

**MINUTES
PUBLIC SAFETY COMMISSION
November 3, 2005
Austin, Texas**

The Public Safety Commission met in Austin, Texas on November 3, 2005. Attending the meeting were Chairman Ernest Angelo, Jr., and Commissioner Carlos Cascos.

DPS Staff members present:

Tommy Davis, Director
David McEathron, Assistant Director
Oscar Ybarra & Tom Haas, Accounting & Budget Control
Randy Elliston & Lamar Beckworth, Texas Highway Patrol Division
Gary Stone, Criminal Law Enforcement
Burt Christian, Administration
Judy Brown, Bob Burroughs & Angela Parker, Driver License
Ray Coffman & Jim Miller, Texas Rangers
Farrell Walker, Office of Audit & Inspection
Jack Colley, Emergency Management Division
Mary Ann Courter, General Counsel
Ed Kelly & Bryan Lane, Information Management Service
Tela Mange, Public Information Office
David Outon, Internal Affairs
Michael Kelley, Legislative Liaison
Rick Kautz, Information Resource Section
Jack Reichert & Steve Powell, Aircraft
Dorothy Wright, Secretary

Guests present:

Michael McElhaney, Governor's Office
Shaniqua Johnson, Legislative Budget Board
Colby Beuck, Lieutenant Governor's Office
Kenneth Friesenhan, Texas Legislative Service

The meeting was called to order by Chairman Angelo. Proper notice had been posted.

- I. **Minutes.** Upon motion by Commissioner Cascos and seconded by Commissioner Angelo, the minutes of the September 20, 2005 meeting were approved.
- II. **Public comment.** Ann Zeeck, a Texas Department of Transportation employee, addressed the Commission reference rules for carpool parking spaces for state employees in the Capitol complex area. She was advised someone would look into her concerns.
- III. **Special Ranger and Special Texas Ranger commissions; Honorary Texas Ranger Captain.** The Commission went into Executive Session to discuss Special Ranger and Special Texas Ranger commissions and Honorary Texas Ranger Captains. Upon reconvening Regular Session, it was announced Special Ranger commissions had been considered for DPS retirees Christopher Boggs, Arnold Briscoe, Michael Bishop, Edward

L. Kelley, and Arturo Munoz, Jr. and former Public Safety Commissioner Colleen McHugh had been considered for Honorary Texas Ranger Captain. A motion was made by Commissioner Cascos and seconded by Commissioner Angelo approving the above named individuals as Special Rangers and naming Colleen McHugh as an Honorary Texas Ranger Captain. Ms. McHugh made some remarks and Commissioners Angelo and Cascos expressed appreciation to her for her dedication and service to DPS.

- IV. Discussion and possible action on approving Emergency Management as a new division.** Colonel Davis briefed the Commission on this item. A motion was made by Commissioner Cascos and seconded by Commissioner Angelo approving Emergency Management as a major division within DPS.
- V. Budget matters.** Oscar Ybarra gave the budget report. There was some discussion on building projects utilizing Texas Public Finance funding, gasoline prices and FTE vacancies.
- VI. Audit & Inspection report.** Farrell Walker gave the audit & inspection report.
- VII. Division reports.** Burt Christian gave the Administration Division report, including an update on the status of the consultant contract for the Defensive Tactics Program. There was some discussion on Hurricane Rita response by Fleet Operation and Building Program employees and ongoing building projects. Commissioners Cascos and Angelo complimented DPS on their outstanding response to Hurricane Rita. The Texas Highway Patrol Division report was given by Randy Elliston. There was some discussion on THP's response to Hurricane Rita and ongoing STEP programs. Judy Brown gave the Driver License Division report. There was some discussion on DL's response to Hurricane Rita, the DL reengineering project and efforts to promote online DL services. Bob Burroughs gave an update on the Driver Responsibility Program. Jack Colley gave the Emergency Management Division report. There was some discussion on ongoing Division activities in relation to Hurricanes Rita and Katrina and the Governor's Task Force on Evacuation Transportation and Logistics. The Criminal Law Enforcement Division report was given by Gary Stone. There was some discussion on CLE's response to Hurricane Rita and attempts to locate Hurricane Katrina evacuees in Texas that may be wanted criminals, parolees and sex offenders. Ray Coffman gave the Ranger Division report. The Information Management Service report was given by Ed Kelly. Gary Stone gave a homeland security update.
- VIII. Discussion and ratification of suspension of Department rules, regulations and policies in response to the Governor's Proclamations of September 20, 2005, declaring a threat of imminent disaster and October 20, 2005, continuing emergency conditions due to Hurricane Rita.** A motion was made by Commissioner Cascos and seconded by Commissioner Angelo to ratify the suspension of rules, regulations and policies that were implemented by the department in response to the Governor's Proclamations of September 20, 2005 and October 20, 2005 regarding Hurricane Rita, with such suspension to expire when the Governor's declaration of disaster expires.

