

MINUTES
PUBLIC SAFETY COMMISSION
February 22, 2017
AUSTIN, TX

The Public Safety Commission met in Austin, Texas on February 22, 2017. Attending the meeting were Chairman Cynthia Leon, Commissioners Manny Flores, Steven Mach and Randy Watson. A quorum was present at the meeting. DPS staff members and guests were also present.

CALL TO ORDER (0:00:15)

The meeting was called to order by Chairman Leon at 10:04 a.m. Proper notice had been posted.

APPROVAL OF MINUTES (0:00:53)

A motion was made by Commissioner Mach, seconded by Commissioner Watson, approving the minutes from the December 15, 2016 meeting. Motion passed unanimously.

PRESENTATIONS (0:01:20)

Service Awards

Jeffrey Lee Carr – 30 years
Charles Ray Goble – 30 years
Joseph Chadwick Grange – 30 years
Clarence David Magee – 30 years
Charlotte Natalie Adams – 30 years
Sara Smith – 30 years
Gay Lorene Smith – 35 years
Dorothy Elizabeth Hart – 35 years
Victor Jeffery Gails – 35 years
Dana Clark Moore – 35 years
Lawrence Thomas – 35 years

William P. Clements Excellence Award

DPS Foundation Chair, Tom Clowe; Co-Chair, Jim Savage; and President, Colleen McHugh presented the awards.

John Michael Morse – Non-Commissioned

Special Agent Cody Ryan Allen - Commissioned

Lifesaving Award

Sergeant D.L. Wilson

Trooper Trainee Nicholas W. Wingate

Directors Award

Robert Sneed

Purple Heart Award

Trooper R.L. "Rusty" Davis

Unit Citation Award

Fleet Operations Installation Department

(0:27:24) Break 10:30 – 10:47 a.m.

(0:27:50) Chairman Leon acknowledged the following individuals attending the meeting:

Libby Elliott – Governor's Office

Brian Shufelt – Rep Klick's office

PUBLIC COMMENT (0:28:18)

Rhonda Taylor – altering unauthorized public documents (written comments submitted)

Truong Viet – investor interested in Low THC; looking for clarification on licensing and production limits

Shannon Way – read letter written by eleven year old, Alexis Bortell, who has been battling a life-threatening illness since she was seven. Alexis currently lives in Colorado since her doctors have increased the amount of THC she is taking to beyond Texas' legal limit. She has passed 700+ days seizure free and wants everyone to know this isn't about a plant or industry, it's about patients and people whose lives matter. Ms. Way submitted a copy of Alexis' letter along with a copy of her current medical record and copy of her Lexile test scores showing Alexis is at a 12th grade level.

Ho Washington – investor wanting to know if more than three licenses would be issued.

Kristofer Taylor – expressed concerns regarding production limits; square footage and plant count; statewide shortages – allowing companies to grow 2/3 supply. Informed Commission he had previously submitted his comments via the DPS website.

Susan Hays – represents company licensed in Nevada and California and offered herself as a resource to answer any questions regarding the production process or regulatory requirements.

DIRECTORS REPORT (0:48:26)

A. Automated Fingerprint Identification System (AFIS) Case Update

Update provided by Jenny Hall and Meghan Blackburn:

- Child exploitation case resulting in a 24-hour turnaround time on evidence
- Received CyberTipline report in July 2015 from the Texas Attorney General's office
- Multiple digital images stored on online storage account by unknown suspect depicting sexual assault of a child
- One image depicted a partial hand with clearly visible fingerprints
- AG's office contacted lab for assistance in identifying subject
- Lab's concern – no scale to full hand in digital image so lab utilized information obtained from the internet to generate approximate 1:1 image
- State database search provided negative results
- Federal database search resulted in identification of Robert Bossick, Jr.
- Bossick's social media accounts were searched resulting in the identification of the 8 year-old victim
- Bossick was arrested in Georgia within 3 hours and confessed to sexual assault of a child; pleaded guilty to one count of producing child pornography and one count of possession of child pornography receiving a sentence of a total of 600 consecutive months (50 years)

B. Use of Force (0:55:38)

Presentation provided by Major Chance Collins:

- In 2015, director formed a Use of Force Committee charged to study officer involved shooting investigations and training, and study actual events for trends.
- Non-Lethal Use of Force (2012-2016) 1,348 Total Actions / 37.9% Total Decrease
- Non-Lethal Use of Force Demographics

599 White	44.4%
201 Black	14.9%
527 Hispanic	39.1%
5 Asian	0.4%
15 Other	1.2%

-Use of Deadly Force (2012-2016) 53 Total Actions / 50% Total Increase

-Lethal Use of Force Demographics

30 White 51%

9 Black 15%

18 Hispanic 31%

2 Other 3%

*Figures are not broken down by divisions but the majority were encountered by Texas Highway Patrol.

C. Update on Legislative Testimony, including Senate Finance Committee (1:06:24)

Update provided by Director McCraw:

-Public testimony before Congress at the House Committee on Homeland Security on 2/7/17, where Secretary Kelly spoke about immigration

*Texas Rangers are conducting assault investigations on Border Patrol Agents; Border Prosecution Unit is prosecuting the cases: 14 cases investigated (6 convictions/6 pending trial/1 pending investigation/1 declined, Agent didn't want to testify)

*Performance Measures – matrix that defines variables

-Senate Finance and House Appropriations Committee

*4% Cut (177 officer positions/143 non-commissioned personnel; 108 of those are Driver License positions)

*1,200 vehicles have over 120K miles; requesting 1,240 additional vehicles under Exceptional Items

*During Senate Finance, concern over sexual assault kits and status. Assistant Director Skylor Hearn was present and provided Committee with an update:

-SB1636 – Any untested sexual assault kits in the hands of law enforcement back in the time frame of September 1996 were made active again creating a backlog of approximately 15,000 kits.

-Legislature provided \$10 million to allow outsourcing testing of those kits to private labs.

-Majority of those kits were deemed unnecessary to the prosecution of the case so a decision was made not to conduct tests.

-Should be able to complete initiative with the allotted \$10 million by August 2017.

-SB1636 looking forward, all sexual assault kits that come into the hands of law enforcement must be tested regardless if the case is pursued.

*Senate Finance also inquired about the DPS Relocation Study in Rider 54. Assistant Director Amanda Arriaga provided an update to the Commission:

-Rider 54 requires DPS to look at what would savings be if we moved from campus; strategy states money should come from Deferred Maintenance.

