

Licensing Division

Staff Report for the Towing and Storage Advisory Board March 16, 2021

Statistics

Tow Trucks	New	New % Online	Renewed	Online Renewal	Population
FY 2020	3156	99%	7922	91%	11277
FY 2021 (1 st Qtr)	843	99%	1873	91%	11314

Tow Companies	New	New % Online	Renewed	Online Renewal	Population
FY 2020	982	91%	6885	91%	4301
FY 2021(1 st Qtr)	287	91%	1634	91%	4343

Active Tow Company and Tow Truck Population Numbers by Type of Towing

Type of Towing	Company	Tow Truck
Consent	1811	3421
Private Property	170	382
Incident Management	1952	7417
Total**	3854	11220

**As of 2/28/21

Vehicle Storage Facilities	New	New % Online	Renewed	Renewed % Online	Population
FY 2020	186	83%	3146	91%	1951
FY 2021 (1stQtr)	28	83%	1973	91%	1973

Tow Operators	New	New % Online	Renewed	Renewed % Online	Population
FY2020-TOTAL	3192	97%	9390	95%	14082
FY2021(1 st Qtr)	908	97%	2250	95%	14163
FY2020 Consent	1538	99%	2492	99%	4699
FY2021(1 st Qtr)	429	99%	637	99%	4745
FY2020 Private Property	79	97%	188	100%	309
FY2021(1 st Qtr) Private Property	20	97%	53	100%	306
FY2020 Incident Management	1575	96%	6710	93%	9074
FY2021(1 st Qtr) Incident Management	459	96%	1560	93%	9112

Vehicle Storage Facility Employees	New	New % Online	Renewed	Renewed % Online	Population
FY2020	582	99%	1744	99%	2457
FY2021(1 st Qtr)	152	99%	363	99%	2438

Current Projects

Developing statistics for number of web contacts for Tow and VSF programs.

Customer Service Division

Staff Report for the Towing and Storage Advisory Board

March 16, 2021

Personnel Updates

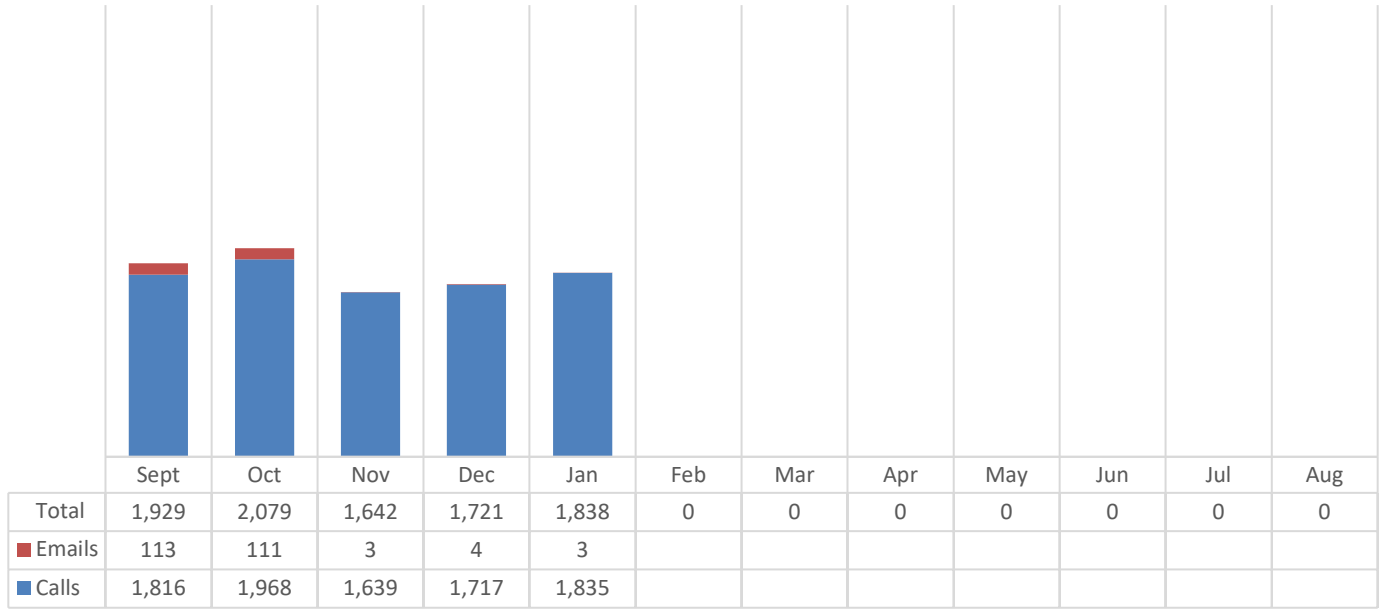
- Two CSR III agents have been promoted to CSR IV, which means they will be assisting in tracking and resolving more complex customer issues and working on emails as well as assisting customers on the phones.
- Six new CSR III agents have been hired since December 1, 2020. These include Spanish, Vietnamese, and Chinese Mandarin speakers.
- Two of these six new CSRs are currently in training. CSRs are trained on how to adhere to a preset call workflow, to use the Nice inContact phone system to take calls, to update our Customer Resource Management system with call notes in order to track customer issues and reduce customer effort in future calls, to disposition and tag calls for divisions reporting purposes, to send email templates when needed when on phone calls using Dynamics 365 software to reduce customer effort and ensure correct and complete information is being sent to customers and to communicate more complicated issues to their team lead to ensure customer issues are on track to resolution.

CSRs navigate several databases including TULIP, Tulip Dashboard, Versa and Access, and do research on an extensive website to research information on 40 programs and hundreds of license types.

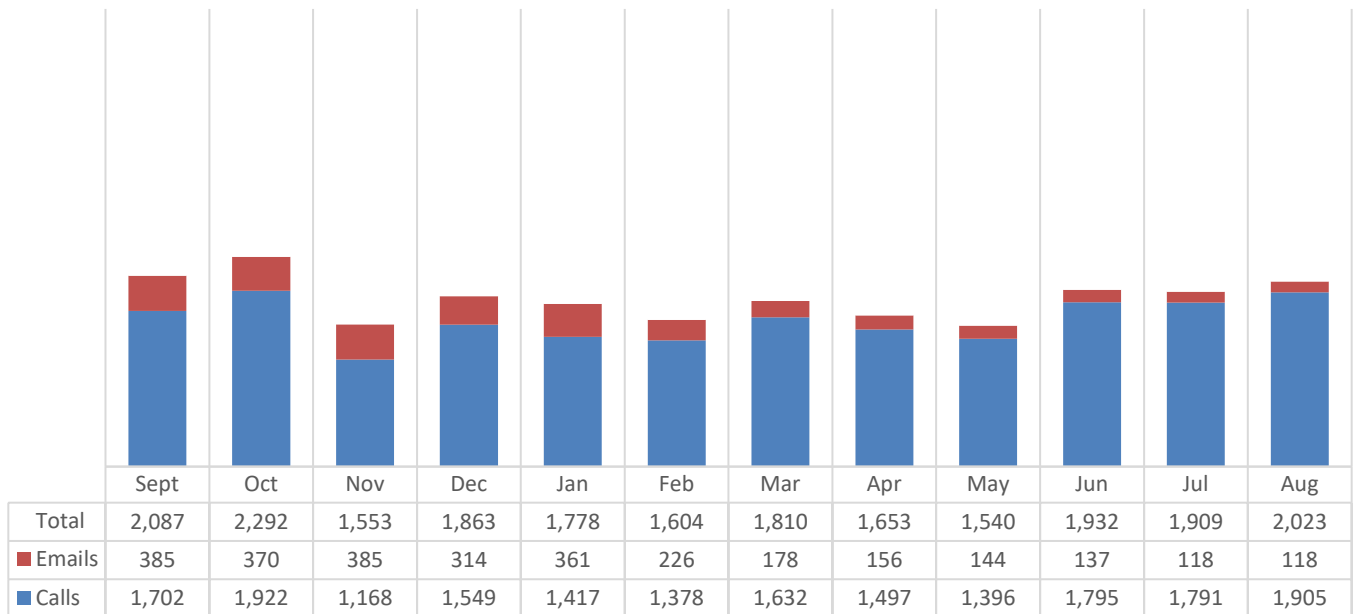
- Since March of 2020, customer service employees continue to work from home.

