

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

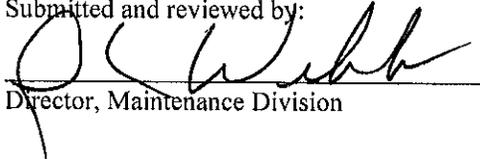
The Texas Transportation Commission (commission) finds it necessary to adopt the repeal of §29.48 and new §29.48, relating to boarding priorities for state owned ferries, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted 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.

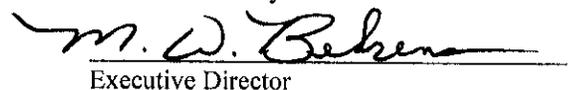
IT IS THEREFORE ORDERED by the commission that the repeal of §29.48 and new §29.48 are adopted and are authorized for filing with the Office of the Secretary of State.

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, Maintenance Division

Recommended by:


Executive Director

110423 FEB 23 06

Minute Number Date Passed

1 Adoption Preamble

2 The Texas Department of Transportation (department) adopts the
3 repeal of §29.48 and simultaneously adopts new §29.48 concerning
4 boarding priorities of state owned ferries. New §29.48 is
5 adopted with changes to the proposed text as published in the
6 September 9, 2005 issue of the *Texas Register* (30 TexReg 5773).
7 The repeal of §29.48 is adopted without changes to the proposed
8 text as published in the September 9, 2005 issue of the *Texas*
9 *Register* (30 TexReg 5773) and will not be republished.

10

11 EXPLANATION OF ADOPTED REPEAL AND NEW SECTION

12 Transportation Code, §342.004, allows the department to adopt
13 rules to establish a system under which any owner of a motor
14 vehicle may apply to the department for issuance of a sticker
15 for a vehicle that entitles the vehicle to have priority in
16 boarding the Galveston-Port Bolivar ferry or the Port Aransas
17 ferry operated by the department. Pursuant to this authority,
18 the Texas Transportation Commission (commission) has previously
19 adopted §29.48 to allow certain vehicles priority in boarding a
20 ferry.

21

22 The department adopts the repeal of §29.48 and simultaneously
23 adopts new §29.48 in a revised form. New §29.48(a)(1) outlines
24 special emergency or humanitarian boarding situations, such as
25 ambulances and other vehicles transporting sick or injured

1 persons, fire department vehicles, medical doctors en route to
2 an emergency, law enforcement officers engaged in the
3 performance of an official duty, U.S. Coast Guard vehicles
4 responding to marine emergencies, school buses, funeral
5 processions, and public transportation vehicles carrying six or
6 more persons. Vehicles with special boarding situations will
7 receive priority over all other vehicles boarding the ferry.

8
9 New §29.48(a)(2) outlines the various fees for an annual permit
10 for the Galveston/Bolivar and Port Aransas ferries. The
11 department will begin issuing permits once 500 applications have
12 been received. The fees vary based on the size of the vehicle
13 and the number of permits issued per applicant. An annual
14 permit will be effective for 12 months from the month it is
15 issued. Upon completion of a permit application and payment of
16 required fees, a boarding priority permit and windshield sticker
17 will be issued.

18
19 The reference in §29.48(a)(2)(B) to a one-axle vehicle has been
20 deleted because there are no one-axle vehicles that will utilize
21 priority boarding.

22
23 Section 29.48(a)(3) provides for the ferry captain or ferry
24 operations manager, at their own discretion, to allow priority
25 boarding for humanitarian reasons. Section 29.48(b) provides
26 that all other vehicles shall board in order of arrival after

1 priority boarding is completed.

2

3 COMMENTS

4 Public hearings were held on September 19, 2005 in Port Aransas,
5 Texas and on November 29, 2005 in Crystal Beach, Texas, and
6 various oral and written comments were received, including
7 sixty-two comments indicating general support of the proposed
8 rules and nineteen comments indicating general opposition to the
9 proposed rules. Summaries of the comments and commission
10 responses are as follows.

11

12 **Galveston/Bolivar Ferry**

13

14 COMMENT

15 Five commenters stated there are special needs for the elderly
16 and people with medical disabilities or handicapped and for
17 doctor visits.

18

19 RESPONSE

20 Section 29.48(a)(3) authorizes the ferry captain or ferry
21 operations manager to allow priority boarding for humanitarian
22 purposes not covered in §29.48(a)(1). Regular doctor visits are
23 not included for priority boarding because regular doctor visits
24 can be scheduled for off-peak periods. Department records show
25 that 86% of the time there is no waiting period before boarding
26 the Galveston/Bolivar Ferry.

27

28 COMMENT

29 Two commenters suggested taking into consideration the need for

1 short term passes or weekend only passes, charging a lower fee
2 at first and increasing it later to cover costs, or allowing
3 monthly payments by credit card, debit card, or any method to
4 make it easier to pay.

