

BILL ANALYSIS

H.B. 2017
By: McClendon
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Since its creation in 2009, the Texas Department of Motor Vehicles (TxDMV) has administered vehicle-related functions as part of an effort to separate the management of those duties, such as vehicle registration and permitting, from the administration of the state's transportation planning and projects. Interested parties report that Texans have benefitted from this administrative change. An array of changes has been identified as necessary to continue this effort. H.B. 2017 seeks to address matters relating to the organization, governance, duties, and functions of the Texas Department of Motor Vehicles.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the board of the Texas Department of Motor Vehicles in SECTIONS 3, 28, 33, and 34 of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Motor Vehicles in SECTION 28 of this bill.

It is the committee's opinion that rulemaking authority previously granted to the Texas Motor Vehicle Commission is transferred to the board of the Texas Department of Motor Vehicles in SECTION 10 of this bill.

ANALYSIS

H.B. 2017 amends the Family Code, Government Code, Occupations Code, and Transportation Code to add or amend provisions relating to the organization, governance, duties, and functions of the Texas Department of Motor Vehicles (TxDMV).

Organization

H.B. 2017 amends the Transportation Code to require the board of TxDMV to appoint an executive director to serve at the pleasure of the board and requires the executive director to perform all duties assigned by the board. The bill authorizes the executive director to delegate duties or responsibilities as the executive director considers appropriate, provided the delegation does not conflict with applicable law or a resolution of the board. The bill defines "executive director." The bill requires the executive director, rather than the board, to organize TxDMV into divisions and removes provisions specifying the divisions.

H.B. 2017 repeals Occupations Code provisions requiring a career ladder program, equal opportunity policy, and public participation policies for TxDMV and requiring TxDMV to give first consideration to certain applicants.

Governance

H.B. 2017 amends the Transportation Code to require the board of TxDMV to oversee and coordinate the development of TxDMV and to ensure that all components of the motor vehicle industry function as a system. The bill requires the board to carry out its policy-making

functions in a manner that protects the interests of the public and industry, maintains a safe and sound motor vehicle industry, and increases the economic prosperity of Texas. The bill, in provisions relating to the duties of the chair and vice chair of the board, specifies that the chair serves at the pleasure of the governor, rather than at the pleasure of the board. The bill authorizes, rather than requires, the board to establish advisory committees and removes provisions providing for separate advisory committees on the operation of specified TxDMV divisions. The bill makes provisions relating to the composition of advisory committees inapplicable to an advisory committee established by the board and requires the meetings of an advisory committee established by the board to be made accessible to the public in person or through electronic means. The bill repeals provisions relating to the composition of advisory committees and advisory bodies appointed by the board.

H.B. 2017 authorizes the board of TxDMV to accept a donation or contribution in any form, including real or personal property, money, materials, or services, and prohibits the board from accepting a donation or contribution from an entity or association of entities that it regulates. The bill authorizes the board by rule to delegate acceptance of donations or contributions under \$500, or not otherwise required to be acknowledged in an open meeting, to the executive director of TxDMV.

H.B. 2017 authorizes the board of TxDMV to adopt rules regarding the method of collection of a fee for any goods sold or services provided by TxDMV or for the administration of any TxDMV program, including publications and the issuance of licenses, permits, and registrations. The bill authorizes the rules to allow the use of electronic funds transfer or a valid debit or credit card issued by a financial institution chartered by a state, the United States, or a nationally recognized credit organization approved by TxDMV and to require the payment of a discount or service charge for a credit card payment in addition to the fee. The bill requires revenue generated from the service charges to be deposited to the credit of the state highway fund for use in supporting TxDMV operations and administration of its functions. The bill makes requirements in the Government Code relating to the TexasOnline project, Texas project delivery framework, and electronic system for occupational licensing transactions inapplicable to TxDMV.

Duties

H.B. 2017 amends the Occupations Code and the Transportation Code to authorize the board of TxDMV by rule to delegate any power relating to a contested case hearing, other than the power to issue a final order, to one or more of the board's members, the executive director, the director of the applicable division, or one or more TxDMV employees. The bill authorizes the board by rule to delegate the authority to issue a final order in a contested case hearing to one or more of the board's members, the executive director, or the director of a division within TxDMV designated by the board or the executive director to carry out the requirements of existing law. The bill authorizes the board by rule to delegate any power relating to a complaint investigation to any person employed by TxDMV.