IX. For publication for public comment.

A. Proposed amendment to Rule 15.24, 37 TAC Sec. 15.24, relating to applicants providing proof of identity to obtain a driver license or identification certificate. Angie Parker briefed the Commission on the above proposed amendment. Upon motion by Commissioner Cascos and seconded by Commissioner Angelo, the attached amendment was unanimously approved for publication for public comment.

X. For adoption.

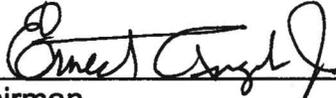
- A. Proposed repeal of Rule 1.42, 37 TAC Sec. 1.42, relating to Volunteer Program, as published in 30 TexReg 5727, Sept. 9, 2005**
- B. Proposed amendment to Rule 15.89, 37 TAC Sec. 15.89, relating to moving violations assessed points to qualify for the Driver Responsibility Program, as published in 30 TexReg 5727, Sept. 9, 2005**
- C. Proposed amendment to Rule 15.162, 37 TAC Sec. 15.162, relating to Driver Responsibility Program installment agreements, as published in 30 TexReg 5728, Sept. 9, 2005**
- D. Proposed amendment to Rule 29.2, 37 TAC Sec. 29.2, relating to enforcement of contested cases brought under the Ignition Interlock Program, as published in 30 TexReg 5747, Sept. 9, 2005**

Mary Ann Courter briefed the Commission on the proposed repeal and amendments. Upon motion by Commissioner Cascos and seconded by Commissioner Angelo, the attached repeal and amendments were unanimously approved for final adoption.

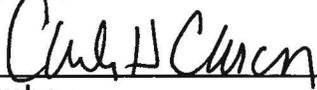
XI. Personnel matters, pending and contemplated litigation, ongoing criminal investigations, status of purchase of real property. The Commission went into Executive Session pursuant to Tex. Gov. Code Secs. 551.071, 551.074, 551.072 & 411.0041 to discuss personnel matters, including the Director's action of discharging probationary employees Crystal Reyes and Ceirra Smith; pending and contemplated litigation; status of purchase of real property; and ongoing criminal investigations. Upon reconvening Regular Session, Commissioner Angelo announced that the Commission had discussed personnel matters, pending and contemplated litigation and ongoing criminal investigations. Upon motion by Commissioner Cascos and seconded by Commissioner Angelo, the Director's action of discharging probationary employees Crystal Reyes and Ceirra Smith was affirmed (see attached Order).

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

Read and approved this 7th day of December, 2005.



Chairman



Member

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On November 3, 2005, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Organization And Administration
Title 37 T.A.C. Part I, Chapter 1
Supchapter C
Section Number 1.42

The Texas Department of Public Safety adopts the repeal of Section 1.42, concerning Volunteer Program, without changes to the proposed text as published in the September 9, 2005, issue of the Texas Register (30 TexReg 5727).

The repeal of Section 1.42 is necessary because the volunteer program will no longer be handled by an agency-wide volunteer coordinator. Volunteers will be approved and utilized by supervisory chains of command pursuant to internal department policy.

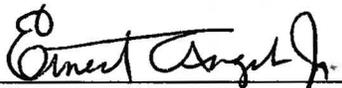
No comments were received regarding repeal of the section.

The section is 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.

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.



Ernest Angelo, Jr., Chairman
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On November 3, 2005, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Supchapter D
Section Number 15.89

The Texas Department of Public Safety adopts amendments to Subchapter D, Section 15.89, concerning Driver Improvement, without changes to the proposed text as published in the September 9, 2005, issue of the Texas Register (30 TexReg 5727).

The amendments will clarify the moving violation convictions that are assessed specific surcharges and not assessed points under the Driver Responsibility Program. The amendments to the section are necessary in order to correct the previous interpretation of provisions contained in Chapter 708 of the Texas Transportation Code. In addition, the amendment adds the "No School Bus Endorsement" violation to the list of moving violations in compliance with 49 CFR, Part 383 of the Federal Motor Carrier Safety Act.