Statistics

TOW/VSF CUSTOMER SERVICE CONTACTS FISCAL YEAR 2021



TOW/VSF CUSTOMER SERVICE CONTACTS FISCAL YEAR 2020



Enforcement Division

Staff Report for the Towing and Storage Advisory Board

March 16, 2021

Personnel Updates:

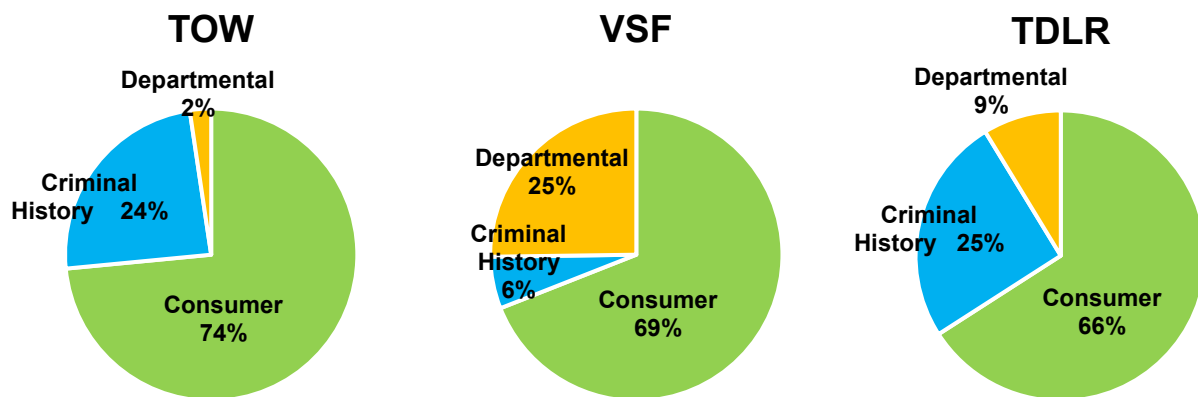
- On November 6, 2020, Prosecutor Ken Sharp retired after 7 years of service with TDLR and 13 years of total service to the citizens of Texas. During his tenure at TDLR Ken worked briefly on the Transportation team before joining the criminal history review team where he reviewed thousands of applications to see if the applicant's criminal records were serious enough to prevent them from being licensed. Ken was also very active in the Department's Veteran's Association, where he was both a cofounder of the organization and its first Commander.
- On December 4, 2020, Prosecutor Michael Shirk retired after 8 years of service with TDLR and nearly two decades of service to the citizens of Texas. Michael was a member of the Transportation team where his enthusiasm for public service and protecting the citizens of Texas was clearly evident. He was a joy to work with and served as a mentor for many of our attorneys on staff. He will be missed, but he left a legacy of public service that will be long remembered.
- Three Attorneys, Amanda Barrera, Aroosa Nizami and Natalie Olvera, were promoted to Attorney III positions to fill the vacancies that were created by the promotions and retirements in the Enforcement Division. Amanda's and Aroosa's promotions were effective December 15, 2020 and Natalie's promotion was effective January 1, 2021.
- On January 4th, 2021, Arthur Arevalo was hired to fill the Investigations Manager's position. Art retired from the Austin Police Department after nearly 26 years of service. Since then, he worked for the Travis County Sheriff's Office and more recently served as a Captain with the Texas State University Police Department. We look forward to his contribution to the success of our team as we continue to strengthen the Enforcement division with staff that embraces our mission and shares our dedication to make a positive impact serving the citizens of Texas.

