

TXTA CONSTITUTION AND ANTITRUST GUIDELINES



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CONSTITUTION

TEXAS TRUCKING ASSOCIATION

Article I. Name

The name of the Association shall be the TEXAS TRUCKING ASSOCIATION, INC., herein referred to as the Association. The Association shall maintain its principal office and place of business in Austin, Travis County, Texas.

Article II. Objects and Purposes

Section 1.

The objectives of the Association shall be those specified in the Original Articles of Incorporation listed as “Objects and Purposes” and prioritized as follows:

- A. Advocating just and proper laws and administrative regulations at the local, state and federal levels of government in the best interest of the shipping and traveling public and the Texas motor carrier industry.
- B. Encouraging its members to participate actively in the electoral process so that men and women of character, honesty and ability will be chosen to represent the best interests of all Texas in those offices of public trust to which they are elected.
- C. Serving as liaison between the motor carrier industry and those state and federal administrative agencies having jurisdiction over and effects upon the motor carrier industry in Texas.
- D. Maintaining a program of industry public relations to increase the public’s understanding of the importance of a safe, dependable, efficient motor transportation system.
- E. Communicating with the industry through educational programs and publications.
- F. Sponsoring effective educational meetings, seminars, annual meetings and exhibitions for the benefit of industry representatives.
- G. Supporting membership growth and development within the Association in order to foster close cooperation among various segments of the motor transportation industry.
- H. Developing strong safety and maintenance programs for the benefit of the public and the motor carrier industry.
- I. Doing all other things that the Directors may deem necessary to carry out the objects and purposes of this organization.

Section 2.

This Association shall be a non-profit organization.

Article III. Application for Membership

Section 1.

All applications for membership in the Association shall be submitted to the President in the manner directed by the Board of Directors. Such application shall provide required information regarding the applicant’s business. The Board shall have the authority to promulgate the procedure under which an applicant may be received for membership.

Article IV. Membership

Section 1.

Any individual, association, partnership or corporation or other legal entity that owns or operates a commercial motor vehicle and purveyors of commercial vehicle equipment, supplies and services may become members.

Section 2.

The Board may, from time to time, at its discretion, establish classes or types of Association Memberships.

Section 3.

The Association shall have an official seal which shall be kept in the custody of the President and shall be in such form and design as may be approved by the Board of Directors. Each member upon notice of election to membership and the payment of the member's current dues after such notice shall be entitled to receive the indicia of membership then provided to new members.

Section 4.

Members [of the Association in good standing] shall be permitted to display a statement to the effect that such person or entity is a member of this Association. Upon discontinuance of membership for any cause whatsoever, such person or entity shall forthwith surrender and discontinue use of any indicia of the Association or any sign, symbol or statement indicating membership therein.

Section 5.

There shall be one regular meeting of the Association each year, which shall be known as the Annual Conference. The Board of Directors may, in its discretion, call and hold additional meetings of the Association in each calendar year. At all regular meetings of the Association the membership represented in person shall constitute a quorum.

Section 6.

Whenever a written ballot is submitted to the membership of the Association by mail, email or other method reasonably calculated to notify the membership the return of the properly marked ballots to the Association shall constitute a quorum for purposes of decision.

Article V. Resignations and Expulsions

Any member of the Association may resign at any time in writing, upon payment of all sums due the Association. If any member of the Association shall at any time engage in or permit any act which is prejudicial to the Association, or to the purposes for which it was formed, or shall violate any of the rules or regulations thereof such member shall, upon written complaint signed by two or more members of this Association and submitted to the Board of Directors be given written notice that the membership in the Association has been terminated. Any member whose membership has been terminated pursuant to the provisions of this article may request, in writing, a reconsideration of said termination. This request must be received by the President of the Association, or his or her designee, within ten (10) days from the date of notice of termination is received unless otherwise agreed by the Board of Directors. In the event such written request is made, the terminated member may have a hearing concerning the matter if expulsion before the Board of Directors or any persons designated by the Board of Directors to act on its behalf. Such member shall have the privilege of appearing with counsel. In the event no written request is made, the expulsion of said member becomes final. In event a written request is made, a hearing will be held in accordance with this provision. The Board of Directors, after considering the merits of the appeal may, by a two-thirds vote of all the members of the Board of Directors, confirm such expulsion from membership in the Association.

