

By: Harless

H.B. No. 1147

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Section 392.032(a), Transportation Code, is
amended to read as follows:

(a) A person may not place, allow the placement of, or
commission the placement of ~~[or maintain]~~ a sign on a state highway
right-of-way unless the placement of the sign is authorized by
state law.

SECTION 2. Section 392.0325, Transportation Code, is
amended by adding Subsections (c) and (d) to read as follows:

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

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

SECTION 3. Subchapter B, Chapter 392, Transportation Code,
is amended by adding Sections 392.0355 and 392.039 to read as
follows:

Sec. 392.0355. CIVIL PENALTY. (a) In addition to being

1 subject to a criminal penalty, a person who intentionally violates
2 this subchapter is liable for a civil penalty. The attorney general
3 or a district or county attorney of the county in which the
4 violation is alleged to have occurred may sue to collect the
5 penalty.

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

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

16 Sec. 392.039. INJUNCTION. (a) A sign that is erected in
17 violation of this subchapter is a public nuisance.

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

26 (c) The state or the county in which the violation is
27 alleged to have occurred is entitled to recover from the owner of a

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

5 SECTION 4. Section 393.002, Transportation Code, is amended
6 to read as follows:

7 Sec. 393.002. SIGN PLACEMENT PROHIBITED. Except as
8 provided by Sections [~~Section~~] 393.0025 and 393.0026, a person may
9 not place or commission the placement of a sign on the right-of-way
10 of a public road unless the placement of the sign is authorized by
11 state law.

12 SECTION 5. Section 393.0025(a), Transportation Code, is
13 amended to read as follows:

14 (a) A person may not place, allow the placement of, or
15 commission the placement of a sign on the right-of-way of a road or
16 highway maintained by a municipality unless the placement is
17 authorized by the municipality.

18 SECTION 6. Chapter 393, Transportation Code, is amended by
19 adding Section 393.0026 to read as follows:

20 Sec. 393.0026. EXCEPTION. (a) This chapter does not apply
21 to a temporary directional sign or kiosk erected by a political
22 subdivision as part of a program approved by the department and
23 administered by the political subdivision on a highway within the
24 boundaries of the political subdivision.

25 (b) This chapter does not apply to a sign placed in the
26 right-of-way by a public utility or its contractor for purposes of
27 the utility.

1 SECTION 7. Section 393.003(a), Transportation Code, is
2 amended to read as follows:

3 (a) A sheriff, ~~[or]~~ constable, or other trained volunteer
4 authorized by the commissioners court of a county may confiscate a
5 sign placed in violation of Section 393.002.

6 SECTION 8. Section 393.004, Transportation Code, is amended
7 by adding Subsection (d) to read as follows:

8 (d) The sheriff, constable, or other trained volunteer
9 authorized by the commissioners court may discard a sign of less
10 than \$25 in value without giving the notice required by Section
11 393.003.

12 SECTION 9. Section 393.005(a), Transportation Code, is
13 amended to read as follows:

14 (a) A person commits an offense if the person places or
15 commissions the placement of a sign in violation of this chapter
16 [Section 393.002].

17 SECTION 10. Chapter 393, Transportation Code, is amended by
18 adding Sections 393.007 and 393.008 to read as follows:

19 Sec. 393.007. CIVIL PENALTY. (a) In addition to being
20 subject to a criminal penalty, a person who intentionally violates
21 this subchapter is liable to the municipality for a civil penalty.
22 A district or county attorney or a municipal attorney in the
23 jurisdiction in which the violation is alleged to have occurred may
24 sue to collect the penalty.

25 (b) The amount of the civil penalty is not less than \$500 or
26 more than \$1,000 for each violation, depending on the seriousness
27 of the violation and whether the person has previously violated

1 this chapter. A separate penalty may be collected for each day a
2 continuing violation occurs.

3 (c) A penalty collected under this section shall be
4 deposited to the credit of the general fund of the municipality in
5 which the violation occurred if collected by a municipal attorney,
6 or to the credit of the county road and bridge fund of the county in
7 which the violation occurred if collected by a district or county
8 attorney.

9 Sec. 393.008. INJUNCTION. (a) A sign that is erected in
10 violation of this chapter is a public nuisance.

11 (b) On written notice by certified mail from the
12 municipality or county, an owner of a sign that is a public nuisance
13 under Subsection (a), or the owner of the property on which the sign
14 is located, shall remove the sign. If the sign is not removed
15 within 45 days of the date of the notice, the municipality or county
16 may request the attorney general or a district or county attorney of
17 the county in which the violation is alleged to have occurred to
18 apply for an injunction to require the removal of the sign.

19 (c) The municipality or county in which the violation is
20 alleged to have occurred is entitled to recover from the owner of a
21 sign, or the owner of the property from which a sign is removed,
22 under an action brought under Subsection (b) all administrative and
23 legal costs and expenses incurred to remove the sign, including
24 court costs and reasonable attorney's fees.

25 SECTION 11. Section 26.045, Government Code, is amended by
26 amending Subsection (c) and adding Subsection (f) to read as
27 follows:

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

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

9 SECTION 12. Section 27.031, Government Code, is amended by
10 adding Subsection (c) to read as follows:

11 (c) A justice court has concurrent jurisdiction with a
12 municipal court in cases that arise in the municipality's
13 extraterritorial jurisdiction and that arise under an ordinance of
14 the municipality applicable to the extraterritorial jurisdiction
15 under Section 216.902, Local Government Code.

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

18 (c) A justice court has concurrent jurisdiction with a
19 municipal court in criminal cases that arise in the municipality's
20 extraterritorial jurisdiction and that arise under an ordinance of
21 the municipality applicable to the extraterritorial jurisdiction
22 under Section 216.902, Local Government Code.

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

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

4 SECTION 15. This Act takes effect September 1, 2007.