

MINUTES
PUBLIC SAFETY COMMISSION
August 25, 2016
AUSTIN, TX

The Public Safety Commission met in Austin, Texas on August 25, 2016. Attending the meeting were Chairman Cynthia Leon, Commissioners Faith Johnson, 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 (0:00:01)

The meeting was called to order by Chairman Leon at 9:00 a.m. Proper notice had been posted.

APPROVAL OF MINUTES (0:00:40)

A motion was made by Commissioner Mach, seconded by Commissioner Johnson, approving the minutes from the June 16, 2016 meeting. Motion passed unanimously.

PUBLIC COMMENT (0:01:05)

-DPS Museum board members Duncan Fox, Retired Major General Bob Halverson and ex officio President B.C. Lyon briefed everyone on the DPS Museum Day which will be held on September 18, 2016, from 11 a.m. – 4:00 p.m. at DPS Headquarters in Austin. All divisions will be participating and each commissioner will receive an invitation to the event. DPS Museum started in 1992 and is displayed in the lobby of Building A. Estimated attendance for this year's DPS Museum Day is 2,000.

-Erin Shepherd, Transportation Executive and John Esparza, President of the Texas Trucking Association, briefing spoke on their concerns with commercial driver license testing capacities (federal change that will expand the amount of time for testing). They offered their support and will continue ongoing communications with AD Joe Peters.

-Rod Hurst, Commercial Vehicle Training Association, spoke in support of third party testing.

DIRECTORS REPORT (0:18:33)

A. Presentations

Service Awards

Randall Beaty – 30 years
Darryl Dominey – 30 years
Pamela Payne – 30 years
Richard Barton – 35 years
Sergio Gomez – 35 years
John Zivley – 35 years

Director's Citations

Special Agent Ben Allison
Special Agent Chris Barker

Directors Award

Vickie Fowler, Municipal Services Bureau employee
Roxanna Ortiz, Municipal Services Bureau employee

Lifesaving Award

Casey Dawson

Texas DPS Foundation Academic Scholarships

Erika Boyd announced the scholarship recipients:

Kimberly Ousman
Taylor Rhyan
Mariah Noyola
Zachary Zamora
Cassidy Tuggle
Jason Lucas
Amanda Miller
Cody Vance
Chelsea Hopkins
Clay Crain

Ms. Boyd also introduced Scott Martin, Bobby Martin and Stacy Jeans (children of retired and deceased Trooper Bobby Martin) of M.C. Foundation and thanked them for their generous contribution to the DPS Foundation Academic Scholarship program.

American Association of Motor Vehicle Administrators (AAMVA) “Public Affairs and Consumer Education” (PACE) Award

Texas Department of Public Safety, Driver License Division – Anna Corley and John Peyton

Texas Association of State Systems for Computing and Communications (TASSCC) Award

- President’s Award – SPURS Project – Bryan Lane, Tom Ruocco and Reena Bawa
- Excellence Award/Rising Star – Paul Brown

(0:51:52) Break 9:52 a.m. – 10:13 a.m.

(0:52:14) Chairman Leon acknowledged the following individuals attending the meeting:

Libby Elliott and John Horchek – Governor’s Office

Lauren Fleming and Suzanne Mackowiak – Lieutenant Governor’s Office

John Wielmaker and Fischer Reynolds – Legislative Budget Board

DIRECTORS REPORT

B. Case Update (0:53:05)

CID Case – Marciano Millan-Vasquez

- Presented by Texas Ranger Joe Sanchez, who was a CID Investigator in 2009, and Special Agent Chris Hanson
- Investigation began in June 2009 in Eagle Pass, Texas
- Marciano Millan-Vasquez was a hitman for the Los Zetas Cartel
- July 2016, Marciano Millan-Vasquez was convicted of 29 murders, drug conspiracies and firearms violations; sentencing has not occurred
- Case spanned over a period of seven years, resulting in the following seizures:
 - *121 Adults Arrested (including 4 Maverick County Commissioners)
 - *70 Juveniles Arrested
 - *8,058 lbs of Marijuana
 - *280 kilos of Cocaine
 - *22 kilos of Methamphetamine
 - *9 kilos of Heroin
 - *52 Firearms
 - *49 Title III Wire Intercepts
 - *over 9,000 Rounds of Ammunition
 - *over \$700,000 in Assets and Currency

