

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

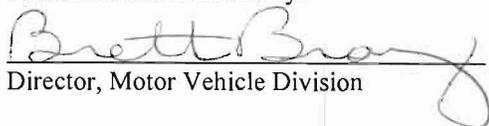
The Texas Transportation Commission (commission) finds it necessary to propose the repeal of §8.138, temporary cardboard tags, §8.139, metal dealer license plates and temporary cardboard tags, §8.140, established and permanent place of business, and §8.146, metal converter's license plates and temporary cardboard tags, and new §8.138, use of metal dealer license plates, §8.139, metal dealer plate allocation, §8.140, established and permanent place of business, §8.146, metal converter's license plates, §8.150, authorization to issue temporary tags, §8.151, temporary tags, general use requirements and prohibitions, §8.152, obtaining numbers for issuance of temporary tags, §8.153, specifications for all temporary tags, §8.154, dealer temporary tags, §8.155, buyer's temporary tags, §8.156, buyer's temporary tag receipt and notice to buyer, §8.157, advance numbers, internet-down buyer's temporary tags, §8.158, advance numbers, emergency buyer's temporary tags, §8.159, general requirements and allocation of internet-down and emergency buyer's tag numbers, §8.160, converter's temporary tags, all concerning general distinguishing numbers, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed repeals and new sections, attached to this minute order as Exhibits A - C, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the repeal of §8.138, §8.139, §8.140, §8.146, and new §8.138, §8.139, §8.140, §8.146, §8.150, §8.151, §8.152, §8.153, §8.154, §8.155, §8.156, §8.157, §8.158, §8.159 and §8.160 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:


Director, Motor Vehicle Division

Recommended by:


Executive Director

111177 DEC 13 07

Minute
Number

Date
Passed

1 Proposed Preamble

2 The Texas Department of Transportation (department) proposes the
3 repeal of §8.138, Temporary Cardboard Tags, §8.139, Metal Dealer
4 License Plates and Temporary Cardboard Tags, §8.140, Established
5 and Permanent Place of Business, and §8.146, Metal Converter's
6 License Plates and Temporary Cardboard Tags, and new §8.138, Use
7 of Metal Dealer License Plates, §8.139, Metal Dealer Plate
8 Allocation, §8.140, Established and Permanent Place of Business,
9 §8.146, Metal Converter's License Plates, §8.150, Authorization
10 to Issue Temporary Tags, §8.151, Temporary Tags, General Use
11 Requirements, and Prohibitions, §8.152, Obtaining Numbers for
12 Issuance of Temporary Tags, §8.153, Specifications for All
13 Temporary Tags, §8.154, Dealer Temporary Tags, §8.155, Buyer's
14 Temporary Tags, §8.156, Buyer's Temporary Tag Receipt and Notice
15 to Buyer, §8.157, Advance Numbers, Internet-down Buyer's
16 Temporary Tags, §8.158, Advance Numbers, Emergency Buyer's
17 Temporary Tags, §8.159, General Requirements and Allocation of
18 Internet-down and Emergency Buyer's Tag Numbers, and §8.160,
19 Converter's Temporary Tags, all concerning general
20 distinguishing numbers.

21

22 EXPLANATION OF REPEALS AND PROPOSED NEW SECTIONS

23 Article 8 of Senate Bill 11 and Senate Bill 1786, 80th
24 Legislature, Regular Session, 2007, require the department to
25 create and maintain databases that allow for real time access to

1 owner information on recently sold vehicles or vehicles operated
2 under other temporary tags. The system must be capable of
3 generating a vehicle-specific number for the issuance of dealer,
4 buyer's, and converter temporary tags. The department must
5 adopt rules and implement procedures for the generation of the
6 vehicle-specific numbered temporary tags by dealers and
7 converters, advance issuance of emergency tags to dealers for
8 use when internet access is unavailable at the time of sale,
9 display of temporary tags on vehicles by dealers, converters,
10 and buyers, and the provision of information by dealers to
11 buyers on the use of temporary tags, associated criminal
12 penalties, actions required of buyers concerning temporary tags,
13 and other information as determined by the department concerning
14 the purchase and registration of vehicles. It is necessary to
15 propose the repeal of existing §8.138, Temporary Cardboard Tags;
16 §8.139, Metal Dealer License Plates and Temporary Cardboard
17 Tags; §8.140, Established and Permanent Place of Business; and
18 §8.146, Metal Converter's License Plates and Temporary Cardboard
19 Tags and simultaneously propose new sections for a data-based
20 temporary tag issuance system as mandated by Senate Bill 11 and
21 Senate Bill 1786.

22

23 Implementation of SB 11 and SB 1786 will require significant
24 changes in the design, format, and method of issuing dealer and
25 buyer's temporary tags. A dealer will provide the state with

1 information about a vehicle and buyer, and the department will
2 provide a specific number to be used on the temporary tag. The
3 number on the temporary tag will greatly enhance law enforcement
4 efforts to ascertain the true owners of vehicles prior to
5 permanent registration.

6
7 New provisions set out additional premises requirements for
8 dealers who file applications after May 1, 2008. A majority of
9 the additional requirements are minimal. For example,
10 dealership premises must have features such as electricity and a
11 100-square foot office. Existing dealers generally meet these
12 standards. Other new provisions address safety issues,
13 recognize new technology, and provide a small amount of consumer
14 protection. The new section will raise industry standards and
15 give legitimate dealers a better chance of competing with
16 persons who would use a general distinguishing number license
17 for convenience or to mask unlawful activities.

18
19 New §8.138, Use of Metal Dealer License Plates, and §8.139,
20 Metal Dealer Plate Allocation, reorganizes and incorporates
21 portions of existing §8.138 with only minor non-substantive
22 changes. The changes clarify existing provisions and remove
23 unnecessary language. Existing §8.139(a), relating to plate
24 attachment to rear license plate holder and keeping of receipts
25 in vehicles; §8.139(c), relating to prohibited usage of metal

1 plates; §8.139(e), relating to usage on types of vehicles for
2 which the dealer is licensed; and §8.139(i-j), relating to metal
3 plate records and void plates, are reenacted in the new section.
4 New §8.139 reenacts existing §8.138(n) relating to metal
5 dealer's plate allocation.

6
7 A portion of existing §8.138(a) is not reenacted. Currently,
8 the section requires dealers to remove and safeguard unvalidated
9 multi-year license plates when placing a dealer plate on a
10 vehicle and to put them back on the vehicle when the dealer
11 plate is removed. Transportation Code, §502.451, enacted by
12 House Bill 310, 80th Legislature, Regular Session, 2007, now
13 requires dealers to remove license plates and registration
14 insignia when they acquire a vehicle. Therefore, the provisions
15 relating to multi-year license plates in existing §8.138(a) are
16 no longer applicable.

17
18 Existing §8.140 contains premises and office standards for
19 retail dealers and wholesale dealers. The current rule is
20 confusing and difficult for retail dealers and wholesale dealers
21 to easily understand the different standards that apply to their
22 types of businesses. Proposed new §8.140 segregates the
23 differing standards for retail and wholesale dealers and
24 identifies those provisions that are applicable to both retail
25 and wholesale dealers or applicable to only retail dealers. The

1 new format is more comprehensible and contains additional
2 descriptions to clarify some standards.

3

4 New §8.140(1), Business hours for retail dealers, incorporates
5 existing requirements with only minor non-substantive changes.
6 The changes delete unnecessary language making the section
7 easier to read and understand. Specifically, existing
8 §8.140(1)(A) provisions relating to posting and maintaining
9 office hours for retail dealers and the existing §8.140(1)(B)
10 provisions relating to having the telephone answered between
11 8:00 a.m. and 5:00 p.m. weekdays are contained in this
12 paragraph. The restructuring allows a retail dealer to more
13 easily identify the business hours and telephone requirements
14 that apply specifically to a retail dealer.

15

16 New §8.140(2), Business hours for wholesale dealers, contains a
17 new requirement that wholesale dealers must have the telephone
18 answered by a bona fide employee, answering machine, or
19 answering service during the hours of 8:00 a.m. and 5:00 p.m. on
20 weekdays. In addition, wholesale dealers must now be at the
21 licensed location for two consecutive hours at least two days a
22 week instead of one day a week. The new requirements will help
23 ensure that wholesale dealers are available at their place of
24 business to meet with other dealers and department personnel as
25 may be necessary. The remainder of the section incorporates

1 existing §8.140(1)(G) provisions relating to posting and
2 maintaining office hours for wholesale dealers and §8.140(1)(B)
3 provisions relating to having the telephone answered between
4 8:00 a.m. and 5:00 p.m. weekdays. The restructuring allows a
5 wholesale dealer to more easily identify the business hours and
6 telephone requirements that apply specifically to a wholesale
7 dealer.

8

9 New §8.140(3), Business sign requirements for retail dealers,
10 incorporates existing §8.140(2) provisions relating to a retail
11 dealer's signage. New language clarifies existing standards, by
12 expressly stating that temporary signs or banners are not
13 acceptable and that the sign must be permanently mounted and
14 readable from the street. The sign must display the business
15 name or assumed name under which the dealer conducts business as
16 reflected on the dealer's license. It is acceptable to omit
17 terms such "Inc.," "LLC," "LP" or similar identifiers of the
18 business entity.

19

20 New §8.140(4), Business sign requirements for wholesale dealers,
21 incorporates the existing §8.140(2) provisions relating to
22 wholesale dealer's signage. New language sets out existing
23 standards, by clarifying that temporary signs or banners are not
24 acceptable, and that the sign must be permanently mounted. The
25 sign must display the business name or assumed name under which

1 the dealer conducts business as reflected on the dealer's
2 license. It is acceptable to omit terms such "Inc.," "LLC,"
3 "LP" or similar identifiers of the business entity. Additional
4 clarification is made that the sign may be on the main door to
5 the dealer's office, the side of the building where the
6 wholesale dealer is located, or other location on the business
7 property. If the business sign is on or beside the main door to
8 the dealer's office two inch high lettering is acceptable.

9
10 New office structure requirements in §8.140(5), Office structure
11 for retail and wholesale dealers, apply to dealers that file
12 applications for new license or a supplemental location after
13 May 1, 2008. Dealers licensed before that date are not required
14 to upgrade their premises to meet additional standards. The
15 department has determined that new requirements should only
16 apply to future new license applicants who could better
17 incorporate any economic impact in making the initial decision
18 of applying for a license.

19
20 New §8.140(5) incorporates existing §8.140(1)(B-C) provisions
21 relating to definition of the building structure and the
22 requirements for zoning compliance, use of portable buildings,
23 and physical business address recognized by the U.S. Postal
24 Service. Changes clarify that portable structures are still
25 acceptable, provided that the structure is not a readily movable

1 trailer or vehicle.

2

3 A new requirement is that internal office space must be not less
4 than 100 square feet with a minimum seven foot ceiling. Other
5 new provisions require electricity with adequate heating and
6 lighting. It is not acceptable to locate a dealership office in
7 a storeroom, closet, stock room, or other room that is not open
8 to the public. New requirements prohibit offices located in a
9 room within a residence, apartment house, motel, hotel, or
10 rooming house. A vehicle purchase is one of the largest
11 investments made by most consumers. The public is entitled to
12 transact business in a professional setting. It is
13 inappropriate to require the public to enter or approach a
14 personal dwelling to conduct such a transaction. For health and
15 safety reasons, the route to a dealership office may not pass
16 through a food preparation area. This paragraph establishes the
17 minimum structural standard necessary for a dealer's office to
18 adequately and effectively serve the needs of the consumer.

19

20 New §8.140(6), Required office equipment for retail and
21 wholesale dealers, incorporates existing §8.140(1)(B) provisions
22 related to office furniture and telephones and further specifies
23 that dealers must have a desk, two chairs, a file cabinet,
24 Internet access, a printer, a fax machine, and a land based,
25 business listed, working telephone. The new requirements for

1 Internet access, printer, and fax machine recognize the changes
2 in technology in the business environment. In addition, Senate
3 Bill 1786 and article 8 of Senate Bill 11, 80th Legislature,
4 Regular Session, 2007, require dealers to have Internet access
5 to interact with the temporary tag database.

6
7 New §8.140(7), Number of retail dealers in one office, and
8 §8.140(8), Number of wholesale dealers in one office,
9 incorporate without change the existing §8.140(1)(B) and (F)
10 provisions relating to the allowable number of retail and
11 wholesale dealers in one office. New §8.140(9), Wholesale and
12 retail dealers office sharing prohibition, incorporates the
13 existing §8.140(1)(D) and (E) provisions relating to dealers
14 conducting business in offices with other businesses. The
15 restructuring allows retail and wholesale dealers to more easily
16 identify the requirements related to the number of dealers in a
17 single location that apply specifically to a retail or wholesale
18 dealer and clearly states that the two entities cannot be
19 located in the same structure if either of the entities were
20 established after 1999. This language is in the current version
21 of §8.140(1), relating to office requirements, however
22 clarification was needed.

