

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §23.1, Purpose, §23.2, Definitions, §23.10, Travel Literature, §23.12, Texas Official Travel Map, and §23.14, Display of Travel Literature in the Texas Travel Information Centers, be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments, attached to this minute order as Exhibits A - C, 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 §23.1, §23.2, §23.10, §23.12, and §23.14 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:

Aaron Haddeshell
Director, Travel Information Division

Recommended by:

Amelia Savoy
Executive Director

112432 SEP 30 10

Minute
Number

Date
Passed

1 Proposed Preamble

2 The Texas Department of Transportation (department) proposes
3 amendments to §23.1, Purpose, §23.2, Definitions, §23.10, Travel
4 Literature, §23.12, Texas Official Travel Map, and §23.14,
5 Display of Travel Literature in the Texas Travel Information
6 Centers.

7

8 EXPLANATION OF PROPOSED AMENDMENTS

9 Transportation Code, Chapter 204 directs the department to
10 advertise and attract traffic to the highways of this state by
11 publishing the state's travel literature containing information
12 on public parks, recreational areas, scenic areas, and other
13 public places and objects of interest and value to the public
14 and highway users, and by periodically publishing the state
15 highway map. The chapter also requires the department to
16 operate Texas Travel Information Centers at the principal
17 gateways to this state to provide highway information, travel
18 guidance, and descriptive material designed to assist the
19 traveling public and stimulate travel to and within the state.

20

21 Amendments to §23.1, Purpose, and §23.2, Definitions, change the
22 name of the division from the "Travel Division" to the "Travel
23 Information Division" to better describe the division's
24 functions.

25

26 Amendments to §23.10, Travel Literature, clarify subject matter

1 that may be included in the department's travel literature by
2 specifying that subject matter must appeal to a broad spectrum
3 of tourists, not just to a general audience, and must highlight
4 the assets of the state of Texas. The amendments also clarify
5 examples of a routine commercial service, which cannot be
6 included in the department's travel literature. Large outlet
7 malls and Texas wineries are exempted from that exclusion. The
8 amendments also clarify subject matter that cannot be included
9 in the department's travel literature by excluding municipal
10 destinations such as parks, golf courses, and pools that
11 primarily serve only a community and its surrounding residents.
12 These changes more accurately reflect the goal of appealing to a
13 broad spectrum of tourists and not just a general audience.

14

15 Amendments to §23.12, Texas Official Travel Map, clarify the
16 items that are depicted on the map by adding the Texas Travel
17 Information Centers. The amendments change the criteria for a
18 city or town to be included on the map by deleting the
19 requirement that a city or town have a United States post office
20 and by deleting the requirement that a city or town have an auto
21 repair service available in the area and requiring that a city
22 or town be located on the state maintained highway system, have
23 a population of 50 or more, and be near a significant park or
24 recreational area, or a historical, recreational, or scenic
25 tourist interest facility that is open to the public
26 continuously or on a regular seasonal basis rather than meeting

1 only one of the above criteria. Post offices are closing across
2 the country, so the requirement that a town have a post office
3 is no longer a fair requirement. The Travel Information
4 Division does not have the resources to determine what towns
5 have auto repair services, so that requirement is also being
6 removed. The three requirements that remain better qualify a
7 community for inclusion on the map because they are reasonable
8 requirements collectively but still allow the map to include
9 only Texas towns that are generally well traveled by the public.

10

11 The amendments also add spurs, loops, and business routes that
12 provide access to widely recognized parks, lakes, tourist
13 attractions, or recreational areas to the examples of roadways
14 that may be depicted on the map. The current rules include only
15 FM, RM, or RR, but department roadways include spurs, loops, and
16 business routes; the purpose of adding these routes to the rules
17 is for clarification.

18

19 The amendments to §23.14, Display of Travel Literature in the
20 Texas Travel Information Centers, clarify the types of
21 literature and other promotional items that may be distributed
22 at Travel Information Centers by including information about
23 performing arts theaters and specialty shopping facilities that
24 are tourist attractions. Performing arts theaters and specialty
25 shopping facilities are destinations that appeal to tourists.

26

1 FISCAL NOTE

2 James Bass, Chief Financial Officer, has determined that for
3 each of the first five years the amendments as proposed are in
4 effect, there will be no fiscal implications for state or local
5 governments as a result of enforcing or administering the
6 amendments.