Statistics Fiscal Year 2021:

Shown below are the Enforcement Performance Measures and key statistics for the Towing (TOW) and the Vehicle Storage Facility (VSF) programs and for all TDLR programs combined through January of Fiscal Year 2021:

Performance Measure	TOW	VSF	TDLR
Cases opened	509	226	3,914
Cases closed	396	181	4,127
Average time to close (days)	281.46	290.24	199.21
% of cases resolved within 6 months	45.20%	41.99%	61.81%
% of cases resulting in disciplinary action	9.34%	18.23%	16.65%
Cases Pending at end of January	937	464	5,634

Source of cases opened through January of Fiscal Year 2021



Case Outcomes	TOW	VSF	TDLR
Commission Orders	5	1	19
Default Orders	19	7	276
Agreed Orders	28	30	378
Penalties Assessed	\$72,200.00	\$100,825.00	\$1,446,591.00
Penalties Collected	\$22,300.00	\$53,700.00	\$561,226.00
Licenses Revoked (Disciplinary)	8	5	61
Licenses Suspended	1	0	6
Licenses Denied/Revoked (Criminal History)	9	2	116
Cease & Desist Orders	0	0	13
Informally Resolved	342	142	3,384

Top 10 TOW Alleged Violations at Opening through January of Fiscal Year 2021

Alleged Violation:	Count
Without authority or Illegal tow	190
Criminal History	118
Charged more than allowed for tow	47
Tow without proper signage	29
Lacks honesty, trustworthiness, or integrity	24
Did not tow in safe or competent manner	11
Expired tow company license	11
Failed to have proper information on ticket	10
Fail to issue ticket	9
No tow company license	9

TOW Violations Resulting in Disciplinary Action through January of Fiscal Year 2021

Violation:	Count
Charged more than allowed for tow	7
Without authority or Illegal tow	7
Criminal History	6
Lacks honesty, trustworthiness, or integrity	6
No tow operator license	5
Failed to comply with an order	5
Employed unlicensed person	4
No tow company license	3
Tow without proper signage	2
Failed to maintain Insurance	2
Failed to have a permit for each truck	1
Allowed or operated with invalid Driver's License	1
Did not tow in safe or competent manner	1
Failed to issue ticket	1
Charges not related to tow	1
Failed to take to licensed VSF	1

Top 10 VSF Alleged Violations at Opening through January of Fiscal Year 2021

Alleged Violation:	Count
Failed to timely send or publish notice	35
Charged impound without services or date	20
Failed to include required information on notice	19
Charged unauthorized fee	18
Did not accept cash, debit & credit	17
Unlicensed Company	17
Failed to release with proper documents & fee	15
Criminal History	13
Overcharge for daily storage	13
Lacks honesty, trustworthiness, or integrity	12

Top VSF Violations Resulting in Disciplinary Action through January of Fiscal Year 2021

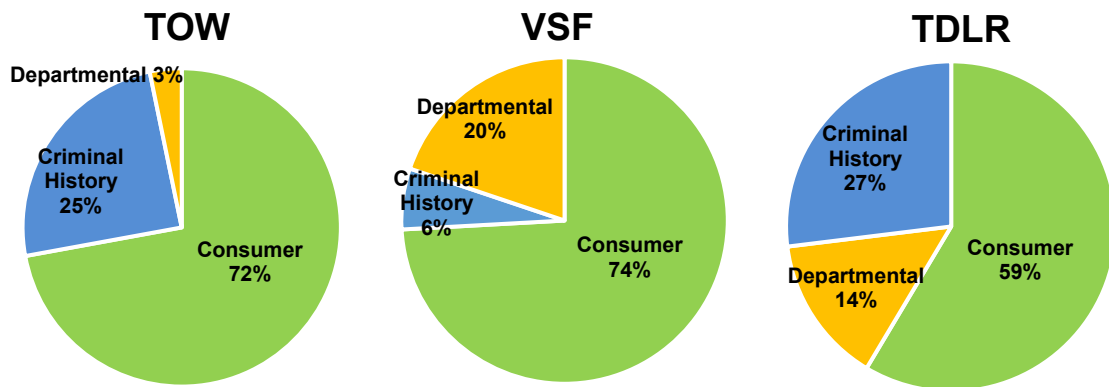
Violation:	Count
Failed to include required information on notice	8
Lacks honesty, trustworthiness, or integrity	6
Charged impound without services or date	5
Unlicensed Company	3
Overcharge for daily storage	3
Failed to secure to prevent theft	3
Did not maintain required records for 2 years	3
Did not establish or follow drug policy	3
Did not accept cash, debit & credit	2
Required information not on invoice or receipt	2
Notification not correctly mailed	2
Required signature on unnecessary form	2
Failed to have Department information where required	2
Criminal History	2
Vehicle not available for release	2
Charged unauthorized fee	2

