

BILL ANALYSIS

C.S.H.B. 600
By: Eissler
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Signs may not be erected on a public right of way without governmental authorization. Unfortunately, hundreds of signs, known as "bandit" signs, are erected without such authorization. Due to overworked state and local officials and inadequate enforcement laws, ineffective enforcement has resulted. C.S.H.B. 600 provides additional enforcement tools to protect the public right of ways, by broadening the number of parties who can be prosecuted, providing civil remedies, and broadening the types of courts that can hear these cases.

RULEMAKING AUTHORITY

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

ANALYSIS

SECTION 1. Amends Section 392.032 (a) of the Transportation Code to read as follows:

(a) Adds language reading "allow the placement of, or commission the placement of" and "the placement of the sign is."

SECTION 2. Amends Section 392.0325 (c) and (d) of the Transportation Code as follows:

(c) Provides that this subchapter does not apply to a temporary directional sign or kiosk erected by a political subdivision.

(d) Provides that this subchapter does not apply to a sign placed in the right-of-way by a public utility or its contractor for purposes of the utility.

SECTION 3. Amends Subchapter B, Chapter 392, Transportation Code, by adding Section 392.0355 as follows:

Sec. 392.0355

(a) Provides that a person who intentionally violates this subchapter is liable to the state for a civil penalty.

(b) Provides that the amount of the civil penalty is not less than \$500 or more than \$1,000 for each violation.

(c) Provides that a penalty collected under this section shall be deposited into the credit of the collecting entity.

SECTION 4. Amends Section 393.002, Transportation Code to read as follows:

(a) Sign placement is prohibited except as provided by Section 393.0025 and adding "Section 393.0026." This section clarifies earlier language by adding the phrase "or commission the placement of" and "of the sign."

SECTION 5. Amends Section 393.0025 (a), Transportation Code, to read as follows:

- (a) Adds language reading "allow the placement of, or commission the placement of"

SECTION 6. Amends Section 393.0026, Transportation Code, to read as follows:

(a) This chapter does not apply to a temporary sign of kiosk erected by a political subdivision, if it is approved by the department and administered by the political subdivision on a highway within the boundaries of the political subdivision.

(b) This chapter does not apply to a sign placed in the right-of-way by a public utility or its contractor for purpose of the utility.

SECTION 7. Amends Section 393.003 (a), Transportation Code, to read as follows.

(a) Provides that a trained volunteer authorized by the commissioners court of a county may confiscate a sign placed in violation of Section 393.003.

SECTION 8. Amends Section 393.004, Transportation Code, by adding Subsection (d) to read as follows:

(d) The sheriff, constable, or other trained volunteer authorized by the commissioners court may discard a sign of less than \$25 in value without giving the notice required by Section 393.003.

SECTION 9. Amends Section 393.005 (a), Transportation Code, is amended to read as follows:

- (a) Adds language reading "or commissions the placement of" and "this chapter."

SECTION 10. Amends Chapter 393, Transportation Code, by adding Section 393.007 to read as follows:

Sec 393.007

(a) Provides that a person who intentionally violates this subchapter is liable to the state for a civil penalty.

(b) Provides that the amount of the civil penalty is not less than \$500 or more than \$1,000 for each violation.

(c) Provides that a penalty collected under this section shall be deposited into the credit of the collecting entity.

SECTION 11. Amends Section 26.045, Government Code, by amending Subsection (c) and adding Subsection (f) as follows:

(c) Changes term "Subsection" to read "Subsections" and adds language reading "and (f)".

(f) Provides that a county court has concurrent jurisdiction with a municipal court in cases that arise in the municipality's extraterritorial jurisdiction and that arise under an ordinance of the municipality applicable to the extraterritorial jurisdiction under Section 216.902, Local Government Code.

SECTION 12. Amends Section 27.031 Government Code, by adding Subsection (c) as follows:

(c) Provides that a county court has concurrent jurisdiction with a municipal court in cases that arise in the municipality's extraterritorial jurisdiction and that arise under an ordinance of the municipality applicable to the extraterritorial jurisdiction under Section 216.902, Local Government Code.

SECTION 13. Amends Article 4.11, Code of Criminal Procedure, by adding Subsection (c) as follows:

(c) Provides that a justice court has concurrent jurisdiction with a municipal court in cases that arise in the municipality's extraterritorial jurisdiction and that arise under an ordinance of the municipality applicable to the extraterritorial jurisdiction under Section 216.902, Local Government Code.

SECTION 14.

(a) Provides that the changes in law made to Sections 392.032, 393.002, 393.0025, 393.0026 and 393.005, Transportation Code apply only to an offense committed on or after the effective date of this Act.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed.

SECTION 15. Effective Date

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

1. Removed from liability one who "maintain" an illegal outdoor advertising sign. Those remaining liable are those who illegally erect, those who allow the illegal erection, or those who commission the placement of a sign on the ROW.
2. Clarified that a public utility or contractor working in the ROW is not liable.
3. Changed the penalty to allow those who collect the fines to deposit those fines for the credit of the collecting entity, i.e., if collected by the city atty, to the city fund, if collected by the DA or county atty, to the county fund, and if collected by the AG, to the state fund.
4. Added "repeat violator" notion so that the amount of the fine can be upwardly adjusted for more serious repeat violators.
5. Added a provision allowing a trained volunteer to confiscate and dispose, without notice, of a sign that is worth \$25 or less. The trained volunteers must be authorized by commissioner's court. Existing law allows a sheriff or constable to confiscate and dispose of signs that are determined by the commissioner's court to be an inexpensive value. All other confiscated signs require notice to sign owner, it that can be determined. This will allow the thousands of inexpensive bandit signs to be disposed of rather than stored by the city, county or state. It will also allow counties the option to "deputize" trained citizens to assist in the clean up efforts.
6. Added an exception for a temporary directional sign or kiosk program if requested by a political subdivision and approved by TxDOT to allow temporary builder signs to model homes. The application must come from the political subdivision and must be approved by TxDOT.