

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

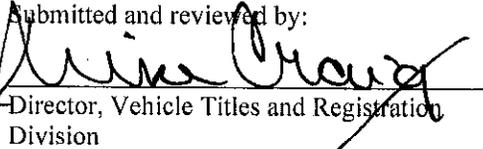
The Texas Transportation Commission (commission) finds it necessary to propose amendments to §17.28, relating to specialty license plates, symbols, tabs and other devices, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments, 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.

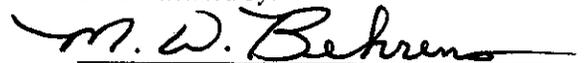
IT IS THEREFORE ORDERED by the commission that the amendments to §17.28 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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, Vehicle Titles and Registration
Division

Recommended by:


Executive Director

110578 JUN 29 06

Minute
Number

Date
Passed

1 Proposed Preamble

2 The Texas Department of Transportation (department) proposes
3 amendments to §17.28, concerning specialty license plates,
4 symbols, tabs, and other devices.

5
6 Transportation Code, §504.801 authorizes the department to
7 create new specialty license plates, either on its own
8 initiative or upon receipt of an application from an
9 organization or individual. In 2004, administrative rules were
10 adopted for the implementation of Transportation Code, §504.801.
11 These amendments revise §17.28(i), Development of new specialty
12 license plates, to clarify the procedures for the specialty
13 license plate committee (committee), the application process,
14 and issuance of new specialty license plates.

15
16 Throughout the proposed rule, nonsubstantive changes in language
17 are made to correct terminology and enhance readability.

18
19 Section 17.28(i)(1)(A) is amended to specify that the committee
20 shall review all completed specialty license plate applications.
21 Applications that are not complete will not be considered by the
22 committee.

23
24 Section 17.28(i)(1)(C) is added to provide the criteria the
25 committee will utilize for recommending a proposed specialty

1 license plate.

2

3 Section 17.28(i)(1)(D) is amended to require posting on the
4 department's website of the proposed specialty license plates
5 recommended by the committee. The number of days for a proposed
6 specialty license plate to be posted for public comment period
7 is amended from 30 to 10 days. These timeframes establish
8 consistency with Transportation Code, §504.851, Contract with
9 Private Vendor. The license plate design is also added to the
10 website notice.

11

12 New §17.28(i)(1)(E) is added to specify that specialty license
13 plate applications that are restricted to certain individuals or
14 groups of individuals (qualifying plates) will be reviewed by
15 the committee utilizing the same procedures as applications
16 submitted for plates that are available to everyone (non-
17 qualifying plates).

18

19 Section 17.28(i)(2)(A) is amended to list the items that are
20 required as part of the application. The new language clarifies
21 that the certification for the not-for-profit status must be on
22 a form provided by the Internal Revenue Service on that
23 department's letterhead.

24

25 The amendments also provide that the application needs to

1 identify the projected sales and a marketing plan for the plate.
2 The department has found it difficult to adequately review
3 applications if the application only includes an estimate of
4 potential plate sales. By requiring the applicant to include
5 information regarding their marketing plan and information on
6 the types or groups of individuals that will be interested in
7 purchasing the plate, the department will be better able to
8 determine if the projected sales will meet the deposit
9 requirement.

10

11 The new language also requires the signature of the executive
12 director of the sponsoring state agency. This requirement is to
13 insure the sponsoring agency is fully aware of their
14 participation in the program. In addition, the letter must
15 state that the funds will be used for a lawful purpose.

16

17 Section 17.28(i)(2)(B) is amended to clarify the application
18 process. The amended language requires that the committee has
19 the authority to request additional information if necessary to
20 make a decision on the application. Further, the new language
21 requires that if additional information is requested the
22 decision on the application will be postponed until the next
23 committee meeting. If the additional information is not
24 received the application will be considered incomplete and will
25 not be reviewed by the committee. The executive director is the

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18 process. The amended language requires that the committee has
19 the authority to request additional information if necessary to
20 make a decision on the application. Further, the new language
21 requires that if additional information is requested the
22 decision on the application will be postponed until the next
23 committee meeting. If the additional information is not
24 received the application will be considered incomplete and will
25 not be reviewed by the committee. The executive director is the

1 final approval authority of a specialty license plate
2 application and the criteria on which the decision is based is
3 identified. An applicant whose application is not approved by
4 the executive director must submit a new application to be
5 considered again by the committee. The committee will no longer
6 hold applications and continue to review those held applications
7 in each successive meeting.

