

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

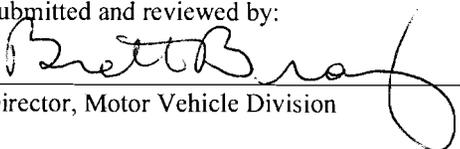
The Texas Transportation Commission (commission) finds it necessary to propose amendments to §8.132, definitions, §8.133, general distinguishing number, §8.139, metal dealer license plates and temporary cardboard tags, §8.144, record of sales and inventory, and new §8.149, independent mobility motor vehicle dealers, all relating to general distinguishing numbers, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments and new section, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth at length verbatim in this minute order.

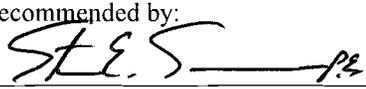
IT IS THEREFORE ORDERED by the commission that the amendments to §8.132, §8.133, §8.139, §8.144, and new §8.149 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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:


Interim Executive Director

111074 SEP 27 07

Minute Number Date Passed

1 Proposed Preamble

2 The Texas Department of Transportation (department) proposes
3 amendments to §8.132, Definitions, §8.133, General Distinguishing
4 Number, §8.139, Metal Dealer License Plates and Temporary
5 Cardboard Tags, §8.144, Record of Sales and Inventory and new
6 §8.149, Independent Mobility Motor Vehicle Dealers, all
7 concerning General Distinguishing Numbers.

8

9 EXPLANATION OF PROPOSED AMENDMENTS AND NEW SECTION

10 The proposed amendments are necessary to give effect to House
11 Bill 2216, 80th Legislature, Regular Session, 2007. Prior to its
12 passage, it was unlawful for any person, other than a franchised
13 dealer, to advertise, display, or offer for sale a new motor
14 vehicle. Very few franchised dealers display or sell motor
15 vehicles that are designed for disabled persons. As a result,
16 disabled persons are forced to shop for vehicles equipped for
17 the person's needs from the Internet or from catalogs. This
18 situation prevents disabled persons from determining if the
19 vehicle is the right size for their use and whether the special
20 equipment is appropriate in design and functionality prior to
21 purchasing the vehicle.

22

23 House Bill 2216 created a new category of General Distinguishing
24 Number, that of Independent Mobility Motor Vehicle Dealer, which
25 authorizes the mobility dealer to advertise, display, and offer

1 for sale new vehicles that are modified for disabled drivers.

2

3 The amendments to §8.132, Definitions, add mobility motor
4 vehicles to the definition of dealer. Therefore, references to
5 dealers throughout the rule now include independent mobility
6 motor vehicle dealers. The amendments also define other terms
7 used in the rule.

8

9 New §8.133(g) requires an independent mobility vehicle dealer to
10 maintain documentation at its dealership to show that it meets
11 the license requirements under Occupations Code, §2301.002(17-
12 a). Those requirements are that the dealer: 1) hold a General
13 Distinguishing Number; 2) is a licensed converter; 3) is engaged
14 in the business of buying, selling, or exchanging mobility motor
15 vehicles and servicing or repairing the devices installed on
16 mobility motor vehicles at an established and permanent place of
17 business in this state; and 4) is certified by the manufacturer
18 of each mobility device that the dealer installs, if the
19 manufacturer offers that certification.

20

21 New subsection (g) of §8.133 also requires that the dealer
22 maintain documentation to show that it meets the license
23 requirements in Transportation Code, §503.0295 (as added by
24 House Bill 2216). Those requirements are that the dealer: 1)
25 agrees to comply with Government Code, Chapter 469 regarding the

1 elimination of architectural barriers; 2) maintains a
2 garagekeeper's insurance policy in an amount of at least \$50,000
3 and a products-completed operations insurance policy in an
4 amount of at least \$1 million per occurrence and in the
5 aggregate; 3) holds a welder's certification, or that the
6 person's approved subcontractor holds such certificate, that
7 complies with the standards of the American Welding Society
8 Sections D1.1 and D1.3, if the person or subcontractor will
9 perform any structural modifications; and 4) is registered with
10 the National Highway Traffic and Safety Administration.

