

TRANSPORTATION CODE
SUBTITLE H. HIGHWAY BEAUTIFICATION
CHAPTER 391. HIGHWAY BEAUTIFICATION ON INTERSTATE AND PRIMARY
SYSTEMS AND CERTAIN ROADS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 391.001. DEFINITIONS. In this chapter:

(1) "Automobile graveyard" means an establishment that is maintained, used, or operated for storing, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(2) "Eligible highway" means a highway along which an information logo sign may be located as determined by the commission under Section 391.092(d).

(3) Repealed by Acts 2007, 80th Leg., R.S., Ch. 935, Sec. 4, eff. June 15, 2007.

(4) "Information logo sign" means a specific information logo sign or a major shopping area guide sign.

(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.

(6) "Junk" means:

(A) old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, or waste;

(B) junked, dismantled, or wrecked automobiles or automobile parts; or

(C) iron, steel, and other old or scrap ferrous or nonferrous material.

(7) "Junkyard" means:

(A) an automobile graveyard;

(B) an establishment maintained, used, or operated for storing, buying, or selling junk or processing scrap metal; or

(C) a garbage dump or sanitary fill.

(8) Repealed by Acts 2007, 80th Leg., R.S., Ch. 935, Sec. 4, eff. June 15, 2007.

(9) "Major shopping area guide sign" means a rectangular guide sign panel imprinted with the name of a major shopping area eligible to have its name displayed as determined by the commission under Section 391.0935 and containing directional information to the major shopping area.

(10) "Outdoor advertising" means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing designed, intended, or used to advertise or inform if any part of the advertising or information content is visible from the main-traveled way of the interstate or primary system. The term does not include a sign or marker giving information about the location of an underground electric transmission line, telegraph or telephone property or facility, pipeline, public sewer, or waterline.

(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.

(12) "Specific information logo sign" means a rectangular sign imprinted with the words "GAS," "FOOD," "LODGING," "CAMPING," or "24 HOUR Rx," or with a combination of those words, and the specific brand names of commercial establishments offering those services.

(13) "Urban area" means an area defined by the commission in cooperation with local officials, subject to approval by the secretary of the United States Department of Transportation, that as a minimum includes an urban place as designated by the United States Bureau of the Census having a population of 5,000 or more and not located within an urbanized area.

(14) "Urbanized area" means an area defined by the commission in cooperation with local officials, subject to approval by the secretary of the United States Department of Transportation, that as a minimum includes an urbanized area as defined by the United States Bureau of the Census or that part of a multistate urbanized area located in this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.22(a), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 602, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 743, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 935, Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 935, Sec. 4, eff. June 15, 2007.

Sec. 391.002. PURPOSE. (a) Subject to the availability of state and federal funds, it is the intent of the legislature to comply with the Highway Beautification Act of 1965 (23 U.S.C. Sections 131, 136, 319) to the extent that it is implemented by the United States Congress. This chapter is conditioned on that law.

(b) The legislature declares that it is necessary to regulate the erection and maintenance of 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.

(c) The legislature considers that the following are means of protecting and providing for the general welfare of the traveling public and promoting the safety of citizens using the highways of this state:

- (1) landscaping and developing recreational areas;
- (2) acquiring interests in and improving strips of real property within, adjacent to, or within view of the interstate or primary system that are necessary for the restoration, preservation, and enhancement of scenic beauty; and
- (3) developing publicly owned and controlled rest and sanitary facilities in or adjacent to highway rights-of-way.

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

Sec. 391.003. VIOLATION OF RULE; OFFENSE. (a) A person commits an offense if the person wilfully violates a rule adopted by the commission under this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000.

(c) Each day of a rule violation is a separate offense.
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.004. TEXAS HIGHWAY BEAUTIFICATION FUND ACCOUNT. The Texas highway beautification fund account is an account in the general revenue fund. Money the commission receives under this chapter shall be deposited to the credit of the Texas highway beautification fund account. The commission shall use money in the Texas highway beautification fund account to administer this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.21, eff. Sept. 1, 1997.

Sec. 391.005. EXEMPTION. This chapter does not apply to a sign erected solely for and relating to a public election if the sign:

- (1) is on private property;
- (2) is erected not earlier than the 90th day before the date of the election and is removed not later than the 10th day after the election date;
- (3) is constructed of lightweight material; and
- (4) has a surface area not larger than 50 square feet.