-Tried to use Deferred Maintenance, Bond Proceeds and Seized Funds to conduct study and was denied.

- We have a high level plan to submit to the LBB on August 31, 2017.
- Statute states we must be located in Austin.
- Preliminary cost to relocate headquarters campus (including leased properties) would be \$794.43 million (construction + land – savings from selling DPS property in Travis County)
- Commission suggested speaking to legislature to consider adding Travis County to Rider 54, instead of limiting to the Austin area, in order to save money.
- *Case Management Legacy System was also discussed during Senate Finance and AD Arriaga provided the following:
 - Case Management contract was \$3.1 million (each renewal term is valued at \$460,922)
 - CRB Change #3 added \$111,294 to cost of contract
 - CRB Change #4 added \$238,264 to cost of contract
 - Total cost spent on project, report to QAT as of August 2016 was \$4.3 million
 - DPS will need to explain that estimated projected costs were inflated, and actual cost came out below projected costs on the closed out report.
 - Assistant Director Tom Ruocco added software went live in March 2016 and currently have over 2,500 users on system.

NEW BUSINESS (2:03:22)

A. Update on Legislative Appropriations Request

Update provided by Assistant Director Suzy Whittenton:

- Senate reduced our General Revenue Budget Bill by \$90 million
- House reduced our General Revenue Budget Bill by \$210 million
- Senate Bill is most favorable by \$120 million
- Items added on Senate and House Bill:

*Fuel for new Pilatus	\$ 0.6
*Salaries for 250 Troopers	\$27.6
*Funding for Ranger Overtime	\$ 3.0
*Funding for Sexual Assault Kit Testing	\$ 4.2
- Revision of Exceptional Items Based on Introduced Bills:
 - *Items 1-8 are the same with amounts adjusted
 - *Item 9 added – Restoration of Baseline Salaries \$12.0
 - *Item 10 added – HB 2053 – Crimes Against Children \$0.8

B. Texas Rangers – Unsolved Crime Investigation Program Update (2:09:05)

Update provided by Assistant Director Randy Prince and Lieutenant James Scoggins:

- Unsolved Crime Investigation Program was created in September 2001 solving an average of 3 cold cases per year.

- In 2015, refocused efforts in the program and reassigned staff; assigning Lieutenant James Scoggins to a non-commissioned position to lead the program.
- From 2015 to current, 24 cases have been solved and cleared
- Since 2001, 62 cases have been solved and cleared
- Year End 2016 Review: 13 cold cases cleared & solved/11 suspects arrested, indicted or convicted of Murder or Capital Murder
- 75 open cases
- AD Prince acknowledged Lieutenant Scoggins' wife, Lydia, for her unyielding strength and unwavering dedication to the department.

C. Report, discussion, and possible action on the Office of Inspector General Annual Report (2:31:35)

Update provided by Inspector General Rhonda Fleming:

- 557 Complaints received in 2016
- 223 OIG-EEO Investigations
- 281 Division Referrals
- 53 ECI's tracked
- Frequent Allegations for 2016:
 - *Courtesy Policy Violation
 - *Assault (On Duty)
 - *Falsifying Reports
 - *Misuse of DPS Vehicles
 - *Claims of Race Discrimination
 - *Claims of Gender Discrimination
- OIG Investigative Timeliness for 2016 – 25 working days
- DPS Blue Team – went live in 2015; one example of intervention that occurred last week on a THP Trooper that received three complaints on courtesy within one year.
- October – December 2016 – OIG received 600+ complaint calls (generated from adding OIG contact information on all DPS tickets and warnings in October)
 - *Only 16 calls pertained to employee behavior and there were no policy violations sustained.
 - *All other calls were for information on how to pay a ticket and for judge's information.
- January 2017 OIG received 400+ calls and they expect the same results.

D. Report, discussion, and possible action on the following rule proposals for publication to receive public comment:

1. Proposed Department Rule Review Plan in accordance with Texas Government Code, Section 2001.039 (2:40:15)

A motion was made by Commissioner Mach, seconded by Commissioner Flores, to approve New Business, Item D1, to receive public comment. Motion passed unanimously.

E. Intelligence Threat Briefing (Clearance Required – Executive Session Expected)

ONGOING BUSINESS (2:41:49)

A. Report, discussion, and possible adoption of the following previously published rules:

1. Amendments to 37 TAC Chapter 15, concerning Driver License Division Rules

(a) Amendments to 37 TAC Section 15.25, concerning Address (2:42:24) No Comments

(b) Amendments to 37 TAC Section 15.55, concerning Waiver of Knowledge and/or Skills Test (2:42:40) No Comments

(c) Simultaneous repeal of current 37 TAC Section 15.62 and proposed new 37 TAC Section 15.62, concerning Additional Requirements (2:42:48) No Comments

A motion was made by Commissioner Mach, seconded by Commissioner Watson, approving adoption of Ongoing Business, Items A1a-c. Motion passed unanimously.

2. New 37 TAC Section 16.31, concerning Third-Party Skills Testing Program (2:43:40)

One comment received, supportive of adoption.

A motion was made by Commissioner Mach, seconded by Commissioner Watson, approving adoption of Ongoing Business, Item A2. Motion passed unanimously.

3. Simultaneous repeal of current 37 TAC Chapter 6 and proposed new 37 TAC Chapter 6, concerning License to Carry Guns (2:44:38) No Comments

A motion was made by Commissioner Mach, seconded by Commissioner Watson, approving adoption of Ongoing Business, Item A3. Motion passed unanimously.

4. Amendments to 37 TAC Section 35.132, concerning Subscription Fees (2:46:25)

No Comments

A motion was made by Commissioner Mach, seconded by Commissioner Flores, approving adoption of Ongoing Business, Item A4. Motion passed unanimously.

5. Amendments to 37 TAC Chapter 12, concerning Compassionate-Use/Low-THC Cannabis Program

(a) Amendments to 37 TAC Sections 12.1-12.4, 12.7, 12.8 and proposed new Section 12.9, concerning General Provisions (2:47:12) Received one comment focusing on threshold of owners; Department responded.

A motion was made by Commissioner Mach, seconded by Commissioner Watson, approving adoption of Ongoing Business, Item A5a. Motion passed unanimously.

