

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 §§25.20-25.24 relating to Procedures for Establishing Speed Zones 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 §§25.20-25.24 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:

Carol A. Rawson, P.E.
Director, Traffic Operations

Recommended by:

Amide Jay
Executive Director

112722 JUN 30 11

Minute
Number

Date
Passed

1 Proposed Preamble

2 The Texas Department of Transportation (department) proposes
3 amendments to §§25.21 - 25.24, concerning Procedures for
4 Establishing Speed Zones.

5

6 EXPLANATION OF PROPOSED AMENDMENTS

7 House Bill 109, House Bill 1201, and House Bill 1353, 82nd
8 Legislature, 2011, made changes to the existing statutes related
9 to speed limits in Texas. The proposed amendments to §§25.21 -
10 25.24 incorporate those statutory changes into the department's
11 existing rules related to establishing speed zones. These
12 amendments also include some additional clarifications to
13 address procedural changes with establishing speed zones.

14

15 House Bill 109 allows a municipality or county to designate an
16 official with transportation engineering experience in
17 establishing speed limits to temporarily lower a prima facie
18 speed limit at the site of a vehicular accident reconstruction.

19

20 House Bill 1201 repealed the existing statute allowing the Texas
21 Transportation Commission (commission) to establish a speed
22 limit of 85 miles per hour (mph) on a portion of the Trans-Texas
23 Corridor. The bill allows the commission to establish an 85 mph
24 speed limit on a portion of the state highway if the highway was
25 designed to accommodate an 85 mph speed limit and the commission

1 determines that such a speed limit is reasonable and safe based
2 on an engineering and traffic investigation.

3

4 House Bill 1353 allows the department to establish a 75 mph
5 speed limit on a portion of the state highway system if the
6 commission determines that such a speed limit is reasonable and
7 safe based on an engineering and traffic investigation. The
8 legislation also repealed the existing 65 mph night speed limit
9 and lower speed for large trucks.

10

11 Amendments to §25.21 delete references to night speed limits,
12 add language allowing the commission to establish a 75 mph speed
13 limit in any county of the state, and delete references to lower
14 truck speed limits. These changes are necessary to implement
15 House Bill 1353. The amendments also change the authority that
16 allows the commission to set an 85 mph speed limit from the
17 Trans-Texas Corridor to a highway designed to accommodate the
18 higher speed as authorized in House Bill 1201.

19

20 The amendments to §25.21 also add language to incorporate the
21 provisions of House Bill 109 which allows cities and counties to
22 temporarily lower existing prima facie speed limits at the sites
23 of vehicular accident reconstructions. The language requires
24 that the local authority use the guidelines established for
25 setting work zone area speed limits, notify the appropriate

1 district engineer, and follow lane closure rules and guidelines
2 if applicable. The language also makes it clear that the local
3 authority does not have to follow the other rules in the
4 subchapter on establishing speed limits. The additional
5 requirements are not necessary as an engineering and traffic
6 study would not be applicable.

7
8 The proposed amendments to §25.22 make conforming changes by
9 eliminating references to night speed limits and deleting the
10 requirement that speed limits created within city limits over 60
11 mph be established by commission minute order. These amendments
12 are necessary to conform to the requirements of House Bill 1353.

13
14 The amendment to §25.23(d)(5)(A)(ii) revises a reference to the
15 maximum speed reduction allowed from the average speed
16 determined by a speed limit study from 7 mph to 12 mph for high-
17 crash locations. The amendment revises the reference to the
18 maximum speed reduction allowed from the average speed
19 determined by a speed limit study from 7 mph to 12 mph for high-
20 crash locations to conform this section to the existing
21 requirements contained in §25.23(d)(5)(A)(v). This
22 clarification in the existing language is unrelated to the
23 legislative changes implemented during the 82nd Legislature.

24
25 Amendments to §25.24 correct the tables describing the authority

1 of the department, Regional Mobility Authorities, and Regional
2 Transportation Authorities to establish speed limits on the
3 state highway system. These changes incorporate the
4 requirements of House Bill 1353.

5

6 FISCAL NOTE

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

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 amendments.

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 sections are in effect, the public
21 benefit anticipated as a result of enforcing or administering
22 the amendments will be adherence to state law and more efficient
23 operation of the state highway system. There are no anticipated
24 economic costs for persons required to comply with the sections
25 as proposed. There will be no adverse economic effect on small

1 businesses.

