

By: Bonnen of Brazoria

H.B. No. 1238

A BILL TO BE ENTITLED

AN ACT

relating to requirements for construction and maintenance work zones; creating an offense and altering 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 (1) "Concrete barrier" means a concrete obstruction
14 placed on or across a road, street, or highway of this state.

15 (2) "Construction or maintenance work zone" has the
16 meaning assigned by Section 541.402.

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

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

24 Sec. 541.402. CONSTRUCTION OR MAINTENANCE WORK ZONE. In
25 this subtitle, "construction or maintenance work zone" means a
26 portion of a highway or street where highway construction or
27 maintenance is being undertaken, other than mobile operations as

1 defined by the Texas Manual on Uniform Traffic Control Devices,
2 that is marked by signs:

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

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

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

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

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

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

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

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

27 ~~[(c) The fine prescribed by Subsection (a) applies to a~~

~~violation of a prima facie speed limit authorized by Subchapter H,~~
~~Chapter 545, only if] the [construction or maintenance work] zone~~
is marked by a sign indicating the applicable maximum lawful speed,
and any written notice to appear issued for the offense states on
its face that workers were present when the offense was committed:

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

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

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

Sec. 545.366. SPEED LIMIT IN CONSTRUCTION OR MAINTENANCE
WORK ZONE. (a) In a construction or maintenance work zone, the
speed limit is the lesser of:

(1) 20 miles per hour below the speed limit that would
normally apply to the highway or street under this subchapter; or

(2) 30 percent of the speed limit that would normally
apply to the highway or street under this subchapter.

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

(c) This section does not apply to a construction or
maintenance work zone on a roadway that provides two-way movement
of traffic and is divided into three or more lanes in each

1 direction.

2 SECTION 7. Section 201.908, Transportation Code, is
3 repealed.

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

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