(b) Amendments to 37 TAC Sections 12.11, 12.14, and 12.15, concerning Application and Renewal (2:49:00) Received one positive comment referencing adjustment of fees.

A motion was made by Commissioner Mach, seconded by Commissioner Flores, approving adoption of Ongoing Business, Item A5b. Motion passed unanimously.

(c) Amendments to 37 TAC Section 12.21 and Section 12.23, concerning Compliance and Enforcement (2:51:19) No Comments

A motion was made by Commissioner Flores, seconded by Commissioner Mach, approving adoption of Ongoing Business, Item A5c. Motion passed unanimously.

(d) Amendments to 37 TAC Sections 12.31-12.34, concerning Security (2:52:23) Received several comments.

A motion was made by Commissioner Mach, seconded by Commissioner Watson, approving adoption of Ongoing Business, Item A5d. Motion passed unanimously.

(e) Amendments to 37 TAC Section 12.41 and Section 12.42, concerning Compassionate-Use Registry (2:55:30) Received one comment regarding patients prescription being verified and amount.

A motion was made by Commissioner Flores, seconded by Commissioner Watson, approving adoption of Ongoing Business, Item A5e. Motion passed unanimously.

(f) New 37 TAC Section 12.61, concerning Production Limits (2:57:44) Received numerous comments regarding production limits of low THC. We believe the rule provides the flexibility to increase production to meet demand and amount of product available.

A motion was made by Commissioner Mach, seconded by Commissioner Flores, approving adoption of Ongoing Business, Item A5f. Motion passed unanimously.

B. Update, report, discussion and possible action regarding recruitment (3:05:42)

Update provided by Assistant Director Woodall:

- 134 Recruits scheduled to graduate 2/24/17
- Total of 570 new troopers added in last 14 months
- A-2017 School began 1/8/17 with 149 recruits, currently at 130

- B-2017 School begins 3/12/17, currently have 111 applicants
- Next Command College scheduled to graduate 3/31/17 with 30 students

C. Report, discussion, and possible action regarding the appointment, promotion, ratification, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of the Department or Commission management team (3:08:09)

With the retirement of Joe Peters, Assistant Director Driver License Division, at the end of session and Skylor Hearn transitioning into that position; Director McCraw is seeking advice and consent to promote Mike Lesko to Assistant Director Law Enforcement Support and Skylor Hearn to assume the position of Assistant Director Driver License Division.

A motion was made by Commissioner Watson, seconded by Commissioner Mach, approving advice and consent to promote Mike Lesko to Assistant Director Law Enforcement Support. Motion passed unanimously.

A motion was made by Commissioner Mach, seconded by Commissioner Watson, approving advice and consent for Skylor Hearn to assume position of Assistant Director Driver License Division effective June 1, 2017. Motion passed unanimously.

D. Report, discussion, and possible action regarding ongoing criminal investigations pursuant to Government Code § 411.0041 (Executive Session anticipated)
To be discussed during Executive Session.

REPORTS (3:11:35)

- A. Commission member reports and discussion - none
- B. Finance Report - none
- C. Chief Auditors Office - none
- D. Division status reports on activities and action - none

CONSENT ITEMS (3:11:42)

A. Discussion and possible action on appointments of Special Rangers and Special Texas Rangers pursuant to Government Code Chapter 411, Secs. 411.023 & 411.024; Special Rangers: Kenneth R. Adams, Laurance P. Adams, Bob L. Alford, Larry L. Allen, Gilbert C. Arredondo, Selso Artiaga, Jr., Edward M. Bazan, Kenneth H. Bibby, Ralph C. Cheek, Larry M. Cowie, Denman B. Dunkin, Michael W. Fincher, Kevin B. Franklin, Albert W. Henkes, James L. Henry, Patrick B. Hernandez, Donald L. Johnson, Caroline Y. Knauth, Steven D. Lauderdale, Lawrence C. Marshall, Jr., Marvin T. McLeroy, Jose

M. Morales, John W. Pelath, Bryon K. Prall, Hector Ramos, Sr., Michael L. Ray, Robert W. Richardson, Jose A. Salas, Corwin N. Schalchlin, Michael L. Turner, Charles K. Waggoner; Special Texas Rangers: Andrew F. Carter, James R. Holder, James R. Wilson

B. Donations:

1. Additional donation items, as needed

A motion was made by Commissioner Mach, seconded by Commissioner Flores, approving Consent Items. Motion passed unanimously.

ITEMS FOR FUTURE AGENDA (3:12:09)

None at this time.

DATE FOR FUTURE MEETING (3:12:16)

Any discharge hearings will be scheduled on April 12, 2017, and the regular Public Safety Commission meeting is scheduled for April 13, 2017.

ADJOURN INTO EXECUTIVE SESSION

The Commission adjourned into Executive Session to discuss security issues, to consult with legal counsel regarding pending or contemplated litigation or settlement offers or to receive legal advice on items posted on this agenda; deliberation regarding real estate matters; consideration of any other items authorized by law, including personnel matters, the Director's action of discharging employees as identified in this agenda; ongoing criminal investigations. Executive Session began at 1:32 p.m.

(3:13:03) The Public Safety Commission reconvened in open session at 3:14 p.m. Commissioners present were Chairman Cynthia Leon, Commissioners Manny Flores, Steven Mach and Randy Watson.

ADJOURN

A motion was made by Commissioner Flores, seconded by Commissioner Mach, to adjourn the meeting. Motion passed unanimously.

The meeting was adjourned at 3:14 p.m.

Read and approved this 27th day of April, 2017.



Chairman

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

License to Carry Handguns
Title 37 T.A.C. Part I, Chapter 6
Subchapter A
Section 6.1 and Section 6.2

The Texas Department of Public Safety (the department) adopts the repeal of §6.1 and §6.2, concerning General Provisions. These repeals are adopted without changes to the proposed text as published in the December 30, 2016 issue of the *Texas Register* (41 TexReg 10519) and will not be republished.

The repeal of Subchapter A is filed simultaneously with proposed new Chapter 6. This repeal, and the proposal of new Chapter 6, is necessary to implement the requirements of Texas Government Code, Chapter 411 as amended by House Bill 910, 84th Legislative Session. House Bill 910 authorized a person who is licensed to carry a handgun to openly carry a handgun so this repeal and new proposed rules are necessary to remove references to "concealed" in the license to carry a handgun rules. The rules in Chapter 6 were consolidated and updated to eliminate unnecessary references and to reflect current licensing procedures applicable to applicants for a handgun license and for certification as a qualified handgun instructor.