Added by Acts 1997, 75th Leg., ch. 60, Sec. 1, eff. April 1, 1998.

SUBCHAPTER B. REGULATION OF OUTDOOR ADVERTISING GENERALLY

Sec. 391.031. UNLAWFUL OUTDOOR ADVERTISING; OFFENSE. (a) A person commits an offense if the person 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.

(b) A person does not commit an offense if the person erects or maintains in an area described by Subsection (a):

- (1) directional or other official outdoor advertising authorized by law, including advertising pertaining to a natural wonder or a scenic or historic attraction;
- (2) outdoor advertising for the sale or lease of the property on which it is located;

(3) outdoor advertising solely for activities conducted on the property on which it is located;

(4) outdoor advertising located within 660 feet of the nearest edge of a right-of-way in an area in which the land use:

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

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

(5) outdoor advertising that has as its purpose the protection of life and property; or

(6) outdoor advertising erected on or before October 22, 1965, that the commission, with the approval of the secretary of the United States Department of Transportation, determines to be a landmark of such historic or artistic significance that preservation is consistent with the purposes of this subchapter.

(c) The determination of whether an area is to be designated industrial or commercial must be made under criteria established by commission rule and according to actual land use.

(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.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 611, Sec. 1, eff. September 1, 2007.

Sec. 391.032. REGULATION OF OUTDOOR ADVERTISING IN INDUSTRIAL OR COMMERCIAL AREA. (a) The commission by rule may regulate the orderly and effective display of outdoor advertising consistent with the customary use of outdoor advertising in this state in an area in which the land use:

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

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

(b) The commission may agree with the secretary of the United States Department of Transportation to regulate the orderly and effective display of outdoor advertising in an area described by Subsection (a).

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

Sec. 391.033. ACQUISITION OF OUTDOOR ADVERTISING BY COMMISSION. (a) The commission may purchase or acquire by eminent domain outdoor advertising that is lawfully in existence on a highway in the interstate or 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 outdoor advertising; and

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

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

Sec. 391.034. NUISANCE OUTDOOR ADVERTISING; INJUNCTION.

(a) 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 outdoor advertising that is a public nuisance under Subsection (a) shall remove the advertising. If the owner does not remove the 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 advertising; and

(2) require the removal of the advertising.

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

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 611, Sec. 2, eff. September 1, 2007.

Sec. 391.035. CIVIL PENALTY. (a) In lieu of being subject to a criminal penalty, a person who intentionally violates this subchapter or Subchapter C may be 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.

(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. 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.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 442, Sec. 1, eff. June 18, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 611, Sec. 3, eff. September 1, 2007.

Sec. 391.036. SCOPE OF COMMISSION RESPONSIBILITY. The commission's responsibility for the regulation of outdoor advertising is only on a federal-aid primary highway, interstate highway, state highway, or farm-to-market road.

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

Sec. 391.037. OUTDOOR ADVERTISING BY CERTAIN COUNTY AGRICULTURAL FAIRS. Outdoor advertising that is an outdoor sign may include the logo or emblem of an entity if:

- (1) the sign is erected or maintained by:
 - (A) a nonprofit county agricultural fair;
 - (B) a public or private elementary or secondary school; or
 - (C) a public or private institution of higher education;
- (2) the sign is erected or maintained in a county with a population of 65,000 or less;
- (3) the entity sponsors or provides significant funding to the agricultural fair, school, or institution of higher education; and
- (4) the entity's logo or emblem occupies less than 25 percent of the area of the sign.

Added by Acts 2001, 77th Leg., ch. 860, Sec. 1, eff. June 14, 2001.

SUBCHAPTER C. LICENSE AND PERMIT FOR OUTDOOR ADVERTISING

Sec. 391.061. OUTDOOR ADVERTISING WITHOUT LICENSE; OFFENSE. (a) A person commits an offense if the person wilfully erects or maintains outdoor advertising in an area described by Section 391.031(a) without a license under this subchapter.

(b) 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.

(c) A person is not required to obtain a license to erect or maintain outdoor advertising described by Section 391.031(b)(2) or (3).

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

Sec. 391.062. ISSUANCE AND PERIOD OF LICENSE. (a) The commission shall issue a license to a person who:

- (1) files with the commission a completed application form within the time specified by the commission;
- (2) pays the appropriate license fee; and
- (3) files with the commission a surety bond.

