

1-1 By: Armbrister S.B. No. 1261
1-2 (In the Senate - Filed March 12, 2003; March 19, 2003, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 14, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 14, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1261 By: Armbrister

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to notice of proposed construction and the marking and
1-11 location of certain wireless communication facilities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. This Act may be cited as the LeClair-Jennings
1-14 Act.

1-15 SECTION 2. Chapter 35, Business & Commerce Code, is amended
1-16 by adding Subchapter J to read as follows:

1-17 SUBCHAPTER J. WIRELESS COMMUNICATION FACILITY

1-18 Sec. 35.111. DEFINITION. In this subchapter, "wireless
1-19 communication facility" means an equipment enclosure, antenna,
1-20 antenna support structure, and any associated facility used for the
1-21 reception or transmittal of a radio frequency, microwave, or other
1-22 signal for a commercial communications purpose.

1-23 Sec. 35.112. NOTICE OF CONSTRUCTION. (a) A person
1-24 proposing to construct a wireless communication facility that is
1-25 taller than 100 feet shall, on or before the 30th day before the
1-26 date the construction begins, mail a letter to each of the
1-27 following:

1-28 (1) any airport located within three miles of the
1-29 proposed facility location; and

1-30 (2) the Texas Agricultural Aviation Association.

1-31 (b) The letter must state:

1-32 (1) the legal description of the proposed site of
1-33 construction, including a graphic depiction showing the location,
1-34 height, longitude, latitude, pad size, roadway access, and proposed
1-35 use of the wireless communication facility and location of any guy
1-36 wires;

1-37 (2) at a minimum, the name, phone number, electronic
1-38 mail address, if any, and mailing address of the person proposing
1-39 construction of the wireless communication facility; and

1-40 (3) a phone number that is operational 24 hours a day,
1-41 seven days a week, for emergency purposes.

1-42 Sec. 35.113. EXCEPTIONS. This subchapter does not apply to
1-43 any structure whose main purpose is to provide electric service, a
1-44 wireless communication facility used by an entity only for internal
1-45 communications, a wireless communication facility constructed by a
1-46 municipality, a wireless communication facility used for emergency
1-47 communications, a radio or television reception antenna, a
1-48 satellite or microwave parabolic antenna not used by a wireless
1-49 communication service provider, a receive-only antenna, an antenna
1-50 owned and operated by a federally licensed amateur radio station
1-51 operator, a cable television company facility, a radio or
1-52 television broadcasting facility, a colocation antenna, or a
1-53 wireless communication facility installed for colocation purposes.

1-54 Sec. 35.114. EFFECT ON CERTAIN ORDINANCES. This subchapter
1-55 does not preempt a local ordinance regulating a wireless
1-56 communication facility.

1-57 SECTION 3. Subchapter B, Chapter 21, Transportation Code,
1-58 is amended by adding Section 21.070 to read as follows:

1-59 Sec. 21.070. MARKING OF WIRELESS COMMUNICATION FACILITY.

1-60 (a) In this section:

1-61 (1) "Cultivated field" means any open space or pasture
1-62 larger than five acres in which a plant or tree nursery is located
1-63 or an agricultural crop, including cotton, corn, grain, grapes,

2-1 beets, peanuts, and rice, but not including grass grown for hay, is
2-2 grown on a continuing basis.

2-3 (2) "Wireless communication facility" has the meaning
2-4 assigned by Section 35.111, Business & Commerce Code.

2-5 (b) Absence of plants, seedlings, or a crop on a temporary
2-6 basis due to crop rotation or other farm management techniques does
2-7 not remove an open area from the definition of "cultivated field."

2-8 (c) This section applies only to an antenna structure that
2-9 is used to provide commercial wireless communications services and
2-10 that is located in a cultivated field or within 100 feet of a
2-11 cultivated field.

2-12 (d) A person who proposes to construct a wireless
2-13 communication facility that is at least 100 feet but not more than
2-14 200 feet in height above ground level shall mark the highest guy
2-15 wires on the facility, if any, with two warning spheres each.

2-16 SECTION 4. (a) The changes in law made by this Act apply
2-17 only to a wireless communication facility constructed on or after
2-18 the effective date of this Act.

2-19 (b) This Act takes effect immediately if it receives a vote
2-20 of two-thirds of all the members elected to each house, as provided
2-21 by Section 39, Article III, Texas Constitution. If this Act does
2-22 not receive the vote necessary for immediate effect, this Act takes
2-23 effect September 1, 2003.

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