

By: Morrison

H.B. No. 3855

A BILL TO BE ENTITLED

AN ACT

relating to erecting or maintaining certain outdoor signs regulated by the Texas Department of Transportation.

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

SECTION 1. Section 201.931(2), Transportation Code, is amended to read as follows:

(2) "License" means a license or permit for a commercial sign ~~[outdoor advertising]~~ issued under Chapter 391 or for an off-premise sign issued under Chapter 394.

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.

SECTION 3. Section 391.002(b), Transportation Code, is amended to read as follows:

(b) The legislature declares that it is necessary to regulate the erection and maintenance of commercial signs ~~[outdoor advertising]~~ and the establishment, operation, and maintenance of

junkyards in areas adjacent to the interstate and primary systems
to:

(1) promote the health, safety, welfare, morals,
convenience, and enjoyment of the traveling public; and

(2) protect the public investment in the interstate
and primary systems.

SECTION 4. Section 391.006(a), Transportation Code, is
amended to read as follows:

(a) The commission by rule shall establish procedures for
accepting and resolving written complaints related to signs that
are subject to [~~outdoor advertising under~~] this chapter. The rules
must include:

(1) a process to make information available describing
the department's procedures for complaint investigation and
resolution, including making information about the procedures
available on the department's Internet website;

(2) a system to prioritize complaints so that the most
serious complaints receive attention before less serious
complaints; and

(3) a procedure for compiling and reporting detailed
annual statistics about complaints.

SECTION 5. The heading to Subchapter B, Chapter 391,
Transportation Code, is amended to read as follows:

SUBCHAPTER B. REGULATION OF COMMERCIAL SIGNS [~~OUTDOOR ADVERTISING~~]
GENERALLY

SECTION 6. The heading to Section 391.031, Transportation
Code, is amended to read as follows:

1 Sec. 391.031. UNLAWFUL COMMERCIAL SIGNS ~~[OUTDOOR~~
2 ~~ADVERTISING]~~; OFFENSE.

3 SECTION 7. Section 391.031, Transportation Code, is amended
4 by amending Subsection (a) and adding Subsection (b-1) to read as
5 follows:

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

10 (1) within 660 feet of the nearest edge of a
11 right-of-way if the sign ~~[advertising]~~ is visible from the
12 main-traveled way of the interstate or primary system; or

13 (2) outside an urban area if the sign ~~[advertising]~~ is
14 located more than 660 feet from the nearest edge of a right-of-way,
15 is visible from the main-traveled way of the interstate or primary
16 system, and is erected for the purpose of having the sign ~~[its~~
17 ~~message]~~ seen from the main-traveled way of the interstate or
18 primary system.

19 (b-1) A person does not commit an offense under this section
20 if the person:

21 (1) erects or maintains a commercial sign located
22 within 660 feet of the nearest edge of a right-of-way in an area in
23 which the land use:

24 (A) is designated industrial or commercial under
25 authority of law; or

26 (B) is not designated industrial or commercial
27 under authority of law, but the land use is consistent with an area

1 designated industrial or commercial; and

2 (2) holds a permit issued by the department for the
3 sign.

4 SECTION 8. Section 391.032, Transportation Code, is amended
5 to read as follows:

6 Sec. 391.032. REGULATION OF COMMERCIAL SIGNS [~~OUTDOOR~~
7 ~~ADVERTISING~~] IN INDUSTRIAL OR COMMERCIAL AREA. (a) The commission
8 by rule may regulate the orderly and effective display of
9 commercial signs [~~outdoor advertising~~] consistent with the
10 customary use of commercial signs [~~outdoor advertising~~] in this
11 state in an area in which the land use:

12 (1) is designated industrial or commercial under
13 authority of law; and

14 (2) is not so designated but in which the land use is
15 consistent with areas designated industrial or commercial in the
16 manner provided by Section 391.031(c).

17 (b) The commission may agree with the secretary of the
18 United States Department of Transportation to regulate the orderly
19 and effective display of commercial signs [~~outdoor advertising~~] in
20 an area described by Subsection (a).

