 of each odd-numbered year, the  
9 department shall prepare and publish a cash flow forecast for a  
10 period of 10 years.

11 Sec. 201.995. MAJOR TRANSPORTATION PROJECTS. (a) The  
12 department shall by rule:

13 (1) establish criteria for designating a project as a  
14 major transportation project;

15 (2) develop benchmarks for evaluating the progress of  
16 a major transportation project and timelines for implementation and  
17 construction of a major transportation project; and

18 (3) determine which critical benchmarks must be met  
19 before a major transportation project may enter the implementation  
20 phase of the unified transportation program.

21 (b) The department annually shall update the list of  
22 projects that are designated as major transportation projects.

23 (c) In adopting rules required by this section, the  
24 department shall collaborate with local transportation entities.

25 Sec. 201.996. PROGRAM PRIORITY CATEGORIES. (a) The  
26 department by rule shall establish categories in the unified  
27 transportation program to designate the priority of each project

1 included in the program and shall assign each project a category.

2 (b) The department shall collaborate with local  
3 transportation entities when assigning each project included in the  
4 unified transportation program to a category established under  
5 Subsection (a).

6 (c) The highest priority category within the unified  
7 transportation program must consist of projects designated as major  
8 transportation projects.

9 Sec. 201.997. FUNDING ALLOCATION. (a) The department by  
10 rule shall establish formulas for allocating funds in each category  
11 described by Section 201.992(b)(2).

12 (b) The department shall update the formulas established  
13 under this section at least every five years.

14 Sec. 201.998. FUND DISTRIBUTION. (a) The department shall  
15 allocate funds to the department districts based on the formulas  
16 adopted under Section 201.997.

17 (b) In distributing funds to department districts, the  
18 department may not exceed the cash flow forecast prepared and  
19 published under Section 201.994(c).

20 Sec. 201.999. WORK PROGRAM. (a) Each department district  
21 shall develop a consistently formatted work program based on the  
22 unified transportation program covering a period of four years that  
23 contains all projects that the district proposes to implement  
24 during that period.

25 (b) The work program must contain:

26 (1) information regarding the progress of projects  
27 designated as major transportation projects, according to project

1 implementation benchmarks and timelines established under Section  
2 201.995; and

3 (2) a summary of the progress on other district  
4 projects.

5 (c) The department shall use the work program to:

6 (1) monitor the performance of the district; and

7 (2) evaluate the performance of district employees.

8 (d) The department shall publish the work program in  
9 appropriate media and on the department's Internet website.

10 SECTION 2.06. Chapter 472, Transportation Code, is amended  
11 by adding Subchapter E to read as follows:

12 SUBCHAPTER E. RURAL PLANNING ORGANIZATIONS

13 Sec. 472.051. DEFINITION. In this subchapter, "rural  
14 planning organization" means an organization created under this  
15 subchapter for the purpose of transportation planning in a rural  
16 area of this state.

17 Sec. 472.052. CREATION. To the extent practicable through  
18 the use of existing resources, the department shall facilitate the  
19 creation of rural planning organizations in cooperation with  
20 councils of governments, municipal and county governments, and  
21 other local transportation entities. The structure and membership  
22 of a rural planning organization may vary according to the  
23 transportation and other governmental needs of the area served by  
24 the organization.

25 Sec. 472.053. TRANSPORTATION PLANNING. A rural planning  
26 organization may:

27 (1) establish transportation priorities and approve

1 transportation projects in the boundaries of the area served by the  
2 organization;

3 (2) select projects for inclusion in the statewide  
4 transportation improvement program; and

5 (3) provide input to the department on projects  
6 involving the connectivity of the state highway system.

7 Sec. 472.054. REALIGNMENT OF DEPARTMENT DISTRICTS IN RURAL  
8 AREAS. In facilitating the creation of rural planning  
9 organizations under this subchapter, the department shall consider  
10 whether changing its districts' boundaries to align more closely  
11 with those of existing councils of governments would better  
12 facilitate rural transportation planning.

13 Sec. 472.055. DEPARTMENT PARTICIPATION. The department  
14 shall:

15 (1) provide funds and personnel to assist rural  
16 planning organizations with rural transportation planning; and

17 (2) work with rural planning organizations to identify  
18 available sources of funding for rural transportation planning,  
19 which may include federal funds or transportation development  
20 credits.

21 ARTICLE 3. PUBLIC INVOLVEMENT AND COMPLAINTS

22 SECTION 3.01. (a) Section 201.801, Transportation Code, is  
23 amended to read as follows:

24 Sec. 201.801. [~~INFORMATION ABOUT DEPARTMENT,~~] COMPLAINTS.

25 (a) The department shall maintain a system to promptly and  
26 efficiently act on complaints filed with the department. The  
27 department shall maintain information about the parties to and the

1 subject matter of a complaint and a summary of the results of the  
2 review or investigation of the complaint and the disposition of the  
3 complaint.

4 (b) The department shall make information available  
5 describing its procedures for complaint investigation and  
6 resolution [~~prepare information of public interest describing the~~  
7 ~~functions of the department and the department's procedures by~~  
8 ~~which a complaint is filed with the department and resolved by the~~  
9 ~~department. The department shall make the information available to~~  
10 ~~the public and appropriate state agencies].~~

11 [~~(b) The commission by rule shall establish methods by which~~  
12 ~~consumers and service recipients are notified of the department's~~  
13 ~~name, mailing address, and telephone number for directing~~  
14 ~~complaints to the department. The commission may provide for that~~  
15 ~~notification:~~

16 [~~(1) on each registration form, application, or~~  
17 ~~written contract for services of an individual or entity regulated~~  
18 ~~by the department,~~

19 [~~(2) on a sign prominently displayed in the place of~~  
20 ~~business of each individual or entity regulated by the department,~~  
21 ~~or~~

22 [~~(3) in a bill for service provided by an individual or~~  
23 ~~entity regulated by the department.]~~

24 (c) [~~The department shall:~~

25 [~~(1) keep an information file about each written~~  
26 ~~complaint filed with the department that the department has the~~  
27 ~~authority to resolve, and~~

1           ~~[(2) provide the person who filed the complaint, and~~  
2 ~~each person or entity that is the subject of the complaint,~~  
3 ~~information about the department's policies and procedures~~  
4 ~~relating to complaint investigation and resolution.~~

5           ~~[(d)] The department[, at least quarterly and until final~~  
6 ~~disposition of a written complaint that is filed with the~~  
7 ~~department and that the department has the authority to resolve,]~~  
8 shall periodically notify the parties to the complaint of its  
9 status until final disposition ~~[unless the notice would jeopardize~~  
10 ~~an undercover investigation].~~

11           (d) The commission shall adopt rules applicable to each  
12 division and district to establish a process to act on complaints  
13 filed with the department ~~[(e) With regard to each complaint filed~~  
14 ~~with the department, the department shall keep the following~~  
15 ~~information:~~

16           ~~[(1) the date the complaint is filed,~~  
17           ~~[(2) the name of the person filing the complaint,~~  
18           ~~[(3) the subject matter of the complaint,~~  
19           ~~[(4) a record of each person contacted in relation to~~  
20 ~~the complaint,~~

21           ~~[(5) a summary of the results of the review or~~  
22 ~~investigation of the complaint, and~~

23           ~~[(6) if the department takes no action on the~~  
24 ~~complaint, an explanation of the reasons that no action was taken].~~

25           (e) The department shall develop a standard form for  
26 submitting a complaint and make the form available on its Internet  
27 website. The department shall establish a method to submit

1 complaints electronically.

2 (f) The department shall develop a method for analyzing the  
3 sources and types of complaints and violations and establish  
4 categories for the complaints and violations. The department shall  
5 use the analysis to focus its information and education efforts on  
6 specific problem areas identified through the analysis.

7 (g) The department shall:

8 (1) compile:

9 (A) detailed statistics and analyze trends on  
10 complaint information, including:

11 (i) the nature of the complaints;

12 (ii) their disposition; and

13 (iii) the length of time to resolve  
14 complaints; and

15 (B) complaint information on a district and a  
16 divisional basis; and

17 (2) report the information on a monthly basis to the  
18 division directors and district engineers and on a quarterly basis  
19 to the commissioner.

20 (b) The Texas Department of Transportation shall adopt  
21 rules under Section 201.801, Transportation Code, as amended by  
22 this section not later than March 1, 2010.

23 SECTION 3.02. Subchapter J, Chapter 201, Transportation  
24 Code, is amended by adding Section 201.811 to read as follows:

25 Sec. 201.811. PUBLIC INVOLVEMENT POLICY. (a) The  
26 department shall develop and implement a policy for public  
27 involvement that guides and encourages public involvement with the

1 department. The policy must:

2 (1) provide for the use of public involvement  
3 techniques that target different groups and individuals;

4 (2) encourage continuous contact between the  
5 department and persons outside the department throughout the  
6 transportation decision-making process;

7 (3) require the department to make efforts toward:

8 (A) clearly tying public involvement to  
9 decisions made by the department; and

10 (B) providing clear information to the public  
11 about specific outcomes of public input; and

12 (4) apply to all public input with the department,  
13 including input:

14 (A) on statewide transportation policy-making;

15 (B) in connection with the environmental process  
16 relating to specific projects; and

17 (C) into the department's rulemaking procedures.

18 (b) The department shall document the ratio of positive  
19 public input to negative public input regarding all environmental  
20 impact statements as expressed by the public through the  
21 department's public involvement process. The department shall:

22 (1) present this information to the commissioner in an  
23 open meeting; and

24 (2) report this information on the department's  
25 Internet website in a timely manner.

26 ARTICLE 4. CONTRACTING FUNCTIONS

27 SECTION 4.01. Section 223.002, Transportation Code, is



1 amended to read as follows:

2           Sec. 223.002. NOTICE OF BIDS [BY PUBLICATION]. [~~(a)~~] The  
3 department shall give [publish] notice to interested persons  
4 regarding [of] the time and place at which bids on a contract will  
5 be opened and the contract awarded. The department by rule shall  
6 determine the most effective method for providing the notice  
7 required by this section.

8           ~~[(b) The notice must be published in a newspaper published~~  
9 ~~in the county in which the improvement is to be made once a week for~~  
10 ~~at least two weeks before the time set for awarding the contract and~~  
11 ~~in two other newspapers that the department may designate.~~

12           ~~[(c) Instead of the notice required by Subsection (b), if~~  
13 ~~the department estimates that the contract involves an amount less~~  
14 ~~than \$300,000, notice may be published in two successive issues of a~~  
15 ~~newspaper published in the county in which the improvement is to be~~  
16 ~~made.~~

17           ~~[(d) If a newspaper is not published in the county in which~~  
18 ~~the improvement is to be made, notice shall be published in a~~  
19 ~~newspaper published in the county:~~

20                   ~~[(1) nearest the county seat of the county in which the~~  
21 ~~improvement is to be made, and~~

22                   ~~[(2) in which a newspaper is published.]~~

23           SECTION 4.02. Subchapter A, Chapter 223, Transportation  
24 Code, is amended by adding Section 223.017 to read as follows:

25           Sec. 223.017. DESIGN-BUILD CONTRACTS FOR NONTOLLED HIGHWAY  
26 PROJECTS. (a) In this section, "design-build contract" means an  
27 agreement with a private entity for the design and construction,

1 rehabilitation, expansion, or improvement of a highway project but  
2 does not include the financing or operation of the highway.

3 (b) The department may enter into a design-build contract  
4 for a nontolled highway project.

5 (c) Notwithstanding Section 223.0041, if the department  
6 enters into a design-build contract under this section, the  
7 department shall use a competitive procurement process that  
8 provides the best value for the department.

9 (d) The department shall adopt rules specifying the  
10 conditions under which a design-build contract may be considered.  
11 In developing rules the department must address:

- 12 (1) the size and complexity of an eligible project;  
13 (2) the time constraints for delivery of an eligible  
14 project;  
15 (3) the level and training of the staff required to  
16 manage an eligible project; and  
17 (4) other factors the department considers important.

18 SECTION 4.03. (a) Subchapter E, Chapter 223,  
19 Transportation Code, is amended by adding Section 223.211 to read  
20 as follows:

21 Sec. 223.211. APPROVAL AND CERTIFICATION. A comprehensive  
22 development agreement, including a facility agreement under a  
23 comprehensive development agreement, under which a private entity  
24 will operate a toll project or be entitled to receive revenue from  
25 the project must be:

- 26 (1) reviewed by the attorney general for legal  
27 sufficiency under Section 371.051, as added by Chapter 264 (S.B.

1 792), Acts of the 80th Legislature, Regular Session, 2007, and  
2 signed by the attorney general, if approved;

3 (2) reviewed by the comptroller for financial  
4 viability and signed and certified by the comptroller if approved;  
5 and

6 (3) signed by the commissioner.

7 (b) The change in law made by Section 223.211,  
8 Transportation Code, as added by this section, applies only to a  
9 comprehensive development agreement entered into on or after the  
10 effective date of this Act.

11 ARTICLE 5. REGULATION OF MOTOR VEHICLE DEALERS, SALVAGE VEHICLE  
12 DEALERS, AND HOUSEHOLD GOODS CARRIERS

13 SECTION 5.01. (a) Section 643.153, Transportation Code, is  
14 amended by amending Subsection (b) and adding Subsections (c), (h),  
15 and (i) to read as follows:

16 (b) The department may adopt rules necessary to ensure that  
17 a customer of a motor carrier transporting household goods is  
18 protected from deceptive or unfair practices and unreasonably  
19 hazardous activities. The rules must:

20 (1) establish a formal process for resolving a dispute  
21 over a fee or damage;

22 (2) require a motor carrier to indicate clearly to a  
23 customer whether an estimate is binding or nonbinding and disclose  
24 the maximum price a customer could be required to pay;

25 (3) create a centralized process for making complaints  
26 about a motor carrier that also allows a customer to inquire about a  
27 carrier's complaint record; ~~and~~

1           (4) require a motor carrier transporting household  
2 goods to list a place of business with a street address in this  
3 state and the carrier's registration number issued under this  
4 article in any print advertising published in this state; and

5           (5) require a motor carrier transporting household  
6 goods to inform the department whether the motor carrier has  
7 requested criminal history record information on its employees  
8 under Chapter 145, Civil Practice and Remedies Code.

9           (c) The department shall make available to the public on the  
10 department's Internet website the information received under  
11 Subsection (b)(5) to allow members of the public to make an informed  
12 choice when selecting a motor carrier to transport household goods.  
13 For the purposes of this subsection, the department may require a  
14 motor carrier transporting household goods that requests criminal  
15 history record information on its employees to submit to the  
16 department, at the time of the original motor carrier registration  
17 and at the renewal of the registration, documentation that the  
18 criminal history record information:

19                   (1) has been requested and obtained;

20                   (2) is regularly updated; and

21                   (3) is used to exclude from employment persons who  
22 have committed a serious criminal offense.

23           (h) Subject to Subsection (i), the department may order a  
24 motor carrier that transports household goods to pay a refund to a  
25 customer as provided in an agreement resulting from an informal  
26 settlement instead of or in addition to imposing an administrative  
27 penalty under this chapter.

1        (i) The amount of a refund ordered as provided in an  
2 agreement resulting from an informal settlement may not exceed the  
3 amount the customer paid to the motor carrier for a service or the  
4 amount the customer paid for an item damaged by the motor carrier,  
5 without requiring an estimation of the actual cost of the damage.  
6 The department may not require payment of other damages or estimate  
7 harm in a refund order.

8        (b) The change in law made by Sections 643.153(h) and (i),  
9 Transportation Code, as added by this section, applies only to an  
10 agreement to transport household goods entered into on or after the  
11 effective date of this Act. An agreement to transport household  
12 goods entered into before the effective date of this Act is governed  
13 by the law in effect immediately before that date, and that law is  
14 continued in effect for that purpose.

15        SECTION 5.02. (a) Section 643.251, Transportation Code, is  
16 amended by amending Subsection (b) and adding Subsection (b-1) to  
17 read as follows:

18        (b) Except as provided by this section, the amount of an  
19 administrative penalty may not exceed \$5,000. If it is found that  
20 the motor carrier knowingly committed the violation, the penalty  
21 may not exceed \$15,000. Except as provided by Subsection (b-1), if  
22 ~~if~~ it is found that the motor carrier knowingly committed  
23 multiple violations, the aggregate penalty for the multiple  
24 violations may not exceed \$30,000. Each day a violation continues  
25 or occurs is a separate violation for purposes of imposing a  
26 penalty.

27        (b-1) The limit on the aggregate penalty for multiple

1 violations in Subsection (b) does not apply to a motor carrier  
2 transporting household goods.

3 (b) The change in law made by this section to Section  
4 643.251, Transportation Code, applies only to a violation committed  
5 by a motor carrier on or after the effective date of this Act. For  
6 purposes of this subsection, a violation was committed before the  
7 effective date of this Act if any element of the violation was  
8 committed before that date. A violation committed by a motor  
9 carrier before the effective date of this Act is covered by the law  
10 in effect on the date the violation was committed, and the former  
11 law is continued in effect for that purpose.

12 SECTION 5.03. Subchapter F, Chapter 643, Transportation  
13 Code, is amended by adding Sections 643.256 and 643.257 to read as  
14 follows:

15 Sec. 643.256. SUMMARY SUSPENSION. (a) The department may  
16 summarily suspend the registration of a motor carrier registered  
17 under this chapter if the motor carrier's failure to comply with  
18 this chapter or a rule adopted under this chapter is determined by  
19 the department to constitute a continuing and imminent threat to  
20 the public safety and welfare.

21 (b) To initiate a proceeding to take action under Subsection  
22 (a), the department must serve notice on the motor carrier. The  
23 notice must:

24 (1) state the grounds for summary suspension;  
25 (2) be personally served on the motor carrier or sent  
26 to the motor carrier by certified or registered mail, return  
27 receipt requested, to the motor carrier's mailing address as it

1 appears in the department's records; and

2 (3) inform the motor carrier of the right to a hearing  
3 on the suspension.