23
24 New §8.140(10), Dealer housed with other business, incorporates
25 the existing §8.140(3) provisions relating to the display space

1 requirements. Further clarifying information related to
2 permanent barriers, signage, and the use of additional space
3 when the designated display area is full is provided. The
4 clarifications establish standards for barriers and signage at
5 locations where other businesses are operated so that the
6 dealer's operations are clearly distinguishable by consumers
7 from the other businesses operated at that location. This
8 subsection will prevent consumer confusion with the other
9 businesses and establish the separate relationship between the
10 motor vehicle transaction and those other businesses.

11
12 New §8.140(11), Display area requirements, requires outside
13 lighting if a dealership is open after sundown. This paragraph
14 also requires that if a dealer's premises include gasoline pumps
15 or another business that sells gasoline, the display areas may
16 not be part of the parking area for gasoline customers and may
17 not interfere with access to gasoline pumps. Display space may
18 not contain a fuel fill port or fire prevention access to fuel
19 tanks. The creation of the lighting requirement and segregation
20 from fuel storage areas provide additional safety for consumers.
21 The lighting requirement also allows the consumer to make more
22 informed choices when purchasing motor vehicles from dealers by
23 allowing a better opportunity to examine the vehicle if shopping
24 after dark.

25

1 New §8.140(12), Dealer with salvage dealer license, provides
2 that dealers who also hold a salvage dealer's license must mark
3 all salvage vehicles on the premises with signage informing
4 potential buyers that the vehicles are salvage. This
5 identification will enable the consumer to more easily identify
6 a salvage vehicle from a non-salvage vehicle at the salvage
7 dealer's facility.

8

9 New §8.140(13), Lease requirements, incorporates existing
10 §8.140(4) provisions relating to lease requirements and further
11 provides that the lease must be in effect for the term of the
12 current license. This provision helps assure operations will
13 remain at the dealer's licensed location throughout the term of
14 the license.

15

16 New §8.140(14), Dealer must display license, incorporates
17 existing §8.140(5) provisions relating to the display of the
18 dealer's license. This allows a consumer to see that the
19 consumer is doing business with a licensed dealer.

20

21 New §8.146, Metal Converter's License Plates, reorganizes and
22 incorporates portions of existing §8.146 with only minor non-
23 substantive changes to improve the language of the rule.

24 Existing §8.146(a), relating to plate attachment to rear license
25 plate holder; §8.146(h), relating to usage on types of vehicles

1 for which the converter is licensed; and existing §8.146(1)-(o),
2 relating to metal plate records and void plates are reenacted in
3 this new section.

4
5 New §8.150, Authorization to Issue Temporary Tags, states that
6 licensed dealers and converters are authorized to issue
7 temporary tags applicable to their businesses. Authorization to
8 issue tags in connection with day-to-day business operations is
9 assured until a license is cancelled, revoked, or suspended.

10 However, because advance Internet-down and emergency numbers are
11 more vulnerable to misuse, theft, and counterfeiting, a dealer's
12 authorization to obtain these types of numbers in advance may be
13 separately modified, suspended, or revoked after an opportunity
14 for hearing.

15
16 New §8.151, Temporary Tags, General Use Requirements, and
17 Prohibitions, requires all temporary tags to be displayed in the
18 rear license plate holder of the vehicle, eliminating the option
19 of rear window display. Transportation Code, §502.451, enacted
20 by House Bill 310, 80th Legislature, Regular Session, 2007, now
21 requires dealers to remove license plates and registration
22 insignia when they acquire vehicles, making the license plate
23 holders available for use. A temporary tag displayed in a
24 tinted rear window is often difficult to see. It is vital that
25 law enforcement officers be able to view the tag easily now that

1 they can access the database and obtain identifying information
2 about the owner of a vehicle in real time. The remaining
3 portions of §8.150 incorporate existing requirements with only
4 minor non-substantive changes to make the section easier to read
5 and understand.

6
7 New §8.152, Obtaining Numbers for Issuance of Temporary Tags,
8 requires dealers and converters to have Internet access to
9 obtain a specific number for each tag from the temporary tag
10 databases maintained by the department. Dealers and converters
11 are required to enter information into the databases and obtain
12 a number before a temporary tag may be issued and displayed on a
13 vehicle. The only permissible exceptions are contained in
14 §8.155 and §8.156, relating to obtaining advance numbers in the
15 event that Internet connectivity is down or power and
16 communications are disrupted for more than two days. Senate
17 Bill 11 and Senate Bill 1786 require that licensees connect to
18 the databases through the Internet. It is necessary that all
19 dealers and converters have an Internet connection to do so.

20
21 New §8.153, Specifications for All Temporary Tags, describes the
22 specifications and acceptable methods for issuance of temporary
23 tags using the specific number obtained from the state
24 databases.

25

1 The department will no longer require temporary buyer's or
2 converter tags to be red, blue, or orange. Information printed
3 or completed on all tags must be in black ink. This will
4 facilitate issuance of a tag using a computer and printer and
5 will reduce costs to dealers and converters who previously were
6 required to have temporary tags printed in color.

7
8 This new section describes four acceptable methods for issuing
9 temporary tags. The database will provide the specific number
10 and other information required to be displayed on the tag via an
11 image of a sample tag, which will demonstrate how a properly
12 completed tag should look.

13
14 The current system of manually placing information on pre-
15 printed cardboard stock using a black marking pen or other means
16 remains an option. In addition, the department will allow a
17 licensee the option of printing the image of the sample tag onto
18 plain paper or a label and securing it to a piece of cardboard.
19 Another option is that the licensee may print a plain paper
20 image of the sample tag and display it in a clear plastic bag to
21 protect it from the elements. All plain paper tags, regardless
22 of whether they are glued or taped to cardboard, must be placed
23 in a clear poly bag or a 2" strip of tape must be placed over
24 the specific number portion of the tag.

25

1 It is reasonable to assume that some dealers may wish to use
2 this image rather than copy the information onto a cardboard
3 tag. Copying the required information onto the tag to make it
4 useful to law enforcement will become tedious for many large-
5 volume dealers who make numerous sales. Having to buy cardboard
6 tags pre-printed with blank boxes to fill in does not decrease
7 the dealer's cost of buying a printed tag and increases labor
8 costs. Most importantly for law enforcement purposes, the
9 likelihood of errors in the transference of information and
10 numbers from the printed receipt to the cardboard tag is apt to
11 occur too often. Therefore, it is in the best interest of law
12 enforcement, dealers, and the department to facilitate the use
13 of the provided sample paper image in a manner that is both
14 efficient and acceptable to all concerned. It is good public
15 policy to acknowledge the practical business necessity by
16 allowing the sample image to suffice for the temporary tag. To
17 do otherwise would increase costs to consumers.

18

19 If a dealer or converter chooses to manually complete and issue
20 preprinted cardboard temporary tags, those tags must comply with
21 the standards for format and display as indicated in the
22 applicable appendices A-1 through C-1. The standards for the
23 weight of the cardboard and bolt holes are unchanged.

24

25 Dealers and converters must begin using the new tags on the date

1 that the database system is made generally available for use by
2 the department. The department will provide the dealer access
3 to the database for review at least 60 days before the
4 requirement to use the system for the issuance of temporary
5 tags. The department wants to give all dealers an opportunity
6 to study the new system if they choose, however, it is necessary
7 to have a specific statewide implementation date. Having a
8 specific date that all dealers must be in compliance with the
9 new system will limit the time that dual systems for issuing
10 temporary tags exist. This will also benefit law enforcement
11 and consumers by allowing them to become familiar with the
12 appearance of the new tags. The department will notify the
13 dealers through the Texas Register, department's website, and
14 dealer associations of the dates that the system is available
15 for review and the date that all dealers must begin to use the
16 new system.

17
18 New §8.154, Dealer Temporary Tags, describes permissible usage
19 of dealer temporary tags in demonstrating vehicles to
20 prospective buyers, providing loaned vehicles to charitable
21 organizations, operating vehicles in parades, road testing, and
22 conveying untitled vehicles to a place of service or repair, to
23 another place of business, or from a delivery point to a
24 dealer's place of business. Holders of wholesale motor vehicle
25 auction general distinguishing numbers may use temporary tags in

1 transporting vehicles to or from a licensed auction location by
2 that licensee's employees. Prohibited usage is established for
3 laden commercial vehicles, dealer service or work vehicles, and
4 personal use vehicles. These permissive and prohibited usages
5 incorporate provisions of existing §8.138(b)(1), Appendix A-2,
6 §8.139(c), and §8.139(1) without change. Existing §8.139(e) is
7 incorporated without change by providing that dealers may use
8 temporary tags only for the type of vehicles for which the
9 dealer is licensed. Existing §8.139(g) provisions that
10 temporary dealer tags are to be removed from a vehicle when an
11 unregistered vehicle is sold to another dealer, that temporary
12 buyer's tags may be issued, and that consigned vehicles are to
13 display the temporary tag of the dealer to which it is consigned
14 are also incorporated into the new rule.

15

16 New requirements are that temporary dealer tags are to have an
17 expiration date not to exceed 60 days from the date of issuance.
18 The temporary tag may be issued to a specific vehicle or to a
19 specific agent of a dealer. A tag for a specific vehicle must
20 display the vehicle-specific number from the state database, the
21 year and make of the vehicle, the vehicle identification number,
22 and the month, day, and year of expiration. Tags issued to
23 dealer employees or agents must display the agent-specific
24 number from the database, the name of the authorized employee or
25 agent, and the month, day, and year of expiration.

1

2 Temporary dealer tags are primarily used to demonstrate vehicles
3 to prospective buyers or convey vehicles to and from auctions
4 and repair shops. Dealers generally sell a vehicle within 60
5 days, and a longer time period is not necessary. In addition, a
6 dealer is able to reissue the dealer temporary tag at the end of
7 the 60-day period should a longer period be needed.

8

9 New §8.155, Buyer's Temporary Tags, sets out requirements for a
10 temporary buyer's tag. Certain existing requirements are
11 unchanged. A buyer's temporary tag is not to be displayed on
12 any street-operated vehicle unless that vehicle is actually
13 sold. Temporary buyer's tags are valid for a period not to
14 exceed 21 calendar days from the date the vehicle is sold.
15 Supplemental buyer's tags are authorized when a dealer is unable
16 to obtain documents in possession of a lienholder that are
17 necessary to transfer title. Information required to be placed
18 on buyer's tags is unchanged, except for the addition of the
19 vehicle-specific number obtained from the state database.

20

21 Amendments to Transportation Code, §503.063(a) now require
22 dealers to place a temporary buyer's tag on any vehicle sold.
23 New §8.155(b) clarifies that dealers are required to do so and
24 sets out an exception for wholesale transactions if the
25 purchasing dealer places its own dealer tag on the vehicle. The

1 exception recognizes standard business practices in the
2 industry. Buyer's tags serve as temporary authorization to
3 operate a vehicle on the public streets until a dealer titles
4 and registers the vehicle in the name of the retail buyer.
5 Vehicles in dealer-to-dealer transactions are not titled or
6 registered in the name of the purchasing dealer.

7
8 Amendments to Transportation Code, §503.063(g) now state that a
9 supplemental buyer's tag may be issued after 20 working days
10 after the date of the issuance of the original buyer's tag,
11 which under Transportation Code, §503.063(b) is valid for 21
12 calendar days. The result is that retail customers would be
13 without valid tags for approximately one week. To resolve the
14 conflict, the department will require dealers to renew the
15 vehicle-specific number previously issued for the buyer's tag,
16 on a supplemental buyer's tag, within 20 working days of the
17 date of sale.

18
19 New §8.156, Buyer's Temporary Tag Receipt and Notice to Buyer,
20 implements new Transportation Code, §503.0632, requiring dealers
21 to provide notice to buyers of the applicable law and possible
22 penalties relating to buyer's temporary tags. Dealers must
23 provide to each buyer a temporary tag receipt for each tag
24 containing specific sales and tag related information and are
25 required to instruct the buyers to keep a copy of the receipt in

1 the vehicle. The buyer must sign a copy of the receipt and the
2 dealer must keep a copy of the signed receipt in the dealer's
3 records. The receipt will include an acknowledgment that the
4 buyer received all the required buyer's notices.

5
6 New §8.157, Advance Numbers, Internet-Down Buyer's Temporary
7 Tags, implements new Transportation Code, §503.0631(d). Dealers
8 are entitled to obtain an advance supply of numbers from the
9 database to use if the dealer cannot access the Internet at the
10 time of a sale. Dealers are further required to enter required
11 information into the database not later than the next business
12 day after the sale.

13
14 New §8.158, Advance Numbers, Emergency Buyer's Temporary Tags,
15 implements new Transportation Code, §503.063(f), which requires
16 the department to ensure that a dealer may generate a one-week
17 supply of advance numbers to use if Internet access is disrupted
18 in the event of an emergency. The department defines an
19 emergency as a natural disaster that affects power and
20 communications to a dealership for more than two days. Dealers
21 must enter the required information into the database within 24
22 hours after the time that the power or Internet connectivity is
23 restored.