11 Subsequent subsections are relettered.

12

13 Amendments to §8.139(n) establish the number of metal dealer
14 license plates available to an independent mobility motor
15 vehicle dealer. The plate limits correspond to the number of
16 metal dealer license plates available to other types of
17 independent dealers issued General Distinguishing Numbers.

18 Subsequent subparagraphs are relettered.

19

20 Amendments to §8.144, Record of Sales and Inventory, reflect the
21 additional recordkeeping requirements placed on independent
22 mobility motor vehicle dealers under added Transportation Code,
23 §503.0295. Independent Mobility Motor Vehicle Dealers must
24 maintain written records until at least the third anniversary of
25 the date that adaptive work is performed. Subsequent

1 subsections are relettered.

2

3 New §8.149, Independent Mobility Motor Vehicle Dealers,
4 clarifies the involvement required of a franchised dealer at the
5 time of the sale of a mobility vehicle to a consumer. The
6 statute allows a mobility motor vehicle dealer to sell or
7 arrange the sale and delivery of the mobility motor vehicle at
8 the mobility dealer's place of business if the transaction
9 occurs through or by a franchised dealer of the motor vehicle's
10 chassis line make. This section provides that the appropriate
11 franchised dealer shall apply for the title and registration.
12 However, it allows the mobility dealer to prepare the paperwork
13 that is necessary for the franchised dealer to title the vehicle
14 in the name of the purchaser. This section allows the mobility
15 dealer and the franchised dealer to work together through the
16 vehicle titling process and eliminates duplicative work.

17

18 FISCAL NOTE

19 James Bass, Chief Financial Officer, has determined that for
20 each of the first five years the amendments and new section as
21 proposed are in effect, there will be no fiscal implications for
22 state or local governments as a result of enforcing or
23 administering the amendments and new section. There are no
24 anticipated economic costs for persons required to comply with
25 the sections as proposed.

1
2 Brett Bray, Director, Motor Vehicle Division, has certified that
3 there will be no significant impact on local economies or
4 overall employment as a result of enforcing or administering the
5 amendments and new section. People who meet the statutory
6 qualifications and wish to obtain an independent mobility motor
7 vehicle dealer license must pay the licensing fee required of
8 all other licensed dealers. However, licensed converters who
9 perform modifications to equip vehicles to transport persons
10 with disabilities are not required to obtain an independent
11 mobility vehicle dealer's license to perform the modification
12 work. The dealer's license is only required to sell or arrange
13 the sale of the mobility vehicle.

14
15 PUBLIC BENEFIT

16 Mr. Bray has also determined that for each year of the first
17 five years the sections are in effect, the public benefit
18 anticipated as a result of enforcing or administering the
19 amendments and new section will be the implementation of House
20 Bill 2216, which allows disabled persons to shop directly from
21 mobility dealers who are attuned to their needs. There will be
22 no adverse economic effect on small businesses.

23
24 PUBLIC HEARING

25 Pursuant to the Administrative Procedure Act, Government Code,

1 Chapter 2001, the Texas Department of Transportation will
2 conduct a public hearing to receive comments concerning the
3 proposed rules. The public hearing will be held at 9:00 a.m. on
4 Tuesday, October 30, 2007, in the first floor hearing room of
5 the Dewitt C. Greer State Highway Building, 125 East 11th
6 Street, Austin, Texas and will be conducted in accordance with
7 the procedures specified in 43 TAC §1.5. Those desiring to make
8 comments or presentations may register starting at 8:30 a.m.
9 Any interested persons may appear and offer comments, either
10 orally or in writing; however, questioning of those making
11 presentations will be reserved exclusively to the presiding
12 officer as may be necessary to ensure a complete record. While
13 any person with pertinent comments will be granted an
14 opportunity to present them during the course of the hearing,
15 the presiding officer reserves the right to restrict testimony
16 in terms of time and repetitive content. Organizations,
17 associations, or groups are encouraged to present their commonly
18 held views and identical or similar comments through a
19 representative member when possible. Comments on the proposed
20 text should include appropriate citations to sections,
21 subsections, paragraphs, etc. for proper reference. Any
22 suggestions or requests for alternative language or other
23 revisions to the proposed text should be submitted in written
24 form. Presentations must remain pertinent to the issues being
25 discussed. A person may not assign a portion of his or her time

1 to another speaker. Persons with disabilities who plan to
2 attend this meeting and who may need auxiliary aids or services
3 such as interpreters for persons who are deaf or hearing
4 impaired, readers, large print or Braille, are requested to
5 contact Randall Dillard, Government and Public Affairs Division,
6 125 East 11th Street, Austin, Texas 78701-2483, (512)305-9137 at
7 least two working days prior to the hearing so that appropriate
8 services can be provided.

9

10 SUBMITTAL OF COMMENTS

11 Written comments on the proposed amendments to §8.132, §8.133,
12 §8.139, §8.144, and new §8.149 may be submitted to Brett Bray,
13 Director, Motor Vehicle Division, Texas Department of
14 Transportation, P. O. Box 2293, Austin, Texas 78768-2293. The
15 deadline for receipt of comments is 5:00 p.m. on November 12,
16 2007.

17

18 STATUTORY AUTHORITY

19 The amendments and new section are proposed under Transportation
20 Code, §201.101, which provides the Texas Transportation
21 Commission with the authority to establish rules for the conduct
22 of the work of the department, and more specifically,
23 Occupations Code, §2301.005 and §2301.153 and Transportation
24 Code, §503.002, which authorize the commission to establish
25 rules for motor vehicle dealers.

- 1
- 2 CROSS REFERENCE TO STATUTE
- 3 Occupations Code, §2301.002, and §2301.361, and Transportation
- 4 Code §503.001, §503.021, §503.029, §503.0295, and §503.036.

1 SUBCHAPTER E. GENERAL DISTINGUISHING NUMBERS

2 §8.132. Definitions. The following words and terms, when used
3 in this subchapter, shall have the following meanings, unless
4 the context clearly indicates otherwise.

5 (1) Agent of foreign motor vehicle dealer--a resident of
6 a foreign country who is formally authorized by a foreign motor
7 vehicle dealer to purchase motor vehicles for import and resale
8 by the foreign motor vehicle dealer at the foreign motor vehicle
9 dealer's authorized business in the foreign country.

10 (2) Barrier--A material object or set of objects that
11 separates or demarcates.

12 (3) Charitable organization--An organization that is
13 established and exists for the purpose of relieving poverty, the
14 advancement of education, religion, or science, the promotion of
15 health, governmental, or municipal purposes, or other purposes
16 beneficial to the community without financial gain.

17 (4) Consignment sale--The sale of a vehicle by a person
18 other than the owner, under the terms of a written authorization
19 from the owner.

20 (5) Dealer--Any person who is regularly and actively
21 engaged in the business of buying, selling, or exchanging new or
22 used motor vehicles, motorcycles, motor homes, mobility motor
23 vehicles, house trailers, or trailers or semitrailers as defined

1 in Transportation Code, §501.001 et seq., or Transportation
2 Code, §502.001 et seq., at either wholesale or retail, either
3 directly, indirectly, or by consignment.

4 (6) Foreign motor vehicle dealer--A person holding a
5 valid license to sell motor vehicles at retail or wholesale
6 issued by a jurisdiction outside of the territorial limits of
7 the United States. For purposes of this section, all states,
8 protectorates, and trust territories administered by the federal
9 government of the United States are considered part of the
10 United States and excluded from the definition of foreign motor
11 vehicle dealer.

12 (7) Independent mobility motor vehicle dealer--a
13 nonfranchised dealer who:

14 (A) holds a general distinguishing number issued by the
15 department under Transportation Code, Chapter 503;

16 (B) holds a converter's license issued under
17 Occupations Code, Chapter 2301;

18 (C) is engaged in the business of buying, selling, or
19 exchanging mobility motor vehicles and servicing or repairing
20 the devices installed on mobility motor vehicles at an
21 established and permanent place of business in this state; and

22 (D) is certified by the manufacturer of each mobility
23 device that the dealer installs, if the manufacturer offers that

1 certification.

2 (8) License--A dealer's general distinguishing number
3 assigned by the division for the location from which the person
4 engages in business.

5 (9) [~~+8~~] Mexican motor vehicle dealer--A resident of the
6 Republic of Mexico holding a current and valid license to sell
7 motor vehicles issued by the Secretaria de Economia of the
8 Republic of Mexico.

