

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

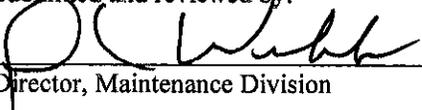
The Texas Transportation Commission (commission) finds it necessary to propose the repeal of §29.48 and new §29.48, relating to boarding priorities for state owned ferries, to be codified under Title 43, Texas Administrative Code, Part 1.

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

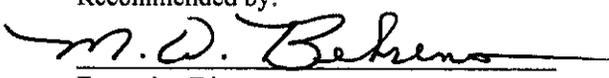
IT IS THEREFORE ORDERED by the commission that the repeal of §29.48 and new §29.48 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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, Maintenance Division

Recommended by:


Executive Director

110181 AUG 25 05

Minute
Number

Date
Passed

1 Proposed Preamble

2 The Texas Department of Transportation (department) proposes the
3 repeal of §29.48 and simultaneously proposes new §29.48
4 concerning boarding priorities of state owned ferries.

5

6 EXPLANATION OF PROPOSED REPEAL AND NEW SECTION

7 Transportation Code, §342.004, allows the department to adopt
8 rules to establish a system under which an owner of a motor
9 vehicle may apply to the department for issuance of a sticker
10 for a vehicle that entitles the vehicle to have priority in
11 boarding the Galveston-Port Bolivar ferry and the Port Aransas
12 ferry operated by the department. Pursuant to this authority,
13 the Texas Transportation Commission (commission) has previously
14 adopted §29.48 to specify which vehicles shall have priority
15 boarding of a ferry.

16

17 The department proposes the repeal of §29.48 and simultaneously
18 proposes new §29.48 in a revised form. New §29.48(a)(1)
19 outlines special boarding situations, such as ambulances and
20 other vehicles transporting sick or injured persons, fire
21 department vehicles, medical doctors en route to an emergency,
22 law enforcement officers engaged in the performance of an
23 official duty, U.S. Coast Guard vehicles responding to marine
24 emergencies, school buses, and funeral processions. Vehicles
25 with special boarding situations will receive priority over all

1 other vehicles boarding the ferry.

2

3 New §29.48(a)(2) outlines the various fees for an annual permit
4 for the Galveston/Bolivar and Port Aransas ferries of \$400,
5 \$600, or \$800 based on types of vehicles with one to three
6 axles. These fees are based on anticipated construction and
7 operating costs to provide priority boarding, with construction
8 costs amortized over a 10-year period. In order to ensure that
9 there is sufficient demand for annual permits to justify the
10 costs of instituting the program, the department will not begin
11 issuing stickers for a ferry location until at least 400
12 applications are received for that location. An annual permit
13 will be effective for 12 months from the month it is issued.
14 Upon completion of a permit application and payment of required
15 fees, a boarding priority permit and windshield sticker will be
16 issued. Future adjustment in the fee may be made after the
17 number of applicants is established.

18

19 Section 29.48(a)(3) provides for the ferry captain or ferry
20 operations manager, at their own discretion, to allow priority
21 boarding for humanitarian reasons. All other vehicles shall
22 board in order of arrival after priority boarding is completed.

23

24 FISCAL NOTE

25 James Bass, Chief Financial Officer, has determined that for

1 each of the first five years the repeal and new section as
2 proposed are in effect, there will be no fiscal implications for
3 state or local governments as a result of enforcing or
4 administering the repeal and new section. There will be no
5 significant impact on local economies or overall employment as a
6 result of enforcing or administering the amendments.

7

8 PUBLIC BENEFIT

9 Zane Webb, P.E., Director, Maintenance Division, has determined
10 that for each year of the first five years the repeal and new
11 section is in effect, the public benefit anticipated as a result
12 of enforcing or administering the section will be reduced
13 waiting time for those who participate in priority boarding.
14 There will be no adverse economic effect on small businesses.

15

16 PUBLIC HEARING

17 Pursuant to the Administrative Procedure Act, Government Code,
18 Chapter 2001, the Texas Department of Transportation will
19 conduct two public hearings to receive comments concerning the
20 proposed rules. The first public hearing will be held at 7:00
21 p.m. on September 19, 2005, at the Civic Center at 710 West
22 Avenue A in Port Aransas, Texas. The second public hearing will
23 be held at 6:00 p.m. on September 21, 2005, at the Ball High
24 School, 4115 Avenue O, Galveston, Texas. Both meetings will be
25 conducted in accordance with the procedures specified in 43 TAC

