

By: Bettencourt

S.B. No. 1616

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(1), Health and Safety Code, is amended to read as follows:

(1) 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

1 suspects a member of the group resides. The notice must contain the  
2 following information:

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

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

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

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

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

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

19 (A) is a member of the group; and

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

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

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

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

27 (h) A person is liable to this state for a civil penalty of

1 not more than \$500 [~~commits an offense~~] if the person knowingly  
2 fails or refuses to obey a rule, order, or instruction of the  
3 department or an order or instruction of a health authority issued  
4 under a department rule and published during an area quarantine  
5 under this section. On request of the department or a health  
6 authority, the attorney general or the district or county attorney  
7 for the county in which the violation occurs may:

- 8           (1) sue to collect the civil penalty; and  
9           (2) recover reasonable investigation costs,  
10 attorney's fees, and witness and deposition fees incurred by the  
11 attorney general, district or county attorney, department, or  
12 health authority, as applicable, in the civil action [~~An offense~~  
13 ~~under this subsection is a felony of the third degree~~].

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

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

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

- 25           (1) sue to collect the civil penalty; and  
26           (2) recover reasonable investigation costs,  
27 attorney's fees, and witness and deposition fees incurred by the

1 attorney general, district or county attorney, department, or  
2 health authority, as applicable, in the civil action [~~An offense~~  
3 ~~under this section is a Class B misdemeanor~~].

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

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

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

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

17           (1) sue to collect the civil penalty; and

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

23       Sec. 81.089. TRANSPORTATION; CIVIL [~~CRIMINAL~~] PENALTY. (a)  
24 A person is liable to this state for a civil penalty of not more than  
25 \$500 [~~commits an offense~~] if, before notifying the department or  
26 health authority at a port of entry or a place of first landing or  
27 first arrival in this state, the person knowingly or intentionally:

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

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

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

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

16                   (1) sue to collect the civil penalty; and

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

24           SECTION 6. The changes in law made by this Act apply only to  
25 a violation of law that occurs on or after the effective date of  
26 this Act. A violation of law that occurs before the effective date  
27 of this Act is governed by the law as it existed on the date the

1 violation occurred, and the former law is continued in effect for  
2 that purpose. For purposes of this section, a violation of law  
3 occurred before the effective date of this Act if any element of the  
4 violation occurred before that date.

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