

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

The Texas Transportation Commission (commission) finds it necessary to propose new §25.26, Provisional Traffic and Engineering Investigation Requirements to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed new section, 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 new §25.26 is proposed for adoption and is 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:

Candice Rawson, P.E.
Director, Traffic Operations Division

Recommended by:

Amadeo Acosta
Executive Director

112754 JUL 28 11

Minute Number Date Passed

1 Proposed Preamble

2 The Texas Department of Transportation (department) proposes new
3 §25.26, Provisional Traffic and Engineering Investigation
4 Requirements, concerning Procedures for Establishing Speed
5 Zones.

6
7 EXPLANATION OF PROPOSED NEW SECTION

8 House Bill 1353, 82nd Legislature, Regular Session, 2011, allows
9 the department to establish a 75 mile per hour speed limit on a
10 portion of the state highway system if the Texas Transportation
11 Commission (commission) determines that such a speed limit is
12 reasonable and safe based on an engineering and traffic
13 investigation. With implementation of HB 1353, the department
14 needs to review all current 70 mile per hour zones to determine
15 if an increase to 75 miles per hour is warranted. This new
16 process relies on an 85th percentile engineering study.

17
18 New §25.26, provides a provisional traffic and engineering
19 investigation process to implement the timely study of highways
20 that may qualify for the new increased speed. The rules provide
21 that the department can utilize the streamlined procedures for
22 the increase to 75 miles per hour from a current 70 mile per
23 hour zone. The procedure includes the completion of an 85th
24 percentile speed check at a minimum of one location within the
25 current speed zone. Under current speed study rules, specific

1 speed check intervals are set out to establish the boundaries of
2 any approved speed zone. Due to the fact that the current 70
3 mile per hour speed zone has been determined by a previous
4 engineering study, additional speed check locations are not
5 required to set the boundaries of the speed zone, therefore in
6 some instances only one speed check location is necessary. The
7 rules do not prohibit additional speed check locations if the
8 department determines that additional traffic data are necessary
9 to establish the appropriate speed limit.

10

11 The rules will allow the investigation to be submitted in a
12 summary format eliminating the need to complete a strip map.
13 When implementing previous statewide speed limit changes, the
14 department utilized a summary reporting option instead of the
15 required strip map. The strip map provides illustrated
16 documentation the department uses to establish the boundaries of
17 the speed zone. As previously stated the boundaries of the
18 speed zone have been established in a previous traffic and
19 engineering study. It is unnecessary for the strip map to be
20 submitted since the speed zone boundaries have been established.

21

22 The rules provide that the other provisions of Chapter 25,
23 subchapter B related to establishing a speed limit apply to an
24 increase under §25.26 unless there is a conflict. If there is a
25 conflict, §25.26 controls. Thus, the requirements of 85th

1 percentile speed check procedures, such as requirements related
2 to the length of time of the study and the number of vehicles,
3 apply without having to restate those provisions within the
4 rule.

5

6 FISCAL NOTE

7 James Bass, Chief Financial Officer, has determined that for
8 each of the first five years the new section as proposed is in
9 effect, there will be no fiscal implications for state or local
10 governments as a result of enforcing or administering the new
11 section.

12

13 Carol Rawson, P.E., Director, Traffic Operations Division, has
14 certified that there will be no significant impact on local
15 economies or overall employment as a result of enforcing or
16 administering the new section.

17

18 PUBLIC BENEFIT AND COST

19 Ms. Rawson has also determined that for each year of the first
20 five years in which the section is in effect, the public benefit
21 anticipated as a result of enforcing or administering the new
22 section will be timely review of current 70 mile per hour speed
23 zones. There are no anticipated economic costs for persons
24 required to comply with the section as proposed. There will be
25 no adverse economic effect on small businesses.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PUBLIC HEARING

Pursuant to the Administrative Procedure Act, Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed rules. The public hearing will be held at 9:00 a.m. on August 31, 2011, Texas Department of Transportation, 200 East Riverside Drive, in Room 1A-1, Austin, Texas and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Those desiring to make comments or presentations may register starting at 8:30 a.m. Any interested persons may appear and offer comments, either orally or in writing; however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views and identical or similar comments through a representative member when possible. Comments on the proposed text should include appropriate citations to sections, subsections, paragraphs, etc. for proper reference. Any suggestions or requests for alternative language or other revisions to the proposed text should be submitted in

1 written form. Presentations must remain pertinent to the issues
2 being discussed. A person may not assign a portion of his or
3 her time to another speaker. Persons with disabilities who plan
4 to attend this meeting and who may need auxiliary aids or
5 services such as interpreters for persons who are deaf or
6 hearing impaired, readers, large print or Braille, are requested
7 to contact Government and Public Affairs Division, 125 East 11th
8 Street, Austin, Texas 78701-2483, (512) 305-9137 at least two
9 working days prior to the hearing so that appropriate services
10 can be provided.

11

12 SUBMITTAL OF COMMENTS

13 Written comments on the proposed new §25.26 may be submitted to
14 Carol Rawson, P.E., Director, Traffic Operations Division, Texas
15 Department of Transportation, 125 East 11th Street, Austin,
16 Texas 78701-2483. The deadline for receipt of comments is 5:00
17 p.m. on September 12, 2011.

18

19 STATUTORY AUTHORITY

20 The new section is proposed under Transportation Code, §201.101,
21 which provides the commission with the authority to establish
22 rules for the conduct of the work of the department, and more
23 specifically, Transportation Code, §545.353, which authorizes
24 the commission to establish speed limits and adopt the
25 procedures for establishing speed zones.

- 1
- 2 CROSS REFERENCE TO STATUTE
- 3 Transportation Code, §545.353.

1 SUBCHAPTER B. PROCEDURES FOR ESTABLISHING SPEED ZONES

2 §25.26. Provisional Traffic and Engineering Investigation

3 Requirements.

4 (a) This section applies only to increasing the speed limit
5 within an existing speed zone from 70 miles per hour to 75 miles
6 per hour, as authorized by the legislature.

7 (b) The speed zone study necessary for increasing the speed
8 limit from 70 to 75 miles per hour may, at the sole discretion
9 of the department, be limited to the determination of the 85th
10 percentile speed at one or more speed check locations within the
11 established speed zone. Because the boundaries of the speed
12 zone have been established for the 70 mile per hour zone, a
13 strip map is not required for the increase.

14 (c) The provisions of this subchapter related to
15 establishing a speed limit apply to an action under this section
16 unless such a provision conflicts with this section, in which
17 event this section controls to the extent of the conflict.