9 (10) Mobility motor vehicle--A motor vehicle that is
10 designed and equipped to transport a person with a disability
11 and that:

12 (A) has a chassis that contains:

13 (i) a permanently lowered floor or lowered frame; or

14 (ii) a permanently raised roof and raised door;

15 (B) contains at least one of the following:

16 (i) an electronic or mechanical wheelchair, scooter,
17 or platform lift that enables a person to enter or exit the
18 vehicle while occupying a wheelchair or scooter;

19 (ii) an electronic or mechanical wheelchair ramp; or

20 (iii) a system to secure a wheelchair or scooter to
21 allow for a person to be safely transported while occupying the
22 wheelchair or scooter; and

23 (C) is installed as an integral part or permanent

1 attachment to the motor vehicle's chassis.

2 (11) [~~(9)~~] Person--Any individual, firm, partnership,
3 corporation, or other legal entity.

4 (12) [~~(10)~~] Sale--With regard to a specific vehicle, the
5 transfer of possession of that vehicle to a purchaser for
6 consideration.

7 (13) [~~(11)~~] Temporary cardboard tag--A buyer tag,
8 supplemental buyer tag, or dealer tag.

9 (14) [~~(12)~~] Wholesale dealer--A licensed dealer who only
10 sells or exchanges vehicles with other licensed dealers.

11

12 §8.133. General Distinguishing Number.

13 (a) No person may engage in business as a dealer unless
14 that person has a currently valid general distinguishing number
15 assigned by the division for each location from which the person
16 engages in business. If a dealer consigns more than five
17 vehicles in a calendar year for sale from a location other than
18 the location for which the dealer holds a general distinguishing
19 number, the dealer must also hold a general distinguishing
20 number for the consignment location.

21 (b) The provisions of subsection (a) of this section do not
22 apply to:

23 (1) a person who sells or offers for sale fewer than five

1 vehicles of the same type as herein described in a calendar year
2 and such vehicles are owned by him and registered and titled in
3 his name;

4 (2) a person who sells or offers to sell a vehicle
5 acquired for personal or business use if the person does not
6 sell or offer to sell to a retail buyer and the transaction is
7 not held for the purpose of avoiding the provisions of
8 Transportation Code, §503.001 et seq., and this subchapter;

9 (3) an agency of the United States, this state, or local
10 government;

11 (4) a financial institution or other secured party
12 selling a vehicle in which it holds a security interest, in the
13 manner provided by law for the forced sale of that vehicle;

14 (5) a receiver, trustee, administrator, executor,
15 guardian, or other person appointed by or acting pursuant to the
16 order of a court;

17 (6) an insurance company selling a vehicle acquired from
18 the owner as the result of paying an insurance claim;

19 (7) a person selling an antique passenger car or truck
20 that is at least 25 years old or a collector selling a special
21 interest motor vehicle as defined in Transportation Code,
22 §683.077, if the special interest vehicle is at least 12 years
23 old;

1 (8) a licensed auctioneer who, as a bid caller, sells or
2 offers to sell property to the highest bidder at a bona fide
3 auction if neither legal nor equitable title passes to the
4 auctioneer and if the auction is not held for the purpose of
5 avoiding another provision of Transportation Code, §503.001 et
6 seq., and this subchapter; and provided that if an auction is
7 conducted of vehicles owned, legally or equitably, by a person
8 who holds a general distinguishing number, the auction may be
9 conducted only at a location for which a general distinguishing
10 number has been issued to that person or at a location approved
11 by the division as provided in §8.35 of this chapter (relating
12 to More Than One Location); and

13 (9) a person who is a domiciliary of another state and
14 who holds a valid dealer license and bond, if applicable, issued
15 by an agency of that state, when the person buys a vehicle from,
16 sells a vehicle to, or exchanges vehicles with a person who:

17 (A) holds a current valid general distinguishing number
18 issued by the division, if the transaction is not intended to
19 avoid the terms of Transportation Code, §503.001 et seq.; or

20 (B) is a domiciliary of another state if the person
21 holds a valid dealer license and bond, if applicable, issued by
22 that state, and if the transaction is not intended to avoid the
23 terms of Transportation Code, §503.001 et seq.