7

8 Doris Howdeshell, Director, Travel Information Division, has
9 certified that there will be no significant impact on local
10 economies or overall employment as a result of enforcing or
11 administering the amendments.

12

13 PUBLIC BENEFIT AND COST

14 Ms. Howdeshell has also determined that for each year of the
15 first five years the sections are in effect, the public benefit
16 anticipated as a result of enforcing or administering the
17 amendments will be to improve the department's ability to
18 promote travel and tourism in the state without increasing the
19 cost to taxpayers. There are no anticipated economic costs for
20 persons required to comply with the sections as proposed. There
21 will be no adverse economic effect on small businesses.

22

23 SUBMITTAL OF COMMENTS

24 Written comments on the proposed amendments to §23.1, §23.2,
25 §23.10, §23.12, and §23.14 may be submitted to Doris Howdeshell,
26 Director, Travel Information Division, Texas Department of

1 Transportation, 125 East 11th Street, Austin, Texas 78701-2483.
2 The deadline for receipt of comments is 5:00 p.m. on November
3 15, 2010.

4

5 STATUTORY AUTHORITY

6 The amendments are proposed under Transportation Code, §201.101,
7 which provides the Texas Transportation Commission with the
8 authority to establish rules for the conduct of the work of the
9 department, and more specifically, Transportation Code, Chapter
10 204, which requires the department to promote travel and tourism
11 in the state by operating the Travel Information Centers and
12 publishing the state's travel literature, including the Texas
13 Official Travel Map.

14

15 CROSS REFERENCE TO STATUTE

16 Transportation Code, Chapter 204.

1 SUBCHAPTER A. GENERAL PROVISIONS

2 §23.1. Purpose. This chapter prescribes the policies and
3 procedures for operation of the Travel Information Division of
4 the Texas Department of Transportation. The division directly
5 serves the Texas Transportation Commission and the department's
6 administration by administering public information and travel
7 and tourism programs. Public information activities consist of
8 preparing and disseminating information of public interest
9 concerning road conditions, litter reduction, highway
10 beautification, and information on Texas' travel opportunities.
11 The travel and tourism functions, as authorized by
12 Transportation Code, Chapter 204, include operation of the
13 state's network of Texas travel information centers, production
14 and dissemination of the state's travel and tourism literature,
15 and publication of *Texas Highways* magazine, the state's official
16 travel magazine.

17
18 §23.2. Definitions. The following words and terms, when used
19 in this chapter, shall have the following meanings, unless the
20 context clearly indicates otherwise.

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

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

23 (3) Director--The director of the Travel Information

1 Division.

2 (4) Display case--An enclosed structure, provided by the
3 department and located at a Travel Information Center, with
4 space for backlit photographic transparencies and small pieces
5 of artwork and items of interest.

6 (5) Division--The Travel Information Division of the
7 Texas Department of Transportation.

8 (6) Magazine--*Texas Highways* magazine.

9 (7) Metropolitan area--A group of cities in a large urban
10 area.

11 (8) Promotional graphics, photographs and icons--Artwork,
12 video, still photographic images and transparencies,
13 paraphernalia, and items of interest which depict the theme or
14 image of the region's or metropolitan area's travel and tourism
15 attraction or allure.

16 (9) Promotional posters--Artwork, still photographic
17 images, and transparencies which depict or promote a particular
18 event, city, region, or attraction.

19 (10) Purchaser--A person who purchases a *Texas Highways*
20 magazine product.

21 (11) Purchaser and subscriber mailing list--A list that
22 contains the names and addresses of purchasers and subscribers.

23 (12) Region--A geographic area within the state of Texas

1 with a common feature or theme and that is readily recognized as
2 a single entity.

3 (13) Subscriber--A person who pays a fee to receive *Texas*
4 *Highways* magazine by mail.

5 (14) Travel and tourism--Scenic, cultural, artistic, and
6 historical points of interest, public and private leisure and
7 recreation attractions, and parks located within the official
8 boundaries of the state of Texas.

