

By: Morrison

H.B. No. 3855

Substitute the following for H.B. No. 3855:

By: Morrison

C.S.H.B. No. 3855

A BILL TO BE ENTITLED

1 AN ACT

2 relating to erecting or maintaining certain outdoor signs regulated  
3 by the Texas Department of Transportation.

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

5 SECTION 1. Section 201.931(2), Transportation Code, is  
6 amended to read as follows:

7 (2) "License" means a license or permit for a  
8 commercial sign [~~outdoor advertising~~] issued under Chapter 391 or  
9 for an off-premise sign issued under Chapter 394.

10 SECTION 2. Section 391.001, Transportation Code, is amended  
11 by adding Subdivisions (1-a) and (11-a) to read as follows:

12 (1-a) "Commercial sign" means a sign that is:

13 (A) intended to be leased, or for which payment  
14 of any type is intended to be or is received, for the display of any  
15 good, service, brand, slogan, message, product, or company, except  
16 that the term does not include a sign that is leased to a business  
17 entity and located on the same property on which the business is  
18 located; or

19 (B) located on property owned or leased for the  
20 primary purpose of displaying a sign.

21 (11-a) "Sign" means any structure, display, light,  
22 device, figure, painting, drawing, message, plaque, placard,  
23 poster, billboard, logo, or symbol that is designed, intended, or  
24 used to advertise or inform.

1 SECTION 3. Section 391.002(b), Transportation Code, is  
2 amended to read as follows:

3 (b) The legislature declares that it is necessary to  
4 regulate the erection and maintenance of commercial signs [~~outdoor~~  
5 ~~advertising~~] and the establishment, operation, and maintenance of  
6 junkyards in areas adjacent to the interstate and primary systems  
7 to:

8 (1) promote the health, safety, welfare, morals,  
9 convenience, and enjoyment of the traveling public; and

10 (2) protect the public investment in the interstate  
11 and primary systems.

12 SECTION 4. Section 391.006(a), Transportation Code, is  
13 amended to read as follows:

14 (a) The commission by rule shall establish procedures for  
15 accepting and resolving written complaints related to signs that  
16 are subject to [~~outdoor advertising under~~] this chapter. The rules  
17 must include:

18 (1) a process to make information available describing  
19 the department's procedures for complaint investigation and  
20 resolution, including making information about the procedures  
21 available on the department's Internet website;

22 (2) a system to prioritize complaints so that the most  
23 serious complaints receive attention before less serious  
24 complaints; and

25 (3) a procedure for compiling and reporting detailed  
26 annual statistics about complaints.

27 SECTION 5. The heading to Subchapter B, Chapter 391,

1 Transportation Code, is amended to read as follows:

2 SUBCHAPTER B. REGULATION OF COMMERCIAL SIGNS [~~OUTDOOR ADVERTISING~~]

3 GENERALLY

4 SECTION 6. The heading to Section 391.031, Transportation  
5 Code, is amended to read as follows:

6 Sec. 391.031. UNLAWFUL COMMERCIAL SIGNS [~~OUTDOOR~~  
7 ~~ADVERTISING~~]; OFFENSE.

8 SECTION 7. Section 391.031, Transportation Code, is amended  
9 by amending Subsection (a) and adding Subsection (b-1) to read as  
10 follows:

11 (a) A person commits an offense if the person erects or  
12 maintains a commercial sign [~~outdoor advertising~~], or allows a  
13 commercial sign [~~outdoor advertising~~] to be erected or maintained  
14 on property owned by the person:

15 (1) within 660 feet of the nearest edge of a  
16 right-of-way if the sign [~~advertising~~] is visible from the  
17 main-traveled way of the interstate or primary system; or

18 (2) outside an urban area if the sign [~~advertising~~] is  
19 located more than 660 feet from the nearest edge of a right-of-way,  
20 is visible from the main-traveled way of the interstate or primary  
21 system, and is erected for the purpose of having the sign [~~its~~  
22 ~~message~~] seen from the main-traveled way of the interstate or  
23 primary system.