H.B. 2017 amends the Occupations Code to define "ambulance manufacturer," "distributor," "fire-fighting vehicle manufacturer," and "franchised dealer" and redefines "motor vehicle" and "towable recreational vehicle" for purposes of the law governing the sale or lease of motor vehicles. The bill specifies that the board of TxDMV has the power to enter an order requiring a person to repurchase property under provisions relating to payments to automotive franchise dealers following termination of the franchise. The bill provides that, for purposes of licensing a person to buy, sell, or exchange new motor vehicles of a certain make, the make of an ambulance is that of the ambulance manufacturer and the make of a fire-fighting vehicle is that of the fire-fighting vehicle manufacturer, rather than that of the chassis manufacturer. The bill specifies that the provision prohibiting a dealer from aiding or abetting a person who violates the law governing the sale or lease of motor vehicles also applies to aiding or abetting a person who violates the law governing dealer's and manufacturer's vehicle license plates or a rule adopted under those laws. The bill specifies that the prohibition against using false, deceptive, or misleading advertising is in connection with the sale or lease of motor vehicles. The bill

specifies that the provision prohibiting a manufacturer or distributor from taking certain actions in connection with a dealer or dealership applies to actions taken in connection with a franchised or nonfranchised dealer or dealership. The bill redefines "owner" for purposes of provisions relating to the rights of a vehicle owner under a warranty and removes the exception for those provisions in provisions establishing requirements for an order or decision of the board of TxDMV. The bill authorizes a person affected by a statutory stay imposed in connection with the sale or lease of a motor vehicle to request a hearing, rather than a proceeding before the board, to modify, vacate, or clarify the statutory stay.

H.B. 2017 replaces references to the board of TxDMV with references to TxDMV in the following provisions of law relating to the sale or lease of motor vehicles: application for dealer's license; general requirements for application for manufacturer's, distributor's, converter's, or representative's license; application for vehicle lessor's license; application for vehicle lease facilitator license; license fees; notice of license expiration; vehicle show or exhibition; filing requirements; modification or replacement of franchise; annual report on repurchased or replaced vehicles; notice to buyer; and license fee proration. The bill updates a provision relating to license term and renewal.

H.B. 2017 amends the Transportation Code to make clarifying changes to provisions relating to dealer location and public motor vehicle auctions. The bill updates provisions relating to proration of fees and security requirements. The bill repeals provisions relating to the surety bond requirement for a motor vehicle dealer. The bill makes nonsubstantive and conforming changes.

Functions

H.B. 2017 amends the Transportation Code to authorize the board of TxDMV by rule to provide for the filing of a license application and the issuance of a license by electronic means. The bill provides that a license application received by TxDMV is considered signed if a digital signature is transmitted with the application and intended by the applicant to authenticate the license in accordance with the bill's provisions. The bill requires TxDMV to only accept a digital signature used to authenticate a license application under procedures that comply with any applicable rules of another state agency having jurisdiction over TxDMV use or acceptance of a digital signature and that provide for consideration of factors that may affect a digital signature's reliability. The bill defines "digital signature" and provides for the meaning of "license."

H.B. 2017 authorizes TxDMV to apply for, register, secure, hold, and protect under the laws of the United States, any state, or any nation a patent, copyright, mark, or other evidence of protection or exclusivity issued in or for an idea, publication, or other original innovation fixed in a tangible medium. The bill authorizes TxDMV to enter into an exclusive or nonexclusive license agreement with a third party for the receipt of a fee, royalty, or other thing of monetary or nonmonetary value for the benefit of TxDMV and to waive or reduce the amount of a fee, royalty, or other thing of monetary or nonmonetary value to be assessed if TxDMV determines that the waiver will further the goals and missions of TxDMV and result in a net benefit to the state. The bill authorizes TxDMV to adopt and enforce rules to implement these provisions. The bill requires money collected by TxDMV under these provisions to be deposited to the credit of the state highway fund for use in supporting TxDMV operations and the administration of its functions.

H.B. 2017 authorizes TxDMV to enter into an interlocal contract with one or more local governments and requires the board by rule to adopt policies and procedures consistent with applicable state procurement practices for soliciting and awarding a contract. The bill authorizes TxDMV to conduct public service educational campaigns related to TxDMV functions.

H.B. 2017 amends the Family Code to require the child fatality review team committee to select as an additional committee member a representative of the Texas Department of Transportation, rather than a representative of TxDMV.

H.B. 2017 amends the Government Code to make provisions relating to the use of the TexasOnline project, duplication with the TexasOnline project, and composition of advisory committees inapplicable to TxDMV. The bill repeals a provision establishing that renewal of a motor vehicle registration is a state service for purposes of the TexasOnline project.

H.B. 2017 repeals Section 2054.270, Government Code.

H.B. 2017 repeals the following provisions of the Occupations Code:

- Section 2301.105
- Section 2301.106
- Section 2301.206

H.B. 2017 repeals the following provisions of the Transportation Code:

- Section 503.033(c)
- Sections 1001.031(c) and (d)
- Section 1004.003

H.B. 2017 repeals Section 6.03(c), Chapter 933 (H.B. 3097), Acts of the 81st Legislature, Regular Session, 2009.

EFFECTIVE DATE

September 1, 2011.