1 (c) Application for a general distinguishing number shall
2 be on a form prescribed by the director properly completed by
3 the applicant showing all information requested thereon and
4 shall be submitted to the director accompanied by the following:

5 (1) a \$25,000 surety bond as provided in §8.37 of this
6 chapter (relating to Security Requirements);

7 (2) a one-year lease as cited in §8.140 of this chapter
8 (relating to Established and Permanent Place of Business), or
9 deed for the dealer's location in the name of the applicant;

10 (3) the fee for the general distinguishing number as
11 prescribed by law for each type of license requested;

12 (4) the fee as prescribed by law for each dealer metal
13 plate requested and the license plate reflectorization fee as
14 prescribed by law;

15 (5) photographs clearly showing:

16 (A) the interior of the dealer's office;

17 (B) the exterior of the dealer's office;

18 (C) the dealer's sign;

19 (D) the vehicle display area; and

20 (6) verification of all assumed name(s), if applicable,
21 in the form of assumed name certificate(s) on file with the
22 Secretary of State or county clerk.

23 (7) a photocopy of the current driver's license or

1 Department of Public Safety identification of the owner,
2 president or managing partner of the dealership.

3 (d) A person who applies for a general distinguishing
4 number and will operate as a dealer under a name other than the
5 name of that person shall use the name under which that person
6 is authorized to do business, as filed with the secretary of
7 state or county clerk, and the assumed name of such legal entity
8 shall be recorded on the application using the letters "DBA."

9 (e) If the general distinguishing number is issued to a
10 corporation, the dealer's name, as it appears on file with the
11 Secretary of State, shall be recorded on the application.

12 (f) A licensed wholesale dealer who elects to buy, sell to,
13 or exchange vehicles with persons other than licensed dealers,
14 must satisfy the display space requirements of §8.40 of this
15 chapter (relating to Established and Permanent Place of
16 Business) and exchange the wholesale dealer license for a
17 general distinguishing number which is appropriate for the type
18 of vehicles the dealer wishes to buy, sell, or exchange.

19 (g) An independent mobility motor vehicle dealer shall
20 retain and produce for inspection all records relating to the
21 license requirements under Occupations Code, §2301.002(17-a) and
22 all information and records required under Transportation Code,
23 §503.0295.

1 (h) An application for a general distinguishing number may
2 be denied if an applicant for such license has committed any act
3 that could result in license cancellation or revocation under
4 Transportation Code, §503.001 et seq.

5 (i) [~~(h)~~] Each license will be issued for a period of one
6 year from the date of issuance of the license. The entire
7 yearly license fee will be due at that time.

8 (1) The security requirement stated in Transportation
9 Code, §503.033, must be effective, at a minimum, for the period
10 for which the general distinguishing number will be valid.

11 (2) All dealer metal plates issued to a licensed dealer
12 shall expire on the same date as the expiration of the dealer's
13 general distinguishing number.

14
15 §8.139. Metal Dealer License Plates and Temporary Cardboard
16 Tags.

17 (a) Metal dealer license plates shall be attached to the
18 rear license plate holder of vehicles on which such plates are
19 permitted to be displayed pursuant to Transportation Code,
20 §503.061. Although not a requirement, a copy of the receipt for
21 metal dealer's plate issued by the division should be carried in
22 the vehicle so that it can be presented to law enforcement
23 personnel upon request. If the vehicle on which a metal dealer

1 plate is to be attached displays Texas multi-year plates that
2 have not been validated for the current registration period,
3 such multi-year plates shall be removed and safeguarded. The
4 multi-year plates should be placed back onto the vehicle when it
5 is sold or if the metal dealer plate is removed from the
6 vehicle.

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

21 (c) Metal dealer license plates and dealer's temporary
22 cardboard tags may not be displayed on laden commercial vehicles
23 being operated or moved upon the public streets or highways or

1 on the dealer's service or work vehicles. This prohibition does
2 not apply to buyer tags or supplemental buyer tags, or to
3 vehicles loaned to charitable organizations or schools.

