

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

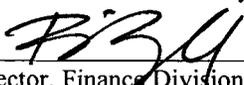
The Texas Transportation Commission (commission) finds it necessary to propose amendments to §5.42, Definitions, §5.43, Methods of Payment, and §5.44, Exceptions, all relating to payment of fees for department goods and services to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §5.42, §5.43, and §5.44 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, Finance Division

Recommended by:



Executive Director

112107 JAN 28 10

Minute Date
Number Passed

1 Proposed Preamble

2 The Texas Department of Transportation (department) proposes
3 amendments to §5.42, Definitions, §5.43, Methods of Payment, and
4 §5.44, Exceptions, all relating to the payment of fees for
5 department goods and services.

6

7 EXPLANATION OF PROPOSED AMENDMENTS

8 The legislature at its 2009 Regular Session enacted H.B. No.
9 3097, which created the Texas Department of Motor Vehicles (DMV)
10 and transferred to the DMV the powers, duties, obligations, and
11 rights of action of the department's vehicle titles and
12 registration division and motor vehicle division, the Automobile
13 Burglary Theft Prevention Authority, and the part of the
14 department's motor carrier division responsible for motor
15 carrier registration and the enforcement of Transportation Code,
16 Title 7, Subtitle F, which relates to the regulation of
17 commercial motor vehicles. As a result of the transfer, the
18 rules of the Texas Transportation Commission (commission)
19 relating to the payment of fees for department goods or services
20 need to be revised.

21

22 Amendments to §5.42, Definitions, removes the issuance of
23 registrations from the definition of "goods and services"
24 because with the transfer of the duties to the DMV, the
25 department no longer issues registrations. The amendments to

1 the section delete the definition of VTR because the
2 department's Vehicle Titles and Registration Division no longer
3 exists.

4

5 Amendments to §5.43, Methods of Payment, delete the reference in
6 subsection (b) to transactions involving VTR because the
7 department's Vehicle Titles and Registration Division no longer
8 exists.

9

10 Amendments to §5.44, Exceptions, delete the references to fees
11 for motor carrier registration, the regulation of motor
12 transportation brokers, and Internet motor vehicle registration
13 because those functions are now performed, and the associated
14 fees collected, by the DMV.

15

16 FISCAL NOTE

17 James Bass, Chief Financial Officer, has determined that for
18 each of the first five years the amendments as proposed are in
19 effect, there will be no fiscal implications for state or local
20 governments as a result of enforcing or administering the
21 amendments.

22

23 Brian Ragland, Director, Finance Division has certified that
24 there will be no significant impact on local economies or
25 overall employment as a result of enforcing or administering the

1 amendments.

2

3 PUBLIC BENEFIT AND COST

4 Mr. Ragland has also determined that for each year of the first
5 five years the sections are in effect, the public benefit
6 anticipated as a result of enforcing or administering the
7 amendments will be that the current statutory requirements are
8 accurately reflected in the rules of the commission. There are
9 no anticipated economic costs for persons required to comply
10 with the sections as proposed. There will be no adverse
11 economic effect on small businesses.

12

13 SUBMITTAL OF COMMENTS

14 Written comments on the proposed amendments to §§5.42 - 5.44,
15 may be submitted to Brian Ragland, Director, Finance Division,
16 Texas Department of Transportation, 125 East 11th Street,
17 Austin, Texas 78701-2483. The deadline for receipt of comments
18 is 5:00 p.m. on March 15, 2010.

19

20 STATUTORY AUTHORITY

21 The amendments are proposed under Transportation Code, §201.101,
22 which provides the commission with the authority to establish
23 rules for the conduct of the work of the department, and more
24 specifically, Transportation Code, §201.208, which provides the
25 commission with the authority to establish rules regarding the

1 method of payment of a fee for goods sold or services provided
2 by the department.

3

4 CROSS REFERENCE TO STATUTE

5 Transportation Code, §201.208, and Transportation Code, Chapter

6 1001.

1 SUBCHAPTER D. PAYMENT OF FEES FOR DEPARTMENT GOODS AND SERVICES

2 §5.42. Definitions. The following words and terms, when used
3 in this subchapter, shall have the following meanings unless the
4 context clearly indicates otherwise.

5 (1) Commission--The Texas Transportation Commission.

6 (2) Department--The Texas Department of Transportation.

7 (3) Goods and services--Any goods sold or services
8 provided by the department, including the sale of travel
9 promotional materials and department publications, and the
10 issuance of licenses^[7] and permits^[7] ~~and registrations~~.

11 [~~(4) VTR--The department's Vehicle Titles and~~
12 ~~Registration Division.~~]

13

14 §5.43. Methods of Payment.

15 (a) Except as provided in §5.44 of this title (relating to
16 Exceptions), all fees for department goods and services and any
17 fees required in the administration of any department program
18 may be paid to the department:

19 (1) with a valid credit card issued by a financial
20 institution chartered by a state or the United States;

21 (2) by electronic funds transfer;

22 (3) with a personal check, business check, cashier's
23 check, or money order, payable to the Texas Department of

1 Transportation; or

2 (4) by cash in person at locations made available for
3 that purpose by the department.

4 (b) Fees may be paid by credit card only if the transaction
5 involves a charge of at least five dollars[~~, except for~~
6 ~~transactions involving VTR goods and services~~]. Payments by
7 credit card may not be made if a transaction involves a charge
8 of more than \$2,000.

9 (c) Persons paying by credit card will pay a service charge
10 of one dollar per transaction along with the applicable fee.

11 (d) Subsections (b) and (c) of this section do not apply to
12 payments for subscriptions to and single issues of Texas
13 Highways. Payments by check or money order for subscriptions to
14 and single issues of the magazine are payable to Texas Highways.

15

16 §5.44. Exceptions. This subchapter does not apply to the
17 payment of:

18 [~~(1) motor carrier registration fees under §18.15 of this~~
19 ~~title (relating to Payment of Fees);~~]

20 [~~(2) motor transportation broker fees under §18.42 of~~
21 ~~this title (relating to Fees);~~]

22 (1) [~~(3)~~] oversize and overweight permit fees under
23 §28.11 of this title (relating to General Oversize/Overweight

1 Permit Requirements and Procedures);

2 [~~(4) fees required for Internet motor vehicle~~
3 ~~registration under Chapter 17 of this title (relating to Vehicle~~
4 ~~Titles and Registration);]~~

5 (2) [~~(5)~~] fees for products sold through Texas Highways
6 under §23.27 of this title (relating to Magazine Ancillary
7 Products); and

8 (3) [~~(6)~~] tolls and customer account fees under §27.82 of
9 this title (relating to Toll Operations).