

By: Bucy

H.B. No. 2554

Substitute the following for H.B. No. 2554:

By: Cain

C.S.H.B. No. 2554

A BILL TO BE ENTITLED

AN ACT

relating to regulation of the display of signs containing political advertising.

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

SECTION 1. Title 15, Election Code, is amended by adding Chapter 259, and a heading is added to that chapter to read as follows:

CHAPTER 259. POLITICAL SIGNS

SECTION 2. Section 255.007, Election Code, is transferred to Chapter 259, Election Code, as added by this Act, and redesignated as Section 259.001, Election Code, to read as follows:

Sec. 259.001 [~~255.007~~]. NOTICE REQUIREMENT ON POLITICAL ADVERTISING SIGNS. (a) The following notice must be written on each political advertising sign:

"NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE), TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY."

(b) A person commits an offense if the person:

(1) knowingly enters into a contract to print or make a political advertising sign that does not contain the notice required by Subsection (a); or

(2) instructs another person to place a political advertising sign that does not contain the notice required by Subsection (a).

1 (c) An offense under this section is a Class C misdemeanor.

2 (d) It is an exception to the application of Subsection (b)
3 that the political advertising sign was printed or made before
4 September 1, 1997, and complied with Subsection (a) as it existed
5 immediately before that date.

6 (e) In this section, "political advertising sign" means a
7 written form of political advertising designed to be seen from a
8 road but does not include a bumper sticker.

9 SECTION 3. Section 202.009, Property Code, is transferred
10 to Chapter 259, Election Code, as added by this Act, redesignated as
11 Section 259.002, Election Code, and amended to read as follows:

12 Sec. 259.002 [~~202.009~~]. REGULATION OF DISPLAY OF
13 POLITICAL SIGNS BY PROPERTY OWNERS' ASSOCIATION. (a) In this
14 section, "property owners' association" has the meaning assigned by
15 Section 202.001, Property Code.

16 (b) Except as otherwise provided by this section, a property
17 owners' association may not enforce or adopt a restrictive covenant
18 that prohibits a property owner from displaying on the owner's
19 property one or more signs advertising a [~~political~~ candidate or
20 measure [~~ballot item~~] for an election:

21 (1) on or after the 90th day before the date of the
22 election to which the sign relates; or

23 (2) before the 10th day after that election date.

24 (c) [~~(b)~~] This section does not prohibit the enforcement or
25 adoption of a covenant that:

26 (1) requires a sign to be ground-mounted; or

27 (2) limits a property owner to displaying only one

1 sign for each candidate or measure [~~ballot item~~].

2 (d) [~~(c)~~] This section does not prohibit the enforcement or
3 adoption of a covenant that prohibits a sign that:

4 (1) contains roofing material, siding, paving
5 materials, flora, one or more balloons or lights, or any other
6 similar building, landscaping, or nonstandard decorative
7 component;

8 (2) is attached in any way to plant material, a traffic
9 control device, a light, a trailer, a vehicle, or any other existing
10 structure or object;

11 (3) includes the painting of architectural surfaces;

12 (4) threatens the public health or safety;

13 (5) is larger than four feet by six feet;

14 (6) violates a law;

15 (7) contains language, graphics, or any display that
16 would be offensive to the ordinary person; or

17 (8) is accompanied by music or other sounds or by
18 streamers or is otherwise distracting to motorists.

19 (e) [~~(d)~~] A property owners' association may remove a sign
20 displayed in violation of a restrictive covenant permitted by this
21 section.

22 SECTION 4. Section 216.903, Local Government Code, is
23 transferred to Chapter 259, Election Code, as added by this Act, and
24 redesignated as Section 259.003, Election Code, to read as follows:

25 Sec. 259.003 [~~216.903~~]. REGULATION OF POLITICAL SIGNS BY
26 MUNICIPALITY. (a) In this section, "private real property" does
27 not include real property subject to an easement or other

1 encumbrance that allows a municipality to use the property for a
2 public purpose.

3 (b) A municipal charter provision or ordinance that
4 regulates signs may not, for a sign that contains primarily a
5 political message and that is located on private real property with
6 the consent of the property owner:

7 (1) prohibit the sign from being placed;

8 (2) require a permit or approval of the municipality
9 or impose a fee for the sign to be placed;

10 (3) restrict the size of the sign; or

11 (4) provide for a charge for the removal of a political
12 sign that is greater than the charge for removal of other signs
13 regulated by ordinance.

14 (c) Subsection (b) does not apply to a sign, including a
15 billboard, that contains primarily a political message on a
16 temporary basis and that is generally available for rent or
17 purchase to carry commercial advertising or other messages that are
18 not primarily political.

19 (d) Subsection (b) does not apply to a sign that:

20 (1) has an effective area greater than 36 feet;

21 (2) is more than eight feet high;

22 (3) is illuminated; or

23 (4) has any moving elements.

24 SECTION 5. Section [255.001\(c\)](#), Election Code, is amended to
25 read as follows:

26 (c) A person may not knowingly use, cause or permit to be
27 used, or continue to use any published, distributed, or broadcast

1 political advertising containing express advocacy that the person
2 knows does not include the disclosure required by Subsection (a). A
3 person is presumed to know that the use of political advertising is
4 prohibited by this subsection if the commission notifies the person
5 in writing that the use is prohibited. A person who learns that
6 political advertising signs, as defined by Section 259.001
7 [~~255.007~~], that have been distributed do not include the disclosure
8 required by Subsection (a) or include a disclosure that does not
9 comply with Subsection (a) does not commit a continuing violation
10 of this subsection if the person makes a good faith attempt to
11 remove or correct those signs. A person who learns that printed
12 political advertising other than a political advertising sign that
13 has been distributed does not include the disclosure required by
14 Subsection (a) or includes a disclosure that does not comply with
15 Subsection (a) is not required to attempt to recover the political
16 advertising and does not commit a continuing violation of this
17 subsection as to any previously distributed political advertising.

18 SECTION 6. Section 571.1211(2), Government Code, is amended
19 to read as follows:

20 (2) "Category One violation" means a violation of a
21 law within jurisdiction of the commission as to which it is
22 generally not difficult to ascertain whether the violation occurred
23 or did not occur, including:

24 (A) the failure by a person required to file a
25 statement or report to:

26 (i) file the required statement or report
27 in a manner that complies with applicable requirements; or

1 (ii) timely file the required statement or
2 report;

3 (B) a violation of Section 255.001, Election
4 Code;

5 (C) a misrepresentation in political advertising
6 or a campaign communication relating to the office held by a person
7 in violation of Section 255.006, Election Code;

8 (D) a failure to include in any written political
9 advertising intended to be seen from a road the right-of-way notice
10 in violation of Section 259.001 [~~255.007~~], Election Code; or

11 (E) a failure to timely respond to a written
12 notice under Section 571.123(b).

13 SECTION 7. This Act takes effect September 1, 2019.