



Office of
Ron Hickman, Constable
Precinct 4, Harris County
6831 Cypresswood Drive
Spring, Texas 77379

Dear Business Owner,

The 80th Texas Legislature passed new laws in HB 412 and 413 that regulate the placement of signage on or along the public rights of way for our roadways. HB 412 deals with the signs placed or erected on private property along roadways (within 660 feet) where a off premise sign permit has not been acquired and HB 413 deals specifically with what are commonly referred to as “bandit signs”. These laws went into effect on September 1st, 2007


These statutes now add a civil penalty, injunctions, and lawsuit remedies to cease usage and/or placement of signs in these manners. Civil penalties for illegal use or placement of bandit signs may carry a civil penalty from \$500.00 to \$1,000.00 per sign per day.

Our community has a serious desire to eliminate the visual clutter along our roadways. These areas have far too long been used a free advertising area, requiring our tax dollars to clear roadways and ditches and utility companies and volunteers to remove signs on utility poles.

This office has begun an initiative with Harris County Attorney Michael Stafford’s Office to identify and report these violations for notice of a civil suit where necessary to cease these practices. Those businesses that are currently employing the use of such signage practices need to research legal advertising mediums as a standard cost of doing business.

Should you have questions regarding these statutes, please refer to the Texas Transportation Code Section 391.031 and 392.0325.

Sincerely,


Constable Ron Hickman
Harris County Precinct 4

Bandit Sign Violations

(Person Placing Sign on Public Right of Way)

Criminal Penalties

§ 393.001. DEFINITION. In this chapter, "sign" means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, or other thing designed, intended, or used to advertise or inform.

Acts 1995, 74th Leg., ch. 165, § 1, eff. Sept. 1, 1995.

§ 393.002. SIGN PLACEMENT PROHIBITED. Except as provided by Section 393.0025, a person may not place a sign on the right-of-way of a public road unless the placement is authorized by state law.

Acts 1995, 74th Leg., ch. 165, § 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1393, § 1, eff. Sept. 1, 1997.

§ 393.005. PLACEMENT OF UNAUTHORIZED SIGN; PENALTY. (a) A person commits an offense if the person places a sign in violation of Section 393.002.

(b) An offense under this section is a Class C misdemeanor.

§12.23. **Class C misdemeanor.**

An individual adjudged guilty of a Class C misdemeanor shall be punished by a fine not to exceed \$500.

Acts 1995, 74th Leg., ch. 165, § 1, eff. Sept. 1, 1995.

§ 393.006. DEFENSE. It is a defense to prosecution under Section 393.005 that:

- (1) the defendant was a candidate for an elective public office; and
- (2) the sign is placed:
 - (A) by a person other than the defendant;
 - (B) without the knowledge of the defendant; and
 - (C) in connection with a campaign for an elective public office by the defendant.

Acts 1995, 74th Leg., ch. 165, § 1, eff. Sept. 1, 1995.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 17, 2007

TO: Honorable Tom Craddick, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB413 by Eissler (Relating to erecting certain signs on certain rights-of-way; providing penalties.), As Passed 2nd House

No significant fiscal implication to the State is anticipated.

The bill would amend the Transportation Code, creating a civil penalty of not less than \$500 or more than \$1,000 for each violation of Subchapter B, Chapter 392, Signs on State Highway Right-of-Way. The attorney general or a district or county attorney would be authorized to sue to collect the penalty. Amounts collected by the attorney general would be deposited to the state highway fund and amounts collected by the district or county attorney would be deposited to the county road and bridge fund.

Chapter 393, Transportation Code, would be amended, authorizing a sheriff, constable, or other trained volunteer to discard a sign of less than \$25 in value that is posted in violation of the code without having to give notice to the owner of the sign. In addition, Chapter 393 would be amended by creating a civil penalty of not less than \$500 or more than \$1,000 for each violation (*each sign/each day*) of the chapter (Outdoor Signs on Public Rights-of-Way). A district attorney, county attorney, or municipal attorney would be authorized to sue to collect the penalty. Penalties collected by a municipality would be deposited to the municipality's general fund; those collected by a district or county attorney would be deposited to the county road and bridge fund.

The bill would amend the Government Code and the Code of Criminal Procedure to authorize concurrent jurisdiction for a justice court and a municipal court in cases that arise under an ordinance of the municipality's extraterritorial jurisdiction.

It is anticipated that any costs incurred in implementing provisions of the bill would be absorbed using existing resources. It is anticipated that revenue generated through civil suits would not be significant in proportion to the funds' totals.

