

## **BILL ANALYSIS**

C.S.H.B. 599  
By: Eissler  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Texas Department of Transportation is responsible for regulating outdoor off-premise advertising that is visible from the roadway. A permit is required to for such a sign, but the reality is that many signs are erected without permits. The lack of adequate laws has resulted in ineffective enforcement of these illegal signs and has led to diminished quality of life in communities, visual blight, and negative impacts on regional economic development efforts. The purpose of C.S.H.B. 599 is to provide additional enforcement tools for illegal off-premise signs visible along rural roads.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Adds subsection (d) to 394.003 of the Transportation Code creating an exception for a temporary directional sign or kiosk program if requested by a political subdivision and approved by TxDOT. The application must come from the political subdivision and must be approved by TxDOT.

SECTION 2. Amends the heading to Section 394.021, Transportation Code, to read as follows: "Erecting Off-premise Sign Without Permit; Offense".

SECTION 3. Amends Section 394.021, Transportation Code, by amending Subsection (a) and adding Subsections (c), (d) and (e) to read as follows:

(a) Adds language reading "commits an offense if the person erects" and removes the language "may not erect".

(c) Provides that a person commits an offense if the person allows a sign to be erected on property owned by the person and knows or should have known that the sign was erected or maintained in violation of this chapter.

(d) Provides that an offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000 and provides that each day of the proscribed conduct is a separate offense.

(e) Provides that it is a defense to prosecution for an offense under this chapter that the person removed the unauthorized sign not later than the 45th day after the person received a citation for the offense. If the court is satisfied with the evidence produced by the person to establish a defense under this subsection, the court shall dismiss the charge.

SECTION 4. Amends Section 394.081, Transportation Code, by amending Subsections (a) and (c); and adding Subsection (d) as follows:

(a) Adds language "In addition to being subject to a criminal penalty or injunctive action, a" and strikes language "A". It Also strikes language "to the state" and adds language "and whether the person has previously violated this chapter."

(c) Adds language "if collected by the attorney general and to the credit of the county road and bridge fund if collected by a district or county attorney."

(d) Provides that before a suit may be brought for a violation of this chapter, the attorney general or the district or county attorney for the county in which the violation is alleged to have occurred shall give the person charged with the violation a written notice that:

- (1) describes the violation and specific location of the sign found to be in violation;
- (2) states the amount of the proposed penalty for the violation; and
- (3) gives the owner 45 days from the receipt of the notice to remove the sign and cure the violation to avoid the penalty unless the person was given notice and opportunity to cure a similar violation within the preceding 12 months.

SECTION 5. Amends Subchapter E, Chapter 394, Transportation Code, by adding Section 394.087 that states. A sign that is erected in violation of this chapter is a public nuisance, and on written notice by certified mail from the department, an owner shall remove the sign within 45 days of the date of notice or the department may direct the attorney general to apply for an injunction to require the removal of the sign. The state is entitled to recover from the owner of a sign under the action brought under Subsection (b) all administrative legal costs and expenses incurred to remove the sign, including court costs and reasonable attorney fees

#### **EFFECTIVE DATE**

This Act takes effect September 1, 2005.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

1. Removed from liability those who "maintain" an illegal outdoor advertising sign. Those who remain liable are those who illegally erect or those landowners who allow the illegal erection of an outdoor advertising sign.

2. Added a notice provision to allow an innocent sign owner or landowner 45 days (a cure period) to remove a sign without civil liability, and to allow, as a criminal defense, the actual removal of the sign within the 45 day period. This protects innocent sign owners and landowners who may not realize their sign placement is illegal.

3. Added "repeat violator" notion so that the amount of the fine can be upwardly adjusted for more serious repeat violators.

4. Added an exception for a temporary directional sign or kiosk program if requested by a political subdivision and approved by TxDOT. This provision would allow temporary builder signs to model homes. The application must come from the political subdivision and must be approved by TxDOT.