(b) A license may be issued for one year or longer.

(c) At least 30 days before the date on which a person's license expires, the commission shall notify the person of the impending expiration. The notice must be in writing and sent to the person's last known address according to the records of the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 2.02, eff. Sept. 1, 1997.

Sec. 391.063. LICENSE FEE. The commission may set the amount of a license fee according to a scale graduated by the number of units of outdoor advertising owned by a license applicant.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.03, eff. Sept. 1, 1999.

Sec. 391.064. SURETY BOND. (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 outdoor advertising; and

(2) payable to the commission for reimbursement for removal costs of outdoor advertising that the license holder unlawfully erects or maintains.

(b) A person may not be required to provide more than \$10,000 in surety bonds.

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

Sec. 391.065. RULES; FORMS. (a) The commission may adopt rules to implement 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 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 outdoor advertising.

(c) The commission may not adopt a rule under this chapter that restricts competitive bidding or advertising by the holder of a license issued under this chapter other than a rule to prohibit false, misleading, or deceptive practices. The limitation provided by this section applies only to rules relating to the occupation of outdoor advertiser and does not affect the commission's power to regulate the orderly and effective display of outdoor advertising under this chapter. A rule to prohibit false, misleading, or deceptive practices may not:

(1) restrict the use of:

(A) any legal medium for an advertisement;

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

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

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

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 2.01, eff. Sept. 1, 1997.

Sec. 391.066. REVOCATION OR SUSPENSION OF LICENSE; APPEAL. (a) The commission may revoke or suspend a license issued under this subchapter or place on probation a license holder whose license is suspended if the license holder violates this chapter or a rule adopted under this chapter. If the suspension of the license is probated, the department may require the license holder to report regularly to the commission on any matter that is the basis of the probation.

(b) The judicial appeal of the revocation or suspension of a license must be initiated not later than the 15th day after the date of the commission's action.

(c) The commission may adopt rules for the reissuance of a revoked or suspended license and may set fees for the reissuance.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 2.03, eff. Sept. 1, 1997.

Sec. 391.067. OUTDOOR ADVERTISING WITHOUT PERMIT; OFFENSE. (a) A person who has a license issued under this subchapter commits an offense if the person wilfully erects or maintains outdoor advertising for which a license is required under Section 391.061 unless that person also has a permit for the outdoor advertising.

(b) 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.

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

Sec. 391.068. ISSUANCE OF PERMIT. (a) Except as provided by Subsection (d), the commission shall issue a permit to a person with a license issued under this subchapter:

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

(2) whose outdoor advertising, whether owned or leased, if erected would comply with this chapter and rules adopted

under Section 391.032(a).

(b) The commission by rule shall prescribe:

- (1) a reasonable fee for each permit;
- (2) the time for and manner of applying for a permit;

and

- (3) the form and content of the permit application.

(c) A permit issued to regulate the erection and maintenance of 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 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 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 outdoor advertising, the commission may issue a permit under this section only if the municipality:

(1) has not acted to prohibit new outdoor advertising within the jurisdiction of the municipality; and

(2) has issued a permit authorizing the outdoor advertising.

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

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1083, Sec. 1, eff. September 1, 2007.

Sec. 391.069. FEE AMOUNTS. The license and permit fees required by this subchapter may not exceed an amount reasonably necessary to cover the administrative costs incurred to enforce this chapter.

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

Sec. 391.070. EXCEPTIONS FOR CERTAIN NONPROFIT ORGANIZATIONS. (a) The combined license and permit fees under this subchapter may not exceed \$10 for outdoor advertising erected and maintained by a nonprofit organization in a municipality or a municipality's extraterritorial jurisdiction if the advertising relates to or promotes only the municipality or a political subdivision whose jurisdiction is wholly or partly concurrent with the municipality.

(b) The nonprofit organization is not required to file a bond as provided by Section 391.062(a)(3).

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

SUBCHAPTER D. SPECIFIC INFORMATION LOGO SIGNS

Sec. 391.091. ERECTION AND MAINTENANCE OF SIGNS. (a) The department shall contract with an individual, firm, group, or association in this state to erect and maintain specific information logo signs and major shopping area guide signs at appropriate locations along an eligible highway.

