

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

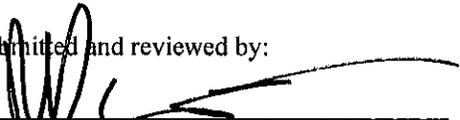
The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §17.28, relating to specialty license plates, symbols, tabs and other devices, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted 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 adopted and are authorized for filing with the Office of the Secretary of State.

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

**110697 SEP 28 06**

Minute Number      Date Passed

1 Adoption Preamble

2 The Texas Department of Transportation (department) adopts  
3 amendments to §17.28, concerning specialty license plates,  
4 symbols, tabs, and other devices. The amendments to §17.28 are  
5 adopted without changes to the proposed text as published in the  
6 July 14, 2006 issue of the *Texas Register* (31 TexReg 5587) and  
7 will not be republished.

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

18  
19 Throughout the adopted rule, nonsubstantive changes in language  
20 are made to correct terminology and enhance readability.

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

1

2 Section 17.28(i)(1)(C) is added to provide the criteria the  
3 committee will utilize for recommending a proposed specialty  
4 license plate.

5

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

14

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

21

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

1 department's letterhead.

2

3 The amendments also provide that the application needs to  
4 identify the projected sales and a marketing plan for the plate.

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

13

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

19

20 Section 17.28(i)(2)(B) is amended to clarify the application  
21 process. The amended language requires that the committee has  
22 the authority to request additional information if necessary to  
23 make a decision on the application. Further, the new language  
24 requires that if additional information is requested the  
25 decision on the application will be postponed until the next

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

11

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

14

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

22

23 COMMENTS

24 No comments on the proposed amendments were received.

25

1 STATUTORY AUTHORITY

2 The amendments are adopted 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.)