4 (c) The suspension is effective on the date that notice is  
5 personally served or received by mail. The motor carrier is  
6 entitled to appeal the suspension in the manner provided by Section  
7 643.2525 for the appeal of an order of the director.

8 Sec. 643.257. EMERGENCY CEASE AND DESIST ORDER. (a) If it  
9 appears to the director that a motor carrier who is not registered  
10 to transport household goods for compensation under Section 643.051  
11 is violating this chapter, a rule adopted under this chapter, or  
12 another state statute or rule relating to the transportation of  
13 household goods and the director determines that the unauthorized  
14 activity constitutes a clear, imminent, or continuing threat to the  
15 public health and safety, the director may:

16 (1) issue an emergency cease and desist order  
17 prohibiting the motor carrier from engaging in the activity; and

18 (2) report the activity to a local law enforcement  
19 agency or the attorney general for prosecution.

20 (b) An order issued under Subsection (a) must:

21 (1) be delivered on issuance to the motor carrier  
22 affected by the order by personal delivery or registered or  
23 certified mail, return receipt requested, to the motor carrier's  
24 last known address;

25 (2) state the acts or practices alleged to be an  
26 unauthorized activity and require the motor carrier immediately to  
27 cease and desist from the unauthorized activity; and

1           (3) contain a notice that a request for hearing may be  
2 filed under this section.

3           (c) A motor carrier against whom an emergency cease and  
4 desist order is directed may request a hearing before the 11th day  
5 after the date it is served on the motor carrier. If the motor  
6 carrier does not request a hearing in that time, the order is final  
7 and nonappealable as to that motor carrier. A request for a  
8 hearing must:

9           (1) be in writing and directed to the director; and  
10           (2) state the grounds for the request to set aside or  
11 modify the order.

12           (d) On receiving a request for a hearing, the director shall  
13 serve notice of the time and place of the hearing by personal  
14 delivery or registered or certified mail, return receipt  
15 requested. The hearing must be held not later than the 10th day  
16 after the date the director receives the request for a hearing  
17 unless the parties agree to a later hearing date. A hearing under  
18 this subsection is subject to Chapter 2001, Government Code.

19           (e) After the hearing, the director shall affirm, modify, or  
20 set aside wholly or partly the emergency cease and desist order. An  
21 order affirming or modifying the emergency cease and desist order  
22 is immediately final for purposes of enforcement and appeal.

23           (f) An order under this section continues in effect unless  
24 the order is stayed by the director. The director may impose any  
25 condition before granting a stay of the order.

26           (g) The director may release to the public a final cease and  
27 desist order issued under this section or information regarding the



1 existence of the order if the director determines that the release  
2 would enhance the effective enforcement of the order or will serve  
3 the public interest.

4 (h) A violation of an order issued under this section  
5 constitutes additional grounds for imposing an administrative  
6 penalty under this chapter.

7 SECTION 5.04. Section 2301.654, Occupations Code, is  
8 amended to read as follows:

9 Sec. 2301.654. PROBATION. If a suspension of a license is  
10 probated, the board may:

11 (1) require the license holder to report regularly to  
12 the board on matters that are the basis of the probation; ~~[or]~~

13 (2) limit activities to those prescribed by the board;  
14 or

15 (3) require the license holder to obtain specialized  
16 training so that the license holder attains a degree of skill  
17 satisfactory to the board in those areas that are the basis of the  
18 probation.

19 SECTION 5.05. (a) Subchapter Q, Chapter 2301, Occupations  
20 Code, is amended by adding Sections 2301.807 and 2301.808 to read as  
21 follows:

22 Sec. 2301.807. ADMINISTRATIVE PENALTY. (a) The department  
23 may impose an administrative penalty on a person licensed under  
24 this chapter who violates this chapter or a rule or order adopted  
25 under this chapter.

26 (b) The amount of an administrative penalty imposed under  
27 this section may not exceed \$5,000. Each day a violation continues

1 or occurs is a separate violation for the purpose of imposing a  
2 penalty. The amount of the penalty shall be based on:

3 (1) the seriousness of the violation, including the  
4 nature, circumstances, extent, and gravity of the violation;

5 (2) the economic harm to property or the environment  
6 caused by the violation;

7 (3) the history of previous violations;

8 (4) the amount necessary to deter a future violation;

9 (5) the threat to the public safety and welfare;

10 (6) efforts to correct the violation; and

11 (7) any other matter that justice may require.

12 (c) The transportation commission by rule shall adopt a  
13 schedule of administrative penalties based on the criteria listed  
14 in Subsection (b) for violations subject to an administrative  
15 penalty under this section to ensure that the amount of a penalty  
16 imposed is appropriate to the violation.

17 (d) The enforcement of an administrative penalty may be  
18 stayed during the time the order is under judicial review if the  
19 person pays the penalty to the clerk of the court or files a  
20 supersedeas bond with the court in the amount of the penalty. A  
21 person who cannot afford to pay the penalty or file the bond may  
22 stay the enforcement by filing an affidavit in the manner required  
23 by the Texas Rules of Civil Procedure for a party who cannot afford  
24 to file security for costs, subject to the right of the  
25 transportation commission to contest the affidavit as provided by  
26 those rules.

27 (e) The attorney general may sue to collect an

1 administrative penalty imposed under this section. In the suit the  
2 attorney general may recover, on behalf of the state, the  
3 reasonable expenses incurred in obtaining the penalty, including  
4 investigation and court costs, reasonable attorney's fees, witness  
5 fees, and other expenses.

6 (f) An administrative penalty collected under this section  
7 shall be deposited in the general revenue fund.

8 (g) A proceeding to impose an administrative penalty under  
9 this section is a contested case under Chapter 2001, Government  
10 Code.

11 Sec. 2301.808. REFUND. (a) Subject to Subsection (b), the  
12 director may order a motor vehicle dealer to pay a refund to a  
13 consumer as provided in an agreement resulting from an informal  
14 settlement instead of or in addition to imposing an administrative  
15 penalty under this chapter.

16 (b) The amount of a refund ordered as provided in an  
17 agreement resulting from an informal settlement may not exceed the  
18 amount the consumer paid to the motor vehicle dealer. The director  
19 may not require payment of other damages or estimate harm in a  
20 refund order.

21 (b) Subchapter H, Chapter 2302, Occupations Code, is  
22 amended by adding Section 2302.352 to read as follows:

23 Sec. 2302.352. ADMINISTRATIVE PENALTY. (a) The department  
24 may impose an administrative penalty on a salvage vehicle dealer  
25 licensed under this chapter who violates this chapter or a rule or  
26 order adopted under this chapter.

27 (b) The amount of an administrative penalty imposed under

1 this section may not exceed \$5,000. Each day a violation continues  
2 or occurs is a separate violation for the purpose of imposing a  
3 penalty. The amount of the penalty shall be based on:

4 (1) the seriousness of the violation, including the  
5 nature, circumstances, extent, and gravity of the violation;

6 (2) the economic harm to property or the environment  
7 caused by the violation;

8 (3) the history of previous violations;

9 (4) the amount necessary to deter a future violation;

10 (5) the threat to the public safety and welfare;

11 (6) efforts to correct the violation; and

12 (7) any other matter that justice may require.

13 (c) The commission by rule shall adopt a schedule of  
14 administrative penalties based on the criteria listed in Subsection  
15 (b) for violations subject to an administrative penalty under this  
16 section to ensure that the amount of a penalty imposed is  
17 appropriate to the violation.

18 (d) The enforcement of an administrative penalty may be  
19 stayed during the time the order is under judicial review if the  
20 person pays the penalty to the clerk of the court or files a  
21 supersedeas bond with the court in the amount of the penalty. A  
22 person who cannot afford to pay the penalty or file the bond may  
23 stay the enforcement by filing an affidavit in the manner required  
24 by the Texas Rules of Civil Procedure for a party who cannot afford  
25 to file security for costs, subject to the right of the commission  
26 to contest the affidavit as provided by those rules.

27 (e) The attorney general may sue to collect an

1 administrative penalty imposed under this section. In the suit the  
2 attorney general may recover, on behalf of the state, the  
3 reasonable expenses incurred in obtaining the penalty, including  
4 investigation and court costs, reasonable attorney's fees, witness  
5 fees, and other expenses.

6 (f) An administrative penalty collected under this section  
7 shall be deposited in the general revenue fund.

8 (g) A proceeding to impose an administrative penalty under  
9 this section is a contested case under Chapter 2001, Government  
10 Code.

11 (c) The change in law made by Section 2301.808, Occupations  
12 Code, as added by this section, applies only to a motor vehicle  
13 purchased or leased on or after the effective date of this Act. A  
14 motor vehicle purchased or leased before the effective date of this  
15 Act is governed by the law in effect immediately before that date,  
16 and that law is continued in effect for that purpose.

17 ARTICLE 6. REGULATION OF OUTDOOR ADVERTISING

18 SECTION 6.01. Section 391.004, Transportation Code, is  
19 amended to read as follows:

20 Sec. 391.004. TEXAS HIGHWAY BEAUTIFICATION FUND ACCOUNT.  
21 The Texas highway beautification fund account is an account in the  
22 general revenue fund. Money the commission receives under this  
23 chapter shall be deposited to the credit of the Texas highway  
24 beautification fund account. The commission shall use money in the  
25 Texas highway beautification fund account to administer this  
26 chapter and Chapter 394.

27 SECTION 6.02. (a) Subchapter A, Chapter 391,

1 Transportation Code, is amended by adding Section 391.006 to read  
2 as follows:

3 Sec. 391.006. COMPLAINTS; RECORDS. (a) The department by  
4 rule shall establish procedures for accepting and resolving written  
5 complaints related to outdoor advertising under this chapter. The  
6 rules must include:

7 (1) a process to make information available describing  
8 its procedures for complaint investigation and resolution,  
9 including making information about the procedures available on the  
10 department's Internet website;

11 (2) a simple form for filing complaints with the  
12 department;

13 (3) a system to prioritize complaints so that the most  
14 serious complaints receive attention before less serious  
15 complaints; and

16 (4) a procedure for compiling and reporting detailed  
17 annual statistics about complaints.

18 (b) The department shall provide to each person who files a  
19 written complaint with the department, and to each person who is the  
20 subject of a complaint, information about the department's policies  
21 and procedures relating to complaint investigation and resolution.

22 (c) The department shall keep an information file about each  
23 written complaint filed with the department that the department has  
24 authority to resolve. The department shall keep the following  
25 information for each complaint for the purpose of enforcing this  
26 chapter:

27 (1) the date the complaint is filed;

1           (2) the name of the person filing the complaint;

2           (3) the subject matter of the complaint;

3           (4) each person contacted in relation to the  
4 complaint;

5           (5) a summary of the results of the review or  
6 investigation of the complaint; and

7           (6) if the department does not take action on the  
8 complaint, an explanation of the reasons that action was not taken.

9           (d) If a written complaint is filed with the department that  
10 the department has authority to resolve, the department, at least  
11 quarterly and until final disposition of the complaint, shall  
12 notify the parties to the complaint of the status of the complaint  
13 unless the notice would jeopardize an ongoing department  
14 investigation.

15           (b) The Texas Transportation Commission shall adopt rules  
16 under Section 391.006, Transportation Code, as added by this  
17 section, not later than September 1, 2010.

18           SECTION 6.03. Subchapter B, Chapter 391, Transportation  
19 Code, is amended by adding Section 391.0331 to read as follows:

20           Sec. 391.0331. COSTS OF REMOVAL OF CERTAIN OUTDOOR  
21 ADVERTISING IN MUNICIPALITY. If outdoor advertising located in a  
22 municipality is required to be removed because of the widening,  
23 construction, or reconstruction of a road to which this chapter  
24 applies and if relocation of the outdoor advertising would be  
25 allowed under commission rules but is prohibited by charter,  
26 ordinance, or a decision of the municipality, the municipality  
27 shall pay just compensation to:

1           (1) the owner for the right, title leasehold, and  
2 interest in the outdoor advertising; and

3           (2) the owner or, if appropriate, the lessee of the  
4 real property on which the outdoor advertising is located for the  
5 right to erect and maintain the outdoor advertising.

6           SECTION 6.04. Section 391.035(c), Transportation Code, is  
7 amended to read as follows:

8           (c) A penalty collected under this section shall be  
9 deposited to the credit of the Texas highway beautification [state  
10 highway] fund account if collected by the attorney general and to  
11 the credit of the county road and bridge fund of the county in which  
12 the violation occurred if collected by a district or county  
13 attorney.

14           SECTION 6.05. Subchapter B, Chapter 391, Transportation  
15 Code, is amended by adding Section 391.0355 to read as follows:

16           Sec. 391.0355. ADMINISTRATIVE PENALTY. (a) In lieu of a  
17 suit to collect a civil penalty, the commission, after notice and an  
18 opportunity for a hearing before the commission, may impose an  
19 administrative penalty against a person who violates this chapter  
20 or a rule adopted by the commission under this chapter. Each day a  
21 violation continues is a separate violation.

22           (b) The amount of the administrative penalty may not exceed  
23 the maximum amount of a civil penalty under Section 391.035.

24           (c) A proceeding under this section is a contested case  
25 under Chapter 2001, Government Code.

26           (d) Judicial review of an appeal of an administrative  
27 penalty imposed under this section is under the substantial



1 evidence rule.

2 (e) An administrative penalty collected under this section  
3 shall be deposited to the credit of the Texas highway  
4 beautification fund account.

5 SECTION 6.06. Section 391.063, Transportation Code, is  
6 amended to read as follows:

7 Sec. 391.063. LICENSE FEE. The commission may set the  
8 amount of a license fee according to a scale graduated by the number  
9 of units of outdoor advertising and number of off-premise signs  
10 under Chapter 394 owned by a license applicant.

11 SECTION 6.07. Section 391.065(b), Transportation Code, is  
12 amended to read as follows:

13 (b) For the efficient management and administration of this  
14 chapter and to reduce the number of employees required to enforce  
15 this chapter, the commission shall adopt rules for issuing  
16 standardized forms that are for submission by license holders and  
17 applicants and that provide for an accurate showing of the number,  
18 location, or other information required by the commission for each  
19 license holder's or applicant's outdoor advertising or off-premise  
20 signs under Chapter 394.

21 SECTION 6.08. Section 391.066, Transportation Code, is  
22 amended by adding Subsection (d) to read as follows:

23 (d) The commission may deny the renewal of a license  
24 holder's license if the license holder has not complied with the  
25 permit requirements of this chapter or Chapter 394.

26 SECTION 6.09. Subchapter C, Chapter 391, Transportation  
27 Code, is amended by adding Section 391.0661 to read as follows:

1       Sec. 391.0661. APPLICABILITY OF LICENSE. In addition to  
2 authorizing a person to erect or maintain outdoor advertising, a  
3 license issued under this chapter authorizes a person to erect or  
4 maintain an off-premise sign under Chapter 394.

5       SECTION 6.10. Section 391.254(c), Transportation Code, is  
6 amended to read as follows:

7       (c) A civil penalty collected by the attorney general under  
8 this section shall be deposited to the credit of the Texas highway  
9 beautification [~~state highway~~] fund account.

10       SECTION 6.11. Section 394.005, Transportation Code, is  
11 amended to read as follows:

12       Sec. 394.005. DISPOSITION OF FEES. Money the commission  
13 receives [~~A registration fee collected~~] under this chapter [~~Section~~  
14 ~~394.048 by the commission~~] shall be deposited to the credit of the  
15 Texas highway beautification [~~state highway~~] fund account.

16       SECTION 6.12. (a) Subchapter A, Chapter 394,  
17 Transportation Code, is amended by adding Section 394.006 to read  
18 as follows:

19       Sec. 394.006. COMPLAINTS; RECORDS. (a) The department by  
20 rule shall establish procedures for accepting and resolving written  
21 complaints related to signs under this chapter. The rules must  
22 include:

23               (1) a process to make information available describing  
24 its procedures for complaint investigation and resolution,  
25 including making information about the procedures available on the  
26 department's Internet website;

27               (2) a simple form for filing complaints with the

1 department;

2 (3) a system to prioritize complaints so that the most  
3 serious complaints receive attention before less serious  
4 complaints; and

5 (4) a procedure for compiling and reporting detailed  
6 annual statistics about complaints.

7 (b) The department shall provide to each person who files a  
8 written complaint with the department, and to each person who is the  
9 subject of a complaint, information about the department's policies  
10 and procedures relating to complaint investigation and resolution.

11 (c) The department shall keep an information file about each  
12 written complaint filed with the department that the department has  
13 authority to resolve. The department shall keep the following  
14 information for each complaint for the purpose of enforcing this  
15 chapter:

16 (1) the date the complaint is filed;

17 (2) the name of the person filing the complaint;

18 (3) the subject matter of the complaint;

19 (4) each person contacted in relation to the  
20 complaint;

21 (5) a summary of the results of the review or  
22 investigation of the complaint; and

23 (6) if the department does not take action on the  
24 complaint, an explanation of the reasons that action was not taken.

25 (d) If a written complaint is filed with the department that  
26 the department has authority to resolve, the department, at least  
27 quarterly and until final disposition of the complaint, shall

1 notify the parties to the complaint of the status of the complaint  
2 unless the notice would jeopardize an ongoing department  
3 investigation.

4 (b) The Texas Transportation Commission shall adopt rules  
5 under Section 394.006, Transportation Code, as added by this  
6 section, not later than September 1, 2010.

7 SECTION 6.13. Subchapter A, Chapter 394, Transportation  
8 Code, is amended by adding Section 394.007 to read as follows:

9 Sec. 394.007. COSTS FOR REMOVAL OF SIGNS IN  
10 EXTRATERRITORIAL JURISDICTION OF CERTAIN MUNICIPALITIES. (a) This  
11 section applies only to a sign located in the extraterritorial  
12 jurisdiction of a municipality that regulates signs in its  
13 extraterritorial jurisdiction.

14 (b) If a sign is required to be removed because of the  
15 widening, construction, or reconstruction of a road to which this  
16 chapter applies and if relocation of the sign would be allowed under  
17 commission rules but is prohibited by charter, ordinance, or a  
18 decision of the municipality, the municipality shall pay just  
19 compensation to:

20 (1) the owner for the right, title leasehold, and  
21 interest in the sign; and

22 (2) the owner or, if appropriate, the lessee of the  
23 real property on which the sign is located for the right to erect  
24 and maintain the sign.

25 SECTION 6.14. The heading to Subchapter B, Chapter 394,  
26 Transportation Code, is amended to read as follows:

1 SUBCHAPTER B. LICENSE AND PERMIT FOR OFF-PREMISE SIGN

2 SECTION 6.15. (a) Subchapter B, Chapter 394,  
3 Transportation Code, is amended by adding Sections 394.0201,  
4 394.0202, 394.0203, 394.0204, 394.0205, 394.0206, 394.0207,  
5 394.027, 394.028, and 394.029 to read as follows:

6 Sec. 394.0201. ERECTING OFF-PREMISE SIGN WITHOUT LICENSE;  
7 OFFENSE. (a) A person commits an offense if the person wilfully  
8 erects or maintains an off-premise sign on a rural road without a  
9 license under this subchapter.

10 (b) An offense under this section is a misdemeanor  
11 punishable by a fine of not less than \$500 or more than \$1,000. Each  
12 day of the proscribed conduct is a separate offense.

13 (c) A person is not required to obtain a license to erect or  
14 maintain an on-premise sign.

15 Sec. 394.0202. ISSUANCE AND PERIOD OF LICENSE. (a) The  
16 commission shall issue a license to a person who:

17 (1) files with the commission a completed application  
18 form within the time specified by the commission;

19 (2) pays the appropriate license fee; and

20 (3) files with the commission a surety bond.

21 (b) A license may be issued for one year or longer.

22 (c) At least 30 days before the date on which a person's  
23 license expires, the commission shall notify the person of the  
24 impending expiration. The notice must be in writing and sent to the  
25 person's last known address according to the records of the  
26 commission.

27 Sec. 394.0203. LICENSE FEE. The commission may set the

1 amount of a license fee according to a scale graduated by the number  
2 of off-premise signs and units of outdoor advertising under Chapter  
3 391 owned by a license applicant.

4 Sec. 394.0204. SURETY BOND. (a) The surety bond required  
5 of an applicant for a license under Section 394.0202 must be:

6 (1) in the amount of \$2,500 for each county in the  
7 state in which the person erects or maintains an off-premise sign;  
8 and

9 (2) payable to the commission for reimbursement for  
10 removal costs of an off-premise sign that the license holder  
11 unlawfully erects or maintains.

12 (b) A person may not be required to provide more than  
13 \$10,000 in surety bonds.

14 Sec. 394.0205. RULES; FORMS. (a) The commission may adopt  
15 rules to implement Sections 394.0201(a), 394.0202, 394.0203,  
16 394.0204, and 394.0206.

17 (b) For the efficient management and administration of this  
18 chapter and to reduce the number of employees required to enforce  
19 this chapter, the commission shall adopt rules for issuing  
20 standardized forms that are for submission by license holders and  
21 applicants and that provide for an accurate showing of the number,  
22 location, or other information required by the commission for each  
23 license holder's or applicant's off-premise signs or outdoor  
24 advertising under Chapter 391.

25 (c) The commission may not adopt a rule under this chapter  
26 that restricts competitive bidding or advertising by the holder of  
27 a license issued under this chapter other than a rule to prohibit

1 false, misleading, or deceptive practices. The limitation provided  
2 by this section applies only to rules relating to the occupation of  
3 outdoor advertiser and does not affect the commission's power to  
4 regulate the orderly and effective display of an off-premise sign  
5 under this chapter. A rule to prohibit false, misleading, or  
6 deceptive practices may not:

7           (1) restrict the use of:

8                   (A) any legal medium for an advertisement;

9                   (B) the license holder's advertisement under a  
10 trade name; or

11                   (C) the license holder's personal appearance or  
12 voice in an advertisement, if the license holder is an individual;  
13 or

14           (2) relate to the size or duration of an advertisement  
15 by the license holder.

16           Sec. 394.0206. REVOCATION OR SUSPENSION OF LICENSE; APPEAL.

17 (a) The commission may revoke or suspend a license issued under  
18 this subchapter or place on probation a license holder whose  
19 license is suspended if the license holder violates this chapter or  
20 a rule adopted under this chapter. If the suspension of the license  
21 is probated, the department may require the license holder to  
22 report regularly to the commission on any matter that is the basis  
23 of the probation.

24 (b) The judicial appeal of the revocation or suspension of a  
25 license must be initiated not later than the 15th day after the date  
26 of the commission's action.

27 (c) The commission may adopt rules for the reissuance of a

1 revoked or suspended license and may set fees for the reissuance.

2 (d) The commission may deny the renewal of a license  
3 holder's existing license if the license holder has not complied  
4 with the permit requirements of this chapter or Chapter 391.

5 Sec. 394.0207. APPLICABILITY OF LICENSE. In addition to  
6 authorizing a person to erect or maintain an off-premise sign, a  
7 license issued under this chapter authorizes a person to erect or  
8 maintain outdoor advertising under Chapter 391.

9 Sec. 394.027. FEE AMOUNTS. The license and permit fees  
10 required by this subchapter may not exceed an amount reasonably  
11 necessary to cover the administrative costs incurred to enforce  
12 this chapter.

13 Sec. 394.028. EXCEPTIONS FOR CERTAIN NONPROFIT  
14 ORGANIZATIONS. (a) The combined license and permit fees under this  
15 subchapter may not exceed \$10 for an off-premise sign erected and  
16 maintained by a nonprofit organization in a municipality or a  
17 municipality's extraterritorial jurisdiction if the sign relates  
18 to or promotes only the municipality or a political subdivision  
19 whose jurisdiction is wholly or partly concurrent with the  
20 municipality.

21 (b) The nonprofit organization is not required to file a  
22 bond as provided by Section 394.0202(a)(3).

23 Sec. 394.029. DENIAL OF PERMIT; APPEAL. The commission may  
24 create a process by which an applicant may appeal a denial of a  
25 permit under this subchapter.

26 (b) The change in law made by Section 394.0201,  
27 Transportation Code, as added by this section, applies only to an



1 off-premise sign erected or for which the permit expires on or after  
2 the effective date of this Act. An off-premise sign for which a  
3 permit is issued before the effective date of this Act is covered by  
4 the law in effect when the permit was issued, and the former law is  
5 continued in effect for that purpose.

6 SECTION 6.16. Section 394.050, Transportation Code, is  
7 amended to read as follows:

8 Sec. 394.050. [~~BOARD OF~~] VARIANCE. The executive director  
9 or a person designated by the executive director [~~commission shall~~  
10 ~~provide for a board of variance that~~], in an appropriate case and  
11 subject to an appropriate condition or safeguard, may make a  
12 special exception to this chapter regarding a permit for an  
13 off-premise outdoor sign on a rural road.

14 SECTION 6.17. Section 394.081(c), Transportation Code, is  
15 amended to read as follows:

16 (c) A civil penalty collected under this section shall be  
17 deposited to the credit of the Texas highway beautification [~~state~~  
18 ~~highway~~] fund account if collected by the attorney general and to  
19 the credit of the county road and bridge fund if collected by a  
20 district or county attorney.

21 SECTION 6.18. Sections 394.082(a), (d), and (e),  
22 Transportation Code, are amended to read as follows:

23 (a) In lieu of a suit to collect a civil penalty, the  
24 commission, after notice and an opportunity for a hearing before  
25 the commission, may impose an administrative penalty against a  
26 person who [~~intentionally~~] violates this chapter or a rule adopted  
27 by the commission under this chapter. Each day a violation

1 continues is a separate violation.

2 (d) Judicial review of an appeal of an administrative  
3 penalty imposed under this section is under the substantial  
4 evidence rule [~~by trial de novo~~].

5 (e) An administrative penalty collected under this section  
6 shall be deposited to the credit of the Texas highway  
7 beautification [~~state highway~~] fund account.

8 ARTICLE 7. GREEN RIBBON PROJECT

9 SECTION 7.01. Subchapter I, Chapter 201, Transportation  
10 Code, is amended by adding Section 201.708 to read as follows:

11 Sec. 201.708. EXPENDITURES FOR HIGHWAY LANDSCAPING. (a)  
12 For each contract for a highway project that is located in an area  
13 designated by the United States Environmental Protection Agency as  
14 a nonattainment or near-nonattainment area under Section 107(d) of  
15 the federal Clean Air Act (42 U.S.C. Section 7407), the department  
16 shall allocate to the district or districts in which the project is  
17 to be located one-half of one percent of the total amount to be  
18 spent under the contract for construction, maintenance, and  
19 improvement of the project to be used for landscaping improvements  
20 for the project or other projects in the district or districts.

21 (b) Landscaping improvements may include:

22 (1) planting of indigenous or adapted trees and other  
23 plants that are suitable for the climate in the area; and

24 (2) preparing the soil and installing irrigation  
25 systems for the growth of trees and plants.

26 SECTION 7.02. Chapter 371, Transportation Code, as added by  
27 Chapter 103 (H.B. 570), Acts of the 80th Legislature, Regular

1 Session, 2007, is amended by adding Subchapter C to read as follows:

2 SUBCHAPTER C. CONSTRUCTION, IMPROVEMENT, AND MAINTENANCE

3 Sec. 371.101. EXPENDITURES FOR TOLL PROJECT LANDSCAPING.

4 (a) For each contract for a toll project that is located in an area  
5 designated by the United States Environmental Protection Agency as  
6 a nonattainment or near-nonattainment area under Section 107(d) of  
7 the federal Clean Air Act (42 U.S.C. Section 7407), the toll project  
8 entity shall allocate to the district or districts in which the  
9 project is to be located an amount equal to one-half of one percent  
10 of the total amount to be spent under the contract for construction,  
11 maintenance, and improvement of the project to be used for  
12 landscaping improvements for the project or other projects in the  
13 district or districts.

14 (b) Landscaping improvements may include:

15 (1) planting indigenous or adapted trees and other  
16 plants that are suitable for the climate in the area; and

17 (2) preparing the soil and installing irrigation  
18 systems for the growth of trees and plants.

19 ARTICLE 8. TEXAS DEPARTMENT OF MOTOR VEHICLES

20 PART 1. GENERAL PROVISIONS

21 SECTION 8.1.01. Title 7, Transportation Code, is amended by  
22 adding Subtitle M to read as follows:

23 SUBTITLE M. TEXAS DEPARTMENT OF MOTOR VEHICLES

24 CHAPTER 1001. ORGANIZATION OF DEPARTMENT

25 SUBCHAPTER A. GENERAL PROVISIONS

26 Sec. 1001.001. DEFINITIONS. In this subtitle:

27 (1) "Board" means the board of the department.

1           (2) "Department" means the Texas Department of Motor  
2 Vehicles.

3           Sec. 1001.002. CREATION OF DEPARTMENT; DUTIES. (a) The  
4 department is created as an agency of this state.

5           (b) In addition to the other duties required of the Texas  
6 Department of Motor Vehicles, the department shall administer and  
7 enforce:

8           (1) Subtitle A;

9           (2) Subtitle E, Title 7;

10          (3) Chapters 642, 643, 645, 646, and 648;

11          (4) Chapters 2301 and 2302, Occupations Code; and

12          (5) Article 4413(37), Revised Statutes.

13          Sec. 1001.003. COMPOSITION OF DEPARTMENT. The department  
14 is composed of an executive director appointed by the board and  
15 other employees required to efficiently implement:

16          (1) this subtitle;

17          (2) other applicable vehicle laws of this state; and

18          (3) other laws that grant jurisdiction to or are  
19 applicable to the department.

20          Sec. 1001.004. DIVISIONS. The board shall organize the  
21 department into divisions to accomplish the department's functions  
22 and the duties assigned to it, including divisions for:

23          (1) administration;

24          (2) automobile burglary and theft prevention;

25          (3) motor carriers;

26          (4) motor vehicle board; and

27          (5) vehicle titles and registration.

1       Sec. 1001.005. SUNSET PROVISION. The department is subject  
2 to Chapter 325, Government Code (Texas Sunset Act). Unless  
3 continued in existence as provided by that chapter, the department  
4 is abolished September 1, 2015.

5           [Sections 1001.006-1001.020 reserved for expansion]

6           SUBCHAPTER B. BOARD OF DEPARTMENT OF MOTOR VEHICLES

7       Sec. 1001.021. BOARD. (a) The board consists of seven  
8 members appointed by the governor with the advice and consent of the  
9 senate. Appointments to the board shall be made without regard to  
10 the race, color, disability, sex, religion, age, or national origin  
11 of the appointees.

12       (b) Two members shall be appointed to represent motor  
13 vehicle dealers; one member shall be appointed to represent county  
14 tax assessor-collectors; one member shall be appointed to represent  
15 the motor carrier industry; one member shall be appointed to  
16 represent law enforcement agencies; and two members shall be  
17 appointed to represent the general public. The member appointed to  
18 represent law enforcement agencies may not be a state employee.

19       (c) A person may not be a public member of the board if the  
20 person or the person's spouse:

21           (1) is registered, certified, or licensed by the  
22 department;

23           (2) is employed by or participates in the management  
24 of a business entity or other organization regulated by or  
25 receiving money from the department;

26           (3) owns or controls, directly or indirectly, more  
27 than a 10 percent interest in a business entity or other

1 organization regulated by or receiving money from the department;

2 or

3 (4) uses or receives a substantial amount of tangible  
4 goods, services, or money from the department other than  
5 compensation or reimbursement authorized by law for board  
6 membership, attendance, or expenses.

7 Sec. 1001.022. TERMS. Members of the board serve staggered  
8 six-year terms, with the terms of either one or two members expiring  
9 February 1 of each odd-numbered year.

10 Sec. 1001.023. PRESIDING OFFICER OF BOARD. (a) The  
11 governor shall designate a member of the board as the presiding  
12 officer of the board to serve in that capacity at the pleasure of  
13 the governor.

14 (b) The presiding officer shall:

15 (1) preside over board meetings, make rulings on  
16 motions and points of order, and determine the order of business;

17 (2) create subcommittees, appoint board members to  
18 subcommittees, and receive the reports of subcommittees to the  
19 board as a whole; and

20 (3) appoint a member of the board to act in the  
21 presiding officer's absence.

22 Sec. 1001.024. BOARD MEETINGS. The board shall hold  
23 regular meetings at least once a month and special meetings at the  
24 call of the presiding officer. Board members shall attend the  
25 meetings of the board. The presiding officer shall oversee the  
26 preparation of an agenda for each meeting and ensure that a copy is  
27 provided to each board member at least seven days before the

1 meeting.

2 Sec. 1001.025. COMPENSATION. A member of the board is not  
3 entitled to compensation, but each member is entitled to  
4 reimbursement for actual and necessary expenses as provided by the  
5 General Appropriations Act.

6 Sec. 1001.026. GROUNDS FOR REMOVAL. (a) It is a ground for  
7 removal from the board that a board member:

8 (1) does not have at the time of taking office the  
9 qualifications required by Section 1001.021;

10 (2) does not maintain during service on the board the  
11 qualifications required by Section 1001.021;

12 (3) is ineligible for membership under Section  
13 1001.021(c), 1007.002, or 1007.003;

14 (4) cannot, because of illness or disability,  
15 discharge the member's duties for a substantial part of the member's  
16 term; or

17 (5) is absent from more than half of the regularly  
18 scheduled board meetings that the member is eligible to attend  
19 during a calendar year without an excuse approved by a majority  
20 vote of the board.

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

24 (c) If the executive director of the department has  
25 knowledge that a potential ground for removal exists, the executive  
26 director shall notify the presiding officer of the board of the  
27 potential ground. The presiding officer shall then notify the

1 governor and the attorney general that a potential ground for  
2 removal exists. If the potential ground for removal involves the  
3 presiding officer, the executive director shall notify the next  
4 highest ranking officer of the board, who shall then notify the  
5 governor and the attorney general that a potential ground for  
6 removal exists.

7 Sec. 1001.027. TRAINING ON DEPARTMENT AND CERTAIN LAWS  
8 RELATING TO DEPARTMENT. (a) A person who is appointed to and  
9 qualifies for office as a member of the board may not vote,  
10 deliberate, or be counted as a member in attendance at a meeting of  
11 the board until the person completes a training program that  
12 complies with this section.

13 (b) The training program must provide the person with  
14 information regarding:

15 (1) the legislation that created the department;

16 (2) the programs, functions, rules, and budget of the  
17 department;

18 (3) the results of the most recent formal audit of the  
19 department;

20 (4) the requirements of laws relating to open  
21 meetings, public information, administrative procedure, and  
22 conflicts of interest; and

23 (5) any applicable ethics policies adopted by the  
24 department or the Texas Ethics Commission.

25 (c) A person appointed to the board is entitled to  
26 reimbursement, as provided by the General Appropriations Act, for  
27 the travel expenses incurred in attending the training program



1 regardless of whether the attendance at the program occurs before  
2 or after the person qualifies for office.

3 Sec. 1001.028. TECHNOLOGICAL SOLUTIONS. The board shall  
4 implement a policy requiring the department to use appropriate  
5 technological solutions to improve the department's ability to  
6 perform its functions. The policy must ensure that the public is  
7 able to interact with the department on the Internet.

8 Sec. 1001.029. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE  
9 RESOLUTION PROCEDURES. (a) The board shall develop and implement a  
10 policy to encourage the use of:

11 (1) negotiated rulemaking procedures under Chapter  
12 2008, Government Code, for the adoption of department rules; and

13 (2) appropriate alternative dispute resolution  
14 procedures under Chapter 2009, Government Code, to assist in the  
15 resolution of internal and external disputes under the department's  
16 jurisdiction.