Statistics Fiscal Year 2020:

Shown below are the Enforcement Performance Measures and key statistics for the Towing (TOW) and the Vehicle Storage Facility (VSF) programs and for all TDLR programs combined for **Fiscal Year 2020**:

Performance Measure	TOW	VSF	TDLR
Cases opened	1,159	630	10,465
Cases closed	1,035	565	9,763
Average time to close (days)	199.92	170.84	157.58
% of cases resolved within 6 months	54.49%	64.25%	68.64%
% of cases resulting in disciplinary action	6.57%	8.14%	13.48%
Cases Pending at end of FY2020	826	419	5,850

Source of cases opened for Fiscal Year 2020



Case Outcomes	TOW	VSF	TDLR
Commission Orders	13	0	28
Default Orders	29	9	339
Agreed Orders	35	46	853
Penalties Assessed	\$144,200.00	\$123,975.00	\$2,360,451.00
Penalties Collected	\$44,950.00	\$51,550.00	\$1,296,792.16
Licenses Revoked (Disciplinary)	10	3	62
Licenses Suspended	0	0	3
Licenses Denied/Revoked (Criminal History)	25	4	240
Cease & Desist Orders	3	0	46
Informally Resolved	951	509	8,365

Top 10 TOW Alleged Violations at Opening for Fiscal Year 2020

Alleged Violation:	Count
Without authority or Illegal tow	380
Criminal History	285
Charged more than allowed for tow	90
Lacks honesty, trustworthiness, or integrity	69
Tow without proper signage	69
Did not tow in safe or competent manner	49
Failed to take to licensed VSF	36
No tow company license	31
Charges not related to tow	23
Failed to issue ticket	19

TOW Violations Resulting in Disciplinary Action for Fiscal Year 2020

Violation:	Count
Criminal History	25
Charged more than allowed for tow	12
Lacks honesty, trustworthiness, or integrity	10
Did not tow in safe or competent manner	5
No tow company license	5
Without authority or Illegal tow	5
Failed to pay dishonored check	3
No or improper signage on truck	3
No tow operator license	3
Refused/interfered with inspector/investigator	2
Failed to have proper information on ticket	2
Expired tow company license	2
Failed to make documents available upon request	2
Charges not related to tow	2
Failed to take to licensed VSF	2
Failed to cooperate with Department	2
Failed to maintain Insurance	2

Top 10 VSF Alleged Violations at Opening for Fiscal Year 2020

Alleged Violation:	Count
Failed to timely send or publish notice	86
Failed to release with proper documents & fee	67
Charged unauthorized fee	57
Criminal History	38
Vehicle not available for release	33
Did not accept cash, debit & credit	32
Did not maintain required records for 2 years	30
Notification not correctly mailed	29
Failed to include required info on notice	27
Unlicensed Company	27

Top 10 VSF Violations Resulting in Disciplinary Action for Fiscal Year 2020

Violation:	Count
Notification not correctly mailed	9
Failed to timely send or publish notice	9
Did not establish or follow drug policy	8
Did not maintain required records for 2 years	7
Charged unauthorized fee	5
Criminal History	4
Did not cooperate with Department's Inspection	3
Vehicle not available for release	3
Not completely enclosed by 6 ft fence	3
Failed to include required information on notice	3

Case Highlights

- Aus-Tex Towing & Recovery, LLC (TDLR Case Nos. VSF20200001216, VSF20200000408, and VSF20190014377)