Bandit Sign Violations

(Civil Penalties)

H.B. No. 413

AN ACT

Relating to erecting certain signs on certain rights-of-way; providing penalties.

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

SECTION 1. Section 392.0325, Transportation Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) This subchapter does not apply to a temporary directional sign or kiosk erected by a political subdivision as part of a program approved by the department and administered by the political subdivision on a highway within the boundaries of the political subdivision.

(d) 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. Subchapter B, Chapter 392, Transportation Code, is amended by adding Section 392.0355 to read as follows:

Sec. 392.0355. CIVIL PENALTY. (a) 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. 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 may sue to collect the penalty.

(b) The amount of the civil penalty is not less than \$500 or more than \$1,000 for each violation (each sign), depending on the seriousness of the violation and whether the

person has previously violated this chapter. A separate penalty may be collected for each day a continuing violation occurs.

(c) A penalty collected under this section shall 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. Section 392.036, Transportation Code, is amended to read as follows:

Sec. 392.036. DEFENSE. It is a defense to prosecution or suit for a violation under this chapter if [~~Section 392.032 that~~] at the time of the alleged violation[=

[~~(1)~~] the defendant is a candidate for elective public office[;] and

[~~(2)~~] the sign is placed:

(1) [~~(A)~~] by a person other than the defendant;

[~~(B) without the knowledge of the defendant;~~] and

(2) [~~(C)~~] in connection with a campaign for an elective public office by the defendant.

SECTION 4. Section 393.002, Transportation Code, is amended to read as follows:

Sec. 393.002. SIGN PLACEMENT PROHIBITED. Except as provided by Sections [~~Section~~] 393.0025 and 393.0026, a person may not place a sign on the right-of-way of a public road unless the placement of the sign is authorized by state law.

SECTION 5. Chapter 393, Transportation Code, is amended by adding Section 393.0026 to read as follows:

Sec. 393.0026. EXCEPTION. (a) This chapter does not apply to a temporary directional sign or kiosk erected by a political subdivision as part of a program approved by the

department and administered by the political subdivision on a highway within the boundaries of the political subdivision.

(b) 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. Section 393.003(a), Transportation Code, is amended to read as follows:

(a) A sheriff, ~~[or]~~ constable, or other trained volunteer authorized by the commissioner's court of a county may confiscate a sign placed in violation of Section 393.002.

SECTION 7. Section 393.004, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) The sheriff, constable, or other trained volunteer authorized by the commissioner's court may discard a sign of less than \$25 in value without giving the notice required by Section 393.003.

SECTION 8. Section 393.005(a), Transportation Code, is amended to read as follows:

(a) A person commits an offense if the person places a sign in violation of this chapter ~~[Section 393.002]~~.

SECTION 9. Section 393.006, Transportation Code, is amended to read as follows:

Sec. 393.006. DEFENSE. It is a defense to prosecution or suit under this chapter ~~[Section 393.005]~~ that[:

[~~(1)~~] the defendant was a candidate for an elective public office[;] and

[~~(2)~~] the sign is placed:

(1) [~~(A)~~] by a person other than the defendant;

[~~(B) without the knowledge of the defendant;~~] and

(2) [(C)] in connection with a campaign for an elective public office by the defendant.

SECTION 10. Chapter 393, Transportation Code, is amended by adding Section 393.007 to read as follows:

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

(b) The amount of the civil 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. A separate penalty may be collected for each day a continuing violation occurs.

(c) A penalty collected under this section shall be deposited to the credit of the general fund of the municipality in which the violation occurred if collected by a municipal attorney, or 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. Section 26.045, Government Code, is amended by amending Subsection (c) and adding Subsection (f) to read as follows:

(c) Except as provided by Subsections [~~Subsection~~] (d) and (f), a county court that is in a county with a criminal district court does not have any criminal jurisdiction.

(f) 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, Local Government Code.

SECTION 12. Section 27.031, Government Code, is amended by adding Subsection (c) to read as follows:

(c) 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. Article 4.11, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) A justice court has concurrent jurisdiction with a municipal court in criminal 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. (a) The changes in law made by this Act to Chapters 392 and 393, Transportation Code, apply only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

(c) SECTION 15. **This Act takes effect September 1, 2007.**

AN ACT

Relating to erecting or maintaining certain outdoor signs or advertising; creating an offense; providing penalties.

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

SECTION 1. Section 391.031(a), Transportation Code, is amended to read as follows:

(a) A person commits an offense if the person [~~wilfully~~] erects or maintains outdoor advertising, or allows outdoor advertising to be erected or maintained on property owned by the person:

(1) within 660 feet of the nearest edge of a right-of-way if the advertising is visible from the main-traveled way of the **interstate or primary system**; or

(2) outside an urban area if the advertising is located more than 660 feet from the nearest edge of a right-of-way, is visible from the main-traveled way of the **interstate or primary system**, and is erected for the purpose of having its message seen from the main-traveled way of the **interstate or primary system**.