24 (b-1) A person does not commit an offense under this section  
25 if the person:

26 (1) erects or maintains a commercial sign located  
27 within 660 feet of the nearest edge of a right-of-way in an area in

1 which the land use:

2 (A) is designated industrial or commercial under  
3 authority of law; or

4 (B) is not designated industrial or commercial  
5 under authority of law, but the land use is consistent with an area  
6 designated industrial or commercial; and

7 (2) holds a permit issued by the department for the  
8 sign.

9 SECTION 8. Section 391.032, Transportation Code, is amended  
10 to read as follows:

11 Sec. 391.032. REGULATION OF COMMERCIAL SIGNS [~~OUTDOOR~~  
12 ~~ADVERTISING~~] IN INDUSTRIAL OR COMMERCIAL AREA. (a) The commission  
13 by rule may regulate the orderly and effective display of  
14 commercial signs [~~outdoor advertising~~] consistent with the  
15 customary use of commercial signs [~~outdoor advertising~~] in this  
16 state in an area in which the land use:

17 (1) is designated industrial or commercial under  
18 authority of law; and

19 (2) is not so designated but in which the land use is  
20 consistent with areas designated industrial or commercial in the  
21 manner provided by Section 391.031(c).

22 (b) The commission may agree with the secretary of the  
23 United States Department of Transportation to regulate the orderly  
24 and effective display of commercial signs [~~outdoor advertising~~] in  
25 an area described by Subsection (a).

26 SECTION 9. Section 391.033, Transportation Code, is amended  
27 to read as follows:

1           Sec. 391.033. ACQUISITION OF COMMERCIAL SIGNS [~~OUTDOOR~~  
2 ~~ADVERTISING~~] BY COMMISSION. (a) The commission may purchase or  
3 acquire by eminent domain a commercial sign [~~outdoor advertising~~]  
4 that is lawfully in existence on a highway in the interstate or  
5 primary system.

6           (b) If an acquisition is by eminent domain, the commission  
7 shall pay just compensation to:

8                 (1) the owner for the right, title, leasehold, and  
9 interest in the commercial sign [~~outdoor advertising~~]; and

10                (2) the owner or, if appropriate, the lessee of the  
11 real property on which the commercial sign [~~outdoor advertising~~] is  
12 located for the right to erect and maintain the sign [~~outdoor~~  
13 ~~advertising~~].

14           SECTION 10. Section 391.034, Transportation Code, is  
15 amended to read as follows:

16           Sec. 391.034. NUISANCE [~~OUTDOOR ADVERTISING~~]; INJUNCTION.

17 (a) A commercial sign [~~Outdoor advertising~~] that is erected or  
18 maintained in violation of this chapter:

19                 (1) endangers the health, safety, welfare, morals,  
20 [~~convenience~~] and enjoyment of the traveling public and the  
21 protection of the public investment in the interstate and primary  
22 highway systems; and

23                 (2) is a public nuisance.

24           (b) On written notice by certified mail from the department,  
25 an owner of a commercial sign [~~outdoor advertising~~] that is a public  
26 nuisance under Subsection (a) shall remove the sign [~~advertising~~].

27 If the owner does not remove the sign [~~outdoor advertising~~] within

1 45 days of the date of the notice, the department may direct the  
2 attorney general to apply for an injunction to:

3 (1) prohibit the owner from maintaining the sign  
4 [~~advertising~~]; and

5 (2) require the removal of the sign [~~advertising~~].

6 (c) The state is entitled to recover from the owner of a  
7 commercial sign [~~outdoor advertising~~] removed under an action  
8 brought under Subsection (b) all administrative and legal costs and  
9 expenses incurred to remove the sign [~~advertising~~], including court  
10 costs and reasonable attorney's fees.

11 SECTION 11. Section 391.036, Transportation Code, is  
12 amended to read as follows:

13 Sec. 391.036. SCOPE OF COMMISSION RESPONSIBILITY. The  
14 commission's responsibility for the regulation of commercial signs  
15 [~~outdoor advertising~~] is only on highways on the interstate and  
16 primary systems, including interstate highways, state highways,  
17 and farm-to-market roads [~~a federal-aid primary highway,~~  
18 ~~interstate highway, state highway, or farm-to-market road~~].