9 (15) Travel Information Center--A recognized location
10 where travel literature and travel counseling are provided by
11 the department's trained professional travel counselors,
12 strategically located in buildings designated with signs, some
13 with adjoining rest areas, on key highways entering the state,
14 at the historical site of Judge Roy Bean's court at Langtry, and
15 in the Capitol Complex Visitor Center in Austin.

16 (16) Travel literature--Maps, pamphlets, brochures,
17 documents, guidebooks, bulletins, and other printed materials
18 and electronic media, except *Texas Highways* magazine, that are
19 designed to inform the public, stimulate travel to and within
20 the state of Texas, and publicize points of interest,
21 recreational grounds, scenic places, historical facts, or other
22 items of interest and value to the traveling public.

1 SUBCHAPTER B. TRAVEL INFORMATION

2 §23.10. Travel Literature.

3 (a) Purpose. The Texas Department of Transportation, under
4 Government Code, §2052.002, and Transportation Code, Chapter
5 204, publishes travel literature for free distribution to the
6 traveling public. This section sets forth department policies
7 and procedures relating to the production, development,
8 printing, advertising content, and distribution of that
9 literature.

10 (b) Subject matter.

11 (1) The director, or the director's designee, may select
12 subject matter concerning geographic locations, events, and
13 other items or points of interest to the general traveling
14 public for inclusion in department travel literature provided
15 that:

16 (A) the subject matter is a cultural, historical, or
17 recreational destination that appeals to a broad spectrum of
18 tourists and highlights the assets of the state of Texas, but
19 does not include a community amenity that primarily serves a
20 local community or its surrounding residents, such as a city or
21 county park, golf course, or swimming pool [~~general audience~~];

22 (B) the subject matter is regularly accessible (open)
23 to the general public; and

1 (C) the subject matter is not a routine commercial
2 service, including, but not limited to:

3 (i) car rentals;

4 (ii) hospitals or medical facilities;

5 (iii) retail stores or shopping centers, but
6 excluding large outlet malls made up of retail stores in which
7 manufacturers sell their stock directly to the public through
8 their own branded stores; or

9 (iv) commercial facilities such as movie theaters,
10 bowling alleys, and gyms.

11 (2) A winery listed as a Texas winery by the Texas
12 Department of Agriculture is not a routine commercial service
13 for the purposes of this subsection. A custom winery, as
14 defined by the Texas Department of Agriculture, is not a Texas
15 winery for the purposes of this subsection.

16 (3) [~~+2~~] The department may consider for inclusion in
17 travel literature, subject matter submitted by a person or
18 organization, with complete information to the division prior to
19 the publishing deadline announced for each specific travel
20 literature publication.

21 (4) [~~+3~~] The director may remove subject matter
22 concerning events and other items or points of interest to the
23 traveling public if the department receives three or more

1 consumer complaints concerning inaccurate information or
2 inadequate services. The department will send a written notice
3 of noncompliance to the person or organization affected. If the
4 director determines the complaints are valid and they remain
5 unresolved after 180 days, the director will remove the subject
6 matter from all travel literature, including the state's
7 official travel web site. A person or organization may appeal
8 removal to the department's executive director, or the executive
9 director's designee, not below the level of division director,
10 whose decision will be final.

11 (c) Distribution.

12 (1) Policy. This subsection prescribes the policies and
13 procedures of the department relating to the distribution and
14 dissemination of travel literature to:

15 (A) provide for equitable free distribution, within
16 budgetary constraints, of available travel literature; and

17 (B) maximize the resources of the department available
18 to advertise the highways of the state and to promote travel to
19 and within the state.

20 (2) Single copies. A single copy of a publication may be
21 distributed free of charge to each individual requesting a
22 publication.

23 (3) Multiple copies or bulk quantities.

1 (A) Except as provided in paragraph (4) of this
2 subsection, and subject to inventory and budgetary constraints,
3 the department may distribute multiple copies or bulk quantities
4 of a publication to an individual or organization free of
5 charge, provided that the recipient, in a written form
6 prescribed by the department:

7 (i) certifies that all copies of publications will be
8 redistributed to the public or end user free of charge; and

9 (ii) describes how the copies will assist the
10 traveling public and stimulate travel to or within the state.