SECTION 2. The heading to Section 391.034, Transportation Code, is amended to read as follows:

Sec. 391.034. [~~REMOVAL—OF~~] NUISANCE OUTDOOR ADVERTISING;
INJUNCTION [~~BY COMMISSION~~].

SECTION 3. Sections 391.035(a) and (c), Transportation Code, are amended to read as follows:

(a) In lieu of [~~addition to~~] being subject to a criminal penalty [~~or injunctive action~~], a person who intentionally violates this subchapter or Subchapter C may be [is] liable to the state for a civil penalty. The attorney general or a district or county attorney of the county in which the violation is alleged to have occurred may sue to collect the penalty.

(c) A penalty collected under this section shall 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 4. Section 394.003, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) This chapter does not apply to a temporary directional sign or kiosk erected by a political subdivision as part of a program approved by the department and administered by the political subdivision on a highway within the boundaries of the political subdivision.

SECTION 5. The heading to Section 394.021, Transportation Code, is amended to read as follows:

Sec. 394.021. ERECTING OFF-PREMISE SIGN WITHOUT PERMIT; OFFENSE.

SECTION 6. Section 394.021, Transportation Code, is amended by amending Subsection (a) and adding Subsections (c), (d), and (e) to read as follows:

(a) A person commits an offense if the person erects [~~may not erect~~] an off-premise sign unless the person first obtains a permit under this subchapter from the commission.

(c) A person commits an offense if the person:

(1) allows an off-premise sign to be erected on property owned by the person; and

(2) knows or should have known that the sign was erected in violation of this chapter.

(d) An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Each day of the proscribed conduct is a separate offense.

(e) It is a defense to prosecution for an offense under this chapter that the person removed the unauthorized sign not later than the 45th day after the date the person received a citation for the offense. If the court is satisfied with the evidence produced by the person to establish a defense under this subsection, the court shall dismiss the charge.

SECTION 7. Section 394.081, Transportation Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) In lieu of being subject to a criminal penalty, a [A] person who intentionally violates this chapter or a rule adopted by the commission under this chapter may be [is] liable [~~to the state~~] for a civil penalty of not less than \$150 or more than \$1,000 for each violation, depending on the seriousness of the violation and whether the person has previously violated this chapter. Each day a violation continues is a separate violation.

(c) A civil penalty collected under this section shall 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 if collected by a district or county attorney.

(d) Before a suit may be brought against a property owner for a violation of Section 394.021(c), the attorney general or the district or county attorney for the county in which the violation is alleged to have occurred shall give the person charged with the violation a written notice that:

(1) describes the violation and specific location of the sign found to be in violation;

(2) states the amount of the proposed penalty for the violation; and

(3) gives the owner 45 days from receipt of the notice to remove the sign and cure the violation to avoid the penalty unless the person was found guilty or liable by a court for violating this chapter within the preceding six months.

SECTION 8. Subchapter E, Chapter 394, Transportation Code, is amended by adding Section 394.087 to read as follows:

Sec. 394.087. INJUNCTION. (a) A sign that is erected in violation of this chapter is a public nuisance.

(b) On written notice by certified mail from the department or the county, an owner of a sign that is a public nuisance under Subsection (a), or the owner of the property on which the sign is located, shall remove the sign. If the sign is not removed within 45 days of the date of the notice, the department may direct the attorney general to apply for an injunction to require the removal of the sign or a district or county attorney may apply for an injunction to require the removal of the sign.

(c) The state or county is entitled to recover from the owner of a sign, or the owner of the property from which a sign is removed, under an action brought under Subsection (b) all administrative and legal costs and expenses incurred to remove the sign, including court costs and reasonable attorney's fees.

SECTION 9. (a) The change in law made by this Act to Section 391.031, Transportation Code, applies only to an offense committed on or after the effective date of this Act. For

purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 10. This Act takes effect September 1, 2007.

CHAPTER 391. HIGHWAY BEAUTIFICATION ON
INTERSTATE AND PRIMARY SYSTEMS
SUBCHAPTER A. GENERAL PROVISIONS

§391.001. Definitions.

(5) "**Interstate system**" means that portion of the national system of interstate and defense highways that is located in this state and is designated officially by the commission and approved under Title 23, United States Code.

(11) "**Primary system**" means that portion of connected main highways located in this state that is designated officially by the commission and approved under Title 23, United States Code..