

**TEXAS TRANSPORTATION COMMISSION
MINUTE ORDER**

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Free passage on toll projects on the state highway system is governed by the Transportation Code, the administrative rules of the Texas Department of Transportation (department), and applicable trust agreements and bond indentures.

Transportation Code, §228.054(a) provides that the operator of a vehicle, other than an authorized emergency vehicle, that is driven or towed through a toll collection facility shall pay the proper toll. Section 228.054(e) further provides that the department may waive the requirement of the payment of a toll or may authorize the payment of a reduced toll for any vehicle or class of vehicles.

In accordance with Transportation Code, §362.901 and 43 TAC §27.81(b), the department generally allows free passage on toll projects for military vehicles in convoy and individually. However, pursuant to 43 TAC §27.81(h), the provision of free passage for military vehicles on toll projects that are governed by a trust agreement or indenture in existence on the effective date of the administrative rule is governed by the terms of that trust agreement or indenture.

Section 502(b) of the Indenture of Trust (indenture) for the Central Texas Turnpike System (CTTS) provides that the Texas Transportation Commission (commission) shall not grant free passage or reduced tolls within a class, except that, in its discretion, it may:

- reduce tolls through the use of commutation or other tickets or privileges based upon frequency or volume if the reduction is expected to result in an increase in revenues;
- grant free passage or reduce tolls for operational, emergency, or safety reasons;
- grant free passage to members, officers and employees of the department acting in the discharge of their official duties related to the state highway system;
- grant free passage for use by the Army, Air Force, Navy, Coast Guard, Marine Corps, or militia or any branch thereof in time of war or other emergency;
- grant free passage to public safety officers of the United States, the State and its agencies and political subdivisions when any of them (1) are acting in the discharge of their official duties, (2) can provide proper identification, (3) are using marked public safety vehicles, and (4) are traveling under flashing lights and sirens; and
- grant temporary free access for agents and contractors of the department acting on behalf of the department in connection with the construction, improvement, maintenance or operation of the toll system.

Pursuant to 43 TAC §27.82(f), the commission may authorize a private entity under contract to operate a department toll project to set toll rates for the use of the toll project and to establish an administrative fee charged to owners of vehicles that use the toll project without paying the proper toll, if:

- the private entity is required under the contract to submit to the department for approval the methodology for the setting of tolls, increasing the amount of the tolls, and the setting of an administrative fee to be imposed to recover the cost of collecting an unpaid toll;

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- the private entity is required to submit to the department for approval any proposed change in an approved methodology for the setting of a toll or an administrative fee;
- the private entity will operate the toll project under a comprehensive development agreement or under a contract resulting from a procurement under 43 TAC §27.83 that provides an operational concession to the private entity; and
- the commission approves the award of the contract to the private entity. The policy related to free passage on department toll projects established in this order does not apply to private entities under contract to operate a department toll project that are authorized to set toll rates for the use of the toll project in accordance with 43 TAC §27.82(f). Those contracts will include tolling regulations prescribing the tolling methodology required to be approved by the department that includes initial maximum toll rates and limitations on escalating the amount of the tolls, as well as defining those vehicles exempt from the payment of tolls.

In Minute Order 110836, which expires April 27, 2007, the Texas Transportation Commission (commission) authorized free passage on TxDOT toll roads as follows:

- (1) on the CTTS, authorized emergency vehicles as defined in Transportation Code, §541.201 (fire department and police vehicles, ambulances, municipal department or public service corporation emergency vehicles, private vehicles of volunteer firefighters or certified emergency medical services employees or volunteers, industrial emergency response vehicles, and vehicles of blood or tissue banks) when responding to an emergency or, in the case of police vehicles, pursuing an actual or suspected violator of the law;
- (2) on non-CTTS TxDOT toll roads, authorized emergency vehicles as defined in Transportation Code, §541.201 (fire department and police vehicles, ambulances, municipal department or public service corporation emergency vehicles, private vehicles of volunteer firefighters or certified emergency medical services employees or volunteers, industrial emergency response vehicles, and vehicles of blood or tissue banks) when the operator of the vehicle is on duty;
- (3) marked, recognizable military vehicles, except on the CTTS, where such vehicles may only receive free passage during time of war or other emergency;
- (4) department contractors working on the construction, improvement, maintenance, or operation of the toll project or system being traveled; and
- (5) any vehicle in the time of a declared emergency or natural disaster, as determined by the executive director of the department.

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The department has determined that expanding the circumstances under which free passage may be granted to authorized emergency vehicles on the CTTS will enhance the overall safety of the traveling public. Further, it has been determined that the amount of emergency vehicle traffic on CTTS is *de minimus*, and that providing free passage would have no material affect on CTTS revenues. However, the department reserves the right to reconsider this decision if a material impact on revenue is realized in the future.

IT IS THEREFORE ORDERED that free passage on TxDOT toll roads shall be granted to the following:

(1) authorized emergency vehicles as defined in Transportation Code, §541.201 (fire department and police vehicles, public or private ambulances, municipal department or public service corporation emergency vehicles, private vehicles of volunteer firefighters or certified emergency medical services employees or volunteers when responding to a fire alarm or medical emergency, industrial emergency response vehicles when responding to an emergency, and vehicles of blood or tissue banks when making deliveries of blood, drugs, medicines, or organs);

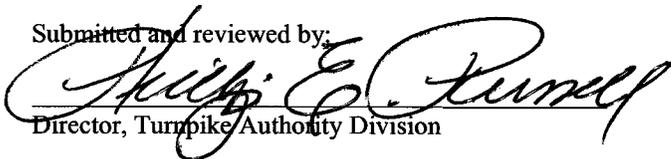
(2) marked, recognizable military vehicles, except on the CTTS, where such vehicles may only receive free passage during time of war or other emergency;

(3) department contractors working on the construction, improvement, maintenance, or operation of the toll project or system being traveled; and

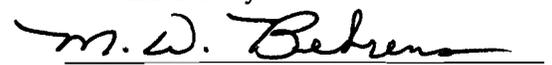
(4) any vehicle in the time of a declared emergency or natural disaster, as determined by the executive director of the department.

IT IS FURTHER ORDERED that the policy established in this order does not apply to temporary free passage, not exceeding 24 hours, that is provided for operational, safety, or emergency reasons, as determined by the executive director of the department or his designee, except that, in the case of the CTTS, temporary free passage may only be granted as allowed under the indenture.

Submitted and reviewed by:


Director, Turnpike Authority Division

Recommended by:


Executive Director

110911 APR 26 07

Minute Number Date Passed