No comments were received regarding the adoption of these repeals.

These repeals adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and §411.197 which authorizes the director to adopt rules to administer this subchapter.

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.



A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

License to Carry Handguns
Title 37 T.A.C. Part I, Chapter 6
Subchapter A
Section 6.1

The Texas Department of Public Safety (the department) adopts new §6.1, concerning Definitions. This rule is adopted without changes to the proposed text as published in the December 30, 2016 issue of the *Texas Register* (41 TexReg 10520) and will not be republished.

The proposal of a new §6.1 is necessary to implement the requirements of Texas Government Code, Chapter 411, as amended by House Bill 910, 84th Legislative Session. House Bill 910 authorized a person who is licensed to carry a handgun to openly carry a handgun so this repeal and new proposed rules are necessary to remove references to "concealed" in the license to carry a handgun rules. The new §6.1 removes unnecessary terms and clarifies references in current existing definitions.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and §411.197 which authorizes the director to adopt rules to administer this subchapter.

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.



A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

License to Carry Handguns
Title 37 T.A.C. Part I, Chapter 6
Subchapter B
Sections 6.11 – 6.15

The Texas Department of Public Safety (the department) adopts the repeal of §§6.11 - 6.15, concerning Eligibility and Application Procedures. These repeals are adopted without changes to the proposed text as published in the December 30, 2016 issue of the *Texas Register* (41 TexReg 10521) and will not be republished.

The repeal of Subchapter B is filed simultaneously with proposed new Chapter 6. This repeal, and the proposal of new Chapter 6, is necessary to implement the requirements of Texas Government Code, Chapter 411 as amended by House Bill 910, 84th Legislative Session. House Bill 910 authorized a person who is licensed to carry a handgun to openly carry a handgun so this repeal and new proposed rules are necessary to remove references to "concealed" in the license to carry a handgun rules. The rules in Chapter 6 were consolidated and updated to eliminate unnecessary references and to reflect current licensing procedures applicable to applicants for a handgun license and for certification as a qualified handgun instructor.

No comments were received regarding the adoption of these repeals.

These repeals are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and §411.197 which authorizes the director to adopt rules to administer this subchapter.

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.

A handwritten signature in blue ink, appearing to read "A. Cynthia Leon", is written over a horizontal line.

A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

License to Carry Handguns
Title 37 T.A.C. Part I, Chapter 6
Subchapter B
Sections 6.11 – 6.16

The Texas Department of Public Safety (the department) adopts new §§6.11 – 6.16, concerning Eligibility and Application Procedures for a License to Carry a Handgun. These rules are adopted without changes to the proposed text as published in the December 30, 2016 issue of the *Texas Register* (41 TexReg 10521) and will not be republished.

The proposal of new §§6.11 - 6.16 is necessary to implement the requirements of Texas Government Code, Chapter 411 as amended by House Bill 910, 84th Legislative Session. House Bill 910 authorized a person who is licensed to carry a handgun to openly carry a handgun so this repeal and new proposed rules are necessary to remove references to "concealed" in the license to carry a handgun rules. The proposed §§6.11 - 6.16 are reorganized to remove unnecessary duplications, consolidate licensing requirements, remove rules no longer required by statute, clarify licensing requirements, and correct agency references.

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and §411.197 which authorizes the director to adopt rules to administer this subchapter.

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.

A handwritten signature in blue ink, appearing to read 'A. Cynthia Leon', is written over a horizontal line.

A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

License to Carry Handguns
Title 37 T.A.C. Part I, Chapter 6
Subchapter C
Sections 6.31 – 6.47

The Texas Department of Public Safety (the department) adopts new §§6.31 – 6.47, concerning Qualified Handgun Instructor License. These rules are adopted without changes to the proposed text as published in the December 30, 2016 issue of the *Texas Register* (41 TexReg 10522) and will not be republished.

The proposal of new §§6.31 - 6.47 is necessary to implement the requirements of Texas Government Code, Chapter 411 as amended by House Bill 910, 84th Legislative Session. House Bill 910 authorized a person who is licensed to carry a handgun to openly carry a handgun so the new proposed rules are necessary to remove references to "concealed" in the license to carry a handgun rules. The proposed §§6.31 - 6.47 are reorganized to remove unnecessary duplications, consolidate licensing requirements, remove rules no longer required by statute, and clarify licensing requirements, and correct agency references.

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and §411.197 which authorizes the director to adopt rules to administer this subchapter.

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.


A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

License to Carry Handguns
Title 37 T.A.C. Part I, Chapter 6
Subchapter D
Section 6.61 and Section 6.62

The Texas Department of Public Safety (the department) adopts new §6.61 and §6.62, concerning School Safety Certification for Qualified Handgun Instructors. These rules are adopted with changes to the proposed text as published in the December 30, 2016 issue of the *Texas Register* (41 TexReg 10525) and will be republished. Changes were made to §6.62(d) and (e) to align the rule text with current department practices. Changes were also made to §6.62(g) to eliminate confusion regarding the form provided to the student after completion of the course.

New §6.61 and §6.62 are necessary to implement the requirements of Texas Government Code, Chapter 411 as amended by Senate Bill 1857, 83rd Legislative Session.

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and §411.197 which authorizes the director to adopt rules to administer the license to carry a handgun program, and §411.1901(e) which authorizes the department to adopt rules to administer §411.1901.

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.


A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

License to Carry Handguns
Title 37 T.A.C. Part I, Chapter 6
Subchapter G
Sections 6.71 – 6.88, 6.90 – 6.92

The Texas Department of Public Safety (the department) adopts the repeal of §§6.71 – 6.88, 6.90 – 6.92, concerning Certified Handgun Instructors. These repeals are adopted without changes to the proposed text as published in the December 30, 2016 issue of the *Texas Register* (41 TexReg 10526) and will not be republished.

The repeal of Subchapter G is filed simultaneously with proposed new Chapter 6. This repeal, and the proposal of new Chapter 6, is necessary to implement the requirements of Texas Government Code, Chapter 411 as amended by House Bill 910, 84th Legislative Session. House Bill 910 authorized a person who is licensed to carry a handgun to openly carry a handgun so this repeal and new proposed rules are necessary to remove references to "concealed" in the license to carry a handgun rules. The rules in Chapter 6 were consolidated and updated to eliminate unnecessary references and to reflect current licensing procedures applicable to applicants for a handgun license and for certification as a qualified handgun instructor.

