

BILL ANALYSIS

Senate Research Center

S.B. 357
By: Nichols
Transportation
5/31/2019
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the 85th session, S.B. 312 enacted the recommendations of the Sunset Advisory Commission (Sunset) regarding the Texas Department of Transportation (TxDOT). However, during that process, an amendment was added allowing for signs that exceeded 42.5 feet in height that existed on or before March 1, 2017, to be grandfathered for litigation purposes.

At the February 22, 2018, Texas Transportation Commission meeting, Minute Order 115155 was adopted, which included the following statement from TxDOT: "The department does not believe that the legislature's validation of those signs (signs exceeding 42.5 feet in height that existed on or before March 1, 2017) eliminates the commission's authority to modify the maximum height provisions applicable to other commercial signs [i.e., those that did not exceed 42.5 feet on or before March 1, 2017]." This interpretation has allowed TxDOT to allow outdoor advertising signs to be an undefined height if the legislature does not take action by August 31, 2019.

S.B. 357 relates to the height of outdoor advertising signs regulated by TxDOT, making it clear that outdoor advertising signs may not be higher than 42.5 feet. (Original Author's/Sponsor's Statement of Intent)

S.B. 357 amends current law relating to outdoor advertising signs regulated by the Texas Department of Transportation.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 391.038, Transportation Code, as follows:

Sec. 391.038. SIGN HEIGHT. (a) Prohibits a sign, except as otherwise provided by this section, from being higher than 60 feet, excluding a cutout that extends above the rectangular border of the sign, measured:

- (1) from the grade level of the centerline of the main-traveled way, not including a frontage road of a controlled access highway, closest to the sign at a point perpendicular to the sign location; or
- (2) if the main-traveled way is below grade, from the base of the sign structure.

Deletes existing text providing that this section applies only to a sign existing on March 1, 2017, that was erected before that date.

(a-1) Provides that Subsection (a) does not apply to a sign regulated by a municipality certified for local control under an agreement with the Texas Department of Transportation (TxDOT) as provided by TxDOT rule.

(b) Prohibits a sign existing on March 1, 2017, that was erected before that date, rather than a sign described by Subsection (a), from being higher than 85 feet, excluding a cutout that extends above the rectangular border of the sign, measured in a certain manner.

(c) Creates Subdivisions (1)–(2) from existing text. Authorizes a person who holds a permit for a sign existing on March 1, 2017, that was erected before that date to rebuild the sign, rather than authorizing a person to rebuild a sign described by Subsection (a) without obtaining a new or amended permit from TxDOT, provided that the sign is rebuilt at the same location where the sign existed on that date at a height that does not exceed the lesser of:

(1) the height of the sign on March 1, 2017; or

(2) 85 feet.

Deletes existing text relating to authorizing a person to rebuild a sign described by Subsection (a) without obtaining a new or amended permit from TxDOT, provided that the sign is rebuilt at the same location where the sign existed on March 1, 2017, and at a height that does not exceed the height of the sign on that date.

(c-1) Requires the person who holds the permit for the sign, except as provided by Subsection (c-2), before rebuilding a sign under Subsection (c), to obtain a new or amended permit if required by:

(1) a provision of this chapter (Highway Beautification on Interstate and Primary Systems and Certain Roads); or

(2) a rule adopted to implement a provision of this chapter.

(c-2) Provides that Subsection (c-1) does not apply to the rebuilding of a sign under Subsection (c) if the person who holds the permit for the sign rebuilds because of damage to the sign caused by:

(1) wind or a natural disaster;

(2) a motor vehicle accident; or

(3) an act of God.

SECTION 2. Amends Subchapter B, Chapter 391, Transportation Code, by adding Section 391.0381, as follows:

Sec. 391.0381. VIOLATIONS BY CERTAIN PERSONS OF SIGN HEIGHT PROVISION: PERMIT DENIAL. (a) Provides that this section applies only to a person who has permits for 100 or more signs.

(b) Authorizes the Texas Transportation Commission (TTC), if a sign for which a person has a permit violates Section 391.038 (Sign Height) or a rule adopted to implement that section, to, after notice and an opportunity for a hearing before TTC, deny an application for a permit requested by the person on or after the date of the violation.

(c) Authorizes TCC, after notice and an opportunity for hearing before TCC, to deny an application for a permit or permit renewal for a sign if another sign for which the person has a permit is in violation of Section 391.038. Provides that TCC is not required to issue a permit to or renew a permit of the person for a sign until all signs for which the person has a permit comply with Section 391.038.

SECTION 3. Effective date: September 1, 2019.