17 (b) The department's procedures relating to alternative  
18 dispute resolution must conform, to the extent possible, to any  
19 model guidelines issued by the State Office of Administrative  
20 Hearings for the use of alternative dispute resolution by state  
21 agencies.

22 (c) The board shall designate a trained person to:

23 (1) coordinate the implementation of the policy  
24 adopted under Subsection (a);

25 (2) serve as a resource for any training needed to  
26 implement the procedures for negotiated rulemaking or alternative  
27 dispute resolution; and

1           (3) collect data concerning the effectiveness of those  
2 procedures, as implemented by the department.

3           [Sections 1001.030-1001.040 reserved for expansion]

4                           SUBCHAPTER C. PERSONNEL

5           Sec. 1001.041. DIVISION OF RESPONSIBILITIES. The board  
6 shall develop and implement policies that clearly separate the  
7 policymaking responsibilities of the board and the management  
8 responsibilities of the executive director and the staff of the  
9 department.

10                           CHAPTER 1002. RULES

11           Sec. 1002.001. GENERAL RULEMAKING AUTHORITY. The board may  
12 adopt any rules necessary and appropriate to implement the powers  
13 and duties of the department under this code and other laws of this  
14 state.

15           [Chapters 1003-1005 reserved for expansion]

16                           CHAPTER 1006. PUBLIC ACCESS

17           Sec. 1006.001. ACCESS TO PROGRAMS AND FACILITIES. (a) The  
18 department shall prepare and maintain a written plan that describes  
19 how a person who does not speak English may be provided reasonable  
20 access to the department's programs.

21           (b) The department shall comply with federal and state laws  
22 for program and facility accessibility.

23           Sec. 1006.002. PUBLIC COMMENT. The board shall develop and  
24 implement policies that provide the public with a reasonable  
25 opportunity to appear before the board and to speak on any issue  
26 under the jurisdiction of the department.

27           Sec. 1006.003. COMPLAINT PROCEDURES. (a) The department

1 shall maintain a system to promptly and efficiently act on  
2 complaints filed with the department. The department shall  
3 maintain information about parties to the complaint, the subject  
4 matter of the complaint, a summary of the results of the review or  
5 investigation of the complaint, and its disposition.

6 (b) The department shall make information available  
7 describing its procedures for complaint investigation and  
8 resolution.

9 (c) The department shall periodically notify the complaint  
10 parties of the status of the complaint until final disposition.

11 CHAPTER 1007. STANDARDS OF CONDUCT

12 Sec. 1007.001. APPLICATION OF LAW RELATING TO ETHICAL  
13 CONDUCT. The board, the executive director, and each employee or  
14 agent of the department is subject to the code of ethics and the  
15 standard of conduct imposed by Chapter 572, Government Code, and  
16 any other law regulating the ethical conduct of state officers and  
17 employees.

18 Sec. 1007.002. CONFLICTS OF INTEREST. (a) In this section,  
19 "Texas trade association" means a cooperative and voluntarily  
20 joined statewide association of business or professional  
21 competitors in this state designed to assist its members and its  
22 industry or profession in dealing with mutual business or  
23 professional problems and in promoting their common interest.

24 (b) A person may not be a member of the board and may not be a  
25 department employee employed in a "bona fide executive,  
26 administrative, or professional capacity," as that phrase is used  
27 for purposes of establishing an exemption to the overtime

1 provisions of the federal Fair Labor Standards Act of 1938 (29  
2 U.S.C. Section 201 et seq.) if:

3 (1) the person is an officer, employee, or paid  
4 consultant of a Texas trade association in the motor vehicle or  
5 motor carrier industry or of a tax assessor-collector or law  
6 enforcement trade association; or

7 (2) the person's spouse is an officer, manager, or paid  
8 consultant of a Texas trade association in the motor vehicle or  
9 motor carrier industry or of a tax assessor-collector or law  
10 enforcement trade association.

11 (c) A person may not be a member of the board or act as the  
12 general counsel to the board or the department if the person is  
13 required to register as a lobbyist under Chapter 305, Government  
14 Code, because of the person's activities for compensation on behalf  
15 of a profession related to the operation of the department.

16 Sec. 1007.003. LOBBYING ACTIVITIES. A person may not serve  
17 as the executive director or act as the general counsel to the  
18 department if the person is required to register as a lobbyist under  
19 Chapter 305, Government Code, because of the person's activities  
20 for compensation on behalf of an occupation related to the  
21 operation of the department.

22 PART 2. TRANSFER OF DUTIES AND FUNCTIONS OF THE TEXAS DEPARTMENT OF  
23 TRANSPORTATION

24 SUBPART A. GENERAL PROVISIONS AND ADMINISTRATION

25 SECTION 8.2A.01. Section 201.931(2), Transportation Code,  
26 is amended to read as follows:

27 (2) "License" includes[+]

1           ~~[(A) a permit issued by the department that~~  
2 ~~authorizes the operation of a vehicle and its load or a combination~~  
3 ~~of vehicles and load exceeding size or weight limitations,~~

4           ~~[(B) a motor carrier registration issued under~~  
5 ~~Chapter 643,~~

6           ~~[(C) a vehicle storage facility license issued~~  
7 ~~under Chapter 2303, Occupations Code,~~

8           ~~[(D)]~~ a license or permit for outdoor advertising  
9 issued under Chapter 391 or 394[~~+~~

10           ~~[(E) a salvage vehicle dealer or agent license~~  
11 ~~issued under Chapter 2302, Occupations Code,~~

12           ~~[(F) specially designated or specialized license~~  
13 ~~plates issued under Subchapters E and F, Chapter 502, and~~

14           ~~[(G) an apportioned registration issued~~  
15 ~~according to the International Registration Plan under Section~~  
16 ~~502.054].~~

17           SUBPART B. STATE HIGHWAY TOLL PROJECTS

18           SECTION 8.2B.01. Sections       228.055(b)       and       (h),  
19 Transportation Code, are amended to read as follows:

20           (b) The department may impose and collect the  
21 administrative fee, so as to recover the cost of collecting the  
22 unpaid toll, not to exceed \$100. The department shall send a  
23 written notice of nonpayment to the registered owner of the vehicle  
24 at that owner's address as shown in the vehicle registration  
25 records of the Texas Department of Motor Vehicles [~~department~~] by  
26 first class mail and may require payment not sooner than the 30th  
27 day after the date the notice was mailed. The registered owner

1 shall pay a separate toll and administrative fee for each event of  
2 nonpayment under Section 228.054.

3 (h) In this section, "registered owner" means the owner of a  
4 vehicle as shown on the vehicle registration records of the Texas  
5 Department of Motor Vehicles [~~department~~] or the analogous  
6 department or agency of another state or country.

7 SECTION 8.2B.02. Section 228.056(b), Transportation Code,  
8 is amended to read as follows:

9 (b) In the prosecution of an offense under Section  
10 228.055(c), (d), or (e):

11 (1) it is presumed that the notice of nonpayment was  
12 received on the fifth day after the date of mailing;

13 (2) a computer record of the Texas Department of Motor  
14 Vehicles [~~department~~] of the registered owner of the vehicle is  
15 prima facie evidence of its contents and that the defendant was the  
16 registered owner of the vehicle when the underlying event of  
17 nonpayment under Section 228.054 occurred; and

18 (3) a copy of the rental, lease, or other contract  
19 document covering the vehicle on the date of the underlying event of  
20 nonpayment under Section 228.054 is prima facie evidence of its  
21 contents and that the defendant was the lessee of the vehicle when  
22 the underlying event of nonpayment under Section 228.054 occurred.

23 SUBPART C. CAUSEWAYS, BRIDGES, TUNNELS, TURNPIKES, FERRIES, AND

24 HIGHWAYS IN CERTAIN COUNTIES

25 SECTION 8.2C.01. Sections 284.0701(b), (e), and (h),  
26 Transportation Code, are amended to read as follows:

27 (b) The county may impose and collect the administrative

1 cost so as to recover the expense of collecting the unpaid toll, not  
2 to exceed \$100. The county shall send a written notice of  
3 nonpayment to the registered owner of the vehicle at that owner's  
4 address as shown in the vehicle registration records of the Texas  
5 Department of Motor Vehicles [~~department~~] by first-class mail not  
6 later than the 30th day after the date of the alleged failure to pay  
7 and may require payment not sooner than the 30th day after the date  
8 the notice was mailed. The registered owner shall pay a separate  
9 toll and administrative cost for each event of nonpayment under  
10 Section 284.070.

11 (e) It is an exception to the application of Subsection (a)  
12 or (c) if the registered owner of the vehicle transferred ownership  
13 of the vehicle to another person before the event of nonpayment  
14 under Section 284.070 occurred, submitted written notice of the  
15 transfer to the Texas Department of Motor Vehicles [~~department~~] in  
16 accordance with Section 520.023, and before the 30th day after the  
17 date the notice of nonpayment is mailed, provides to the county the  
18 name and address of the person to whom the vehicle was transferred.  
19 If the former owner of the vehicle provides the required  
20 information within the period prescribed, the county may send a  
21 notice of nonpayment to the person to whom ownership of the vehicle  
22 was transferred at the address provided by the former owner by  
23 first-class mail before the 30th day after the date of receipt of  
24 the required information from the former owner. The subsequent  
25 owner of the vehicle for which the proper toll was not paid who is  
26 mailed a written notice of nonpayment under this subsection and  
27 fails to pay the proper toll and administrative cost within the time

1 specified by the notice of nonpayment commits an offense. The  
2 subsequent owner shall pay a separate toll and administrative cost  
3 for each event of nonpayment under Section 284.070. Each failure to  
4 pay a toll or administrative cost under this subsection is a  
5 separate offense.

6 (h) In this section, "registered owner" means the owner of a  
7 vehicle as shown on the vehicle registration records of the Texas  
8 Department of Motor Vehicles [~~department~~] or the analogous  
9 department or agency of another state or country.

10 SUBPART D. CERTIFICATE OF TITLE ACT

11 SECTION 8.2D.01. Section 501.002(3), Transportation Code,  
12 is amended to read as follows:

13 (3) "Department" means the Texas Department of Motor  
14 Vehicles [~~Transportation~~].

15 SUBPART E. REGISTRATION OF VEHICLES

16 SECTION 8.2E.01. Section 502.001(3), Transportation Code,  
17 is amended to read as follows:

18 (3) "Department" means the Texas Department of Motor  
19 Vehicles [~~Transportation~~].

20 SECTION 8.2E.02. Sections 502.053(a) and (b),  
21 Transportation Code, are amended to read as follows:

22 (a) The department [~~Texas Department of Transportation~~]  
23 shall reimburse the Texas Department of Criminal Justice for the  
24 cost of manufacturing license plates or registration insignia as  
25 the license plates or insignia and the invoice for the license  
26 plates or insignia are delivered to the department [~~Texas~~  
27 ~~Department of Transportation~~].



1 (b) When manufacturing is started, the Texas Department of  
2 Criminal Justice, the department [~~Texas Department of~~  
3 ~~Transportation~~], and the comptroller, after negotiation, shall set  
4 the price to be paid for each license plate or insignia. The price  
5 must be determined from:

- 6 (1) the cost of metal, paint, and other materials  
7 purchased;  
8 (2) the inmate maintenance cost per day;  
9 (3) overhead expenses;  
10 (4) miscellaneous charges; and  
11 (5) a previously approved amount of profit for the  
12 work.

13 SUBPART F. DEALER'S AND MANUFACTURER'S VEHICLE LICENSE PLATES

14 SECTION 8.2F.01. Section 503.001(5), Transportation Code,  
15 is amended to read as follows:

16 (5) "Department" means the Texas Department of Motor  
17 Vehicles [~~Transportation~~].

18 SECTION 8.2F.02. Section 503.003, Transportation Code, is  
19 amended to read as follows:

20 Sec. 503.003. DISPLAY OR SALE OF NONMOTORIZED VEHICLE OR  
21 TRAILER. This chapter does not prohibit the display or sale of a  
22 nonmotorized vehicle or trailer at a regularly scheduled vehicle or  
23 boat show with multiple vendors in accordance with [~~commission~~]  
24 rules of the board of the Texas Department of Motor Vehicles.

25 SECTION 8.2F.03. Section 503.009(c), Transportation Code,  
26 is amended to read as follows:

27 (c) A decision or final order issued under this section is

1 final and may not be appealed, as a matter of right, to the board of  
2 the Texas Department of Motor Vehicles [~~commission~~].

3 SECTION 8.2F.04. Sections 503.010 and 503.011,  
4 Transportation Code, are amended to read as follows:

5 Sec. 503.010. TERM OF GENERAL DISTINGUISHING NUMBER,  
6 LICENSE, OR LICENSE PLATE. Each general distinguishing number,  
7 license, or license plate issued under this chapter is valid for the  
8 period prescribed by the board of the Texas Department of Motor  
9 Vehicles [~~commission~~].

10 Sec. 503.011. PRORATING FEES. If the board of the Texas  
11 Department of Motor Vehicles [~~commission~~] prescribes the term of a  
12 general distinguishing number, license, or license plate under this  
13 chapter for a period other than one year, the board of the Texas  
14 Department of Motor Vehicles [~~commission~~] shall prorate the  
15 applicable annual fee required under this chapter as necessary to  
16 reflect the term of the number, license, or license plate.

17 SECTION 8.2F.05. Section 503.031(a), Transportation Code,  
18 is amended to read as follows:

19 (a) An applicant for a drive-a-way in-transit license must  
20 submit to the board of the Texas Department of Motor Vehicles  
21 [~~commission~~] an application containing the information required by  
22 the board of the Texas Department of Motor Vehicles [~~commission~~].

23 SECTION 8.2F.06. Section 503.001(2), Transportation Code,  
24 is repealed.

25 SUBPART G. MISCELLANEOUS PROVISIONS

26 SECTION 8.2G.01. Section 520.001, Transportation Code, is  
27 amended to read as follows:

1           Sec. 520.001. DEFINITION. In this chapter, "department"  
2 means the Texas Department of Motor Vehicles [~~Transportation~~].

3           SUBPART H. OPERATION OF BICYCLES, MOPEDS, AND PLAY VEHICLES

4           SECTION 8.2H.01. Section 551.302, Transportation Code, is  
5 amended to read as follows:

6           Sec. 551.302. REGISTRATION. The Texas Department of Motor  
7 Vehicles [~~Transportation~~] may adopt rules relating to the  
8 registration and issuance of license plates to neighborhood  
9 electric vehicles.

10          SUBPART I. MOTOR VEHICLE SAFETY RESPONSIBILITY ACT

11          SECTION 8.2I.01. Section 601.023, Transportation Code, is  
12 amended to read as follows:

13          Sec. 601.023. PAYMENT OF STATUTORY FEES. The department  
14 may pay:

15                 (1) a statutory fee required by the Texas Department  
16 of Motor Vehicles [~~Transportation~~] for a certified abstract or in  
17 connection with suspension of a vehicle registration; or

18                 (2) a statutory fee payable to the comptroller for  
19 issuance of a certificate of deposit required by Section 601.122.

20          SECTION 8.2I.02. Section 601.451, Transportation Code, as  
21 added by Chapter 892 (S.B. 1670), Acts of the 79th Legislature,  
22 Regular Session, 2005, is amended to read as follows:

23          Sec. 601.451. DEFINITION. In this subchapter,  
24 "implementing agencies" means:

25                 (1) the department;

26                 (2) the Texas Department of Motor Vehicles  
27 [~~Transportation~~];

1 (3) the Texas Department of Insurance; and

2 (4) the Department of Information Resources.

3 SECTION 8.2I.03. Subchapter N, Chapter 601, Transportation  
4 Code, as added by Chapter 1325 (H.B. 3588), Acts of the 78th  
5 Legislature, Regular Session, 2003, is repealed.

6 SUBPART J. GENERAL PROVISIONS RELATING TO VEHICLE SIZE AND WEIGHT

7 SECTION 8.2J.01. Sections 621.001(2), (3), and (4),  
8 Transportation Code, are amended to read as follows:

9 (2) "Board" [~~"Commission"~~] means the board of the  
10 Texas Department of Motor Vehicles [~~Transportation Commission~~].

11 (3) "Department" means the Texas Department of Motor  
12 Vehicles [~~Transportation~~].

13 (4) "Commissioner" [~~"Director"~~] means the  
14 commissioner of motor vehicles [~~executive director of the Texas~~  
15 ~~Department of Transportation~~].

16 SECTION 8.2J.02. Section 621.003(a), Transportation Code,  
17 is amended to read as follows:

18 (a) The board [~~commission~~] by rule may authorize the  
19 commissioner [~~director~~] to enter into with the proper authority of  
20 another state an agreement that authorizes:

21 (1) the authority of the other state to issue on behalf  
22 of the department to the owner or operator of a vehicle, or  
23 combination of vehicles, that exceeds the weight or size limits  
24 allowed by this state a permit that authorizes the operation or  
25 transportation on a highway in this state of the vehicle or  
26 combination of vehicles; and

27 (2) the department to issue on behalf of the authority

1 of the other state to the owner or operator of a vehicle, or  
2 combination of vehicles, that exceeds the weight or size limits  
3 allowed by that state a permit that authorizes the operation or  
4 transportation on a highway of that state of the vehicle or  
5 combination of vehicles.

6 SECTION 8.2J.03. Section 621.004, Transportation Code, is  
7 amended to read as follows:

8 Sec. 621.004. ADMISSIBILITY OF CERTIFICATE OF VERTICAL  
9 CLEARANCE. In each civil or criminal proceeding in which a  
10 violation of this chapter may be an issue, a certificate of the  
11 vertical clearance of a structure, including a bridge or underpass,  
12 signed by the commissioner [~~director~~] is admissible in evidence for  
13 all purposes.

14 SECTION 8.2J.04. Subchapter A, Chapter 621, Transportation  
15 Code, is amended by adding Section 621.008 to read as follows:

16 Sec. 621.008. STUDY REGARDING OVERSIZE AND OVERWEIGHT  
17 VEHICLES. (a) In this section, "division" means the motor carrier  
18 division of the Texas Department of Motor Vehicles.

19 (b) The division shall conduct a study to determine  
20 improvements to the regulation of oversize and overweight vehicles.

21 (c) In conducting the study, the division shall consider:

22 (1) prohibiting overweight vehicles or vehicle  
23 combinations from traveling on state highways if the vehicle or  
24 combination will cause damage to a road or bridge, based on the  
25 weight or load specifications to which the road or bridge was built;

26 (2) requiring each applicant for a permit under  
27 Chapter 623 to pay a graduated highway maintenance fee based on

1 weight and the amount of damage done by the permitted vehicle or  
2 vehicle combination to roads and bridges;

3 (3) requiring each fee collected for an overweight or  
4 oversize vehicle permit to be deposited in the state highway fund;  
5 and

6 (4) eliminating all exemptions for overweight  
7 vehicles.

8 (d) Not later than September 1, 2010, the division shall  
9 report the results of the study conducted under this section to the  
10 governor, the lieutenant governor, the speaker of the house of  
11 representatives, and the appropriate oversight committee of each  
12 house of the legislature.

13 (e) This section expires September 1, 2011.

14 SECTION 8.2J.05. Section 621.102, Transportation Code, is  
15 amended to read as follows:

16 Sec. 621.102. BOARD'S [~~COMMISSION'S~~] AUTHORITY TO SET  
17 MAXIMUM WEIGHTS. (a) The board [~~commission~~] may set the maximum  
18 single axle weight, tandem axle weight, or gross weight of a  
19 vehicle, or maximum single axle weight, tandem axle weight, or  
20 gross weight of a combination of vehicles and loads, that may be  
21 moved over a state highway or a farm or ranch road if the board  
22 [~~commission~~] finds that heavier maximum weight would rapidly  
23 deteriorate or destroy the road or a bridge or culvert along the  
24 road. A maximum weight set under this subsection may not exceed the  
25 maximum set by statute for that weight.

26 (b) The board [~~commission~~] must set a maximum weight under  
27 this section by order entered in its minutes.

1 (c) The board [~~commission~~] must make the finding under this  
2 section on an engineering and traffic investigation and in making  
3 the finding shall consider the width, condition, and type of  
4 pavement structures and other circumstances on the road.

5 (d) A maximum weight or load set under this section becomes  
6 effective on a highway or road when appropriate signs giving notice  
7 of the maximum weight or load are erected on the highway or road  
8 under order of the board [~~commission~~].

9 (e) A vehicle operating under a permit issued under Section  
10 623.011, 623.071, 623.094, 623.121, 623.142, 623.181, 623.192, or  
11 623.212 may operate under the conditions authorized by the permit  
12 over a road for which the board [~~commission~~] has set a maximum  
13 weight under this section.

14 (f) For the purpose of this section, a farm or ranch road is  
15 a state highway that is shown in the records of the board  
16 [~~commission~~] to be a farm-to-market or ranch-to-market road.

17 (g) This section does not apply to a vehicle delivering  
18 groceries, farm products, or liquefied petroleum gas.

19 SECTION 8.2J.06. The heading to Section 621.202,  
20 Transportation Code, is amended to read as follows:

21 Sec. 621.202. BOARD'S [~~COMMISSION'S~~] AUTHORITY TO SET  
22 MAXIMUM WIDTH.

23 SECTION 8.2J.07. Section 621.202(a), Transportation Code,  
24 is amended to read as follows:

25 (a) To comply with safety and operational requirements of  
26 federal law, the board [~~commission~~] by order may set the maximum  
27 width of a vehicle, including the load on the vehicle, at eight feet

1 for a designated highway or segment of a highway if the results of  
2 an engineering and traffic study that includes an analysis of  
3 structural capacity of bridges and pavements, traffic volume,  
4 unique climatic conditions, and width of traffic lanes support the  
5 change.

6 SECTION 8.2J.08. Section 621.301(b), Transportation Code,  
7 is amended to read as follows:

8 (b) The commissioners court may limit the maximum weights to  
9 be moved on or over a county road, bridge, or culvert by exercising  
10 its authority under this subsection in the same manner and under the  
11 same conditions provided by Section 621.102 for the board  
12 [~~commission~~] to limit maximum weights on highways and roads to  
13 which that section applies.

14 SECTION 8.2J.09. Section 621.352(a), Transportation Code,  
15 is amended to read as follows:

16 (a) The board [~~commission~~] by rule may establish fees for  
17 the administration of Section 621.003 in an amount that, when added  
18 to the other fees collected by the department, does not exceed the  
19 amount sufficient to recover the actual cost to the department of  
20 administering that section. An administrative fee collected under  
21 this section shall be sent to the comptroller for deposit to the  
22 credit of the state highway fund and may be appropriated only to the  
23 department for the administration of Section 621.003.

24 SECTION 8.2J.10. Section 621.356, Transportation Code, is  
25 amended to read as follows:

26 Sec. 621.356. FORM OF PAYMENT. The board [~~commission~~] may  
27 adopt rules prescribing the method for payment of a fee for a permit



1 issued by the department that authorizes the operation of a vehicle  
2 and its load or a combination of vehicles and load exceeding size or  
3 weight limitations. The rules may:

4 (1) authorize the use of electronic funds transfer or  
5 a credit card issued by:

6 (A) a financial institution chartered by a state  
7 or the federal government; or

8 (B) a nationally recognized credit organization  
9 approved by the board [~~commission~~]; and

10 (2) require the payment of a discount or service  
11 charge for a credit card payment in addition to the fee.

12 SUBPART K. SPECIAL PROVISIONS AND EXCEPTIONS FOR OVERSIZE OR  
13 OVERWEIGHT VEHICLES

14 SECTION 8.2K.01. Section 622.001, Transportation Code, is  
15 amended to read as follows:

16 Sec. 622.001. DEFINITION. In this chapter, "department"  
17 means the Texas Department of Motor Vehicles [~~Transportation~~].

18 SECTION 8.2K.02. Section 622.101(a), Transportation Code,  
19 is amended to read as follows:

20 (a) A single motor vehicle used exclusively to transport  
21 chile pepper modules, seed cotton, cotton, cotton burrs, or  
22 equipment used to transport or process chile pepper modules or  
23 cotton, including a motor vehicle or burr spreader, may not be  
24 operated on a highway or road if the vehicle is:

25 (1) wider than 10 feet and the highway has not been  
26 designated by the board [~~commission~~] under Section 621.202;

27 (2) longer than 48 feet; or

1 (3) higher than 14 feet 6 inches.

2 SUBPART L. PERMITS FOR OVERSIZE OR OVERWEIGHT VEHICLES

3 SECTION 8.2L.01. Section 623.001, Transportation Code, is  
4 amended by amending Subdivision (1) and adding Subdivision (4) to  
5 read as follows:

6 (1) "Department" means the Texas Department of Motor  
7 Vehicles [~~Transportation~~].

8 (4) "Board" means the board of the Texas Department of  
9 Motor Vehicles.

10 SECTION 8.2L.02. Section 623.051, Transportation Code, is  
11 amended to read as follows:

12 Sec. 623.051. CONTRACT ALLOWING OVERSIZE OR OVERWEIGHT  
13 VEHICLE TO CROSS ROAD; SURETY BOND. (a) A person may operate a  
14 vehicle that cannot comply with one or more of the restrictions of  
15 Subchapter C of Chapter 621 or Section 621.101 to cross the width of  
16 any road or highway under the jurisdiction of the department, other  
17 than a controlled access highway as defined by Section 203.001,  
18 from private property to other private property if the person  
19 contracts with the Texas Transportation Commission [~~commission~~] to  
20 indemnify the department for the cost of maintenance and repair of  
21 the part of the highway crossed by the vehicle.

22 (b) The Texas Transportation Commission [~~commission~~] shall  
23 adopt rules relating to the forms and procedures to be used under  
24 this section and other matters that the commission considers  
25 necessary to carry out this section.

26 (c) To protect the safety of the traveling public, minimize  
27 any delays and inconveniences to the operators of vehicles in

1 regular operation, and assure payment for the added wear on the  
2 highways in proportion to the reduction of service life, the Texas  
3 Transportation Commission [~~commission~~], in adopting rules under  
4 this section, shall consider:

5 (1) the safety and convenience of the general  
6 traveling public;

7 (2) the suitability of the roadway and subgrade on the  
8 road or highway to be crossed, variation in soil grade prevalent in  
9 the different regions of the state, and the seasonal effects on  
10 highway load capacity, the highway shoulder design, and other  
11 highway geometrics; and

12 (3) the state's investment in its highway system.

13 (d) Before exercising any right under a contract under this  
14 section, a person must execute with a corporate surety authorized  
15 to do business in this state a surety bond in an amount determined  
16 by the Texas Transportation Commission [~~commission~~] to compensate  
17 for the cost of maintenance and repairs as provided by this section.  
18 The bond must be approved by the comptroller and the attorney  
19 general and must be conditioned on the person fulfilling the  
20 obligations of the contract.

21 SECTION 8.2L.03. Sections 623.076(b) and (c),  
22 Transportation Code, are amended to read as follows:

23 (b) The board [~~Texas Transportation Commission~~] may adopt  
24 rules for the payment of a fee under Subsection (a). The rules may:

25 (1) authorize the use of electronic funds transfer;

26 (2) authorize the use of a credit card issued by:

27 (A) a financial institution chartered by a state

1 or the United States; or

2 (B) a nationally recognized credit organization  
3 approved by the board [~~Texas Transportation Commission~~]; and

4 (3) require the payment of a discount or service  
5 charge for a credit card payment in addition to the fee prescribed  
6 by Subsection (a).

7 (c) An application for a permit under Section 623.071(c)(3)  
8 or (d) must be accompanied by the permit fee established by the  
9 board [~~commission~~] for the permit, not to exceed \$7,000. Of each  
10 fee collected under this subsection, the department shall send:

11 (1) the first \$1,000 to the comptroller for deposit to  
12 the credit of the general revenue fund; and

13 (2) any amount in excess of \$1,000 to the comptroller  
14 for deposit to the credit of the state highway fund.

15 SECTION 8.2L.04. Sections 623.145, 623.146, 623.195,  
16 623.196, 623.232, and 623.239, Transportation Code, are amended to  
17 read as follows:

18 Sec. 623.145. RULES; FORMS AND PROCEDURES; FEES. (a) The  
19 board [~~Texas Transportation Commission~~] by rule shall provide for  
20 the issuance of permits under this subchapter. The rules must  
21 include each matter the board [~~commission~~] determines necessary to  
22 implement this subchapter and:

23 (1) requirements for forms and procedures used in  
24 applying for a permit;

25 (2) conditions with regard to route and time of  
26 movement;

27 (3) requirements for flags, flaggers, and warning

1 devices;

2 (4) the fee for a permit; and

3 (5) standards to determine whether a permit is to be  
4 issued for one trip only or for a period established by the board  
5 [~~commission~~].

6 (b) In adopting a rule or establishing a fee, the board  
7 [~~commission~~] shall consider and be guided by:

8 (1) the state's investment in its highway system;

9 (2) the safety and convenience of the general  
10 traveling public;

11 (3) the registration or license fee paid on the  
12 vehicle for which the permit is requested;

13 (4) the fees paid by vehicles operating within legal  
14 limits;

15 (5) the suitability of roadways and subgrades on the  
16 various classes of highways of the system;

17 (6) the variation in soil grade prevalent in the  
18 different regions of the state;

19 (7) the seasonal effects on highway load capacity;

20 (8) the highway shoulder design and other highway  
21 geometrics;

22 (9) the load capacity of the highway bridges;

23 (10) administrative costs;

24 (11) added wear on highways; and

25 (12) compensation for inconvenience and necessary  
26 delays to highway users.

27 Sec. 623.146. VIOLATION OF RULE. A permit under this

1 subchapter is void on the failure of an owner or the owner's  
2 representative to comply with a rule of the board [~~commission~~] or  
3 with a condition placed on the permit, and immediately on the  
4 violation, further movement over the highway of an oversize or  
5 overweight vehicle violates the law regulating the size or weight  
6 of a vehicle on a public highway.

7       Sec. 623.195. RULES; FORMS AND PROCEDURES; FEES. (a) The  
8 board [~~Texas Transportation Commission~~] by rule shall provide for  
9 the issuance of a permit under this subchapter. The rules must  
10 include each matter the board [~~commission~~] determines necessary to  
11 implement this subchapter and:

12               (1) requirements for forms and procedures used in  
13 applying for a permit;

14               (2) conditions with regard to route and time of  
15 movement;

16               (3) requirements for flags, flaggers, and warning  
17 devices;

18               (4) the fee for a permit; and

19               (5) standards to determine whether a permit is to be  
20 issued for one trip only or for a period established by the board  
21 [~~commission~~].

22       (b) In adopting a rule or establishing a fee, the board  
23 [~~commission~~] shall consider and be guided by:

24               (1) the state's investment in its highway system;

25               (2) the safety and convenience of the general  
26 traveling public;

27               (3) the registration or license fee paid on the

1 vehicle for which the permit is requested;

2 (4) the fees paid by vehicles operating within legal  
3 limits;

4 (5) the suitability of roadways and subgrades on the  
5 various classes of highways of the system;

6 (6) the variation in soil grade prevalent in the  
7 different regions of the state;

8 (7) the seasonal effects on highway load capacity;

9 (8) the highway shoulder design and other highway  
10 geometrics;

11 (9) the load capacity of highway bridges;

12 (10) administrative costs;

13 (11) added wear on highways; and

14 (12) compensation for inconvenience and necessary  
15 delays to highway users.

16 Sec. 623.196. VIOLATION OF RULE. A permit under this  
17 subchapter is void on the failure of an owner or the owner's  
18 representative to comply with a rule of the board [~~commission~~] or  
19 with a condition placed on the permit, and immediately on the  
20 violation, further movement over a highway of an oversize or  
21 overweight vehicle violates the law regulating the size or weight  
22 of a vehicle on a public highway.

23 Sec. 623.232. ISSUANCE OF PERMITS. The board [~~Texas~~  
24 ~~Transportation Commission~~] may authorize the district to issue  
25 permits for the movement of oversize or overweight vehicles  
26 carrying cargo on state highways located in Victoria County.

27 Sec. 623.239. RULES. The board [~~Texas Transportation~~

1 ~~Commission~~] may adopt rules necessary to implement this subchapter.

2 SECTION 8.2L.05. Section 623.252(a), Transportation Code,  
3 is amended to read as follows:

4 (a) The board [~~Texas Transportation Commission~~] may  
5 authorize the county to issue permits for the movement of oversize  
6 or overweight vehicles carrying cargo on state highways located in  
7 Chambers County.

8 SECTION 8.2L.06. Section 623.259, Transportation Code, is  
9 amended to read as follows:

10 Sec. 623.259. RULES. The board [~~Texas Transportation~~  
11 ~~Commission~~] may adopt rules necessary to implement this subchapter.

12 SUBPART M. IDENTIFYING MARKINGS ON CERTAIN COMMERCIAL MOTOR  
13 VEHICLES

14 SECTION 8.2M.01. Section 642.002(d), Transportation Code,  
15 is amended to read as follows:

16 (d) The Texas Department of Motor Vehicles [~~Transportation~~]  
17 by rule may prescribe additional requirements regarding the form of  
18 the markings required by Subsection (a)(2) that are not  
19 inconsistent with that subsection.

20 SUBPART N. MOTOR CARRIER REGISTRATION

21 SECTION 8.2N.01. Section 643.001(1), Transportation Code,  
22 is amended to read as follows:

23 (1) "Department" means the Texas Department of Motor  
24 Vehicles [~~Transportation~~].

25 SUBPART O. SINGLE STATE REGISTRATION

26 SECTION 8.2O.01. Section 645.001, Transportation Code, is  
27 amended to read as follows:



1           Sec. 645.001. FEDERAL MOTOR CARRIER REGISTRATION. The  
2 Texas Department of Motor Vehicles [~~Transportation~~] may, to the  
3 fullest extent practicable, participate in a federal motor carrier  
4 registration program under the unified carrier registration system  
5 as defined by Section 643.001 or a [the] single state registration  
6 system established under federal law [~~49 U.S.C. Section 14504~~].

7                   SUBPART P. MOTOR TRANSPORTATION BROKERS

8           SECTION 8.2P.01. Section 646.003(a), Transportation Code,  
9 is amended to read as follows:

10           (a) A person may not act as a motor transportation broker  
11 unless the person provides a bond to the Texas Department of Motor  
12 Vehicles [~~Transportation~~].

13                   SUBPART Q. FOREIGN COMMERCIAL MOTOR TRANSPORTATION

14           SECTION 8.2Q.01. Section 648.002, Transportation Code, is  
15 amended to read as follows:

16           Sec. 648.002. RULES. In addition to rules required by this  
17 chapter, the Texas Department of Motor Vehicles [~~Transportation~~],  
18 the Department of Public Safety, and the Texas Department of  
19 Insurance may adopt other rules to carry out this chapter.

20                   SUBPART R. ABANDONED MOTOR VEHICLES

21           SECTION 8.2R.01. Section 683.001(1), Transportation Code,  
22 is amended to read as follows:

23           (1) "Department" means the Texas Department of Motor  
24 Vehicles [~~Transportation~~].

25                   SUBPART S. CONTRACTS FOR ENFORCEMENT OF CERTAIN ARREST WARRANTS

26           SECTION 8.2S.01. Section 702.001(1), Transportation Code,  
27 is amended to read as follows:

1           (1) "Department" means the Texas Department of Motor  
2 Vehicles [~~Transportation~~].

3           SUBPART T. PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM

4           SECTION 8.2T.01. Section 707.001(2), Transportation Code,  
5 is amended to read as follows:

6           (2) "Owner of a motor vehicle" means the owner of a  
7 motor vehicle as shown on the motor vehicle registration records of  
8 the Texas Department of Motor Vehicles [~~Transportation~~] or the  
9 analogous department or agency of another state or country.