Text of subsection as added by Acts 2003, 78th Leg., ch. 713, Sec. 2

(b) The department may enter into a contract under this section by the method that the department determines is the most practical or most advantageous for the state, including competitive bids, competitive sealed proposals, and open market contracts.

Text of subsection as added by Acts 2003, 78th Leg., ch. 743, Sec. 2

(b) A contract under this section shall provide for:

(1) the assessment of fees to be paid to a contractor by a commercial establishment eligible for display on the specific information logo sign; and

(2) remittance to the department of at least 10 percent of the fees collected by the contractor.

(c) The department shall make a written award of a contract to the offeror whose proposal offers the best value for the state. In determining the best value for the state, the department may consider:

(1) revenue provided to the department by the contractor;

(2) fees to be charged eligible businesses or agricultural interests for inclusion on the signs;

(3) the quality of services offered;

(4) the contractor's financial resources and ability to perform; and

(5) any other factor the department considers relevant.

(d) To the extent of any conflict, this section prevails over any other law relating to the method of the purchasing of goods and services by the department.

(e) Subtitle D, Title 10, Government Code, and Chapter 223 do not apply to purchases of goods and services under this section. Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.22(a), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 713, Sec. 2, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 743, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 878, Sec. 7, eff. June 17, 2005.

Sec. 391.092. REGULATION OF SIGNS GENERALLY. (a) The commission shall:

(1) regulate the content, composition, placement, erection, and maintenance of specific information logo signs and supports on an eligible highway right-of-way; and

(2) adopt rules necessary to administer and enforce this subchapter.

(b) A specific information logo sign must:

(1) have a blue background with a white reflective border; and

(2) contain a principal legend equal in height to the directional legend.

(c) A specific information logo sign may not:

(1) contain a message, symbol, or trademark that resembles an official traffic-control device; or

(2) be divided into more than six panels that contain establishment names.

(d) The commission shall adopt rules, in accordance with applicable federal law, regulations, and guidelines, for determining eligible highways along which specific information logo signs, major shopping area guide signs, and tourist-oriented directional signs may be located. If permitted by federal law, regulations, or guidelines, the commission may establish different highway eligibility criteria for each type of sign.

(e) In this section, "tourist-oriented directional signs" has the meaning assigned by Section 391.099.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.22(b), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 602, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 935, Sec. 2, eff. June 15, 2007.

Sec. 391.093. ELIGIBILITY FOR DISPLAY ON SIGN. (a) A commercial establishment, to be eligible to have its name displayed on a specific information logo sign, must provide gas, food, lodging, camping, or pharmacy services and be located not more than three miles from an interchange on an eligible highway. If no service participating or willing to participate in the specific information logo sign program is located within three miles of an interchange, the commission may grant permits for commercial establishments located not farther than:

(1) six miles from the interchange;

(2) nine miles from the interchange if no service participating or willing to participate in the program is located within six miles from the interchange;

(3) 12 miles from the interchange if no service participating or willing to participate in the program is located within nine miles of the interchange; or

(4) 15 miles from the interchange if no service participating or willing to participate in the program is located within 12 miles of the interchange.

(b) An establishment that provides gas must operate continuously at least 12 hours each day and provide:

(1) vehicle services, including fuel, oil, and water;

(2) tire repair, unless the establishment is self-service;

(3) restroom facilities and drinking water; and

(4) a telephone for use by the public.

(c) An establishment that provides food must:

(1) have any required license or other evidence showing compliance with applicable public health or sanitation laws;

(2) operate continuously at least 10 hours a day and serve two meals a day; and

(3) provide:

(A) seating capacity for at least 16 persons;

(B) public restrooms; and

(C) a telephone for use by the public.

(d) An establishment that provides lodging must:

(1) have any required license or other evidence showing compliance with applicable laws regulating facilities providing lodging;

(2) provide at least 10 rooms; and

(3) provide a telephone for use by the public.

(e) An establishment that provides camping must:

(1) have any required license or other evidence showing compliance with applicable laws regulating camping facilities;

(2) provide adequate parking accommodations; and

(3) provide drinking water and modern sanitary facilities.

(f) The department shall by rule provide that an establishment that provides lodging is eligible to have its name displayed on a specific information logo sign if the establishment is:

(1) visible from an eligible highway or an interchange on an eligible highway; and

(2) located on a street that is not more than two turns off the access or frontage road to the eligible highway.