Texas Ranger Case - 2013 Murder Investigation of Brian Allen (1:18:16)

-Presented by Sonny McAfee, District Attorney – 33rd District, and Texas Ranger Richard Henderson

-7/1/13 Burnet County Sheriff's Office received a 911 call from Karra Allen stating she shot and killed her husband in self-defense during an argument

-Spring 2015, conducted a full crime scene reconstruction using Leica Scan

-Investigation determined Brian Allen was unarmed and running away from Karra Allen on 7/1/13

-6/3/15, Jury finds Karra Allen guilty of murder and sentenced her to life in TDCJ

-Sonny McAfee thanked DPS for providing the tools, training and staff that assisted him in getting a guilty conviction. It's an example of a team effort to make small communities safer.

C. Review of Testimony to House Appropriations Committee – Report on Efficiency of Expenditure of Border Security Funds (1:34:50)

Director McCraw provided an update on the testimony he provided to the House Appropriations Committee

-FY 2014, the RGV Sector accounted for 53.5% of total apprehensions and 34.1% of total marijuana and cocaine seizures along the entire southwest border

-Starr and Hidalgo Counties present the highest threat

-Recommended Data Collection and Reporting Plan – Collect All, Assess All

-Request the DPS Internal Auditor conduct a full and comprehensive audit of our collection capabilities and processes we are collecting and validate them so that we are confident the information being collected is accurate.

-Detection Coverage – redundant and vertically stacked

-Proposed Texas Border Security Levels: Unsecured, Minimal Control, Operational Control and Substantial Control

-Operation Secure Texas Drug Seizures:

- Webb County – 2014: 65,995 lbs; 2015: 73,227 lbs; 11.0% difference
- Zapata County – 2014: 3,865 lbs; 2015: 4,559 lbs; 18.0% difference
- Jim Hogg County – 2014: 13,576 lbs; 2015: 1,285 lbs; -90.5% difference
- Brooks County – 2014: 52,365 lbs; 2015: 20,548 lbs; -60.8% difference
- Kennedy County – 2014: 9,092 lbs; 2015: 2,445 lbs; -73.1% difference
- Starr County – 2014: 164,122 lbs; 2015: 120,183 lbs; -26.8% difference
- Hidalgo County – 2014: 80,550 lbs; 2015: 57,236 lbs; -28.9% difference
- Willacy County – 2014: 69 lbs; 2015: 589 lbs; 749% difference
- Cameron County – 2014: 25,909 lbs; 2015: 32,513 lbs; 25.5% difference

-Reduction in Crime – Texas counts index crime (excludes kidnappings, extortions, human trafficking, drug trafficking, money laundering and corruption)

- Overall state crime reduction is 14.9% for 2015 – 2014

- Area of operation crime reduction is 12.9% vs rest of border is 5.3% for 2015 – 2014

NEW BUSINESS

A. Report, discussion, and possible action on the 2018-2019 Legislative Appropriations Request including Exceptional Items and Changes to Appropriation Riders (2:23:54)

AD Suzy Whittenton presented the 2018-19 Base Budget

- All agencies were instructed to take a 4% reduction in their General Revenue budget
- Border Security was exempt from the 4% reduction
- DPS General Revenue Budget for 2018-19 can't exceed \$1.955 Billion
- DPS All Funds Estimated Budget for 2018-19 is \$2.582 Billion
- AY2018-19 DPS Exceptional Items

• (1)Reinstate 4% General Revenue Reduction	\$ 50.2 Million
• (2)Maintain Current Operations	\$ 29.0 Million
• (3)Border Security	\$291.7 Million
• (4)Driver License	\$ 57.5 Million
• (5)Law Enforcement Operations Enhancement	\$ 36.7 Million
• (6)Public Safety Infrastructure	\$ 30.0 Million
• (7)Training	\$ 4.3 Million
• (8)Financial Reporting	\$ 3.5 Million
• (9)Deferred Maintenance and Support	\$ 15.0 Million
TOTAL	\$518.0 Million

-2018-19 Requested Rider Changes (65 Riders)

- 21 – No change
- 10 – Update Dates Only
- 15 – Deletion of Riders
- 19 – Modifications to Riders
- 4 – New Riders
- 2 – Article IX Rider Changes

A motion was made by Commissioner Watson, seconded by Commissioner Flores, approving the 2018-2019 Legislative Appropriations Request including Exceptional Items and Riders. Motions passed unanimously.