10          SECTION 8.2T.02. Section 707.011(b), Transportation Code,  
11 is amended to read as follows:

12          (b) Not later than the 30th day after the date the violation  
13 is alleged to have occurred, the designated department, agency, or  
14 office of the local authority or the entity with which the local  
15 authority contracts under Section 707.003(a)(1) shall mail the  
16 notice of violation to the owner at:

17           (1) the owner's address as shown on the registration  
18 records of the Texas Department of Motor Vehicles [~~Transportation~~];  
19 or

20           (2) if the vehicle is registered in another state or  
21 country, the owner's address as shown on the motor vehicle  
22 registration records of the department or agency of the other state  
23 or country analogous to the Texas Department of Motor Vehicles  
24 [~~Transportation~~].

25          SECTION 8.2T.03. Section 707.017, Transportation Code, is  
26 amended to read as follows:

27          Sec. 707.017. ENFORCEMENT. If the owner of a motor vehicle

1 is delinquent in the payment of a civil penalty imposed under this  
2 chapter, the county assessor-collector or the Texas Department of  
3 Motor Vehicles [~~Transportation~~] may refuse to register a motor  
4 vehicle alleged to have been involved in the violation.

5 SUBPART U. SALE OR LEASE OF MOTOR VEHICLES

6 SECTION 8.2U.01. Section 2301.002(9), Occupations Code, is  
7 amended to read as follows:

8 (9) "Department" means the Texas Department of Motor  
9 Vehicles [~~Transportation~~].

10 SECTION 8.2U.02. Section 2301.002(33), Occupations Code,  
11 is repealed.

12 SUBPART V. SALVAGE VEHICLE DEALERS

13 SECTION 8.2V.01. Sections 2302.001(2) and (3), Occupations  
14 Code, are amended to read as follows:

15 (2) "Board" [~~"Commission"~~] means the board of the  
16 Texas Department of Motor Vehicles [~~Transportation Commission~~].

17 (3) "Department" means the Texas Department of Motor  
18 Vehicles [~~Transportation~~].

19 SECTION 8.2V.02. Section 2302.0015(b), Occupations Code,  
20 is amended to read as follows:

21 (b) For the purpose of enforcing or administering this  
22 chapter or Chapter 501 or 502, Transportation Code, a member of the  
23 board [~~commission~~], an employee or agent of the board [~~commission~~]  
24 or department, a member of the Public Safety Commission, an officer  
25 of the Department of Public Safety, or a peace officer may at a  
26 reasonable time:

27 (1) enter the premises of a business regulated under

1 one of those chapters; and

2 (2) inspect or copy any document, record, vehicle,  
3 part, or other item regulated under one of those chapters.

4 SECTION 8.2V.03. The heading to Subchapter B, Chapter 2302,  
5 Occupations Code, is amended to read as follows:

6 SUBCHAPTER B. BOARD [~~COMMISSION~~] POWERS AND DUTIES

7 SECTION 8.2V.04. Sections 2302.051, 2302.052, and  
8 2302.053, Occupations Code, are amended to read as follows:

9 Sec. 2302.051. RULES AND ENFORCEMENT POWERS. The board  
10 [~~commission~~] shall adopt rules as necessary to administer this  
11 chapter and may take other action as necessary to enforce this  
12 chapter.

13 Sec. 2302.052. DUTY TO SET FEES. The board [~~commission~~]  
14 shall set application fees, license fees, renewal fees, and other  
15 fees as required to implement this chapter. The board [~~commission~~]  
16 shall set the fees in amounts reasonable and necessary to implement  
17 and enforce this chapter.

18 Sec. 2302.053. RULES RESTRICTING ADVERTISING OR  
19 COMPETITIVE BIDDING. (a) The board [~~commission~~] may not adopt a  
20 rule under Section 2302.051 restricting advertising or competitive  
21 bidding by a person who holds a license issued under this chapter  
22 except to prohibit false, misleading, or deceptive practices by the  
23 person.

24 (b) The board [~~commission~~] may not include in its rules to  
25 prohibit false, misleading, or deceptive practices a rule that:

26 (1) restricts the use of any advertising medium;

27 (2) restricts the person's personal appearance or use

1 of the person's voice in an advertisement;

2 (3) relates to the size or duration of an  
3 advertisement by the person; or

4 (4) restricts the use of a trade name in advertising by  
5 the person.

6 SECTION 8.2V.05. Section 2302.108(b), Occupations Code, is  
7 amended to read as follows:

8 (b) The board [~~commission~~] by rule shall establish the  
9 grounds for denial, suspension, revocation, or reinstatement of a  
10 license issued under this chapter and the procedures for  
11 disciplinary action. A rule adopted under this subsection may not  
12 conflict with a rule adopted by the State Office of Administrative  
13 Hearings.

14 SECTION 8.2V.06. Section 2302.204, Occupations Code, is  
15 amended to read as follows:

16 Sec. 2302.204. CASUAL SALES. This chapter does not apply to  
17 a person who purchases fewer than three nonrepairable motor  
18 vehicles or salvage motor vehicles from a salvage vehicle dealer,  
19 an insurance company or salvage pool operator in a casual sale at  
20 auction, except that:

21 (1) the board [~~commission~~] shall adopt rules as  
22 necessary to regulate casual sales by salvage vehicle dealers,  
23 insurance companies, or salvage pool operators and to enforce this  
24 section; and

25 (2) a salvage vehicle dealer, insurance company, or  
26 salvage pool operator who sells a motor vehicle in a casual sale  
27 shall comply with those rules and Subchapter E, Chapter 501,

1 Transportation Code.

2 SUBPART W. AUTOMOBILE BURGLARY AND THEFT PREVENTION AUTHORITY

3 SECTION 8.2W.01. Section 1(3), Article 4413(37), Revised  
4 Statutes, is amended to read as follows:

5 (3) "Department" means the Texas Department of Motor  
6 Vehicles [~~Transportation~~].

7 SECTION 8.2W.02. Section 2, Article 4413(37), Revised  
8 Statutes, is amended to read as follows:

9 Sec. 2. The Automobile Burglary and Theft Prevention  
10 Authority is a division [~~established~~] in the Texas Department of  
11 Motor Vehicles [~~Transportation~~]. [~~The authority is not an advisory~~  
12 ~~body to the Texas Department of Transportation.~~]

13 SECTION 8.2W.03. Section 3(f), Article 4413(37), Revised  
14 Statutes, is amended to read as follows:

15 (f) It is a ground for removal from the authority if a  
16 member:

17 (1) does not have at the time of taking office  
18 [~~appointment~~] the qualifications required by Subsection (b) or is  
19 disqualified under Subsection (i) or (k) of this section;

20 (2) does not maintain during service on the authority  
21 the qualifications required by Subsection (b) or becomes  
22 disqualified under Subsection (i) or (k) of this section;

23 (3) cannot because of illness or disability discharge  
24 the member's duties for a substantial part of the term for which the  
25 member is appointed; or

26 (4) is absent from more than half of the regularly  
27 scheduled authority meetings that the member is eligible to attend

1 during a calendar year without an excuse approved by a majority vote  
2 of the authority.

3 SECTION 8.2W.04. Sections 6(d) and (i), Article 4413(37),  
4 Revised Statutes, are repealed.

5 PART 3. CONFORMING AMENDMENTS PERTAINING TO TEXAS DEPARTMENT OF  
6 TRANSPORTATION IN OTHER CODES

7 SUBPART A. BUSINESS & COMMERCE CODE

8 SECTION 8.3A.01. Section 51.003(b), Business & Commerce  
9 Code, as effective April 1, 2009, is amended to read as follows:

10 (b) In this chapter, "business opportunity" does not  
11 include:

12 (1) the sale or lease of an established and ongoing  
13 business or enterprise that has actively conducted business before  
14 the sale or lease, whether composed of one or more than one  
15 component business or enterprise, if the sale or lease represents  
16 an isolated transaction or series of transactions involving a bona  
17 fide change of ownership or control of the business or enterprise or  
18 liquidation of the business or enterprise;

19 (2) a sale by a retailer of goods or services under a  
20 contract or other agreement to sell the inventory of one or more  
21 ongoing leased departments to a purchaser who is granted the right  
22 to sell the goods or services within or adjoining a retail business  
23 establishment as a department or division of the retail business  
24 establishment;

25 (3) a transaction that is:

26 (A) regulated by the Texas Department of  
27 Licensing and Regulation, the Texas Department of Insurance, the

1 Texas Real Estate Commission, or the director of the Motor Vehicle  
2 Division of the Texas Department of Motor Vehicles  
3 [~~Transportation~~]; and

4 (B) engaged in by a person licensed by one of  
5 those agencies;

6 (4) a real estate syndication;

7 (5) a sale or lease to a business enterprise that also  
8 sells or leases products, equipment, or supplies or performs  
9 services:

10 (A) that are not supplied by the seller; and

11 (B) that the purchaser does not use with the  
12 seller's products, equipment, supplies, or services;

13 (6) the offer or sale of a franchise as described by  
14 the Petroleum Marketing Practices Act (15 U.S.C. Section 2801 et  
15 seq.) and its subsequent amendments;

16 (7) the offer or sale of a business opportunity if the  
17 seller:

18 (A) has a net worth of \$25 million or more  
19 according to the seller's audited balance sheet as of a date not  
20 earlier than the 13th month before the date of the transaction; or

21 (B) is at least 80 percent owned by another  
22 person who:

23 (i) in writing unconditionally guarantees  
24 performance by the person offering the business opportunity plan;  
25 and

26 (ii) has a net worth of more than \$25  
27 million according to the person's most recent audited balance sheet



1 as of a date not earlier than the 13th month before the date of the  
2 transaction; or

3 (8) an arrangement defined as a franchise by 16 C.F.R.  
4 Section 436.2(a) and its subsequent amendments if:

5 (A) the franchisor complies in all material  
6 respects in this state with 16 C.F.R. Part 436 and each order or  
7 other action of the Federal Trade Commission; and

8 (B) before offering for sale or selling a  
9 franchise in this state, a person files with the secretary of state  
10 a notice containing:

11 (i) the name of the franchisor;

12 (ii) the name under which the franchisor  
13 intends to transact business; and

14 (iii) the franchisor's principal business  
15 address.

16 SECTION 8.3A.02. Section 105.004(b), Business & Commerce  
17 Code, as effective April 1, 2009, is amended to read as follows:

18 (b) The Texas Department of Motor Vehicles [~~Transportation~~]  
19 shall provide a notice that states the provisions of this chapter to  
20 each person with a disability who is issued:

21 (1) license plates under Section 504.201,  
22 Transportation Code; or

23 (2) a disabled parking placard under Section 681.004,  
24 Transportation Code.

25 SUBPART B. CODE OF CRIMINAL PROCEDURE

26 SECTION 8.3B.01. Section 1(1), Article 42.22, Code of  
27 Criminal Procedure, is amended to read as follows:

1           (1) "Department" means the Texas Department of Motor  
2 Vehicles [~~Transportation~~].

3           SECTION 8.3B.02. Article 59.04(c), Code of Criminal  
4 Procedure, is amended to read as follows:

5           (c) If the property is a motor vehicle, and if there is  
6 reasonable cause to believe that the vehicle has been registered  
7 under the laws of this state, the attorney representing the state  
8 shall ask the Texas Department of Motor Vehicles [~~Transportation~~]  
9 to identify from its records the record owner of the vehicle and any  
10 interest holder. If the addresses of the owner and interest holder  
11 are not otherwise known, the attorney representing the state shall  
12 request citation be served on such persons at the address listed  
13 with the Texas Department of Motor Vehicles [~~Transportation~~]. If  
14 the citation issued to such address is returned unserved, the  
15 attorney representing the state shall cause a copy of the notice of  
16 the seizure and intended forfeiture to be posted at the courthouse  
17 door, to remain there for a period of not less than 30 days. If the  
18 owner or interest holder does not answer or appear after the notice  
19 has been so posted, the court shall enter a judgment by default as  
20 to the owner or interest holder, provided that the attorney  
21 representing the state files a written motion supported by  
22 affidavit setting forth the attempted service. An owner or  
23 interest holder whose interest is forfeited in this manner shall  
24 not be liable for court costs. If the person in possession of the  
25 vehicle at the time of the seizure is not the owner or the interest  
26 holder of the vehicle, notification shall be provided to the  
27 possessor in the same manner specified for notification to an owner

1 or interest holder.

2 SUBPART C. FAMILY CODE

3 SECTION 8.3C.01. Section 157.316(b), Family Code, is  
4 amended to read as follows:

5 (b) If a lien established under this subchapter attaches to  
6 a motor vehicle, the lien must be perfected in the manner provided  
7 by Chapter 501, Transportation Code, and the court or Title IV-D  
8 agency that rendered the order of child support shall include in the  
9 order a requirement that the obligor surrender to the court or Title  
10 IV-D agency evidence of the legal ownership of the motor vehicle  
11 against which the lien may attach. A lien against a motor vehicle  
12 under this subchapter is not perfected until the obligor's title to  
13 the vehicle has been surrendered to the court or Title IV-D agency  
14 and the Texas Department of Motor Vehicles [~~Transportation~~] has  
15 issued a subsequent title that discloses on its face the fact that  
16 the vehicle is subject to a child support lien under this  
17 subchapter.

18 SECTION 8.3C.02. Section 232.0022(a), Family Code, is  
19 amended to read as follows:

20 (a) The Texas Department of Motor Vehicles [~~Transportation~~]  
21 is the appropriate licensing authority for suspension or nonrenewal  
22 of a motor vehicle registration under this chapter.

23 SECTION 8.3C.03. Section 232.014(b), Family Code, is  
24 amended to read as follows:

25 (b) A fee collected by the Texas Department of Motor  
26 Vehicles [~~Transportation~~] or the Department of Public Safety shall  
27 be deposited to the credit of the state highway fund.

1 SECTION 8.3C.04. Section 264.502(b), Family Code, is  
2 amended to read as follows:

3 (b) The members of the committee who serve under Subsections  
4 (a)(1) through (3) shall select the following additional committee  
5 members:

6 (1) a criminal prosecutor involved in prosecuting  
7 crimes against children;

8 (2) a sheriff;

9 (3) a justice of the peace;

10 (4) a medical examiner;

11 (5) a police chief;

12 (6) a pediatrician experienced in diagnosing and  
13 treating child abuse and neglect;

14 (7) a child educator;

15 (8) a child mental health provider;

16 (9) a public health professional;

17 (10) a child protective services specialist;

18 (11) a sudden infant death syndrome family service  
19 provider;

20 (12) a neonatologist;

21 (13) a child advocate;

22 (14) a chief juvenile probation officer;

23 (15) a child abuse prevention specialist;

24 (16) a representative of the Department of Public  
25 Safety; and

26 (17) a representative of the Texas Department of Motor  
27 Vehicles [~~Transportation~~].

SUBPART D. FINANCE CODE

SECTION 8.3D.01. Section 306.001(9), Finance Code, is amended to read as follows:

(9) "Qualified commercial loan":

(A) means:

(i) a commercial loan in which one or more persons as part of the same transaction lends, advances, borrows, or receives, or is obligated to lend or advance or entitled to borrow or receive, money or credit with an aggregate value of:

(a) \$3 million or more if the commercial loan is secured by real property; or

(b) \$250,000 or more if the commercial loan is not secured by real property and, if the aggregate value of the commercial loan is less than \$500,000, the loan documents contain a written certification from the borrower that:

(1) the borrower has been advised by the lender to seek the advice of an attorney and an accountant in connection with the commercial loan; and

(2) the borrower has had the opportunity to seek the advice of an attorney and accountant of the borrower's choice in connection with the commercial loan; and

(ii) a renewal or extension of a commercial loan described by Paragraph (A), regardless of the principal amount of the loan at the time of the renewal or extension; and

(B) does not include a commercial loan made for the purpose of financing a business licensed by the [~~Motor Vehicle Board of the~~] Texas Department of Motor Vehicles [~~Transportation~~]

1 under Section 2301.251(a), Occupations Code.

2 SECTION 8.3D.02. Section 348.001(10-a), Finance Code, is  
3 amended to read as follows:

4 (10-a) "Towable recreation vehicle" means a  
5 nonmotorized vehicle that:

6 (A) was originally designed and manufactured  
7 primarily to provide temporary human habitation in conjunction with  
8 recreational, camping, or seasonal use;

9 (B) is titled and registered with the Texas  
10 Department of Motor Vehicles [~~Transportation~~] as a travel trailer  
11 through a county tax assessor-collector;

12 (C) is permanently built on a single chassis;

13 (D) contains at least one life support system;

14 and

15 (E) is designed to be towable by a motor vehicle.

16 SECTION 8.3D.03. Section 348.518, Finance Code, is amended  
17 to read as follows:

18 Sec. 348.518. SHARING OF INFORMATION. To ensure consistent  
19 enforcement of law and minimization of regulatory burdens, the  
20 commissioner and the Texas Department of Motor Vehicles  
21 [~~Transportation~~] may share information, including criminal history  
22 information, relating to a person licensed under this chapter.  
23 Information otherwise confidential remains confidential after it  
24 is shared under this section.

