

From: [Sunset Advisory Commission](#)
To: [Brittany Calame](#)
Subject: FW: Public Input Form for Agencies Under Review (Public/After Publication)
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-----Original Message-----

From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]
Sent: Wednesday, May 23, 2018 10:57 AM
To: Sunset Advisory Commission <Sunset@sunset.texas.gov>
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS DEPARTMENT MOTOR VEHICLES TDMV

First Name: David

Last Name: Bright

Title: Attorney

Organization you are affiliated with: Alliance of Automobile Manufacturers

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City: Washington

State: District of Columbia

Your Comments About the Staff Report, Including Recommendations Supported or
Opposed:

Dear Sunset Members:

On behalf of the Alliance of Automobile Manufacturers, thank you for the opportunity to provide comments on the Texas Sunset Advisory Commission's staff report on the Texas Department of Motor Vehicles. The Alliance is a trade association representing twelve of the world's leading car and light truck manufacturers, and is comprised of BMW Group, FCA US LLC, Ford Motor Company, General Motors Company, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche Cars North America, Toyota, Volkswagen Group of America, and Volvo Cars of North America. Together, Alliance members account for roughly 70% of the cars and light duty trucks sold in the United States each year.

The Alliance supports four of the recommendations in the report: replacing a franchised dealer member on the board with a public member, requiring the board's chair to be a public member, establishing clearer rules and policies on appeals before the board, and removing the licensing requirement for manufacturer representatives. The Alliance has concerns with the recommendation regarding auto shows and exhibitions. The Alliance does not have comments on the remainder of the staff report at this time.

Recommendation 1.1: Restructure the board by replacing one franchised dealer member with a public member to better balance board representation.

The Alliance supports the report's recommendation that one of the franchised dealer members be replaced with a public member. Currently, the franchised dealers are the only industry participant with more than one seat on the board. There is no public benefit from that additional influence over the board's deliberative, rulemaking, and adjudication processes.

Recommendation 1.2: Require the governor to designate a public member as the presiding officer of the department's board.

The Alliance supports the report's recommendation. The chair has influence over the conduct and tenor of board meetings and protest hearings. Industry participants should be on equal footing whenever possible, and a chair that represents the public would be in line with that goal.

Recommendation 1.3: Require the board to adopt rules and policies to establish clear standards for conduct and handling of contested cases coming before the board for final decisions.

The Alliance supports the report's recommendation that the board adopt such rules and procedures. It is important for tribunals to have clear rules and adhere to them so that the public and litigants can have confidence in the fairness and predictability of the board's adjudication. The board's hearings should be limited to issues raised by the parties relating to the ALJ's proposal for decision, and deliberations should be limited to facts in the record. Policies or procedures may be helpful to encourage board members to consult with the Executive Director or the Department's staff counsel about procedural issues and appropriateness of inquiries.

Recommendation 4.1: Eliminate motor vehicle show and exhibition approval requirements.

The Alliance is concerned about changes to TEX. OCC. CODE ANN. § 2301.358 and regulation of off-site displays and sales. The report refers to an "exhibition" as "an ongoing vehicle display such as a car at a shopping mall" (42). The law governing off-site displays should not be changed in a way that could increase the likelihood of conflict among franchised dealers seeking to display or exhibit vehicles in another franchised dealer's assigned market area. The Commission may wish to distinguish between exhibitions and auto shows which are established events that allow all franchised dealer licensees to participate.

Recommendation 4.2: Eliminate the representative, lease facilitator, and salvage agent licenses.

The Alliance does not have an opinion as to whether the Commission should recommend eliminating lease facilitator and salvage agent licenses. The Alliance does support eliminating the licensing requirement for manufacturer and distributor representatives. These licenses result in costs to the manufacturers in the form of fees as well as administrative costs. As the report notes, the state also incurs costs in administering the licensing requirement (43). There is no public benefit to the licenses which would justify the program under a cost-benefit analysis. As the report correctly notes, the representatives are already monitored by the manufacturer or distributor which are themselves already regulated by the Department (46).

Thank you for your consideration of the Alliance's comments and the opportunity to submit them.

Any Alternative or New Recommendations on This Agency: None

My Comment Will Be Made Public: I agree