21 SECTION 9. Section 391.033, Transportation Code, is amended
22 to read as follows:

23 Sec. 391.033. ACQUISITION OF COMMERCIAL SIGNS [~~OUTDOOR~~
24 ~~ADVERTISING~~] BY COMMISSION. (a) The commission may purchase or
25 acquire by eminent domain a commercial sign [~~outdoor advertising~~]
26 that is lawfully in existence on a highway in the interstate or
27 primary system.

(b) If an acquisition is by eminent domain, the commission shall pay just compensation to:

(1) the owner for the right, title, leasehold, and interest in the commercial sign [~~outdoor advertising~~]; and

(2) the owner or, if appropriate, the lessee of the real property on which the commercial sign [~~outdoor advertising~~] is located for the right to erect and maintain the sign [~~outdoor advertising~~].

SECTION 10. Section 391.034, Transportation Code, is amended to read as follows:

Sec. 391.034. NUISANCE [~~OUTDOOR ADVERTISING~~]; INJUNCTION.

(a) A commercial sign [~~Outdoor advertising~~] that is erected or maintained in violation of this chapter:

(1) endangers the health, safety, welfare, morals, [~~convenience~~], and enjoyment of the traveling public and the protection of the public investment in the interstate and primary highway systems; and

(2) is a public nuisance.

(b) On written notice by certified mail from the department, an owner of a commercial sign [~~outdoor advertising~~] that is a public nuisance under Subsection (a) shall remove the sign [~~advertising~~]. If the owner does not remove the sign [~~outdoor advertising~~] within 45 days of the date of the notice, the department may direct the attorney general to apply for an injunction to:

(1) prohibit the owner from maintaining the sign [~~advertising~~]; and

(2) require the removal of the sign [~~advertising~~].

(c) The state is entitled to recover from the owner of a commercial sign [~~outdoor advertising~~] removed under an action brought under Subsection (b) all administrative and legal costs and expenses incurred to remove the sign [~~advertising~~], including court costs and reasonable attorney's fees.

SECTION 11. Section 391.036, Transportation Code, is amended to read as follows:

Sec. 391.036. SCOPE OF COMMISSION RESPONSIBILITY. The commission's responsibility for the regulation of commercial signs [~~outdoor advertising~~] is only on highways on the interstate and primary systems, including interstate highways, state highways, and farm-to-market roads [~~a federal-aid primary highway, interstate highway, state highway, or farm-to-market road~~].

SECTION 12. The heading to Subchapter C, Chapter 391, Transportation Code, is amended to read as follows:

SUBCHAPTER C. LICENSE AND PERMIT FOR COMMERCIAL SIGNS [~~OUTDOOR ADVERTISING~~]

SECTION 13. The heading to Section 391.061, Transportation Code, is amended to read as follows:

Sec. 391.061. [~~OUTDOOR ADVERTISING WITHOUT~~] LICENSE FOR COMMERCIAL SIGNS; OFFENSE.

SECTION 14. Section 391.061(a), Transportation Code, is amended to read as follows:

(a) A person commits an offense if the person wilfully erects or maintains a commercial sign [~~outdoor advertising~~] in an area described by Section 391.031(a) without a license under this subchapter.

SECTION 15. Section 391.063, Transportation Code, is amended to read as follows:

Sec. 391.063. LICENSE FEE. The commission may set the amount of a license fee according to a scale graduated by the number of commercial signs owned by the license applicant that are regulated under this chapter ~~[units of outdoor advertising]~~ and the number of off-premise signs owned by the license applicant and regulated under Chapter 394 ~~[owned by a license applicant]~~.

SECTION 16. Section 391.064(a), Transportation Code, is amended to read as follows:

(a) The surety bond required of an applicant for a license under Section 391.062 must be:

(1) in the amount of \$2,500 for each county in the state in which the person erects or maintains a commercial sign ~~[outdoor advertising]~~; and

(2) payable to the commission for reimbursement for removal costs of a commercial sign ~~[outdoor advertising]~~ that the license holder unlawfully erects or maintains.

SECTION 17. Section 391.065, Transportation Code, is amended to read as follows:

Sec. 391.065. RULES; FORMS. (a) The commission may adopt rules to implement this subchapter and Subchapters A and B ~~[Sections 391.036, 391.061(a), 391.062, 391.063, 391.064, and 391.066]~~.

(b) For the efficient management and administration of this chapter and to reduce the number of employees required to enforce this chapter, the commission shall adopt rules for issuing

1 standardized forms that are for submission by license holders and
2 applicants and that provide for an accurate showing of the number,
3 location, or other information required by the commission for each
4 license holder's or applicant's commercial signs under this chapter
5 ~~[outdoor advertising]~~ or off-premise signs under Chapter 394.

6 (c) The commission may not adopt a rule under this chapter
7 that restricts competitive bidding or advertising by the holder of
8 a license issued under this chapter other than a rule to prohibit
9 false, misleading, or deceptive practices. The limitation provided
10 by this section applies only to rules relating to the occupation of
11 erecting or maintaining commercial signs ~~[outdoor advertiser]~~ and
12 does not affect the commission's power to regulate the orderly and
13 effective display of commercial signs ~~[outdoor advertising]~~ under
14 this chapter. A rule to prohibit false, misleading, or deceptive
15 practices may not:

16 (1) restrict the use of:

17 (A) any legal medium for an advertisement;

18 (B) the license holder's advertisement under a
19 trade name; or

20 (C) the license holder's personal appearance or
21 voice in an advertisement, if the license holder is an individual;
22 or

23 (2) relate to the size or duration of an advertisement
24 by the license holder.

25 SECTION 18. Section 391.0661, Transportation Code, is
26 amended to read as follows:

27 Sec. 391.0661. APPLICABILITY OF LICENSE. In addition to

1 authorizing a person to erect or maintain a commercial sign under
2 this chapter [~~outdoor advertising~~], a license issued under this
3 chapter authorizes a person to erect or maintain an off-premise
4 sign under Chapter 394.

5 SECTION 19. The heading to Section 391.067, Transportation
6 Code, is amended to read as follows:

7 Sec. 391.067. [~~OUTDOOR ADVERTISING WITHOUT~~] PERMIT FOR
8 COMMERCIAL SIGNS; OFFENSE.

9 SECTION 20. Section 391.067(a), Transportation Code, is
10 amended to read as follows:

11 (a) A person who has a license issued under this subchapter
12 commits an offense if the person wilfully erects or maintains a
13 commercial sign [~~outdoor advertising~~] for which a license is
14 required under Section 391.061 unless that person also has a permit
15 for the sign [~~outdoor advertising~~].

16 SECTION 21. Sections 391.068(a), (c), (d), and (e),
17 Transportation Code, are amended to read as follows:

18 (a) Except as provided by Subsection (d), the commission
19 shall issue a permit to a person with a license issued under this
20 subchapter:

21 (1) whose license application complies with rules
22 adopted under Section 391.065; and

23 (2) whose commercial sign [~~outdoor advertising~~],
24 whether owned or leased, if erected would comply with this chapter
25 and rules adopted under Section 391.032(a).

26 (c) A permit issued to regulate the erection and maintenance
27 of a commercial sign [~~outdoor advertising~~] by a political

subdivision of this state within that subdivision's jurisdiction shall be accepted in lieu of the permit required by this subchapter if the erection and maintenance of the sign [~~outdoor advertising~~] complies with this subchapter and rules adopted under Section 391.032(a).

(d) In addition to the requirements of Subsection (a), if the commercial sign [~~outdoor advertising~~] is located within the jurisdiction of a municipality with a population of more than 1.9 million that is exercising its authority to regulate commercial signs [~~outdoor advertising~~], the commission may issue a permit under this section only if the municipality:

(1) has not acted to prohibit new commercial signs [~~outdoor advertising~~] within the jurisdiction of the municipality; and

(2) has issued a permit authorizing the commercial sign [~~outdoor advertising~~].

(e) Subsection (d) does not apply to the relocation of a commercial sign [~~outdoor advertising~~] to another location if the construction, reconstruction, or expansion of a highway requires the removal of the sign [~~outdoor advertising~~].

SECTION 22. Section 391.070(a), Transportation Code, is amended to read as follows:

(a) The combined license and permit fees under this subchapter may not exceed \$10 for a commercial sign [~~outdoor advertising~~] erected and maintained by a nonprofit organization in a municipality or a municipality's extraterritorial jurisdiction if the sign [~~advertising~~] relates to or promotes only the

1 municipality or a political subdivision whose jurisdiction is
2 wholly or partly concurrent with the municipality.