25 SUBPART E. GOVERNMENT CODE

26 SECTION 8.3E.01. Section 411.122(d), Government Code, is  
27 amended to read as follows:

1 (d) The following state agencies are subject to this  
2 section:

3 (1) Texas Appraiser Licensing and Certification  
4 Board;

5 (2) Texas Board of Architectural Examiners;

6 (3) Texas Board of Chiropractic Examiners;

7 (4) State Board of Dental Examiners;

8 (5) Texas Board of Professional Engineers;

9 (6) Texas Funeral Service Commission;

10 (7) Texas Board of Professional Geoscientists;

11 (8) Department of State Health Services, except as  
12 provided by Section 411.110, and agencies attached to the  
13 department, including:

14 (A) Texas State Board of Examiners of Dietitians;

15 (B) Texas State Board of Examiners of Marriage  
16 and Family Therapists;

17 (C) Midwifery Board;

18 (D) Texas State Perfusionist Advisory Committee  
19 [~~Board of Examiners of Perfusionists~~];

20 (E) Texas State Board of Examiners of  
21 Professional Counselors;

22 (F) Texas State Board of Social Worker Examiners;

23 (G) State Board of Examiners for Speech-Language  
24 Pathology and Audiology;

25 (H) Advisory Board of Athletic Trainers;

26 (I) State Committee of Examiners in the Fitting  
27 and Dispensing of Hearing Instruments;

- 1                   (J) Texas Board of Licensure for Professional  
2 Medical Physicists; and
- 3                   (K) Texas Board of Orthotics and Prosthetics;
- 4           (9) Texas Board of Professional Land Surveying;
- 5           (10) Texas Department of Licensing and Regulation,  
6 except as provided by Section 411.093;
- 7           (11) Texas Commission on Environmental Quality;
- 8           (12) Texas Board of Occupational Therapy Examiners;
- 9           (13) Texas Optometry Board;
- 10           (14) Texas State Board of Pharmacy;
- 11           (15) Texas Board of Physical Therapy Examiners;
- 12           (16) Texas State Board of Plumbing Examiners;
- 13           (17) Texas State Board of Podiatric Medical Examiners;
- 14           (18) Polygraph Examiners Board;
- 15           (19) Texas State Board of Examiners of Psychologists;
- 16           (20) Texas Real Estate Commission;
- 17           (21) Board of Tax Professional Examiners;
- 18           (22) Texas Department of Transportation;
- 19           (23) State Board of Veterinary Medical Examiners;
- 20           (24) Texas Department of Housing and Community  
21 Affairs;
- 22           (25) secretary of state;
- 23           (26) state fire marshal;
- 24           (27) Texas Education Agency; ~~and~~
- 25           (28) Department of Agriculture; and
- 26           (29) Texas Department of Motor Vehicles.



1                   SUBPART F. HEALTH AND SAFETY CODE

2           SECTION 8.3F.01. Section 382.209(e), Health and Safety  
3 Code, is amended to read as follows:

4           (e) A vehicle is not eligible to participate in a low-income  
5 vehicle repair assistance, retrofit, and accelerated vehicle  
6 retirement program established under this section unless:

7                   (1) the vehicle is capable of being operated;

8                   (2) the registration of the vehicle:

9                           (A) is current; and

10                           (B) reflects that the vehicle has been registered  
11 in the county implementing the program for the 12 months preceding  
12 the application for participation in the program;

13                   (3) the commissioners court of the county  
14 administering the program determines that the vehicle meets the  
15 eligibility criteria adopted by the commission, the Texas  
16 Department of Motor Vehicles [~~Transportation~~], and the Public  
17 Safety Commission;

18                   (4) if the vehicle is to be repaired, the repair is  
19 done by a repair facility recognized by the Department of Public  
20 Safety, which may be an independent or private entity licensed by  
21 the state; and

22                   (5) if the vehicle is to be retired under this  
23 subsection and Section 382.213, the replacement vehicle is a  
24 qualifying motor vehicle.

25           SECTION 8.3F.02. Section 382.210(f), Health and Safety  
26 Code, is amended to read as follows:

27           (f) In this section, "total cost" means the total amount of

1 money paid or to be paid for the purchase of a motor vehicle as set  
2 forth as "sales price" in the form entitled "Application for Texas  
3 Certificate of Title" promulgated by the Texas Department of Motor  
4 Vehicles [~~Transportation~~]. In a transaction that does not involve  
5 the use of that form, the term means an amount of money that is  
6 equivalent, or substantially equivalent, to the amount that would  
7 appear as "sales price" on the Application for Texas Certificate of  
8 Title if that form were involved.

9 SECTION 8.3F.03. Section 461.017(a), Health and Safety  
10 Code, is amended to read as follows:

11 (a) The Drug Demand Reduction Advisory Committee is  
12 composed of the following members:

13 (1) five representatives of the public from different  
14 geographic regions of the state who have knowledge and expertise in  
15 issues relating to reducing drug demand and who are appointed by the  
16 commissioner [~~executive director~~] of the Department of State Health  
17 Services [~~Texas Commission on Alcohol and Drug Abuse~~]; and

18 (2) one representative of each of the following  
19 agencies or offices who is appointed by the executive director or  
20 commissioner of the agency or office and who is directly involved in  
21 the agency's or office's policies, programs, or funding activities  
22 relating to reducing drug demand:

23 (A) the criminal justice division of the  
24 governor's office;

25 (B) the Criminal Justice Policy Council;

26 (C) the Department of Family and Protective [~~and~~  
27 ~~Regulatory~~] Services;

- 1 (D) the Department of Public Safety of the State  
2 of Texas;
- 3 (E) the Health and Human Services Commission;
- 4 (F) the Texas Alcoholic Beverage Commission;
- 5 (G) the Department of State Health Services  
6 [~~Texas Commission on Alcohol and Drug Abuse~~];
- 7 (H) the Texas Council on Offenders with Mental  
8 Impairments;
- 9 (I) the Texas Department of Criminal Justice;
- 10 (J) the [~~Texas Department of~~] Health and [~~+~~  
11 [~~(K) the Texas Department of~~] Human Services  
12 Commission;
- 13 (K) [~~(L)~~] the [~~Texas~~] Department of Aging and  
14 Disability Services [~~Mental Health and Mental Retardation~~];
- 15 (L) [~~(M)~~] the Texas Education Agency;
- 16 (M) [~~(N)~~] the Texas Juvenile Probation  
17 Commission;
- 18 (N) [~~(O)~~] the Texas Youth Commission;
- 19 (O) [~~(P)~~] the Department of Assistive and  
20 Rehabilitative Services [~~Texas Rehabilitation Commission~~];
- 21 (P) [~~(Q)~~] the Texas Workforce Commission;
- 22 (Q) [~~(R)~~] the Texas Department of Motor Vehicles  
23 [~~Transportation~~];
- 24 (R) [~~(S)~~] the comptroller of public accounts;  
25 and
- 26 (S) [~~(T)~~] the adjutant general's department.

SUBPART G. HUMAN RESOURCES CODE

SECTION 8.3G.01. Section 22.041, Human Resources Code, is amended to read as follows:

Sec. 22.041. THIRD-PARTY INFORMATION. Notwithstanding any other provision of this code, the department may use information obtained from a third party to verify the assets and resources of a person for purposes of determining the person's eligibility and need for medical assistance, financial assistance, or nutritional assistance. Third-party information includes information obtained from:

(1) a consumer reporting agency, as defined by Section 20.01, Business & Commerce Code;

(2) an appraisal district; or

(3) the Texas Department of Motor Vehicles [~~Transportation's~~] vehicle registration record database.

SECTION 8.3G.02. Section 32.026(g), Human Resources Code, is amended to read as follows:

(g) Notwithstanding any other provision of this code, the department may use information obtained from a third party to verify the assets and resources of a person for purposes of determining the person's eligibility and need for medical assistance. Third-party information includes information obtained from:

(1) a consumer reporting agency, as defined by Section 20.01, Business & Commerce Code;

(2) an appraisal district; or

(3) the Texas Department of Motor Vehicles

1 [~~Transportation's~~] vehicle registration record database.

2 SUBPART H. LOCAL GOVERNMENT CODE

3 SECTION 8.3H.01. Section 130.006, Local Government Code, is  
4 amended to read as follows:

5 Sec. 130.006. PROCEDURES FOR COLLECTION OF DISHONORED  
6 CHECKS AND INVOICES. A county tax assessor-collector may establish  
7 procedures for the collection of dishonored checks and credit card  
8 invoices. The procedures may include:

9 (1) official notification to the maker that the check  
10 or invoice has not been honored and that the receipt, registration,  
11 certificate, or other instrument issued on the receipt of the check  
12 or invoice is not valid until payment of the fee or tax is made;

13 (2) notification of the sheriff or other law  
14 enforcement officers that a check or credit card invoice has not  
15 been honored and that the receipt, registration, certificate, or  
16 other instrument held by the maker is not valid; and

17 (3) notification to the Texas Department of Motor  
18 Vehicles [~~Transportation~~], the comptroller of public accounts, or  
19 the Department of Public Safety that the receipt, registration,  
20 certificate, or other instrument held by the maker is not valid.

21 SECTION 8.3H.02. Section 130.007, Local Government Code, is  
22 amended to read as follows:

23 Sec. 130.007. REMISSION TO STATE NOT REQUIRED; STATE  
24 ASSISTANCE IN COLLECTION. (a) If a fee or tax is required to be  
25 remitted to the comptroller or the Texas Department of Motor  
26 Vehicles [~~Transportation~~] and if payment was made to the county tax  
27 assessor-collector by a check that was not honored by the drawee

1 bank or by a credit card invoice that was not honored by the credit  
2 card issuer, the amount of the fee or tax is not required to be  
3 remitted, but the assessor-collector shall notify the appropriate  
4 department of:

- 5 (1) the amount of the fee or tax;
- 6 (2) the type of fee or tax involved; and
- 7 (3) the name and address of the maker.

8 (b) The Texas Department of Motor Vehicles [~~Transportation~~]  
9 and the comptroller shall assist the county tax assessor-collector  
10 in collecting the fee or tax and may cancel or revoke any receipt,  
11 registration, certificate, or other instrument issued in the name  
12 of the state conditioned on the payment of the fee or tax.

13 SECTION 8.3H.03. Section 130.008, Local Government Code, is  
14 amended to read as follows:

15 Sec. 130.008. LIABILITY OF TAX COLLECTOR FOR VIOLATIONS OF  
16 SUBCHAPTER. If the comptroller or the Texas Department of Motor  
17 Vehicles [~~Transportation~~] determines that the county tax  
18 assessor-collector has accepted payment for fees and taxes to be  
19 remitted to that department in violation of Section 130.004 or that  
20 more than two percent of the fees and taxes to be received from the  
21 assessor-collector are not remitted because of the acceptance of  
22 checks that are not honored by the drawee bank or of credit card  
23 invoices that are not honored by the credit card issuer, the  
24 department may notify the assessor-collector that the  
25 assessor-collector may not accept a check or credit card invoice  
26 for the payment of any fee or tax to be remitted to that department.  
27 A county tax assessor-collector who accepts a check or credit card

1 invoice for the payment of a fee or tax, after notice that the  
2 assessor-collector may not receive a check or credit card invoice  
3 for the payment of fees or taxes to be remitted to a department, is  
4 liable to the state for the amount of the check or credit card  
5 invoice accepted.

6 SECTION 8.3H.04. Section 130.009, Local Government Code, is  
7 amended to read as follows:

8 Sec. 130.009. STATE RULES. The comptroller and the Texas  
9 Department of Motor Vehicles [~~Transportation~~] may make rules  
10 concerning the acceptance of checks or credit card invoices by a  
11 county tax assessor-collector and for the collection of dishonored  
12 checks or credit card invoices.

13 SUBPART I. OCCUPATIONS CODE

14 SECTION 8.3I.01. Section 554.009(c), Occupations Code, is  
15 amended to read as follows:

16 (c) The board may register a vehicle with the Texas  
17 Department of Motor Vehicles [~~Transportation~~] in an alias name only  
18 for investigative personnel.

19 SUBPART J. PENAL CODE

20 SECTION 8.3J.01. Section 31.03(c), Penal Code, is amended  
21 to read as follows:

22 (c) For purposes of Subsection (b):

23 (1) evidence that the actor has previously  
24 participated in recent transactions other than, but similar to,  
25 that which the prosecution is based is admissible for the purpose of  
26 showing knowledge or intent and the issues of knowledge or intent  
27 are raised by the actor's plea of not guilty;

1           (2) the testimony of an accomplice shall be  
2 corroborated by proof that tends to connect the actor to the crime,  
3 but the actor's knowledge or intent may be established by the  
4 uncorroborated testimony of the accomplice;

5           (3) an actor engaged in the business of buying and  
6 selling used or secondhand personal property, or lending money on  
7 the security of personal property deposited with the actor, is  
8 presumed to know upon receipt by the actor of stolen property (other  
9 than a motor vehicle subject to Chapter 501, Transportation Code)  
10 that the property has been previously stolen from another if the  
11 actor pays for or loans against the property \$25 or more (or  
12 consideration of equivalent value) and the actor knowingly or  
13 recklessly:

14           (A) fails to record the name, address, and  
15 physical description or identification number of the seller or  
16 pledgor;

17           (B) fails to record a complete description of the  
18 property, including the serial number, if reasonably available, or  
19 other identifying characteristics; or

20           (C) fails to obtain a signed warranty from the  
21 seller or pledgor that the seller or pledgor has the right to  
22 possess the property. It is the express intent of this provision  
23 that the presumption arises unless the actor complies with each of  
24 the numbered requirements;

25           (4) for the purposes of Subdivision (3)(A),  
26 "identification number" means driver's license number, military  
27 identification number, identification certificate, or other



1 official number capable of identifying an individual;

2 (5) stolen property does not lose its character as  
3 stolen when recovered by any law enforcement agency;

4 (6) an actor engaged in the business of obtaining  
5 abandoned or wrecked motor vehicles or parts of an abandoned or  
6 wrecked motor vehicle for resale, disposal, scrap, repair,  
7 rebuilding, demolition, or other form of salvage is presumed to  
8 know on receipt by the actor of stolen property that the property  
9 has been previously stolen from another if the actor knowingly or  
10 recklessly:

11 (A) fails to maintain an accurate and legible  
12 inventory of each motor vehicle component part purchased by or  
13 delivered to the actor, including the date of purchase or delivery,  
14 the name, age, address, sex, and driver's license number of the  
15 seller or person making the delivery, the license plate number of  
16 the motor vehicle in which the part was delivered, a complete  
17 description of the part, and the vehicle identification number of  
18 the motor vehicle from which the part was removed, or in lieu of  
19 maintaining an inventory, fails to record the name and certificate  
20 of inventory number of the person who dismantled the motor vehicle  
21 from which the part was obtained;

22 (B) fails on receipt of a motor vehicle to obtain  
23 a certificate of authority, sales receipt, or transfer document as  
24 required by Chapter 683, Transportation Code, or a certificate of  
25 title showing that the motor vehicle is not subject to a lien or  
26 that all recorded liens on the motor vehicle have been released; or

27 (C) fails on receipt of a motor vehicle to

1 immediately remove an unexpired license plate from the motor  
2 vehicle, to keep the plate in a secure and locked place, or to  
3 maintain an inventory, on forms provided by the Texas Department of  
4 Motor Vehicles [~~Transportation~~], of license plates kept under this  
5 paragraph, including for each plate or set of plates the license  
6 plate number and the make, motor number, and vehicle identification  
7 number of the motor vehicle from which the plate was removed;

8 (7) an actor who purchases or receives a used or  
9 secondhand motor vehicle is presumed to know on receipt by the actor  
10 of the motor vehicle that the motor vehicle has been previously  
11 stolen from another if the actor knowingly or recklessly:

12 (A) fails to report to the Texas Department of  
13 Motor Vehicles [~~Transportation~~] the failure of the person who sold  
14 or delivered the motor vehicle to the actor to deliver to the actor  
15 a properly executed certificate of title to the motor vehicle at the  
16 time the motor vehicle was delivered; or

17 (B) fails to file with the county tax  
18 assessor-collector of the county in which the actor received the  
19 motor vehicle, not later than the 20th day after the date the actor  
20 received the motor vehicle, the registration license receipt and  
21 certificate of title or evidence of title delivered to the actor in  
22 accordance with Subchapter D, Chapter 520, Transportation Code, at  
23 the time the motor vehicle was delivered;

24 (8) an actor who purchases or receives from any source  
25 other than a licensed retailer or distributor of pesticides a  
26 restricted-use pesticide or a state-limited-use pesticide or a  
27 compound, mixture, or preparation containing a restricted-use or

1 state-limited-use pesticide is presumed to know on receipt by the  
2 actor of the pesticide or compound, mixture, or preparation that  
3 the pesticide or compound, mixture, or preparation has been  
4 previously stolen from another if the actor:

5 (A) fails to record the name, address, and  
6 physical description of the seller or pledgor;

7 (B) fails to record a complete description of the  
8 amount and type of pesticide or compound, mixture, or preparation  
9 purchased or received; and

10 (C) fails to obtain a signed warranty from the  
11 seller or pledgor that the seller or pledgor has the right to  
12 possess the property; and

13 (9) an actor who is subject to Section 409, Packers and  
14 Stockyards Act (7 U.S.C. Section 228b), that obtains livestock from  
15 a commission merchant by representing that the actor will make  
16 prompt payment is presumed to have induced the commission  
17 merchant's consent by deception if the actor fails to make full  
18 payment in accordance with Section 409, Packers and Stockyards Act  
19 (7 U.S.C. Section 228b).

20 SECTION 8.3J.02. Section 31.11(b), Penal Code, is amended  
21 to read as follows:

22 (b) It is an affirmative defense to prosecution under this  
23 section that the person was:

24 (1) the owner or acting with the effective consent of  
25 the owner of the property involved;

26 (2) a peace officer acting in the actual discharge of  
27 official duties; or



1 (1) has not acquired taxable situs under Section  
2 21.02(a)(1) in a taxing unit that participates in the appraisal  
3 district because the vehicle is described by Section 21.02(d);

4 (2) is offered for sale by a dealer who holds a  
5 dealer's general distinguishing number issued by the Texas  
6 Department of Motor Vehicles [~~Transportation~~] under Chapter 503,  
7 Transportation Code, and whose inventory of motor vehicles is  
8 subject to taxation in the manner provided by Sections 23.121 and  
9 23.122; or

10 (3) is collateral possessed by a lienholder and  
11 offered for sale in foreclosure of a security interest.