(g) An establishment is eligible to have two names displayed on the same specific information logo sign panel if the establishment provides:

(1) two food outlets in a shared space under common ownership; or

(2) gas and food outlets in a shared space under common ownership.

(h) An establishment that provides pharmacy services must operate continuously for 24 hours each day and provide pharmacy services for 24 hours each day.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.22(c), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 841, Sec. 1, eff. Aug. 30, 1999; Acts 2003, 78th Leg., ch. 602, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 156, Sec. 1, eff. September 1, 2005.

Sec. 391.0935. MAJOR SHOPPING AREA GUIDE SIGNS.

(a) Unless the commission determines there is a conflict with federal law, the commission shall establish a program that allows the erection and maintenance of major shopping area guide signs at appropriate locations along eligible highways.

(b) The commission shall adopt rules regulating the content, composition, placement, erection, and maintenance of major shopping area guide signs and supports within eligible highway rights-of-way. The commission by rule shall establish criteria for determining if a geographic area contains a sufficient concentration of retail establishments to be considered a major shopping area. A major shopping area is entitled to have its name displayed on major shopping area guide signs if it meets the criteria established by the commission and is located not farther than three miles from an interchange on an eligible highway.

(c) A major shopping area that has its name displayed on a major shopping area guide sign shall reimburse the commission for all costs associated with the composition, placement, erection, and maintenance of the sign unless the commission has entered into a contract under Subsection (f).

(d) Major shopping area guide signs may be included as part of exit direction signs, advance guide signs, and supplemental guide signs and must include guide signs for both directions of traffic on an eligible highway.

(e) Sections 391.093(b)-(e) do not apply to major shopping area guide signs.

(f) The commission may contract with an individual, firm, group, or association in this state to erect and maintain major shopping area guide signs at appropriate locations along an eligible highway.

(g) A contract under this section shall provide for:

(1) the assessment of fees to be paid to a contractor

by a major shopping area; and

(2) remittance to the department of at least 10 percent of the fees collected by the contractor.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.22(d), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 743, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 935, Sec. 3, eff. June 15, 2007.

Sec. 391.094. DUTY NOT TO DISCRIMINATE. A commercial establishment identified on a specific information logo sign shall conform to all applicable laws concerning the provision of public accommodations without regard to race, religion, color, sex, or national origin.

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

Sec. 391.095. PLACEMENT OF SIGNS. (a) The contractor installing a specific information logo sign shall place the sign so that:

(1) the sign is at least 800 feet from the previous interchange and at least 800 feet from the exit direction sign at the interchange from which the services are available;

(2) two signs having the same legend are at least 800 feet apart, but are not excessively spaced; and

(3) a motorist, after following the sign, can conveniently reenter the highway and continue in the original direction of travel.

(b) A specific information logo sign that is placed along a ramp or at a ramp terminal must be a duplicate of the corresponding establishment logo sign, except that the ramp sign must:

(1) be smaller;

(2) include the distance to the commercial establishment; and

(3) include directional arrows instead of directions shown in words.

(c) If the service facilities are not visible from an interchange ramp terminal, additional signs may be placed along the ramp or at the ramp terminal.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.22(e), eff. Sept. 1, 1997.

Sec. 391.096. DISPOSITION OF FUNDS. Funds received under this subchapter shall be deposited to the credit of the state highway fund.

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

Sec. 391.098. VARIANCES. (a) The commission shall authorize the director to grant variances, on a case-by-case basis, to the eligibility, location, or placement of specific logo signs and major shopping area guide signs, including the highways along which a sign may be located. The commission may adopt rules prescribing conditions or guidelines the director should or must consider when determining whether to grant a variance.

(b) The director may grant a variance if the director determines that:

(1) the variance would promote traffic safety;

(2) the variance would improve traffic flow;

(3) an overpass, highway sign, or other highway structure unduly obstructs the visibility of an existing commercial sign; or

(4) the variance would satisfy other conditions or guidelines prescribed by commission rules authorizing the granting of variances.

(c) The director may not grant a variance to the requirements of this subchapter regarding supports, content, or composition of signs.

(d) In this section, "director" means the director or the director's designee.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 2.04, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 713, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 878, Sec. 8, eff. June 17, 2005.