1 §1.5. Those desiring to make comments or presentations may
2 register at the meeting site starting one hour before the
3 scheduled meeting. Any interested persons may appear and offer
4 comments, either orally or in writing; however, questioning of
5 those making presentations will be reserved exclusively to the
6 presiding officer as may be necessary to ensure a complete
7 record. While any person with pertinent comments will be
8 granted an opportunity to present them during the course of the
9 hearing, the presiding officer reserves the right to restrict
10 testimony in terms of time and repetitive content.
11 Organizations, associations, or groups are encouraged to present
12 their commonly held views and identical or similar comments
13 through a representative member when possible. Comments on the
14 proposed text should include appropriate citations to sections,
15 subsections, paragraphs, etc. for proper reference. Any
16 suggestions or requests for alternative language or other
17 revisions to the proposed text should be submitted in written
18 form. Presentations must remain pertinent to the issues being
19 discussed. A person may not assign a portion of his or her time
20 to another speaker. Persons with disabilities who plan to
21 attend this meeting and who may need auxiliary aids or services
22 such as interpreters for persons who are deaf or hearing
23 impaired, readers, large print or Braille, are requested to
24 contact Randall Dillard, Director, Public Information Office,
25 125 East 11th Street, Austin, Texas 78701-2483, 512/463-8588 at

1 least two working days prior to the hearing so that appropriate
2 services can be provided.

3

4 SUBMITTAL OF COMMENTS

5 Written comments on the proposed repeal and new section may be
6 submitted to Zane Webb, P.E., Director, Maintenance Division,
7 125 East 11th Street, Austin, Texas 78701-2483. The deadline
8 for receipt of comments is 5:00 p.m. on October 10, 2005.

9

10 STATUTORY AUTHORITY:

11 The repeal and new section are proposed under Transportation
12 Code, §201.101, which provides the commission with the authority
13 to establish rules for the conduct of the work of the
14 department, and, more specifically, Transportation Code,
15 §342.004, which authorizes the commission to adopt rules to
16 establish a priority boarding system.

17

18 CROSS REFERENCE TO STATUTE: Transportation Code, §342.004.

1 SUBCHAPTER C. OPERATION OF STATE-OWNED FERRIES

2 §29.48. Boarding Priorities.

3 (a) Priority boarding for vehicles is divided into three
4 categories as follows: priority boarding for special situations,
5 priority boarding by annual permit, and priority boarding for
6 humanitarian purposes.

7 (1) Special situation boarding is for the following
8 vehicles, in no specific order of priority. These vehicles
9 shall have priority boarding over all other vehicles in boarding
10 a ferry:

11 (A) ambulances when transporting sick or injured
12 persons, or when responding to or returning from medical
13 emergencies;

14 (B) other vehicles transporting sick or injured
15 persons;

16 (C) fire department vehicles when responding to or
17 returning from fire or medical emergencies;

18 (D) medical doctors who are en route for the emergency
19 care of the sick or injured;

20 (E) law enforcement officers when engaged in the
21 performance of an official duty;

22 (F) U.S. Coast Guard vehicles when responding to or
23 returning from marine emergencies;

NOTE: New Sections

Exhibit C

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1 (G) school buses when going to or returning from school
2 functions; and

3 (H) funeral processions.

4 (2) Priority boarding for vehicles by annual permit shall
5 meet the following conditions.

6 (A) No more than 50% of the ferry capacity will be
7 allocated to priority boarding by annual permit during high
8 demand periods.

9 (B) The fee for an annual permit for the
10 Galveston/Bolivar or Port Aransas ferry is:

11 (i) \$400 for a one or two axle vehicle, including a
12 motorcycle, car, pickup truck, or van;

13 (ii) \$600 for a bus, motor home, or a single unit
14 truck with up to three axles; and

15 (iii) \$800 for a multi-unit truck or other vehicle
16 with more than three axles.

17 (C) An annual permit expires 12 months after issuance.

18 (D) An application for an annual permit shall be
19 submitted by the vehicle owner on a form prescribed by the
20 department, which shall at a minimum include the vehicle license
21 plate number, state of registration, name of applicant, and
22 mailing address. The application will state acceptable methods
23 of payment.

1 (E) The department will not issue priority boarding
2 stickers for a ferry location until it has received at least 400
3 applications for that location.

4 (F) A priority boarding sticker will be issued to each
5 applicant upon payment of the permit fee.

6 (G) The sticker issued for the permit shall be placed
7 near the upper left corner of the front windshield.

8 (3) The ferry captain or ferry operations manager may, at
9 his or her sole discretion, allow a vehicle priority over all
10 other vehicles for humanitarian purposes. Scheduled routine
11 doctor's office visits are not considered to be sufficient
12 reason for granting priority boarding for humanitarian purposes.

13 (b) Vehicles that do not qualify for priority boarding
14 under subsection (a) of this section shall be boarded in order
15 of arrival after priority boarding is completed.