19 SECTION 12. The heading to Subchapter C, Chapter 391,  
20 Transportation Code, is amended to read as follows:

21 SUBCHAPTER C. LICENSE AND PERMIT FOR COMMERCIAL SIGNS [~~OUTDOOR~~  
22 ~~ADVERTISING~~]

23 SECTION 13. The heading to Section 391.061, Transportation  
24 Code, is amended to read as follows:

25 Sec. 391.061. [~~OUTDOOR ADVERTISING WITHOUT~~] LICENSE FOR  
26 COMMERCIAL SIGNS; OFFENSE.

27 SECTION 14. Section 391.061(a), Transportation Code, is

1 amended to read as follows:

2 (a) A person commits an offense if the person wilfully  
3 erects or maintains a commercial sign [~~outdoor advertising~~] in an  
4 area described by Section 391.031(a) without a license under this  
5 subchapter.

6 SECTION 15. Section 391.063, Transportation Code, is  
7 amended to read as follows:

8 Sec. 391.063. LICENSE FEE. The commission may set the  
9 amount of a license fee according to a scale graduated by the number  
10 of commercial signs owned by the license applicant that are  
11 regulated under this chapter [~~units of outdoor advertising~~] and the  
12 number of off-premise signs owned by the license applicant and  
13 regulated under Chapter 394 [~~owned by a license applicant~~].

14 SECTION 16. Section 391.064(a), Transportation Code, is  
15 amended to read as follows:

16 (a) The surety bond required of an applicant for a license  
17 under Section 391.062 must be:

18 (1) in the amount of \$2,500 for each county in the  
19 state in which the person erects or maintains a commercial sign  
20 [~~outdoor advertising~~]; and

21 (2) payable to the commission for reimbursement for  
22 removal costs of a commercial sign [~~outdoor advertising~~] that the  
23 license holder unlawfully erects or maintains.

24 SECTION 17. Section 391.065, Transportation Code, is  
25 amended to read as follows:

26 Sec. 391.065. RULES; FORMS. (a) The commission may adopt  
27 rules to implement this subchapter and Subchapters A and B

1 [Sections ~~391.036~~, ~~391.061(a)~~, ~~391.062~~, ~~391.063~~, ~~391.064~~, and  
2 ~~391.066~~].

3 (b) For the efficient management and administration of this  
4 chapter and to reduce the number of employees required to enforce  
5 this chapter, the commission shall adopt rules for issuing  
6 standardized forms that are for submission by license holders and  
7 applicants and that provide for an accurate showing of the number,  
8 location, or other information required by the commission for each  
9 license holder's or applicant's commercial signs under this chapter  
10 [~~outdoor advertising~~] or off-premise signs under Chapter 394.

11 (c) The commission may not adopt a rule under this chapter  
12 that restricts competitive bidding or advertising by the holder of  
13 a license issued under this chapter other than a rule to prohibit  
14 false, misleading, or deceptive practices. The limitation provided  
15 by this section applies only to rules relating to the occupation of  
16 erecting or maintaining commercial signs [~~outdoor advertiser~~] and  
17 does not affect the commission's power to regulate the orderly and  
18 effective display of commercial signs [~~outdoor advertising~~] under  
19 this chapter. A rule to prohibit false, misleading, or deceptive  
20 practices may not:

- 21 (1) restrict the use of:
- 22 (A) any legal medium for an advertisement;
  - 23 (B) the license holder's advertisement under a  
24 trade name; or
  - 25 (C) the license holder's personal appearance or  
26 voice in an advertisement, if the license holder is an individual;
  - 27 or



1           (2) relate to the size or duration of an advertisement  
2 by the license holder.

3           SECTION 18. Section 391.0661, Transportation Code, is  
4 amended to read as follows:

5           Sec. 391.0661. APPLICABILITY OF LICENSE. In addition to  
6 authorizing a person to erect or maintain a commercial sign under  
7 this chapter [~~outdoor advertising~~], a license issued under this  
8 chapter authorizes a person to erect or maintain an off-premise  
9 sign under Chapter 394.

