

By: Bonnen of Brazoria

H.B. No. 1238

Substitute the following for H.B. No. 1238:

By: Pickett

C.S.H.B. No. 1238

A BILL TO BE ENTITLED

AN ACT

relating to requirements for construction and maintenance work zones; amending provisions subject to a criminal penalty.

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

SECTION 1. The heading to Subchapter C, Chapter 472, Transportation Code, is amended to read as follows:

SUBCHAPTER C. ~~[CRIMINAL OFFENSES AND PENALTIES REGARDING]~~ WARNING SIGNS, ~~[AND]~~ BARRICADES, AND TRAFFIC FLOW BARRIERS

SECTION 2. Sections 472.022(e)(2) and (3), Transportation Code, are amended to read as follows:

(2) "Construction or maintenance work zone" has the meaning assigned by Section 541.402. ~~[means a portion of a highway or street.]~~

~~[(A) where highway construction or maintenance is being undertaken, other than mobile operations as defined by the Texas Manual on Uniform Traffic Control Devices, and~~

~~[(B) that is marked by signs:]~~

~~[(i) indicating that it is a construction or maintenance work zone,~~

~~[(ii) indicating where the zone begins and ends, and~~

~~[(iii) stating: "Fines double when workers present."]~~

(3) "Warning sign" means a signal, marking, or device

1 placed on a barricade or on a road, street, or highway during
2 construction, repair, or dangerous conditions by the department, a
3 political subdivision of this state, or a contractor or
4 subcontractor to warn or regulate motor vehicular traffic. The
5 term includes a flagger deployed on a road, street, or highway by
6 the department, a political subdivision of this state, or a
7 contractor or subcontractor to direct traffic around or on the
8 road, street, or highway during construction, repair, or dangerous
9 conditions. The term does not include a speed limit sign.

10 SECTION 3. Subchapter C, Chapter 472, Transportation Code,
11 is amended by adding Section 472.023 to read as follows:

12 Sec. 472.023. TRAFFIC FLOW BARRIERS. (a) In this section,
13 "construction or maintenance work zone" has the meaning assigned by
14 Section 541.402.

15 (b) An entity, including the department, a political
16 subdivision, or a contractor or subcontractor, that establishes a
17 construction or maintenance work zone and directs the flow of
18 traffic into the opposite lane of travel shall install physical
19 barriers to direct the traffic.

20 SECTION 4. Subchapter E, Chapter 541, Transportation Code,
21 is amended by adding Section 541.402 to read as follows:

22 Sec. 541.402. CONSTRUCTION OR MAINTENANCE WORK ZONE. In
23 this subtitle, "construction or maintenance work zone" means a
24 portion of a highway or street where highway construction or
25 maintenance is being undertaken, other than mobile operations as
26 defined by the Texas Manual on Uniform Traffic Control Devices,
27 that is marked by signs:

1 (1) indicating that the zone is a construction or
2 maintenance work zone;

3 (2) indicating where the zone begins and ends; and

4 (3) stating: "Fines double when workers present."

5 SECTION 5. Section [542.404](#), Transportation Code, is amended
6 to read as follows:

7 Sec. 542.404. FINE FOR OFFENSE IN CONSTRUCTION OR
8 MAINTENANCE WORK ZONE WHEN WORKERS PRESENT. (a) If [~~Except as~~
9 ~~provided by Subsection (c), if~~] an offense under this subtitle,
10 other than an offense under Chapter 548 or 552 or Section [545.366](#),
11 [545.412](#), or [545.413](#), is committed in a construction or maintenance
12 work zone when workers are present and any written notice to appear
13 issued for the offense states on its face that workers were present
14 when the offense was committed:

15 (1) the minimum fine applicable to the offense is
16 twice the minimum fine that would be applicable to the offense if it
17 were committed outside a construction or maintenance work zone; and

18 (2) the maximum fine applicable to the offense is
19 twice the maximum fine that would be applicable to the offense if it
20 were committed outside a construction or maintenance work zone.

21 (b) If a person violates a speed limit established
22 under Section 545.366 in a construction or maintenance work zone
23 when workers are present, [~~In this section, "construction or~~
24 ~~maintenance work zone" has the meaning assigned by Section [472.022](#).~~

25 ~~[(c) The fine prescribed by Subsection (a) applies to a~~
26 ~~violation of a prima facie speed limit authorized by Subchapter H,~~
27 ~~Chapter 545, only if] the [construction or maintenance work] zone~~

1 is marked by a sign indicating the applicable maximum lawful speed,
2 and any written notice to appear issued for the offense states on
3 its face that workers were present when the offense was committed:

4 (1) the minimum fine applicable to the offense is
5 twice the minimum fine that would otherwise be applicable to the
6 offense; and

7 (2) the maximum fine applicable to the offense is
8 twice the maximum fine that would otherwise be applicable to the
9 offense.

10 SECTION 6. Subchapter H, Chapter 545, Transportation Code,
11 is amended by adding Section 545.366 to read as follows:

12 Sec. 545.366. SPEED LIMIT IN CERTAIN CONSTRUCTION OR
13 MAINTENANCE WORK ZONES. (a) In a construction or maintenance work
14 zone, the speed limit is 20 miles per hour below the speed limit
15 that would normally apply to the highway or street under this
16 subchapter.

17 (b) The entity responsible for posting speed limit signs on
18 the highway or street shall ensure that a construction or
19 maintenance work zone is marked by a sign indicating the applicable
20 maximum lawful speed.

21 (c) This section does not apply to a construction or
22 maintenance work zone on a roadway that:

23 (1) provides two-way movement of traffic and is
24 divided into three or more lanes in each direction; or

25 (2) has a speed limit of 35 miles per hour or less.

26 SECTION 7. Section 201.908, Transportation Code, is
27 repealed.

1 SECTION 8. The change in law made by this Act applies only
2 to an offense committed on or after the effective date of this Act.
3 An offense committed before the effective date of this Act is
4 governed by the law in effect on the date the offense was committed,
5 and the former law is continued in effect for that purpose. For
6 purposes of this section, an offense was committed before the
7 effective date of this Act if any element of the offense occurred
8 before that date.

9 SECTION 9. This Act takes effect September 1, 2015.