8
9 Section 17.28(i)(3) is amended to specify that the department
10 has the final approval of all specialty license plate designs.

11
12 Section 17.28(i)(4) language pertaining to the redesign of
13 specialty license plates is amended to require the redesign to
14 go through the application and approval process. An approved
15 redesign will not require the \$15,000 deposit as required by
16 Transportation Code, §504.702. The redesign does however
17 require the payment of administrative costs associated with the
18 redesign.

19
20 FISCAL NOTE

21 James Bass, Chief Financial Officer, has determined that for
22 each of the first five years the amendments as proposed are in
23 affect, there will be no fiscal implications for state or local
24 governments as a result of enforcing or administering the
25 amendments. There are no anticipated economic costs for persons

1 required to comply with the section as proposed.

2

3 Rebecca Davio, Director, Vehicle Titles and Registration
4 Division, has certified that there will be no significant impact
5 on local economies or overall employment as a result of
6 enforcing or administering the amendments.

7

8 PUBLIC BENEFIT

9 Ms. Davio has also determined that for each year of the first
10 five years the section is in effect, the public benefit
11 anticipated as a result of enforcing or administering the
12 amendments will be providing non-profit entities the policies
13 and procedures necessary for obtaining a specialty license plate
14 for their organization and thus enhancing the customer service
15 level of the department. There will be no adverse economic
16 effect on small businesses.

17

18 SUBMITTAL OF COMMENTS

19 Written comments on the proposed amendments may be submitted to
20 Rebecca Davio, Director, Vehicle Titles and Registration
21 Division, Texas Department of Transportation, 125 East 11th
22 Street, Austin, Texas 78701-2483. The deadline for receipt of
23 comments is 5:00 p.m. on August 14, 2006.

24

1 STATUTORY AUTHORITY

2 The amendments are proposed under Transportation Code, §201.101,
3 which provides the commission with the authority to establish
4 rules for the conduct of the work of the department, and more
5 specifically, Transportation Code, §504.004, which allows the
6 department to adopt rules to administer Transportation Code,
7 Chapter 504, governing the issuance of specialty license plates.

8

9 CROSS REFERENCE TO STATUTE

10 Transportation Code, §504.801.

SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

§17.28. Specialty License Plates, Symbols, Tabs, and Other
Devices.

(a) - (h) (No change.)

(i) Development of new specialty license plates.

(1) Procedure. The following procedure governs the
process of authorizing [~~issuance of~~] new specialty license
plates under Transportation Code, §504.801. It applies whether
the new license plate originated as a result of an application
or on the department's own initiative.

(A) The executive director will appoint no fewer than
three employees of the department to a specialty license plate
committee. The [~~license plate~~] committee shall meet at least
once every six months and shall review all completed specialty
license plate applications [~~tentatively decide to issue or not~~
~~issue all proposed specialty license plates~~].

(B) The [~~license plate~~] committee may request
additional information from an applicant if necessary to reach a
[~~the additional information would be relevant to the~~] decision
[~~whether or not to issue the proposed license plate~~].

(C) The recommendation of the committee will be based
on the following:

(i) the projected sales of the license plate as

1 demonstrated in the marketing plan and by the listing of target
2 purchasers;

3 (ii) compliance with Transportation Code, §504.801;
4 and

5 (iii) other information provided during the
6 application process.

7 (D) [(B)] If the [license plate] committee recommends
8 the issuance of [tentatively decides to issue] a proposed
9 specialty license plate, notice of the proposed new license
10 plate will be published in the *Texas Register* and the license
11 plate design will be posted on the department's web site to
12 receive public [for] comment. Comments must be received 10 days
13 from the date the notice is published in the *Texas Register* [The
14 comment period shall be no less than 30 days].

