

BILL ANALYSIS

C.S.H.B. 413
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 small penalties, inadequate enforcement has resulted. CSHB 413 provides additional enforcement tools to protect the public right of ways by broadening the number of parties who can be prosecuted, providing for civil penalties, and broadening the jurisdiction of courts who can hear these cases.

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

Current law makes it a criminal misdemeanor to place or maintain a sign in a state highway right-of-way or public road right of way unless authorized by state law. This bill adds language providing an exception to provision for temporary directional signs or kiosks erected by political subdivisions as part of a program approved by the department and administered by the political subdivision on a highway within the political subdivision. Nor does it apply to signs placed by a public utility or its contractor.

This bill also adds a civil penalty against any person who places a sign, allows the placement of the sign, or commissions the placement of a sign on a state highway right-of-way or public road right-of-way that is not otherwise authorized by law. This bill would allow the attorney general, a district attorney, or a county attorney to sue to collect the penalty, with the penalty being credited to either the state highway fund, or the county road and bridge fund if collected by a district or county attorney. This bill does not authorize an attorney general, county attorney, or district attorney to pursue both a civil remedy and a criminal prosecution against one who places a sign in a state highway right-of-way.

This bill also provides a defense against prosecution or suit if at the time of the alleged violation, the defendant is a candidate for elective public office and the sign is placed by a person other than the defendant, without the knowledge of the defendant, and in connection with a campaign for an elective public office by the defendant.

This bill would also allow a trained volunteer, who is authorized by the commissioner's court of the respective county, to confiscate these "bandit" signs. It would also allow the sheriff, constable, or the trained volunteer to discard the sign without notice if its value is less than \$25.

A county court is given concurrent jurisdiction with a municipal court in cases from the municipality's extraterritorial jurisdiction in violation of an ordinance of that municipality that is applicable to the extraterritorial jurisdiction. A justice court is also given concurrent jurisdiction with a municipal court according to the same circumstances as above, or for criminal cases that arise in the municipality's extraterritorial jurisdiction.

EFFECTIVE DATE

September 1, 2007.

C.S.H.B. 413 80(R)

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSHB 413 differs from the original bill in that it eliminates the language that added a criminal penalty for commissioning or allowing the placement of a sign on a highway or public road right-of-way.

This substitute also differs from the original in that it provides a defense from prosecution and suit for signs erected if the defendant is a candidate for elective public office, meeting certain other requirements.