

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 413
By: Eissler et al. (Carona)
Transportation & Homeland Security
5/10/2007
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Signs are prohibited from being erected on a public right-of-way without governmental authorization. Unfortunately, hundreds of signs, known as "bandit signs," are erected without such authorization. Due to overworked state and local officials and small penalty fines, inadequate enforcement has resulted.

C.S.H.B. 413 provides additional enforcement tools to protect the public rights-of-way by increasing the number of parties who can be prosecuted, providing civil penalties, and increasing the number of courts that are able to hear such cases.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 392.0325, Transportation Code, by adding Subsections (c) and (d), as follows:

(c) Provides that this subchapter (Signs on State Highway Right-of-Way) does not apply to a temporary directional sign or kiosk erected by a political subdivision as part of a program approved by the Texas Department of Transportation (TxDOT) and administered by the political subdivision on a highway within the boundaries of the political subdivision.

(d) Provides that this subchapter does not apply to a sign placed in the right-of-way by a public utility or its contractor for purposes of the utility.

SECTION 2. Amends Subchapter B, Chapter 392, Transportation Code, by adding Section 392.0355, as follows:

Sec. 392.0355. CIVIL PENALTY. (a) Provides that a person who places or commissions the placement of a sign on a state highway right-of-way that is not otherwise authorized by law may be liable for a civil penalty. Authorizes the attorney general or a district or county attorney of the county in which the placement of a sign on a state highway right-of-way is alleged to have occurred to sue to collect the penalty.

(b) Provides that the amount of the penalty is not less than \$500 or more than \$1,000 for each violation, depending on the seriousness of the violation and whether the person has previously violated this chapter (Highway Beautification on State Highway Right-of-Way). Authorizes a separate penalty to be collected for each day a continuing violation occurs.

(c) Requires the penalty collected under this section to be deposited to the credit of the state highway fund if collected by the attorney general and to the credit of the county road and bridge fund of the county in which the violation occurred if collected by a district or county attorney.

SECTION 3. Amends Section 392.036, Transportation Code, to provide certain defenses to prosecution or suit for a violation under this chapter, rather than Section 392.032.

SECTION 4. Amends Section 393.002, Transportation Code, to make conforming changes.

SECTION 5. Amends Chapter 393, Transportation Code, by adding Section 393.0026, as follows:

Sec. 393.0026. EXCEPTION. (a) Provides that this chapter (Outdoor Signs on Public Rights-of-Ways) does not apply to a temporary directional sign or kiosk erected by a political subdivision as part of a program approved by TxDOT and administered by the political subdivision on a highway within the boundaries of the political subdivision.

(b) Provides that this chapter does not apply to a sign placed in the right-of-way by a public utility or its contractor for purposes of the utility.

SECTION 6. Amends Section 393.003(a), Transportation Code, to authorize a sheriff, constable, or other trained volunteer authorized by the commissioners court of a county to confiscate a sign placed in violation of Section 393.002.

SECTION 7. Amends Section 393.004, Transportation Code, by adding Subsection (d), to authorize the sheriff, constable, or other trained volunteer authorized by the commissioners court to discard a sign of less than \$25 in value without giving the required notice.

SECTION 8. Amends Section 393.005(a), Transportation Code, to make a conforming change.

SECTION 9. Amends Section 393.006, Transportation Code, to make conforming changes.

SECTION 10. Amends Chapter 393, Transportation Code, by adding Section 393.007, as follows:

Sec. 393.007. CIVIL PENALTY. (a) Provides that a person who places or commissions the placement of a sign on a state highway right-of-way that is not otherwise authorized by law may be liable for a civil penalty. Authorizes the attorney general or a district or county attorney of the county in which the placement of a sign on a state highway right-of-way is alleged to have occurred to sue to collect the penalty.

(b) Provides that the amount of the penalty is not less than \$500 or more than \$1,000 for each violation, depending on the seriousness of the violation and whether the person has previously violated this chapter (Highway Beautification on State Highway Right-of-Way). Authorizes a separate penalty to be collected for each day a continuing violation occurs.

(c) Requires the penalty collected under this section to be deposited to the credit of the state highway fund if collected by the attorney general and to the credit of the county road and bridge fund of the county in which the violation occurred if collected by a district or county attorney.

SECTION 11. Amends Section 26.045, Government Code, by amending Subsection (c) and adding Section (f), as follows:

(c) Makes a conforming change.

(f) Provides that a county court has concurrent jurisdiction with a municipal court in cases that arise in the municipality's extraterritorial jurisdiction and that arise under an ordinance of the municipality applicable to the extraterritorial jurisdiction under Section 216.902 (Regulation of Outdoor Signs in Municipality's Extraterritorial Jurisdiction), Local Government Code.

SECTION 12. Amends Section 27.031, Government Code, by adding Subsection (c), to provide that a justice court has concurrent jurisdiction with a municipal court in cases that arise in the

municipality's extraterritorial jurisdiction and that arise under an ordinance of the municipality applicable to the extraterritorial jurisdiction under Section 216.902, Local Government Code.

SECTION 13. Amends Article 4.11, Code of Criminal Procedure, by adding Subsection (c), to provide that a justice court has concurrent jurisdiction with a municipal court in cases that arise in the municipality's extraterritorial jurisdiction and that arise under an ordinance of the municipality applicable to the extraterritorial jurisdiction under Section 216.902, Local Government Code.

SECTION 14. Makes application of this Act prospective.

SECTION 15. Effective date: September 1, 2007.