

AN ACT

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

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

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

(a) A person commits an offense if the person ~~willfully~~ erects or maintains outdoor advertising, or allows outdoor advertising to be erected or maintained on property owned by the person:

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

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

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

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

SECTION 3. Sections 391.035(a) and (c), Transportation Code, are amended to read as follows:

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

7 (c) A penalty collected under this section shall be
8 deposited to the credit of the state highway fund if collected by
9 the attorney general and to the credit of the county road and bridge
10 fund of the county in which the violation occurred if collected by a
11 district or county attorney.

12 SECTION 4. Section 394.003, Transportation Code, is amended
13 by adding Subsection (d) to read as follows:

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

19 SECTION 5. The heading to Section 394.021, Transportation
20 Code, is amended to read as follows:

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

23 SECTION 6. Section 394.021, Transportation Code, is amended
24 by amending Subsection (a) and adding Subsections (c), (d), and (e)
25 to read as follows:

26 (a) A person commits an offense if the person erects [~~may~~
27 ~~not erect~~] an off-premise sign unless the person first obtains a

1 permit under this subchapter from the commission.

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

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

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

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

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

16 SECTION 7. Section 394.081, Transportation Code, is amended
17 by amending Subsections (a) and (c) and adding Subsection (d) to
18 read as follows:

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

26 (c) A civil penalty collected under this section shall be
27 deposited to the credit of the state highway fund if collected by

1 the attorney general and to the credit of the county road and bridge
2 fund if collected by a district or county attorney.

3 (d) Before a suit may be brought against a property owner
4 for a violation of Section 394.021(c), the attorney general or the
5 district or county attorney for the county in which the violation is
6 alleged to have occurred shall give the person charged with the
7 violation a written notice that:

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

10 (2) states the amount of the proposed penalty for the
11 violation; and

12 (3) gives the owner 45 days from receipt of the notice
13 to remove the sign and cure the violation to avoid the penalty
14 unless the person was found guilty or liable by a court for
15 violating this chapter within the preceding six months.

16 SECTION 8. Subchapter E, Chapter 394, Transportation Code,
17 is amended by adding Section 394.087 to read as follows:

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

20 (b) On written notice by certified mail from the department
21 or the county, an owner of a sign that is a public nuisance under
22 Subsection (a), or the owner of the property on which the sign is
23 located, shall remove the sign. If the sign is not removed within
24 45 days of the date of the notice, the department may direct the
25 attorney general to apply for an injunction to require the removal
26 of the sign or a district or county attorney may apply for an
27 injunction to require the removal of the sign.

1 (c) The state or county is entitled to recover from the
2 owner of a sign, or the owner of the property from which a sign is
3 removed, under an action brought under Subsection (b) all
4 administrative and legal costs and expenses incurred to remove the
5 sign, including court costs and reasonable attorney's fees.

6 SECTION 9. (a) The change in law made by this Act to Section
7 391.031, Transportation Code, applies only to an offense committed
8 on or after the effective date of this Act. For purposes of this
9 section, an offense is committed before the effective date of this
10 Act if any element of the offense occurs before that date.

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

14 SECTION 10. This Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 412 was passed by the House on March 28, 2007, by the following vote: Yeas 145, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 412 on May 23, 2007, by the following vote: Yeas 137, Nays 7, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 412 was passed by the Senate, with amendments, on May 18, 2007, by the following vote: Yeas 29, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor