

SUBJECT: \$25 removal fee for illegal signs on public rights of way.

COMMITTEE: Law Enforcement —favorable, without amendment

VOTE: 7 ayes — Driver, Jackson, Burnam, Frost, Hegar, Hupp, Veasey
0 nays

WITNESSES: For — Bobby Gutierrez, Self and JPCA-Legislative Committee
Against — None

BACKGROUND: Local Government Code, ch. 216, authorizes municipalities to regulate signs, and sec. 216.002 defines a sign to include any outdoor structure, display, plaque, billboard or other object designated to advertise or inform.

Transportation Code, ch. 392, makes it a class C misdemeanor (maximum penalty of \$500) to place signs on a state highway right-of-way unless authorized by state law. Ch. 393 creates the same offense for placing unauthorized signs on the right-of-way of any public road.

DIGEST: HB 1345 would allow local law enforcement agencies to remove illegally placed signs from public rights of way without first notifying the sign's owner. Local law enforcement would charge the sign's owner a removal fee of \$25 per sign removed. Fees would be deposited into the treasury of the respective counties or municipalities. Local law enforcement agencies would be defined to include municipal police departments, county sheriff's offices, and county constable's offices.

The bill would take effect September 1, 2005.

SUPPORTERS SAY: HB 1345 would conserve state resources currently being directed toward the clean-up of such signs. TxDOT is charged with the enforcement of illegal sign laws in Texas, and the collection and disposal of bandit signs is costly for the agency. HB 1365 would help reduce the number of signs that need to be picked up by discouraging businesses from illegally placing them. HB 1365 would free up TxDOT resources that could be

directed elsewhere, such as to highway construction and maintenance projects that could relieve congestion on highways.

The placement of bandit signs can pose a safety hazard to the public and to the workers charged with placing the signs. Trucks carrying bandit signs often stop in moving lanes for workers to place signs on the roadside. This endangers the lives of other motorists on the road and of the worker who places the sign. Also, these signs distract motorists by diverting their attention from the road.

Lack of enforcement harms honest businesses that advertise legally. Some advertisers employ illicit tactics to skirt the law, including the use of unlisted phone numbers and website addresses on their signs to avoid being caught by law enforcement. HB 1365 would encourage good advertising practices.

Bandit signs are aesthetically unappealing, disrupt the natural beauty of the state, and discourage tourism. Residents of areas plagued with these signs are dissatisfied with the enforcement of laws regulating the placement of signs. HB 1365 would promote the beautification of the state and respect the rights of citizens who do not wish continually to be bombarded with illegal advertisements.

Businesses should not use illegal advertising practices to promote their business despite the potential benefit to their business. Businesses that rely on bandit signs in defiance of state law are not operating legitimately.

The law already provides adequate exceptions to the enforcement of illegal sign laws. Sec. 392.036 exempts owners of political campaign signs from being prosecuted for the placement of these signs. HB 1345 simply would allow law enforcement to remove bandit signs and charge a fee. Law enforcement officials would exercise discretion in handing out fines for bandit signs, depending on the severity of the offense.

**OPPONENTS
SAY:**

Roadside signs are a valuable advertising tool for small businesses that cannot afford to purchase expensive advertising spaces like billboards. For many small businesses, the placement of roadside advertisements is the only way to attract enough customers to stay in business. HB 1365 would be unnecessarily harsh for businesses that rely on roadside signs as advertising tools.

The more stringent enforcement tools contained in HB 1365 would not deter violators. A replacement fee of \$25 per sign is a risk that many businesses would take, given the effectiveness of roadside signs as advertising tools. It would be a small price for a violator to pay to ensure the viability of a business.

OTHER
OPPONENTS
SAY:

Law enforcement officials should notify a sign's owner before removing the sign and imposing a \$25 fee. Occasionally, legally placed signs may be removed and placed illegally without the owner's permission or knowledge. Notifying the owner would give that person an opportunity to collect the signs without being assessed the fee. While additional enforcement tools are necessary to stop the proliferation of bandit signs around our state, the law should account for cases in which the owner may not have been responsible for the illegal placement of signs.

NOTES:

Two related bills, HB 599 and HB 600, both by Eissler, which would provide additional enforcement tools for the placement of illegal signs, passed the House on April 21 and have been referred to the Senate Transportation and Homeland Security Committee.