

1-1 By: Geren (Senate Sponsor - Eltife) H.B. No. 2377
1-2 (In the Senate - Received from the House April 4, 2013;
1-3 April 9, 2013, read first time and referred to Committee on
1-4 Administration; April 29, 2013, reported favorably by the
1-5 following vote: Yeas 6, Nays 0; April 29, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14	X			

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the use of legislatively produced audio or visual
1-18 materials; providing penalties.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Section 306.005, Government Code, is amended to
1-21 read as follows:

1-22 Sec. 306.005. USE OF LEGISLATIVELY PRODUCED AUDIO OR VISUAL
1-23 MATERIALS IN POLITICAL ADVERTISING PROHIBITED. (a) A person may
1-24 not use audio or visual [~~video~~] materials produced by or under the
1-25 direction of the legislature or of a house, committee, or agency of
1-26 the legislature in political advertising.

1-27 (b) After a formal hearing held as provided by Subchapter E,
1-28 Chapter 571, the Texas Ethics Commission may impose a civil penalty
1-29 against a person who violates this section. The amount of the
1-30 penalty may not exceed \$5,000 for each violation.

1-31 (c) Subsection (a) does not prohibit describing or quoting
1-32 the verbal content of the audio or visual [~~video~~] materials in
1-33 political advertising.

1-34 (d) Subsection (a) does not apply to a photograph of a
1-35 current or former member of the legislature obtained from a house,
1-36 committee, or agency of the legislature that is used in accordance
1-37 with terms and conditions established by the entity from which the
1-38 photograph was obtained.

1-39 (e) In this section:

1-40 (1) "Political [~~political~~] advertising" has the
1-41 meaning assigned by Section 251.001, Election Code.

1-42 (2) "Visual materials" means photographic, video, or
1-43 other material containing a still or moving recorded image or
1-44 images.

1-45 SECTION 2. Chapter 306, Government Code, is amended by
1-46 adding Section 306.0055 to read as follows:

1-47 Sec. 306.0055. LEGISLATIVELY PRODUCED PHOTOGRAPHS. A
1-48 house, committee, or agency of the legislature may charge for a
1-49 photograph produced by or under the direction of the entity the fair
1-50 market value of the photograph.

1-51 SECTION 3. Section 306.006, Government Code, is amended to
1-52 read as follows:

1-53 Sec. 306.006. COMMERCIAL USE OF LEGISLATIVELY PRODUCED
1-54 AUDIO OR VISUAL MATERIALS. (a) A person may not use audio or visual
1-55 [~~video~~] materials produced by or under the direction of the
1-56 legislature or of a house, committee, or agency of the legislature
1-57 for a commercial purpose unless the legislative entity that
1-58 produced the audio or visual [~~video~~] materials or under whose
1-59 direction the audio or visual [~~video~~] materials were produced gives
1-60 its permission for the person's commercial use and:

1-61 (1) the person uses the audio or visual [~~video~~]

2-1 materials only for educational or public affairs programming,
 2-2 including news programming, that does not also constitute a use
 2-3 prohibited under Section 306.005; or

2-4 (2) the person transmits [~~to paid subscribers~~] an
 2-5 unedited feed of the audio or visual materials:

2-6 (A) to paid subscribers; or

2-7 (B) on an Internet website that is accessible to
 2-8 the public.

2-9 (b) A person who violates Subsection (a) commits an offense.

2-10 An offense under this subsection is a Class C misdemeanor.

2-11 (c) The legislative entity that produced the audio or visual
 2-12 [~~video~~] materials or under whose direction the audio or visual
 2-13 [~~video~~] materials were produced shall give its permission to a
 2-14 person to use the materials for a commercial purpose described by
 2-15 Subsection (a)(1) if the person or the person's representative
 2-16 submits to the legislative entity a signed, written request for the
 2-17 use that:

2-18 (1) states the purpose for which the audio or visual
 2-19 [~~video~~] materials will be used and the stated purpose is allowed
 2-20 under Subsection (a)(1); and

2-21 (2) contains an agreement by the person that the audio
 2-22 or visual materials will not be used for a commercial purpose other
 2-23 than the stated purpose.

2-24 (d) Subsection (a)(2) does not apply to visual materials
 2-25 consisting of photographs or other still images. A [~~The~~]
 2-26 legislative entity is not required to give its permission to any
 2-27 person to use [~~the~~] materials for a purpose described by Subsection
 2-28 (a)(2) and may limit the number of persons to whom it gives its
 2-29 permission to use [~~the~~] materials for a purpose described by
 2-30 Subsection (a)(2).

2-31 (e) Subsection (a) and an agreement under Subsection (c)(2)
 2-32 do not prohibit compiling, describing, quoting from, analyzing, or
 2-33 researching the verbal content of the audio or visual materials for
 2-34 a commercial purpose.

2-35 (f) In addition to the criminal penalty that may be imposed
 2-36 under Subsection (b), the attorney general shall enforce this
 2-37 section at the request of the legislative entity by bringing a civil
 2-38 action to enjoin a violation of Subsection (a) or of an agreement
 2-39 under Subsection (c)(2).

2-40 (g) In this section:

2-41 (1) "Commercial [~~,"commercial]~~ purpose" means a
 2-42 purpose that is intended to result in a profit or other tangible
 2-43 benefit.

2-44 (2) "Visual materials" has the meaning assigned by
 2-45 Section 306.005.

2-46 SECTION 4. The change in law made by this Act applies only
 2-47 to an offense or other violation of the law amended by this Act
 2-48 committed on or after the effective date of this Act. An offense or
 2-49 other violation of that law committed before the effective date of
 2-50 this Act is governed by the law in effect when the offense or
 2-51 violation was committed, and the former law is continued in effect
 2-52 for that purpose. For purposes of this section, an offense or other
 2-53 violation was committed before the effective date of this Act if any
 2-54 element of the offense or violation was committed before that date.

2-55 SECTION 5. This Act takes effect September 1, 2013.

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