

## **BILL ANALYSIS**

Senate Research Center

H.B. 3097  
By: McClendon et al. (Carona)  
Transportation & Homeland Security  
5/8/2009  
Engrossed

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

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

H.B. 3097 relates to the creation, organization, duties, and functions of the Texas Department of Motor Vehicles and to the use of certain specialty license plate fees to fund the Choose Life and Choose Adoption account and provides penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly prohibited in SECTION 3I.07 (Section 2302.053, Occupations Code) and SECTION 3I.11 (Section 2309.105, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the board of the Texas Department of Motor Vehicles (board) in SECTION 1.01 (Sections 1002.001, Transportation Code), SECTION 4.01, and SECTION 4.02 of this bill.

Rulemaking authority is expressly granted to the attorney general in SECTION 2E.11 (Section 402.035, Government Code) of this bill.

Rulemaking authority previously granted to the Texas Department of Transportation is transferred to the Texas Department of Motor Vehicles (department) in SECTION 2H.01 (Section 551.302, Transportation Code), SECTION 2N.01 (Section 648.002, Transportation Code), and SECTION 3H.04 (Section 130.009, Local Government Code) of this bill.

Rulemaking authority previously granted to the Texas Transportation Commission is transferred to the board in SECTION 3I.07 (Sections 2302.051 and 2302.053, Occupations Code), SECTION 3I.09 (Section 2302.108, Occupations Code), and SECTION 3I.10 (Section 2302.204, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Texas Transportation Commission in SECTION 3I.11 (Sections 2309.102, 2309.106, and 2309.155, Occupations Code), SECTION 4.01, and SECTION 4.02 of this bill.

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 3I.11 (Section 2309.402, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

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

SUBTITLE M. DEPARTMENT OF MOTOR VEHICLES

CHAPTER 1001. ORGANIZATION OF DEPARTMENT

## SUBCHAPTER A. GENERAL PROVISIONS

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

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

(b) Requires the department, in addition to the other duties required of the department, to administer and enforce Subtitle A (Certificates of Title and Registration of Vehicles); Chapters 642 (Identifying Markings on Commercial Motor Vehicles), 643 (Motor Carrier Registration), 645 (Commercial Motor Vehicles), 646 (Commercial Motor Vehicles), and 648 (Foreign Commercial Motor Transportation); Chapters 2301 (Sale or Lease of Motor Vehicles) and 2302 (Salvage Vehicle Dealers), Occupations Code; and Article 4413(37), Revised Statutes.

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

Sec. 1001.004. DIVISIONS. Requires the board to organize the department into divisions to accomplish the department's functions and the duties assigned to it, including divisions for administration, motor carriers, motor vehicles, and vehicle titles and registration.

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

[Reserves Sections 1001.006-1001.020 for expansion.]

## SUBCHAPTER B. BOARD OF DEPARTMENT OF MOTOR VEHICLES

Sec. 1001.021. BOARD. (a) Provides that the board consists of nine members appointed by the governor with the advice and consent of the senate. Requires that appointments to the board be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(b) Requires that three members be appointed to represent motor vehicle dealers, one of whom must be a recreational vehicle dealer or a heavy-duty truck dealer; one member shall be appointed to represent county tax assessor-collectors; one member shall be appointed to represent the motor carrier industry; one member shall be appointed to represent law enforcement agencies; and three members shall be appointed to represent the general public. Prohibits the member appointed to represent law enforcement agencies from being a state employee.

(c) Provides that a person may not be a public member of the board if the person or the person's spouse:

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

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

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the department; or

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

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

Sec. 1001.023. PRESIDING OFFICER OF THE BOARD. (a) Requires the governor to designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the governor.

(b) Requires the presiding officer to preside over board meetings, make rulings on motions and points of order, and determine the order of business; create subcommittees, appoint board members to subcommittees, and receive the reports of subcommittees to the board as a whole; and appoint a member of the board to act in the presiding officer's absence.

Sec. 1001.024. BOARD MEETINGS. Requires the board to hold meetings at least quarterly or at the call of the presiding officer. Requires board members to attend the meetings of the board. Requires the presiding officer to oversee the preparation of an agenda for each meeting and ensure that a copy is provided to each board member at least seven days before the meeting.

Sec. 1001.025. COMPENSATION. Provides that a board member is not entitled to compensation but is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the board as provided by the General Appropriations Act.

Sec. 1001.026. GROUNDS FOR REMOVAL. (a) Provides that it is a ground for removal from the board that a board member does not have at the time of taking office the qualifications required by Section 1001.021; does not maintain during service on the board the qualifications required by Section 1001.021; is ineligible for membership under Section 1001.021(c), 1001.031, or 1001.043; cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or is absent from more than half of the regularly scheduled board meetings that the board member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

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

(c) Requires the executive director of the department (executive director), if the executive director knows that a potential ground for removal exists, to notify the presiding officer of the board of the potential ground. Requires the presiding officer to then notify the governor and the attorney general that a potential ground for removal exists. Requires the executive director, if the potential ground for removal involves the presiding officer, to notify the next highest ranking officer of the board, who is required to then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 1001.027. TRAINING ON DEPARTMENT AND CERTAIN LAWS RELATING TO DEPARTMENT. (a) Prohibits a person who is appointed to and qualifies for office as a member of the board from voting, deliberating, or being counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) Requires that the training program provide the person with information regarding the legislation that created the department; the programs, functions, rules, and budget of the department; the results of the most recent formal audit of the department; the requirements of laws relating to open meetings, public

information, administrative procedure, and conflicts-of-interest laws; and any applicable ethics policies adopted by the department or the Texas Ethics Commission.