Sec. 391.099. TOURIST-ORIENTED DIRECTIONAL SIGN PROGRAM.

(a) In this section:

(1) "Eligible facility" means a winery or a business related to agriculture or tourism, including a farm, ranch, or other tourist activity, that:

(A) derives a major portion of its income or visitors during the normal business season from highway users not residing in the area of the facility;

(B) complies with state and federal laws relating to:

(i) provision of public accommodation without regard to race, religion, color, age, sex, or national origin; and

(ii) licensing and approval of service facilities; and

(C) is located within the mile limitations established under the Texas Manual on Uniform Traffic Control Devices and the Manual on Uniform Traffic Control Devices issued by the United States Department of Transportation, Federal Highway Administration.

(2) Repealed by Acts 2007, 80th Leg., R.S., Ch. 935, Sec. 4, eff. June 15, 2007.

(3) "Tourist-oriented directional sign" means a sign that identifies a particular winery or business related to agriculture or tourism, including a farm, ranch, or other tourist activity, and identifies the type or nature of the winery or business by use of an icon, symbol, or other identifying device.

(4) "Trailblazing" means placing multiple signs along a route or routes directing the public to a specific location.

(b) The commission shall administer the tourist-oriented directional sign program created under this section to erect and maintain tourist-oriented directional signs on eligible highways.

(c) Except as provided by Subsection (f), the commission shall:

(1) regulate the content, composition, design, placement, erection, and maintenance of tourist-oriented directional signs and supports on eligible highway rights-of-way; and

(2) adopt rules necessary to administer and enforce this section.

(d) The commission shall enter into one or more contracts with an individual, firm, group, or association in this state to erect and maintain tourist-oriented directional signs at locations along eligible highways.

(e) A contract under this section shall provide for:

(1) the assessment of fees to be paid to a contractor by an eligible facility; and

(2) remittance to the department of the greater of:
(A) 10 percent of the fees collected by the contractor; or

(B) an amount sufficient to recover the department's costs of administering the program.

(f) The commission may not adopt rules under this section that:

(1) violate the Texas Manual on Uniform Traffic Control Devices or the Manual on Uniform Traffic Control Devices issued by the United States Department of Transportation, Federal Highway Administration; or

(2) prohibit an eligible facility from receiving a tourist-oriented directional sign based on trailblazing off of the state highway system.

(g) The department shall:

(1) before the 31st day after the date the eligible facility submits an application under this section, notify the facility that:

(A) the application has been received; and
(B) the application is complete or that additional information is required to complete the application; and

(2) approve or disapprove the application:
(A) before the 61st day after the date the eligible facility submits the application if no additional information is required under Subdivision (1); or

(B) before the 31st day after the date the eligible facility submits all of the additional information required under Subdivision (1).

(h) Notwithstanding any other law, an eligible facility may erect a directional sign required by the commission to receive a tourist-oriented directional sign.

Added by Acts 2005, 79th Leg., Ch. 878, Sec. 9, eff. June 17, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 935, Sec. 4, eff. June 15, 2007.

SUBCHAPTER E. REGULATION OF JUNKYARDS AND AUTOMOBILE GRAVEYARDS

Sec. 391.121. PROHIBITED JUNKYARD; OFFENSE. (a) A person commits an offense if:

(1) the person wilfully establishes, operates, or maintains a junkyard any portion of which is within 1,000 feet of the nearest edge of a right-of-way of a highway in the interstate or primary system; and

(2) the junkyard is not:

(A) screened by appropriate means, including natural objects, plantings, or fences, so that it is not visible from the main-traveled way of the interstate or primary highway; or

(B) located in an area that is a zoned or unzoned industrial area.

(b) The determination of whether an area is industrial must be made under criteria established by commission rule and according to actual land use.

(c) 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.

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

Sec. 391.122. AUTHORITY OF COMMISSION TO SCREEN JUNKYARD.

(a) The commission may screen with appropriate means, including natural objects, plantings, or fences, a lawfully existing junkyard that is within 1,000 feet of the nearest edge of a right-of-way of a highway in the interstate or primary system.

(b) The commission may acquire an area outside of a highway right-of-way so that a junkyard may be screened from the main-traveled way of a highway in the interstate or primary system.

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

Sec. 391.123. RULES RELATING TO SCREENING OF JUNKYARDS.

