

EXECUTIVE SUMMARY

Texas Department of Motor Vehicles

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In 2009, as a result of a recommendation of the Sunset Commission, the Legislature moved the motor vehicle-related functions of the Texas Department of Transportation to a newly-created agency, the Texas Department of Motor Vehicles. The stated intent of this move was to ensure these functions — issuing vehicle titles and registrations and regulating motor vehicle sales and carriers — received the focus and attention needed to improve operations and overall customer service. This Sunset review is the Legislature's first opportunity to comprehensively evaluate how well the department is meeting the Legislature's goals for improved performance. Overall, the department has largely accomplished these goals and should be continued for 12 years. Through proactive management, the department has modernized motor vehicle services and improved customer service for both the public and industry. However, the department cannot simply rest on its laurels, as it now must address several new challenges that were never envisioned when the department was created.

The department is caught in the middle of Texas' evolving motor vehicle industry, as newer business models are challenging Texas' traditional vehicle franchise model. Out-of-state automotive manufacturers whose business models do not include sales and warranty repairs through franchised dealers, and manufacturers who perform warranty repairs on vehicle motors separate from franchised dealers, are examples of new business models that strain the state's traditional franchise model of regulation. As the administrator, regulator, and arbitrator of competing interests in the motor vehicle industry, the department's board has struggled to balance these roles, particularly since the majority of the board members represent different facets of the industry. At times, board members struggle to prioritize the needs of the state as a whole versus their industry interests, straining their appropriate role as a member of a statewide policymaking board. Board actions to initiate potentially anticompetitive rulemaking indicate the volatility of this evolving industry and pose significant risk to the state if not checked.

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Flooded cars left in the wake of Hurricane Harvey have put a spotlight on the department's efforts to combat motor vehicle title fraud. In response to growing concerns about title fraud, the department requested and the 85th Legislature appropriated significant resources to investigate and address title fraud in Texas. However, the review found the department lacks standard

oversight and enforcement mechanisms needed to better protect the integrity of state vehicle titles and registrations. The department also lacks authority to exercise even the most fundamental oversight of its state functions carried out by counties and county contractors, who are on the front lines of the fight against fraud, leaving the department poorly positioned to protect state revenues and prevent harm to consumers.

Finally, as an agency driven by and focused on its customer service mission and culture, some of the department's other key functions have not fully matured. The department has implemented several new IT systems to improve efficiency and customer service, but lacks an overarching approach and plan for managing its IT infrastructure, which has resulted in poor prioritization and coordination of different IT projects and project delays. The department also does not require the use of all its online systems, which decreases efficiency and increases costs. The review found counties, who provide registration and title services on behalf of the state, are often the largest barrier to expansion of technological solutions to improve customer service. The department also lacks key enforcement authority necessary to best protect the public and needs to improve its enforcement processes to reduce complaint resolution timeframes, including expanding its enforcement data tracking, reporting, and analyzing capabilities to identify inefficiencies and better allocate resources.

The following material highlights Sunset staff's key recommendations for the Texas Department of Motor Vehicles.

Issues and Recommendations

Issue 1

The Department's Industry-Oriented Board and Its Processes Create Risk for the State.

Since 2009, when the Legislature transferred titling and registration of motor vehicles from TxDOT to the newly created Texas Department of Motor Vehicles, the department's nine-member board has included four members representing elements of the motor vehicle industry, which the board regulates, and only two public members — the lowest ratio of public or consumer members to industry members in the board's history. With an industry-dominated board and an industry member serving as chair, the board lacks a strong objective voice to help mediate business disputes among industry members and stakeholders. Regulating competing industries within one agency can result in the appearance of the agency or board favoring one industry at the expense of another, or favoring one group's interest over consumers. Adding to these perceived problems with objectivity is questionable board conduct, especially relating to protest cases where the board at times effectively relitigates contested cases between franchised dealers and manufacturers or distributors at open board meetings. In addition, the department's rulemaking process often uses informal working groups over formal advisory committees, which lack stakeholder and consumer inclusivity and public transparency.

Key Recommendations

- Restructure the board by replacing one franchised dealer member with a public member to better balance board representation.
- Require the governor to designate a public member as the presiding officer of the board.

- 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.
- Direct the board to establish advisory committees to provide expertise for rulemaking and other issues, and to adopt rules regarding standard committee structure and operating criteria.

Issue 2

Texas Lacks Basic Safeguards to Identify and Address Vehicle Title Fraud.

A motor vehicle title not only represents rightful legal ownership but also one of the most significant purchases in a person's life. Title transactions have considerable financial implications for the state in terms of the collection of state taxes and fees, generating about \$1.6 billion in fee revenue in fiscal year 2017 alone and \$9.8 billion in vehicle sales and rental taxes over the 2016–17 biennium. Until recently, a lack of investigative resources constrained the department's approach to investigating title fraud, but recent legislative investments have allowed the department to more proactively investigate and address title fraud in the state. However, the review found the department still lacks adequate oversight authority and tools needed to address fraud most effectively, such as ensuring the 254 tax assessor-collector offices that perform the majority of these title transactions receive fraud training and follow standard contracting practices, and giving the department the clear authority to audit title operations of these offices and their contractors.

Key Recommendations

- When outsourcing state services to full-service deputies, require counties to follow standard contracting practices.
- Clarify the department's authority to control access to the registration and title system.
- Implement mandatory fraud training for all persons processing state registration or title transactions.
- Require the department to implement a proactive, risk-based approach to monitoring fraud.
- Authorize the department to audit or perform a compliance review of any entity providing registration and title services and access records needed to conduct audits or fraud investigations.