(c) Entitles a person appointed to the board to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 1001.028. TECHNOLOGICAL SOLUTIONS. Requires the board to implement a policy requiring the department to use appropriate technological solutions to improve the department's ability to perform its functions. Requires that the policy ensure that the public is able to interact with the department on the Internet.

Sec. 1001.029. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) Requires the board to develop and implement a policy to encourage the use of negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking), Government Code, for the adoption of department rules, and appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution for Use by Governmental Bodies), Government Code, to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) Requires that the department's procedures relating to alternative dispute resolution conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) Requires the board to designate a trained person to coordinate the implementation of the policy adopted under Subsection (a), serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution, and collect data concerning the effectiveness of those procedures, as implemented by the department.

Sec. 1001.030. ADVISORY COMMITTEES. (a) Requires the board to establish separate advisory committees for the motor carrier, motor vehicles, and vehicle titles and registration divisions to make recommendations to the board or the executive director on the operation of the applicable division. Provides that a committee has the purposes, powers, and duties, including the manner of reporting its work, prescribed by the board. Provides that an advisory committee and each member of an advisory committee serves at the will of the board.

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

(c) Requires that the advisory committee for the motor vehicles division include a member to represent motor vehicle manufacturers and a member to represent the motor transportation industry.

(d) Requires that the advisory committee for the motor carrier division include a member to represent the motor transportation industry.

(e) Prohibits a member of an advisory committee from being compensated by the board or the department for committee service.

Sec. 1001.031. CONFLICTS OF INTEREST. (a) Defines "Texas trade association."

(b) Prohibits a person from being a member of the board and from being a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an

exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if the person is an officer, employee, or paid consultant of a Texas trade association in the field of motor dealers or motor carriers, or the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the motor vehicle or motor carrier industry or of a tax assessor-collector or law enforcement trade association.

(c) Prohibits a person from being a member of the board or acting as the general counsel to the board or the department if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department.

Sec. 1001.032. COOPERATION WITH TEXAS DEPARTMENT OF TRANSPORTATION. Requires the board and the Texas Transportation Commission (TTC) to establish mutually agreeable procedures to ensure that the Texas Department of Transportation (TxDOT) has access to information contained in the electronic database of vehicle titles and registrations as needed for toll operations and other functions of TxDOT.

[Reserves Sections 1001.033-1001.040 for expansion.]

#### SUBCHAPTER C. PERSONNEL

Sec. 1001.041. DIVISION OF RESPONSIBILITIES. Requires the board to develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the department.

Sec. 1001.042. APPLICATION OF LAW RELATING TO ETHICAL CONDUCT. Provides that the board, the executive director, and each employee or agent of the department is subject to the code of ethics and the standard of conduct imposed by Chapter 572 (Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest), Government Code, and any other law regulating the ethical conduct of state officers and employees.

Sec. 1001.043. LOBBYING ACTIVITIES. Prohibits a person from serving as the executive director or acting as the general counsel to the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of an occupation related to the operation of the department.

#### CHAPTER 1002. RULES

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

#### CHAPTER 1003. PUBLIC ACCESS

Sec. 1003.001. PUBLIC COMMENT. Requires the board to develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the department.

Sec. 1003.002. COMPLAINT PROCEDURES. (a) Requires the department to maintain a system to promptly and efficiently act on complaints filed with the department. Requires the department to maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) Requires the department to make information available describing its procedures for complaint investigation and resolution.

(c) Requires the department to periodically notify the complaint parties of the status of the complaint until final disposition.

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

### PART A. GENERAL PROVISIONS AND ADMINISTRATION

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

SECTION 2A.02. Amends Section 201.931(2), Transportation Code, to redefine "license."

SECTION 2A.03. Amends Section 222.001, Transportation Code, as follows:

Sec. 222.001. USE OF STATE HIGHWAY FUND. (a) Creates this subsection from existing text.

(b) Prohibits the department, for any state fiscal year, from being appropriated more than \$100 million from money in the state highway fund.

### PART B. STATE HIGHWAY TOLL PROJECTS

SECTION 2B.01. Amends Sections 228.055(b) and (h), Transportation Code, as follows:

(b) Requires the department to send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of the department, rather than TxDOT, by first class mail and authorizes the department to require payment not sooner than the 30th day after the date the notice was mailed.

(h) Redefines "registered owner."

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

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

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

### PART D. CERTIFICATE OF TITLE ACT

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

SECTION 2D.02. Amends Section 501.091, Transportation Code, by amending Subdivision (17) and adding Subdivision (20), to redefine "salvage vehicle dealer" and define "used parts dealer" and "used automotive parts recycler."

SECTION 2D.03. Amends Section 501.092(d), Transportation Code, to authorize an insurance company to sell a motor vehicle to which this section applies, or assign a salvage vehicle title or a nonrepairable vehicle title for the motor vehicle, only to certain persons, including a used automotive parts recycler.

SECTION 2D.04. Amends Sections 501.095(a) and (b), Transportation Code, to make conforming changes.

SECTION 2D.05. Amends Section 501.105, Transportation Code, to make a conforming change.

#### PART E. REGISTRATION OF VEHICLES

SECTION 2E.01. Amends Section 502.001(3), Transportation Code, to redefine "department" to mean the Texas Department of Motor Vehicles, rather than TxDOT.

SECTION 2E.02. Amends Sections 502.053(a) and (b), Transportation Code, to make conforming changes.