2

3 SUBMITTAL OF COMMENTS

4 Written comments on the proposed amendments to §§25.21 - 25.24

5 may be submitted to Carol Rawson, P.E., Director, Traffic

6 Operations Division, Texas Department of Transportation, 125

7 East 11th Street, Austin, Texas 78701-2483. The deadline for

8 receipt of comments is 5:00 p.m. on August 15, 2011.

9

10 STATUTORY AUTHORITY

11 The amendments are proposed under Transportation Code, §201.101,

12 which provides the commission with the authority to establish

13 rules for the conduct of the work of the department, and more

14 specifically, Transportation Code, §§545.353, which authorizes

15 the commission to establish speed limits and adopt the

16 procedures for establishing speed zones.

17

18 CROSS REFERENCE TO STATUTE

19 Transportation Code, §§545.352, 545.353, 545.354 - 545.3561,

20 545.358 and 545.362.

1 SUBCHAPTER B. PROCEDURES FOR ESTABLISHING SPEED ZONES

2 §25.21. Introduction.

3 (a) (No change.)

4 (b) Background.

5 (1) Prima facie concept. In Texas, all speed limits are
6 considered "prima facie" limits. Prima facie limits are those
7 limits which on the face of it, are reasonable and prudent under
8 normal conditions.

9 (2) Authority to set speed zones.

10 (A) Transportation Code, §545.353 authorizes the
11 commission to alter maximum speed limits on highway routes both
12 within and outside of cities, provided the Procedures for
13 Establishing Speed Zones are followed and the commission
14 determines that the speed being established on a part of the
15 highway system is a safe and reasonable speed for that part of
16 the highway. The commission may establish a speed limit of:

17 [~~(B) Transportation Code, §545.353, subsections (h) and~~
18 ~~(i), address the commission's authority to establish a daytime~~
19 ~~speed limit of 75 or 80 miles per hour on a portion of the state~~
20 ~~highway system.]~~

21 (i) [~~The commission may establish a~~ 75 miles [mile]
22 per hour on any portion of the state highway system; [speed
23 ~~limit in counties with a population density of less than 15~~

1 ~~persons per square mile. Counties that are currently eligible~~
2 ~~for this higher maximum daytime speed limit are Andrews, Archer,~~
3 ~~Armstrong, Bailey, Baylor, Blanco, Borden, Brewster, Briscoe,~~
4 ~~Brooks, Callahan, Carson, Castro, Childress, Clay, Cochran,~~
5 ~~Coke, Coleman, Collingsworth, Concho, Cottle, Crane, Crockett,~~
6 ~~Crosby, Culberson, Dallam, Deaf Smith, Dickens, Dimmit, Donley,~~
7 ~~Duval, Edwards, Fisher, Floyd, Foard, Frio, Gaines, Garza,~~
8 ~~Glassecock, Goliad, Hall, Hamilton, Hansford, Hardeman, Hartley,~~
9 ~~Haskell, Hemphill, Hudspeth, Irion, Jack, Jeff Davis, Jim Hogg,~~
10 ~~Kenedy, Kent, Kimble, King, Kinney, Knox, Lamb, La Salle, Leon,~~
11 ~~Lipsecomb, Live Oak, Loving, Lynn, Martin, Mason, McCullough,~~
12 ~~McMullen, Menard, Mills, Mitchell, Motley, Ochiltree, Oldham,~~
13 ~~Parmer, Pecos, Presidio, Reagan, Real, Red River, Reeves,~~
14 ~~Refugio, Roberts, Runnels, San Saba, Schleicher, Shackelford,~~
15 ~~Sherman, Stephens, Sterling, Stonewall, Sutton, Swisher,~~
16 ~~Terrell, Terry, Throckmorton, Upton, Val Verde, Ward, Wheeler,~~
17 ~~Winkler, Yoakum, Zapata, and Zavala.]~~

18 [~~(ii) The department will reevaluate which counties~~
19 ~~are eligible for a 75 mile per hour speed limit upon the release~~
20 ~~of each decennial federal census of the population.]~~

21 (ii) [~~(iii) The commission may establish a speed~~
22 ~~limit of] 80 miles per hour [for daytime] on parts of Interstate~~
23 Highway 10 and of Interstate Highway 20 in Crockett, Culberson,

1 Hudspeth, Jeff Davis, Kerr, Kimble, Pecos, Reeves, Sutton, or
2 Ward counties; or [-]

3 (iii) up to 85 miles per hour on a highway designed
4 to accommodate travel at the speed being established.

