

SUBJECT: Penalty for removing signs marking underground lines

COMMITTEE: Public Safety — favorable, without amendment

VOTE: 8 ayes — Driver, Carter, Keel, Keffer, Madden, McClendon, Olivo, Reyna
0 nays
1 present, not voting — Oakley

WITNESSES: For — John Sommer, Valero Natural Gas Company
Against — None

DIGEST: HB 1664 would create an offense for removing, damaging or intentionally concealing a marker or sign giving information about the location of an underground pipeline, electric transmission line, telegraph or telephone line or other potentially hazardous facility without authorization from the facility's owner or operator. The marker or sign would have to give notice of the penalty for removing, damaging or intentional concealing it.

The offense would be a Class B misdemeanor, punishable by a maximum penalty of 180 days in jail and a \$2,000 fine.

The bill would take immediate effect if finally approved by a two-thirds record vote of the membership of each house.

SUPPORTERS SAY: HB 1664 would ensure that potential purchasers of land were aware of underground lines that could pose safety hazards, and provide a much needed deterrent for unscrupulous real estate developers who now intentionally remove signs in order to produce quick sales on subdivisions. This abuse is especially egregious when land is sold under a contract for deed. In these circumstances, the title does not transfer until after the last payment is made, and the buyer may have no inkling that various lines traverse the property, creating trenching excavation problems for future development.

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HB 1664 would also provide protection for utility and maintenance crews who dig holes in the grounds without knowing about underground lines.

A separate offense is needed for this conduct because the criminal mischief provisions of the Penal Code only cover persons who intentionally destroy, damage or tamper with tangible property; they do not apply to removing or concealing signs.

OPPONENTS
SAY:

HB 1664 would be an unnecessary addition to the law. The Penal Code's criminal mischief provisions already allow prosecution for this type of conduct and with greater penalties, depending on the pecuniary loss suffered by the property owner. The issue here is one of enforcement, not of gaps in the law.

OTHER
OPPONENTS
SAY:

HB 1664 could inadvertently catch individuals who unknowingly or accidentally and without malice knock over a sign. Most offenses require that the conduct be intentional and knowing in order for a crime to occur. HB 1664 should incorporate similar intent requirements to prevent prosecution of innocent persons.

NOTES:

Rep. Oliveira plans to offer a floor amendment that would require intentional and knowing conduct for an offense to occur.