SECTION 2E.03. Amends Section 504.401(c), Transportation Code, to provide that the license plates remain valid until December 31 of the year in which the person to whom the plates were issued ceases to be a state official, rather than until December 31 of each year.

SECTION 2E.04. Amends the heading to Section 504.401, Transportation Code, to read as follows:

Sec. 504.401. STATE OFFICIALS: EXECUTIVE AND LEGISLATIVE BRANCHES.

SECTION 2E.05. Amends Sections 504.401(b) and (d), Transportation Code, as follows:

(b) Authorizes a state official to be issued four sets, rather than three sets, of license plates under this section.

(d) Redefines "state official."

SECTION 2E.06. Amends the heading to Section 504.402, Transportation Code, to read as follows:

Sec. 504.402. FEDERAL OFFICIALS: LEGISLATIVE BRANCH.

SECTION 2E.07. Amends Section 504.402(b), Transportation Code, to make a conforming change.

SECTION 2E.08. Amends the heading to Section 504.403, Transportation Code, to read as follows:

Sec. 504.403. STATE OFFICIALS: JUDICIAL BRANCH.

SECTION 2E.09. Amends Sections 504.403(a) and (d), Transportation Code, as follows:

(a) Requires the department to issue without charge specialty license plates for a current state judge, rather than a current or visiting state or federal judge. Requires that the license plates include the words "State Judge," rather than the words "State Judge" or "U.S. Judge," as appropriate.

(d) Deletes existing text defining "federal judge." Makes nonsubstantive changes.

SECTION 2E.10. Amends Subchapter E, Chapter 504, Transportation Code, by adding Section 504.4031, as follows:

Sec. 504.4031. FEDERAL OFFICIALS: JUDICIAL BRANCH. (a) Requires the department to issue without charge specialty license plates for a current federal judge. Requires that the license plates include the words "U.S. Judge."

(b) Authorizes a person to be issued three sets of plates under this section.

(c) Provides that the license plates remain valid until December 31 of each year.

(d) Defines "federal judge."

SECTION 2E.11. (a) Amends Subchapter G, Chapter 504, Transportation Code, by adding Section 504.659, as follows:

Sec. 504.659. CHOOSE LIFE LICENSE PLATES AND CHOOSE ADOPTION LICENSE PLATES. (a) Requires the department to issue specially designed license plates that include the words "Choose Life" and "Choose Adoption." Requires the department to design the license plates in consultation with the attorney general.

(b) Requires the department, after deduction of the department's administrative costs, to deposit the remainder of the fee for issuance of license plates under this section in the state treasury to the credit of the Choose Life and Choose Adoption account established by Section 402.035, Government Code.

(b) Amends Subchapter B, Chapter 402, Government Code, by adding Sections 402.035 and 402.036, as follows:

Sec. 402.035. CHOOSE LIFE AND CHOOSE ADOPTION ACCOUNT. (a) Provides that the Choose Life and Choose Adoption account is a separate account in the general revenue fund. Provides that the account is composed of money deposited to the credit of the account under Section 504.659, Transportation Code, and gifts, grants, donations, and legislative appropriations.

(b) Provides that the attorney general administers the Choose Life and Choose Adoption account. Authorizes the attorney general to spend money credited to the account only to make grants to an eligible organization and defray the cost of administering the account.

(c) Prohibits the attorney general from discriminating against an eligible organization because it is a religious or nonreligious organization.

(d) Authorizes the attorney general to accept gifts, donations, and grants from any source for the benefit of the account.

(e) Requires the attorney general by rule to establish guidelines for the expenditure of money credited to the Choose Life and Choose Adoption account and reporting and other mechanisms necessary to ensure that the money is spent in accordance with this section.

(f) Authorizes money received by an eligible organization under this section to be spent only to provide for the material needs of pregnant women who are considering placing their children for adoption, including the provision of clothing, housing, prenatal care, food, utilities, and transportation, to provide for the needs of infants who are awaiting placement with adoptive parents, to provide training and advertising relating to adoption, and to provide pregnancy testing or preadoption or postadoption counseling, but prohibits it from being used to pay an administrative, legal, or capital expense.

(g) Defines "eligible organization."

Sec. 402.036. CHOOSE LIFE AND CHOOSE ADOPTION ADVISORY COMMITTEE. (a) Requires the attorney general to appoint a seven-member Choose Life and Choose Adoption advisory committee (committee).

(b) Requires the committee to meet at least twice a year or as called by the attorney general, assist the attorney general in developing rules under Section 402.035(e), and review and make recommendations to the attorney general on applications submitted to the attorney general for grants funded with money credited to the Choose Life and Choose Adoption account.

(c) Provides that members of the committee serve without compensation and are not entitled to reimbursement for expenses. Provides that each member serves a term of four years, with the terms of three or four members expiring on January 31 of each odd-numbered year.

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

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

#### PART G. MISCELLANEOUS PROVISIONS

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

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

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

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

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

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

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

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

SECTION 2J.01. Amends Section 642.002(d), Transportation Code, to change references to TxDOT to the department.

#### PART K. MOTOR CARRIER REGISTRATION

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

#### PART L. SINGLE STATE REGISTRATION

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

#### PART M. MOTOR TRANSPORTATION BROKERS

SECTION 2M.01. Amends Section 646.003(a), Transportation Code, to change references to TxDOT to the department.

#### PART N. FOREIGN COMMERCIAL MOTOR TRANSPORTATION

SECTION 2N.01. Amends Section 648.002, Transportation Code, to transfer rulemaking authority relating to this chapter from TxDOT to the department.