5

6 RESPONSE

7 Transportation Code, §342.004, requires the department to
8 collect priority boarding fees annually and issue stickers.
9 Even if the fee could be broken down into monthly payments, it
10 would not be practical to issue the corresponding stickers on a
11 monthly basis. Weekend only passes would overload the priority
12 boarding system because of travel peaks during these periods and
13 holidays.

14

15 COMMENT

16 One commenter suggested a reversible line in Galveston.

17

18 RESPONSE

19 The department disagrees with this suggestion. Reversible lines
20 have been considered by the Houston District and concern about
21 traffic safety and handling local cross traffic make this option
22 undesirable.

23

24 COMMENT

25 A comment was received suggesting public transportation or
26 shuttle buses be provided.

27

28 RESPONSE

1 The department supports existing public transportation in the
2 city of Galveston and on the Bolivar Peninsula with public
3 funds. To encourage public transportation, public
4 transportation vehicles that are carrying six or more passengers
5 are added to the special situation boarding outlined in revised
6 subsection (a)(1)(I). In addition, the department will
7 cooperate by providing locations for buses or shuttles to stop
8 and pick up passengers. Commercial shuttles may purchase a
9 priority boarding pass.

10

11 COMMENT

12 One commenter requested that the fee structure be made simpler.

13

14 RESPONSE

15 The department chose to impose extra charges for vehicles that
16 take up extra space since only 50% of the ferry's capacity can
17 be devoted to priority boarding at any time.

18

19 COMMENT

20 Nine commenters requested that only residents and home owners be
21 eligible for priority boarding.

22

23 RESPONSE

24 The department has no statutory authority to provide special
25 treatment to any group of citizens.

26

27 COMMENT

28 One commenter stated that the department received an
29 appropriation for the capital improvements, so the fee should be
30 based solely on the cost to administer the program rather than

1 the cost of capital improvements.

2

3 RESPONSE

4 Only the ramp and additional ferry are funded by the
5 appropriation. The priority boarding fee is designed to cover
6 other roadway improvements specific to and necessitated by
7 priority boarding as well as the operational costs of the
8 priority boarding system.

9

10 COMMENT

11 Nineteen commenters said the \$400 annual fee was too high. One
12 commenter said the fee should be lowered and amortized over a
13 longer period of time. One person said the fee should be \$100.

14

15 RESPONSE

16 Based on the comments received, the department determined that
17 it would be unlikely to sell a sufficient number of permits at
18 \$400 to justify the program. The department is lowering the fee
19 for two-axle vehicles to \$250 for the first vehicle, and \$150
20 for other two-axle vehicles at the same address.

21

22 COMMENT

23 One commenter stated that multi-axle vehicles should pay more.

24

25 RESPONSE

26 In order to increase the likelihood that a sufficient number of
27 annual permits would be sold, the department has lowered the
28 proposed fee from \$600 to \$500 for buses, motor homes, or single
29 unit trucks with up to three axles. In order to compensate for
30 the lower fees charged for smaller vehicles, and due to the

1 anticipated demand for annual permits for large vehicles, the
2 department has raised the proposed fee from \$800 to \$1,000 for
3 multi-unit trucks or other vehicles with more than three axles.
4

5 COMMENT

6 One commenter stated that priority passes should be available to
7 all taxpayers.
8

9 RESPONSE

10 Under the proposed rule, priority passes will be available to
11 all taxpayers.
12

13 COMMENT

14 One commenter requested that hanging tags be used instead of
15 stickers.
16

17 RESPONSE

18 The statute specifically requires the department to issue
19 stickers rather than hanging tags.
20

21 COMMENT

22 Two commenters recognized that if too many vehicles obtain
23 priority boarding passes that the priority system would not
24 work.
25

26 RESPONSE

27 The department agrees with this concern.
28

29 COMMENT

30 Several people commented that the department needs to improve

1 the landing and add more ferries to improve operations and
2 service.

3

4 RESPONSE

5 These comments do not pertain to the proposed rules.

6

7 COMMENT

8 One commenter requested a breakdown of the financial analysis
9 that justified the proposed \$400 fee.

10

11 RESPONSE

12 Construction cost of adding a paved lane: \$3,840,000 paid off in
13 ten years at \$384,000 per year. Printing stickers: \$2000 per
14 year. Contract security: \$200,000 per year. Maintenance of
15 traffic lane: \$2,000 per year. Temporary personnel to process
16 applications: \$15,000 per year. Forms and computer time: \$2000
17 per year. Additional personnel at ferries: \$170,842 per year.
18 Total cost: \$775,842 per year, divided by 2000 stickers sold:
19 \$387.92. The cost was rounded to \$400. These costs are for the
20 Galveston/Bolivar ferry system. Similar costs were estimated
21 for the Port Aransas ferries.

22

23 COMMENT

24 One commenter submitted a packet of comments initially submitted
25 in February of 2005. These comments address issues such as wait
26 time, trucks, dredging, maintenance of existing ferries, park
27 and ride, lane problems, and temporary fixes.