B. Report, discussion, and possible action regarding the proposed Chief Auditor's Office FY 2017 Internal Audit Strategy (2:45:39)

Chief Auditor Catherine Melvin provided a brief on the FY 2017 Internal Audit Strategy framework. "Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing systematic, disciplined approach to

evaluate and improve the effectiveness of risk management, control and governance process.” In addition, they are ready to assist in the Director’s request to conduct a full and comprehensive audit on the data collection and processes used for border security. **A motion was made by Commissioner Johnson, seconded by Commissioner Watson, to approve the FY 2017 Internal Audit Strategy and the Director’s request for an audit of the data collection and processes used for border security. Motion passed unanimously.**

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

1. Amendments to 37 TAC Sections 12.1 – 12.4, 12.7, 12.8 and proposed new Section 12.9, concerning General Provisions (2:52:13)

2. Amendments to 37 TAC Sections 12.11 and 12.15, concerning Application and Renewal

3. Amendments to 37 TAC Section 12.21 and Section 12.23, concerning Compliance and Enforcement

4. Amendments to 37 TAC Section 12.31 – 12.34, concerning Security

5. Amendments to 37 TAC Section 12.41 and Section 12.42, concerning Compassionate-Use Registry

AD RenEarl Bowie asked the Commission not to take action on New Business, Items C1, C2, C3, C4 and C5 as they will continue to work with the stakeholders and return items for the agenda at the next meeting in October.

6. Repeal of 37 TAC Chapter 13, Subchapters A – E and H – N and proposed New Subchapters A – D, concerning Controlled Substances Program (2:54:40)

A motion was made by Commissioner Johnson, seconded by Commissioner Mach, to approve New Business, Item C6. Motion passed unanimously.

ONGOING BUSINESS

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

2. Amendments to 37 TAC Sections 23.1, 23.3, and 23.5, concerning Vehicle Inspection Station and Vehicle Inspector Certification (2:56:01) No comments.

3. Amendments to 37 TAC Section 23.62, concerning Violations and Penalty Schedule
No comments.

4. Repeal of 37 TAC Section 23.82, concerning Acceptance of Out-of-State Vehicle Inspection Certificates No comments.

5. New 37 TAC Sections 23.91 – 23.94, concerning Military Service Members, Veterans, and Spouses – Special Conditions No comments.

A motion was made by Commissioner Mach, seconded by Commissioner Johnson, approving adoption of Ongoing Business, Items A2, A3, A4, and A5. Motion passed unanimously.

7. Simultaneous repeal and proposed new 37 TAC Section 35.3, concerning Registration Applicant Pre-Employment Check (2:57:39) No comments.

8. Amendments to 37 TAC Section 35.4, concerning Guidelines for Disqualifying Criminal Offenses No comments.

9. Amendments to 37 TAC Sections 35.21, 35.22, and 35.25, concerning Registration and Licensing No comments.

10. Amendments to 37 TAC Section 35.52, concerning Administrative Penalties No comments.

11. Amendments to 37 TAC Section 35.81, concerning Application for a Security Officer Commission No comments.

12. Amendments to 37 TAC Section 35.112, concerning Business Records No comments.

A motion was made by Commissioner Mach, seconded by Commissioner Watson, approving adoption of Ongoing Business, Items A7, A8, A9, A10, A11, and A12. Motion passed unanimously.

NEW BUSINESS

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

7. New 37 TAC Sections 27.171 – 27.174, concerning Criminal History Clearinghouse (2:58:55)

A motion was made by Commissioner Mach, seconded by Commissioner Flores, approving new Sections 27.171 – 27.174 for publication to receive public comment. Motion passed unanimously.

C. Intelligence Threat Briefing (Clearance Required – Executive Session Expected)
To be discussed during Executive Session.

ONGOING BUSINESS

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

6. Amendments to 37 TAC Section 27.1, concerning Right of Review (3:00:30) No Comments.

A motion was made by Commissioner Mach, seconded by Commissioner Johnson, adopting amendments to Section 27.1, concerning Right of Review. Motion passed unanimously.