Article VI. Voting

Each member of the Association, in good standing, as defined in Article IV hereof, shall be entitled to vote upon or upon all questions submitted by the Association provided that each such member shall be allowed only one vote.

Article VII. Board of Directors and Officer Election Procedure

Section 1. Election Committee

Within ninety (90) days following the date of the Annual Conference, the Chairman of the Board shall appoint an Election Committee consisting of not less than five members, one of whom shall be designated as chairman. The Election Committee shall decide all disputes and disagreements arising over the nomination and election of any candidate and shall pass upon the eligibility of any member to vote.

Section 2. Election Procedure

- A. Within ninety (90) days following the date of the Annual Conference, the Chairman of the Board shall appoint a Nominating Committee composed of not less than five (5) members from the Advisory Committee. The general membership shall be given written notification of the appointment of the Nominating Committee and be advised not less than thirty (30) days in advance of the date, time and place of the Nominating Committee meeting. That meeting must be not less than one hundred twenty (120) days prior to the Annual Conference. Each Association member will have the opportunity to appear in person before the Nominating Committee, or to correspond in writing to it, for the purpose of submitting nominations for Chairman-Elect, Secretary-Treasurer, American Trucking Associations State Vice President, Alternate American Trucking Associations State Vice President, At Large members of the Executive Committee, and Directors-at-Large for the following year. The Nominating Committee will then nominate a candidate for each office and for the Board of Directors for the ensuing year and shall notify the membership of its choices not less than ninety (90) days prior to the Annual Conference. Members will have thirty (30) days from the date that notification is emailed to email/fax or mail to the Association headquarters a ballot approving or rejecting any nominee for officers, and Directors-at-Large. Each member will have one vote to cast for each nominee. A nominee must receive a majority vote of those ballots returned to be elected. Any nominee failing to receive a majority vote shall be rejected, and that position will be considered as a vacancy to be filled as set forth in Article VII, Section 2. D. herein. Results of the election shall be announced in Association and/or industry publications and/or at the next Annual Conference.
- B. The Chairman-Elect shall succeed to the chairmanship automatically at the end of the Annual Meeting.
- C. The new officers and Executive Committee shall be sworn in at the general session on the last day of the Annual Conference and assume their leadership roles at the conclusion of said Annual Conference.
- D. Vacancies in the membership of the Board of Directors (except vacancies in the Advisory Committee category) and officers category shall, upon recommendation of the Nominating Committee, be filled by majority vote of the remaining members of the Board.

Article VIII. Board of Directors

Section 1.

The Board of Directors shall consist of not less than twenty-one (21) members in good standing, which said Directors shall be divided into three (3) categories: the Directors-at-Large, the Advisory Committee, and the current officers; provided, however, that in the Directors-at-Large category only one director may serve from any one company.

Section 2.

Directors-at-Large Category: The Nominating Committee may nominate, and the membership elect as provided in Article VII Directors-at-Large from the qualified members in good standing of the Association. Directors-at-Large shall serve for a term of three (3) years; one-third of the Directors-at-Large shall be elected each year. In the event that the Directors-at-Large category is increased in number, that number must be in increments of three (3) members. In the first year of this election, the additional Directors-at-Large will be elected with one-third each to one-, two- and three-year terms so that the one-third annual rotation in the Director-at-Large category is preserved.

Section 3.

Advisory Committee Category: This category shall consist of every past Chairman of the Board of the Association whose company is a member in good standing of the Association.

Section 4.

Officers Category: This category shall consist of the current officers of the Association as set forth in Article IX for the term of their offices.