No comments were received regarding the adoption of these repeals.

These repeals are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and §411.197 which authorizes the director to adopt rules to administer this subchapter.

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.


A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Compassionate-Use/Low-THC Cannabis Program
Title 37 T.A.C. Part I, Chapter 12
Subchapter A
Sections 12.1 – 12.4, 12.7 – 12.9

The Texas Department of Public Safety (the department) adopts amendments to §§12.1 – 12.4, 12.7, 12.8 and new §12.9, concerning General Provisions. The department initially published proposed amendments to §§12.1 – 12.4, 12.7, 12.8 and new §12.9 in the October 28, 2016 issue of the *Texas Register* (41 TexReg 8520). In response to comments received, the department withdrew the October 28th proposal and republished proposed amendments to §§12.1 – 12.4, 12.7, 12.8 and new §12.9 in the January 13, 2017 issue of the *Texas Register* (42 TexReg 46). This proposal is adopted with changes to the proposed text as published in the January 13, 2017 issue of the *Texas Register* (42 TexReg 46) and will be republished.

These amendments are necessary to clarify and enhance certain safety and security requirements and to provide a requirement that dispensers obtain certain levels of commercial liability insurance coverage. New §12.9 provides more specific product testing and waste disposal requirements.

The department accepted comments on the proposed rules through February 13, 2017. Written comments were submitted by Texas Wellness Investment Group and GB Sciences. Additionally, the department received numerous items interpreted as requests for information or questions about the meaning of certain items, and not rule comments. These items will be addressed by either direct correspondence or website communications. Additional information pertaining to the Compassionate-Use Program can be found at: <http://dps.texas.gov/rsd/CUP/>

Substantive comments received, as well as the department's responses, thereto, are summarized below:

COMMENT: Relating to §12.1(4), Texas Wellness Investment Group and GB Sciences suggest that an ownership threshold is needed to focus the attention on owners with voting rights who are actively involved in the business of the dispensing organization.

RESPONSE: The department agrees that an ownership threshold is needed to clarify that only shareholders who are actively involved in the affairs of the business should be required to register. The proposal has been amended accordingly.

COMMENT: Relating to §12.2(v) and 12.7(b), GB Sciences notes that it appreciates the department's clarification in previous responses to comments with regard to the department's position on testing and research. GB Sciences urges the department to consider third-party testing.

RESPONSE: At this time, the department believes the current rules are adequate and appropriate with respect to testing and research. The department will not be modifying the proposal.

This proposal is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and Texas Health and Safety Code, §487.052, which requires the department adopt rules necessary for the administration and enforcement of Texas Health and Safety Code, Chapter 487.

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.



A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Compassionate-Use/Low-THC Cannabis Program
Title 37 T.A.C. Part I, Chapter 12
Subchapter B
Sections 12.11, 12.14, and 12.15

The Texas Department of Public Safety (the department) adopts amendments to §§12.11, 12.14, and 12.15, concerning Application and Renewal. The department initially published proposed amendments to §§12.11, 12.14, and 12.15 in the October 28, 2016 issue of the *Texas Register* (41 TexReg 8526). In response to comments received, the department withdrew the October 28th proposal and republished proposed amendments to §§12.11, 12.14, and 12.15 in the January 13, 2017 issue of the *Texas Register* (42 TexReg 54). This proposal is adopted without changes to the proposed text as published in the January 13, 2017 issue of the *Texas Register* (42 TexReg 54) and will not be republished.

The amendments to §12.11, concerning Application for License, requires that licensed dispensers of low-THC cannabis obtain commercial liability insurance within certain coverage limits, to ensure licensees can appropriately compensate third parties injured or otherwise harmed by the product or activities of the licensee. The amendments to §12.14, concerning Application and Licensing Fees and Method of Payment, increase application and renewal fees to accurately reflect the costs of administering the program. The amendments to §12.15, concerning Denial of Application for License, amend a cross reference necessitated by the proposed amendments to §12.11, and amend the basis for which the department may deny the application for a license in order to accurately reflect the requirements of Texas Health and Safety Code, §487.104(a)(2).

The department accepted comments on the proposed rules through February 13, 2017. A written comment was submitted by GB Sciences in support of the addition of an initial application fee and the adjustment of the licensing and registration fees downward. Additionally, GB Science welcomes the shift from 24-hour DPS guards to multiple-times a week on-site inspection. As the CUP is implemented, GB Sciences urges a reviewing of the fees and inspection program for additional reductions. Pursuant to the department's agency rule review, the Compassionate-Use rules are scheduled for a review beginning February 1, 2018.

The department has also received numerous items interpreted as requests for information or questions about the meaning of certain items, and not rule comments. These items will be addressed by either direct correspondence or website communications. Additional information pertaining to the Compassionate-Use Program can be found at: <http://dps.texas.gov/rsd/CUP/>

This proposal is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and Texas Health and Safety Code, §487.052, which requires the department adopt rules necessary for the administration and enforcement of Texas Health and Safety Code, Chapter 487.

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.

A handwritten signature in blue ink, appearing to read 'A. Cynthia Leon', is written over a horizontal line.

A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Compassionate-Use/Low-THC Cannabis Program
Title 37 T.A.C. Part I, Chapter 12
Subchapter C
Section 12.21 and Section 12.23

The Texas Department of Public Safety (the department) adopts amendments to §12.21 and §12.23, concerning Compliance and Enforcement. These rules are adopted without changes to the proposed text as published in the October 28, 2016 issue of the *Texas Register* (41 TexReg 8529) and will not be republished.

The amendments to §12.21, concerning Inspections, are necessary to clarify the authority of certain state and local regulatory agencies to inspect a licensee's premises, and to update a cross reference necessitated by the amendment to another section. The amendments to §12.23, concerning Revocation, are necessary to clarify the process by which a license may be revoked based on a dishonored or reversed payment.

No comments were received regarding the adoption of these rules. Although the department did not receive specific comments regarding provisions in this Subchapter, the department did receive some items interpreted as requests for information or questions about the meaning of certain items, and not rule comments. These items will be addressed by either direct correspondence or website communications. Additional information pertaining to the Compassionate-Use Program can be found at: <http://dps.texas.gov/rsd/CUP/>

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and Texas Health and Safety Code, §487.052, which requires the department adopt rules necessary for the administration and enforcement of Texas Health and Safety Code, Chapter 487.