5 [~~(iv) In order to establish a 75 or 80 mile per hour~~
6 ~~daytime speed limit in an eligible county, the commission must~~
7 ~~determine that a 75 or 80 mile per hour speed limit is safe and~~
8 ~~reasonable.~~]

9 [~~(v) A 75 or 80 mile per hour speed limit established~~
10 ~~under this section does not apply to trucks (other than light~~
11 ~~trucks and light trucks pulling a trailer), truck tractors,~~
12 ~~trailers, and semitrailers.~~]

13 (B) [~~(C)~~] The altering of the general statewide maximum
14 speed limits to fit existing traffic and physical conditions of
15 the highway constitutes the basic principle of speed zoning.

16 (C) [~~(D)~~] Transportation Code, §545.355 and §545.356,
17 give counties and cities the [~~same~~] authority to establish a
18 prima facie maximum speed limit of 75 miles per hour within
19 their respective jurisdictions. The law also provides that any
20 speed zone on highway routes in cities established by commission
21 minute order will supersede any conflicting zone set by city
22 ordinance or resolution.

1 (D) [~~(E)~~] Except in very unusual circumstances, the
2 zoning on state highway routes within cities should only be set
3 by city ordinance or resolution based upon the recommendations
4 of the department. The usual practice, even for speed zones
5 established by city ordinance or resolution, is for the
6 department to make the necessary speed studies and recommend the
7 most appropriate zoning to the city. Cities that have a traffic
8 engineering staff may also make speed studies on state-
9 maintained highways and recommend proper zoning. The procedure
10 is permissible so long as the department is afforded an
11 opportunity to review and approve the recommended city zoning.

12 (E) [~~(F)~~] County commissioner courts and governing
13 bodies of incorporated cities and villages may alter maximum
14 prima facie speed limits on roadways under their jurisdiction in
15 accordance with the provisions of Transportation Code, §545.355
16 and §545.356, respectively. However, alteration of maximum
17 prima facie speed limits on any designated or marked roadway of
18 the state highway system, even within the corporate limits of a
19 city, typically requires an engineering and traffic
20 investigation in accordance with §25.23 of this subchapter
21 (relating to Speed Zone Studies), and the approval of the
22 department.

23 (F) [~~(G)~~] A county that increases the prima facie speed

1 limit on a county road or highway is also required to conduct an
2 engineering and traffic investigation. However, for a county
3 road or highway outside the limits of the right of way of an
4 officially designated or marked highway or road on the state
5 highway system, the county commissioners court may declare a
6 lower speed limit of not less than 30 miles per hour, if the
7 commissioners court determines that the prima facie speed limit
8 on the road or highway is unreasonable or unsafe.

9 (G) [~~(H)~~] County authority does not extend to any
10 segment of the state highway system; however, the commissioners
11 court of a county, by resolution, may request the commission to
12 determine and declare a reasonable and safe prima facie speed
13 limit that is lower than a speed limit established by
14 Transportation Code, §545.352, on any part of a farm-to-market
15 or ranch-to-market road without improved shoulders located in
16 that county.

17 (H) [~~(I)~~] The commission shall give consideration to
18 local public opinion and may determine and declare a lower speed
19 limit on any part of the road without an engineering and traffic
20 investigation, but the commission must use sound and generally
21 accepted traffic engineering practices in determining and
22 declaring the lower speed limit. Sound and generally accepted
23 engineering practices for these FM and RM roadways without

1 improved shoulders are described in §25.23(d) of this
2 subchapter.

3 (I) [~~(J)~~] County authority [~~This~~] is different from the
4 authority of cities, who may exercise concurrent authority
5 subject only to commission override. In exercising their
6 authority, cities must base any speed zones on engineering and
7 traffic investigations, notwithstanding the type of road or
8 street and whether the state highway system is involved.