#### PART O. ABANDONED MOTOR VEHICLES

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

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

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

#### PART Q. PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM

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

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

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

#### PART R. AUTOMOBILE BURGLARY AND THEFT PREVENTION AUTHORITY

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

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

SECTION 2R.03. Amends Section 6, Article 4413(37), Revised Statutes, by adding Subsections (j) and (k), as follows:

- (j) Requires the authority, in addition to any report required under Subsection (i), each year to prepare and submit an annual financial report in the form and manner required of a state agency by Section 2101.011 (Financial Information Required of State Agencies), Government Code.
- (k) Prohibits the authority from making a grant of appropriated funds unless the grant application is submitted to and approved by the governor, or a person in the office of the governor designated by the governor.

SECTION 2R.04. Amends Section 8, Article 4413(37), Revised Statutes, by adding Subsections (d) and (e), as follows:

- (d) Requires that money received by the authority under this article be sent to the comptroller of public accounts (comptroller) for deposit in a separate account in the treasury.
- (e) Requires the legislature, as part of the appropriation process, to determine and in the General Appropriations Act the legislature to specify the amount of money the authority

is authorized to use to make grants or provide financial assistance under this article during each of the state fiscal years covered by the General Appropriations Act.

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

#### PART A. BUSINESS AND COMMERCE CODE

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

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

#### PART B. CODE OF CRIMINAL PROCEDURE

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

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

#### PART C. FAMILY CODE

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

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

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

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

#### PART D. FINANCE CODE

SECTION 3D.01. Amends Section 306.001(9), Finance Code, to redefine "qualified commercial loan" and change references to TxDOT to the Department of Motor Vehicles.

SECTION 3D.02. Amends Section 348.001(10-a), Finance Code, to redefine "towable recreation vehicle."

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

#### PART E. GOVERNMENT CODE

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

#### PART F. HEALTH AND SAFETY CODE

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

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

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

and Regulatory Services to the Department of Family and Protective Services; the Texas Commission on Alcohol and Drug Abuse to DSHS; the Texas Council on Offenders with Mental Impairments to the Advisory Committee to the Texas Board of Criminal Justice; the Texas Department of Health and the Texas Department of Human Services to the Texas Health and Human Services Commission; the Texas Department of Mental Health and Mental Retardation to the Department of Aging and Disability Services; the Texas Rehabilitation Commission to the Department of Assistive and Rehabilitative Services; and the Texas Department of Transportation to the Department of Motor Vehicles. Makes nonsubstantive changes.

#### PART G. HUMAN RESOURCES CODE

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

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

#### PART H. LOCAL GOVERNMENT CODE

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

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

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

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

#### PART I. OCCUPATIONS CODE

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

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

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

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

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

SECTION 3I.04. Amends Sections 2302.001(2), (3), and (6) Occupations Code, to redefine "board," "department," and "salvage vehicle agent."

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

SECTION 3I.06. Amends Subchapter A, Chapter 2302, Occupations Code, by adding Section 2302.008, as follows:

Sec. 2302.008. **APPLICABILITY OF CHAPTER TO USED AUTOMOTIVE PARTS RECYCLERS.** Provides that this chapter does not apply to a used automotive parts recycler licensed under Chapter 2309.

SECTION 3I.07. Amends the heading to Subchapter B, Chapter 2302, Occupations Code, to read as follows:

#### SUBCHAPTER B. BOARD POWERS AND DUTIES

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

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

Sec. 2302.053. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) and (b) Makes conforming changes.

SECTION 3I.08. Amends Section 2302.103(b), Occupations Code, to authorize an applicant to apply for a salvage vehicle dealer license with an endorsement in one or more of certain classifications, no longer including used vehicle parts dealer. Makes nonsubstantive changes.

SECTION 3I.09. Amends Section 2302.108(b), Occupations Code, to require the board, rather than TTC, by rule to establish the grounds for denial, suspension, revocation, or reinstatement of a license issued under this chapter and the procedures for disciplinary action.

SECTION 3I.10. Amends Section 2302.204, Occupations Code, as follows:

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

SECTION 3I.11. (a) Amends Subtitle A, Title 14, Occupations Code, by adding Chapter 2309, as follows:

#### CHAPTER 2309. USED AUTOMOTIVE PARTS RECYCLERS

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2309.001. SHORT TITLE. Authorizes this chapter to be cited as the Texas Used Automotive Parts Recycling Act.

Sec. 2309.002. DEFINITIONS. Defines "insurance company," "metal recycler," "motor vehicle," "nonrepairable motor vehicle," "nonrepairable vehicle title," "salvage motor vehicle," "salvage vehicle title," "salvage vehicle dealer," "commission," "department," "executive director," "used automotive part," "used automotive parts recycler," and "used automotive parts recycling."

Sec. 2309.003. APPLICABILITY OF CHAPTER TO METAL RECYCLERS. (a) Provides that this chapter does not apply, except as provided by Subsection (b), to a transaction to which a metal recycler is a party.

(b) Provides that this chapter applies to a transaction in which a motor vehicle is sold, transferred, released, or delivered to a metal recycler as a source of used automotive parts and is used as a source of used automotive parts.

Sec. 2309.004. APPLICABILITY OF CHAPTER TO SALVAGE VEHICLE DEALERS. (a) Provides that this chapter does not apply, except as provided by Subsection (b), to a transaction in which a salvage vehicle dealer is a party.

(b) Provides that this chapter applies to a transaction in which a motor vehicle is sold, transferred, released, or delivered to a salvage vehicle dealer as a source of used automotive parts and is used as a source of used automotive parts.

Sec. 2309.005. **APPLICABILITY OF CHAPTER TO INSURANCE COMPANIES.** Provides that this chapter does not apply to an insurance company.