Issue 3

The Department's Approach to Enforcement Does Not Effectively Address the Biggest Risks to the Public.

The department enforces statute and rules governing more than 32,000 licensed motor vehicle dealer businesses and individuals, and nearly 50,000 registered motor carrier companies, including trucking and moving companies. The lack of key data in the department's two enforcement data systems limits the department's ability to evaluate the effectiveness of its enforcement efforts, including assessing staff performance. The department's complaint resolution process needs additional improvements to prioritize complaints based on risk and ensure timely resolution of complaints so the most serious risks to the public are addressed. The department also lacks key enforcement tools necessary to protect the public, such as refund and cease-and-desist authority.

Key Recommendations

- Direct the department to identify and implement methods to reduce its complaint resolution timeframes.
- Direct the department to improve enforcement data tracking in its existing systems.
- As part of the department's enforcement authority, authorize refunds for consumers for motor vehicle and motor carrier violations and cease-and-desist authority for unlicensed salvage activity.

Issue 4

Key Elements of the Department's Licensing Functions Do Not Conform to Common Licensing Standards.

In reviewing the department's regulatory functions, Sunset staff found certain licensing processes do not match model standards or common practices observed in other regulatory agencies. Specifically, some department practices are not necessary for public protection, such as approving licensees to attend an auto show or exhibition, and separately licensing employees who work under the supervision of a licensed business. Other regulatory requirements create unnecessary hurdles to licensure and reduce agency efficiency. In addition, the department's failure to capture criminal history information upon renewal for motor vehicle licensees and nonstandard evaluation of criminal history for salvage applicants is inconsistent with both state law and the requirements for other similar types of licenses regulated by the department.

Key Recommendations

- Eliminate motor vehicle show and exhibition approval requirements and the representative, lease facilitator, and salvage agent licenses.
- Eliminate the separate salvage license endorsements and establish a single, streamlined salvage license.
- Direct the department to conduct criminal history checks for all motor vehicle license renewals.
- Direct the department to adopt criminal history evaluation rules and guidelines consistent with Chapter 53, Texas Occupations Code for salvage industry regulation.

Issue 5

Texas Has a Continuing Need for the Texas Department of Motor Vehicles, but Opportunities Exist to Better Leverage State IT Investments.

In 2009, the Legislature created the Texas Department of Motor Vehicles as a stand-alone agency separate from Texas Department of Transportation in an effort to ensure the state's motor vehicle functions receive the focus and attention needed to improve administration of these functions and customer service. Sunset staff found that as the motoring population continues to grow, Texas has a continuing need to provide title and registration functions, as well as continued regulation of the motor vehicle and motor carrier industries through licensing, permitting, and enforcement. While the department has largely achieved the Legislature's intent of creating positive change, further opportunities exist to better leverage IT investments.

Key Recommendations

- Continue the Texas Department of Motor Vehicles for 12 years.
- Require the department to ensure webDEALER is available to automobile dealers in all Texas counties by September 1, 2020.
- Direct the department to develop a comprehensive approach to developing, maintaining, and updating its IT infrastructure.
- Direct the department to evaluate and identify further opportunities to consolidate and modernize its customer service functions to improve efficiency and customer experience.

Fiscal Implication

Overall, these recommendations would result in increased efficiency and effectiveness for the department, regulated entities, and stakeholders, as well as reduced regulatory costs over time. Most recommendations in this report do not have an anticipated fiscal impact, may have a fiscal impact that could not be determined, or could be accomplished within existing department resources. However, recommendations in Issue 4, which eliminate several unnecessary motor vehicle licenses and processes, are expected to have a negative fiscal impact to the state of about \$123,780 annually, but ultimately should contribute to improved efficiency and oversight.

Issue 4 — Abolishing the motor vehicle shows and exhibitions approval process would not affect fee revenues, since the department does not charge a fee for these approvals. However, this change would reduce costs for both the agency and the state through the reduction of one full-time equivalent position, with savings of \$68,310 in salary and benefits to the Texas Department of Motor Vehicles Fund (TxDMV Fund).

Eliminating the representative and lease facilitator licenses would result in an approximate annual loss of \$195,025 in fee revenue to the TxDMV Fund. Statute requires the department to charge a \$100 annual fee for each representative license and \$375 for each lease facilitator license. The department licensed 1,684 representatives and 71 lease facilitators in fiscal year 2017. Eliminating the salvage agent license would not impact fee revenue because the recommendation requires the department to adopt fees in rule that are sufficient to cover costs and the department already has this authority for salvage fees. Losses in fee revenue would be offset by savings from no longer administering these license types, which the department estimates to be \$10,787.

Requiring the department to conduct criminal background checks for all motor vehicle license renewals would have a small cost to the department. The department pays one dollar for each name-based criminal history check. The department renewed 7,852 motor vehicle licenses in fiscal year 2017 without checking criminal history. As a result, the department would pay approximately \$7,852 annually from the TxDMV Fund to conduct a criminal history check on each motor vehicle license renewal.

Texas Department of Motor Vehicles

Fiscal Year	Revenue Loss to TxDMV Fund	Savings to TxDMV Fund	Cost to the Department	Change in Number of FTEs From FY 2019
2020	\$195,025	\$79,097	\$7,852	-1.0
2021	\$195,025	\$79,097	\$7,852	-1.0
2022	\$195,025	\$79,097	\$7,852	-1.0
2023	\$195,025	\$79,097	\$7,852	-1.0
2024	\$195,025	\$79,097	\$7,852	-1.0