The commission may adopt rules governing the location, planting, construction, and maintenance of the materials used in screening junkyards.

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

Sec. 391.124. COMPENSATION TO OWNER OF JUNKYARD. If the commission determines that the screening of a lawfully existing junkyard that is within 1,000 feet of the nearest edge of a right-of-way of a highway in the interstate or primary system is not feasible, the commission shall pay just compensation to:

(1) the owner of the junkyard for its relocation, removal, or disposal; and

(2) the owner or, if appropriate, the lessee of the real property on which the junkyard is located for the taking of the right to erect and maintain a junkyard.

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

Sec. 391.125. INJUNCTION TO REQUIRE SCREENING. (a) On written notice by certified mail from the department, an owner of a junkyard that is established, operated, or maintained in violation of this subchapter or a rule adopted under this subchapter shall screen the junkyard in accordance with Section 391.121. If the owner does not screen the junkyard within 45 days of the date of the notice, the department may request the attorney general to apply for an injunction to require the screening of the junkyard.

(b) Under an action brought under Subsection (a), the state is entitled to recover from the owner of a junkyard all administrative and legal costs and expenses incurred to require the screening of the junkyard, including court costs and reasonable attorney's fees.

Added by Acts 1999, 76th Leg., ch. 442, Sec. 2, eff. June 18, 1999.

Sec. 391.126. CIVIL PENALTY. (a) In addition to being subject to a criminal penalty or injunctive action, a person who intentionally violates this subchapter is liable to the state for a civil penalty. The attorney general may sue to collect the penalty.

(b) The amount of a civil penalty under this section is not less than \$500 or more than \$1,000 for each violation, depending on the seriousness of the violation. A separate penalty may be collected for each day a continuing violation occurs.

Added by Acts 1999, 76th Leg., ch. 442, Sec. 2, eff. June 18, 1999.

Sec. 391.127. SALVAGE VEHICLE DEALER LICENSE. The commission may revoke or suspend a license issued under Chapter 2302, Occupations Code, or place on probation a license holder whose license is suspended, if the license holder violates this chapter or a rule adopted under this chapter.

Added by Acts 1999, 76th Leg., ch. 442, Sec. 2, eff. June 18, 1999.
Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.820, eff. Sept. 1, 2003.

SUBCHAPTER F. ACQUISITION FOR SCENIC ENHANCEMENT OR PUBLIC
ACCOMMODATION

Sec. 391.151. ACQUISITION FOR SCENIC ENHANCEMENT. The commission may acquire, improve, and maintain a strip of real property adjacent to a federal-aid highway in this state if the property is necessary to restore, preserve, or enhance scenic beauty.

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

Sec. 391.152. ACQUISITION FOR PUBLIC ACCOMMODATION. The commission may acquire and provide rest and recreation areas or sanitary and other facilities in or adjacent to a highway right-of-way if the area or facility is necessary to accommodate the traveling public.

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

SUBCHAPTER G. ACQUISITIONS BY COMMISSION

Sec. 391.181. POWERS AND METHODS OF ACQUISITION. (a) The commission may acquire by gift, purchase, exchange, or condemnation any right or property interest that it considers necessary or convenient to implement this chapter.

(b) The exercise of the power of eminent domain authorized by this chapter is the same as that authorized by Subchapter D, Chapter 203.

(c) Real property owned by the state is subject to this chapter.

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

Sec. 391.182. STATE VOUCHERS AND WARRANTS. (a) On delivery to and acceptance by the commission of an instrument conveying to the state an interest described by Section 391.181(a), the commission shall prepare and transmit to the comptroller a voucher covering the commission's costs in acquiring the interest.

(b) The comptroller shall issue a warrant on the appropriate account covering the state's obligation as evidenced by the voucher.

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

Sec. 391.183. RECORDING OF INSTRUMENTS. (a) An instrument conveying an interest in real property to the state in connection with the implementation of this chapter must be recorded in the deed records of each county in which the property is situated.

(b) The state shall pay the fee for recording the instrument in the same manner as a fee is paid for the recording of a highway right-of-way instrument and in accordance with the law establishing the fee to be charged by the county clerk for recording a highway right-of-way instrument.

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

Sec. 391.184. DISPOSAL OF STATE REAL PROPERTY. An interest in real property acquired to implement this chapter that becomes surplus and is determined by the commission as no longer necessary to the state for the purpose for which it was acquired or for a highway purpose shall be disposed of in accordance with Subchapter B, Chapter 202.