24
25 New §8.159, General Requirements and Allocation of Internet-down

1 and Emergency Buyer's Tag Numbers, describes general
2 requirements for safekeeping and expiration of advance numbers
3 and how many advance numbers a dealer may obtain for each type
4 of number. Because advance numbers are not associated with a
5 specific vehicle or buyer, they are more vulnerable to misuse
6 and theft. Therefore, advance numbers are to be kept in a
7 secure, locked place and dealers must report any loss, theft, or
8 destruction of the numbers within 24 hours of that event.

9
10 Advance numbers will be allocated to dealers based on a
11 percentage of their annual sales, which will be determined by
12 the dealer's annual Vehicle Inventory Tax filings.

13
14 Advance numbers will expire 12 months after the date of issue.
15 To ensure that dealers have an adequate supply of advance
16 numbers, dealers may obtain additional advance numbers as they
17 use them or the numbers expire.

18
19 If Internet access is unavailable, dealers are required to enter
20 the information into the database not later than the next
21 business day. The amount of advance Internet-down numbers would
22 be one days' worth of a dealer's annual sales or approximately
23 .002 percent (.002%). This figure is not practical for
24 application to such a diverse dealer body as that in Texas. The
25 department has determined that a reasonable amount of advance

1 Internet-down numbers should be one percent (1%) of a dealer's
2 total annual sales, with a minimum of one advance number. Since
3 new license applicants have no sales history upon which to
4 calculate an initial allotment of advance numbers, the
5 department has set initial allotments and provided a means for a
6 dealer to request more advance numbers based on monthly sales
7 history. Dealers who purchase an existing dealership or
8 relocate may rely on the sales history of the previous license
9 to obtain advance numbers.

10
11 If a dealer's power or Internet connectivity is disrupted
12 because of an emergency, the statute requires that dealers have
13 a week's worth of emergency advance numbers. The department has
14 determined that a reasonable amount of emergency advance numbers
15 is 1/52 of a dealer's total annual sales, with a minimum of one
16 advance number. To calculate an initial allotment of advance
17 numbers, the department has set initial allotments and provided
18 a means for a dealer to request more advance numbers based on
19 monthly sales history. Dealers who purchase an existing
20 dealership or relocate may rely on the sales history of the
21 previous license to obtain advance numbers.

22
23 New §8.160, Converter's Temporary Tags, describes permissible
24 usage of converter's temporary tags in demonstrating vehicles to
25 prospective buyers, road testing, and conveying vehicles to a

1 place of service or repair, to another place of business, or
2 from a delivery point to a converter's place of business. These
3 provisions incorporate sections of existing §8.146(c)-(f), and
4 (h)-(i) without change. New requirements are that temporary
5 converter's tags are to have an expiration date not to exceed 60
6 days from date of issuance. The temporary tag may be issued to
7 a specific vehicle or to a specific agent of the converter. A
8 tag for a specific vehicle must display the vehicle-specific
9 number from the state database, the year and make of the
10 vehicle, the vehicle identification number, and the month, day,
11 and year of expiration. Tags issued to converter employees or
12 agents must display the agent-specific number from the database,
13 the name of the authorized employee or agent, and the month,
14 day, and year of expiration.

15
16 Temporary converter tags are primarily used to demonstrate
17 vehicles to prospective buyers or convey vehicles to and from
18 auctions and repair shops. If a converter needs a longer time
19 period, the converter will be able to reissue the temporary tag
20 at the end of 60 days.

21
22 FISCAL NOTE
23 James Bass, Chief Financial Officer, has determined that for
24 each of the first five years the repeals and new sections as
25 proposed are in effect, there will be no fiscal implications for

1 state or local governments as a result of enforcing or
2 administering the new sections.

3

4 Brett Bray, Director, Motor Vehicle Division, has certified that
5 there will be no significant impact on local economies or
6 overall employment as a result of enforcing or administering the
7 new sections.

8

9 PUBLIC BENEFIT

10 Mr. Bray has also determined that for each year of the first
11 five years the repeals and new sections are in effect, the
12 public benefit anticipated as a result of enforcing or
13 administering the repeals and new sections will be
14 implementation of SB 11 and SB 1786 and a clearer understanding
15 by the public and the motor vehicle industry of the issuance
16 process and permissible use of temporary tags by dealers,
17 converters, and buyers. Further public benefits will be
18 improved safety for law enforcement officers and a reduction in
19 the number of fraudulent or forged temporary tags in
20 circulation. There are minimal anticipated economic costs for
21 persons required to comply with the sections as proposed
22 regarding the new premise requirements.

23

24 There will be a minimal economic impact on small business
25 required to comply with §8.140 of these rules. Government Code,

1 §2006.002 requires that, before adopting a rule that may have an
2 adverse economic effect on small businesses, a state agency
3 prepare an economic impact statement and a regulatory
4 flexibility analysis.

5
6 Any costs related to changes in §8.138, §8.139, §8.146 and
7 §§8.150 - 8.160 are the result of the enactment of Senate Bill
8 1786 and article 8 of Senate Bill 11, and not the result of the
9 adoption, enforcement, or administration of the proposed
10 amendments, thus do not require an analysis under Government
11 Code, Chapter 2006.

12
13 The statute defines "small business" as a legal entity,
14 including a corporation, partnership, or sole proprietorship,
15 that is formed for the purpose of making a profit; is
16 independently owned and operated; and has fewer than 100
17 employees or less than \$6 million in annual gross receipts. A
18 "micro-business" is a legal entity, including a corporation,
19 partnership, or sole proprietorship, that is formed for the
20 purpose of making a profit; is independently owned and operated;
21 and has not more than 20 employees. The department does not
22 maintain data of a nature that would allow the categorization of
23 a particular licensee under Government Code, Chapter 2006;
24 however, the nature of the motor vehicle industry would indicate
25 that nearly all 2,767 franchised licensees and 14,154

1 independent licensees would be categorized as small businesses
2 since the determining factor would be fewer than 100 employees
3 or less than \$6 million in gross receipts. A relatively small
4 percentage of licensees would meet the more than \$6 million in
5 gross receipts with more than 100 employees standard required
6 not to be classified as a "small business." The overwhelming
7 majority of licensees would have 20 or fewer employees and would
8 be categorized as "micro-businesses." For the purposes of this
9 impact statement and flexibility analysis, the distinction
10 between "small business" and "micro-business" under Government
11 Code, Chapter 2006 does not matter.

12
13 Changes to §8.140 relating to office structure affect only new
14 licensees who obtain their licenses after May 1, 2008. For
15 fiscal year 2007, there were 264 new franchised dealers and
16 2,135 new independent dealers. These changes do not affect the
17 existing 2,767 franchised dealers and 14,154 independent dealers
18 and any who obtain a license prior to May 1, 2008. It is
19 anticipated that when the changes become effective,
20 approximately 200 new licensees each month will be affected by
21 the changes applicable to all licensees.

22
23 New §8.140(2) requires wholesale dealer licensees to have
24 personnel present at the licensed location for two hours on two
25 different days instead of the present requirement of two hours,

1 one day per week. Since there are currently 270 wholesale
2 dealer licensees, the department estimates 6 to 7 new wholesale
3 dealers will be licensed each month, all of which might be
4 considered a small business under the statutory guidelines. The
5 manner that the wholesale dealer licensee chooses to meet the
6 additional two hour requirement will determine the economic
7 impact. The owner of the dealership could choose to be present
8 for those two additional hours thereby costing the value of two
9 hours of the owner's time, for which the department cannot
10 estimate a cost, or the owner could use a minimum wage employee.
11 The monthly additional costs for a minimum wage employee,
12 including taxes and required insurances, to meet this additional
13 time requirement would be less than \$76 a month. This amount
14 was determined by using the minimum wage plus employer taxes and
15 unemployment insurance x 8.6 hours/month. Actual monthly costs
16 between the effective date of this rule and July 2009 will
17 increase from \$60.87 to \$75.44 due to the increase in the
18 minimum wage from \$5.85 to \$7.25 and may vary due to the actual
19 tax and insurance rate applicable to a particular employer.

20

21 New §8.140(5) establishes that an office have at least 100
22 square feet with a seven foot ceiling and electricity with
23 adequate heating and cooling. Under the current rule, an office
24 is to be of sufficient size to allow for a desk, chairs, file
25 cabinet, and the usual office equipment. The department

1 believes that the square footage standard does not change the
2 current rule since placing a desk, chairs, file cabinet, and the
3 usual office equipment would require at a minimum 100 square
4 feet for a usable office space. The seven foot ceiling
5 requirement does not impose a stringent economic burden since
6 the standard ceiling height for any type of building structure
7 designed for human occupation is over seven feet. The
8 requirement for electricity is partly a function of the
9 statutorily mandated requirement for an Internet connection and
10 the need for a power source for adequate heating and cooling.
11 Adequate utilities and adequate heating and cooling are required
12 by municipalities to obtain certificates of occupancy and meet
13 local fire and health codes for a building to be used as a
14 business open to the public. The current rule restricts the
15 location of an office in a residence so the clarification that
16 restrictions apply to such residences as apartment houses,
17 motels, hotels, or rooming houses would not create an economic
18 impact. The prohibition on using a storeroom, closet, stock
19 room, or other room not open to the public as an office does not
20 impose a new requirement since the current rule requires the
21 office to be open to the public. Since any change from current
22 rules relating to structures apply only to new licensees, local
23 fire, health, safety, and building codes as well as the federal
24 Americans with Disabilities Act provisions impose stricter
25 standards than those required by the department. As a result of

1 these local and federal standards, there would probably be no
2 additional economic impact created by the proposed changes.
3 However, for the purposes of full disclosure of the possible
4 economic impact of the structural requirements imposed by this
5 proposed rule, a metal portable building would meet the
6 standards required under this rule at a cost of approximately
7 \$1,000 excluding electrical connections. Costs associated with
8 a metal portable structure with electrical connections would
9 include (1) costs of the portable structure - approximately
10 \$850, including shipping; (2) costs of portable heater and fan -
11 approximately \$100; and (3) costs of electrical pole placement,
12 meter placement, and building wiring with labor - approximately
13 \$1,000 to \$2,000 depending on electric utility company.

14
15 New §8.140(6) incorporates existing rules relating to office
16 furniture and telephones with the addition of Internet access, a
17 printer, and a fax machine. The Internet access requirement is
18 the result of the enactment of Senate Bill 1786 and article 8 of
19 Senate Bill 11, and not the result of the adoption, enforcement,
20 or administration of the proposed amendments, thus does not
21 require an analysis under Government Code, Chapter 2006. A fax
22 machine and a printer have become the usual office equipment one
23 finds in a modern business, and it would be unusual for a
24 licensee to operate its business without them. As a result, it
25 is unlikely that there would be an economic impact in requiring

1 a fax machine and printer. In the event that a licensee needed
2 to obtain either item to meet this new requirement, the economic
3 impact for that licensee would be the initial capital cost of
4 purchasing a fax machine or a printer. In today's market a
5 basic fax machine can be purchased for less than \$100 and a
6 printer can be purchased for less than \$200.

7
8 New §8.140(11) clarifies provisions relating to the display
9 space requirements and further clarifies permanent barriers,
10 signage, and the use of additional space when the designated
11 display area is full. The clarifications establish standards
12 for barriers and signage at locations where other businesses are
13 operated so that the dealer's operations are clearly
14 identifiable by consumers from the other businesses operated at
15 that location. The department has been enforcing the current
16 rule to require these standards. Therefore, these
17 clarifications put into the plain language of the rule the
18 interpretation of the current rule, and do not impose any
19 additional requirements.

20
21 A prohibition on display areas being located in the parking area
22 for gasoline customer sales or in areas for fuel fill ports or
23 fire prevention access to fuel tanks is created. This
24 requirement addresses existing local fire codes and insurance
25 requirements and does not create an additional economic impact

1 on the dealer.

2

3 In addition, if a licensee chooses to operate after sundown, a
4 requirement for outside lighting is created. The economic
5 impact of the lighting requirement is very speculative since
6 this proposed requirement only applies to licensees who choose
7 to operate after dark and will vary widely with the design of
8 the licensee's facility. The possible economic impact of
9 requiring a lit display area is estimated at less than \$1,500.

10 A typical single fixture commercial grade light with metal pole
11 and concrete foundation, which are common to mall parking lots,
12 costs approximately \$1,500 to install. There are other
13 alternatives that could be less expensive depending on the
14 layout of the licensee's facility. For example, in cases where
15 there are existing structures or poles, there are many flood
16 lighting fixture alternatives under \$300.

17

18 New §8.140(12) requires dealers who also hold salvage dealer
19 licenses to mark salvage vehicles with signage indicating a
20 salvage vehicle to distinguish the vehicles from non-salvage
21 vehicles. The economic impact is dependent on the signage used
22 to mark each vehicle and the number of salvage vehicles.

23 Generally, a photocopied sign costing less than five cents per
24 vehicle could be used.

25

1 The department estimates that the cost of all the new structural
2 premise requirements will be between \$2,600 and \$4,800. There
3 will also be an ongoing cost of \$912 per year to have the
4 business office open an additional 2 hours per day.