11 (B) The director may deny the distribution of multiple
12 copies or bulk quantities under this paragraph if he or she
13 determines that the copies will not assist the traveling public
14 and stimulate travel to or within the state. When a request is
15 made in writing, the director or the director's designee will
16 provide written notice of the reasons for the director's denial.
17 When a request is made orally, the director or the director's
18 designee[7] will deliver orally the reasons for denial.

19 (4) Exceptions. Subject to inventory and budgetary
20 constraints, the department may provide multiple quantities of
21 travel literature:

22 (A) free of charge, to each elected state and federal
23 official, for use in their official duties;

1 (B) to the Office of the Governor, Economic Development
2 and Tourism, the Texas Education Agency, local governmental or
3 private entities involved in tourism, and other state and
4 federal agencies, on such written terms and conditions as may be
5 mutually agreed upon; and

6 (C) to other individuals and entities if the recipient:

7 (i) reimburses the department for its costs to print
8 the additional quantities; and

9 (ii) satisfies the requirement of paragraph (3)(A)(i)
10 of this subsection.

11 (d) Commercial cooperation. The department may, consistent
12 with Government Code, Chapters 2155-2158 and 2252, and Texas
13 Constitution, Article XVI, Section 21, enter into cooperative
14 contracts with commercial entities for production, marketing,
15 and distribution of department travel literature to achieve:

16 (1) greater volume;

17 (2) reduced cost to the department;

18 (3) higher quality;

19 (4) wider circulation; and

20 (5) other considerations that will achieve more effective
21 or more economical production and distribution of travel
22 literature than could be attained by departmental efforts alone.

23 (e) Advertising.

1 (1) General policy. Transportation Code, Chapter 204,
2 empowers the department to publish literature for the purpose of
3 advertising the highways of this state and attracting traffic
4 thereto. In furtherance of that purpose of assisting and
5 encouraging travel in Texas, the department may include certain
6 paid advertising in travel literature, provided that the quality
7 and quantity of the primary information content is not impaired.

8 (2) Acceptable subjects. Subjects acceptable for
9 advertising in department travel literature include:

10 (A) Texas vacation, travel or tourism-related features,
11 sites, facilities, destinations, accommodations, restaurants,
12 events, and services;

13 (B) Texas shopping opportunities;

14 (C) pleasure-driving features, equipment, facilities,
15 destinations, and services;

16 (D) recreational features, sites, equipment,
17 facilities, and services;

18 (E) camping, hiking, fishing, boating, and outdoor
19 features, sites, equipment, facilities, and services;

20 (F) public transportation modes, products, facilities,
21 and services; and

22 (G) other features, sites, products, equipment,
23 facilities, and services relating to travel and tourism.

1 (3) Unacceptable subjects. Advertising subjects not
2 acceptable in department travel literature include:

3 (A) out-of-state travel-tourism features, locations,
4 destinations, facilities, and services unless augmenting Texas
5 travel or tourism, or unless on border locations with ties to
6 Texas;

7 (B) alcoholic beverages, except for Texas wineries;

8 (C) tobacco products;

9 (D) sexually-oriented products and services;

10 (E) in-state tourism features, locations, destinations,
11 facilities, accommodations, and services not regularly
12 accessible (open) to the general public year-round except for
13 attractions or destinations that open seasonally because of
14 weather conditions; and

15 (F) other subjects not related to travel and tourism.

16 (4) Advertising sales and solicitations.

17 (A) Mailing list. Any entity or individual interested
18 in advertising in department travel literature will be included
19 in the department's mailing list upon request. The department
20 will annually publish in the Texas Register an invitation to
21 receive advertising rate information.

22 (B) Publication of advertiser information. The
23 department will calculate advertising rates and develop a rate

1 card for each travel literature publication deemed by the
2 department as appropriate for advertising. The department will
3 publish the advertising rate information on a continuous basis
4 in the Standard Rate and Data Service, Consumer Magazine and
5 Agri-Media Source. The department will also publish the
6 advertising rate information annually in the Texas Register.

7 (C) Contents of the rate card. The rate card will
8 include information about:

- 9 (i) advertising space and positions;
10 (ii) advertising rates;
11 (iii) publication issue and closing dates;
12 (iv) circulation data;
13 (v) publisher's editorial profile; and
14 (vi) other related information.

15 (D) Procedure for selling advertising.

