By:  Bettencourt S.B. No. 1616

(In the Senate - Filed March 11, 2021; March 24, 2021, read first time and referred to Committee on Health & Human Services; April 27, 2021, reported favorably by the following vote: Yeas 6, Nays 3; April 27, 2021, sent to printer.)

COMMITTEE VOTE

                 Yea Nay Absent  PNV

Kolkhorst         X

Perry             X

Blanco                X

Buckingham        X

Campbell          X

Hall              X

Miles                 X

Powell                X

Seliger           X

A BILL TO BE ENTITLED

AN ACT

relating to powers and duties of governmental entities during a public health disaster; providing civil penalties.

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

SECTION 1.  Subchapter E, Chapter 418, Government Code, is amended by adding Sections 418.1012 and 418.1013 to read as follows:

Sec. 418.1012.  DEFINITION. Notwithstanding Section 418.004, in this subchapter, the term "disaster" does not include an epidemic or the spread of a communicable disease.

Sec. 418.1013.  APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to a public health disaster as defined by Section 81.003, Health and Safety Code.

SECTION 2.  Section 81.083(l), Health and Safety Code, is amended to read as follows:

(l)  An order under Subsection (k) must be in writing and be delivered personally or by registered or certified mail to each member of the group, or the member's parent, legal guardian, or managing conservator if the member is a minor. If the name, address, and county of residence of any member of the group is unknown at the time the order is issued, the department or health authority must publish notice in a newspaper of general circulation in the county that includes the area of the suspected exposure and any other county in which the department or health authority suspects a member of the group resides. The notice must contain the following information:

(1)  that the department or health authority has reasonable cause to believe that a group of individuals is ill with, has been exposed to, or is the carrier of a communicable disease;

(2)  the suspected time and place of exposure to the disease;

(3)  a copy of any orders under Subsection (k);

(4)  instructions to an individual to provide the individual's name, address, and county of residence to the department or health authority if the individual knows or reasonably suspects that the individual was at the place of the suspected exposure at the time of the suspected exposure;

(5)  that the department or health authority may request that an application for court orders under Subchapter G be filed for the group, if applicable; and

(6)  that a civil [~~criminal~~] penalty applies to an individual who:

(A)  is a member of the group; and

(B)  knowingly refuses to perform or allow the performance of the control measures in the order.

SECTION 3.  The heading to Section 81.085, Health and Safety Code, is amended to read as follows:

Sec. 81.085.  AREA QUARANTINE; CIVIL [~~CRIMINAL~~] PENALTY.

SECTION 4.  Section 81.085(h), Health and Safety Code, is amended to read as follows:

(h)  A person is liable to this state for a civil penalty of not more than $500 [~~commits an offense~~] if the person knowingly fails or refuses to obey a rule, order, or instruction of the department or an order or instruction of a health authority issued under a department rule and published during an area quarantine under this section. On request of the department or a health authority, the attorney general or the district or county attorney for the county in which the violation occurs may:

(1)  sue to collect the civil penalty; and

(2)  recover reasonable investigation costs, attorney's fees, and witness and deposition fees incurred by the attorney general, district or county attorney, department, or health authority, as applicable, in the civil action [~~An offense under this subsection is a felony of the third degree~~].

SECTION 5.  Sections 81.087, 81.088, and 81.089, Health and Safety Code, are amended to read as follows:

Sec. 81.087.  VIOLATION OF CONTROL MEASURE ORDERS; CIVIL [~~CRIMINAL~~] PENALTY. (a) A person is liable to this state for a civil penalty of not more than $500 [~~commits an offense~~] if the person knowingly refuses to perform or allow the performance of certain control measures ordered by the department or a health authority [~~or the department~~] under Sections 81.083-81.086.

(b)  On request of the department or a health authority, the attorney general or the district or county attorney for the county in which the violation occurs may:

(1)  sue to collect the civil penalty; and

(2)  recover reasonable investigation costs, attorney's fees, and witness and deposition fees incurred by the attorney general, district or county attorney, department, or health authority, as applicable, in the civil action [~~An offense under this section is a Class B misdemeanor~~].

Sec. 81.088.  REMOVAL, ALTERATION, OR DESTRUCTION OF QUARANTINE DEVICES; CIVIL [~~CRIMINAL~~] PENALTY. (a) A person is liable to this state for a civil penalty of not more than $500 [~~commits an offense~~] if the person knowingly or intentionally:

(1)  removes, alters, or attempts to remove or alter an object the person knows is a quarantine device, notice, or security item in a manner that diminishes the effectiveness of the device, notice, or item; or

(2)  destroys an object the person knows is a quarantine device, notice, or security item.

(b)  On request of the department or a health authority, the attorney general or the district or county attorney for the county in which the violation occurs may:

(1)  sue to collect the civil penalty; and

(2)  recover reasonable investigation costs, attorney's fees, and witness and deposition fees incurred by the attorney general, district or county attorney, department, or health authority, as applicable, in the civil action [~~An offense under this section is a Class B misdemeanor~~].

Sec. 81.089.  TRANSPORTATION; CIVIL [~~CRIMINAL~~] PENALTY. (a) A person is liable to this state for a civil penalty of not more than $500 [~~commits an offense~~] if, before notifying the department or health authority at a port of entry or a place of first landing or first arrival in this state, the person knowingly or intentionally:

(1)  transports or causes to be transported into this state an object the person knows or suspects may be infected or contaminated with a communicable disease that is a threat to the public health;

(2)  transports or causes to be transported into this state an individual who the person knows has or is the carrier of a communicable disease that is a threat to the public health; or

(3)  transports or causes to be transported into this state a person, animal, or object in a private or common carrier or a private conveyance that the person knows is or suspects may be infected or contaminated with a communicable disease that is a threat to the public health.

(b)  On request of the department or a health authority, the attorney general or the district or county attorney for the county in which the violation occurs may:

(1)  sue to collect the civil penalty; and

(2)  recover reasonable investigation costs, attorney's fees, and witness and deposition fees incurred by the attorney general, district or county attorney, department, or health authority, as applicable, in the civil action [~~An offense under this section is a Class A misdemeanor, except that if the person acts with the intent to harm or defraud another, the offense is a felony of the third degree~~].

SECTION 6.  The changes in law made by this Act apply only to a violation of law that occurs on or after the effective date of this Act. A violation of law that occurs before the effective date of this Act is governed by the law as it existed on the date the violation occurred, and the former law is continued in effect for that purpose. For purposes of this section, a violation of law occurred before the effective date of this Act if any element of the violation occurred before that date.

SECTION 7.  This Act takes effect September 1, 2021.

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