5
6 Since a majority of the regulated dealers are considered small
7 businesses under the statute, the department considered several
8 alternative methods for achieving the purposes of these rules
9 during the proposal process. The department considered not
10 adopting any changes to §8.140, but determined that it was
11 useful to amend this section to clarify the requirements for an
12 established and permanent place of business, to update the
13 requirements to reflect new technology, to provide to consumers
14 better identification of salvage vehicles when purchasing any
15 vehicle from a salvage dealer licensee, to make the requirements
16 more understandable and user friendly to retail dealers and
17 wholesale dealers, and to deter applicants from obtaining
18 licenses with the intention of operating less than legitimate
19 businesses in furtherance of illegal activities. The department
20 considered applying the office structure provisions to current
21 and future licensees, but determined that any economic impact,
22 however slight, should be directed to future new license
23 applicants who could better incorporate any economic impact in
24 making the initial decision of applying for a license. The
25 department also determined that clarifying particular standards

1 for a permanent place of business that could subject an entity
2 to an enforcement action and, potentially, an administrative
3 penalty, may have a deterrent effect, which is in itself
4 valuable.

5
6 The department concluded that the rules as proposed accomplish
7 the objectives needed to improve the safety of the general
8 public and the economic welfare of the state with the least
9 amount of economic impact on the regulated industries. The
10 department feels the rules are necessary to achieve a sound
11 system of distributing and selling motor vehicles as required
12 under Occupations Code, §2301.001.

13

14 PUBLIC HEARING

15 Pursuant to the Administrative Procedure Act, Government Code,
16 Chapter 2001, the Texas Department of Transportation will
17 conduct a public hearing to receive comments concerning the
18 proposed rules. The public hearing will be held at 9:00 a.m. on
19 January 15, 2008, in the first floor hearing room of the Dewitt
20 C. Greer State Highway Building, 125 East 11th Street, Austin,
21 Texas and will be conducted in accordance with the procedures
22 specified in 43 TAC §1.5. Those desiring to make comments or
23 presentations may register starting at 8:30 a.m. Any interested
24 persons may appear and offer comments, either orally or in
25 writing; however, questioning of those making presentations will

1 be reserved exclusively to the presiding officer as may be
2 necessary to ensure a complete record. While any person with
3 pertinent comments will be granted an opportunity to present
4 them during the course of the hearing, the presiding officer
5 reserves the right to restrict testimony in terms of time and
6 repetitive content. Organizations, associations, or groups are
7 encouraged to present their commonly held views and identical or
8 similar comments through a representative member when possible.
9 Comments on the proposed text should include appropriate
10 citations to sections, subsections, paragraphs, etc. for proper
11 reference. Any suggestions or requests for alternative language
12 or other revisions to the proposed text should be submitted in
13 written form. Presentations must remain pertinent to the issues
14 being discussed. A person may not assign a portion of his or
15 her time to another speaker. Persons with disabilities who plan
16 to attend this meeting and who may need auxiliary aids or
17 services such as interpreters for persons who are deaf or
18 hearing impaired, readers, large print or Braille, are requested
19 to contact Randall Dillard, Government and Public Affairs
20 Division, 125 East 11th Street, Austin, Texas 78701-2483,
21 512/305-9137 at least two working days prior to the hearing so
22 that appropriate services can be provided.

23

24 SUBMITTAL OF COMMENTS

25 Written comments on the proposed repeal of §8.138, §8.139,

1 §8.140, and §8.146, and new §8.138, §8.139, §8.140, §8.146,
2 §8.150, §8.151, §8.152, §8.153, §8.154, §8.155, §8.156, §8.157,
3 §8.158, §8.159, and §8.160, may be submitted to Brett Bray,
4 Director, Motor Vehicle Division, 125 East 11th Street, Austin,
5 Texas 78701-2483. The deadline for receipt of comments is 5:00
6 p.m. on January 28, 2008.

7

8 STATUTORY AUTHORITY

9 The repeals and new sections are proposed under Transportation
10 Code, §201.101, which provides the Texas Transportation
11 Commission with the authority to establish rules for the conduct
12 of the work of the department, and more specifically,
13 Occupations Code, §2301.005 and Occupations Code, §2301.155, and
14 Transportation Code, §503.002, which authorize the commission to
15 establish rules for motor vehicle dealers.

16

17 CROSS REFERENCE TO STATUTE

18 Occupations Code, §2301.354 and §2301.651, and Transportation
19 Code, §502.451, §503.005, §503.027, §503.028, §503.032,
20 §503.062, §503.0625, §503.0626, §503.063, §503.0631, and
21 §503.0632.

1 SUBCHAPTER E. GENERAL DISTINGUISHING NUMBERS

2 §8.138. Temporary Cardboard Tags.

3 (a) Motor vehicle, travel trailer, trailer/semitrailer, and
4 converter tags shall be printed on not less than 6-ply cardboard
5 with bolt holes to be horizontally punched on 7-inch centers and
6 vertically punched on 4 1/2-inch centers and the letters in the
7 words "UNTITLED VEHICLE" shall not be less than 3/4 inch high.

8 Motorcycle tags shall be printed on not less than 6-ply
9 cardboard with bolt holes to be horizontally punched on 5 3/4-
10 inch centers and vertically punched on 2 3/4-inch centers and
11 the letters in the words "UNTITLED VEHICLE" shall not be less
12 than 1/2 inch high. All printed matter on a temporary cardboard
13 tag must be visible and may not be covered or obstructed by a
14 plate holder. Homemade cardboard tags or cardboard tags which
15 have buyer's tag information printed on one side and dealer's
16 tag information printed on the other side are not acceptable.

17 (b) The following appendices indicate the design and the
18 instructions for printing and use of each of the respective
19 temporary tags:

20 (1) Appendix A-1 - Dealer (design); Appendix A-2 -
21 Dealer (instructions);

22 Figure 1: 43 TAC §8.138(b)(1)

23 Figure 2: 43 TAC §8.138(b)(1)

1 (2) Appendix B-1 - Buyer - Initial (design); Appendix

2 B-2 - Buyer - Initial (instructions);

3 Figure 1: 43 TAC §8.138(b) (2)

4 Figure 2: 43 TAC §8.138(b) (2)

5 (3) Appendix B-3 - Buyer - Supplemental (design);

6 Appendix B-4 - Buyer -Supplemental (instructions);

7 Figure 1: 43 TAC §8.138(b) (3)

8 Figure 2: 43 TAC §8.138(b) (3)

9 (4) Appendix C-1 - Converter (design); Appendix C-2 -
10 Converter (instructions).

11 Figure 1: 43 TAC §8.138(b) (4)

12 Figure 2: 43 TAC §8.138(b) (4).

13 (c) A dealer shall maintain a record in any commercially
14 reasonable manner that tracks the use and/or location of each
15 tag. The record shall contain those items for each appropriate
16 tag as set out in Appendices A-1, B-1, and B-3 of subsection (b)
17 of this section. The log shall become a part of the required
18 records required to be maintained by the dealer and available
19 for inspection.

20 (d) The dealer's record as referenced in subsection (c) of
21 this section, shall be available at the dealer's location during
22 normal working hours for review by a representative of the
23 department. Temporary tags which cannot be accounted for shall

1 no longer be valid for use and shall be voided in the dealer's
2 log.

3 (e) Dealers must be in compliance with the provisions of
4 this section by May 1, 2006. Prior to May 1, 2006, dealers may
5 continue to use the temporary tag designs of 16 TAC §111.8. If
6 the dealer implements the new temporary tag design prior to May
7 1, 2006, on the date that the dealer implements the new
8 temporary tag design the dealer must meet all other requirements
9 of this section.

10

11 §8.139. Metal Dealer License Plates and Temporary Cardboard
12 Tags.

13 (a) Metal dealer license plates shall be attached to the
14 rear license plate holder of vehicles on which such plates are
15 permitted to be displayed pursuant to Transportation Code,
16 §503.061. Although not a requirement, a copy of the receipt for
17 metal dealer's plate issued by the division should be carried in
18 the vehicle so that it can be presented to law enforcement
19 personnel upon request. If the vehicle on which a metal dealer
20 plate is to be attached displays Texas multi-year plates that
21 have not been validated for the current registration period,
22 such multi-year plates shall be removed and safeguarded. The
23 multi-year plates should be placed back onto the vehicle when it

1 is sold or if the metal dealer plate is removed from the
2 vehicle.

3 (b) All temporary cardboard tags shall be displayed either
4 in the rear window or on the rear license plate holder of
5 unregistered vehicles. When displayed in the rear license plate
6 holder, all printed matter must be visible and may not be
7 covered or obstructed by any plate holder. When displayed in
8 the rear window, the tag shall be attached in such a manner that
9 it is clearly visible and legible when viewed at 15 feet from
10 the rear of the vehicle. If the vehicle on which a temporary
11 cardboard tag is to be attached displays Texas multi-year
12 license plates that have not been validated for the current
13 registration period, the temporary cardboard tag may be
14 displayed in the rear window as prescribed in this subsection or
15 placed over the rear license plate. The multi-year plates
16 should not be removed from the vehicle.

17 (c) Metal dealer license plates and dealer's temporary
18 cardboard tags may not be displayed on laden commercial vehicles
19 being operated or moved upon the public streets or highways or
20 on the dealer's service or work vehicles. This prohibition does
21 not apply to buyer tags or supplemental buyer tags, or to
22 vehicles loaned to charitable organizations or schools.

23 (1) Examples of vehicles considered as service or work

1 vehicles are:

2 (A) vehicles used for towing or transporting other
3 vehicles;

4 (B) vehicles, including light trucks used in connection
5 with the operation of the dealer's shops or parts department;

6 (C) courtesy cars on which courtesy car signs are
7 displayed;

8 (D) rental and lease vehicles; and

9 (E) any boat trailer owned by a dealer or manufacturer
10 which is used to transport more than one boat.

11 (2) A light truck is not considered to be a laden
12 commercial vehicle:

13 (A) when mounted with a camper unit; or

14 (B) when towing a trailer for recreational purposes.

15 (3) As used in this subsection, light truck shall have
16 the same meaning as defined in Transportation Code, §541.201.

17 (d) Each unregistered vehicle being transported utilizing
18 the full mount method, the saddle mount method, the tow bar
19 method, or any combination thereof in accordance with

20 Transportation Code, §503.068(d), shall have a dealer's

21 temporary cardboard tag or a buyer's temporary cardboard tag,

22 whichever is applicable, affixed to that vehicle. If the

23 vehicle being transported is of a type which is prohibited from

1 operating upon the public streets and highway (i.e., off-highway
2 vehicle or self-propelled machine) and, thus, cannot qualify for
3 registration, a cardboard tag shall be displayed thereon; and
4 such tag shall be marked in bold letters with the notation "For
5 Off Highway Use Only."

6 (e) Metal dealer license plates and temporary cardboard
7 tags may be displayed only on the type of vehicle for which the
8 general distinguishing number is issued and for which a dealer
9 is licensed to sell. Non-franchised dealers may not display
10 metal plates on new motor vehicles.

11 (f) A buyer's temporary cardboard tag or supplemental tag
12 may not be displayed on any vehicle being operated upon the
13 public streets and highways for which a sale has not been
14 consummated.

15 (g) When an unregistered vehicle is sold to another dealer,
16 the selling dealer shall remove a dealer's temporary cardboard
17 tag. In such instances, the selling dealer may attach a buyer's
18 temporary cardboard tag to the vehicle; or the purchasing dealer
19 may display a dealer's temporary cardboard tag or metal dealer
20 plate on the vehicle. In the event a vehicle is consigned from
21 one dealer to another, the vehicle shall display the temporary
22 cardboard tag of the dealer to which such vehicle was consigned.

23 (h) A dealer may have printed temporary dealer tags,

1 initial temporary buyer's tags, and supplemental temporary
2 buyer's tags according to the specifications of Appendices A-1
3 through B-4 of §8.138 of this chapter (relating to Temporary
4 Cardboard Tags).

5 (i) A dealer shall maintain a record of all dealer metal
6 plates issued to that dealer and as to each vehicle such record
7 shall consist of:

- 8 (1) the assigned metal plate number;
- 9 (2) the make;
- 10 (3) the vehicle identification number; and
- 11 (4) the name of the person in control.

12 (j) The dealer's record as referenced in subsection (i) of
13 this section, shall be available at the dealer's location during
14 normal working hours for review by a representative of the
15 department. Dealer metal plates which cannot be accounted for
16 shall no longer be valid for use and shall be voided in the
17 dealer's record and reported as missing to the division.

18 (k) At the expiration of an initial buyer's temporary tag,
19 a supplemental temporary buyer's tag may be issued as provided
20 for in Transportation Code, §503.063.

21 (l) A person who holds a wholesale motor vehicle auction
22 general distinguishing number may display its dealer's temporary
23 cardboard tags on any vehicles which are transported to or from

1 the licensed auction location by a bona fide employee or agent
2 of the auction.

3 (m) A wholesale motor vehicle auction licensee may only
4 issue a buyer's temporary cardboard tag in connection with a
5 sale of a motor vehicle owned by a government agency that is
6 made pursuant Transportation Code, §503.037(d).