Chapter 708 of the Transportation Code grants the department the authority to adopt rules to implement the Driver Responsibility Program (DRP). This program was initially created during the 78th Legislative Session (2003) and requires the department to assess fees based on an individual's driver history. DRP has two major components, a point system and a conviction surcharge system. The point system is based on the accumulation of Class C traffic offenses. An individual receives two points for each traffic conviction and three points if the offense resulted in an accident. The conviction surcharge system is based on a one-time conviction of certain more serious traffic offenses. The program requires the individual to pay the fee, ranging from \$100 to \$2000 every year for three years.

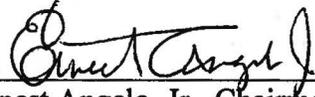
On September 14, 2005, the department held a public hearing to receive comment(s) from all interested person(s) regarding adoption of the amendments. No comments were received regarding adoption of the amendments.

The amendments 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, Section 708.002.

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.



Ernest Angelo, Jr., Chairman
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On November 3, 2005, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Supchapter J
Section Number 15.162

The Texas Department of Public Safety adopts amendments to Subchapter J, Section 15.162, concerning the Driver Responsibility Program, without changes to the proposed text as published in the September 9, 2005, issue of the Texas Register (30 TexReg 5728).

Chapter 708 of the Transportation Code grants the department the authority to adopt rules to implement the Driver Responsibility Program (DRP). This program was initially created during the 78th Legislative Session (2003) and requires the department to assess fees based on an individual's driver history. The program was amended by the 79th Legislative Session (2005) to allow a person to pay a surcharge over a period of 36 consecutive months. DRP has two major components, a point system and a conviction surcharge system. The point system is based on the accumulation of Class C traffic offenses. An individual receives two points for each traffic conviction and three points if the offense resulted in an accident. The conviction surcharge system is based on a one-time conviction of certain more serious traffic offenses. The program requires the individual to pay the fee, ranging from \$100 to \$2000 every year for three years.

The statute specifically requires the department to establish rules regarding the acceptance of installment payments. The department has contracted with a vendor to process the surcharge payments. Amendments to subsection (k) are necessary in order to allow for the payment of the surcharge over a period of 36 consecutive months.

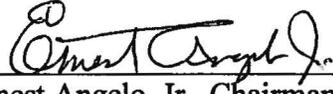
No comments were received regarding adoption of the amendments.

The amendments 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, Section 708.002 and Section 708.153.

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.



Ernest Angelo, Jr., Chairman
Public Safety Commission

mla

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On November 3, 2005, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Practice And Procedure
Title 37 T.A.C. Part I, Chapter 29
Section Number 29.2

The Texas Department of Public Safety adopts an amendment to Section 29.2, concerning Practice and Procedure, without changes to the proposed text as published in the September 9, 2005, issue of the Texas Register (30 TexReg 5747).

Chapter 29 of the department rules was put in place to provide consistent procedures for occupational licensing and administratively contested matters in areas regulated by the department. Several sections of Texas Transportation Code, (TRC), including Chapter 521, that apply to driver licenses were made exempt from these rules; the ALR process for driver license suspension has its own unique set of rules. However, TRC Chapter 521 also contains provisions for regulation of the Ignition Interlock Device industry, including the authority for the department to take enforcement action. Therefore, adoption of the amendment to Section 29.2 is necessary in order to provide procedural rules to set the parameters in situations where an administrative hearing is requested on enforcement on an Ignition Interlock matter.

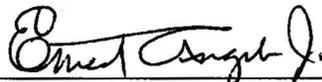
No comments were received regarding adoption of the amendment.

The amendment is 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.

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.



Ernest Angelo, Jr., Chairman
Public Safety Commission



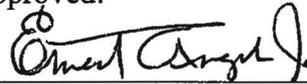
IN THE MATTER OF § BEFORE THE
THE DISCHARGE OF § PUBLIC SAFETY COMMISSION
PROBATIONARY EMPLOYEES § IN AUSTIN, TRAVIS COUNTY, TX

Advice and Consent

In accordance with Government Code Section 411.007(f), the Director found that the following named probationary employees were unsuitable for continued employment in the Department of Public Safety. The Public Safety Commission has consented to the discharge of these employees:

Employee Name	Employee Title/Division	Date of Discharge
Crystal Reyes	Clerk IV/Driver License	10/05/05
Ceirra Smith	Microfilm Camera Operator II/Driver License	10/13/05

Approved:



Ernest Angelo, Jr., Chairman
Public Safety Commission
Date: November 3, 2005