On November 12, 2020, the Executive Director issued his Agreed Order assessing Respondent an administrative penalty in the amount of \$24,000, \$8,000 for each of the three listed cases. In each of the cases, Respondent failed to conduct vehicle storage facility operations with honesty, trustworthiness, and integrity, which are Class D violations. Respondent, in each of the three cases, also intentionally failed to remit proceeds in excess of actual fees and charges to the person entitled to those proceeds, which are Class D violations. For example, on February 5, 2019, Respondent accepted a 2010 Toyota Tundra for storage at its Farley Drive, Austin, Texas, location from a non-consent tow. Respondent sold the vehicle and obtained \$8,000.00 in proceeds. Respondent was entitled by law to retain from those proceeds only such amounts as were actually incurred for storage fees and tow charges and was obligated by contract to remit 20% of gross the proceeds to the City of Austin. The Respondent made a knowingly false report to the City of Austin that it had only obtained \$800.00 from the sale of this vehicle. Thus, Respondent intentionally failed to remit proceeds in excess of actual fees and charges to the person entitled to those proceeds. The administrative penalty has been paid in full.

- Gareth Francis (TDLR Case Nos. TOW20190002499 and TOW20200004456)

On September 29, 2020, the Texas Commission of Licensing and Regulation adopted a Proposal for Decision issued on June 11, 2020, by Administrative Law Judge Shannon Breaux Saucedo with the State Office of Administrative Hearings, recommending the revocation of Respondent's license and assessment of an administrative penalty in the amount of \$11,500.00. Respondent is a sole proprietorship doing business as Lightning Towing & Recovery and is licensed by the Department as a tow company. E & N Collision Center is an unregulated body shop owned by Respondent, which is located on the same property as Respondent's regulated towing company. In both cases, the tow operators working for the Respondent used deception to induce the vehicle owners into transferring their vehicles to an unregulated body shop and thus failed to conduct tow operations with honesty, trustworthiness, and integrity, which are Class D violations. In the latter case, the tow truck driver failed to prepare and issue a tow ticket for the non-consent tow, which is a Class B violation. On February 3, 2021, a second demand letter for payment was mailed to Respondent. Respondent has not made a payment to date.

- Matthew Gonzales (TDLR Case No. TOW20200001196)

On September 15, 2020, the Executive Director issued his Default Order assessing Respondent an administrative penalty in the amount of \$3,000. On January 1, 2019, Respondent operated a towing company without an appropriate license, a Class C violation, and performed a private property tow while not insured against liability for property damage incurred during towing operations, a Class D Violation. On November 13, 2020, a second demand letter for payment was mailed to Respondent. Respondent has not made a payment to date.

- James M. Winkler (TDLR Case No. VSF20200007759)

On September 25, 2020, the Executive Director issued his Agreed Order assessing Respondent an administrative penalty in the amount of \$4,050. On November 16, 2019, Respondent operated an uninsured and unlicensed vehicle storage facility, both Class D violations. Respondent has made three payments totaling \$1,050. However, Respondent is past due in the amount of \$2,100. Respondent has failed to make his \$350 monthly payments for September, October, November, December 2020, and January and February 2021.

- Lee Callaway (TDLR Case No. VSF20200009733)

On October 19, 2020, the Executive Director issued his Agreed Order assessing Respondent an administrative penalty in the amount of \$1,200. On January 30, 2019, Respondent failed to send the required initial notice, within five days, to the owners and/or lienholders of a vehicle stored at his vehicle storage facility, a Class B violation. Respondent also charged a notification fee before the first notification letter was sent, a Class B violation. The administrative penalty has been paid in full.

FIELD INSPECTIONS DIVISION

Staff Report for the Towing and Storage Advisory Board

March 16, 2021

Personnel Updates

Congratulations to Eric Beverly, who accepted the position as the new Director of the Field Inspections division. Eric comes from TDLR’s Office of Strategic Communication where he served as Senior Government Relations Officer. Eric joined the Field Inspections division February 1.

Effective February 1, 2021, Angela Sanders and Shawn O’Neal moved to the Regulatory Program Management (RPM) Health Professions team. Angela is the lead for the Style and Wellness Team; Shawn is the Senior Program Specialist for the Style and Wellness Team. Congratulations to you both!

Statistics

Vehicle Storage Facilities		
	FY 2020	FY 2021 (YTD)
Sept	55	30
Oct	132	58
Nov	68	41
Q1	255	129
Dec	96	58
Jan	147	81
Feb	94	-
Q2	337	139
Mar	62	-
Apr	2	-
May	5	-
Q3	69	0
Jun	0	-
Jul	28	-
Aug	56	-
Q4	84	0
YTD/Year End	745	268

Note: TDLR suspended Tow Company and Tow Truck Inspections as of February 7, 2019.