1. Simultaneous repeal of current 37 TAC Chapter 16 and proposed new 37 TAC Chapter 16, concerning Commercial Driver License (3:01:40) Received one comment from John Esparza, Texas Trucking Association.

A motion was made by Commissioner Mach, seconded by Commissioner Watson, adopting simultaneous repeal and proposed new Chapter 16, concerning Commercial Driver License. Motion passed unanimously.

B. Update, report, discussion and possible action regarding recruitment (3:07:48)

AD Woodall provided an update on recruitment:

- General Orlando Salinas was introduced as the Deputy Assistant Director, ETR effective August 1, 2016
- C-2016 School will graduate on 12/16/16 – currently have 124 recruits
- D-2016 School begins on 9/11/16, capped at 150 applicants due to bed and classroom space
- Over 60 applicants are approved and transferred to the A-2017 School that begins 1/17/17
- Recruiting developed a Prioritized List of individuals who indicated they are able to report on a one-day notice
- Prioritized List will be utilized during the first week of school which consists of completion of registration paperwork. If individuals resign during this time, individuals on the Prioritized List will be contacted.
- Currently accepting applications for A, B, C, D and E Schools for 2017

C. Report, discussion, and possible action by the Commission regarding modification and transformation of the DPS organizational structure approval of personnel placements, and salaries pursuant to Government Code Chapter 411, secs. 411.005, 411.006, and 411.0071 (3:13:03)

None.

D. 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 (3:13:07)

Director McCraw requested advise and consent to promote Bryan Lane for the position of Assistant Director Information Technology.

A motion was made by Commissioner Mach, seconded by Commissioner Flores, promoting Bryan Lane to Assistant Director Information Technology. Motion passed unanimously.

E. 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 (3:14:30)

- 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 (3:14:43)

- A. Advice and consent regarding Director's determination that a certain probationary employee was found unsuitable for work during July 2016
- B. 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: Willard C. Burger, Scott A. Davis, Nickie R. Hand, Wilbert S. Kendricks, Kelly D. Manning, James A. Mason, David C. Menchaca, Michael B. Moore, Patrick J. Mulligan, David L. Nesbitt, Bruce A. Oppermann, Roberto O. Peña, Cleve W. Renfro, Billy E. Rowles, and Harry L. Taylor
- C. Donations:
 - 1. One (1) Percheron Horse, Tiny – Region 7, Capitol Complex
 - 2. One (1) Warm Blood/Belgian Horse, Brutus – Region 7, Capitol Complex
 - 3. 3.5 Acres of Property with 24 Hour Access, Use of Two Covered, Gated Stalls, use of One Large Storage Room and Use of Three Open Covered Pens – Region 7, Capitol Complex
 - 4. Additional donation items, as needed

A motion was made by Commissioner Mach, seconded by Commissioner Johnson, approving Consent Items A, B and C (minus C1). Motion passed unanimously.

ITEMS FOR FUTURE AGENDA (3:15:53)

DATE FOR FUTURE MEETING (3:16:00)

Any discharge hearings will be scheduled on October 12, 2016, and the regular Public Safety Commission meeting is scheduled for October 13, 2016.

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 12:37 p.m.


(3:16:44) The Public Safety Commission reconvened in open session at 1:46 p.m. Commissioners present were Chairman Cynthia Leon, Commissioners Faith Johnson, 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 1:47 p.m.

Read and approved this 13th day of October, 2016.


Chairman

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On August 25, 2016, 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 A
Sections 16.1 – 16.7

The Texas Department of Public Safety (the department) adopts new §§16.1 – 16.7, concerning Licensing Requirements, Qualifications, Restrictions, and Endorsements. The department initially published proposed new §§16.1 – 16.7 in the May 6, 2016 issue of the *Texas Register* (41 TexReg 3254). In response to comments received, the department withdrew the May 6th proposal and republished proposed new §§16.1 – 16.7 in the July 15, 2016 issue of the *Texas Register* (41 TexReg 5138). This proposal is adopted without changes to the proposed text as published in the July 15, 2016 issue of the *Texas Register* (41 TexReg 5138) and will not be republished.

This proposal is necessary to align commercial driver licensing requirements with existing federal regulations governing commercial drivers.

The department accepted comments on the proposed rules through August 15, 2016. Written comments were submitted by John Esparza, President and CEO of Texas Trucking Association (TXTA). Substantive comments received, as well as the department's responses, thereto, are summarized below:

COMMENT: TXTA is requesting that the department modify §16.7 to allow students from out-of-state to fulfill a student's skills testing requirements in the State of Texas in accordance with 49 CFR Part 383.79.

RESPONSE: §16.7 only addresses domicile requirements for those applying for a Texas commercial driver license and does not enforce domicile requirements for out-of-state students completing skills training in Texas. Additionally, Texas Transportation Code, §522.023(j) already authorizes the department to administer a skills test to a person who holds a commercial learner's permit issued by another state or jurisdiction. It is therefore unnecessary to restate this provision in the department's rules. Both the federal regulation and state statutory provision give discretion to the department on whether to test out-of-state commercial driver students. From a business operation standpoint, the department has opted not to conduct testing on out-of-state commercial driver students at this time due to the negative impact the additional customers would have in our driver license offices regarding to service times and testing of Texas residents. No changes were made to the proposal based on the comments received from TXTA.

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 Transportation Code, §522.005 which authorizes the department to adopt rules necessary to carry out Chapter 522 and the federal act and to maintain compliance with 49 CFR Parts 383 and 384.

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.

Order
August 25, 2016
Sections 16.1 – 16.7
Page 2

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, §2001.033.



A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On August 25, 2016, 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 A
Sections 16.1 – 16.15

The Texas Department of Public Safety (the department) adopts the repeal of §§16.1 – 16.15, concerning Licensing Requirements, Qualifications, Restrictions, and Endorsements. This repeal is adopted without changes to the proposed text as published in the May 6, 2016 issue of the *Texas Register* (41 TexReg 3253) and will not be republished.

The repeal of §§16.1 - 16.15 is filed simultaneously with proposed new Chapter 16. This repeal is necessary so that the adoption of new commercial driver license rules will align with federal regulations governing commercial drivers.

No comments were received regarding the adoption of this repeal.

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 Transportation Code, §522.005 which authorizes the department to adopt rules necessary to carry out Chapter 522 and the federal act and to maintain compliance with 49 CFR Parts 383 and 384.

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, §2001.033.


A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On August 25, 2016, 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
Sections 16.21 – 16.30

The Texas Department of Public Safety (the department) adopts new §§16.21 – 16.30, concerning Application Requirements and Examinations. This proposal is adopted without changes to the proposed text as published in the May 6, 2016 issue of the *Texas Register* (41 TexReg 3257) and will not be republished.

This proposal is necessary to align commercial driver licensing requirements with existing federal regulations governing commercial drivers.

No comments were received regarding the adoption of this 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 Transportation Code, §522.005 which authorizes the department to adopt rules necessary to carry out Chapter 522 and the federal act and to maintain compliance with 49 CFR Parts 383 and 384.

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, §2001.033.



A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On August 25, 2016, 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
Sections 16.31 – 16.56

The Texas Department of Public Safety (the department) adopts the repeal of §§16.31 – 16.56, concerning Application Requirements and Examinations. This repeal is adopted without changes to the proposed text as published in the May 6, 2016 issue of the *Texas Register* (41 TexReg 3260) and will not be republished.

The repeal of §§16.31 - 16.56 is filed simultaneously with proposed new Chapter 16. This repeal is necessary so that the adoption of new commercial driver license rules will align with federal regulations governing commercial drivers.

No comments were received regarding the adoption of this repeal.

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 Transportation Code, §522.005 which authorizes the department to adopt rules necessary to carry out Chapter 522 and the federal act and to maintain compliance with 49 CFR Parts 383 and 384.

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, §2001.033.



A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On August 25, 2016, 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 C
Sections 16.61 – 16.67

The Texas Department of Public Safety (the department) adopts new §§16.61 – 16.67, concerning Sanctions and Disqualifications. This proposal is adopted without changes to the proposed text as published in the May 6, 2016 issue of the *Texas Register* (41 TexReg 3261) and will not be republished.