3 SECTION 23. The heading to Subchapter H, Chapter 391,
4 Transportation Code, is amended to read as follows:

5 SUBCHAPTER H. REGULATION OF COMMERCIAL SIGNS [~~OUTDOOR ADVERTISING~~]
6 ON STATE HIGHWAY 288

7 SECTION 24. Section 391.211(a), Transportation Code, is
8 amended to read as follows:

9 (a) This subchapter applies only to a commercial sign
10 [~~outdoor advertising~~] that is erected on or after September 1,
11 1993.

12 SECTION 25. Section 391.212, Transportation Code, is
13 amended to read as follows:

14 Sec. 391.212. REGULATION OF CERTAIN COMMERCIAL SIGNS
15 [~~OUTDOOR ADVERTISING~~]. The department may license or otherwise
16 regulate the erection of a commercial sign [~~outdoor advertising~~]
17 that is located within 1,000 feet of the center line of that part of
18 State Highway 288 in the unincorporated area of a county.

19 SECTION 26. The heading to Section 391.252, Transportation
20 Code, is amended to read as follows:

21 Sec. 391.252. [~~OFF-PREMISE SIGNS~~] PROHIBITED COMMERCIAL
22 SIGNS.

23 SECTION 27. Sections 391.252(a) and (c), Transportation
24 Code, are amended to read as follows:

25 (a) A person may not erect a commercial [~~an off-premise~~]
26 sign that is adjacent to and visible from:

27 (1) U.S. Highway 290 between the western city limits

1 of the city of Austin and the eastern city limits of the city of
2 Fredericksburg;

3 (2) State Highway 317 between the northern city limits
4 of the city of Belton to the southern city limits of the city of
5 Valley Mills;

6 (3) State Highway 16 between the northern city limits
7 of the city of Kerrville and Interstate Highway 20;

8 (4) U.S. Highway 77 between State Highway 186 and
9 State Highway 44;

10 (5) U.S. Highway 281 between:

11 (A) State Highway 186 and Interstate Highway 37,
12 exclusive of the segment of U.S. Highway 281 located in the city
13 limits of Three Rivers; and

14 (B) the southern boundary line of Comal County
15 and State Highway 306;

16 (6) State Highway 17 between State Highway 118 and
17 U.S. Highway 90;

18 (7) State Highway 67 between U.S. Highway 90 and
19 Farm-to-Market Road 170;

20 (8) Farm-to-Market Road 170 between State Highway 67
21 and State Highway 118;

22 (9) State Highway 118 between Farm-to-Market Road 170
23 and State Highway 17;

24 (10) State Highway 105 between the western city limits
25 of the city of Sour Lake to the eastern city limits of the city of
26 Cleveland;

27 (11) State Highway 73 between the eastern city limits

1 of the city of Winnie to the western city limits of the city of Port
2 Arthur;

3 (12) State Highway 21 between the southern city limits
4 of the city of College Station and U.S. Highway 290;

5 (13) a highway located in:

6 (A) the Sabine National Forest;

7 (B) the Davy Crockett National Forest; or

8 (C) the Sam Houston National Forest;

9 (14) Segments 1 through 4 of State Highway 130;

10 (15) a highway in Bandera County that is part of the
11 state highway system;

12 (16) Farm-to-Market Road 3238 beginning at State
13 Highway 71 and any extension of that road through Hays and Blanco
14 Counties;

15 (17) Farm-to-Market Road 2978 between Farm-to-Market
16 Road 1488 and the boundary line between Harris and Montgomery
17 Counties;

18 (18) U.S. Highway 90 between the western city limits
19 of the city of San Antonio and the eastern city limits of the city of
20 Hondo; or

21 (19) the following highways in Austin County:

22 (A) State Highway 159;

23 (B) Farm-to-Market Road 331;

24 (C) Farm-to-Market Road 529;

25 (D) Farm-to-Market Road 1094; and

26 (E) Farm-to-Market Road 2502.

27 (c) This section does not prohibit a person from erecting a

1 commercial [~~an off-premise~~] sign permitted by other law, rule, or
2 regulation that is adjacent to and visible from a roadway not listed
3 in this section and is visible from a roadway listed under this
4 section if the intended purpose of the sign is to be visible only
5 from the roadway not listed under this section.