9 (J) [~~(K)~~] The authority of regional tollway
10 authorities, regional mobility authorities, and the Commanding
11 Officer of a United States Military Reservation to alter the
12 speed limits are addressed in Transportation Code, §§370.033,
13 545.354, and 545.358. These decision making authorities are
14 required to follow the speed zone procedures adopted by the
15 department when altering, on the basis of an engineering and
16 traffic study, speed limits on off-system turnpikes or on-system
17 highways within the confines of a military reservation.

18 [~~(L) Transportation Code, §545.3531, authorizes the~~
19 ~~commission to establish a speed limit of not more than 85 miles~~
20 ~~per hour on the Trans Texas Corridor.]~~

21 (3) (No change.)

22 (c) Factors affecting safe speed.

23 (1) - (5) (No change.)

1 (6) Weather and visibility.

2 (A) Speeds will normally be selected and posted for
3 good weather conditions and dry pavement. Texas law, however,
4 also provides for the posting of speeds for wet weather
5 conditions.

6 (B) Except in cases where the statewide maximum legal
7 limits are posted, speeds will normally be posted on the basis
8 of daylight speed values determined under good weather
9 conditions. [~~It is permissible, however, for different day and~~
10 ~~night speeds to be posted for speed zones where it can be shown~~
11 ~~to be necessary by nighttime speed surveys.~~]

12 (C) When it can be shown that it is required during wet
13 or inclement weather, a wet weather speed zone may be
14 established by commission minute order.

15 (i) The wet weather speed limit should be posted in
16 addition to the regular posted speed zone.

17 (ii) When appropriately signed, this wet weather
18 speed limit will be effective during wet weather at any time
19 during hours of daylight and darkness.

20 (d) Accident reconstruction speed limits.

21 (1) Transportation Code, §545.3561, gives municipalities
22 and counties the authority to temporarily lower prima facie
23 speed limits at the site of a crash investigation using

1 vehicular accident reconstruction. The municipality or county
2 must use a transportation engineering official with experience
3 establishing speed limits. For a municipality, the authority
4 applies to a highway or part of a highway in the municipality,
5 including a highway in the state highway system. For a county,
6 the authority does not apply to a road or highway in the state
7 highway system.

8 (2) In establishing the speed limit the municipality or
9 county is not required to conduct an engineering and traffic
10 study or comply with other provisions of this subchapter. To
11 set the temporary speed limit the municipality or county must:

12 (A) follow safety guidelines as developed by the
13 department for setting regulatory construction speed limits in
14 work zone areas;

15 (B) provide notice to the department district engineer
16 in the district in which the accident reconstruction is
17 occurring at least 48 hours prior to the speed reduction; and

18 (C) during the time that the accident reconstruction is
19 being conducted, place and maintain temporary speed limit signs
20 that conform to the Texas Manual on Uniform Traffic Control
21 Devices and temporarily conceal all other signs that permit
22 higher speeds and remove the temporary signs and concealments
23 when the accident reconstruction is complete.

1 (3) If a traffic lane will be closed to accommodate the
2 reconstruction investigation the municipality or county must
3 follow all department rules and guidelines on lane closures.

4 (4) The department may remove any temporary speed limit
5 signs or concealments of speed limit signs that remain if the
6 municipality does not remove them and after the department
7 determines that the accident reconstruction is complete.

8

9 §25.22. Regulatory and Advisory Speeds.

10 (a) (No change.)

11 (b) Regulatory speed zones.

12 (1) Introduction. A regulatory speed zone is the
13 application, by commission minute order or city or county
14 ordinance or resolution, of posted legal speed limits to
15 sections of roadway where the numerical values of these special
16 speed limits have been determined through engineering
17 investigations of traffic and physical conditions.

18 (2) Within incorporated cities.

19 (A) The commission has the authority to:

20 (i) alter the speed limits on highways within the
21 corporate limits of cities; or

22 (ii) override a speed limit set by city ordinance or
23 resolution on such highways.

1 ~~[(B) Any speed limit over 60 miles per hour inside the~~
2 ~~city limit will be set by commission minute order.]~~

3 (B) ~~[(C)]~~ The department should make studies and
4 present recommendations to the city for its acceptance and
5 passage of a city ordinance or resolution to establish city
6 speed zones.

7 (3) - (4) (No change.)

8 (5) Regulatory speed signs (R2 Series).

