

BILL ANALYSIS

C.S.H.B. 412
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 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.

Under current law, residents must rely on state enforcement personnel and must actually witness a person erecting an illegal sign before prosecution can occur. The purpose of CSHB 412 is to provide additional enforcement tools for illegal off-premise signs visible along federal roads and 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

This bill amends the civil offense for the erection of a billboard and allows a district or county attorney to sue to collect the civil penalty as opposed to only allowing the attorney general to seek the penalty. It also provides that certain requirements must be met before the civil suit may be filed. It also adds a criminal offense and provides a defense for allowing another to erect a billboard on one's property when one knew or should have known that the billboard was erected in violation of the law. This bill does not authorize a attorney general, county attorney, or district attorney to pursue both a civil remedy and a criminal prosecution. The attorney would have to choose whether to pursue either a criminal prosecution or a civil remedy.

This bill also makes collection of an administrative penalty an alternative to collecting a civil penalty and recognizes that such collection would be a contested case and there must be notice and a hearing before the collection of the administrative penalty.

This bill also allows a court to order the revocation of an issued permit, in addition to any other penalty, if it is shown that a violation had previously occurred. It also provides that if the sign is erected in violation of this chapter, then it is a public nuisance and must be removed.

This bill does not penalize or criminalize any 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 highways within the political subdivision.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSHB 412 differs from the original in that it eliminates any language that allows a civil penalty to be pursued in conjunction with a criminal prosecution.