15 ~~[(C) If the license plate committee tentatively decides~~
16 ~~not to issue a proposed specialty license plate, the director of~~
17 ~~the Vehicle Titles and Registration Division shall forward the~~
18 ~~committee's tentative decision to the executive director or the~~
19 ~~executive director's designee, who will decide not to issue the~~
20 ~~proposed specialty license plate or will decide tentatively to~~
21 ~~issue the proposed specialty license plate. If the decision is~~
22 ~~tentatively made to issue the proposed specialty license plate,~~
23 ~~notice will be published in the *Texas Register* and the~~

1 ~~department's web site under subparagraph (B) of this paragraph.]~~

2 ~~[(D) After notice of a proposed specialty license plate~~
3 ~~is published and the comment period has expired, the director~~
4 ~~will make a recommendation to the executive director or the~~
5 ~~executive director's designee, who will decide whether to issue~~
6 ~~the proposed license plate.]~~

7 (E) Specialty license plate applications that are
8 restricted to certain individuals or groups of individuals
9 (qualifying plates) will be reviewed by the committee using the
10 same procedures as applications submitted for plates that are
11 available to everyone (non-qualifying plates). The limited
12 number of potential purchasers will be a factor in the approval
13 decision.

14 (2) Applications for the creation of new specialty
15 license plates.

16 (A) Requirements. To apply for the creation of a new
17 specialty license plate, an applicant must submit a written
18 application [~~. The application must be~~] on a form approved by
19 the director. The application shall include [~~and include, at a~~
20 ~~minimum~~]:

21 (i) the applicant's name, address, telephone number,
22 and other identifying information as directed on the form;

23 (ii) a current certification provided by the Internal

1 Revenue Service on that department's letterhead, stating that
2 the applicant is a not-for-profit enterprise; ~~and]~~

3 (iii) a draft design of the specialty license
4 plate; ~~[-]~~

5 (iv) projected sales of the plate, including an
6 explanation of how the projected figure was established;

7 (v) a marketing plan for the plate including a
8 description of the target market;

9 ~~[(B) Optional information. An applicant for the~~
10 ~~creation of a new specialty license plate may also include:]~~

11 ~~[(i) a proposed distribution of fees; and]~~

12 (vi) [(ii)] a letter from the executive director of
13 the [a] sponsoring state agency stating that the agency agrees
14 to receive and distribute revenues from the specialty license
15 plate and that the use of the funds will not violate a statute
16 or constitutional provision; and

17 (vii) other information necessary for the committee
18 to reach a decision regarding approval of the requested
19 specialty plate.

20 (B) [C] Application Process [Procedure].

21 (i) The application must be complete to be considered
22 by the committee ~~[to create a new specialty license plate must~~
23 ~~be submitted on a form prescribed by the director].~~

1 (ii) If the committee reviews an application and
2 determines that additional information is needed from the
3 applicant that may contribute to the application decision, the
4 decision on the application will be postponed until the next
5 committee meeting.

6 (iii) If the additional requested information is not
7 received prior to the next committee meeting the application
8 will not be considered and will be returned to the applicant as
9 incomplete.

10 (iv) The executive director will make the final
11 decision on the specialty license plate application based on the
12 committee's recommendation and the comments received during the
13 posting period.

14 (v) An applicant whose application is not approved by
15 the executive director must submit a new application and
16 supporting documentation to be considered again by the
17 committee.

18 (3) Issuance of specialty plates.

19 (A) If the specialty license plate is approved [~~If the~~
20 ~~department decides to issue the new specialty license plate~~],
21 the applicant must comply with Transportation Code, §504.702[~~7~~]
22 before any further design and processing of the license plate.

23 (B) Approval of the plate does not guarantee that the

1 submitted draft plate design will be used. The department has
2 final approval of all specialty license plate designs and can
3 adjust or reconfigure the submitted draft design to comply with
4 the format of the license plate specifications.

5 (4) ~~(3)~~ Redesign of specialty license plate.

6 (A) At the request of the original or subsequent
7 applicant, the department may redesign a specialty license
8 plate.

9 (B) A request for a new design will go through the
10 application and approval process required by this subsection.

11 (C) An approved license plate redesign does not require
12 the full deposit required by Transportation Code, §504.702.

13 (D) The original or subsequent applicant will pay a
14 [all] redesign cost to cover administrative expenses [costs].
15 ~~[The department's decision will be based on the cost to the~~
16 ~~public of redesigning the license plate and will consider the~~
17 ~~amount of any preprinted sheeting remaining and other~~
18 ~~administrative costs.]~~

19 (j) (No change.)