9 (A) Signs for regulatory speed zones shall be:

10 (i) from the R2 series as shown in the Texas Manual
11 on Uniform Traffic Control Devices (TMUTCD); and

12 (ii) of the appropriate design, including size, text,
13 and color.

14 (B) At the end of speed zones on conventional highways
15 where the maximum legal rural speeds are permissible, an [a
16 ~~combination of the~~] R2-1 SPEED LIMIT XX [~~and R2-3 NIGHT XX~~]
17 sign, or larger size sign showing those limits, should be
18 erected in accordance with the TMUTCD.

19 (C) At the end of speed zones on freeways where the
20 maximum legal rural speeds are permissible, the R2-1 SPEED LIMIT
21 XX sign [~~in combination with the R2-3 NIGHT XX sign, where~~
22 ~~applicable~~] showing those limits shall be erected.

23 (D) (No change.)

1 (6) (No change.)

2 (c) - (e) (No change.)

3

4 §25.23. Speed Zone Studies.

5 (a) - (c) (No change.)

6 (d) Speed zone design.

7 (1) - (4) (No change.)

8 (5) Variation from 85th percentile.

9 (A) The posted speed selected is the nearest value
10 ending in 5 or 0. The final speed limit may be lowered or
11 raised by as much as 5 miles per hour from the 85th percentile
12 speed or trial-run speed (performed if 125 cars cannot be
13 checked during the two or four hour speed check) based on the
14 professional judgment of the supervising engineer. Only under
15 special conditions would the zone speed vary further from the
16 85th percentile. Explanations of such conditions follow.

17 (i) Different results at adjacent speed check
18 stations. If the 85th percentile speeds for adjacent speed
19 check stations are approximately the same, they may be averaged
20 to determine the zone speed. Any 85th percentile speed should
21 not be included in such averages if it varies more than 7 miles
22 per hour from the speed derived from the average.

23 (ii) Crash rate greater than average. On a section

1 of highway having a crash rate greater than the statewide
2 average crash rate for the same type of roadway section, the
3 zone speed may be as much as 12 [~~+7~~] miles per hour lower than
4 the 85th percentile speed. This should be considered more as an
5 exception than as a rule, and should be done only when
6 enforcement agencies will assure a degree of enforcement that
7 will make the speed zone effective.

8 (iii) - (v) (No change.)

9 (B) - (D) (No change.)

10 (e) - (f) (No change.)

11

12 §25.24. Speed Zone Approval.

13 (a) State highway system. Speed zones on the state highway
14 system and on turnpikes under the department's authority, may be
15 set by commission minute order or by the city, depending on the
16 circumstance.

17 Figure: 43 TAC §25.24(a)

18

**Who Sets Speed Zones on the State Highway System, Including
Turnpikes under the Department's Authority**

If the speed zone is	Then it is established by
outside a city	commission minute order.
inside a city [and less than or equal to 60 miles per hour]	city ordinance or resolution or commission minute order.
[inside a city and is greater than 60 miles per hour]	[commission minute order.]

NOTE: Additions underlined
Deletions in []
OGC: 06/22/11 8:00 AM

Exhibit B

1

2 (b) Regional Mobility Authorities. Speed zones on
3 turnpikes under the control of a Regional Mobility Authority
4 (RMA) may be set by order of the RMA board or by a city through
5 which the turnpike passes.

6 Figure: 43 TAC §25.24(b)

Who Sets Speed Zones on Turnpikes under an RMA's Authority

If the speed zone is	Then it is established by
outside a city	RMA order.
inside a city [and less than or equal to 60 miles per hour]	city ordinance or RMA order.
[inside a city and is greater than 60 miles per hour]	[RMA order.]

7

8 (c) Regional Tollway Authorities. Speed zones on turnpikes
9 under the control of a Regional Tollway Authority (RTA) may be
10 set by order of the RTA board or by a city through which the
11 turnpike passes.

12 Figure: 43 TAC §25.24(c)

Who Sets Speed Zones on Turnpikes under an RTA's Authority

If the speed zone is	Then it is established by
outside a city	RTA order.
inside a city [and less than or equal to 60 miles per hour]	city ordinance or RTA order.
[inside a city and is greater than 60 miles per hour]	[RTA order.]

13