4 (1) Examples of vehicles considered as service or work
5 vehicles are:

6 (A) vehicles used for towing or transporting other
7 vehicles;

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

10 (C) courtesy cars on which courtesy car signs are
11 displayed;

12 (D) rental and lease vehicles; and

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

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

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

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

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

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

1 Transportation Code, §503.068(d), shall have a dealer's
2 temporary cardboard tag or a buyer's temporary cardboard tag,
3 whichever is applicable, affixed to that vehicle. If the
4 vehicle being transported is of a type which is prohibited from
5 operating upon the public streets and highway (i.e., off-highway
6 vehicle or self-propelled machine) and, thus, cannot qualify for
7 registration, a cardboard tag shall be displayed thereon; and
8 such tag shall be marked in bold letters with the notation "For
9 Off Highway Use Only."

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

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

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

1 plate on the vehicle. In the event a vehicle is consigned from
2 one dealer to another, the vehicle shall display the temporary
3 cardboard tag of the dealer to which such vehicle was consigned.

4 (h) A dealer may have printed temporary dealer tags,
5 initial temporary buyer's tags, and supplemental temporary
6 buyer's tags according to the specifications of Appendices A-1
7 through B-4 of §8.138 of this chapter (relating to Temporary
8 Cardboard Tags).

9 (i) A dealer shall maintain a record of all dealer metal
10 plates issued to that dealer and as to each vehicle such record
11 shall consist of:

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

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

22 (k) At the expiration of an initial buyer's temporary tag,
23 a supplemental temporary buyer's tag may be issued as provided

1 for in Transportation Code, §503.063.

2 (l) A person who holds a wholesale motor vehicle auction
3 general distinguishing number may display its dealer's temporary
4 cardboard tags on any vehicles which are transported to or from
5 the licensed auction location by a bona fide employee or agent
6 of the auction.

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

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

16 (l) New license applicants may receive metal dealer
17 plates during the first term of licensure in accordance with the
18 following schedule:

19 (A) Franchised motor vehicle dealer - 5

20 (B) Franchised motorcycle dealer - 5

21 (C) Independent motor vehicle dealer - 2

22 (D) Independent motorcycle dealer - 2

23 (E) Franchised or independent travel trailer dealer - 2

1 (F) Utility trailer or semi-trailer dealer - 2

2 (G) Independent mobility vehicle dealer - 2

3 (H) Wholesale dealer - 1.

4 (2) A newly licensed dealership is not subject to the
5 initial allotment limits described in paragraph (1) of this
6 subsection, and may rely on the previous license status to
7 obtain dealer plates, if it is:

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

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

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

16 (A) Franchised motor vehicle dealer - 30

17 (B) Franchised motorcycle dealer - 10

18 (C) Independent motor vehicle dealer - 3

19 (D) Independent motorcycle dealer - 3

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

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

22 (G) Independent mobility vehicle dealer - 3

23 (H) Wholesale dealer - 1.

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

4 (A) Additional plates above the amounts set out in
5 paragraph (3) of this subsection shall be as follows:

6 (i) Wholesale dealers - 1

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

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

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

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

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

20 (5) The director or director's designee may waive the
21 dealer plate issuance restrictions if the waiver both serves the
22 purposes of this subchapter and is essential to the continuation
23 of the business. To determine the number of dealer plates the

1 dealer needs, the director or the director's designee may base
2 the decision on the dealer's past sales, inventory, and any
3 other pertinent factors as the director may determine.

4 (A) All requests for waivers shall be in writing and
5 specifically state why the additional plates are necessary to
6 the continuation of the applicant's business;

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

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

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

19
20 §8.144. Record of Sales and Inventory.

21 (a) Purchase and sales records. A dealer must keep a
22 complete record of all vehicle purchases and sales for a minimum
23 period of 24 months.

1 (b) An independent mobility vehicle dealer must keep
2 complete written records relating to a vehicle purchase or sale
3 and any adaptive work performed on the vehicle for a minimum
4 period of 36 months after the date the adaptive work is
5 performed on the vehicle.

6 (c) Records reflecting purchases and sales for at least the
7 preceding 13 months must be available for inspection by a
8 representative of the division at the dealer's location.
9 Records for prior time periods may be kept off-site at a
10 location within the same county. Upon receipt of a certified
11 letter from the director or the director's designee, a dealer
12 must produce copies of specified records by mailing those copies
13 to the address listed in the request within 15 days.

