

TRANSPORTATION CODE

CHAPTER 394. REGULATION OF OUTDOOR SIGNS ON RURAL ROADS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 394.001. DEFINITIONS. In this chapter:

(1) "On-premise sign" means a freestanding sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.

(2) "Off-premise sign" means a 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.

(3) "Person" means an individual, association, or corporation.

(4) "Portable sign" means a sign designed to be mounted on a trailer, bench, wheeled carrier, or other nonmotorized mobile structure.

(5) "Sign" means a structure, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform.

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

Sec. 394.002. APPLICATION OF CHAPTER. (a) This chapter applies only to a sign that is:

(1) outdoors; and

(2) visible from the main-traveled way of a rural road.

(b) In this section, "rural road" means a road, street, way, or bridge:

(1) that is located in an unincorporated area;

(2) that is not privately owned or controlled;

(3) any part of which is open to the public for vehicular traffic; and

(4) that is under the jurisdiction of this state or a political subdivision of this state.

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

Sec. 394.003. EXEMPTIONS. (a) This chapter does not apply to:

(1) a sign that is allowed to be erected and maintained under the highway beautification provisions contained in Chapter 391;

(2) a sign in existence before September 1, 1985;

(3) a sign that has as its purpose the protection of life or property;

(4) a directional or other official sign authorized by law, including a sign that pertains to a natural wonder or a scenic or historic attraction;

(5) a sign that gives information about the location of an underground electric transmission line or a telegraph or telephone property or facility, a pipeline, a public sewer, or a waterline;

(6) a sign erected by an agency or political subdivision of the state; or

(7) a sign erected solely for and relating to a public election if the sign:

(A) is on private property;

(B) 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;

(C) is constructed of lightweight material; and

(D) has a surface area not larger than 50 square feet.

(b) Subsection (a)(2) does not exempt a sign from Section 394.048 to the extent that section applies.

Text of subsec. (c) as added by Acts 1997, 75th Leg., ch. 718, Sec. 1

(c) This chapter does not apply to a directional sign for a small business, as defined by Section 2006.011, Government Code, if the sign:

(1) is on private property; and

(2) has a surface area not larger than 50 square feet.

Text of subsec. (c) as added by Acts 1997, 75th Leg., ch. 1171, Sec.

2.05

(c) This chapter does not apply to a directional sign for a small business, as defined by Section 2006.001, Government Code, if

the sign:

- (1) is on private property; and
- (2) has a surface area not larger than 50 square feet.

(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.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.23(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 718, Sec. 1, eff. June 17, 1997; Acts 1997, 75th Leg., ch. 1171, Sec. 2.05, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 611, Sec. 4, eff. September 1, 2007.

Sec. 394.004. DUTIES OF COMMISSION. The commission shall:

- (1) administer and enforce this chapter;
- (2) adopt rules to regulate the erection or maintenance of a sign to which this chapter applies; and
- (3) adopt rules under this chapter that specify the:
 - (A) time for and manner of applying for a permit;

and

(B) form of and information that must be included in a permit application.

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

Sec. 394.005. DISPOSITION OF FEES. A registration fee collected under Section 394.048 by the commission shall be deposited to the credit of the state highway fund.

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

SUBCHAPTER B. PERMIT FOR OFF-PREMISE SIGN

Sec. 394.021. ERECTING OFF-PREMISE SIGN WITHOUT PERMIT; OFFENSE. (a) A person commits an offense if the person erects an off-premise sign unless the person first obtains a permit under this subchapter from the commission.

(b) Except as otherwise authorized by this chapter, the commission may not issue a permit for an off-premise sign unless the sign is to be located:

(1) within 800 feet of a recognized commercial or industrial business activity or the office of a governmental entity; and

(2) on the same side of the road as the business activity or the office of the governmental entity.

Text of subsection as added by Acts 2007, 80th Leg., R.S., Ch. 611, Sec. 6

(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.

Text of subsection as added by Acts 2007, 80th Leg., R.S., Ch. 1083, Sec. 2

(c) If the off-premise sign is located within the jurisdiction of a municipality with a population of more than 1.9 million that is exercising its authority to regulate off-premise signs, the commission may not issue a permit under this section if the municipality has acted to prohibit new off-premise signs within the jurisdiction of the municipality.

(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.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 2.06, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 611, Sec. 5, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 611, Sec. 6, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1083, Sec. 2, eff. September 1, 2007.

Sec. 394.022. ISSUANCE OF PERMIT. (a) The commission shall issue a permit to a person:

(1) whose application complies with commission rule;
(2) whose sign, if erected, would comply with the requirements of this chapter; and

(3) who, if the off-premise sign is located within the jurisdiction of a municipality with a population of more than 1.9 million that is exercising its authority to regulate off-premise signs, has obtained a permit for the off-premise sign.