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

SUBCHAPTER H. REGULATION OF OUTDOOR ADVERTISING ON STATE HIGHWAY

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Sec. 391.211. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies only to outdoor advertising that is erected on or after September 1, 1993.

(b) This subchapter does not limit any authority granted to the department under this chapter.

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

Sec. 391.212. REGULATION OF CERTAIN OUTDOOR ADVERTISING. The department may license or otherwise regulate the erection of outdoor advertising that is located within 1,000 feet of the center line of that part of State Highway 288 in the unincorporated area of a county.

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

Sec. 391.213. VIOLATION OF RULE; OFFENSE. (a) A person commits an offense if the person violates a rule adopted under this subchapter.

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

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

SUBCHAPTER I. PROHIBITION OF SIGNS ON CERTAIN HIGHWAYS

Sec. 391.251. DEFINITIONS. In this subchapter:

(1) "Off-premise sign" means an outdoor sign displaying advertising that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

(2) "Advertising" means a message seeking to attract the public or to direct the attention of the public to any goods, services, or merchandise.

Added by Acts 2001, 77th Leg., ch. 1264, Sec. 3, eff. Sept. 1, 2001.

Sec. 391.252. OFF-PREMISE SIGNS PROHIBITED. (a) A person may not erect an off-premise sign that is adjacent to and visible from:

(1) U.S. Highway 290 between the western city limits of the city of Austin and the eastern city limits of the city of Fredericksburg;

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

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

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

(5) U.S. Highway 281 between:

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

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

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

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

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

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

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

(11) State Highway 73 between the eastern city limits of the city of Winnie to the western city limits of the city of Port Arthur;

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

(13) a highway located in:

(A) the Sabine National Forest;

(B) the Davy Crockett National Forest; or

(C) the Sam Houston National Forest;

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

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

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

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

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

Subdivision effective on the 91st day after the Texas Department of Transportation receives notification from all appropriate county clerks as provided in Section 3(b)

(19) the following highways in Austin County:

(A) State Highway 159;

(B) Farm-to-Market Road 331;

(C) Farm-to-Market Road 529;

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

(E) Farm-to-Market Road 2502.

(b) This section does not affect the ability of a municipality to regulate a sign located on the portion of a roadway listed in Subsection (a) that is within the corporate limits or extraterritorial jurisdiction of the municipality in accordance with Chapter 216, Local Government Code.

(c) This section does not prohibit a person from erecting an off-premise sign permitted by other law, rule, or regulation that is adjacent to and visible from a roadway not listed in this section and is visible from a roadway listed under this section if the intended purpose of the sign is to be visible only from the roadway not listed under this section.

Added by Acts 2001, 77th Leg., ch. 1264, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 281, Sec. 2.78, eff. June 14, 2005.

Acts 2005, 79th Leg., Ch. 352, Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 405, Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 796, Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 903, Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 983, Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1046, Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1353, Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1020, Sec. 1, eff. September 1, 2007.

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

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

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

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

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

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

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

Added by Acts 2001, 77th Leg., ch. 1264, Sec. 3, eff. Sept. 1, 2001.

Sec. 391.254. CIVIL PENALTY. (a) A person who violates Section 391.252 is liable to the state for a civil penalty of not less than \$500 or more than \$1,000 for each violation, depending on the seriousness of the violation. A separate penalty may be imposed for each day a continuing violation occurs.

(b) The attorney general, the district or county attorney for the county, or the municipal attorney of the municipality in which the violation is alleged to have occurred may bring suit to collect the penalty.

(c) A civil penalty collected by the attorney general under this section shall be deposited to the credit of the state highway fund.

(d) Before a suit may be brought for a violation of Section 391.252, the attorney general, the district or county attorney for the county, or the municipal attorney of the municipality in which the violation is alleged to have occurred shall give the owner of the off-premise sign 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 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.

Added by Acts 2001, 77th Leg., ch. 1264, Sec. 3, eff. Sept. 1, 2001.

Sec. 391.255. APPLICABILITY OF SUBCHAPTER. The restrictions imposed by this subchapter are in addition to those imposed by the remainder of this chapter.

Added by Acts 2001, 77th Leg., ch. 1264, Sec. 3, eff. Sept. 1, 2001.