28

29 RESPONSE

30 These comments do not pertain to the proposed rules.

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Port Aransas Ferry

COMMENT

One commenter said that the 50% capacity given to priority boarders and 50% to others would result in no advantage to priority boarders.

RESPONSE

Transportation Code, §342.004, requires the department to limit priority boarding to 50% of the ferry's vehicle capacity.

COMMENT

Eight commenters suggested issuing transferable hanging tags rather than stickers.

RESPONSE

Transportation Code, §342.004, does not give the department the option of selling hanging tags rather than stickers.

COMMENT

Five people said the fee is too high.

RESPONSE

Based on comments received, the department determined that it would be unlikely to sell a sufficient number of permits at \$400 to justify the program. The department is lowering the fee for two-axle vehicles to \$250 for the first vehicle, and \$150 for other two-axle vehicles at the same address.

1 COMMENT

2 Nine commenters were opposed to priority boarding stickers
3 because of safety concerns about what other drivers will do.
4 There were also other statements about safety concerns for
5 priority boarders and other passengers in general.

6

7 RESPONSE

8 The department will provide extra security during peak periods
9 of operations to protect the users of the ferry.

10

11 COMMENT

12 A number of people were against transferable hanger type passes
13 because this would encourage theft and would reduce revenues.

14

15 RESPONSE

16 The statute and the rule only allow a sticker placed on the
17 windshield.

18

19 COMMENT

20 One person is for a pure toll ferry and would not support
21 priority passes.

22

23 RESPONSE

24 This rule implements Transportation Code, §342.004, which
25 provides for priority boarding rather than tolls. The
26 department is not authorized to charge tolls.

27

28 COMMENT

29 Three commenters suggested that priority boarding be offered to
30 residents and home owners only.

1

2 RESPONSE

3 The department has no authority to provide special treatment to
4 any group of citizens.

5

6 COMMENT

7 Two people suggested that businesses be charged a discount rate.

8

9 RESPONSE

10 The department lacks statutory authority to do this.

11

12 STATUTORY AUTHORITY

13 The repeal and new section are adopted under Transportation
14 Code, §201.101, which provides the commission with the authority
15 to establish rules for the conduct of the work of the
16 department, and, more specifically, Transportation Code,
17 §342.004, which authorizes the commission to adopt rules to
18 establish a priority boarding system.

19

20 CROSS REFERENCE TO STATUTE

21 Transportation Code, §342.004.

1 SUBCHAPTER C. OPERATION OF STATE-OWNED FERRIES

2 §29.48. Boarding Priorities.

3 (a) The following vehicles, in no specific order of
4 priority, shall have priority over all other vehicles in
5 boarding a ferry:

6 (1) ambulances when transporting sick or injured persons,
7 or when responding to or returning from medical emergencies;

8 (2) other vehicles transporting sick or injured persons;

9 (3) fire department vehicles when responding to or
10 returning from fire or medical emergencies;

11 (4) medical doctors who are enroute for the emergency
12 care of the sick or injured;

13 (5) law enforcement officers when engaged in the
14 performance of an official duty;

15 (6) U.S. Coast Guard vehicles when responding to or
16 returning from marine emergencies;

17 (7) school buses when going to or returning from school
18 functions; and

19 (8) funeral processions.

20 (b) Vehicles that do not qualify as one of the vehicles
21 described in subsection (a) of this section shall have no
22 priority over each other unless the ferry captain or ferry
23 operations manager, at his or her sole discretion, allows

- 1 priority boarding for humanitarian purposes.

REPEALED

NOTE: Repealed Section

Exhibit B

OGC: 01/12/06

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 Section

Exhibit C

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

3 (H) funeral processions; and

4 (I) public transportation vehicles carrying six or more
5 passengers.

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

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

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

13 (i) \$250 for a two-axle vehicle, including a
14 motorcycle, car, pickup truck, or van;

15 (ii) \$500 for a bus, motor home, or a single unit
16 truck with up to three axles; and

17 (iii) \$1,000 for a multi-unit truck or other
18 vehicle with more than three axles.

19 (C) If the applicant purchases more than one annual
20 permit, the subsequent permits for each additional two-axle
21 vehicle registered to the same address as another vehicle with
22 an unexpired annual permit are \$150 each.

23 (D) An annual permit expires 12 months after issuance.

1 (E) An application for an annual permit shall be
2 submitted by the vehicle owner on a form prescribed by the
3 department, which shall at a minimum include the vehicle license
4 plate number, state of registration, name of applicant, and
5 mailing address. The application will state acceptable methods
6 of payment.

7 (F) The department will not issue priority boarding
8 stickers for a ferry location until it has received
9 approximately 500 applications for that location.

10 (G) A priority boarding sticker will be issued to each
11 applicant upon payment of the permit fee.

12 (H) The sticker issued for the permit shall be placed
13 near the upper left corner of the front windshield.

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

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