

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §§25.950-25.957 relating to a Memorial Sign Program for Victims of Impaired Driving and Motorcycle Crashes to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted 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 §§25.950-25.957 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:

Carol A. Hanson, P.E.
Director, Traffic Operations Division

Recommended by:

[Signature]
Executive Director

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Minute
Number

Date
Passed

Adoption Preamble

The Texas Department of Transportation (department) adopts amendments to §§25.950 - 25.957 concerning a Memorial Sign Program for Victims of Impaired Driving and Motorcycle Crashes. The amendments to §§25.950 - 25.957 are adopted without changes to the proposed text as published in the September 9, 2011 issue of the *Texas Register* (36 TexReg 5829) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

House Bill 2469, 82nd Legislature, Regular Session, 2011, added new Transportation Code, §201.911, requiring the department to establish and administer a program to memorialize the victims of motorcycle crashes. The legislation requires the Texas Transportation Commission (commission) to adopt rules to administer the program. In addition, House Bill 1486, 82nd Legislature, Regular Session, 2011, amended Transportation Code, §201.909(e), requiring the department to extend the posting period for memorial signs for victims of impaired driving. The amendments incorporate these statutory changes into the department's existing Memorial Sign Program rules.

Amendments to §25.950 add references to the new program as created under Transportation Code, §201.911 regarding memorial signs for victims of motorcycle crashes.

1

2 Amendments to §25.951 revise the term "applicant" to include
3 reference to the new Memorial Sign Program for Victims of
4 Motorcycle Crashes.

5

6 Amendments to §25.952 reference the new motorcycle memorial sign
7 program. This requires that the applicant for a motorcycle
8 memorial sign submit the same information required under the
9 current memorial sign program.

10

11 Amendments to §25.953 reference the new motorcycle memorial sign
12 program. The amendments require that to be eligible for a
13 memorial sign a victim must have been killed while riding or
14 operating a motorcycle on the state highway system. The
15 language also requires that the officer's accident report
16 indicate that the victim was operating or riding a motorcycle at
17 the time of the accident. The officer is required to identify
18 the vehicles involved in the accident in the report. Unlike
19 determining intoxication, the involvement of a motorcycle is
20 apparent to the officer at the time of the crash therefore there
21 is no need for the department to accept additional documentation
22 to establish eligibility for the sign.

23

24 Amendments to §25.954 establish a fee for both memorial signs at
25 \$350. Both Transportation Code, §201.909 and §201.911 authorize

1 the commission to establish a fee for the cost of the memorial
2 sign. The fee is established based on the department's estimate
3 to design, fabricate, and install a new sign. The increased fee
4 provides a more realistic cost of the materials and resources
5 required to post a memorial sign.

6
7 Amendments to §25.955 reference the specific sign elements for
8 the new motorcycle memorial sign program as required under
9 Transportation Code, §201.911. The description of the sign
10 tracks the language from the statute and is repeated in the rule
11 for convenience.

12
13 Amendments to §25.956 reflect the new posting limit for memorial
14 signs for victims of impaired drivers as authorized by
15 Transportation Code, §201.909(e).

16
17 Amendments to §25.957 extend the posting of a sign for victims
18 of impaired drivers to two years as authorized by Transportation
19 Code, §201.909(e). The rule is also amended to provide a one-
20 year posting limit for a motorcycle memorial sign as required
21 under Transportation Code, §201.911.

22
23 COMMENTS

24 No comments on the proposed amendments were received.

25

1 STATUTORY AUTHORITY

2 The amendments are adopted under Transportation Code, §201.101,
3 which provides the commission with the authority to establish
4 rules for the conduct of the work of the department, and more
5 specifically, Transportation Code, §201.909, which requires the
6 department to establish and administer a memorial sign program
7 to publicly memorialize the victims of alcohol or controlled
8 substance-related vehicle accidents and Transportation Code,
9 §201.911, which requires the department to establish and
10 administer a memorial sign program to publicly memorialize the
11 victims of motorcycle accidents.

12

13 CROSS REFERENCE TO STATUTE

14 Transportation Code, §201.909 and §201.911.

1 SUBCHAPTER N. MEMORIAL SIGN PROGRAM FOR

2 VICTIMS OF IMPAIRED DRIVING AND MOTORCYCLE CRASHES

3 §25.950. Purpose. Transportation Code, §201.909 and §201.911,
4 require [~~requires~~] the department to establish and administer
5 [a] memorial sign programs [~~program~~] to publicly memorialize the
6 victims of alcohol or controlled substance-related vehicle
7 crashes, which is referred to in this subchapter as the Memorial
8 Sign Program for Victims of Impaired Driving, and persons killed
9 while riding or operating a motorcycle, which is referred to in
10 this subchapter as the Memorial Sign Program for Victims of
11 Motorcycle Crashes.

12
13 §25.951. Definitions. The following words and terms, when used
14 in this subchapter, shall have the following meanings, unless
15 the context clearly indicates otherwise:

16 (1) Applicant--A person requesting a sign under the
17 Memorial Sign Program for Victims of Impaired Driving or the
18 Memorial Sign Program for Victims of Motorcycle Crashes in
19 accordance with this subchapter.

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

21 (3) Impaired--Under the influence of alcohol or a
22 controlled substance while operating a vehicle.