(b) Subsection (a)(3) does not apply to the relocation of an off-premise sign to another location if the construction, reconstruction, or expansion of a highway requires the removal of the off-premise sign.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1083, Sec. 3, eff. September 1, 2007.

Sec. 394.023. TIME OF PERMIT. A permit is valid for one year.

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

Sec. 394.024. BOND. (a) The commission by rule may require an applicant for a permit to file with the commission a surety bond or other security in a reasonable amount.

(b) The bond or other security must be payable to the commission to reimburse the commission for the cost of removing a sign unlawfully erected or maintained by a permit holder.

(c) A rule adopted under Subsection (a) must exempt an applicant from filing a bond or other security if the applicant has:

(1) held at least five permits under this chapter for at least one year; and

(2) not violated this chapter or a rule adopted under this chapter during the preceding 12 months.

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

Sec. 394.025. FEE. (a) The commission by rule shall prescribe a fee to issue a permit in an amount the commission determines is sufficient to enable the commission to recover the costs of enforcing this chapter.

(b) A political subdivision of this state or its designated agent is exempt from a fee required under this section for a sign containing a noncommercial message or advertisement.

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

Sec. 394.026. REVOCATION OF PERMIT; APPEAL. (a) The commission may revoke a permit if the permit holder violates this chapter or a rule adopted under this chapter.

(b) A person whose permit is revoked may appeal the revocation not later than the 15th day after the date of the revocation.

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

SUBCHAPTER C. OTHER GENERAL REGULATIONS

Sec. 394.041. HEIGHT RESTRICTIONS. (a) An on-premise or off-premise sign may not be higher than 42-1/2 feet, excluding a cutout that extends above the rectangular border, measured from the highest point on the sign to the grade level of the road from which the sign is viewed.

(b) No part of a roof sign that has a tight or solid surface may be higher than 24 feet above the roof level.

(c) An open roof sign in which the uniform open area is 40 percent or more of the total gross area may not be higher than 40 feet above the roof level.

(d) The lowest point on a projecting sign may not be lower than 14 feet above grade.

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

Sec. 394.042. FACE RESTRICTIONS. (a) The face area of an on-premise sign may not be larger than 400 square feet, including a cutout but excluding an upright, trim, or apron.

(b) The face area of an off-premise sign may not be larger than 672 square feet, excluding a cutout, upright, trim, or apron.

(c) The cutout area of an off-premise or on-premise sign may not be larger than 20 percent of the sign's surface copy area.

(d) This section does not apply to:

(1) a sign that advertises the sale or lease of property on which the sign is located; or

(2) an on-premise wall sign.

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

Sec. 394.043. WIND LOAD PRESSURE RESTRICTIONS. (a) An

on-premise or off-premise sign must be designed to resist wind loads as follows:

Height in feet above ground	Wind load pressure in pounds for each square foot
0-5	0
6-30	20
31-50	25
51-99	35
100-199	45
200-299	50
300-399	55
400-500	60
501-800	70
Over 800	77

(b) Under this section, the height of a sign is measured above the average level of the ground adjacent to the structure. Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.044. REPLACEMENT OR REPAIR. (a) A sign or a substantial part of a sign that is blown down, destroyed, taken down, or removed for any purpose other than for maintenance or for changing a letter, symbol, or other matter on the sign may not be reerected, reconstructed, or rebuilt unless the sign conforms with this chapter.

(b) For purposes of this section, a sign or substantial part of a sign is considered destroyed only if the cost of repairing the sign is more than 50 percent of the cost of erecting a new sign of the same type at the same location.

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

Sec. 394.045. SPACE BETWEEN SIGNS. (a) An off-premise sign that has a face area of 301 square feet or more may not be erected within 1,500 feet of another off-premise sign on the same side of the road.

(b) An off-premise sign that has a face area of 100 or more but less than 301 square feet may not be erected within 500 feet of another off-premise sign on the same side of the road.

(c) An off-premise sign that has a face area of less than 100 square feet may not be erected within 150 feet of another off-premise sign on the same side of the road.

(d) A sign located at the same intersection where one or more other signs are located does not violate this section because of its proximity to another sign if each of the signs is located so that the sign's message is directed toward the traffic flowing in a direction different from the traffic toward which any other sign's message is directed.

(e) In this section, for purposes of measuring distance between signs, each double-faced, back-to-back, or V-type sign is a single sign.