[Reserves Sections 2309.006-2309.050 for expansion.]

#### SUBCHAPTER B. ADVISORY BOARD

Sec. 2309.051. **USED AUTOMOTIVE PARTS RECYCLING ADVISORY BOARD.**

(a) Provides that the advisory board consists of six members representing the used automotive parts industry in this state appointed by the presiding officer of TTC with the approval of TTC.

(b) Requires the advisory board to include members who represent used automotive parts businesses owned by domestic entities, as defined by Section 1.002 (Definitions), Business Organizations Code.

(c) Requires the advisory board to include one member who represents a used automotive parts business owned by a foreign entity, as defined by Section 1.002, Business Organizations Code.

(d) Requires that appointments to the advisory board be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 2309.052. **TERMS; VACANCIES.** (a) Provides that advisory board members serve terms of six years, with the terms of two members expiring on February 1 of each odd-numbered year.

(b) Prohibits a member from serving more than two full consecutive terms.

(c) Requires the presiding officer of TTC, if a vacancy occurs during a term, to appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term.

Sec. 2309.053. **PRESIDING OFFICER.** Requires the presiding officer of TTC to appoint one of the advisory board members to serve as presiding officer of the advisory board for a term of one year. Authorizes the presiding officer of the advisory board to vote on any matter before the advisory board.

Sec. 2309.054. **POWERS AND DUTIES OF ADVISORY BOARD.** Requires the advisory board to provide advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including licensing standards, continuing education requirements, and examination content, if applicable.

Sec. 2309.055. **COMPENSATION; REIMBURSEMENT OF EXPENSES.** Prohibits advisory board members from receiving compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the advisory board, subject to the General Appropriations Act.

Sec. 2309.056. **MEETINGS.** Requires the advisory board to meet twice annually and is authorized to meet at other times at the call of the presiding officer of TTC or the executive director.

[Reserves Sections 2309.057-2309.100 for expansion.]

#### SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

Sec. 2309.101. **GENERAL POWERS AND DUTIES.** Authorizes the executive director or TTC, as appropriate, to take action as necessary to administer and enforce this chapter.

Sec. 2309.102. **RULES.** (a) Requires TTC to adopt rules for licensing used automotive parts recyclers.

(b) Requires TTC by rule to adopt standards of conduct for license holders under this chapter.

Sec. 2309.103. EXAMINATION OF CRIMINAL CONVICTION. Authorizes the department to conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.

Sec. 2309.104. FEES. Requires TTC to establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of administering this chapter.

Sec. 2309.105. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) Prohibits TTC from adopting a rule restricting advertising or competitive bidding by a person who holds a license issued under this chapter except to prohibit false, misleading, or deceptive practices by the person.

(b) Prohibits TTC from including in its rules to prohibit false, misleading, or deceptive practices a rule that restricts the use of any advertising medium; restricts the person's personal appearance or use of the person's voice in an advertisement; relates to the size or duration of an advertisement by the person; or restricts the use of a trade name in advertising by the person.

Sec. 2309.106. PERIODIC AND RISK-BASED INSPECTIONS. (a) Authorizes the department to enter and inspect at any time during business hours the place of business of any person regulated under this chapter or any place in which the department has reasonable cause to believe that a license holder is in violation of this chapter or in violation of a rule or order of TTC or executive director.

(b) Requires the department to conduct additional inspections based on a schedule of risk-based inspections using the following criteria: the type and nature of the used automotive parts recycler; the inspection history; any history of complaints involving a used automotive parts recycler; and any other factor determined by TTC by rule.

(c) Requires a used automotive parts recycler to pay a fee for each risk-based inspection performed under this section. Requires TTC by rule to set the amount of the fee.

(d) Authorizes the department, in conducting an inspection under this section, to inspect a facility, a used automotive part, a business record, or any other place or thing reasonably required to enforce this chapter or a rule or order adopted under this chapter.

Sec. 2309.107. PERSONNEL. Authorizes the department to employ personnel necessary to administer and enforce this chapter.

[Reserves Sections 2309.108-2309.150 for expansion.]

#### SUBCHAPTER D. LICENSE REQUIREMENTS

Sec. 2309.151. LICENSE REQUIRED. Prohibits a person, unless the person holds an appropriate license issued under this chapter, from owning or operating a used automotive parts recycling business or selling used automotive parts.

Sec. 2309.152. GENERAL LICENSE APPLICATION REQUIREMENTS. Requires an applicant for a license under this chapter to submit to the department a completed application on a form prescribed by the executive director, the required fees, and any other information required by TTC rule.

Sec. 2309.153. LICENSE REQUIREMENTS. Requires an applicant for a license under this chapter to establish proof of financial responsibility in the manner prescribed by the

executive director; provide proof of ownership or lease of the property where the applicant will operate a used automotive parts recycling facility; and provide a storm water permit if the applicant is required by TCEQ to obtain a permit.

Sec. 2309.154. NONTRANSFERABILITY OF LICENSE. Provides that a license issued by the executive director is valid throughout this state and is not transferable.

Sec. 2309.155. CONTINUING EDUCATION. (a) Requires TTC by rule to recognize or prepare and administer continuing education programs for license holders. Requires each license holder to complete a continuing education program before the license holder is authorized to renew the license holder's license.

(b) Requires a person recognized by TTC to offer a continuing education program to register with the department and comply with rules adopted by TTC relating to continuing education.

Sec. 2309.156. LICENSE RENEWAL. (a) Provides that a license issued under this chapter is valid for one year. Authorizes the department to adopt a system under which licenses expire at different times during the year.