7 (n) The number of metal dealer plates a dealer may order
8 for business use shall be allocated based on the type of license
9 applied for and the number of vehicles sold during the previous
10 year. New license applicants shall be allotted a predetermined
11 number of metal dealer plates during the first license term.

12 (1) New license applicants may receive metal dealer
13 plates during the first term of licensure in accordance with the
14 following schedule:

- 15 (A) Franchised motor vehicle dealer - 5
- 16 (B) Franchised motorcycle dealer - 5
- 17 (C) Independent motor vehicle dealer - 2
- 18 (D) Independent motorcycle dealer - 2
- 19 (E) Franchised or independent travel trailer dealer - 2
- 20 (F) Utility trailer or semi-trailer dealer - 2
- 21 (G) Independent mobility vehicle dealer - 2
- 22 (H) Wholesale dealer - 1.

23 (2) A newly licensed dealership is not subject to the

1 initial allotment limits described in paragraph (1) of this
2 subsection, and may rely on the previous license status to
3 obtain dealer plates, if it is:

4 (A) a franchised dealership that has been subject to a
5 buy-sell agreement, regardless of a change in the entity or
6 ownership, or

7 (B) any dealer that relocates, if it has been licensed
8 for a period of one year or more.

9 (3) Upon renewal, the maximum number of dealer plates
10 issued to a motor vehicle dealer per license term shall be as
11 follows:

12 (A) Franchised motor vehicle dealer - 30

13 (B) Franchised motorcycle dealer - 10

14 (C) Independent motor vehicle dealer - 3

15 (D) Independent motorcycle dealer - 3

16 (E) Franchised or independent travel trailer dealer - 3

17 (F) Utility trailer or semi-trailer dealer - 3

18 (G) Independent mobility vehicle dealer - 3

19 (H) Wholesale dealer - 1.

20 (4) To obtain more than the maximum number of plates set
21 out in paragraph (3) of this subsection, a dealer must submit
22 proof of sales to qualify for additional plates.

23 (A) Additional plates above the amounts set out in

1 paragraph (3) of this subsection shall be as follows:

2 (i) Wholesale dealers - 1

3 (ii) Dealers selling less than 50 vehicles - 1

4 (iii) Dealers selling 50 to 99 vehicles - 2

5 (iv) Dealers selling 100 to 200 vehicles - 5

6 (v) Dealers selling 201 or more vehicles may obtain
7 any number of dealer plates at the dealer's discretion.

8 (B) Proof of sales shall consist of a copy of the most
9 recently filed Vehicle Inventory Tax Declaration or monthly
10 statements duly filed with the proper taxing authority in the
11 county of the dealership's location. Said copies should be
12 stamped received by the tax authority. Any franchised dealer's
13 renewal license application that indicates sales of 201 or more
14 units shall be considered proof of sales of 201 or more and no
15 additional proof is needed.

16 (5) The director or director's designee may waive the
17 dealer plate issuance restrictions if the waiver both serves the
18 purposes of this subchapter and is essential to the continuation
19 of the business. To determine the number of dealer plates the
20 dealer needs, the director or the director's designee may base
21 the decision on the dealer's past sales, inventory, and any
22 other pertinent factors as the director may determine.

23 (A) All requests for waivers shall be in writing and

1 specifically state why the additional plates are necessary to
2 the continuation of the applicant's business;

3 (B) All requests for waivers must be accompanied by
4 proof of the dealer's sales for the previous year. Such proof
5 shall consist of a copy of the most recently filed Vehicle
6 Inventory Tax Declaration or monthly statements duly filed with
7 the proper taxing authority in the county of the dealership's
8 location. Said copies should be stamped received by the tax
9 authority.

10 (C) Wholesale dealers may not apply for waiver of
11 dealer plate issuance restrictions.

12 (D) Once a waiver is granted authorizing a certain
13 number of plates, the authorization under that waiver is good
14 for three (3) years.

15
16 §8.140. Established and Permanent Place of Business. All
17 dealers must meet the following requirements at each location
18 where vehicles are sold or offered for sale.

19 (1) Office requirements.

20 (A) A dealer's office facility must be open to the
21 public during normal working hours. Normal working hours are
22 defined as at least four (4) days per week for a continuous
23 period of time not less than four hours per day between the

1 hours of 8:00 A.M. and 8:00 P.M. The dealer's business hours
2 for each day of the week must be posted at the main entrance of
3 the dealer's office, and the owner or a bona fide employee of
4 the dealer must be at the dealer's location during the posted
5 business hours for the purpose of buying, selling, exchanging,
6 or leasing vehicles. In the event the owner or a bona fide
7 employee is not available to conduct business during the
8 dealer's posted business hours, a separate sign must be posted
9 indicating the date and time such owner or a bona fide employee
10 will resume dealer operations. In addition, such dealership
11 must notify the division in writing of any subsequent change in
12 the dealer's standard business hours.

13 (B) With the exception of dealers holding only a
14 wholesale license, no more than four retail dealers may be
15 located in a business or residential structure. A structure is
16 a stand-alone building, has its own exterior walls on all sides,
17 and has been assigned a separate mailing address by the United
18 States Postal Service. The structure must be of sufficient size
19 to accommodate the usual office furniture and equipment, such as
20 a desk, file cabinet, chairs, etc. As a minimum, the office
21 must be equipped with a desk and chairs from which the dealer
22 transacts his business and be equipped with a separate working
23 telephone instrument, number, and listing in the dealer's name

1 with a fixed, land-based telephone company, answered from 8:00
2 a.m. to 5:00 p.m. weekdays by a bona fide employee, or an
3 answering service or machine. If a dealer's office is located
4 in a residential structure, the office must be completely
5 separated from and have no direct access into the residential
6 quarters and be in compliance with all applicable local zoning
7 ordinances and deed restrictions. Such an office shall not be
8 used as a part of the living quarters and must be readily
9 accessible to the public without having to pass into or through
10 any part of the living quarters.

11 (C) Portable-type office structures may qualify,
12 provided they meet the minimum requirements as set forth herein.

13 (D) If a dealer conducts business in conjunction with
14 another business owned by the same person, the same telephone
15 instrument may be used for both businesses. However, if the
16 name of the dealer differs from that of the other business, a
17 separate telephone listing and a separate sign for the dealer is
18 required.

19 (E) A dealer may conduct business in conjunction with
20 another business not owned by the same person, however, the same
21 telephone number may not be used by both businesses; the dealer
22 shall have a separate sign, a separate desk, a separate working
23 telephone instrument, and a separate telephone number and

1 listing in the name of the dealer. The dealer must either own
2 the property or have a separate lease agreement from the owner
3 meeting the requirements of paragraph (4) of this subsection.

4 (F) Unless otherwise authorized by the Transportation
5 Code, wholesale motor vehicle dealerships established after
6 September 1, 1999, may not occupy the same structure as retail
7 dealers. More than one, but no more than eight dealers who hold
8 only a wholesale license may occupy the same business structure
9 and conduct their respective dealer operations under different
10 names, as long as no retail dealers are located in the same
11 structure; provided, however, each wholesale dealer must, in
12 addition to having a qualifying dealer's sign conspicuously
13 displayed on the premises, have:

14 (i) a separate desk from which that dealer transacts
15 business;

16 (ii) a separate working telephone instrument, number,
17 and listing in the dealer's name with a fixed, land-based
18 telephone company; and

19 (iii) a separate lease agreement meeting the
20 requirements of paragraph (4) of this subsection.

21 (G) Dealers who hold only a wholesale license will not
22 be required to be present during normal working hours if they
23 keep on file with the division, notice of a designated period of

1 time in which the dealer and the dealer's records will be
2 available for inspection by the division at the dealer's
3 licensed location. The period of time will be no less than two
4 consecutive hours, between the hours of 8:00 a.m. and 5:00 p.m.,
5 on any one day of the week, except Saturday or Sunday.

6 (2) Sign requirements.

7 (A) A dealer shall display a conspicuous sign with
8 letters at least six inches in height showing the name under
9 which the dealer conducts business. Variance of the six-inch
10 lettering size requirement may be considered upon a showing by
11 the applicant dealer of local zoning requirements limiting
12 lettering size to less than six inches.

13 (B) Such sign must be readable from the address listed
14 on the application for the dealer license.

15 (3) Display space requirements.

16 (A) A dealer other than a wholesale dealer shall have
17 an off-street display area sufficient to display at least five
18 vehicles of the type for which the general distinguishing number
19 was issued.

20 (B) The display area may not be on a public easement,
21 right-of-way, or driveway, unless the governing body having
22 jurisdiction of the easement, right-of-way, or driveway
23 expressly consents to such use; provided, however, that if the

1 easement, right-of-way, or driveway is a part of the state
2 highway system, such use may only be authorized by a lease
3 agreement entered under Transportation Code, §202.052. Such
4 area shall be located at the dealer's address or contiguous with
5 the dealer's address. The display area must be owned or leased
6 for the exclusive use by the dealer for a continuous term of not
7 less than one year. If the display area is in conjunction with
8 other parking facilities, such area shall be separated by use of
9 barriers under the control of the dealer so as to prevent its
10 use for any purpose other than a display area. Subject to
11 approval by the division, the display area may be located within
12 a building. If multiple retail dealers occupy contiguous
13 locations or are located in the same structure, each dealer must
14 group its vehicles on display in the same area, marking the area
15 and/or vehicles to identify the selling dealer.

16 (4) Lease requirements. If the premises from which a
17 dealer conducts business is not owned by the licensed dealer,
18 such dealer shall maintain a lease continuous for a period of
19 one year, and such lease agreement shall be on a properly
20 executed form containing, but not limited to, the following
21 information:

22 (A) the names of the lessor and lessee;

23 (B) the legal description of the property or street

1 address; and

2 (C) the period of time for which the lease is valid.

3 (5) A dealer shall at all times display the dealer
4 license issued by the division in a manner that makes the
5 license easily readable by the public, in a conspicuous place at
6 each place of business for which it is issued. For dealers
7 whose license applies to more than one location, a copy of the
8 original license may be displayed in the supplemental location.

9
10 §8.146. Metal Converter's License Plates and Temporary
11 Cardboard Tags.

12 (a) Metal converter's license plates shall be attached to
13 the rear license plate holder of vehicles on which such plates
14 are to be displayed pursuant to Transportation Code, §503.0618.

15 (b) Converter's temporary cardboard tags may be displayed
16 either in the rear window or on the rear license plate holder of
17 unregistered vehicles. When displayed in the rear license plate
18 holder, all printed matter must be visible and may not be
19 covered or obstructed by any plate holder. When displayed in
20 the rear window, the tag shall be attached in such a manner that
21 it is clearly visible and legible when viewed at 15 feet from
22 the rear of the vehicle.

23 (c) Converter's temporary cardboard tags may only be used

1 on unregistered vehicles by the converter or the converter's
2 employees to:

3 (1) demonstrate or cause to be demonstrated the vehicle
4 to a prospective buyer who is a franchised motor vehicle dealer
5 or an employee of a franchised motor vehicle dealer;

6 (2) convey or cause the vehicle to be conveyed:

7 (A) from one of the converter's places of business in
8 this state to another of the converter's places of business in
9 this state;

10 (B) from the converter's place of business to a place
11 the vehicle is to be assembled, repaired, reconditioned,
12 modified, or serviced;

13 (C) from the state line or a location in this state
14 where the vehicle is unloaded to the converter's place of
15 business;

16 (D) from the converter's place of business to a place
17 of business of a franchised motor vehicle dealer; or

18 (E) to road test the vehicle.

19 (d) Prospective buyers who are employees of a franchised
20 dealer may operate a vehicle displaying converter's temporary
21 cardboard tags during a demonstration.

22 (e) A vehicle being conveyed while displaying a converter's
23 temporary cardboard tag is exempt from the inspection

1 requirements of Transportation Code, Chapter 548.

2 (f) Converter's temporary cardboard tags may not be used as
3 authorization to operate a vehicle for the converter's or a
4 converter's employee's personal use.

5 (g) Each unregistered vehicle being transported by a
6 licensed converter utilizing the full mount method, the saddle
7 mount method, the tow bar method, or any combination thereof,
8 shall have a converter's temporary cardboard tag affixed to that
9 vehicle. If the vehicle being transported is of a type which is
10 prohibited from operating upon the public streets and highway
11 (i.e., off-highway vehicle or self-propelled machine) and, thus,
12 cannot qualify for registration, a cardboard tag shall be
13 displayed thereon; and such tag shall be marked in bold letters
14 with the notation "For Off Highway Use Only."

15 (h) Metal converter's license plates and temporary
16 cardboard tags may be displayed only on the type of vehicle that
17 the converter is engaged in the business of assembling or
18 modifying.

19 (i) When an unregistered new motor vehicle is sold to a
20 converter, the selling dealer shall remove a dealer's temporary
21 cardboard tag. In such instances, the selling dealer may attach
22 a buyer's temporary cardboard tag to the vehicle; or the
23 purchasing converter may display a converter's temporary

1 cardboard tag or metal converter plate on the vehicle.

