

BILL ANALYSIS

C.S.H.B. 3855
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Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that while the Texas Department of Transportation has the authority to regulate certain billboards erected near highways, recent court cases have raised significant questions regarding the scope of this authority as it relates to content-based restrictions of speech. C.S.H.B. 3855 seeks to bring clarity to the situation by revising the scope of regulation for certain outdoor signs.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3855 amends the Transportation Code to replace references to outdoor advertising and off-premise signs with references to commercial signs in statutory provisions relating to highway beautification on interstate and primary systems. The bill defines "commercial sign" for such purposes as a sign that is intended to be leased, or for which payment of any type is intended to be or is received, for the display of any good, service, brand, slogan, message, product, or company, not including a sign that is leased to a business entity and located on the same property on which the business is located, but including a sign that is located on property owned or leased for the primary purpose of displaying a sign. The bill defines "sign" and revises the definition of "license" to reflect the updated definition of commercial sign and to include a license or permit issued under provisions relating to an off-premise sign. The bill replaces the authorization for the Texas Transportation Commission to adopt rules to implement specific provisions relating to a license and permit for outdoor advertising and the scope of the commission's responsibility with the authorization to adopt rules to implement general provisions applicable to highway beautification on interstate and primary systems and the regulation of commercial signs generally. The bill removes endangerment of the convenience of the traveling public as a condition that results from the erection or maintenance of a commercial sign in violation of provisions relating to highway beautification on interstate and primary systems. The bill repeals provisions relating to the definition of "outdoor advertising," a sign erected solely for and relating to a public election, the offense of unlawful outdoor advertising, outdoor advertising by certain county agricultural fairs, certain outdoor advertising without a license, and the definitions of "off-premise sign" and "advertising." The bill limits the commission's responsibility for the regulation of commercial signs to only on highways on the interstate and primary systems.

C.S.H.B. 3855 repeals the exemption from the application of an unlawful outdoor advertising

offense and instead exempts from the application of an unlawful commercial signs offense a person who erects or maintains a commercial sign located within 660 feet of the nearest edge of a right-of-way in an area in which the land use is designated industrial or commercial under authority of law or is consistent with an area so designated and who holds a permit issued by the Texas Department of Transportation for the sign.

C.S.H.B. 3855 repeals the following provisions of the Transportation Code:

- Section 391.001(10)
- Section 391.005
- Section 391.031(b)
- Section 391.037
- Section 391.061(c)
- Section 391.251

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3855 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 201.931(2), Transportation Code, is amended.

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

(1-a) "Commercial sign" means a sign that is intended to be leased, or for which payment of any type is intended to be or is received, for the display of any good, service, brand, slogan, message, product, or company.

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

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

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

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

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

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

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

SECTION 3. Section 391.002(b), Transportation Code, is amended.

SECTION 3. Same as introduced version.

SECTION 4. Section 391.006(a), Transportation Code, is amended.

SECTION 4. Same as introduced version.

SECTION 5. The heading to Subchapter B, Chapter 391, Transportation Code, is amended.

SECTION 5. Same as introduced version.

SECTION 6. The heading to Section 391.031, Transportation Code, is amended.

SECTION 6. Same as introduced version.

SECTION 7. Section 391.031, Transportation Code, is amended.

SECTION 7. Same as introduced version.

SECTION 8. Section 391.032, Transportation Code, is amended.

SECTION 8. Same as introduced version.

SECTION 9. Section 391.033, Transportation Code, is amended.

SECTION 9. Same as introduced version.

SECTION 10. Section 391.034, Transportation Code, is amended.

SECTION 10. Same as introduced version.

SECTION 11. Section 391.036, Transportation Code, is amended.

SECTION 11. Same as introduced version.

SECTION 12. The heading to Subchapter C, Chapter 391, Transportation Code, is amended.

SECTION 12. Same as introduced version.

SECTION 13. The heading to Section 391.061, Transportation Code, is amended.

SECTION 13. Same as introduced version.

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

SECTION 14. Same as introduced version.

SECTION 15. Section 391.063, Transportation Code, is amended.

SECTION 15. Same as introduced version.

SECTION 16. Section 391.064(a), Transportation Code, is amended.

SECTION 16. Same as introduced version.

SECTION 17. Section 391.065, Transportation Code, is amended.

SECTION 17. Same as introduced version.

SECTION 18. Section 391.0661, Transportation Code, is amended.

SECTION 18. Same as introduced version.

SECTION 19. The heading to Section 391.067, Transportation Code, is amended.

SECTION 19. Same as introduced version.

SECTION 20. Section 391.067(a), Transportation Code, is amended.

SECTION 20. Same as introduced version.

SECTION 21. Sections 391.068(a), (c), (d), and (e), Transportation Code, are amended.

SECTION 21. Same as introduced version.

SECTION 22. Section 391.070(a), Transportation Code, is amended.

SECTION 22. Same as introduced version.

SECTION 23. The heading to Subchapter H, Chapter 391, Transportation Code, is amended.

SECTION 23. Same as introduced version.

SECTION 24. Section 391.211(a), Transportation Code, is amended.

SECTION 24. Same as introduced version.

SECTION 25. Section 391.212, Transportation Code, is amended.

SECTION 25. Same as introduced version.

SECTION 26. The heading to Section 391.252, Transportation Code, is amended.

SECTION 26. Substantially the same as introduced version.

SECTION 27. Sections 391.252(a) and (c), Transportation Code, are amended.

SECTION 27. Same as introduced version.

SECTION 28. Section 391.253, Transportation Code, is amended.

SECTION 28. Same as introduced version.

SECTION 29. Section 391.254(d), Transportation Code, is amended.

SECTION 29. Same as introduced version.

SECTION 30. Section 394.0203, Transportation Code, is amended.

SECTION 30. Same as introduced version.

SECTION 31. Section 394.0205(b), Transportation Code, is amended.

SECTION 31. Same as introduced version.

SECTION 32. Section 394.0207, Transportation Code, is amended.

SECTION 32. Same as introduced version.

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

SECTION 33. Same as introduced version.

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

SECTION 34. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article

SECTION 34. Same as introduced version.

III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.