(b) Requires the department to notify the license holder at least 30 days before the date a license expires. Requires that the notice be in writing and sent to the license holder's last known address according to the records of the department.

(c) Authorizes a license holder to renew a license issued under this chapter by paying a renewal fee; providing to the department evidence of financial responsibility; providing proof of ownership or lease of the property where the license holder operates a used automotive parts recycling facility; providing a storm water permit if the license holder is required by TCEQ to obtain a permit; and completing continuing education as required by Section 2309.155.

[Reserves Sections 2309.157-2309.200 for expansion.]

#### SUBCHAPTER E. LOCAL REGULATION

Sec. 2309.201. APPLICABILITY OF CERTAIN MUNICIPAL ORDINANCES, LICENSES, AND PERMITS. (a) Provides that the requirements of this chapter apply in addition to the requirements of any applicable municipal ordinance relating to the regulation of a person who deals in nonrepairable or salvage motor vehicles or used automotive parts.

(b) Provides that this chapter does not prohibit the enforcement of an applicable municipal license or permit requirement that is related to an activity regulated under this chapter.

[Reserves Sections 2309.202-2309.250 for expansion.]

#### SUBCHAPTER F. ENFORCEMENT

Sec. 2309.251. ADMINISTRATIVE PENALTY. (a) Authorizes TTC to impose an administrative penalty on a person under Subchapter F (Administrative Penalty), Chapter 51 (Texas Department of Licensing and Regulation), regardless of whether the person holds a license under this chapter, if the person violates this chapter or a rule adopted under this chapter or a rule or order of the executive director or TTC.

(b) Prohibits an administrative penalty from being imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2309.252. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) Authorizes the executive director to issue a cease and desist order as necessary to enforce

this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) Authorizes the attorney general or executive director to institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

Sec. 2309.253. SANCTIONS. Authorizes the department to impose sanctions as provided by Section 51.353.

Sec. 2309.254. CRIMINAL PENALTY; LICENSING. (a) Provides that a person commits an offense if the person violates the licensing requirements of this chapter; deals in used parts without a license; or employs an individual who does not hold the appropriate license required by this chapter.

(b) Provides that an offense under this section is a Class C misdemeanor.

[Reserves Sections 2309.255-2309.300 for expansion.]

#### SUBCHAPTER G. CONDUCTING BUSINESS

Sec. 2309.301. DUTIES ON ACQUISITION OF SALVAGE MOTOR VEHICLE. (a) Requires a used automotive parts recycler who acquires ownership of a salvage motor vehicle to obtain a properly assigned title from the previous owner of the vehicle.

(b) Requires a used automotive parts recycler who acquires ownership of a motor vehicle, nonrepairable motor vehicle, or salvage motor vehicle for the purpose of dismantling, scrapping, or destroying the motor vehicle to, before the 61st day after the date of acquiring the motor vehicle, submit to TxDOT a report stating that the motor vehicle will be dismantled, scrapped, or destroyed. Requires the recycler to submit the report on a form prescribed by TxDOT and submit with the report a properly assigned manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state ownership document for the motor vehicle.

(c) Requires TxDOT, after receiving the report and title or document, to issue the used automotive parts recycler a receipt for the manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state ownership document.

(d) Requires the recycler to comply with Subchapter E (Nonrepairable and Salvage Motor Vehicles), Chapter 501 (Certificate of Title Act), Transportation Code.

Sec. 2309.302. RECORDS OF PURCHASES. Requires a used automotive parts recycler to maintain a record of each motor vehicle, salvage motor vehicle, nonrepairable motor vehicle, and used automotive part purchased.

Sec. 2309.303. REGISTRATION OF NEW BUSINESS LOCATION. Requires a used automotive parts recycler, before moving a place of business or opening an additional place of business, to notify the department of the new location. Requires the used automotive parts recycler to provide a storm water permit for the location if a permit is required by TCEQ.

[Reserves Sections 2309.304-2309.350 for expansion.]

#### SUBCHAPTER H. ADDITIONAL DUTIES OF USED AUTOMOTIVE PARTS RECYCLER IN CONNECTION WITH MOTOR VEHICLE COMPONENT PARTS

Sec. 2309.351. DEFINITIONS. Defines "component part," "interior component part," "minor component part," and "special accessory part."

Sec. 2309.352. REMOVAL OF LICENSE PLATES. Requires a used automotive parts recycler, immediately on receipt of a motor vehicle, to remove any unexpired license plates from the vehicle and place the license plates in a secure place until destroyed by the used automotive parts recycler.

Sec. 2309.353. RECEIPT OF MOTOR VEHICLE. Prohibits a used automotive parts recycler from taking delivery of a motor vehicle unless the recycler first obtains a certificate of authority to dispose of the vehicle, a sales receipt, or a transfer document for the vehicle issued under Chapter 683 (Abandoned Motor Vehicles), Transportation Code or a certificate of title showing that there are no liens on the vehicle or that all recorded liens have been released.

Sec. 2309.354. RECORD OF PURCHASE; INVENTORY OF PARTS. (a) Requires a used automotive parts recycler to keep an accurate and legible inventory of each used component part purchased by or delivered to the recycler. Requires that the inventory contain a record of each part that includes certain information.

(b) Authorizes a used automotive parts recycler, as an alternative to the information required by Subsection (a), to record the name of the person who sold the part or the motor vehicle from which the part was obtained and the Texas certificate of inventory number or the federal taxpayer identification number of the person.

(c) Requires the department to prescribe the form of the record required by Subsection (a) and to make the form available to used automotive parts recyclers.