2 (j) A converter may have printed converter's temporary
3 cardboard tags according to the specifications of Appendix C-1
4 of §8.138 of this chapter (relating to Temporary Cardboard
5 Tags).

6 (k) A converter shall maintain a record of all converter
7 metal plates issued to that converter and as to each vehicle
8 such record shall consist of:

- 9 (1) the assigned metal plate number;
- 10 (2) the make;
- 11 (3) the vehicle identification number; and
- 12 (4) the name of the person in control.

13 (l) Converter metal plates which cannot be accounted for
14 shall no longer be valid for use and shall be voided in the
15 dealer's log and reported as missing to the department.

16 (m) A converter shall maintain a record in any commercially
17 reasonable manner that tracks the use and/or location of each
18 tag. The record shall contain those items as set out in
19 Appendix C-2 of §8.138 of this chapter. The log shall become a
20 part of the required records required to be maintained by the
21 converter.

22 (n) The converter's record, as referenced in subsections
23 (l) and (m) of this section, shall be available at the

1 converter's location during normal working hours for review by a
2 representative of the department. Temporary tags and metal
3 plates which cannot be accounted for shall no longer be valid
4 for use and shall be voided.

5 (o) Converters must be in compliance with the temporary
6 tag and log requirements of subsections (j), (l), and (m) of
7 this section by May 1, 2006. Prior to May 1, 2006, converters
8 may continue to use the temporary tag design of 16 TAC §111.8.
9 If the converter implements the new temporary tag design prior
10 to May 1, 2006, on the date that the converter implements the
11 new temporary tag design the converter must meet all other
12 requirements of this section.

1 SUBCHAPTER E. GENERAL DISTINGUISHING NUMBERS

2 §8.138. Use of Metal Dealer License Plates.

3 (a) Metal dealer license plates shall be attached to the
4 rear license plate holder of vehicles on which such plates may
5 be displayed pursuant to Transportation Code, §503.061. A copy
6 of the receipt for the metal dealer's plate issued by the
7 division should be carried in the vehicle so that it can be
8 presented to law enforcement personnel upon request.

9 (b) Metal dealer license plates may not be displayed on
10 laden commercial vehicles being operated or moved upon the
11 public streets or highways or on the dealer's service or work
12 vehicles.

13 (1) Examples of vehicles considered as service or work
14 vehicles for purposes of this subsection are:

15 (A) a vehicle used for towing or transporting other
16 vehicles;

17 (B) a vehicle, including a light truck, used in
18 connection with the operation of the dealer's shops or parts
19 department;

20 (C) a courtesy car on which a courtesy car sign is
21 displayed;

22 (D) a rental or lease vehicle; and

23 (E) a boat trailer owned by a dealer or manufacturer

1 that is used to transport more than one boat.

2 (2) A light truck is not considered to be a laden
3 commercial vehicle when it is:

4 (A) mounted with a camper unit; or

5 (B) towing a trailer for recreational purposes.

6 (3) As used in this subsection, "light truck" has the
7 meaning assigned by Transportation Code, §541.201.

8 (c) Metal dealer license plates may be displayed only on
9 the type of vehicle for which the general distinguishing number
10 is issued and which a dealer is licensed to sell. Non-
11 franchised dealers may not display metal plates on new motor
12 vehicles.

13 (d) A dealer shall maintain a record of each dealer metal
14 plate issued to that dealer that contains:

15 (1) the assigned metal plate number;

16 (2) the year and make of the vehicle to which the plate
17 is affixed;

18 (3) the Vehicle Identification Number of the vehicle; and

19 (4) the name of the person in control of the vehicle.

20 (e) Dealer metal plates that cannot be accounted for shall
21 be voided in the dealer's record and reported as missing to the
22 department within three days of the date that the discovery is
23 made. After a plate is reported as missing it is no longer

1 valid for use.

2 (f) The dealer's record required under subsections (d) and
3 (e) of this section shall be available at the dealer's location
4 during normal working hours for review by a representative of
5 the department.

6

7 §8.139. Metal Dealer Plate Allocation.

8 (a) The number of metal dealer plates a dealer may order
9 for business use is allocated based on the type of license
10 applied for and the number of vehicles sold during the previous
11 year. New license applicants are allotted a predetermined
12 number of metal dealer plates during the first license term.

13 (b) The maximum number of metal dealer plates issued to a
14 new license applicant during the first license term is:

- 15 (1) Franchised motor vehicle dealer - 5;
16 (2) Franchised motorcycle dealer - 5;
17 (3) Independent motor vehicle dealer - 2;
18 (4) Independent motorcycle dealer - 2;
19 (5) Franchised or independent travel trailer dealer - 2;
20 (6) Utility trailer or semi-trailer dealer - 2;
21 (7) Independent mobility vehicle dealer - 2; and
22 (8) Wholesale dealer - 1.

23 (c) A newly licensed dealership with a previous license

1 status is not subject to the initial allotment limits described
2 in subsection (b) of this section, and may rely on that previous
3 license status to obtain dealer plates, if it is:

4 (1) a franchised dealership that has been subject to a
5 buy-sell agreement, regardless of a change in the entity or
6 ownership; or

7 (2) any type of dealer that relocates and has been
8 licensed for a period of one year or longer.

9 (d) Upon renewal of the dealer license, the maximum number
10 of dealer plates issued to a motor vehicle dealer per license
11 term is:

12 (1) Franchised motor vehicle dealer - 30;

13 (2) Franchised motorcycle dealer - 10;

14 (3) Independent motor vehicle dealer - 3;

15 (4) Independent motorcycle dealer - 3;

16 (5) Franchised or independent travel trailer dealer - 3;

17 (6) Utility trailer or semi-trailer dealer - 3;

18 (7) Independent mobility vehicle dealer - 3; and

19 (8) Wholesale dealer - 1.

20 (e) A dealer may obtain more than the maximum number of
21 plates set out in subsection (d) of this section, by submitting
22 proof of sales for a year.

23 (1) The dealer may receive the following additional

1 plates:

2 (A) Wholesale dealers - 1;

3 (B) Dealers selling fewer than 50 vehicles - 1;

4 (C) Dealers selling 50 to 99 vehicles - 2;

5 (D) Dealers selling 100 to 200 vehicles - 5; or

6 (E) Dealers selling more than 200 vehicles may receive
7 any number of dealer plates at the dealer's discretion.

8 (2) For purposes of this subsection and subsection (f) of
9 this section, proof of sales consists of a copy of the most
10 recently filed Vehicle Inventory Tax Declaration or monthly
11 statements duly filed with the proper taxing authority in the
12 county of the dealership's location. Each copy must be stamped
13 received by the tax authority. Any franchised dealer's renewal
14 license application that indicates sales of more than 200 units
15 is considered to be proof of sales of more than 200 units and no
16 additional proof is required.

17 (f) The director or director's designee may waive the
18 dealer plate issuance restrictions in accordance with this
19 subsection if the waiver is essential for the continuation of
20 the business. The director or the director's designee will base
21 the determination of the number of dealer plates the dealer will
22 receive on the dealer's past sales, inventory, and any other
23 factors that the director determines pertinent.

1 (1) A request for a waiver must be in writing and
2 specifically state why the additional plates are necessary for
3 the continuation of the applicant's business.

4 (2) A request for a waiver must be accompanied by proof
5 of the dealer's sales for the previous year.

6 (3) A wholesale dealer may not apply for waiver of dealer
7 plate issuance restrictions.

8 (4) A waiver granted under this subsection for a specific
9 number of plates is valid for three years.

10

11 §8.140. Established and Permanent Place of Business. A dealer
12 must meet the following requirements at each location where the
13 dealer sells or offers vehicles for sale.

14 (1) Business hours for retail dealers.

15 (A) A retail dealer's office facility shall be open at
16 least four days per week for at least four consecutive hours per
17 day between the hours of 8:00 a.m. and 8:00 p.m.

18 (B) The dealer's business hours for each day of the
19 week must be posted at the main entrance of the dealer's office
20 that is accessible to the public. The owner or a bona fide
21 employee of the dealer shall be at the dealer's licensed
22 location during the posted business hours for the purpose of
23 buying, selling, exchanging, or leasing vehicles. If the owner

1 or a bona fide employee is not available to conduct business
2 during the dealer's posted business hours due to special
3 circumstances or emergencies, a separate sign must be posted
4 indicating the date and time the dealer will resume operations.
5 The dealer shall notify the division in writing of any change in
6 the dealer's standard business hours. Regardless of the retail
7 dealer's business hours the dealer's telephone must be answered
8 from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee,
9 answering service, or answering machine.

10 (2) Business hours for wholesale dealers. A dealer who
11 holds only a wholesale license must post its business hours at
12 the main entrance of the dealer's office. A wholesale dealer
13 shall be at the dealer's licensed location for at least two
14 weekdays per week at least two consecutive hours per day between
15 the hours of 8:00 a.m. and 6:00 p.m. Regardless of the
16 wholesale dealer's business hours the dealer's telephone must be
17 answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide
18 employee, answering service, or answering machine.

19 (3) Business sign requirements for retail dealers. A
20 retail dealer must display a conspicuous, permanent sign with
21 letters at least six inches in height showing the dealer's
22 business name, or assumed name as reflected on the dealer's
23 license, under which the dealer conducts business. The sign may

1 omit terms such as "Inc.," "LLC," "LP," or similar identifiers
2 of the entity type. The sign must be permanently mounted and
3 must be readable from the street at the address listed on the
4 application for the dealer license. Temporary banners or signs
5 are not acceptable.

6 (4) Business sign requirements for wholesale dealers. A
7 wholesale dealer must display a conspicuous, permanent sign with
8 letters at least six inches in height showing the dealer's
9 business name or assumed name as reflected on the dealer's
10 license, under which the dealer conducts business. The sign may
11 omit terms such as "Inc.," "LLC," "LP," or similar identifiers
12 of the entity type. The sign must be permanently mounted on the
13 business property and shall be on the main door to the dealer's
14 office or on the outside of the building housing the office. If
15 the dealership is located in an office building with one or more
16 other businesses and an outside sign is not permitted by the
17 landlord, a business sign permanently mounted on or beside the
18 main door to the dealer's office with letters at least two
19 inches in height is acceptable. Temporary banners or signs are
20 not acceptable.

21 (5) Office structure for retail and wholesale dealers.
22 Unless otherwise authorized by the Transportation Code, a dealer
23 that files an application for a new license or a supplemental

1 location after May 1, 2008 must conform to the requirements of
2 this subsection.

3 (A) The office of a retail or wholesale dealer must be
4 located in a building, with connecting exterior walls on all
5 sides, that has been assigned a separate mailing address by the
6 U.S. Postal Service. The office structure must have at least
7 100 square feet of interior floor space exclusive of hallways,
8 closets, or restrooms and have a minimum seven foot ceiling.

9 (B) A dealer's office must comply with all applicable
10 local zoning ordinances and deed restrictions.

11 (C) A dealer's office must have electricity with
12 adequate heating and lighting.

13 (D) A dealer's office may not be located within a
14 residence, apartment house, hotel, motel, or rooming house.

15 (E) A storeroom, closet, stock room, or any other room
16 that is not open to the public may not be designated as the
17 dealer's office.

18 (F) A route to a dealer's office may not pass through a
19 food preparation area.

20 (G) The physical address of the dealer's office must be
21 recognized by the U.S. Postal Service or capable of receiving
22 U.S. mail. Licenses and dealer plates will not be mailed to any
23 out-of-state address.

1 (H) A portable-type office structure may qualify as an
2 office only if the structure meets the requirements of this
3 section and is not a readily moveable trailer or other vehicle.

4 (6) Required office equipment for retail and wholesale
5 dealers. At a minimum, the office must be equipped with:

6 (A) a desk;

7 (B) two chairs;

8 (C) a file cabinet to hold records;

9 (D) Internet access and printer;

10 (E) a fax machine; and

11 (F) a land-based, working telephone listed in the
12 business name or assumed name under which the dealer does
13 business.

14 (7) Number of retail dealers in one office. Not more
15 than four retail dealers may be located in the same business
16 structure.

17 (8) Number of wholesale dealers in one office. Not more
18 than eight wholesale dealers may be located in the same business
19 structure.

20 (9) Wholesale and retail dealers office sharing
21 prohibition. Unless otherwise authorized by the Transportation
22 Code, a retail motor vehicle dealer and a wholesale motor
23 vehicle dealer either of which is established after September 1,

1 1999, may not be located in the same business structure.

2 (10) Dealer housed with other business.

3 (A) If a person conducts business as a dealer in
4 conjunction with another business owned by the same person and
5 under the same name as the other business, the same telephone
6 number may be used for both businesses. If the name of the
7 dealer differs from that of the other business, a separate
8 telephone listing, a separate telephone and fax number, and a
9 separate sign for each business is required.

10 (B) A person may conduct business as a dealer in
11 conjunction with another business not owned by that person only
12 if the dealer owns the property on which business is conducted
13 or has a separate lease agreement from the owner of that
14 property meeting the requirements of paragraph (13) of this
15 section. The same telephone number may not be used by both
16 businesses. The dealer must have separate business signs,
17 telephone listings, and office equipment required under this
18 section.