This proposal is necessary to align commercial driver licensing requirements with existing federal regulations governing commercial drivers.

No comments were received regarding the adoption of this 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 Transportation Code, §522.005 which authorizes the department to adopt rules necessary to carry out Chapter 522 and the federal act and to maintain compliance with 49 CFR Parts 383 and 384.

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, §2001.033.



A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On August 25, 2016, 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 C
Sections 16.71 – 16.73, 16.75 – 16.78

The Texas Department of Public Safety (the department) adopts the repeal of §§16.71 – 16.73, 16.75 – 16.78, concerning Change of License Status, Renewals, Surrender of License, Fees. This repeal is adopted without changes to the proposed text as published in the May 6, 2016 issue of the *Texas Register* (41 TexReg 3262) and will not be republished.

The repeal of §§16.71 - 16.73 and 16.75 - 16.78 is filed simultaneously with proposed new Chapter 16. This repeal is necessary so that the adoption of new commercial driver license rules will align with federal regulations governing commercial drivers.

No comments were received regarding the adoption of this repeal.

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 Transportation Code, §522.005 which authorizes the department to adopt rules necessary to carry out Chapter 522 and the federal act and to maintain compliance with 49 CFR Parts 383 and 384.

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, §2001.033.



A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On August 25, 2016, 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 D
Sections 16.92 – 16.95, 16.97 – 16.106

The Texas Department of Public Safety (the department) adopts the repeal of §§16.92 – 16.95, 16.97 – 16.106, concerning Sanctions and Disqualifications. This repeal is adopted without changes to the proposed text as published in the May 6, 2016 issue of the *Texas Register* (41 TexReg 3263) and will not be republished.

The repeal of §§16.92 - 16.95 and 16.97 - 16.106 is filed simultaneously with proposed new Chapter 16. This repeal is necessary so that the adoption of new commercial driver license rules will align with federal regulations governing commercial drivers.

No comments were received regarding the adoption of this repeal.

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 Transportation Code, §522.005 which authorizes the department to adopt rules necessary to carry out Chapter 522 and the federal act and to maintain compliance with 49 CFR Parts 383 and 384.

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, §2001.033.



A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On August 25, 2016, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Vehicle Inspection
Title 37 T.A.C. Part I, Chapter 23
Subchapter A
Sections 23.1, 23.3, and 23.5

The Texas Department of Public Safety (the department) adopts proposed amendments to §§23.1, 23.3, and 23.5, concerning Vehicle Inspection Station and Vehicle Inspector Certification. This proposal is adopted without changes to the proposed text as published in the July 1, 2016 issue of the *Texas Register* (41 TexReg 4783) and will not be republished.

The amendments to §23.1 and §23.3 are intended to clarify that the issuance of a certification is conditional upon the criminal background check. The amendment to §23.5 addresses the rule's reference to Article 42.12(3g), Code of Criminal Procedure, which is repealed by House Bill 2299, 84th Legislative Session, effective January 1, 2017. The bill creates new Article 42A.054 to replace 42.12(3g).

No comments were received regarding the adoption of this 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 Transportation Code, §548.002, which authorizes the department to adopt rules to administer and enforce Chapter 548.

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 August 25, 2016, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Vehicle Inspection
Title 37 T.A.C. Part I, Chapter 23
Subchapter F
Section 23.62

The Texas Department of Public Safety (the department) adopts proposed amendments to §23.62, concerning Violations and Penalty Schedule. This proposal is adopted without changes to the proposed text as published in the July 1, 2016 issue of the *Texas Register* (41 TexReg 4787) and will not be republished.

These amendments reflect updates to language relating to Denial, Revocation, or Suspension of Certificate required by Transportation Code, §548.405.

No comments were received regarding the adoption of this 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 Transportation Code, §548.002, which authorizes the department to adopt rules to administer and enforce Chapter 548.

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 August 25, 2016, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Vehicle Inspection
Title 37 T.A.C. Part I, Chapter 23
Subchapter H
Section 23.82

The Texas Department of Public Safety (the department) adopts the repeal of §23.82, concerning Acceptance of Out-of-State Vehicle Inspection Certificates. This repeal is adopted without changes to the proposed text as published in the July 1, 2016 issue of the *Texas Register* (41 TexReg 4789) and will not be republished.