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

Sec. 394.046. COMPUTING FACE AREA OF CERTAIN SIGNS. Each face area of a double-faced, back-to-back, or V-type sign is considered to be a separate sign for the purpose of computing the face area under Section 394.042 or 394.045.

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

Sec. 394.047. NUMBER OF SIGNS. A business may not maintain more than five on-premise signs for each frontage on a single road at a single business location.

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

Sec. 394.048. REGISTRATION OF CERTAIN OFF-PREMISE SIGNS.

(a) The owner of an off-premise sign erected before September 1, 1985, and registered with the commission before December 31, 1985, may renew the registration of the sign for an annual fee of \$10.

(b) The commission by rule may provide for a longer renewal period not to exceed five years.

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

Sec. 394.049. PORTABLE SIGNS. A person may not place a portable sign on the property of another person without first obtaining written permission from the owner of the property or the owner's authorized agent.

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

Sec. 394.050. BOARD OF VARIANCE. The commission shall provide for a board of variance that, in an appropriate case and subject to an appropriate condition or safeguard, may make a special exception to this chapter.

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

Sec. 394.051. BOND FOR CERTAIN BUSINESSES. (a) A person who is engaged primarily in the business of erecting signs that advertise companies located or products sold on the premises on which the signs are erected must file with the commission a surety bond in the amount of \$100,000 or more payable to the commission to reimburse the commission for the cost of removing a sign unlawfully erected or maintained by the person.

(b) The commission may not exempt a person from the requirements of Subsection (a).

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

SUBCHAPTER D. REGULATION OF SIGNS IN POPULOUS COUNTIES

Sec. 394.061. OFF-PREMISE PORTABLE SIGNS. (a) In a county with a population of 2.4 million or more, the commissioners court of the county may:

(1) prohibit off-premise portable signs in the unincorporated area of the county; or

(2) regulate the location, height, size, and anchoring of, or any other matter relating to the use of, off-premise portable signs in the unincorporated area.

(b) A regulation imposed by or adopted under this chapter does not apply to an off-premise portable sign in the unincorporated area of a county with a population of 2.4 million or more.

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

Sec. 394.062. CONFLICT WITH OTHER LAWS. (a) A county prohibition or regulation adopted under Section 394.061 prevails over a state law or rule if there is a conflict.

(b) A municipal sign ordinance that has been extended to territory in the municipality's extraterritorial jurisdiction under Section 216.902, Local Government Code, prevails in that territory over a county prohibition or regulation adopted under Section 394.061 if there is a conflict.

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

Sec. 394.063. ON-PREMISE SIGNS. (a) The commissioners court of a county with a population of more than 2.4 million or of a county that borders a county with that population may regulate, in the unincorporated area of the county, the location, height, size, and anchoring of on-premise signs.

(b) A county regulation adopted under this section may not permit an on-premise sign to be erected if the sign could not have been erected under a previous municipal regulation that applied to the place where the sign is to be erected.

(c) A regulation of an on-premise sign imposed by this chapter, adopted by the commission under this chapter, or adopted by a municipality does not apply in the unincorporated area of a county that adopts a regulation of an on-premise sign under this section.

(d) In lieu of exercising a regulatory power under this section, the commissioners court of the county, by order, may allow the commission to regulate on-premise signs in the unincorporated area of the county in accordance with a municipal or county regulation regarding on-premise signs in the unincorporated area. On adoption of the order, municipal authority to regulate on-premise signs in the unincorporated area is withdrawn.

(e) A regulation adopted under this section applies only to an on-premise sign erected on or after August 31, 1987.

(f) A commissioners court of a county regulating on-premise signs under this section may recover from an applicant for a permit authorized by this section the cost of issuing the permit provided the following are met:

(1) the auditor for the county shall review the program every two years to ensure that the fees being charged do not exceed the cost of the program; and

(2) the county refunds to the permit holders any revenue determined by the auditor to exceed the cost of the program.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 541, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER E. ENFORCEMENT

Sec. 394.081. CIVIL PENALTY. (a) In lieu of being subject to a criminal penalty, a person who intentionally violates this chapter or a rule adopted by the commission under this chapter may be liable 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.

(b) The attorney general or a district or county attorney may sue to collect the civil penalty.

(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.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 611, Sec. 7, eff. September 1, 2007.

Sec. 394.082. ADMINISTRATIVE PENALTY. (a) In lieu of a suit to collect a civil penalty, the commission, after notice and an opportunity for a hearing before the commission, may impose an administrative penalty against a person who intentionally violates this chapter or a rule adopted by the commission under this chapter. Each day a violation continues is a separate violation.

