

By: Eissler

H.B. No. 599

Substitute the following for H.B. No. 599:

By: Casteel

C.S.H.B. No. 599

A BILL TO BE ENTITLED

AN ACT

relating to erecting certain outdoor signs; creating an offense;
providing penalties.

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

SECTION 1. Section 394.003, Transportation Code, is amended
by adding Subsection (d) to read as follows:

(d) This chapter does not apply to a temporary directional
sign or kiosk erected by a political subdivision as part of a
program approved by the commission and administered by the
political subdivision on a highway within the boundaries of the
political subdivision.

SECTION 2. The heading to Section 394.021, Transportation
Code, is amended to read as follows:

Sec. 394.021. ERECTING OFF-PREMISE SIGN WITHOUT PERMIT;
OFFENSE.

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

(a) A person commits an offense if the person erects [~~may
not erect~~] an off-premise sign unless the person first obtains a
permit under this subchapter from the commission.

(c) A person commits an offense if the person:

(1) allows an off-premise sign to be erected on
property owned by the person; and

1 (2) knows or should have known that the sign was
2 erected in violation of this chapter.

3 (d) An offense under this section is a misdemeanor
4 punishable by a fine of not less than \$500 or more than \$1,000. Each
5 day of the proscribed conduct is a separate offense.

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

12 SECTION 4. Section 394.081, Transportation Code, is amended
13 by amending Subsections (a) and (c) and adding Subsection (d) to
14 read as follows:

15 (a) In addition to being subject to a criminal penalty or
16 injunctive action, a [A] person who intentionally violates this
17 chapter or a rule adopted by the commission under this chapter is
18 liable [~~to the state~~] for a civil penalty of not less than \$150 or
19 more than \$1,000 for each violation, depending on the seriousness
20 of the violation and whether the person has previously violated
21 this chapter. Each day a violation continues is a separate
22 violation.

23 (c) A civil penalty collected under this section shall be
24 deposited to the credit of the state highway fund if collected by
25 the attorney general and to the credit of the county road and bridge
26 fund if collected by a district or county attorney.

27 (d) Before a suit may be brought for a violation of this

1 chapter, the attorney general or the district or county attorney
2 for the county in which the violation is alleged to have occurred
3 shall give the person charged with the violation a written notice
4 that:

5 (1) describes the violation and specific location of
6 the sign found to be in violation;

7 (2) states the amount of the proposed penalty for the
8 violation; and

9 (3) gives the owner 45 days from receipt of the notice
10 to remove the sign and cure the violation to avoid the penalty
11 unless the person was given notice and opportunity to cure a similar
12 violation within the preceding 12 months.

13 SECTION 5. Subchapter E, Chapter 394, Transportation Code,
14 is amended by adding Section 394.087 to read as follows:

15 Sec. 394.087. INJUNCTION. (a) A sign that is erected in
16 violation of this chapter is a public nuisance.

17 (b) On written notice by certified mail from the department,
18 an owner of a sign that is a public nuisance under Subsection (a),
19 or the owner of the property on which the sign is located, shall
20 remove the sign. If the sign is not removed within 45 days of the
21 date of the notice, the department may direct the attorney general
22 to apply for an injunction to require the removal of the sign.

23 (c) The state is entitled to recover from the owner of a
24 sign, or the owner of the property from which a sign is removed,
25 under an action brought under Subsection (b) all administrative and
26 legal costs and expenses incurred to remove the sign, including
27 court costs and reasonable attorney's fees.

1 SECTION 6. This Act takes effect September 1, 2005.