12 SECTION 8.3K.03. Sections 23.121(a)(3), (11), and (14), Tax  
13 Code, are amended to read as follows:

14 (3) "Dealer" means a person who holds a dealer's  
15 general distinguishing number issued by the Texas Department of  
16 Motor Vehicles [~~Transportation~~] under the authority of Chapter 503,  
17 Transportation Code, or who is legally recognized as a motor  
18 vehicle dealer pursuant to the law of another state and who complies  
19 with the terms of Section 152.063(f). The term does not include:

20 (A) a person who holds a manufacturer's license  
21 issued under Chapter 2301, Occupations Code [~~by the Motor Vehicle~~  
22 ~~Board of the Texas Department of Transportation~~];

23 (B) an entity that is owned or controlled by a  
24 person who holds a manufacturer's license issued under Chapter  
25 2301, Occupations Code [~~by the Motor Vehicle Board of the Texas~~  
26 ~~Department of Transportation~~]; or

27 (C) a dealer whose general distinguishing number

1 issued by the Texas Department of Motor Vehicles [~~Transportation~~]  
2 under the authority of Chapter 503, Transportation Code, prohibits  
3 the dealer from selling a vehicle to any person except a dealer.

4 (11) "Sales price" means the total amount of money  
5 paid or to be paid for the purchase of a motor vehicle as set forth  
6 as "sales price" in the form entitled "Application for Texas  
7 Certificate of Title" promulgated by the Texas Department of Motor  
8 Vehicles [~~Transportation~~]. In a transaction that does not involve  
9 the use of that form, the term means an amount of money that is  
10 equivalent, or substantially equivalent, to the amount that would  
11 appear as "sales price" on the Application for Texas Certificate of  
12 Title if that form were involved.

13 (14) "Towable recreational vehicle" means a  
14 nonmotorized vehicle that is designed for temporary human  
15 habitation for recreational, camping, or seasonal use and:

16 (A) is titled and registered with the Texas  
17 Department of Motor Vehicles [~~Transportation~~] through the office of  
18 the collector;

19 (B) is permanently built on a single chassis;

20 (C) contains one or more life support systems;

21 and

22 (D) is designed to be towable by a motor vehicle.

23 SECTION 8.3K.04. Sections 23.121(f), (g), and (h), Tax  
24 Code, are amended to read as follows:

25 (f) The comptroller shall promulgate a form entitled  
26 Dealer's Motor Vehicle Inventory Declaration. Except as provided  
27 by Section 23.122(1) [~~of this code~~], not later than February 1 of

1 each year, or, in the case of a dealer who was not in business on  
2 January 1, not later than 30 days after commencement of business,  
3 each dealer shall file a declaration with the chief appraiser and  
4 file a copy with the collector. For purposes of this subsection, a  
5 dealer is presumed to have commenced business on the date of  
6 issuance to the dealer of a dealer's general distinguishing number  
7 as provided by Chapter 503, Transportation Code. Notwithstanding  
8 the presumption created by this subsection, a chief appraiser may,  
9 at his or her sole discretion, designate as the date on which a  
10 dealer commenced business a date other than the date of issuance to  
11 the dealer of a dealer's general distinguishing number. The  
12 declaration is sufficient to comply with this subsection if it sets  
13 forth the following information:

14 (1) the name and business address of each location at  
15 which the dealer owner conducts business;

16 (2) each of the dealer's general distinguishing  
17 numbers issued by the Texas Department of Motor Vehicles  
18 [~~Transportation~~];

19 (3) a statement that the dealer owner is the owner of a  
20 dealer's motor vehicle inventory; and

21 (4) the market value of the dealer's motor vehicle  
22 inventory for the current tax year as computed under Section  
23 23.121(b) [~~of this code~~].

24 (g) Under the terms provided by this subsection, the chief  
25 appraiser may examine the books and records of the holder of a  
26 general distinguishing number issued by the Texas Department of  
27 Motor Vehicles [~~Transportation~~]. A request made under this

1 subsection must be made in writing, delivered personally to the  
2 custodian of the records, at the location for which the general  
3 distinguishing number has been issued, must provide a period not  
4 less than 15 days for the person to respond to the request, and must  
5 state that the person to whom it is addressed has the right to seek  
6 judicial relief from compliance with the request. In a request made  
7 under this section the chief appraiser may examine:

8 (1) the document issued by the Texas Department of  
9 Motor Vehicles [~~Transportation~~] showing the person's general  
10 distinguishing number;

11 (2) documentation appropriate to allow the chief  
12 appraiser to ascertain the applicability of this section and  
13 Section 23.122 [~~of this code~~] to the person;

14 (3) sales records to substantiate information set  
15 forth in the dealer's declaration filed by the person.

16 (h) If a dealer fails to file a declaration as required by  
17 this section, or if, on the declaration required by this section, a  
18 dealer reports the sale of fewer than five motor vehicles in the  
19 prior year, the chief appraiser shall report that fact to the Texas  
20 Department of Motor Vehicles [~~Transportation~~] and the department  
21 shall initiate termination proceedings. The chief appraiser shall  
22 include with the report a copy of a declaration, if any, indicating  
23 the sale by a dealer of fewer than five motor vehicles in the prior  
24 year. A report by a chief appraiser to the Texas Department of  
25 Motor Vehicles [~~Transportation~~] as provided by this subsection is  
26 prima facie grounds for the cancellation of the dealer's general  
27 distinguishing number under Section 503.038(a)(9), Transportation



1 Code, or for refusal by the Texas Department of Motor Vehicles  
2 [~~Transportation~~] to renew the dealer's general distinguishing  
3 number.

4 SECTION 8.3K.05. Section 23.123(c), Tax Code, is amended to  
5 read as follows:

6 (c) Information made confidential by this section may be  
7 disclosed:

8 (1) in a judicial or administrative proceeding  
9 pursuant to a lawful subpoena;

10 (2) to the person who filed the declaration or  
11 statement or to that person's representative authorized by the  
12 person in writing to receive the information;

13 (3) to the comptroller or an employee of the  
14 comptroller authorized by the comptroller to receive the  
15 information;

16 (4) to a collector or chief appraiser;

17 (5) to a district attorney, criminal district attorney  
18 or county attorney involved in the enforcement of a penalty imposed  
19 pursuant to Section 23.121 or Section 23.122 [~~of this code~~];

20 (6) for statistical purposes if in a form that does not  
21 identify specific property or a specific property owner;

22 (7) if and to the extent that the information is  
23 required for inclusion in a public document or record that the  
24 appraisal or collection office is required by law to prepare or  
25 maintain; or

26 (8) to the Texas Department of Motor Vehicles  
27 [~~Transportation~~] for use by that department in auditing compliance

1 of its licensees with appropriate provisions of applicable law.

2 SECTION 8.3K.06. Section 23.124(a)(11), Tax Code, is  
3 amended to read as follows:

4 (11) "Sales price" means the total amount of money  
5 paid or to be paid for the purchase of:

6 (A) a vessel, other than a trailer that is  
7 treated as a vessel, as set forth as "sales price" in the form  
8 entitled "Application for Texas Certificate of Number/Title for  
9 Boat/Seller, Donor or Trader's Affidavit" promulgated by the Parks  
10 and Wildlife Department;

11 (B) an outboard motor as set forth as "sales  
12 price" in the form entitled "Application for Texas Certificate of  
13 Title for an Outboard Motor/Seller, Donor or Trader's Affidavit"  
14 promulgated by the Parks and Wildlife Department; or

15 (C) a trailer that is treated as a vessel as set  
16 forth as "sales price" in the form entitled "Application for Texas  
17 Certificate of Title" promulgated by the Texas Department of Motor  
18 Vehicles [~~Transportation~~].

19 In a transaction involving a vessel, an outboard motor,  
20 or a trailer that is treated as a vessel that does not involve the  
21 use of one of these forms, the term means an amount of money that is  
22 equivalent, or substantially equivalent, to the amount that would  
23 appear as "sales price" on the Application for Texas Certificate of  
24 Number/Title for Boat/Seller, Donor or Trader's Affidavit, the  
25 Application for Texas Certificate of Title for an Outboard  
26 Motor/Seller, Donor or Trader's Affidavit, or the Application for  
27 Texas Certificate of Title if one of these forms were involved.

1 SECTION 8.3K.07. Section 113.011, Tax Code, is amended to  
2 read as follows:

3 Sec. 113.011. LIENS FILED WITH TEXAS DEPARTMENT OF MOTOR  
4 VEHICLES [~~TRANSPORTATION~~]. The comptroller shall furnish to the  
5 Texas Department of Motor Vehicles [~~Transportation~~] each release of  
6 a tax lien filed by the comptroller with that department.

7 SECTION 8.3K.08. Sections 152.0412(a) and (f), Tax Code,  
8 are amended to read as follows:

9 (a) In this section, "standard presumptive value" means the  
10 private-party transaction value of a motor vehicle, as determined  
11 by the Texas Department of Motor Vehicles [~~Transportation~~] based on  
12 an appropriate regional guidebook of a nationally recognized motor  
13 vehicle value guide service, or based on another motor vehicle  
14 guide publication that the department determines is appropriate if  
15 a private-party transaction value for the motor vehicle is not  
16 available from a regional guidebook described by this subsection.

17 (f) The Texas Department of Motor Vehicles [~~Transportation~~]  
18 shall maintain information on the standard presumptive values of  
19 motor vehicles as part of the department's registration and title  
20 system. The department shall update the information at least  
21 quarterly each calendar year and publish, electronically or  
22 otherwise, the updated information.

23 SECTION 8.3K.09. Section 152.042, Tax Code, is amended to  
24 read as follows:

25 Sec. 152.042. COLLECTION OF TAX ON METAL DEALER PLATES. A  
26 person required to pay the tax imposed by Section 152.027 shall pay  
27 the tax to the Texas Department of Motor Vehicles [~~Transportation~~],

1 and the department may not issue the metal dealer's plates until the  
2 tax is paid.

3 SECTION 8.3K.10. Section 152.121(b), Tax Code, is amended  
4 to read as follows:

5 (b) Taxes on metal dealer plates collected by the Texas  
6 Department of Motor Vehicles [~~Transportation~~] shall be deposited by  
7 the department in the state treasury in the same manner as are other  
8 taxes collected under this chapter.

9 SECTION 8.3K.11. Section 162.001(52), Tax Code, is amended  
10 to read as follows:

11 (52) "Registered gross weight" means the total weight  
12 of the vehicle and carrying capacity shown on the registration  
13 certificate issued by the Texas Department of Motor Vehicles  
14 [~~Transportation~~].

15 PART 4. TRANSFERS OF CERTAIN POWERS, DUTIES, OBLIGATIONS, AND  
16 RIGHTS OF ACTION

17 SECTION 8.4.01. (a) All powers, duties, obligations, and  
18 rights of action of the Motor Carrier Division, the Motor Vehicle  
19 Division, and the Vehicle Titles and Registration Division of the  
20 Texas Department of Transportation are transferred to the Texas  
21 Department of Motor Vehicles, and all powers, duties, obligations,  
22 and rights of action of the Texas Transportation Commission in  
23 connection or associated with those divisions of the Texas  
24 Department of Transportation are transferred to the board of the  
25 Texas Department of Motor Vehicles on December 1, 2009.

26 (b) In connection with the transfers required by Subsection  
27 (a) of this section, the personnel, furniture, computers, other

1 property and equipment, files, and related materials used by the  
2 Motor Carrier Division, the Motor Vehicle Division, and the Vehicle  
3 Titles and Registration Division of the Texas Department of  
4 Transportation are transferred to the Texas Department of Motor  
5 Vehicles.

6 (c) The Texas Department of Motor Vehicles shall continue  
7 any proceeding involving the Motor Carrier Division, the Motor  
8 Vehicle Division, or the Vehicle Titles and Registration Division  
9 of the Texas Department of Transportation that was brought before  
10 the effective date of this Act in accordance with the law in effect  
11 on the date the proceeding was brought, and the former law is  
12 continued in effect for that purpose.

13 (d) A certificate, license, document, permit, registration,  
14 or other authorization issued by the Motor Carrier Division, the  
15 Motor Vehicle Division, or the Vehicle Titles and Registration  
16 Division of the Texas Department of Transportation that is in  
17 effect on the effective date of this Act remains valid for the  
18 period for which it was issued unless suspended or revoked by the  
19 Texas Department of Motor Vehicles.

20 (e) A rule adopted by the Texas Transportation Commission or  
21 the director of the Texas Department of Transportation in  
22 connection with or relating to the Motor Carrier Division, the  
23 Motor Vehicle Division, or the Vehicle Titles and Registration  
24 Division of that department continues in effect until it is amended  
25 or repealed by the board of the Texas Department of Motor Vehicles.

26 (f) The unobligated and unexpended balance of any  
27 appropriations made to the Texas Department of Transportation in

1 connection with or relating to the Motor Carrier Division, the  
2 Motor Vehicle Division, and the Vehicle Titles and Registration  
3 Division of that department for the state fiscal biennium ending  
4 August 31, 2009, is transferred and reappropriated to the Texas  
5 Department of Motor Vehicles for the purpose of implementing the  
6 powers, duties, obligations, and rights of action transferred to  
7 that department under Subsection (a) of this section.

8 SECTION 8.4.02. (a) All powers, duties, obligations, and  
9 rights of action of the Automobile Burglary and Theft Prevention  
10 Authority Office of the Texas Department of Transportation under  
11 Article 4413(37), Revised Statutes, are transferred to the  
12 Automobile Burglary and Theft Prevention Authority Division of the  
13 Texas Department of Motor Vehicles, and all powers, duties,  
14 obligations, and rights of action of the Texas Transportation  
15 Commission in connection or associated with the Automobile Burglary  
16 and Theft Prevention Authority Office of the Texas Department of  
17 Transportation are transferred to the board of the Texas Department  
18 of Motor Vehicles on December 1, 2009.

19 (b) In connection with the transfers required by Subsection  
20 (a) of this section, the personnel, furniture, computers, other  
21 property and equipment, files, and related materials used by the  
22 Automobile Burglary and Theft Prevention Authority Office of the  
23 Texas Department of Transportation are transferred to the  
24 Automobile Burglary and Theft Prevention Authority Division of the  
25 Texas Department of Motor Vehicles.

26 (c) The Automobile Burglary and Theft Prevention Authority  
27 Division of the Texas Department of Vehicles shall continue any

1 proceeding involving the Automobile Burglary and Theft Prevention  
2 Authority Office of the Texas Department of Transportation that was  
3 brought before the effective date of this Act in accordance with the  
4 law in effect on the date the proceeding was brought, and the former  
5 law is continued in effect for that purpose.

6 (d) A certificate, license, document, permit, registration,  
7 or other authorization issued by the Automobile Burglary and Theft  
8 Prevention Authority Office of the Texas Department of  
9 Transportation that is in effect on the effective date of this Act  
10 remains valid for the period for which it was issued unless  
11 suspended or revoked by the Automobile Burglary and Theft  
12 Prevention Authority Division of the Texas Department of Motor  
13 Vehicles.

14 (e) A rule adopted by the Automobile Burglary and Theft  
15 Prevention Authority Office of the Texas Department of  
16 Transportation, the Texas Transportation Commission, or the  
17 director of the Texas Department of Transportation in connection  
18 with or relating to the Automobile Burglary and Theft Prevention  
19 Authority Office of that department continues in effect until it is  
20 amended or repealed by the Automobile Burglary and Theft Prevention  
21 Authority Division of the Texas Department of Motor Vehicles.

22 (f) The unobligated and unexpended balance of any  
23 appropriations made to the Texas Department of Transportation in  
24 connection with or relating to the Automobile Burglary and Theft  
25 Prevention Authority Office of that department for the state fiscal  
26 biennium ending August 31, 2009, is transferred and reappropriated  
27 to the Texas Department of Motor Vehicles for the purpose of

1 implementing the powers, duties, obligations, and rights of action  
2 transferred to that department under Subsection (a) of this  
3 section.

4 PART 5. APPOINTMENT OF BOARD

5 SECTION 8.5.01. Not later than December 1, 2009, the  
6 governor shall appoint the members of the board of the Texas  
7 Department of Motor Vehicles in accordance with Subchapter B,  
8 Chapter 1001, Transportation Code, as added by this article.

9 ARTICLE 9. RAIL TRANSPORTATION DIVISION

10 SECTION 9.01. Section 91.001, Transportation Code, is  
11 amended by adding Subdivision (3-a) to read as follows:

12 (3-a) "Division" means the rail transportation  
13 division of the department.

14 SECTION 9.02. Subchapter A, Chapter 91, Transportation  
15 Code, is amended by adding Section 91.0041 to read as follows:

16 Sec. 91.0041. DUTIES OF RAIL TRANSPORTATION DIVISION. In  
17 addition to any other duty imposed on the division, the division  
18 shall:

19 (1) assure that rail transportation is an integral  
20 part of the department's transportation planning process;

21 (2) coordinate and oversee rail projects that are  
22 financed with money in the Texas rail relocation and improvement  
23 fund;

24 (3) develop and plan for improved passenger and  
25 freight rail facilities and services in this state; and

26 (4) coordinate the efforts of the department, the  
27 federal government, and private entities to continue the



1 development of rail transportation facilities and services in this  
2 state.

3 ARTICLE 10. ELECTRONIC SIGNS

4 SECTION 10.01. Chapter 544, Transportation Code, is amended  
5 by adding Section 544.013 to read as follows:

6 Sec. 544.013. CHANGEABLE MESSAGE SIGN SYSTEM. (a) In this  
7 section, "changeable message sign" means a sign that conforms to  
8 the manual and specifications adopted under Section 544.001. The  
9 term includes a dynamic message sign.

10 (b) The Texas Department of Transportation shall actively  
11 manage a system of changeable message signs located on highways  
12 under the jurisdiction of that department to mitigate traffic  
13 congestion by providing current information to the traveling  
14 public, including information about traffic incidents, weather  
15 conditions, road construction, and alternative routes.

16 ARTICLE 11. EFFECTIVE DATE

17 SECTION 11.01. This Act takes effect September 1, 2009.