MINUTES
PUBLIC SAFETY COMMISSION
May 26, 2004
Austin, Texas

The Public Safety Commission met in Austin, Texas on May 26, 2004. Attending the meeting were Chairman Colleen McHugh and Commissioners Robert Holt and Carlos Cascos.

DPS Staff members present:
Tommy Davis, Director
David McEathron, Assistant Director
Tom Haas, Accounting & Budget Control
Randy Elliston, Danny Knauth & Mark Rogers, Highway Patrol Division
Earl Pearson & Ray Coffman, Rangers
Marshall Caskey & Kent Mawyer, Criminal Law Enforcement
Valerie Fulmer, Administration
Judy Brown, Greg Gloria & Frank Elder, Driver License
Farrell Walker, Audit & Inspection
Mary Ann Courter, General Counsel
Mary Lauderdale & Ed Kelly, Information Management Service
Tela Mange, Public Information
David Outon, Internal Affairs
Jack Reichert & Steve Powell, Aircraft
Rick Kautz, Information Resource
Michael Kelley, Legislative Liaison
Dorothy Wright, Secretary

Guests present:
Alfonso Royal, Legislative Budget Board
Colby Bueck, Lt. Governor Dewhurst's office

The meeting was called to order by Chairman McHugh. Proper notice had been posted. A moment of silence was observed for Trooper Kurt Knapp who had been killed in the line of duty.

I. **Minutes.** Upon motion by Commissioner Cascos and seconded by Commissioner Holt, the minutes of the April 23, 2004 meeting were approved.

II. **Public comment.** There was no public comment.

III. **Budget matters.** Tom Haas briefed the Commission on the Legislative Appropriation Request submission. There was some discussion on vacancies, HUB purchases and increasing gasoline prices.

A. **Acceptance of donation of computer equipment from CISA.** Marshall Caskey briefed the Commission on the proposed donation of computer equipment from the Criminal Information Sharing Alliance. Upon motion by Commissioner Cascos and seconded by Commissioner Holt, the donation was accepted.

B. **Monetary donation from "J" Regional Advisory Council.** Steve Powell, Aircraft, briefed the Commission on a monetary grant to Aircraft. The Commission did not have to accept it since it is grant money.

IV. **Audit & Inspection Report.** Farrell Walker gave the Audit & Inspection report. There was some discussion on the Accounting & Budget Control inspection report. Audit & Inspection will follow up on implementation of recommendations made in accordance with management responses.

V. **Division reports.** Valerie Fulmer gave the Administration Division report. There was some discussion on grant funding for replacement livescan devices for field agencies and ongoing building projects. Randy Elliston gave the Texas Highway Patrol Division report. There was some discussion on Selective Traffic Enforcement Program (STEP) results and drug and criminal interdiction programs. The Driver License Division report was given by Judy Brown. There was some discussion on DL reengineering, the CRIS project, image verification and fraud unit. Marshall Caskey gave the Criminal Law Enforcement Division report. There was some discussion on illegal 8-liner activity, ongoing activities of the various services, BATIC (Border Auto Theft Information Center), seized funds and the CODIS backlog. The Ranger report was given by Earl Pearson. Mary Lauderdale gave the Information Management Service report. Danny Knauth gave an update on joint efforts between DPS and the Texas Commission on Environmental Quality (TCEQ) for implementation of the State's vehicle emissions inspection/maintenance program. Mark Rogers updated the Commission on the border safety inspection stations.

VI. **DPS retire/rehire policy.** There was some discussion on the current retire/rehire policy.

VII. **For publication for public comment**

A. **Proposed amendment to Rule 4.37, 37 TAC Sec. 4.37, relating to acceptance of Out-of-State Commercial Vehicle Inspection Certificate; the amendment is needed to correct the name of the federal agency listed in the rule.** Mark Rogers briefed the Commission on the proposed amendment. Upon motion by Commissioner Holt and seconded by Commissioner Cascos, the attached amendment was unanimously approved for publication for public comment.

VIII. **For final adoption**

A. **Proposed amendment to Rule 15.81, 37 TAC Sec. 15.81; Proposed New Rule 15.89, 37 TAC Sec. 15.89, relating to the new Driver Responsibility Program and a list of moving violations applicable to this program and administrative actions, as published in 29 TexReg 3776, April 16, 2004**

B. **Proposed repeal of existing Rules 25.1-25.18, 37 TAC Secs. 25.1-25.18; Proposed New Rules 25.1-25.8, 37 TAC Secs. 25.1-25.8, relating to criteria used for suspension actions under the Safety Responsibility Act, as published in 29 TexReg 3777, April 16, 2004**

Mary Ann Courter briefed the Commission on the above proposed amendment, repeal and new rules. Upon motion by Commissioner Cascos and seconded by

Commissioner Holt, the attached amendment, repeal and new rules were unanimously approved for final adoption.