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.


A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Compassionate-Use/Low-THC Cannabis Program
Title 37 T.A.C. Part I, Chapter 12
Subchapter D
Sections 12.31 – 12.34

The Texas Department of Public Safety (the department) adopts amendments to §§12.31 - 12.34, concerning Security. These rules are adopted without changes to the proposed text as published in the October 28, 2016 issue of the *Texas Register* (41 TexReg 8530) and will not be republished.

The amendments to §12.31, concerning Security of Facilities, are necessary to clarify the security requirements relating to access by unauthorized individuals or the general public, to provide specific performance standards for security alarm systems, and to generally clarify the security standards for licensee's facilities. The amendments to §12.32, relating to Security of Vehicles, are necessary to add the requirement of a trip plan reflecting certain required details of the route, product to be transported, and name of responsible registrant. The amendments to §12.33, Response to Security Breach, are necessary to provide an express 24 hour deadline for licensees to notify the department of a security breach. The amendments to §12.34, Reporting of Discrepancy, Loss or Theft, adds "fire on the regulated premises" and "theft or loss of raw materials or by-products" to the events a licensee must report; and adds the requirement to report the circumstances believed to have contributed to the loss, theft, or fire.

The department accepted comment on the proposed rules through November 28, 2016. Written comments were submitted during this period by CannOrganics of Texas; Texas Cannabis; and Fields Ventures. Written comments were also submitted by State Representative Stephanie Klick with an additional 41 state representatives as cosignatories.

Included in the comments received by the department were items interpreted as requests for information or questions about the meaning of certain items, and not rule comments. These items will be addressed by either direct correspondence or website communications. Additional information pertaining to the Compassionate-Use Program can be found at: <http://dps.texas.gov/rsd/CUP/>

The substantive comments, as well as the department's responses thereto, are summarized below.

COMMENT: Relating to proposed §12.31, concerning Security of Facilities, CannOrganics of Texas, Texas Cannabis and Representative Klick suggest that the requirement in §12.31(b) that cultivation take place in an enclosed, secured area be modified to allow outdoor cultivation.

RESPONSE: The proposed rule requires the licensee maintain effective controls and procedures in order to prevent unauthorized access, theft, or diversion. The department believes the requirement that cultivation take place in an enclosed, secured area is an effective security control to prevent unauthorized access, theft, or diversion. The department disagrees with the comment and will not be modifying the proposal.

COMMENT: Relating to proposed §12.31, concerning Security of Facilities, Fields Ventures suggested that the limitation on mutual points of access to a facility in §12.31(h) was unnecessary.

RESPONSE: The proposed rule requires the licensee maintain effective controls and procedures in order to prevent unauthorized access, theft, or diversion. The department believes prohibiting mutual points of access to a facility is necessary for the overall security of the facility. The department disagrees with the comment and will not be modifying the proposal.

COMMENT: Relating to proposed §12.32, concerning Security of Vehicles, Fields Ventures suggested that it was unnecessary for a dispensing organization to have a delivery vehicle equipped with a securely attached and locked container as required in §12.32(a).

RESPONSE: The proposed rule requires the licensee maintain effective controls and procedures in order to prevent unauthorized access, theft, or diversion. The department believes a securely attached and locked container within a delivery vehicle is necessary to ensure the security of the licensee's facilities and any transport of products or materials to and from the facility. The department disagrees with the comment and will not be modifying the proposal.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and Texas Health and Safety Code, §487.052, which requires the department adopt rules necessary for the administration and enforcement of Texas Health and Safety Code, Chapter 487.

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.



A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Compassionate-Use/Low-THC Cannabis Program
Title 37 T.A.C. Part I, Chapter 12
Subchapter E
Section 12.41 and Section 12.42

The Texas Department of Public Safety (the department) adopts amendments to §12.41 and §12.42, concerning Compassionate-Use Registry. These rules are adopted without changes to the proposed text as published in the October 28, 2016 issue of the *Texas Register* (41 TexReg 8533) and will not be republished.

The amendments to §12.41, concerning Access to Compassionate-Use Registry, are intended to clarify the purposes for which dispensing organizations and law enforcement agencies may request access to the Compassionate-Use Registry. The amendments to §12.42, Verification of Patient Registration, are intended to clarify that it is the patient's prescription and not the registration that is to be verified, and to clarify the information to be verified.

The department accepted comment on the proposed rules through November 28, 2016. Written comments were submitted during this period by State Representative Stephanie Klick with an additional 41 state representatives as cosignatories.

Included in the comments received by the department were items interpreted as requests for information or questions about the meaning of certain items, and not rule comments. These items will be addressed by either direct correspondence or website communications. Additional information pertaining to the Compassionate-Use Program can be found at: <http://dps.texas.gov/rsd/CUP/>

The substantive comments, as well as the department's responses thereto, are summarized below.

COMMENT: Relating to proposed §12.42, Verification of Patient's Prescription, Representative Klick suggested that it was unnecessary for the dispensing organization to enter into the registry the amount charged for the low-THC cannabis dispensed.

RESPONSE: The proposed rule requires the dispensing organization to enter into the registry various items, including the amount charged for the low-THC cannabis dispensed. The department believes that requiring a dispensing organization to disclose the amount charged for their product will allow the department to monitor the potential for price discrimination in the regulated market and will provide the department with an indication of the degree to which registered patients have reasonable statewide access to low-THC cannabis. The department disagrees with the comment and will not be modifying the proposal.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and Texas Health and Safety Code, §487.052, which requires the department adopt rules necessary for the administration and enforcement of Texas Health and Safety Code, Chapter 487.

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.



A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Compassionate-Use/Low-THC Cannabis Program
Title 37 T.A.C. Part I, Chapter 12
Subchapter G
Section 12.61

The Texas Department of Public Safety (the department) adopts new §12.61, concerning Production Limits. This proposal is adopted with changes to the proposed text as published in the January 13, 2017 issue of the *Texas Register* (42 TexReg 58) and will be republished. In addition to the changes noted in response to comments received from GB Science and an individual, the department also corrected subsection references contained within subsection (j) and subsection (k).

This section is necessary to establish a statewide production limit to ensure that licensees produce only the amount of product necessary to serve the narrow population of patients living with intractable epilepsy, as defined under Occupations Code, Chapter 169.