10          SECTION 19. The heading to Section 391.067, Transportation  
11 Code, is amended to read as follows:

12          Sec. 391.067. [~~OUTDOOR ADVERTISING WITHOUT~~] PERMIT FOR  
13 COMMERCIAL SIGNS; OFFENSE.

14          SECTION 20. Section 391.067(a), Transportation Code, is  
15 amended to read as follows:

16          (a) A person who has a license issued under this subchapter  
17 commits an offense if the person wilfully erects or maintains a  
18 commercial sign [~~outdoor advertising~~] for which a license is  
19 required under Section 391.061 unless that person also has a permit  
20 for the sign [~~outdoor advertising~~].

21          SECTION 21. Sections 391.068(a), (c), (d), and (e),  
22 Transportation Code, are amended to read as follows:

23          (a) Except as provided by Subsection (d), the commission  
24 shall issue a permit to a person with a license issued under this  
25 subchapter:

26               (1) whose license application complies with rules  
27 adopted under Section 391.065; and

1           (2) whose commercial sign [~~outdoor advertising~~],  
2 whether owned or leased, if erected would comply with this chapter  
3 and rules adopted under Section 391.032(a).

4           (c) A permit issued to regulate the erection and maintenance  
5 of a commercial sign [~~outdoor advertising~~] by a political  
6 subdivision of this state within that subdivision's jurisdiction  
7 shall be accepted in lieu of the permit required by this subchapter  
8 if the erection and maintenance of the sign [~~outdoor advertising~~]  
9 complies with this subchapter and rules adopted under Section  
10 391.032(a).

11           (d) In addition to the requirements of Subsection (a), if  
12 the commercial sign [~~outdoor advertising~~] is located within the  
13 jurisdiction of a municipality with a population of more than 1.9  
14 million that is exercising its authority to regulate commercial  
15 signs [~~outdoor advertising~~], the commission may issue a permit  
16 under this section only if the municipality:

17                 (1) has not acted to prohibit new commercial signs  
18 [~~outdoor advertising~~] within the jurisdiction of the municipality;  
19 and

20                 (2) has issued a permit authorizing the commercial  
21 sign [~~outdoor advertising~~].

22           (e) Subsection (d) does not apply to the relocation of a  
23 commercial sign [~~outdoor advertising~~] to another location if the  
24 construction, reconstruction, or expansion of a highway requires  
25 the removal of the sign [~~outdoor advertising~~].

26           SECTION 22. Section 391.070(a), Transportation Code, is  
27 amended to read as follows:

1 (a) The combined license and permit fees under this  
2 subchapter may not exceed \$10 for a commercial sign [~~outdoor~~  
3 ~~advertising~~] erected and maintained by a nonprofit organization in  
4 a municipality or a municipality's extraterritorial jurisdiction  
5 if the sign [~~advertising~~] relates to or promotes only the  
6 municipality or a political subdivision whose jurisdiction is  
7 wholly or partly concurrent with the municipality.

8 SECTION 23. The heading to Subchapter H, Chapter 391,  
9 Transportation Code, is amended to read as follows:

10 SUBCHAPTER H. REGULATION OF COMMERCIAL SIGNS [~~OUTDOOR ADVERTISING~~]  
11 ON STATE HIGHWAY 288

12 SECTION 24. Section 391.211(a), Transportation Code, is  
13 amended to read as follows:

14 (a) This subchapter applies only to a commercial sign  
15 [~~outdoor advertising~~] that is erected on or after September 1,  
16 1993.

17 SECTION 25. Section 391.212, Transportation Code, is  
18 amended to read as follows:

19 Sec. 391.212. REGULATION OF CERTAIN COMMERCIAL SIGNS  
20 [~~OUTDOOR ADVERTISING~~]. The department may license or otherwise  
21 regulate the erection of a commercial sign [~~outdoor advertising~~]  
22 that is located within 1,000 feet of the center line of that part of  
23 State Highway 288 in the unincorporated area of a county.