(d) Provides that this section does not apply to an interior component part or special accessory part from a motor vehicle more than 10 years old or a part delivered to a used automotive parts recycler by a commercial freight line, commercial carrier, or licensed used automotive parts recycler.

Sec. 2309.355. ASSIGNMENT OF INVENTORY NUMBER. (a) Requires a used automotive parts recycler to assign a unique inventory number to each transaction in which the recycler purchases or takes delivery of a component part; attach that inventory number to each component part the recycler obtains in the transaction; and retain each component part in its original condition on the business premises of the recycler for at least three calendar days, excluding Sundays, after the date the recycler obtains the part.

(b) Prohibits an inventory number attached to a component part under Subsection (a) from being removed while the part remains in the inventory of the used automotive parts recycler.

(c) Provides that this section does not apply to the purchase by a used automotive parts recycler of a nonoperational engine, transmission, or rear axle assembly from another used automotive parts recycler or an automotive-related business.

Sec. 2309.356. MAINTENANCE OF RECORDS. Requires a used automotive parts recycler to keep a record required under this subchapter on a form prescribed by the department or TxDOT. Requires the recycler to maintain copies of each record required under this subchapter until the first anniversary of the purchase date of the item for which the record is maintained.

Sec. 2309.357. SURRENDER OF CERTAIN DOCUMENTS OR LICENSE PLATES. (a) Requires a used automotive parts recycler, on demand, to surrender to TxDOT for cancellation a certificate of title or authority, sales receipt or transfer document, license plate, or inventory list that the recycler is required to possess or maintain.

(b) Requires TxDOT to provide a signed receipt for a surrendered certificate of title.

Sec. 2309.358. RESALE OF SALVAGE MOTOR VEHICLES OR NONREPAIRABLE MOTOR VEHICLES. (a) Authorizes a used automotive parts recycler to sell salvage or nonrepairable vehicles only at the recycler's business location.

(b) Requires a used automotive parts recycler, before reselling a salvage motor vehicle or nonrepairable motor vehicle, to post notice on the vehicle of the type of title appropriate to the vehicle.

Sec. 2309.359. INSPECTION OF RECORDS. (a) Authorizes a peace officer at any reasonable time to inspect a record required to be maintained under this subchapter, including an inventory record.

(b) Requires a used automotive parts recycler, on demand by a peace officer, to provide to the officer a copy of a record required to be maintained under this subchapter.

(c) Authorizes a peace officer to inspect the inventory on the premises of a used automotive parts recycler at any reasonable time to verify, check, or audit the records required to be maintained under this subchapter.

(d) Provides that a used automotive parts recycler or an employee of the recycler is required to allow and is prohibited from interfering with a peace officer's inspection of the recycler's inventory, premises, or required inventory records.

[Reserves Sections 2309.360-2309.400 for expansion.]

#### SUBCHAPTER I. MOTOR VEHICLE SALVAGE YARDS IN CERTAIN COUNTIES

Sec. 2309.401. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter applies only to a used automotive parts facility located in a county with a population of 2.8 million or more.

Sec. 2309.402. LIMITS ON OPERATION OF HEAVY MACHINERY. (a) Prohibits a used automotive parts recycler from operating heavy machinery in a used automotive parts recycling facility between the hours of 7 p.m. of one day and 7 a.m. of the following day.

(b) Provides that this section does not apply to conduct necessary to a sale or purchase by the recycler.

(b) Repealer: Section 2302.253 (Receipt of Motor Vehicles by Holder of Endorsement as Used Vehicle Parts Dealer), Occupations Code.

(c) Requires the Texas Commission of Licensing and Regulation (TCLR), not later than January 1, 2010, to adopt rules under Section 2309.102, Occupations Code, as added by Subsection (a) of this section.

(d) Effective date, Section 2309.151, Occupations Code, as added by Subsection (a) of this section, and Subchapter F, Chapter 2309, Occupations Code, as added by Subsection (a) of this section: September 1, 2010.

SECTION 3I.12. Repealer: Section 2301.002(33) (relating to the definition of "transportation commission"), Occupations Code.

#### PART J. PENAL CODE

SECTION 3J.01. Amends Section 31.03(c), Penal Code, as follows:

(c) Provides that for purposes of Subsection (b) an actor engaged in the business of obtaining abandoned or wrecked motor vehicles or parts of an abandoned or wrecked motor vehicle for resale, disposal, scrap, repair, rebuilding, demolition, or other form of

salvage is presumed to know on receipt by the actor of stolen property that the property has been previously stolen from another if the actor knowingly or recklessly fails on receipt of a motor vehicle to immediately remove an unexpired license plate from the motor vehicle, to keep the plate in a secure and locked place, or to maintain an inventory, on forms provided by the department, rather than TxDOT, of license plates kept under this paragraph, including for each plate or set of plates the license plate number and the make, motor number, and vehicle identification number of the motor vehicle from which the plate was removed. Makes a conforming change.

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

#### PART K. TAX CODE

SECTION 3K.01. Amends Section 21.02(d), Tax Code, to make a conforming change.

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

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

SECTION 3K.04. Amends Sections 23.121(f), (g), and (h), Tax Code, as follows:

(f) Requires the comptroller to promulgate a form entitled Dealer's Motor Vehicle Inventory Declaration. Requires each dealer, except as provided by Section 23.122(1), rather than of this code, not later than February 1 of each year, or, in the case of a dealer who was not in business on January 1, not later than 30 days after commencement of business, to file a declaration with the chief appraiser and file a copy with the collector. Makes conforming changes.

