

1-1 By: Eissler, Harless, Van Arsdale H.B. No. 413  
1-2 (Senate Sponsor - Carona)  
1-3 (In the Senate - Received from the House April 16, 2007;  
1-4 April 19, 2007, read first time and referred to Committee on  
1-5 Transportation and Homeland Security; May 10, 2007, reported  
1-6 adversely, with favorable Committee Substitute by the following  
1-7 vote: Yeas 7, Nays 1; May 10, 2007, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 413 By: Carona

1-9 A BILL TO BE ENTITLED  
1-10 AN ACT

1-11 relating to erecting certain signs on certain rights-of-way;  
1-12 providing penalties.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 392.0325, Transportation Code, is  
1-15 amended by adding Subsections (c) and (d) to read as follows:

1-16 (c) This subchapter does not apply to a temporary  
1-17 directional sign or kiosk erected by a political subdivision as  
1-18 part of a program approved by the department and administered by the  
1-19 political subdivision on a highway within the boundaries of the  
1-20 political subdivision.

1-21 (d) This subchapter does not apply to a sign placed in the  
1-22 right-of-way by a public utility or its contractor for purposes of  
1-23 the utility.

1-24 SECTION 2. Subchapter B, Chapter 392, Transportation Code,  
1-25 is amended by adding Section 392.0355 to read as follows:

1-26 Sec. 392.0355. CIVIL PENALTY. (a) A person who places or  
1-27 commissions the placement of a sign on a state highway right-of-way  
1-28 that is not otherwise authorized by law may be liable for a civil  
1-29 penalty. The attorney general or a district or county attorney of  
1-30 the county in which the placement of a sign on a state highway  
1-31 right-of-way is alleged to have occurred may sue to collect the  
1-32 penalty.

1-33 (b) The amount of the civil penalty is not less than \$500 or  
1-34 more than \$1,000 for each violation, depending on the seriousness  
1-35 of the violation and whether the person has previously violated  
1-36 this chapter. A separate penalty may be collected for each day a  
1-37 continuing violation occurs.

1-38 (c) A penalty collected under this section shall be  
1-39 deposited to the credit of the state highway fund if collected by  
1-40 the attorney general and to the credit of the county road and bridge  
1-41 fund of the county in which the violation occurred if collected by a  
1-42 district or county attorney.

1-43 SECTION 3. Section 392.036, Transportation Code, is amended  
1-44 to read as follows:

1-45 Sec. 392.036. DEFENSE. It is a defense to prosecution or  
1-46 suit for a violation under this chapter if [Section 392.032 that] at  
1-47 the time of the alleged violation[+.

1-48 [~~(1)~~] the defendant is a candidate for elective public  
1-49 office[+] and

1-50 [~~(2)~~] the sign is placed:

1-51 (1) [~~(A)~~] by a person other than the defendant;

1-52 [~~(B) without the knowledge of the defendant,~~] and

1-53 (2) [~~(C)~~] in connection with a campaign for an  
1-54 elective public office by the defendant.

1-55 SECTION 4. Section 393.002, Transportation Code, is amended  
1-56 to read as follows:

1-57 Sec. 393.002. SIGN PLACEMENT PROHIBITED. Except as  
1-58 provided by Sections [Section] 393.0025 and 393.0026, a person may  
1-59 not place a sign on the right-of-way of a public road unless the  
1-60 placement of the sign is authorized by state law.

1-61 SECTION 5. Chapter 393, Transportation Code, is amended by  
1-62 adding Section 393.0026 to read as follows:

1-63 Sec. 393.0026. EXCEPTION. (a) This chapter does not apply

2-1 to a temporary directional sign or kiosk erected by a political  
2-2 subdivision as part of a program approved by the department and  
2-3 administered by the political subdivision on a highway within the  
2-4 boundaries of the political subdivision.

2-5 (b) This chapter does not apply to a sign placed in the  
2-6 right-of-way by a public utility or its contractor for purposes of  
2-7 the utility.

2-8 SECTION 6. Section 393.003(a), Transportation Code, is  
2-9 amended to read as follows:

2-10 (a) A sheriff, ~~or~~ constable, or other trained volunteer  
2-11 authorized by the commissioners court of a county may confiscate a  
2-12 sign placed in violation of Section 393.002.