19 (11) Display area requirements. A wholesale dealer is
20 not required to have display space at the dealer's business
21 premises. A retail dealer must have an area designated as
22 display space for the dealer's inventory in accordance with this
23 subsection.

1 (A) The display area must be located at the dealer's
2 business address or contiguous with the dealer's address. A
3 non-contiguous storage lot is permissible only if there is no
4 public access and no sales activity occurs at the storage lot.
5 A sign stating the dealer's name and the fact the property is a
6 storage lot is permissible.

7 (B) A dealer's display area must be sufficient to
8 display at least five vehicles of the type for which the general
9 distinguishing number is issued. Those spaces must be reserved
10 exclusively for the dealer's inventory and may not be shared
11 with another business or a public parking area, a driveway to
12 the office, or another dealer's display area.

13 (C) The display area may not be on a public easement,
14 right-of-way, or driveway unless the governing body having
15 jurisdiction of the easement, right-of-way, or driveway
16 expressly consents in writing to use as a display area. If the
17 easement, right-of-way, or driveway is a part of the state
18 highway system, use as a display area may only be authorized by
19 a lease agreement.

20 (D) The display area must be used exclusively for the
21 dealer's inventory.

22 (E) If the display area is in conjunction with another
23 vehicle dealership, the display area must be separated in such a

1 manner that the inventories of the dealers are readily
2 discernible from each other. The inventory of each dealer must
3 be grouped together and not intermingled and each vehicle in the
4 inventory of a dealer must be clearly marked to identify the
5 dealer offering the vehicle for sale.

6 (F) If the display area is in conjunction with another
7 business that is not related to the sale or operation of motor
8 vehicles, the display area for the dealer's inventory must be
9 separated from any other parking area by a material object or
10 barricade that is affixed to the ground in a manner that cannot
11 be readily moved by an individual.

12 (G) If the display area is in conjunction with another
13 business that is not related to the sale or operation of motor
14 vehicles, a permanent sign must be erected that designates the
15 area as reserved for the dealer's inventory with the dealer's
16 name and telephone number on the sign with letters at least six
17 inches in height. When the display area is full, additional
18 inventory vehicles may be parked outside the display area only
19 in an area immediately adjacent to the barricaded area. The
20 additional inventory must be on the licensed premises and not in
21 any restricted area such as right-of-way or public sidewalks.
22 Any additional inventory not within the barricaded area must be
23 identified by a sign, with the dealer's name and telephone

1 number that clearly distinguishes the inventory from any public
2 or employee parked vehicles.

3 (H) The display area must be adequately illuminated if
4 the dealer is open after sundown so that vehicles for sale can
5 be properly inspected by any prospective customer.

6 (I) The display area may be located inside a building,
7 subject to approval by the division director or the director's
8 designee.

9 (J) If the dealer's premises includes gasoline pumps or
10 houses another business that sells gasoline, the dealer's
11 display area may not be part of the parking area for gasoline
12 customers and may not interfere with access to or from the
13 gasoline pumps. The display area may not contain a fuel fill
14 port or any fire prevention access to the fuel tanks.

15 (12) Dealer with salvage dealer license. If a dealer
16 also holds a salvage dealer license, each salvage vehicle that
17 is offered for sale on the premises of the dealer's display area
18 must be clearly and conspicuously marked with a sign that
19 informs the potential buyers that the vehicle is a salvage
20 vehicle.

21 (13) Lease requirements. If the premises from which a
22 dealer conducts business, including any display area that is not
23 owned by the dealer, the dealer must maintain a lease that is

1 continuous with the period for which the dealer's license will
2 be issued. That lease agreement must be on a properly executed
3 form containing at a minimum:

4 (A) the names of the lessor and lessee;

5 (B) the period of time for which the lease is valid;

6 and

7 (C) the street address or legal description of the
8 property, provided that if only a legal description of the
9 property is provided, the applicant must attach a statement that
10 the property description in the lease agreement is the street
11 address identified on the application.

12 (14) Dealer must display license. A dealer must display
13 the dealer license issued by the department at all times in a
14 manner that makes the license easily readable by the public and
15 in a conspicuous place at each place of business for which it is
16 issued. If the dealer's license applies to more than one
17 location, a copy of the original license may be displayed in
18 each supplemental location.

19

20 §8.146. Metal Converter's License Plates.

21 (a) Metal converter's license plates shall be attached to
22 the rear license plate holder of vehicles on which the plates
23 may be displayed pursuant to Transportation Code, §503.0618.

1 (b) Metal converter's license plates tags may be displayed
2 only on the type of vehicle that the converter is engaged in the
3 business of assembling or modifying.

4 (c) When an unregistered new motor vehicle is sold to a
5 converter, the selling dealer shall remove the dealer's
6 temporary tag. The selling dealer may attach a buyer's
7 temporary tag to that vehicle or the purchasing converter may
8 display a converter's temporary tag or metal converter plate on
9 that vehicle.

10 (d) A converter shall maintain a record of each converter
11 metal plate issued to that converter that contains:

12 (1) the assigned metal plate number;

13 (2) the year and make of the vehicle to which the metal
14 plate is affixed;

15 (3) the vehicle identification number of the vehicle; and

16 (4) the name of the person in control of the vehicle.

17 (e) Converter metal plates that cannot be accounted for
18 shall be voided in the dealer's record and reported as missing
19 to the department within three days. After a plate is reported
20 as missing it is no longer valid.

21 (f) The converter's record, required under subsections (d)
22 and (e) of this section, shall be available at the converter's
23 location during normal working hours for review by a

1 representative of the department.

2

3 §8.150. Authorization to Issue Temporary Tags.

4 (a) Dealers who hold a General Distinguishing Number
5 license may issue dealer temporary tags, initial buyer's
6 temporary tags, supplemental buyer's temporary tags, Internet-
7 down temporary tags, and emergency temporary tags for each type
8 of vehicle the dealer is licensed to sell. A converter who
9 holds a converter's license under Occupations Code, Chapter 2301
10 may issue converter temporary tags.

11 (b) Licensees may issue applicable temporary dealer,
12 buyer's, supplemental buyer's, or converter tags until a license
13 is cancelled, revoked, or suspended in accordance with law.

14 (c) A dealer's authorization to obtain numbers in advance
15 for use on Internet-down and emergency tags may be modified,
16 suspended, or revoked after opportunity for hearing in
17 accordance with Occupations Code, Chapter 2301 and Government
18 Code, Chapter 2001, if the dealer has misused the tags or failed
19 to comply with the requirements for issuance and recordkeeping
20 in Transportation Code, §503.067 or this subchapter.

21

22 §8.151. Temporary Tags, General Use Requirements, and
23 Prohibitions.

1 (a) All temporary tags shall be displayed in the rear
2 license plate holder of the vehicle.

3 (b) All printed information on a temporary tag must be
4 visible and may not be covered or obstructed by any plate
5 holder.

6 (c) Homemade tags or tags that have buyer's tag information
7 printed on one side and dealer's tag information printed on the
8 other side are not permitted.

9 (d) Each motor vehicle being transported using the full
10 mount method, the saddle mount method, the tow bar method, or
11 any combination of those methods in accordance with
12 Transportation Code, §503.068(d), must have a dealer's or
13 converter's temporary tag or a buyer's temporary tag, whichever
14 is applicable, affixed to that vehicle. If the vehicle being
15 transported is unable to qualify for registration because it is
16 of a type that is prohibited from operating upon the public
17 streets and highway (i.e., off-highway vehicle or self-propelled
18 machine), a tag shall be displayed that states in bold letters
19 "For Off Highway Use Only."

20

21 §8.152. Obtaining Numbers for Issuance of Temporary Tags.

22 (a) Dealers and converters must have Internet access to
23 connect to the temporary tag databases maintained by the

1 department.

2 (b) Except as provided by §8.155 and §8.156 of this
3 subchapter, the dealer or converter must enter into the database
4 information about the vehicle, dealer, converter, or buyer, as
5 appropriate, and obtain a specific number for the tag before a
6 temporary tag may be issued and displayed on a vehicle.

7

8 §8.153. Specifications for All Temporary Tags.

9 (a) Information printed or completed on all temporary tags
10 must be in black ink.

11 (b) Dealers and converters may issue a temporary tag by any
12 of the methods described in this subsection.

13 (1) A dealer or converter may copy or print the
14 information provided from the database to cardboard stock in
15 accordance with the specifications of the appropriate appendix
16 listed in subsection (d) of this section.

17 (2) A dealer or converter may print the image of the
18 information provided by the database on a full 8 ½ inch by 11
19 inch sheet label and affix the label to a 6 inch by 11 inch
20 cardboard.

21 (3) A dealer or converter may print the image of the
22 information provided by the database on a full 8 ½ inch by 11
23 inch piece of paper, affix the paper to a 6 inch by 11 inch

1 cardboard by glue or tape so that it is completely adhered to
2 the cardboard backing, and place a 2 inch piece of clear tape
3 over the specific number. As an alternative to using the clear
4 tape, the tag may be placed in a 6 inch by 12 inch, 2 mil clear
5 poly bag to protect the paper tag from the elements.

6 (4) A dealer or converter may print the image of the
7 information provided by the database on a full 8 ½ inch by 11
8 inch piece of paper and place the tag in a 6 inch by 12 inch, 2
9 mil clear poly bag to protect the paper tag from the elements.

10 (c) If a dealer or converter chooses to use printed
11 cardboard dealer or converter temporary tags, initial buyer's
12 temporary tags, or supplemental buyer's temporary tags on
13 cardboard stock on which the dealer or converter fills in the
14 required information by hand, the tags must be printed in
15 accordance with this subsection and with the specifications of
16 appropriate appendix listed in subsection (d) of this section.

17 (1) Motor vehicle, travel trailer, trailer/semitrailer,
18 and converter tags must be printed on at least 6-ply cardboard,
19 with bolt holes horizontally punched on 7 inch centers and
20 vertically punched on 4 1/2 inch centers. Motorcycle tags must
21 be printed on at least 6-ply cardboard, with bolt holes
22 horizontally punched on 5 3/4 inch centers and vertically
23 punched on 2 3/4 inch centers.

1 (2) Cardboard tags completed by hand must have the
2 information drawn in letters and numerals with a permanent thick
3 black marking pen. The vehicle-specific number must be
4 completely covered with one strip of 2 inch wide, clear tape or
5 placed in a 6 inch by 12 inch, 2 mil clear poly bag that covers
6 the entire tag.

7 (d) If a dealer or converter uses the cardboard option for
8 temporary tags and completes the tag with information from the
9 database, the dealer or converter shall use the design of the
10 respective temporary tag from the appropriate following
11 appendices:

- 12 (1) Appendix A-1 - Dealer - Assigned to specific vehicle;
- 13 (2) Appendix A-2 - Dealer - Assigned to Agent;
- 14 (3) Appendix B-1 - Buyer - Initial;
- 15 (4) Appendix B-2 - Buyer - Supplemental;
- 16 (5) Appendix B-3 - Internet-down Tag;
- 17 (6) Appendix B-4 - Emergency State Tag; and
- 18 (7) Appendix C-1 - Converter.

19 (e) Dealers and converters shall comply with this section
20 on the date that the database system is made generally available
21 for use by the department. The department will open the
22 database at least 60 days before it becomes generally available
23 to allow dealers an opportunity to review the system and become

1 familiar with the database requirements. The department will
2 publish separate notices in the *Texas Register* that provide
3 prior notice of:

4 (1) the date on which the dealers may begin reviewing the
5 database system; and

6 (2) the date on which compliance with this section is
7 required.

8

9 §8.154. Dealer Temporary Tags.

10 (a) Dealer temporary tags may be displayed only on the type
11 of vehicle for which the general distinguishing number is issued
12 and for which a dealer is licensed to sell.

13 (b) Dealer temporary tags may be used by the dealer only
14 to:

15 (1) demonstrate the vehicle or cause the vehicle to be
16 demonstrated to a prospective buyer for sale purposes only;

17 (2) convey or cause the vehicle to be conveyed:

18 (A) from one of the dealer's places of business in this
19 state to another of the dealer's places of business in this
20 state;

21 (B) from the dealer's place of business to a place
22 where the vehicle is to be repaired, reconditioned, or serviced;

23 (C) from the state line or a location in this state

1 where the vehicle is unloaded to the dealer's place of business;

2 (D) from the dealer's place of business to a place of
3 business of another dealer;

4 (E) from the point of purchase by the dealer to the
5 dealer's place of business; or

6 (F) to road test the vehicle; or

7 (3) use the vehicle for or allow its use by a charitable
8 organization or use the vehicle or allow its use in parades.

9 (c) A vehicle being conveyed under this section is exempt
10 from the inspection requirements of Transportation Code, Chapter
11 548.

12 (d) A dealer who holds a wholesale motor vehicle auction
13 general distinguishing number may display its dealer temporary
14 tags on any vehicles that are transported to or from the
15 licensed auction location by a bona fide employee or agent of
16 the auction.

17 (e) When an unregistered vehicle is sold to another dealer,
18 the selling dealer shall remove any dealer temporary tag. The
19 selling dealer may attach a buyer's temporary tag to the vehicle
20 or the purchasing dealer may display a dealer temporary tag or
21 metal dealer plate on the vehicle. If a vehicle is consigned
22 from one dealer to another, the vehicle must display the
23 temporary tag of the dealer to which that vehicle was consigned.

1 (f) Dealer temporary tags may not be displayed on laden
2 commercial vehicles being operated or moved upon the public
3 streets or highways or on the dealer's service or work vehicles.
4 This subsection does not apply to buyer tags or supplemental
5 buyer tags or to dealer tags placed on a vehicle loaned to a
6 charitable organization or school.

7 (1) Examples of vehicles considered as service or work
8 vehicles for purposes of this subsection are:

9 (A) a vehicle used for towing or transporting other
10 vehicles;

11 (B) a vehicle, including a light truck used in
12 connection with the operation of the dealer's shops or parts
13 department;

14 (C) a courtesy car on which a courtesy car sign is
15 displayed;

16 (D) a rental or lease vehicle; and

17 (E) any boat trailer owned by a dealer or manufacturer
18 that is used to transport more than one boat.

19 (2) A light truck is not considered to be a laden
20 commercial vehicle when it is:

21 (A) mounted with a camper unit; or

22 (B) towing a trailer for recreational purposes.

23 (3) As used in this subsection, "light truck" has the

1 same meaning assigned by Transportation Code, §541.201.

2 (g) A dealer temporary tag may not be used to operate a
3 vehicle for the personal use of a dealer or a dealer's employee.

4 (h) A dealer temporary tag must show its expiration date
5 which may not exceed 60 days after its date of issuance.

6 (i) A dealer temporary tag may be issued by a dealer to a
7 specific vehicle or to a dealer's agent who is authorized to
8 operate a motor vehicle owned by the dealer.

9 (j) A dealer who issues a dealer temporary tag to a
10 specific vehicle must ensure that the following information is
11 placed on the tag:

12 (1) the vehicle-specific number from database;

13 (2) the year and make of vehicle;

14 (3) the vehicle identification number (VIN); and

15 (4) the month, day, and year of the tag's expiration.

16 (k) A dealer who issues a dealer temporary tag to an agent
17 must ensure that the following information is placed on the tag:

18 (1) the agent-specific number from database;

19 (2) the name of the authorized agent; and

20 (3) the month, day, and year of the tag's expiration.

21

22 §8.155. Buyer's Temporary Tags.

23 (a) A temporary buyer's tag or supplemental buyer's tag may

1 be displayed only on a vehicle that may be operated upon the
2 public streets and highways and for which a sale has been
3 consummated.

4 (b) A dealer must place a temporary buyer's tag on any new
5 or used vehicle sold by the dealer, except for a vehicle sold in
6 a wholesale transaction in which the purchasing dealer places
7 its own dealer temporary tag on the vehicle.

8 (c) Temporary buyer's tags are valid for a period that does
9 not exceed 21 calendar days after the date the vehicle is sold.

10 (d) If a dealer has been unable to obtain the necessary
11 documents to obtain permanent metal license plates on behalf of
12 the buyer because the documents are in the possession of a
13 lienholder who has not complied with the terms of Transportation
14 Code, §501.115(a), the dealer may issue a supplemental buyer's
15 tag. Within 20 working days of the date of sale the dealer must
16 access the database and renew the vehicle-specific number
17 previously issued. The supplemental buyer's tag is valid for a
18 period that does not exceed 20 working days after the date of
19 its issuance. The dealer may not issue more than one
20 supplemental buyer's tag for a vehicle.

21 (e) The dealer must ensure that the following information
22 is placed on a buyer's or supplemental buyer's tag that the
23 dealer issues:

1 (1) the vehicle-specific number obtained from database;

2 (2) the vehicle identification number (VIN) of the
3 vehicle;

4 (3) the year and make of vehicle; and

5 (4) the month, day, and year of the tag's expiration.

6

7 §8.156. Buyer's Temporary Tag Receipt and Notice to Buyer.

8 (a) A dealer must provide a buyer's temporary tag receipt
9 to the buyer of each vehicle to which a buyer's temporary tag is
10 issued regardless of whether the tag is issued in the ordinary
11 course of business or is an Internet-down or emergency tag. The
12 dealer may print the image of the receipt issued from the
13 database or construct the form using the same information. The
14 dealer must have the buyer sign the form and instruct the buyer
15 to keep a copy of the receipt in the vehicle until the vehicle
16 is registered in the buyer's name and metal plates are affixed
17 to the vehicle. The receipt must include the following
18 information.

19 (1) the issue date of the buyer's tag;

20 (2) the year, make, model, body style, color, and vehicle
21 identification number (VIN) of the vehicle sold;

22 (3) the vehicle-specific tag number;

23 (4) the expiration date of the tag;

1 (5) the date of the sale;

2 (6) the name of the issuing dealer and the dealer's
3 license number; and

4 (7) the buyer's name and mailing address.

5 (b) The dealer must keep a copy of the receipt signed by
6 the buyer in the sales records that are required to be kept
7 under §8.144 of this subchapter.

8 (c) With each initial buyer's tag issued, the dealer must
9 provide the buyer with a copy of the laws regarding temporary
10 tags in the form of the Notice to Buyer approved by the
11 department and available through the database for temporary
12 tags. The buyer must sign the dealer's copy of the buyer's
13 receipt as set out in subsection (a) of this section,
14 acknowledging receipt of a copy of the Notice to Buyer. The
15 dealer must keep a copy of the receipt signed by the buyer in
16 the sales records that are required to be kept under §8.144 of
17 this subchapter.

18
19 §8.157. Advance Numbers, Internet-down Buyer's Temporary Tags.

20 (a) In accordance with Transportation Code, §503.0631(d), a
21 dealer may obtain an advance supply of specific numbers to issue
22 temporary buyer's tags if the dealer is unable to access the
23 Internet.

1 (b) If a dealer is unable to access the Internet at the
2 time of sale, the dealer must complete and sign the dealer's
3 copy of the buyer's receipt form and enter the required
4 information on the sale into the database not later than the
5 close of the next business day.

6

7 §8.158. Advance Numbers, Emergency Buyer's Temporary Tags.

8 (a) In accordance with Transportation Code, §503.063(f), a
9 dealer may obtain a supply of specific numbers from the database
10 to issue temporary buyer's tags if the dealer is unable to
11 access the Internet due to an emergency. Such a number may be
12 used on buyers' tags only if a hurricane, flood, or other event
13 prohibits the supply of power or electronic communications to
14 the dealer's business for longer than two days.

15 (b) The dealer must complete and sign the dealer's copy of
16 the buyer's receipt form and enter the required information on
17 the sale into the database not later than 24 hours after the
18 time that power or communication is restored.

19

20 §8.159. General Requirements and Allocation of Internet-down
21 and Emergency Buyer's Tag Numbers.

22 (a) Advance Internet-down and emergency numbers shall be
23 kept in a locked, secure place. The dealer is responsible for

1 the safekeeping of those numbers and shall report any loss,
2 theft, or destruction of those numbers to the department within
3 24 hours of the time of an event.

4 (b) Advance Internet-down and emergency numbers may be used
5 up to 12 months after the date of issuance from the database.
6 As a dealer uses the Internet-down or emergency numbers, or the
7 numbers expire, a dealer at any time may download additional
8 Internet-down or emergency advance numbers up to the maximum
9 allowed.

10 (c) Advance Internet-down and emergency numbers will be
11 allocated to dealers based upon a percentage of their annual
12 sales. Annual sales will be determined by the Vehicle Inventory
13 Tax filings a dealer makes with the state.

14 (d) The number of Internet-down advance numbers a dealer
15 may download is equal to the greater of one or one percent of
16 the dealer's total annual sales.

17 (e) New license applicants will be allotted a predetermined
18 number of Internet-down advance numbers during the first license
19 term in accordance with the following schedule:

20 (1) franchised motor vehicle dealer - 15;

21 (2) franchised motorcycle dealer - 5;

22 (3) independent motor vehicle dealer - 3;

23 (4) independent motorcycle dealer - 2;

1 (5) franchised or independent travel trailer dealer - 1;

2 (6) utility trailer or semi-trailer dealer - 1; and

3 (7) independent mobility vehicle dealer - 1.

4 (f) The maximum number of emergency advance numbers a
5 dealer may download is equal to the greater of one or an amount
6 equal to 1/52 times of the dealer's total annual sales.

7 (g) A new license applicant will be allotted a
8 predetermined number of emergency advance numbers during the
9 first license term in accordance with the following schedule:

10 (1) franchised motor vehicle dealer - 25;

11 (2) franchised motorcycle dealer - 10;

12 (3) independent motor vehicle dealer - 3;

13 (4) independent motorcycle dealer - 2;

14 (5) franchised or independent travel trailer dealer - 1;

15 (6) utility trailer or semi-trailer dealer - 1; and

16 (7) independent mobility vehicle dealer - 1.

17 (h) A newly licensed dealer with a previous license status
18 is not subject to the initial allotment limits described in
19 subsections (e) and (g) of this section and may rely on that
20 previous license status to obtain advance Internet-down and
21 emergency advanced numbers if it is:

22 (1) a franchised dealership that has been subject to a
23 buy-sell agreement, regardless of a change in the entity or

1 ownership; or

2 (2) any type of dealer that relocates and has been
3 licensed for a period of one year or longer.

4 (i) A dealer can obtain more than the maximum number of
5 advance numbers for the first year of business as set out in
6 subsections (e) and (g) of this section.

7 (1) A dealer may apply for additional advance Internet-
8 down or emergency numbers by:

9 (A) submitting proof of sales of first month of
10 business in the form of a Vehicle Inventory Tax statement
11 showing the dealership qualifies for a larger amount of advance
12 numbers; or

13 (B) submitting a signed written request for waiver with
14 proof showing that the dealer has other dealerships that have
15 consistently sold vehicles in an amount that would qualify for a
16 larger amount of advance numbers.

17 (2) The director or director's designee may approve in
18 accordance with this paragraph an additional amount of Internet-
19 down or emergency numbers for a dealer if the additional amount
20 is essential for the continuation of the business. The director
21 or the director's designee will base the determination of the
22 amount of advance numbers the dealer will receive on the
23 dealer's past sales, inventory, and any other factors that the

1 director determines pertinent. A request for additional advance
2 numbers must be in writing and specifically state why the
3 additional advance numbers are necessary for the continuation of
4 the applicant's business.

5

6 §8.160. Converter's Temporary Tags.

7 (a) Converter's temporary tags may be used only by the
8 converter or the converter's employees on unregistered vehicles
9 to:

10 (1) demonstrate the vehicle, or cause the vehicle to be
11 demonstrated, to a prospective buyer who is a franchised motor
12 vehicle dealer or an employee of a franchised motor vehicle
13 dealer; or

14 (2) convey the vehicle or cause the vehicle to be
15 conveyed:

16 (A) from one of the converter's places of business in
17 this state to another of the converter's places of business in
18 this state;

19 (B) from the converter's place of business to a place
20 where the vehicle is to be assembled, repaired, reconditioned,
21 modified, or serviced;

22 (C) from the state line or a location in this state
23 where the vehicle is unloaded to the converter's place of

1 business;

2 (D) from the converter's place of business to a place
3 of business of a franchised motor vehicle dealer; or

4 (E) to road test the vehicle.

5 (b) Prospective buyers who are employees of a franchised
6 dealer or a converter may operate a vehicle displaying
7 converter's temporary tags during a demonstration.

8 (c) A vehicle being conveyed while displaying a converter's
9 temporary tag is exempt from the inspection requirements of
10 Transportation Code, Chapter 548.

11 (d) Converter's temporary tags may not be used to operate a
12 vehicle for the converter's or a converter's employee's personal
13 use.

14 (e) Converter's temporary tags may be displayed only on the
15 type of vehicle that the converter is engaged in the business of
16 assembling or modifying.

17 (f) When an unregistered new motor vehicle is sold to a
18 converter, the selling dealer shall remove a dealer's temporary
19 tag. The selling dealer may attach a buyer's temporary tag to
20 the vehicle or the purchasing converter may display a
21 converter's temporary tag or metal converter plate on the
22 vehicle.

23 (g) A converter temporary tag must show its expiration date

1 which may not be more than 60 days after the date of its
2 issuance.

3 (h) A converter temporary tag may be issued by a converter
4 to a specific vehicle or to a converter's agent who is
5 authorized to operate a motor vehicle owned by the converter.

6 (i) A converter who issues a temporary converter's tag to a
7 specific vehicle shall ensure that the following information is
8 placed on the tag:

9 (1) the vehicle specific number from database;

10 (2) the year and make of vehicle;

11 (3) the vehicle identification number (VIN) of the
12 vehicle; and

13 (4) the month, day and year of the tag's expiration.

14 (j) A converter who issues a temporary converter's tag to
15 an agent shall ensure that the following information is placed
16 on the tag:

17 (1) the agent-specific number from database;

18 (2) the name of the authorized agent; and

19 (3) the month, day, and year of the tag's expiration.