

By: Geren

H.B. No. 2377

A BILL TO BE ENTITLED

AN ACT

relating to the use of legislatively produced audio or visual materials; providing penalties.

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

SECTION 1. Section 306.005, Government Code, is amended to read as follows:

Sec. 306.005. USE OF LEGISLATIVELY PRODUCED AUDIO OR VISUAL MATERIALS IN POLITICAL ADVERTISING PROHIBITED. (a) A person may not use audio or visual [~~video~~] materials produced by or under the direction of the legislature or of a house, committee, or agency of the legislature in political advertising.

(b) A member or former member of the legislature may not use a photograph purchased with state funds from a house, committee, or agency of the legislature in political advertising.

(c) After a formal hearing held as provided by Subchapter E, Chapter 571, the Texas Ethics Commission may impose a civil penalty against a person who violates this section. The amount of the penalty may not exceed \$5,000 for each violation.

(d) [~~(c)~~] Subsection (a) does not prohibit describing or quoting the verbal content of the audio or visual [~~video~~] materials in political advertising.

(e) Subsection (a) does not apply to a photograph of a current or former member of the legislature that was obtained from a house, committee, or agency of the legislature for consideration as

1 determined and charged by the entity from which the photograph was
2 obtained.

3 (f) [~~(d)~~] In this section:

4 (1) "Political [~~,"political]~~ advertising" has the
5 meaning assigned by Section 251.001, Election Code.

6 (2) "Visual materials" means photographic, video, or
7 other material containing a still or moving recorded image or
8 images.

9 SECTION 2. Section 306.006, Government Code, is amended to
10 read as follows:

11 Sec. 306.006. COMMERCIAL USE OF LEGISLATIVELY PRODUCED
12 AUDIO OR VISUAL MATERIALS. (a) A person may not use audio or visual
13 [~~video~~] materials produced by or under the direction of the
14 legislature or of a house, committee, or agency of the legislature
15 for a commercial purpose unless the legislative entity that
16 produced the audio or visual [~~video~~] materials or under whose
17 direction the audio or visual [~~video~~] materials were produced gives
18 its permission for the person's commercial use and:

19 (1) the person uses the audio or visual [~~video~~]
20 materials only for educational or public affairs programming,
21 including news programming, that does not also constitute a use
22 prohibited under Section 306.005; or

23 (2) the person transmits [~~to paid subscribers~~] an
24 unedited feed of the audio or visual materials:

25 (A) to paid subscribers; or

26 (B) on an Internet website that is accessible to
27 the public.

1 (b) A person who violates Subsection (a) commits an offense.

2 An offense under this subsection is a Class C misdemeanor.

3 (c) The legislative entity that produced the audio or visual
4 [~~video~~] materials or under whose direction the audio or visual
5 [~~video~~] materials were produced shall give its permission to a
6 person to use the materials for a commercial purpose described by
7 Subsection (a)(1) if the person or the person's representative
8 submits to the legislative entity a signed, written request for the
9 use that:

10 (1) states the purpose for which the audio or visual
11 [~~video~~] materials will be used and the stated purpose is allowed
12 under Subsection (a)(1); and

13 (2) contains an agreement by the person that the audio
14 or visual materials will not be used for a commercial purpose other
15 than the stated purpose.

16 (d) Subsection (a)(2) does not apply to visual materials
17 consisting of photographs or other still images. A [~~The~~]
18 legislative entity is not required to give its permission to any
19 person to use [~~the~~] materials for a purpose described by Subsection
20 (a)(2) and may limit the number of persons to whom it gives its
21 permission to use [~~the~~] materials for a purpose described by
22 Subsection (a)(2).

23 (e) Subsection (a) and an agreement under Subsection (c)(2)
24 do not prohibit compiling, describing, quoting from, analyzing, or
25 researching the verbal content of the audio or visual materials for
26 a commercial purpose.

27 (f) In addition to the criminal penalty that may be imposed

1 under Subsection (b), the attorney general shall enforce this
2 section at the request of the legislative entity by bringing a civil
3 action to enjoin a violation of Subsection (a) or of an agreement
4 under Subsection (c)(2).

5 (g) In this section:

6 (1) "Commercial [~~,"commercial]~~ purpose" means a
7 purpose that is intended to result in a profit or other tangible
8 benefit.

9 (2) "Visual materials" has the meaning assigned by
10 Section 306.005.

11 SECTION 3. The change in law made by this Act applies only
12 to an offense or other violation of the law amended by this Act
13 committed on or after the effective date of this Act. An offense or
14 other violation of that law committed before the effective date of
15 this Act is governed by the law in effect when the offense or
16 violation was committed, and the former law is continued in effect
17 for that purpose. For purposes of this section, an offense or other
18 violation was committed before the effective date of this Act if any
19 element of the offense or violation was committed before that date.

20 SECTION 4. This Act takes effect September 1, 2013.