Section 5.

The Board of Directors shall have responsibility for the oversight of the management of the business of the Association and shall act upon such matters as may arise or which may be presented to it by any of the officers or members of the Association. The Board shall, at the annual meeting, review and approve an annual operating budget.

Section 6.

The Board shall audit, or cause to be audited each year or as often as found necessary, the books, records and accounts of the Association. The Board may establish rules not in conflict with the Constitution for the proper regulation of its own proceedings.

Section 7.

In the absence or disability of the Chairman of the Board, Chairman-Elect and Secretary–Treasurer, the Board shall select a presiding officer to act as the temporary chairman.

Section 8.

The Board shall have the power to authorize the Chairman of the Board to appoint committees to carry out the policies promulgated by the Board.

Section 9.

Every Director, officer, and employee of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred or imposed upon them in connection with any proceeding to which they may be made a party, or in which they may become involved, by reason of being or having been a Director, officer, or employee of the Association, or any settlement thereof, whether the person is a Director, officer, or employee at the time such expenses are incurred, except in such cases wherein the Director, officer, or employee is determined to be liable of malfeasance, willful or otherwise, in the performance of duties. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director, officer, or employee may be entitled.

Section 10.

The Board of Directors shall promulgate a dues scale for all classes of members adequate to support the activities of the Association. Dues for all classes of members shall be payable in advance.

Section 11.

The Board of Directors shall endeavor to ensure that the Association acts on behalf of the public and the trucking industry. In the event there is a disagreement regarding any activities of the Association in that regard, such matter will be submitted to the Board of Directors for determination. The decision of the Board of Directors is final.

Section 12.

Attendance: A member of the Board of Directors, other than members of the Advisory Committee, shall attend all regular and special meetings of the Board. In the event that a Board member does not attend at least two Board meetings in each calendar year of Board membership, that Board member will be deemed to have voluntarily resigned from the Board. Upon written notice from the Chairman of the Board to that effect, such member may petition the Officers of the Association for retention on the Board. In the event such member is not retained, the vacancy created will be filled pursuant to Article VII, Section 2.D.

Section 13.

Meetings of the Board of Directors may be called by the Chairman of the Board or Chairman-Elect and held at such times and places specified by the Chairman of the Board or Chairman-Elect. Any eleven (11) or more Board members by written request to the Chairman of the Board may call a meeting of the Board of Directors to be held at the city in which the principal office and place of business of the Association is located. All members of the Board shall be notified of the place, date and purpose of every Board meeting by first-class mail or other means reasonably calculated to notify members at least ten (10) days prior thereto. Eleven (11) members of the Board of Directors shall constitute a quorum for the transaction of business of said Board of Directors.

Article IX. Officers

Section 1.

The officers of the Association shall consist of a Chairman of the Board, Chairman-Elect, Secretary-Treasurer, American Trucking Associations State Vice-President, Alternate American Trucking Associations State Vice-President, four Executive Committee Vice Chairmen-at-Large who will continue their term of office on the TXTA Board of Directors, and President.

Section 2.

No person shall be eligible for election to the office of Chairman of the Board, Chairman-Elect, Secretary-Treasurer, American Trucking Associations State Vice-President, or Alternative American Trucking Associations State Vice-President unless such person be the owner, divisional manager, or an operating executive of an Association member. The term of office for each specified office shall be for one year, or until a successor is thereafter elected.

Section 3. Chairman of the Board

The Chairman of the Board shall preside at all meetings of the Association, Board of Directors, and Executive Committee. The Chairman of the Board shall appoint all standing and special committees unless otherwise ordered by the meeting over which the Chairman of the Board is presiding. The Chairman of the Board shall appoint an Election Committee and Nominating Committee as provided for in Article VII herein; the Chairman of the Board shall make an annual report to the Association showing the general conditions of the Association as the Chairman of the Board may deem proper. The Chairman of the Board shall from time to time bring to the attention of the Board of Directors such matters as may require attention. The Chairman of the Board shall decide all points of order raised and have supervisory power over the workings of the Association.