This provision was rendered unnecessary by Transportation Code, §548.256 as amended by House Bill 1888, 84th Legislative Session.

No comments were received regarding the adoption of this proposal.

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, §548.002, which authorizes the department to adopt rules to administer and enforce Chapter 548 and §548.256.

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 August 25, 2016, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Vehicle Inspection
Title 37 T.A.C. Part I, Chapter 23
Subchapter I
Sections 23.91 – 23.94

The Texas Department of Public Safety (the department) adopts proposed new §§23.91 – 23.94, concerning Military Service Members, Veterans, and Spouses—Special Conditions. This proposal is adopted without changes to the proposed text as published in the July 1, 2016 issue of the *Texas Register* (41 TexReg 4790) and will not be republished.

This proposal implements the requirements of Occupations Code, Chapter 55, as amended by Senate Bill 1307, 84th Legislative Session, requiring the creation of exemptions and extensions for occupational license applications and renewals for military service members, military veterans, and military spouses.

No comments were received regarding the adoption of this 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 Occupations Code, §55.02 which authorizes a state agency that issues a license to adopt rules to exempt an individual who holds a license issued by the agency from an increased fee or other penalty imposed by the agency for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the agency that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

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 August 25, 2016, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Crime Records
Title 37 T.A.C. Part I, Chapter 27
Subchapter A
Section 27.1

The Texas Department of Public Safety (the department) adopts proposed amendments to §27.1, concerning Right of Review. This proposal is adopted with changes to the proposed text as published in the July 1, 2016 issue of the *Texas Register* (41 TexReg 4791) and will be republished. Punctuation errors were corrected.

These amendments are necessary to reflect current procedures for the personal review of criminal history record information.

No comments were received regarding the adoption of this 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; §411.083(b)(3), which requires the department to grant access to criminal history record information to the person who is the subject of the information; and §411.086, which requires the department to adopt rules that provide for a uniform method of requesting criminal history record information from the department.

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 August 25, 2016, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Private Security
Title 37 T.A.C. Part I, Chapter 35
Subchapter A
Section 35.3

The Texas Department of Public Safety (the department) adopts the repeal of §35.3, concerning Registration Applicant Pre-employment Check. This repeal is adopted without changes to the proposed text as published in the June 3, 2016 issue of the *Texas Register* (41 TexReg 3980) and will not be republished.

The repeal of §35.3 is filed simultaneously with the proposed new §35.3 which was made necessary by HB 4030 (84th Legislative Session). The bill renders the current rule's background check redundant in some cases, as it requires a more substantial background check for applicants under certain conditions. The department is proposing new language to clarify the bill's requirements.

No comments were received regarding the adoption of this 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 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

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On August 25, 2016, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Private Security
Title 37 T.A.C. Part I, Chapter 35
Subchapter A
Section 35.3

The Texas Department of Public Safety (the department) adopts proposed new §35.3, concerning Registration Applicant Pre-Employment Check. This proposal is adopted without changes to the proposed text as published in the June 3, 2016 issue of the *Texas Register* (41 TexReg 3981) and will not be republished.

New §35.3 was made necessary by HB 4030 (84th Legislative Session). The bill renders the current rule's background check redundant in some cases, as it requires a more substantial background check for applicants under certain conditions. The department is proposing new language to clarify the bill's requirements.

No comments were received regarding the adoption of this 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 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

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On August 25, 2016, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Private Security
Title 37 T.A.C. Part I, Chapter 35
Subchapter A
Section 35.4

The Texas Department of Public Safety (the department) adopts proposed amendments to §35.4, concerning Guidelines for Disqualifying Criminal Offenses. This proposal is adopted without changes to the proposed text as published in the June 3, 2016 issue of the *Texas Register* (41 TexReg 3982) and will not be republished.

Amendments to §35.4 address the rule's reference to Article 42.12(3g), Code of Criminal Procedure, which is repealed by House Bill 2299, 84th Legislative Session, effective January 1, 2017. The bill creates new Article 42A.054 to replace 42.12(3g). The amendment is necessary to ensure any convictions for listed offenses occurring after January 1, 2017 will be disqualifying under the rule.