24 SECTION 26. The heading to Section 391.252, Transportation  
25 Code, is amended to read as follows:

26 Sec. 391.252. [~~OFF-PREMISE SIGNS~~] PROHIBITED COMMERCIAL  
27 SIGNS.

1 SECTION 27. Sections 391.252(a) and (c), Transportation  
2 Code, are amended to read as follows:

3 (a) A person may not erect a commercial [~~an off-premise~~]  
4 sign that is adjacent to and visible from:

5 (1) U.S. Highway 290 between the western city limits  
6 of the city of Austin and the eastern city limits of the city of  
7 Fredericksburg;

8 (2) State Highway 317 between the northern city limits  
9 of the city of Belton to the southern city limits of the city of  
10 Valley Mills;

11 (3) State Highway 16 between the northern city limits  
12 of the city of Kerrville and Interstate Highway 20;

13 (4) U.S. Highway 77 between State Highway 186 and  
14 State Highway 44;

15 (5) U.S. Highway 281 between:

16 (A) State Highway 186 and Interstate Highway 37,  
17 exclusive of the segment of U.S. Highway 281 located in the city  
18 limits of Three Rivers; and

19 (B) the southern boundary line of Comal County  
20 and State Highway 306;

21 (6) State Highway 17 between State Highway 118 and  
22 U.S. Highway 90;

23 (7) State Highway 67 between U.S. Highway 90 and  
24 Farm-to-Market Road 170;

25 (8) Farm-to-Market Road 170 between State Highway 67  
26 and State Highway 118;

27 (9) State Highway 118 between Farm-to-Market Road 170

- 1 and State Highway 17;
- 2 (10) State Highway 105 between the western city limits  
3 of the city of Sour Lake to the eastern city limits of the city of  
4 Cleveland;
- 5 (11) State Highway 73 between the eastern city limits  
6 of the city of Winnie to the western city limits of the city of Port  
7 Arthur;
- 8 (12) State Highway 21 between the southern city limits  
9 of the city of College Station and U.S. Highway 290;
- 10 (13) a highway located in:
- 11 (A) the Sabine National Forest;
- 12 (B) the Davy Crockett National Forest; or
- 13 (C) the Sam Houston National Forest;
- 14 (14) Segments 1 through 4 of State Highway 130;
- 15 (15) a highway in Bandera County that is part of the  
16 state highway system;
- 17 (16) Farm-to-Market Road 3238 beginning at State  
18 Highway 71 and any extension of that road through Hays and Blanco  
19 Counties;
- 20 (17) Farm-to-Market Road 2978 between Farm-to-Market  
21 Road 1488 and the boundary line between Harris and Montgomery  
22 Counties;
- 23 (18) U.S. Highway 90 between the western city limits  
24 of the city of San Antonio and the eastern city limits of the city of  
25 Hondo; or
- 26 (19) the following highways in Austin County:
- 27 (A) State Highway 159;

- (B) Farm-to-Market Road 331;
- (C) Farm-to-Market Road 529;
- (D) Farm-to-Market Road 1094; and
- (E) Farm-to-Market Road 2502.

(c) This section does not prohibit a person from erecting a commercial [~~an off-premise~~] sign permitted by other law, rule, or regulation that is adjacent to and visible from a roadway not listed in this section and is visible from a roadway listed under this section if the intended purpose of the sign is to be visible only from the roadway not listed under this section.

SECTION 28. Section 391.253, Transportation Code, is amended to read as follows:

Sec. 391.253. REERECTION, RECONSTRUCTION, REPAIR, OR REBUILDING OF COMMERCIAL [~~OFF-PREMISE~~] SIGNS. (a) A commercial [~~An off-premise~~] sign that is adjacent to and visible from a highway listed in Section 391.252 that is blown down, destroyed, taken down, or removed for a purpose other than maintenance or to change a letter, symbol, or other matter on the sign may be reerected, reconstructed, repaired, or rebuilt only if the cost of reerecting, reconstructing, repairing, or rebuilding the sign is not more than 60 percent of the cost of erecting a new commercial [~~off-premise~~] sign of the same size, type, and construction at the same location.

