

By: Eissler

H.B. No. 601

A BILL TO BE ENTITLED

1 AN ACT

2 relating to erecting or maintaining outdoor advertising; providing  
3 penalties.

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

5 SECTION 1. Section 391.031(a), Transportation Code, is  
6 amended to read as follows:

7 (a) A person commits an offense if the person wilfully  
8 erects or maintains outdoor advertising, or allows outdoor  
9 advertising to be erected or maintained on property owned by the  
10 person:

11 (1) within 660 feet of the nearest edge of a  
12 right-of-way if the advertising is visible from the main-traveled  
13 way of the interstate or primary system; or

14 (2) outside an urban area if the advertising is  
15 located more than 660 feet from the nearest edge of a right-of-way,  
16 is visible from the main-traveled way of the interstate or primary  
17 system, and is erected for the purpose of having its message seen  
18 from the main-traveled way of the interstate or primary system.

19 SECTION 2. The heading to Section 391.034, Transportation  
20 Code, is amended to read as follows:

21 Sec. 391.034. [~~REMOVAL OF~~] NUISANCE OUTDOOR ADVERTISING;  
22 INJUNCTION [~~BY COMMISSION~~].

23 SECTION 3. Section 391.035(a), Transportation Code, is  
24 amended to read as follows:

1 (a) In addition to being subject to a criminal penalty or  
2 injunctive action, a person who intentionally violates this  
3 subchapter or Subchapter C is liable to the state for a civil  
4 penalty. The attorney general or a district or county attorney of  
5 the county in which the violation is alleged to have occurred may  
6 sue to collect the penalty.

7 SECTION 4. Subchapter B, Chapter 391, Transportation Code,  
8 is amended by adding Sections 391.038 and 391.039 to read as  
9 follows:

10 Sec. 391.038. ADMINISTRATIVE PENALTY. (a) In lieu of a  
11 suit to collect a civil penalty, the commission, after notice and an  
12 opportunity for a hearing before the commission, may impose an  
13 administrative penalty against a person who intentionally violates  
14 this chapter or a rule adopted by the commission under this chapter.  
15 Each day a violation continues is a separate violation.

16 (b) The amount of the administrative penalty may not exceed  
17 the maximum amount of a civil penalty under Section 391.035.

18 (c) A proceeding under this section is a contested case  
19 under Chapter 2001, Government Code.

20 (d) Judicial review of an appeal of an administrative  
21 penalty imposed under this section is by trial de novo.

22 (e) An administrative penalty collected under this section  
23 shall be deposited to the credit of the state highway fund.

24 Sec. 391.039. REVOCATION OF PERMIT IN ADDITION TO OTHER  
25 PENALTY. (a) A court shall order the revocation of the permit  
26 issued under Section 391.068 that a person holds for a location at  
27 which a violation under this chapter occurs if it is shown at the

1 trial of the person for the collection of a civil penalty under  
2 Section 391.035 or at an appeal of an administrative penalty under  
3 Section 391.038 that a judgment for a civil penalty, the imposition  
4 of an administrative penalty, or a final order for an  
5 administrative penalty that was not timely appealed was previously  
6 imposed under this chapter against the person.

7 (b) The revocation of a permit under this section is in  
8 addition to any other penalty that may be imposed under this  
9 chapter.

10 SECTION 5. Subchapter C, Chapter 391, Transportation Code,  
11 is amended by adding Section 391.071 to read as follows:

12 Sec. 391.071. REVOCATION OF PERMIT; APPEAL. (a) The  
13 commission may revoke a permit if the permit holder violates this  
14 chapter or a rule adopted under this chapter.

15 (b) A person whose permit is revoked may appeal the  
16 revocation not later than the 15th day after the date of the  
17 revocation.

18 SECTION 6. (a) The change in law made by this Act to Section  
19 391.031, Transportation Code, applies only to an offense committed  
20 on or after the effective date of this Act. For purposes of this  
21 section, an offense is committed before the effective date of this  
22 Act if any element of the offense occurs before that date.

23 (b) An offense committed before the effective date of this  
24 Act is covered by the law in effect when the offense was committed,  
25 and the former law is continued in effect for that purpose.

26 SECTION 7. This Act takes effect September 1, 2005.