The department accepted comments on the proposed rules through February 13, 2017. Written comments were submitted by CannOrganics of Texas; the Epilepsy Foundation of Texas and the Epilepsy Foundation of Central & South Texas; Texas Wellness Investment Group; GB Sciences; and two individuals. Additionally, the department received numerous items interpreted as requests for information or questions about the meaning of certain items, and not rule comments. These items will be addressed by either direct correspondence or website communications. Additional information pertaining to the Compassionate-Use Program can be found at: <http://dps.texas.gov/rsd/CUP/>

The substantive comments, as well as the department's responses thereto, are summarized below.

COMMENT: Relating to §12.61(a), an individual suggests limiting the amount of product that is accessible to qualified patients establishes a standard of care and creates a one size fits all dosage to calculate limits.

RESPONSE: The department believes §12.61(a) by its plain language indicates that although §12.61 limits the amount of annual statewide production by licensees to the estimated demand as calculated under the subchapter, the rule shall not be construed as adopting a standard of care for treatment involving the product. The intent of this subchapter reflects legislative intent to serve a narrow population of patients living with intractable epilepsy, as defined under Occupations Code, Chapter 169. The department will not be modifying the proposal.

COMMENT: Relating to §12.61(b)(2), the Epilepsy Foundation of Texas and the Epilepsy Foundation of Central & South Texas and an individual suggest that there is no way to quantify a

"baseline" dosage requirement for any patient due to the complexities of patients with intractable epilepsy. GB Sciences suggests that there is no "scientifically accepted" "average dose" of CBD to treat intractable epilepsy.

RESPONSE: The proposed rule is necessary to ensure that licensees produce only the amount of product necessary to serve the narrow population of patients living with intractable epilepsy, as defined under Occupations Code, Chapter 169. Section 12.61(b)(2) provides a mechanism for the Department of State Health Services to report each year on the most current scientifically accepted dosage of product used to treat an average individual living with intractable epilepsy for one (1) year. The department believes the current rule is adequate and appropriate in this regard and will not be modifying the proposal.

COMMENT: Relating to §12.61(d), an individual suggests establishing production limits that will only serve 1/3 of the population is unethical and that estimating dosage establishes a standard of care. Another individual suggests market demand should dictate production capacity for each licensee.

RESPONSE: The production limit in §12.61(d) is necessary to ensure that licensees produce only the amount of product necessary to serve the narrow population of patients living with intractable epilepsy, as defined under Occupations Code, Chapter 169, that are expected to take advantage of this program. If the demand for the product is more than expected, §12.61(a) by its plain language indicates that the department will increase the established production limit if it is necessary to prevent a patient legally prescribed the product under Occupations Code, Chapter 169, from being unable to access his or her full prescription. The department will not be modifying the proposal.

COMMENT: Relating to §12.61(e), several individuals and groups including Texas Wellness Investment Group, CannOrganics and GB Sciences noted that the number of *Cannabis sativa* plants needed to produce CBD can widely vary based on a number of factors and strict limits should not be imposed. Rather than adopting production limits based on a certain number of plants, several of the comments suggest other types of production limits, including limiting the amount of low-THC cannabis oil produced or limiting the square footage of canopy space at the vegetation stage

RESPONSE: Section 12.61(e) provides the department with flexibility in determining the maximum amount of *Cannabis sativa* plants needed to produce the amount of product allowed. The department will consider all relevant research and data when determining the maximum amount of plants under §12.61(e). The department believes the current rule is adequate and appropriate in this regard. The department will not be modifying the proposal.

COMMENT: Relating to §12.61(f) and (g), the individual suggests that these two provisions create a government-licensed oligopoly. CannOrganics suggests that §12.61(g) must not be construed to limit flowering and vegetative-state plants as a whole, as the two states of plants are different. CannOrganics suggest a more appropriate distinction would be to determine the amount of flowering *Cannabis sativa* plants and flowering square footage required, and limit the

possession flowering *Cannabis sativa* plants rather than the total number of plants. GB Sciences suggests that limitations on the number of plants doesn't account for agricultural practices such as the trimming and thinning of plants.

RESPONSE: Section 12.61(e) provides flexibility to the department in determining the maximum amount of *Cannabis sativa* plants needed to produce the amount of product allowed. The department will consider all relevant research and data when determining the maximum amount of plants under §12.61(e), including research regarding the necessary amount of live *Cannabis sativa* plants. The department will not be modifying the proposal.

COMMENT: Relating to §12.61(h), GB Sciences suggests that the reporting of a shortage will be an insufficient safeguard for patients.

RESPONSE: The department believes §12.61(a) by its plain language indicates that the department will increase the established production limit if it is necessary to prevent a patient legally prescribed the product under Occupations Code, Chapter 169, from being unable to access his or her full prescription from a licensee. The department will not be modifying the proposal.

COMMENT: Relating to §12.61(i), the individual suggests the word “may” should be changed to “shall” removing the option for DSHS of resending the report in the event of a forecast shortage. Additionally, GB Science notes that Subchapter G consistently refers to DSHS except for §12.61(i) where HHSC is mentioned.

RESPONSE: The department believes §12.61(a) and §12.61(j) indicate the department's intent to increase production limits if necessary to address forecasted demand for product. The department will not be modifying the proposal pursuant to this individual's comment. HHSC was referred to in error in §12.61(i). The rule text has been modified to reflect the revised report will be sent from DSHS.

COMMENT: Relating to §12.61(j), the individual suggests the language be changed to read, “Upon discovery of a potential shortage, the department shall increase the amount allowed under subsection (d) to meet the forecasted demand”. The individual argues the department should be required to increase production limits when a potential shortage is identified.

RESPONSE: The department believes §12.61(j) indicates the department's intent to increase production limits if necessary to address forecasted demand for product. However, Section 12.61(k) has been amended to allow the department additional flexibility in addressing an increase in demand for the product.

This proposal is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and Texas Health and Safety Code, §487.052, which requires the department adopt rules necessary for the administration and enforcement of Texas Health and Safety Code, Chapter 487.

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.



A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter B
Section 15.25

The Texas Department of Public Safety (the department) adopts amendments to §15.25, concerning Address. This rule is adopted without changes to the proposed text as published in the December 30, 2016 issue of the *Texas Register* (41 TexReg 10527) and will not be republished.