6 SECTION 28. Section 391.253, Transportation Code, is
7 amended to read as follows:

8 Sec. 391.253. REERECTION, RECONSTRUCTION, REPAIR, OR
9 REBUILDING OF COMMERCIAL [~~OFF-PREMISE~~] SIGNS. (a) A commercial
10 [~~An off-premise~~] sign that is adjacent to and visible from a highway
11 listed in Section 391.252 that is blown down, destroyed, taken
12 down, or removed for a purpose other than maintenance or to change a
13 letter, symbol, or other matter on the sign may be reerected,
14 reconstructed, repaired, or rebuilt only if the cost of reerecting,
15 reconstructing, repairing, or rebuilding the sign is not more than
16 60 percent of the cost of erecting a new commercial [~~off-premise~~]
17 sign of the same size, type, and construction at the same location.

18 (b) The department shall permit the relocation of a
19 commercial [~~an off-premise~~] sign adjacent to and visible from a
20 highway listed in Section 391.252 to another location that is
21 adjacent to and visible from the same highway if:

22 (1) the construction, reconstruction, or expansion of
23 a highway requires the removal of the sign;

24 (2) the sign is not modified to increase the
25 above-grade height, the area of each sign face, the dimensions of
26 the sign face, the number of sign faces, or the illumination of the
27 sign; and

1 (3) the department identifies an alternate site for
2 the relocation of the sign adjacent to and visible from the highway
3 listed in Section 391.252.

4 (c) For purposes of this section, the department shall
5 specify, within 30 days of receipt of a request for a relocation
6 site, a minimum of three alternate sites that meet permitting
7 requirements for a commercial [~~an off-premise~~] sign to be
8 reerected, reconstructed, repaired, or rebuilt adjacent to and
9 visible from a highway listed in Section 391.252.

10 (d) The owner of a commercial [~~an off-premise~~] sign that is
11 reerected, reconstructed, repaired, or rebuilt according to
12 Subsection (a) or relocated according to Subsection (b) may alter
13 the materials and design of the sign to reduce the number of upright
14 supports, subject to other restrictions in this section, in a
15 manner that meets or exceeds the pre-existing structural
16 specifications of the sign.

17 SECTION 29. Section 391.254(d), Transportation Code, is
18 amended to read as follows:

19 (d) Before a suit may be brought for a violation of Section
20 391.252, the attorney general, the district or county attorney for
21 the county, or the municipal attorney of the municipality in which
22 the violation is alleged to have occurred shall give the owner of
23 the commercial [~~off-premise~~] sign a written notice that:

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

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

(3) gives the owner 30 days from receipt to remove the sign and cure the violation to avoid the penalty unless the sign owner was given notice and opportunity to cure a similar violation within the preceding 12 months.

SECTION 30. Section 394.0203, Transportation Code, is amended to read as follows:

Sec. 394.0203. LICENSE FEE. The commission may set the amount of a license fee according to a scale graduated by the number of off-premise signs owned by the license applicant regulated under this chapter and commercial signs owned by the applicant regulated ~~[units of outdoor advertising]~~ under Chapter 391 ~~[owned by a license applicant]~~.

SECTION 31. Section 394.0205(b), Transportation Code, is amended to read as follows:

(b) For the efficient management and administration of this chapter and to reduce the number of employees required to enforce this chapter, the commission shall adopt rules for issuing standardized forms that are for submission by license holders and applicants and that provide for an accurate showing of the number, location, or other information required by the commission for each license holder's or applicant's off-premise signs under this chapter or commercial signs ~~[outdoor advertising]~~ under Chapter 391.

SECTION 32. Section 394.0207, Transportation Code, is amended to read as follows:

Sec. 394.0207. APPLICABILITY OF LICENSE. In addition to authorizing a person to erect or maintain an off-premise sign, a

1 license issued under this chapter authorizes a person to erect or
2 maintain a commercial sign [~~outdoor advertising~~] under Chapter 391.

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

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

11 SECTION 34. This Act takes effect immediately if it
12 receives a vote of two-thirds of all the members elected to each
13 house, as provided by Section 39, Article III, Texas Constitution.
14 If this Act does not receive the vote necessary for immediate
15 effect, this Act takes effect September 1, 2017.