16 (i) The department or its designated agent will mail
17 a description of the publication accepting advertising,
18 publication deadlines, rates, and an invitation to receive a
19 sample copy of the publication to those on the mailing list 30
20 days after publication in the Texas Register. If the department
21 offers advertising in a travel publication that was not included
22 in the original Texas Register notice, then a notice will be
23 placed in the Texas Register announcing the acceptance of

1 advertising in the new travel publication. Thirty days after
2 this notice is published, the department or its designated agent
3 will mail a description of the new publication, publication
4 deadlines, rates, and an invitation to receive a sample copy of
5 the publication to those on the mailing list.

6 (ii) The department or its designated agent will mail
7 a rate card upon request to an entity or individual not on the
8 mailing list after the publication in the Texas Register and
9 prior to the last space-closing date of the publication.

10 (iii) On and after the 31st day following the initial
11 date of mailing, the department or its designated agent will
12 accept all insertion orders (orders for paid advertising)
13 received prior to the publication deadline on a first-come,
14 first-served basis or until all advertising space for a
15 particular publication is filled. Insertion orders postmarked
16 or received prior to the end of the 30-day period will not be
17 accepted. All insertion orders will be stamped with the date as
18 they are received. Orders for premium space will be accepted
19 only by mail postmarked or delivered on or after the 31st day
20 following the initial date of mailings. Advertisers must
21 indicate ranked preference on all premium positions desired. If
22 more than one insertion order for a premium position is received
23 on the same day, the department will determine selection by a

1 drawing held on the 15th day following the first day insertion
2 orders can be accepted. Insertion orders for an inside front
3 cover spread and inside back cover spread will take precedence
4 over an inside front cover and inside back cover insertion
5 order.

6 (iv) Reminders of advertising space deadlines and
7 rates may be mailed at the discretion of the department if
8 advertising space remains available prior to space closing
9 deadlines.

10 (5) Restrictions.

11 (A) The department will not accept advertising it
12 considers to be misleading or a misrepresentation of facts.

13 (B) The department will not accept advertising from an
14 entity that discriminates against customers on the basis of
15 race, color, creed, religion, sex, or national origin.

16 (C) The director may remove an advertiser based on the
17 department's receiving three or more consumer complaints
18 concerning service or merchandise. The department will send a
19 written notice of noncompliance to the advertiser. If the
20 director determines the complaints are valid and they remain
21 unresolved after 180 days, the director will remove the
22 advertiser from the travel publication. A business may appeal
23 removal to the department's executive director, or the executive

1 director's designee, not below the level of division director,
2 whose decision will be final.

3

4 §23.12. Texas Official Travel Map.

5 (a) Purpose. Under Transportation Code, Chapter 204, the
6 department publishes the Texas Official Travel Map (map) for the
7 general motoring public depicting major Texas highways, cities
8 and towns, mileage between such points, locations of Texas state
9 parks, national forests, national parks and wildlife refuges,
10 [~~picnic and~~] safety rest areas, Travel Information Centers,
11 major lakes and rivers, counties, and certain other geographic
12 details.

13 (b) Content. Content will be determined by the department
14 and may include:

15 (1) a city or town that meets [~~one or more of~~] the
16 following criteria:

17 (A) located on the state-maintained highway system;

18 (B) has a population of 50 or more; and

19 [~~(C) has a United States post office;~~]

20 (C) [~~(D)~~] is near a significant park or recreational
21 area, or a historical, recreational, or scenic tourist interest
22 facility that is open to the public continuously or on a regular
23 seasonal basis; [~~and~~]

1 [~~(E) has auto repair or service available in the area;~~]

2 (2) highways designated by the commission, including:

3 (A) interstate highways;

4 (B) United States highways;

5 (C) state highways;

6 (D) farm-to-market (FM), ranch-to-market (RM), or
7 recreational (RR) roads that connect with one or more higher-
8 grade highways or roadways; and

9 (E) FM, RM, RR, spurs, loops, business routes, or park
10 roads that provide access to widely recognized parks, lakes,
11 tourism attractions, or recreational areas;

12 (3) map insets:

13 (A) representing cities or areas, selected by the
14 department, in descending numerical order on the basis of annual
15 traffic volume in each of the metropolitan areas, or their
16 location as a port of entry, to best utilize the limited space
17 available on the map; and

18 (B) designed insets to show only a few primary highways
19 or through routes (not all city streets); and

20 (4) mileage chart containing a limited number of cities
21 and towns selected on the basis of a matrix composed of the
22 following factors:

23 (A) the significance of the location as a geographic

1 reference point for calculating long-distance trips within
2 Texas, to assure statewide balance in the selections;

3 (B) the importance of the location as a gateway or
4 entrance point to the state of Texas;

5 (C) the status of the location as a primary travel or
6 tourist destination;

7 (D) the population size of the location; and

8 (E) the use of the location as the site of significant
9 highway intersections.