(g) Makes conforming changes.

(h) Makes conforming changes.

SECTION 3K.05. Amends Section 23.123(c), Tax Code, to authorize that information made confidential by this section be disclosed to a district attorney, criminal district attorney or county attorney involved in the enforcement of a penalty imposed pursuant to Section 23.121 or Section 23.122, rather than of this code and to the department, rather than TxDOT, for use by that department in auditing compliance of its licensees with appropriate provisions of applicable law.

SECTION 3K.06. Amends Section 232.124(a)(11), Tax Code, to redefine "sales price."

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

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

SECTION 3K.08. Amends Sections 152.0412(a) and (f), Tax Code, as follows:

(a) Redefines "standard presumptive value."

(f) Requires the department, rather than TxDOT, to maintain information on the standard presumptive values of motor vehicles as part of the department's registration and title system.

SECTION 3K.09. Amends Section 152.042, Tax Code, as follows:

Sec. 152.042. COLLECTION OF TAX ON METAL DEALER PLATES. Requires a person required to pay the tax imposed by Section 152.027 to pay the tax to the

department, rather than TxDOT, and the department is prohibited from issuing the metal dealer's plates until the tax is paid.

SECTION 3K.10. Amends Section 152.121(b), Tax Code, as follows:

(b) Requires that taxes on metal dealer plates collected by the department be deposited by the department in the state treasury in the same manner as are other taxes collected under this chapter.

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

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

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

(b) Provides that the powers, duties, obligations, and rights of action of the portion of the Motor Carrier Division of TxDOT that is responsible for motor carrier registration and the enforcement of Subtitle F (Commercial Motor Vehicles), Title 7 (Vehicles and Traffic), Transportation Code, are transferred to the department, and the associated powers, duties, obligations, and rights of action of the TTC are transferred to the board of the department on November 1, 2009.

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

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

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

(f) Provides that a rule adopted by TTC or the director of TxDOT in connection with or relating to the Motor Vehicle Division, the Vehicle Titles and Registration Division, or the portion of the Motor Carrier Division of TxDOT described in Subsection (b) of this section continues in effect until it is amended or repealed by the board of the department or the department, as applicable.

(g) Provides that the unobligated and unexpended balance of any appropriations made to the TxDOT in connection with or relating to the Motor Vehicle Division, the Vehicle Titles and Registration Division, or the portion of the Motor Carrier Division of TxDOT described in Subsection (b) of this section for the state fiscal biennium ending August 31, 2009, is transferred and reappropriated to the department for the purpose of implementing the powers, duties, obligations, and rights of action transferred to that department under Subsection (a) of this section.

SECTION 4.02. (a) Provides that all powers, duties, obligations, and rights of action of the Automobile Burglary and Theft Prevention Authority Office of TxDOT under Article 4413(37), Revised Statutes, are transferred to the Automobile Burglary and Theft Prevention Authority Division of the department, and all powers, duties, obligations, and rights of action of TTC in connection or associated with the Automobile Burglary and Theft Prevention Authority Office of TxDOT are transferred to the board of the department on November 1, 2009.

(b) Provides that in connection with the transfers required by Subsection (a) of this section, the personnel, furniture, computers, other property and equipment, files, and related materials used by the Automobile Burglary and Theft Prevention Authority Office of TxDOT are transferred to the Automobile Burglary and Theft Prevention Authority Division of the department.

(c) Requires the Automobile Burglary and Theft Prevention Authority Division of the department to continue any proceeding involving the Automobile Burglary and Theft Prevention Authority Office of TxDOT that was brought before the effective date of this Act in accordance with the law in effect on the date the proceeding was brought, and the former law is continued in effect for that purpose.

(d) Provides that a certificate, license, document, permit, registration, or other authorization issued by the Automobile Burglary and Theft Prevention Authority Office of TxDOT that is in effect on the effective date of this Act remains valid for the period for which it was issued unless suspended or revoked by the Automobile Burglary and Theft Prevention Authority Division of the department.

(e) Provides that a rule adopted by the Automobile Burglary and Theft Prevention Authority Office of TxDOT, TTC, or the director of TxDOT in connection with or relating to the Automobile Burglary and Theft Prevention Authority Office of that department continues in effect until it is amended or repealed by the board of the department or the Automobile Burglary and Theft Prevention Authority Division of the department, as applicable.

(f) Provides that the unobligated and unexpended balance of any appropriations made to TxDOT in connection with or relating to the Automobile Burglary and Theft Prevention Authority Office of that department for the state fiscal biennium ending August 31, 2009, is transferred and reappropriated to the department for the purpose of implementing the powers, duties, obligations, and rights of action transferred to that department under Subsection (a) of this section.

SECTION 4.03. Requires the Transportation Legislative Oversight Committee to oversee the coordination and collaboration between TxDOT and the department during the transitions required by Sections 4.01 and 4.02 of this article.

#### ARTICLE 5. APPOINTMENT OF BOARD

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

#### ARTICLE 6. FINANCIAL AUDIT

SECTION 6.01. (a) Requires the office of the state auditor, as soon as practicable after the effective date of this Act, to conduct an initial financial audit to establish financial benchmarks for the department on its overall status and condition in relation to funds on hand, equipment and other assets, pending matters, and other issues considered appropriate by the office of the state auditor.

(b) Requires that the results of the audit, as soon as practicable after the completion of the audit required by Subsection (a) of this section, be reported by the office of the state auditor to the board of department and to TTC. Requires the office of the state auditor to also provide a copy of the audit to the board and TTC.

ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. Effective date: September 1, 2009.