23 (4) State highway system--The system of highways in the

1 state included in a comprehensive plan approved by the Texas
2 Transportation Commission, in accordance with Transportation
3 Code, §201.103.

4

5 §25.952. Application.

6 (a) A person may request the construction and installation
7 of a sign memorializing one or more victims of an alcohol or
8 controlled substance-related vehicle crash, or a motorcycle
9 crash by following the procedures set out in this subchapter.

10 (b) The applicant must submit on a form provided by the
11 department an application that contains the following
12 information:

13 (1) the name of each victim for whom the sign is
14 requested;

15 (2) the location of the crash;

16 (3) the date of the crash;

17 (4) the name and contact information of the applicant;

18 and

19 (5) the name of one of the vehicle operators involved in
20 the crash.

21 (c) If the department notifies the applicant that a copy of
22 the officer's accident report required to be submitted to the
23 department by the reporting law enforcement agency under

1 Transportation Code, §550.062, is not on file with the
2 department, the applicant must submit a copy of that report.

3 (d) The applicant may provide to the department additional
4 government documents relating to the crash if necessary to
5 establish that a driver was impaired.

6

7 §25.953. Determination of Program Eligibility.

8 (a) The officer's accident report for the crash will be
9 used by the department to determine eligibility for a memorial
10 sign.

11 (b) If the application is for a memorial sign for a victim
12 of an alcohol or controlled substance related vehicle crash and
13 the officer's accident report does not indicate that the driver
14 of one of the vehicles was impaired or that the use of alcohol
15 or a controlled substance [~~drinking~~] was a factor or condition
16 of the accident, the department will review other governmental
17 records provided by the applicant to determine eligibility for
18 the [~~a memorial~~] sign.

19 (c) To be eligible for a memorial sign for a victim of a
20 motorcycle crash, the officer's accident report must indicate
21 that the victim was operating or riding on a motorcycle.

22 (d) [~~(e)~~] To be eligible for a sign the officer's accident
23 report must indicate that the crash occurred on the state

1 highway system.

2 (e) [~~(d)~~] A person is not eligible for a memorial sign for
3 the victim an alcohol or controlled substance related vehicle
4 crash if the victim was operating a vehicle involved in the
5 crash and the officer's accident report or another submitted
6 governmental document shows that the victim was impaired at the
7 time of the crash.

8 (f) [~~(e)~~] A victim may be memorialized by only one sign,
9 excluding a replacement sign, installed under this subchapter
10 [~~the Memorial Sign Program for Victims of Impaired Driving~~].
11 The department will deny an application for a victim that is
12 submitted after an application for the same victim has been
13 approved.

14
15 §25.954. Fee.

16 (a) A fee for a memorial sign installed under this
17 subchapter is \$350 [~~\$300~~].

18 (b) Upon approval of the application, the applicant must
19 remit the fee to the department before construction of the sign
20 may begin.

21
22 §25.955. Sign Description.

23 (a) A sign will have a blue background with a white legend

1 and:

2 (1) the memorial sign for a victim of an impaired driver

3 shall include the following elements:

4 (A) [~~1~~] the phrase "Please Don't Drink and Drive";

5 (B) [~~2~~] the phrase "In Memory of";

6 (C) [~~3~~] one line of text denoting the name of the
7 victim, victims, or the phrase "The (family name) Family"; and

8 (D) [~~4~~] the date of the crash; or [~~-~~]

9 (2) the memorial sign for a victim of a motorcycle crash

10 shall include the following elements:

11 (A) a red cross;

12 (B) the phrase "In Memory of";

13 (C) one line of text denoting the name of the victim,
14 victims, or the phrase "The (family name) Family"; and

15 (D) the date of the crash.

16 (b) The name of more than one victim may appear on a sign
17 only if the length of the victims' names does not exceed one
18 line of text. If the length of the names exceeds one line of
19 text, or if requested by the applicant, a sign may display the
20 family name of the victims.

21

22 §25.956. Sign Installation and Replacement.

23 (a) A sign may be installed under this subchapter only on

1 state highway system right-of-way.

2 (b) The department will install the sign as near the crash
3 location as practical. In determining the sign location, the
4 department will consider:

5 (1) the safety of the traveling public; and

6 (2) available space on state right-of-way for the sign.

7 (c) If the sign is damaged, vandalized, or destroyed,
8 during the posting [~~one-year~~] period beginning on the date that
9 the sign is installed, the department will reinstall the sign
10 only if the applicant pays a replacement fee to cover the cost
11 of the replacement sign. The amount of the replacement fee is
12 equal to the amount of the fee set under §25.954 of this
13 subchapter (relating to Fees).

14 (d) The department will replace a sign that is damaged by
15 the department without the payment of the replacement fee.

16

17 §25.957. Sign Removal.

18 (a) The department will remove a sign installed under the
19 Memorial Sign Program for Victims of Impaired Driving or its
20 replacement on the second [~~first~~] anniversary of the date that
21 the original sign was installed.

22 (b) The department will remove a sign installed under the
23 Memorial Sign Program for Victims of Motorcycle Crashes or its

1 replacement on the first anniversary of the date that the
2 original sign was installed.

3 (c) [~~(b)~~] The department will notify the applicant after
4 the sign has been removed. The notice will provide information
5 on how the applicant may take possession of the sign. If the
6 applicant fails to take possession of the sign within 30 days
7 after the date on which notice is given under this subsection,
8 the department will destroy the sign.