14 (d) [~~(b)~~] Content of records. As used in this subsection,
15 a complete record of vehicle purchases and sales shall include
16 the:

- 17 (1) date of purchase;
18 (2) date of sale;
19 (3) vehicle identification number;
20 (4) name and address of person selling to the dealer;
21 (5) name and address of person purchasing from the
22 dealer;
23 (6) name and address of selling dealer if vehicle is

1 offered for sale by consignment; and

2 (7) except in a purchase or sale by a wholesale dealer,
3 copy of the Tax Collector's Receipt for Title
4 Application/Registration/Motor Vehicle Tax, Form 31;

5 (8) copies of any and all documents, forms, and
6 agreements applicable to a particular sale, including, but not
7 limited to title applications, work-up sheets, Manufacturer's
8 Certificates of Origin, titles or photocopies of the front and
9 back of titles, factory invoices, sales contracts, retail
10 installment agreements, buyer's orders, bills of sale, waivers,
11 or other agreements between the seller and purchaser; and

12 (9) dealer's monthly Motor Vehicle Seller Financed Sales
13 Returns, if any.

14 (e) [~~(e)~~] Title assignments. All certificates of title,
15 manufacturer's certificates, or other evidence of ownership for
16 vehicles offered for sale or which have been acquired by a
17 dealer must be properly assigned into the dealer's name. A
18 dealer must apply in the name of the purchaser of a motor
19 vehicle for the registration of the motor vehicle with the
20 appropriate county tax assessor-collector as selected by the
21 purchaser. To be in compliance with Transportation Code,
22 §501.0234(f), and considered filed within a reasonable time, a
23 registration filed in Texas must be filed within 20 working days

1 of the date of sale. The dealer shall provide to the purchaser
2 the receipt for the application and maintain a copy of the
3 receipt for application in the sales file.

4 (f) [~~(d)~~] Notification to the department. Notification of
5 vehicle sales, as required by Transportation Code, §503.005 et
6 seq., shall be an application for certificate of title in the
7 name of the retail purchaser filed with the appropriate county
8 tax assessor-collector. When a sales transaction involves a
9 vehicle to be transferred out of state, the dealer may, within
10 20 working days, either file the application for certificate of
11 title for the purchaser or deliver the properly assigned
12 evidence of ownership to the purchaser. In such instance, a
13 photocopy of the completed sales tax exemption form for out-of-
14 state sales approved by the Comptroller's Office shall be
15 maintained on file at the dealer's business location.

16 (g) [~~(e)~~] Consignment sales. A dealer offering a vehicle
17 for sale by consignment shall have a written consignment
18 agreement for the vehicle or a power of attorney covering the
19 vehicle and shall maintain a record of each such vehicle by
20 vehicle identification number and owner of each such vehicle
21 handled on consignment for a minimum of 13 months.

22 (h) [~~(f)~~] Public Motor Vehicle Auctions.

23 (1) A general distinguishing number holder who acts as a

1 public motor vehicle auction must comply with the requirements
2 relating to consignment sales as set out in subsection (e) of
3 this section.

4 (2) A public motor vehicle auction is not required to
5 take assignment of title of vehicles it offers for sale, but
6 must take assignment of title of a vehicle from a consignor
7 prior to making application for title on behalf of the buyer.

8 (3) A public motor vehicle auction must make application
9 for title on behalf of the purchaser within 20 working days of
10 the sale of the motor vehicle.

11
12 §8.149. Independent Mobility Motor Vehicle Dealers. In
13 accordance with Occupations Code, §2301.361(a)(3) (as added by
14 Chapter 710, Acts of the 80th Legislature, Regular Session,
15 2007), a transaction occurs through or by a franchised dealer of
16 the motor vehicle's chassis line make if the franchised dealer
17 applies for title and registration of the mobility motor vehicle
18 in the name of the purchaser. An independent mobility dealer
19 may prepare the documentation necessary for a franchised dealer
20 to comply with the requirements of Transportation Code,
21 §501.0234 in connection with the sale of a mobility motor
22 vehicle.

23