2-13 SECTION 7. Section 393.004, Transportation Code, is amended  
2-14 by adding Subsection (d) to read as follows:

2-15 (d) The sheriff, constable, or other trained volunteer  
2-16 authorized by the commissioners court may discard a sign of less  
2-17 than \$25 in value without giving the notice required by Section  
2-18 393.003.

2-19 SECTION 8. Section 393.005(a), Transportation Code, is  
2-20 amended to read as follows:

2-21 (a) A person commits an offense if the person places a sign  
2-22 in violation of this chapter ~~[Section 393.002]~~.

2-23 SECTION 9. Section 393.006, Transportation Code, is amended  
2-24 to read as follows:

2-25 Sec. 393.006. DEFENSE. It is a defense to prosecution or  
2-26 suit under this chapter ~~[Section 393.005]~~ that ~~+~~

2-27 ~~[(1)]~~ the defendant was a candidate for an elective  
2-28 public office ~~+~~ and

2-29 ~~[(2)]~~ the sign is placed:

2-30 (1) ~~[(A)]~~ by a person other than the defendant;  
2-31 ~~[(B) without the knowledge of the defendant;]~~ and

2-32 (2) ~~[(C)]~~ in connection with a campaign for an  
2-33 elective public office by the defendant.

2-34 SECTION 10. Chapter 393, Transportation Code, is amended by  
2-35 adding Section 393.007 to read as follows:

2-36 Sec. 393.007. CIVIL PENALTY. (a) A person who places or  
2-37 commissions the placement of a sign on the right-of-way of a public  
2-38 road that is not otherwise authorized by law may be liable to the  
2-39 municipality for a civil penalty. A district or county attorney or  
2-40 a municipal attorney in the jurisdiction in which the placement of a  
2-41 sign on the right-of-way of a public road is alleged to have  
2-42 occurred may sue to collect the penalty.

2-43 (b) The amount of the civil penalty is not less than \$500 or  
2-44 more than \$1,000 for each violation, depending on the seriousness  
2-45 of the violation and whether the person has previously violated  
2-46 this chapter. A separate penalty may be collected for each day a  
2-47 continuing violation occurs.

2-48 (c) A penalty collected under this section shall be  
2-49 deposited to the credit of the general fund of the municipality in  
2-50 which the violation occurred if collected by a municipal attorney,  
2-51 or to the credit of the county road and bridge fund of the county in  
2-52 which the violation occurred if collected by a district or county  
2-53 attorney.

2-54 SECTION 11. Section 26.045, Government Code, is amended by  
2-55 amending Subsection (c) and adding Subsection (f) to read as  
2-56 follows:

2-57 (c) Except as provided by Subsections ~~[Subsection]~~ (d) and  
2-58 (f), a county court that is in a county with a criminal district  
2-59 court does not have any criminal jurisdiction.

2-60 (f) A county court has concurrent jurisdiction with a  
2-61 municipal court in cases that arise in the municipality's  
2-62 extraterritorial jurisdiction and that arise under an ordinance of  
2-63 the municipality applicable to the extraterritorial jurisdiction  
2-64 under Section 216.902, Local Government Code.

2-65 SECTION 12. Section 27.031, Government Code, is amended by  
2-66 adding Subsection (c) to read as follows:

2-67 (c) A justice court has concurrent jurisdiction with a  
2-68 municipal court in cases that arise in the municipality's  
2-69 extraterritorial jurisdiction and that arise under an ordinance of

3-1 the municipality applicable to the extraterritorial jurisdiction  
3-2 under Section 216.902, Local Government Code.

3-3 SECTION 13. Article 4.11, Code of Criminal Procedure, is  
3-4 amended by adding Subsection (c) to read as follows:

3-5 (c) A justice court has concurrent jurisdiction with a  
3-6 municipal court in criminal cases that arise in the municipality's  
3-7 extraterritorial jurisdiction and that arise under an ordinance of  
3-8 the municipality applicable to the extraterritorial jurisdiction  
3-9 under Section 216.902, Local Government Code.

3-10 SECTION 14. (a) The changes in law made by this Act to  
3-11 Chapters 392 and 393, Transportation Code, apply only to an offense  
3-12 committed on or after the effective date of this Act. For purposes  
3-13 of this section, an offense is committed before the effective date  
3-14 of this Act if any element of the offense occurs before that date.

3-15 (b) An offense committed before the effective date of this  
3-16 Act is covered by the law in effect when the offense was committed,  
3-17 and the former law is continued in effect for that purpose.

3-18 SECTION 15. This Act takes effect September 1, 2007.

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