Section 4. Chairman-Elect

The Chairman-Elect shall perform such responsibilities as may be directed by the Chairman or the Board of Directors. In the absence or disability of the Chairman of the Board, the Chairman-Elect shall act in his or her stead.

Section 5. Secretary-Treasurer

The Secretary-Treasurer shall perform such responsibilities as may be directed by the Chairman of the Board or the Board of Directors. In the absence or disability of both the Chairman of the Board and Chairman-Elect, the Secretary-Treasurer shall act in their stead.

Section 6. American Trucking Associations State Vice-President and Alternate

The American Trucking Associations State Vice-President shall represent the Association on the American Trucking Associations Executive Committee. He or she shall act as a liaison between the Association and the American Trucking Associations Executive Committee. He or she shall act as a liaison between the Association and the American Trucking Associations and shall perform such responsibilities as may be directed by the Chairman of the Board or Board of Directors. The Alternate American Trucking Associations State Vice-President shall perform the same duties and, in the absence of the American Trucking Associations State Vice-President at any meeting of the American Trucking Associations Executive Committee, the Alternate shall represent the Association.

Section 7. Executive Committee Members Vice Chairmen-at-Large

The Vice Chairmen-at-Large shall perform such responsibilities as may be directed by the Chairman of the Board or the Board of Directors.

Section 8. President

The President shall be a member ex-officio of the Board of Directors, the Executive Committee and all other committees, and shall perform such duties as may be prescribed by said Board under the terms and conditions of employment. The President shall be the chief executive officer and shall employ and direct assistants and employees subject to the review of the Board of Directors. The President shall receive for the satisfactory performance of duties an annual salary as contained in the budget approved by the Board of Directors. The President shall maintain an office and headquarters for the Association at Austin, Texas, upon a budget as may be prescribed by the Board of Directors. The President shall keep a set of books containing receipts and disbursements of all funds pertaining to the Association. The President shall present as required a summary of the accounting of the Association's financial statements. Such accounts shall be audited annually and when directed by the Board of Directors. The President shall have custody of all moneys paid into the Association and shall disburse same as may be prescribed within the budget. The President shall give a satisfactory bond, if and when required by the Board of Directors. The President shall be the custodian of all property of the Association and shall deliver to his or her successor all moneys and property in hand, together with books, records and accounts relating hereto.

Section 9.

The presiding officer, shall, insofar as possible, abide by parliamentary procedure as outlined in Robert's Rules of Order, except as superseded by the Constitution.

Section 10. Removal from Office

Any officer of the Association may be removed from office by a vote of two-thirds of all the members present at a meeting of the Board of Directors under the same rules and procedures set forth in Article V of the Constitution.

Article X. Executive Committee

Section 1. Membership

The Executive Committee shall consist of the Immediate Past Chairman of the Board and the officers set forth in Article IX, Section 1 of the Constitution, and elected as provided in Article VII, Section 2.

Section 2. Duties

The Executive Committee shall exercise such powers and perform such duties as may be prescribed by the Board of Directors. It shall make policy recommendations to the Board.

Article XI. Amendments

Section 1.

This Constitution may be amended or a new Constitution adopted at any regular or special meeting by a vote of two-thirds of the members present, provided notice of the proposed changes be inserted in the notification to the membership not less than thirty (30) days prior to such meeting and, provided further that such proposed changes be submitted to the Board of Directors for its recommendations to the membership prior to such meeting.

Section 2.

In addition, the Board of Directors may submit amendments to the membership to be approved by written ballot; a vote of two-thirds of the members voting by written ballot is required to amend the present Constitution or to adopt a new Constitution; provided, however, that notification of such proposed changes are promulgated to the membership by first-class mail or other means reasonably calculated to notify members for a period of not less than thirty (30) calendar days prior to the requested return date of the written ballots.

TXTA ANTITRUST GUIDELINES FOR MEETINGS

To minimize the possibility of antitrust problems, the following guidelines should be followed at all meetings of TXTA boards and committees and all TXTA-sponsored conventions, trade shows, training seminars, best-practices discussions, conferences, colloquiums, and task force and working group sessions.

Procedures for Meetings

1. Meetings should be held only when there are proper items of substance to be discussed which justify a meeting.
2. In advance of every meeting, a notice of meeting, along with an agenda, should be made available to participants. The agenda should be specific and such broad topics as “marketing practices” should be avoided. TXTA staff must review all agendas before they are sent to meeting participants.
3. Participants at the meeting should adhere strictly to the agenda. In general, subjects not included on the agenda should not be considered at the meeting.
4. If a member brings up a subject of doubtful legality for discussion at a meeting, he or she should be told immediately the subject is not a proper one for discussion. The TXTA staff representative or any member present who is aware of the legal implications of a discussion of the subject should attempt to halt the discussion. If the subject of prices, costs, or other competitive practices is raised by others at the meeting, participants must disassociate themselves unequivocally from the discussion. If necessary, participants must leave or halt the meeting.
5. Minutes of all meetings should be kept by TXTA. Minutes should summarize accurately the actions taken at meetings, if any. Minutes should not contain comments made by particular meeting participants because of the potential for incompleteness or inaccuracy in attempting to report precise remarks.
6. A TXTA staff member should attend all meetings. During any discussion between meeting participants that occur outside the formal meeting, the guidelines contained in the next section—“Topics to Avoid at Meetings”—must be followed.
7. Members should not be coerced in any way into taking part in TXTA activities.
8. It is essential that members cooperate with TXTA staff, particularly when staff has concerns about a particular activity or topic of discussion.

Topics to Avoid at Meetings

The following topics are some of the main ones that should not be discussed at meetings attended by TXTA members or staff, including meetings or other gatherings sponsored by organizations independent of TXTA:

1. Current or future prices of competitors.
2. Matters related to prices, such as discounts, credit terms, profit levels, or volume of production or service.
3. Wage and salary rates, equipment prices, or other actual costs of individual companies, since these costs are an element of price.
4. Dividing up, allocating, or rationalizing markets, bids, geographic areas, types of business, or customers among competitors.

5. Refusals to deal with suppliers, customers, or other competitors. For example, if a group of motor carriers were to agree to boycott a supplier of diesel fuel for the purpose of forcing that supplier to lower its prices, such an agreement could run afoul of the antitrust laws. Critiques of supplier products or customer practices can also raise the risk of being construed as an unlawful group boycott, and should be conducted only after consultation with counsel. Such discussions may be permissible where efficiencies will be achieved through the exchange of ideas and where precautions are taken to avoid the inference of an agreement to deal with suppliers or customers only on certain terms.

“Best-Practices” Discussions

The following guidelines should be applied to any “best-practices” discussion:

1. All discussions of industry practices should involve an attempt to reduce costs or realize some other efficiency goal. Discussions should be limited to what is reasonably necessary to accomplish these legitimate goals.
2. As in other areas of TXTA activity, price and other competitively sensitive terms of trade should not be discussed in the “best-practices” context. Specific present or future competitive plans and strategies of individual companies should not be discussed. Nor should specific customer information or specific companies’ costs.
3. In discussing “best-practices,” no agreement should be reached to use a particular practice, to deal with suppliers or customers on particular terms, or to exclude a member or other competitor for using a different practice.
4. To the extent possible, technical personnel of member companies, rather than marketing personnel, should be used to conduct “best-practices” discussions.
5. Prior to a “best-practices” discussion, an agenda should be prepared and reviewed. Minutes should be kept of all meetings at which “best-practices” are discussed. Should questions arise about the propriety of a “best-practices” discussion, the discussion should be discontinued until counsel can be consulted.