This amendment removes the requirement for a commercial driver license (CDL) holder to provide a mailing address. The 84th Texas Legislature removed this requirement based on changes to Federal Motor Carrier Safety Administration rules.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §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, §§521.141, 521.142, and 522.030.

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.



A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter C
Section 15.55

The Texas Department of Public Safety (the department) adopts amendments to §15.55, concerning Waiver of Knowledge and/or Skills Tests. This rule is adopted without changes to the proposed text as published in the December 30, 2016 issue of the *Texas Register* (41 TexReg 10528) and will not be republished.

These amendments are intended to clarify a motorcycle course completion certificate will only be valid for 24 months from the date of issuance. The language has been revised and reorganized for easier understanding and clarity.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §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, §§521.141, 521.142, and 522.030.

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.


A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter C
Section 15.62

The Texas Department of Public Safety (the department) adopts the repeal of §15.62, concerning Additional Requirements. This repeal is adopted without changes to the proposed text as published in the December 30, 2016 issue of the *Texas Register* (41 TexReg 10529) and will not be republished.

The repeal of this rule is filed simultaneously with proposed new §15.62 and is necessary to inform the public of changes to the Impact Texas Drivers (ITD) program and the requirements for completion of ITD for issuance of a Texas Driver License.

No comments were received regarding the adoption of this repeal.

This repeal is adopted pursuant to Texas Government Code, §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, §§521.142, 521.1601, and 521.165.

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.


A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter C
Section 15.62

The Texas Department of Public Safety (the department) adopts new §15.62, concerning Additional Requirements. This rule is adopted without changes to the proposed text as published in the December 30, 2016 issue of the *Texas Register* (41 TexReg 10530) and will not be republished.

This rule is necessary to inform the public of changes to the Impact Texas Drivers (ITD) program and the requirements for all applicants to complete an ITD program prior to taking the skills examination for a Texas driver license.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §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, §§521.142, 521.1601, and 521.165.

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.


A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Commercial Driver License
Title 37 T.A.C. Part I, Chapter 16
Subchapter B
Section 16.31

The Texas Department of Public Safety (the department) adopts new §16.31, concerning Third-Party Skills Testing Program. This rule is adopted without changes to the proposed text as published in the December 30, 2016 issue of the *Texas Register* (41 TexReg 10531) and will not be republished.

The proposed rule is necessary to implement the provisions of Texas Transportation Code, §522.023(d), and to clarify the procedures for conducting commercial driver license skills testing procedures by third party testers.

The department accepted comments on the proposed new rule through January 30, 2017. A written comment was submitted by Texas Trucking Association (TXTA) in support of the rule.

This rule is adopted pursuant to Texas Government Code, §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, §522.023(d).

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.



A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 22, 2017, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Private Security
Title 37 T.A.C. Part I, Chapter 35
Subchapter K
Section 35.132

The Texas Department of Public Safety (the department) adopts amendments to §35.132, concerning Subscription Fees. This rule is adopted without changes to the proposed text as published in the January 13, 2017 issue of the *Texas Register* (42 TexReg 59) and will not be republished.

The amendments to §35.132 reduce certain subscription fees imposed on private security registrants under the authority of Texas Government Code §2054.252(g). The reductions arise from an amendment to the vendor contract relating to online licensing services.

No comments were received regarding the adoption of this rule.

This proposal is proposed pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and Texas Occupations Code, §1702.061(b), which authorizes the department to adopt rules to administer Texas Occupations Code, Chapter 1702.

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.


A. Cynthia Leon, Chair
Public Safety Commission

SPECIAL RANGER/SPECIAL TEXAS RANGER APPLICANTS
February 22, 2017



Special Ranger Applicants:

Name	Division	Service/Station	Retire Date	Years of Service	Approved
Adams, Kenneth R.	THP	Sulphur Springs	08/31/2016	21	
Adams, Laurance P.	THP	San Antonio	08/31/2016	22	
Alford, Bob L.	CID	Hurst	03/31/1996	26	
Allen, Larry L.	THP	Austin	08/31/2016	33	
Arredondo, Gilbert C.	CID	Lubbock	09/30/2016	26	
Artiaga, Jr., Selso	CID	Austin	12/31/2016	28	
Bazan, Edward M.	THP	Houston-North	08/31/2016	22	
Bibby, Kenneth H.	THP	Mineola	04/30/2008	26	
Cheek, Ralph C.	CID	Lubbock	08/31/1995	28	
Cowie, Larry M.	CID	Temple	05/31/2007	27	
Dunkin, Denman B.	Aviation	Houston	09/30/2016	34	
Fincher, Michael W.	CID	Bryan	12/31/2007	27	
Franklin, Kevin B.	CID	Conroe	12/31/2016	21	
Henkes, Albert W.	THP	Gonzales	04/30/2013	23	
Henry, James L.	THP	Lubbock	07/31/2002	34	
Hernandez, Patrick B.	ADMIN	Austin	09/30/2016	31	
Johnson, Donald L.	THP	Borger	06/30/2004	26	
Knauth, Caroline Y.	THP	Austin	09/30/2009	29	
Lauderdale, Steven D.	CID	San Antonio	12/31/2014	21	
Marshall, Jr. Lawrence C.	CLE	Austin	12/31/2004	28	
McLeroy, Marvin T.	CID	Lufkin	05/31/2002	22	
Morales, Jose M.	CID	San Antonio	11/30/2016	27	
Pelath, John W.	THP	Capitol	08/31/2016	25	
Prall, Bryon K.	THP	McAllen	07/31/2006	21	
Ramos, Sr., Hector	THP	McAllen	08/31/2002	21	
Ray, Michael L.	CID	Tyler	11/30/2011	22	
Richardson, Robert W.	CID	Abilene	11/01/1987	24	
Salas, Jose A.	THP	San Antonio	12/31/2016	21	
Schalchlin, Corwin N.	CID	Austin	08/31/2016	34	
Turner, Michael L.	CID	Corsicana	08/31/2010	26	
Waggoner, Charles K.	THP	Sherman	10/31/2016	20	

Special Texas Ranger Applicants:

Name	Division	Service/Station	Retire Date	Years of Service	Approved
Carter, Andrew F.	Texas Rangers	Houston	10/31/2005	16	
Holder, James R.	THP	Seguin	01/31/1994	25	
Wilson, James R.	Executive Office	Austin HQ	08/31/1996	33	

Approved by the Public Safety Commission on:



Date:

2/22/17