Note: TDLR suspended inspections on March 17, 2020 in response to the COVID-19 pandemic and returned to limited inspections May 19, 2020.

Most Common Violations Found During Inspections

Vehicle Storage Facility Most Common Violations

Fiscal Year 2021, 1st Quarter

- 1. Impoundment Fee** 16 Tex. Admin. Code Ch. 85.722(e): A VSF operator may charge a vehicle owner an Impoundment fee if Impoundment is performed in accordance with these rules. The Impoundment fee may not exceed \$20. If the VSF operator charges a fee for Impoundment, the written bill for services must specify the exact services performed for that fee and the dates those services were performed.
- 2. Notice of Complaint Procedure** 16 Tex. Admin. Code Ch. 85.707(a) & (b): Failure to notify the vehicle owner of the department's website and email address, mailing address, and telephone number, for purposes of directing complaints regarding the vehicle storage to the department. The notice shall be included on a sign prominently displayed to the public at the place of payment, with letters at least one inch in height, and a contrasting background; and the front page of any bill for service.
- 3. Notice Violations** Tex. Occupations Code Section 2303.153(a); 16 Tex. Admin. Code Ch. 85.703(i)(1): Failed to have mailed notification state all required information.
- 4. Storage Lot Signs** 16 Tex. Admin. Code Ch. 85.1003(d): Failure to have a clearly visible sign in the proper lettering size and color contrast which lists all documents that may be presented to obtain possession of the vehicle, or did not state "Affidavit of Right of Possession Furnished Upon Request."
- 5. Storage Lot Signs** 16 Tex. Admin. Code Ch. 85.1003(e): Failure to conspicuously post a sign that states: "This vehicle storage facility must accept payment by an electronic check, credit card, or debit card for any fee or charge associated with delivery or storage of a vehicle."
- 6. Storage Lot Signs** 16 Tex. Admin. Code Ch. 85.1003(c): Failure to conspicuously place a sign, at the place of payment, stating "Non-Consent Tow Fees Schedules Available on Request."
- 7. Storage Lot Signs** 16 Tex. Admin. Code Ch. 85.1003(a): Failure to have a clearly visible and readable sign at its main entrance, containing the registered name, address, phone number for release of the vehicle, facility hours and the storage lot's state license number. Such sign shall have letters at least 2 inches in height, with contrasting background, shall be visible at 10 feet.
- 8. Notice of Complaint Procedure** 16 Tex. Admin. Code Ch. 85.707(a) & (b): Failure to notify the vehicle owner of the department's website and email address, mailing address, and telephone number, for purposes of directing complaints regarding the vehicle storage to the department. The notice shall be included on a sign prominently displayed to the public at the place of payment, with letters at least one inch in height, and a contrasting background; and the front page of any bill for service.
- 9. Reasonable Storage Efforts** 16 Tex. Admin. Code Ch. 85.719(a): A VSF operator shall make reasonable efforts necessary for the storage of a vehicle, such as locking doors, rolling up windows, and closing doors, hatchbacks, sunroofs, trunks, hoods, or convertible tops.
- 10. Storage Lot Surface** 16 Tex. Admin. Code Ch. 85.1001: All VSFs shall have an all-weather surface such as concrete, asphalt, black-top, stone, macadam, limestone, iron ore, gravel, shell, or caliche, that enables the safe and effective movement of stored vehicles upon all portions of the lot, both under their own power and under tow, at all times, regardless of prevailing weather conditions. The surface shall also be free of overgrown vegetation.