(b) The department shall permit the relocation of a commercial [~~an off-premise~~] sign adjacent to and visible from a highway listed in Section 391.252 to another location that is adjacent to and visible from the same highway if:

- (1) the construction, reconstruction, or expansion of

1 a highway requires the removal of the sign;

2 (2) the sign is not modified to increase the  
3 above-grade height, the area of each sign face, the dimensions of  
4 the sign face, the number of sign faces, or the illumination of the  
5 sign; and

6 (3) the department identifies an alternate site for  
7 the relocation of the sign adjacent to and visible from the highway  
8 listed in Section 391.252.

9 (c) For purposes of this section, the department shall  
10 specify, within 30 days of receipt of a request for a relocation  
11 site, a minimum of three alternate sites that meet permitting  
12 requirements for a commercial [~~an off-premise~~] sign to be  
13 reerected, reconstructed, repaired, or rebuilt adjacent to and  
14 visible from a highway listed in Section 391.252.

15 (d) The owner of a commercial [~~an off-premise~~] sign that is  
16 reerected, reconstructed, repaired, or rebuilt according to  
17 Subsection (a) or relocated according to Subsection (b) may alter  
18 the materials and design of the sign to reduce the number of upright  
19 supports, subject to other restrictions in this section, in a  
20 manner that meets or exceeds the pre-existing structural  
21 specifications of the sign.

22 SECTION 29. Section 391.254(d), Transportation Code, is  
23 amended to read as follows:

24 (d) Before a suit may be brought for a violation of Section  
25 391.252, the attorney general, the district or county attorney for  
26 the county, or the municipal attorney of the municipality in which  
27 the violation is alleged to have occurred shall give the owner of

1 the commercial [~~off-premise~~] sign a written notice that:

2 (1) describes the violation and specific location of  
3 the sign found to be in violation;

4 (2) states the amount of the proposed penalty for the  
5 violation; and

6 (3) gives the owner 30 days from receipt to remove the  
7 sign and cure the violation to avoid the penalty unless the sign  
8 owner was given notice and opportunity to cure a similar violation  
9 within the preceding 12 months.

10 SECTION 30. Section [394.0203](#), Transportation Code, is  
11 amended to read as follows:

12 Sec. 394.0203. LICENSE FEE. The commission may set the  
13 amount of a license fee according to a scale graduated by the number  
14 of off-premise signs owned by the license applicant regulated under  
15 this chapter and commercial signs owned by the applicant regulated  
16 [units of outdoor advertising] under Chapter [391](#) [~~owned by a~~  
17 ~~license applicant~~].

18 SECTION 31. Section [394.0205](#)(b), Transportation Code, is  
19 amended to read as follows:

20 (b) For the efficient management and administration of this  
21 chapter and to reduce the number of employees required to enforce  
22 this chapter, the commission shall adopt rules for issuing  
23 standardized forms that are for submission by license holders and  
24 applicants and that provide for an accurate showing of the number,  
25 location, or other information required by the commission for each  
26 license holder's or applicant's off-premise signs under this  
27 chapter or commercial signs [~~outdoor advertising~~] under Chapter



1 391.

2 SECTION 32. Section 394.0207, Transportation Code, is  
3 amended to read as follows:

4 Sec. 394.0207. APPLICABILITY OF LICENSE. In addition to  
5 authorizing a person to erect or maintain an off-premise sign, a  
6 license issued under this chapter authorizes a person to erect or  
7 maintain a commercial sign [~~outdoor advertising~~] under Chapter 391.

8 SECTION 33. The following provisions of the Transportation  
9 Code are repealed:

- 10 (1) Section 391.001(10);
- 11 (2) Section 391.005;
- 12 (3) Section 391.031(b);
- 13 (4) Section 391.037;
- 14 (5) Section 391.061(c); and
- 15 (6) Section 391.251.

16 SECTION 34. This Act takes effect immediately if it  
17 receives a vote of two-thirds of all the members elected to each  
18 house, as provided by Section 39, Article III, Texas Constitution.  
19 If this Act does not receive the vote necessary for immediate  
20 effect, this Act takes effect September 1, 2017.