10

11 §23.14. Display of Travel Literature in the Texas Travel
12 Information Centers.

13 (a) Purpose. This section establishes the policies and
14 procedures governing the acceptance, display, and distribution
15 of travel literature and other promotional items by the
16 department's travel information centers.

17 (b) Definition. For purposes of this section the term
18 "travel literature" includes descriptive materials, pamphlets,
19 booklets, videos, photos, icons, and promotional items.

20 (c) Policy for racks and display cases.

21 (1) General. Travel literature accepted and displayed in
22 a travel information center:

23 (A) must be approved for display by the director or the

1 director's designee;

2 (B) must be 100% travel and tourism-oriented;

3 (C) must be of a professional quality; and

4 (D) may contain coupons, prizes, or contests related to
5 travel and tourism.

6 (2) Subject matter. Travel literature must contain
7 subject matter relating to:

8 (A) recreation;

9 (B) scenic areas;

10 (C) historic sites;

11 (D) the arts, including museums and performing arts
12 theaters;

13 (E) fairs, festivals, or special events of public
14 interest;

15 (F) accommodations, including, but not limited to, bed
16 and breakfasts and guest ranches;

17 (G) restaurants;

18 (H) shopping centers, malls, or outlet stores, or
19 specialty shopping facilities that serve as tourist attractions;

20 (I) RV parks and campgrounds;

21 (J) city, county, state, and national parks;

22 (K) travel maps or public transportation information;

23 or

1 (L) traveler safety.

2 (3) Size. Travel literature must meet size criteria
3 established by the division.

4 (d) Policy specific to display cases.

5 (1) Acceptance. An organization or individual may submit
6 a proposal for the use of promotional graphics, photographs,
7 icons, and other promotional items in a display case to promote
8 Texas travel and tourism opportunities. Proposals will be
9 accepted on a first-come, first-served basis. Displays will be
10 rotated and a waiting list [~~per location~~] will be established.

11 (2) Agreement. Prior to the department accepting
12 materials for use in a display case, the individual or
13 organization must enter into a written agreement with the
14 department for a period of not less than six months.

15 (3) Content. Display case materials shall focus on
16 promoting tourism that stimulates travel to a metropolitan area
17 or specific region, and shall not contain:

18 (A) dated material; or

19 (B) special events, promotions, or facilities that are
20 only open to groups and not individuals.

21 (4) Cost. Materials for display cases must be provided
22 to the department free of charge.

23 (5) Specifications. An individual or organization

1 submitting materials approved for display shall provide:

2 (A) five horizontal transparencies which are 16 inches
3 high and 20 inches wide;

4 (B) six horizontal transparencies which are 11 inches
5 high and 14 inches wide; and

6 (C) three vertical transparencies which are 11 inches
7 wide and 14 inches high.

8 (e) Unacceptable travel literature. In addition to the
9 requirements of subsections (c) and (d) of this section, the
10 department will not accept travel literature that:

11 (1) is solely for the purpose of selling a single,
12 tangible item, including, but not limited to, a brochure selling
13 a tape, CD, magazine, or cookbook, with the exception of *Texas*
14 *Highways*, the state's official travel magazine;

15 (2) is solely for the purpose of selling a membership;

16 (3) is solely for the purpose of promoting facilities or
17 other subjects not directly related to travel and tourism;

18 (4) contains terminology, advertising, or pictures that
19 are adult or sexually-oriented or are otherwise not directly
20 related to family-oriented travel or tourism;

21 (5) promotes or describes in-state locations,
22 destinations, facilities, accommodations, or attractions not
23 regularly accessible (open) to the general public year-round

1 except for attractions or destinations that open seasonally
2 because of weather conditions;