(b) The amount of the administrative penalty may not exceed the maximum amount of a civil penalty under Section 394.081.

(c) A proceeding under this section is a contested case under Chapter 2001, Government Code.

(d) Judicial review of an appeal of an administrative penalty imposed under this section is by trial de novo.

(e) An administrative penalty collected under this section shall be deposited to the credit of the state highway fund.

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

Sec. 394.083. REVOCATION OF PERMIT IN ADDITION TO OTHER PENALTY. (a) A court shall order the revocation of the permit issued under Section 394.022 that a person holds for a location at which a violation under this chapter occurs if it is shown at the trial of the person for the collection of a civil penalty under Section 394.081 or at an appeal of an administrative penalty under Section 394.082 that a judgment for a civil penalty, a judgment for an administrative penalty, or a final order for an administrative penalty that was not timely appealed was previously imposed under this chapter against the person.

(b) The revocation of a permit under this section is in addition to any other penalty that may be imposed under this chapter.

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

Sec. 394.084. VIOLATIONS OF REGULATIONS OR PROHIBITIONS IMPOSED BY POPULOUS COUNTIES ON OFF-PREMISE PORTABLE SIGNS.

(a) If a county adopts a prohibition or regulation under Section 394.061, the attorney representing the county in district court may seek injunctive relief to prevent the violation or threatened violation of the prohibition or regulation.

(b) The commissioners court of a county that adopts a prohibition or regulation under Section 394.061 by order may define an offense for the violation of the prohibition or regulation.

(c) An offense defined by a commissioners court under Subsection (b) is a Class C misdemeanor.

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

Sec. 394.085. VIOLATIONS OF REGULATIONS OR PROHIBITIONS IMPOSED BY POPULOUS COUNTIES ON ON-PREMISE SIGNS. (a) If a county adopts a prohibition or regulation under Section 394.063, the attorney representing the county in district court may seek injunctive relief to prevent the violation or threatened violation of the prohibition or regulation.

(b) A violation of a prohibition or regulation adopted under Section 394.063 is a Class C misdemeanor.

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

Sec. 394.086. ADMINISTRATIVE PENALTY FOR VIOLATION OF

ON-PREMISE SIGN REGULATIONS IN POPULOUS COUNTIES. (a) The commissioners court of a county with a population of more than 2.4 million or of a county that borders a county with that population may authorize a county employee to issue a civil citation to enforce a regulation of the commissioners court adopted under Section 394.063. The commissioners court may designate the county employee as a county inspector.

(b) If a citation is issued under this section, the commissioners court may assess an administrative penalty against the person cited.

(c) The commissioners court may assess the administrative penalty in an amount not to exceed \$100 for each day the violation exists. In determining the amount of the penalty, the commissioners court shall consider the seriousness of the violation.

(d) If, after examination of a possible violation and the facts relating to that possible violation, the commissioners court determines that a violation has occurred, the commissioners court shall issue a preliminary report that states the facts on which the conclusion is based, the fact that an administrative penalty is to be imposed, and the amount to be assessed. Not later than the 10th day after the date on which the commissioners court issues the preliminary report, the commissioners court shall send a copy of the report to the person charged with the violation, together with a statement of the right of the person to a hearing relating to the alleged violation and the amount of the penalty.

(e) Not later than the 20th day after the date on which the report is sent, the person charged either may make a written request to the county judge or the judge's representative for a hearing or may remit the amount of the administrative penalty to the commissioners court. Failure either to request a hearing or to remit the amount of the administrative penalty within the time provided by this subsection results in a waiver of a right to a hearing under this section. If the person charged requests a hearing, the county judge or the judge's representative shall conduct the hearing in the manner provided for a contested case hearing under Chapter 2001, Government Code, as if the commissioners court were a state agency under that law. If it is determined after hearing that the person has committed the alleged violation, the county judge or the judge's representative shall give written notice to the person of the findings established by the hearing and the amount of the penalty, and the commissioners court shall enter an order requiring the person to pay the penalty. Not later than the 30th day after the date on which the notice is received, the person charged shall pay the administrative penalty in full.

(f) The person charged is entitled to an appeal by trial de novo in district court on the issue of the amount of the penalty or the fact of the violation. If, after judicial review, it is determined that no violation occurred or that the amount of the penalty should be reduced, the commissioners court shall remit any appropriate amount to the person charged with the violation not later than the 30th day after the date on which the judicial determination becomes final.

(g) An administrative penalty recovered under this section shall be deposited in the county treasury to the credit of the general fund.

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

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.

Added by Acts 2007, 80th Leg., R.S., Ch. 611, Sec. 8, eff. September 1, 2007.