Current Projects

COVID-19 Response

- On March 17, 2020, TDLR suspended all inspections in response to the COVID-19 pandemic.
- In August 2020, TDLR began to field test a VSF virtual inspection process and testing continues.
 - As of March 1, 2021, 57 vehicle storage facilities have received a virtual inspection as part of the testing process.
- On August 7, 2020, TDLR resumed limited, on-site inspections of vehicle storage facilities (VSF) based on several factors:
 - whether the VSF was in a county where inspections had been suspended based on COVID-19 data and trends;
 - whether the VSF might a good candidate for a virtual inspection;
 - number of available inspectors trained on the VSF on-site inspection process; and
 - available travel budget.
- TDLR continues to carefully monitor COVID-19 presumptive positive cases and related hospitalization rates to determine which counties TDLR inspectors may enter to safely conduct on-site inspections.
 - Since January 2021, 15 counties have been removed from the suspended county list and on-site inspections are now authorized to resume.
 - As of February 23, 2021, on-site inspections remain suspended in 23 counties.

Texas Licensing System

- Juan Munoz, Manager-Central Region, and Colleen Cloudy, Lead Facilitator, continue to provide support for TDLR's new licensing database called the Texas Licensing System.

REGULATORY PROGRAM MANAGEMENT

Staff Report for the Towing and Storage Advisory Board

MARCH 16, 2021

Statistics

From September 1ST, 2020 to February 26, 2021, RPM has received 894 contacts. Contacts include industry contacts seeking guidance on towing and VSF laws and rules, citizens with questions on towing and VSF laws and rules, and other industries seeking guidance from TDLR.

RPM is also continuing to monitor the web traffic to the industry compliance section of the towing and VSF website. When the pages went active in August 2019, the industry compliance section totaled around 1% of web traffic to the towing and VSF web pages. In the months since we have seen the industry compliance section climb to around 5% of traffic on the towing and VSF web pages.

Current Projects

RPM is continuing its analytic process to better monitor, review, and answer questions that come to the department, either directly or through internal channels. The program assists RPM in determining common issues as they arise to create better, more specific training for the industry and internally to TDLR staff. RPM hopes the process will help us better understand the needs of the industry, and the ability to provide consistent answers to questions.

RPM, along with the web development team is monitoring traffic to the TDLR website to attempt to determine the areas most visited. This information, along with the new web-site compliance section, will allow RPM to further determine the areas most visited so we determine the greatest need for trainings.

RPM is continuing to investigate webinar-based training for compliance issues that occur frequently and looks forward to expanding the training schedule. With the assistance of the analytic process RPM hopes to create webinars and other forms of media that are specific to industry needs.

Outreach

RPM has initiated an internet-based training due to limitations on in person contact and travel during the pandemic. The trainings take place over zoom and cover updates to the laws and rules and provide a platform for the industry to ask questions. A larger training is conducted once a month and generally has around 20 members of the industry from across the state. RPM is also offering the training to small groups or individual companies upon request and has conducted several of these covering specific questions they have and covering the laws and rules.

EDUCATION AND EXAMINATION DIVISION

Staff Report for the Towing and Storage Advisory Board

March 16, 2021

Statistics

Tow Operators Continuing Education
(As of January 31, 2021)

FY 2021	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
TOTAL NEW COURSE APPROVALS	2	4	1	7	1	8	-	9	-	-	-	-	-	-	-	-	16
TOTAL COURSE COUNT	48	46	49	49	50	49	-	0	-	-	-	-	-	-	-	-	49
FY 2020	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
COURSE APPROVALS ISSUED	3	2	1	6	3	7	4	14	9	9	1	19	2	4	4	10	49
TOTAL COURSE POPULATION	58	57	55	55	57	59	58	58	58	62	52	52	47	50	51	51	51

Tow IM/PP Training Program Curriculum FY 2021
(As of January 31, 2021)

FY 2021	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
TOTAL NEW CURRICULUM APPROVAL	0	0	0	0	0	0	-	-	-	-	-	-	-	-	-	0	0
TOTAL CURRICULUM COUNT	7	8	8	8	8	8	-	-	-	-	-	-	-	-	-	7	8
FY 2020	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
TOTAL NEW CURRICULUM APPROVAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL CURRICULUM COUNT	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7

CE Monthly Invoices
(As of December 31, 2020)

FY 2021	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
CE Invoices Mailed	25	26	26	77	24	-	-	-	-	-	-	-	-	-	-	-	101
CE Invoice Fees to be Collected	3,555	3,930	3,525	11,010	3,750	-	-	-	-	-	-	-	-	-	-	-	14,760