

AN ACT

1  
2 relating to the control of access to state highways by the Texas  
3 Department of Transportation.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 203.031, Transportation Code, is amended  
6 by adding Subsection (a-1) to read as follows:

7 (a-1) In the exercise of its authority to manage access to  
8 or from a controlled access highway under Subsection (a)(2) or (4),  
9 the commission by rule shall:

10 (1) require that a decision by a department district  
11 office denying a request for access to a specific location on a  
12 controlled access highway be in writing and include the reasons for  
13 the denial;

14 (2) provide procedures for appealing a denial under  
15 Subdivision (1), including procedures that:

16 (A) allow the applicant to appeal the denial to  
17 the department's design division before the 31st day after the date  
18 written notice of the denial is given to the applicant;

19 (B) provide that if an appeal under Paragraph (A)  
20 is not decided before the 91st day after the date the appeal was  
21 filed, the access applied for must be granted; and

22 (C) allow the applicant to appeal the decision of  
23 the design division to the director and, if the decision is  
24 affirmed, to a board of variance appointed by the director and

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1 composed of at least three persons who may not be below the level of  
2 department division director, office director, or district  
3 engineer and who were not involved in the original decision to deny  
4 access;

5           (3) provide that properly platted access points to or  
6 from a controlled access highway that are located on undeveloped  
7 property are subject to the access management standards in effect  
8 at the time the points were platted regardless of when the initial  
9 request for access was submitted to the department, but only if:

10                   (A) development of the property begins and the  
11 request for access at the platted locations is submitted to the  
12 department before the fifth anniversary of the date the plat was  
13 recorded; and

14                   (B) the design of the highway facility in the  
15 vicinity of the platted access points did not materially change  
16 after the date the plat was recorded so as to significantly impact  
17 traffic patterns to the extent that the platted access points  
18 present a threat to public safety;

19           (4) require that:

20                   (A) owners of land adjacent to a proposed highway  
21 construction project be provided written notice of the project at  
22 least 60 days before the date construction begins if the project  
23 will permanently alter permitted access to or from a controlled  
24 access highway at the owners' existing locations; and

25                   (B) the access described by Paragraph (A) be  
26 reinstated to the most practicable extent possible after due  
27 consideration of the impact on highway safety, mobility, and

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1 efficient operation of any changed traffic patterns resulting from  
2 the construction;

3 (5) adopt criteria for determining when a variance to  
4 access management standards may be granted, including criteria  
5 that, in addition to highway safety, mobility, and efficient  
6 operation concerns, takes into consideration any of the following  
7 consequences resulting from denial of the owner's request for  
8 access to a specific location on a controlled access highway that  
9 may impact a property owner:

10 (A) denial of reasonable access to the property;  
11 and

12 (B) undue hardship on a business located on the  
13 property; and

14 (6) clarify that the remodeling or demolition and  
15 rebuilding of a business does not cause new access management  
16 standards to apply unless the department makes an affirmative  
17 finding in writing that the remodeled or rebuilt business will  
18 significantly impact traffic patterns to the extent that the  
19 current access location presents a threat to public safety.

20 SECTION 2. This Act takes effect immediately if it receives  
21 a vote of two-thirds of all the members elected to each house, as  
22 provided by Section 39, Article III, Texas Constitution. If this  
23 Act does not receive the vote necessary for immediate effect, this  
24 Act takes effect September 1, 2009.

David Newkirk

President of the Senate

Jim Strawn

Speaker of the House

I hereby certify that S.B. No. 1609 passed the Senate on April 24, 2009, by the following vote: Yeas 30, Nays 0.

Datsy Gaud

Secretary of the Senate

I hereby certify that S.B. No. 1609 passed the House on May 27, 2009, by the following vote: Yeas 148, Nays 0, one present not voting.

Robert Heney

Chief Clerk of the House

Approved:

19 JUN '09

Date

RICK PERRY

Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE

2PM O'CLOCK

JUN 19 2009

Colby Hunter III