

SUBJECT: Increasing the civil penalty for junkyards in unincorporated Harris County

COMMITTEE: Transportation — favorable, without amendment

VOTE: 8 ayes — Pickett, Martinez, Y. Davis, Israel, Murr, Paddie, Phillips, Simmons

0 nays

4 absent — Burkett, Fletcher, Harless, McClendon

WITNESSES: For — Richard Cantu, East Aldine Management District; Sarah Utley, Harris County Attorney's Office

Against — None

BACKGROUND: Transportation Code, ch. 397 establishes safety and other regulations for automotive wrecking and salvage yards established after 1983 in unincorporated areas of Harris County. It specifies requirements for fences, drainage, storage, and junkyard locations in those areas. An offense under this chapter is a class C misdemeanor (maximum fine of \$500). A person who violates ch. 397 also is liable for a civil penalty for each violation of between \$500 and \$1,000.

In 2013, the 83rd Legislature enacted HB 3085 by Walle, which would have raised the maximum fine for violating ch. 397 to \$5,000. Gov. Rick Perry vetoed HB 3085 on June 14, 2013.

DIGEST: HB 691 would increase to \$5,000 the maximum civil penalty for operating a Harris County junkyard in violation of Transportation Code, ch. 397.

The bill would take effect September 1, 2015, and would apply only to a violation that occurred on or after that date.

SUPPORTERS SAY: HB 691 would provide stiffer civil penalties to address the problems posed by non-compliant junkyards in unincorporated Harris County.

Beyond being eyesores, these junkyards create safety, environmental, and fire hazards

The bill would add another enforcement tool to what can be an intractable problem in Harris County. Many bad actors treat the current \$1,000 fine as a cost of doing business, particularly where the compliance costs would be greater than the fine amount. Because unincorporated Harris County has no zoning requirements, junkyards can be located near homes, churches, and schools. Junkyard operators often stack cars above the height of the fence line, which is unsightly. While this activity violates the ordinance, operators continue to do it because of the weak penalties for violations. Environmental hazards that noncompliant junkyards can create include dangerous chemicals draining into surrounding properties. Although Transportation Code, ch. 397 requires operators to drain gasoline out of fuel tanks, they ignore this safety hazard because the current fines for violating this and other requirements are too low.

Before the county takes an enforcement action, authorities work with yard operators to come into compliance. Authorities also confirm that the junkyards are actual businesses. Because of the way enforcement is conducted, a person simply storing and repairing cars on his or her property would not be assessed the \$5,000 penalty under HB 691. Judges and prosecutors have discretion with violations under Transportation Code, ch. 397, and it is unlikely that noncompliant small operators would be fined \$5,000. That fine would be used for large-scale operators who egregiously violated the statute.

**OPPONENTS
SAY:**

Under HB 691, individuals who simply were working on cars as a side business or who owned a few cars with intent to sell could be fined up to \$5,000. Transportation Code, ch. 397 requires only three vehicles on a property for it to qualify as a junkyard, so someone repairing a few cars who was not operating a junkyard could be liable to unnecessarily high penalties. This could be an overreach in response to a quality-of-life offense.