No comments were received regarding the adoption of this 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 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

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On August 25, 2016, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Private Security
Title 37 T.A.C. Part I, Chapter 35
Subchapter B
Sections 35.21, 35.22, and 35.25

The Texas Department of Public Safety (the department) adopts proposed amendments to §§35.21, 35.22, and 35.25, concerning Registration and Licensing. This proposal is adopted without changes to the proposed text as published in the June 3, 2016 issue of the *Texas Register* (41 TexReg 3984) and will not be republished.

Section 35.21 is amended in response to HB 4030 (84th Legislative Session). The bill amends §1702.230 of the Private Security Act, "Application for Registration or Endorsement." Section 35.21, relating to Registration Applications, is based on the requirements of §1702.230. HB 4030 therefore necessitates the updating of §35.21. Additionally, the requirements of an alien registration card and copy of a current work authorization card are being removed: the former is only applicable to applicants for a commission; the latter is not a requirement for licensure under Chapter 1702. Section 35.22 is also amended to remove the requirements of an alien registration card and copy of a current work authorization.

The amendments to §35.25 are intended to bring this rule line with the statutory requirements relating to the use of assumed names.

No comments were received regarding the adoption of this 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 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

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On August 25, 2016, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Private Security
Title 37 T.A.C. Part I, Chapter 35
Subchapter D
Section 35.52

The Texas Department of Public Safety (the department) adopts proposed amendments to §35.52, concerning Administrative Penalties. This proposal is adopted without changes to the proposed text as published in the June 3, 2016 issue of the *Texas Register* (41 TexReg 3985) and will not be republished.

These amendments are necessary to update the fine schedule to accurately reflect current statutory and rule violations.

No comments were received regarding the adoption of this 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 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

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On August 25, 2016, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Private Security
Title 37 T.A.C. Part I, Chapter 35
Subchapter F
Section 35.81

The Texas Department of Public Safety (the department) adopts proposed amendments to §35.81, concerning Application for a Security Officer Commission. This proposal is adopted without changes to the proposed text as published in the June 3, 2016 issue of the *Texas Register* (41 TexReg 3986) and will not be republished.

Amendments to §35.81 are necessary to remove the requirement of a current work authorization card which is not a requirement for licensure under Chapter 1702.

No comments were received regarding the adoption of this 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 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

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On August 25, 2016, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Private Security
Title 37 T.A.C. Part I, Chapter 35
Subchapter I
Section 35.112

The Texas Department of Public Safety (the department) adopts proposed amendments to §35.112, concerning Business Records. This proposal is adopted without changes to the proposed text as published in the June 3, 2016 issue of the *Texas Register* (41 TexReg 3986) and will not be republished.

Amendments to §35.112 are necessary to comply with Occupations Code, §1702.110(b), which requires the board to adopt rules to enable an out-of-state license holder to comply with the Act's requirement that license holders maintain a physical address in this state.

No comments were received regarding the adoption of this 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 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
August 25, 2016



Special Ranger Applicants:

Name	Division	Service/Station	Retire Date	Years of Service	Approved
Burger, Willard C.	CLE	Wichita Falls	07/31/2007	28 years	
Davis, Scott A.	CID	Houston	06/30/2016	20 years	
Hand, Nickie R.	THP	Dumas	06/30/2016	34 years	
Kendricks, Wilbert S.	CLE	Hurst	03/31/2004	21 years	
Manning, Kelly D.	THP	Sinton	07/31/2014	27 years	
Mason, James A.	THP	Gilmer	06/30/2016	20 years	
Menchaca, David C.	CID	Weslaco	06/30/2016	25 years	
Moore, Michael B.	THP	Andrews	08/31/2002	31 years	
Mulligan, Patrick J.	TDEM	Austin	02/28/2015	29 years	
Nesbitt, David L.	THP	Ft. Davis	11/30/1998	30 years	
Oppermann, Bruce A.	THP	Bastrop	09/30/2004	22 years	
Peña, Roberto O.	HS	Austin	06/30/2016	29 years	
Renfro, Cleve W.	OIG	Austin	05/31/2016	20 years	
Rowles, Billy E.	THP	Buna	07/31/1995	26 years	
Taylor, Harry L.	THP	Canyon	06/30/2016	25 years	

Approved by the Public Safety Commission on:

Date:

8/25/16