VII. Personnel matters, pending and contemplated litigation, ongoing criminal investigations, status of purchase of real property. The Commission went into Executive Session pursuant to Tex. Gov. Code Secs. 551.071, 551.074, 551.072 & 411.0041 to discuss personnel matters, Special Ranger and Special Texas Ranger commissions; pending and contemplated litigation; status of purchase of real property; and ongoing criminal investigations. Upon reconvening Regular Session, Commissioner McHugh announced that the Commission had discussed personnel matters, pending litigation and ongoing criminal investigations. Special Ranger commissions had been considered for DPS retirees Michael Espinoza, Gordon Forsberg, Retlaw Greene and Phillip Waldrup. Upon motion by Commissioner Holt and seconded by Commissioner Cascos, Special Ranger commissions were approved for the above named individuals.

A motion was made by Commissioner Cascos and seconded by Commissioner Holt adjourning the meeting.

Read and approved this 16 day of June, 2004.

Chairman

Member

Member

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On May 26, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Drivers License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter D
Section Numbers 15.81 and 15.89

The Texas Department of Public Safety adopts an amendment to Section 15.81 and new Section 15.89, concerning Driver Improvement, without changes to the proposed text as published in the April 16, 2004, issue of the Texas Register (29 TexReg 3776).

Amendment of Section 15.81 and new Section 15.89 are necessary due to the passage of Tex H.B. 3588, 78th Leg., R.S. (2003). This bill created the Driver Responsibility Program, Texas Transportation Code (TRC), Chapter 708 and requires the department to identify by rule a listing of moving violations applicable to this program and administrative actions.

Amendment to Section 15.81 deletes the definition of "moving violation" and renumbers the remaining paragraphs.

New Section 15.89 is created to address the "moving violation" definition, provides a table listing moving violations, and whether or not the violation would be assessed points under the Driver Responsibility Program.

No comments were received regarding adoption of the amendment and new section.

The amendment and new section are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's rules, and Texas Transportation Code, Section 708.052, which requires the department to designate offenses that constitute moving violations of the traffic law.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

Colleen McHugh, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On May 26, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Safety Responsibility Rules
Title 37 T.A.C. Part I, Chapter 25
Section Numbers 25.1 - 25.18

The Texas Department of Public Safety adopts the repeal of Sections 25.1-25.18, concerning Safety Responsibility Regulations, without changes to the proposed text as published in the April 16, 2004, issue of the Texas Register (29 TexReg 3777).

Repeal of the sections is necessary due to substantial revisions having been made. The last amendment to this chapter occurred in 1999, and revisions are now needed to clearly outline and support the implementation of the Safety Responsibility Act, Texas Transportation Code, Chapter 601. Adoption of the repeals is filed simultaneously with the adoption of new Sections 25.1-25.8 which implement the provisions of the Safety Responsibility Act.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Transportation Code, Chapter 601.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

Colleen McHugh, Chairman
Public Safety Commission

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TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On May 26, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Safety Responsibility Rules
Title 37 T.A.C. Part I, Chapter 25
Section Numbers 25.1 - 25.8

The Texas Department of Public Safety adopts new Sections 25.1-25.8, concerning Safety Responsibility Regulations, without changes to the proposed text as published in the April 16, 2004, issue of the Texas Register (29 TexReg 3777).

Adoption of the new sections is necessary in order to outline and support the implementation of the Safety Responsibility Act, Texas Transportation Code, Chapter 601. Adoption of the new sections is filed simultaneously with the adoption for repeal of current Sections 25.1-25.18.

New Section 25.1 establishes the criteria for determining whether action can be taken to suspend a driver license and/or vehicle registration in an accident case. The department will not initiate suspension action unless proper documentation is received for review and the suspension action can be completed within 20 months of the accident date. The documents received are subject to release under the Public Information Act.

New Section 25.2 provides the method by which the enforcement in Section 25.1 is processed and the types of compliance accepted for reinstatement of driver license; provides for an administrative hearing if a written request is received in a timely manner; indicates the types of compliance documents that are acceptable and the fee required for reinstatement of driver license; and provides for reinstatement of driver license after two years from the accident if no judgment has been filed.

New Section 25.3 establishes the method by which suspension action is initiated following an unsatisfied judgment and the types of compliance accepted for reinstatement. The section further provides for suspension following a default on a court approved installment agreement or agreed judgment and has a provision by which a debtor can have the license reinstated by proving liability coverage for the accident out of which the judgment arose.

New Section 25.4 defines the procedure for reciprocity suspension action resulting from an out-of-state accident and what documents are acceptable to initiate such suspensions. Also states what is acceptable as compliance and the fee required for reinstatement.

New Section 25.5 establishes the criteria for suspension action following a second or subsequent conviction for failure to maintain financial responsibility and the compliance acceptable for reinstatement. The section further provides for the department to waive

the filing of evidence of financial responsibility for the future if the individual can show satisfactory evidence that he was covered by liability insurance at the time the offense occurred. Also allows the department to suspend a driver license if the insurance company notifies the department that the proof on file has been canceled.

New Section 25.6 defines the SR-22 insurance certificate; explains when it is required and the duration of the requirement. The section also defines the form SR-26 which must be filed by the insurance carrier to cancel the SR-22.

New Section 25.7 defines self insurance; the documents necessary to establish self insurance; and how the certificates are issued by the department.

New Section 25.8 outlines the cost of the reinstatement fee.

No comments were received regarding adoption of the new sections.

The new sections are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Transportation Code, Chapter 601.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

Colleen McHugh, Chairman
Public Safety Commission