3 (6) is for display on the wall, including, but not
4 limited to, a poster or banner; or

5 (7) is for the purpose of promoting out-of-state travel
6 and tourism activities, destinations, facilities, attractions,
7 and services that do not augment Texas travel and tourism,
8 unless the travel literature:

9 (A) is regional and contains 51% or more information on
10 Texas travel and tourism;

11 (B) is an accommodation guide which has hotel/motel
12 information on Texas properties along with hotel/motel
13 information on other states; or

14 (C) concerns the City of Texarkana, which is located in
15 both Texas and Arkansas and shares a single chamber of commerce,
16 and produces a combined information brochure.

17 (f) Display and distribution.

18 (1) Display. Private sector travel literature will be:

19 (A) displayed in a manner which the travel information
20 center supervisor believes is the most efficient and informative
21 for the visitor;

22 (B) displayed in a manner which gives more exposure to
23 destinations near the travel information center or to

1 destinations in high demand;

2 (C) displayed in season, if it is of a seasonal nature;

3 and

4 (D) rotated periodically to provide exposure for all
5 travel interests.

6 (2) Updating travel literature. New private sector
7 travel literature will replace the old travel literature on
8 display when a new date appears on the brochure or when
9 substantial changes have been made to the item. Outdated travel
10 literature will not be sent back to the original establishment,
11 but will be disposed of through a recycling program or the most
12 appropriate manner.

13 (3) Promotional items. Promotional posters or items will
14 not be accepted for display or distribution without the written
15 approval of the director or the director's designee.

16 (g) Vending machines. The sale of souvenirs and other
17 related commercial items is prohibited at the travel information
18 centers. In accordance with Title 23, Code of Federal
19 Regulations, Part 752, the department may permit vending
20 machines in centers for the purposes of dispensing food, drink,
21 and other articles that it determines appropriate and desirable.
22 No charge to the public may be made for goods and services
23 except for telephone and articles dispensed by such vending

1 machines. The Texas Department of Assistive and Rehabilitative
2 Services, Division for Blind Services has first right of refusal
3 to operate vending machines in travel information centers.

4 (h) Non-department use of travel information centers.

5 (1) Request. An organization or individual wanting to do
6 an on-site promotion at a travel information center rest area
7 must submit a request in writing. Requests will be accepted on
8 a first-come, first-served basis.

9 (2) Agreement. Prior to the department allowing on-site
10 promotions, the organization or the individual must enter into a
11 written agreement with the department agreeing to abide by the
12 requirements of this subsection.

13 (3) Activity.

14 (A) Rest stop activities shall be conducted in a manner
15 which will cause the least interference with the travel
16 information center's operation and picnic or rest area.

17 (B) Alcoholic beverages are prohibited.

18 (C) All non-alcoholic refreshments and ~~[or]~~ promotional
19 items offered at the rest stop must be free of charge to
20 visitors.

21 (D) All promotional items must meet requirements of
22 subsections (c) and (e) of this section and be offered free of
23 charge to visitors.

1 (4) Signs.

2 (A) The organization or individual shall prominently
3 display a sign indicating that all drinks, refreshments,
4 services, and items provided are free of charge.

5 (B) Any signs associated with the refreshment rest
6 stop, with the exception of those stated in subparagraph (A) of
7 this paragraph, shall be limited to only those necessary to
8 identify the organization and normal ownership signs permanently
9 affixed to trailers, vehicles, tents, and other equipment
10 directly associated with the operation of the rest stop.

11 (C) Any signs to be used or installed for the
12 refreshment rest stop, including advance signs advising
13 motorists of the refreshment rest stop, must receive prior
14 approval of the director or the director's designee. An
15 approved sign may not be attached to or interfere with the
16 travel information center's operation or highway signs.

17 (5) Services. The department will not furnish utilities,
18 except where explicitly designed to be provided for this
19 purpose.

20 (6) Cleanup. Cleanup of the facilities used for the
21 refreshment rest stop during and immediately afterward is the
22 responsibility of the organization.

23 (7) Compliance. The department will monitor or check

1 periodically for compliance with the requirements of this
2 subsection. Noncompliance may call for immediate cancellation
3 of refreshment rest stop activities and may be the basis for
4 refusing future requests.