

HOUSE BILL No. 4343

February 18, 1997, Introduced by Reps. Alley, Gubow, Freeman, Gire, Brater, Martinez, Fitzgerald, Dalman, Anthony, Mans, Prusi, LaForge, Gernaat, McBryde, Goschka and Green and referred to the Committee on Transportation.

A bill to amend 1972 PA 106, entitled
"Highway advertising act of 1972,"
by amending the title and sections 2, 3, and 7 (MCL 252.302,
252.303, and 252.307).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

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An act to provide for the licensing, regulation, ~~and~~ con-
trol, AND PROHIBITION of outdoor advertising adjacent to certain
highways; to prescribe ~~certain~~ powers and duties OF CERTAIN
STATE AGENCIES AND OFFICIALS; to promulgate rules; to provide
penalties for violations; and to repeal ~~certain~~ acts and parts
of acts.

Sec. 2. As used in this act:

~~(a) "Business area" means an adjacent area which is zoned
under authority of state, county, township or municipal zoning~~

~~1 authority for industrial or commercial purposes, customarily
2 referred to as "b" or business, "c" or commercial, "i" or indus=
3 trial, "m" or manufacturing, and "s" or service, and all other
4 similar classifications and which: (i) is within a city, village
5 or charter township or (ii) is within 1 mile of the corporate
6 limits of a city, village or charter township or (iii) is beyond
7 1 mile of the corporate limits of a city, village or charter
8 township and contains 1 or more permanent structures devoted to
9 the industrial or commercial purposes described in this subdivi=
10 sion and which extends along the highway a distance of 800 feet
11 beyond each edge of the activity. Each side of the highway is
12 considered separately in applying this definition except where it
13 is not topographically feasible for a sign or sign structure to
14 be erected or maintained on the same side of the highway as the
15 permanent structure devoted to industrial or commercial purposes,
16 a business area may be established on the opposite side of a pri=
17 mary highway in an area zoned commercial or industrial or in an
18 unzoned area with the approval of the state highway commission.
19 A permanent structure devoted to industrial or commercial pur=
20 poses shall not result in the establishment of a business area on
21 both sides of the highway. All measurements shall be from the
22 outer edge of the regularly used building, parking lot or storage
23 or processing area of the commercial or industrial activity and
24 not from the property lines of the activities and shall be along
25 or parallel to the edge or pavement of the highway. Commercial
26 or industrial purposes are those activities generally recognized
27 as commercial or industrial by zoning authorities except that the~~

1 following activities shall not be considered commercial or
2 industrial:

3 ~~(i) Agricultural, forestry, grazing, farming, and related~~
4 ~~activities, including, but not limited to, wayside fresh produce~~
5 ~~stands.~~

6 ~~(ii) Transient or temporary activities.~~

7 ~~(iii) Activities not visible from the main-traveled way.~~

8 ~~(iv) Activities conducted in a building principally used as~~
9 ~~a residence.~~

10 ~~(v) Railroad tracks and minor sidings.~~

11 ~~(vi) Outdoor advertising.~~

12 ~~(vii) Activities more than 660 feet from the main-traveled~~
13 ~~way.~~

14 ~~(b) "Unzoned commercial or industrial area" means an area~~
15 ~~which is within an adjacent area, which is not zoned by state or~~
16 ~~local law, regulation or ordinance, which contains 1 or more per-~~
17 ~~manent structures devoted to the industrial or commercial pur-~~
18 ~~poses described in subdivision (a), and which extends along the~~
19 ~~highway a distance of 800 feet beyond each edge of the activity.~~
20 ~~Each side of the highway is considered separately in applying~~
21 ~~this definition except where it is not topographically feasible~~
22 ~~for a sign or sign structure to be erected or maintained on the~~
23 ~~same side of the highway as the permanent structure devoted to~~
24 ~~industrial or commercial purposes, an unzoned commercial or~~
25 ~~industrial area may be established on the opposite side of a pri-~~
26 ~~mary highway in an area zoned commercial or industrial or in an~~
27 ~~unzoned area with the approval of the state highway commission.~~

~~1 A permanent structure devoted to industrial or commercial
2 purposes shall not result in the establishment of an unzoned com=
3 mercial or industrial area on both sides of the highway. All
4 measurements shall be from the outer edge of the regularly used
5 building, parking lot or storage or processing area of the com=
6 mercial or industrial activity and not from the property lines of
7 the activities and shall be along or parallel to the edge or
8 pavement of the highway. Commercial or industrial purposes are
9 those activities generally recognized as commercial or industrial
10 by zoning authorities except that the following activities shall
11 not be considered commercial or industrial:~~

~~12 (i) Agricultural, forestry, grazing, farming and related
13 activities, including, but not limited to, wayside fresh produce
14 stands.~~

~~15 (ii) Transient or temporary activities.~~

~~16 (iii) Activities not visible from the main-traveled way.~~

~~17 (iv) Activities conducted in a building principally used as
18 a residence.~~

~~19 (v) Railroad tracks and minor sidings.~~

~~20 (vi) Outdoor advertising.~~

~~21 (vii) Activities more than 660 feet from the main-traveled
22 way.~~

~~23 (c) "Erect" means to construct, build, raise, assemble,
24 place, affix, attach, create, paint, draw, or in any other way
25 bring into being or establish.~~

~~26 (d) "Interstate highway" means a highway officially
27 designated as a part of the national system of interstate and~~

1 ~~defense highways by the department and approved by the~~
2 ~~appropriate authority of the federal government.~~

3 ~~(e) "Freeway" means a divided highway of not less than 2~~
4 ~~lanes in each direction to which owners or occupants of abutting~~
5 ~~property or the public do not have a right of ingress or egress~~
6 ~~to, from or across the highway, except at points determined by or~~
7 ~~as otherwise provided by the authorities responsible therefor.~~

8 ~~(f) "Primary highway" means a highway, other than an inter-~~
9 ~~state highway or freeway, officially designated as a part of the~~
10 ~~federal aid primary system as defined in section 103 of title 23~~
11 ~~of the United States code, as amended, by the department and~~
12 ~~approved by the appropriate authority of the federal government.~~

13 ~~(g) "Main-traveled way" means the traveled way of a highway~~
14 ~~on which through traffic is carried. The traveled way of each of~~
15 ~~the separate roadways for traffic in opposite directions is a~~
16 ~~main-traveled way of a divided highway. It does not include~~
17 ~~facilities as frontage roads, turning roadways or parking areas.~~

18 ~~(h) "Sign" means any outdoor sign, display, device, figure,~~
19 ~~painting, drawing, message, placard, poster, billboard, or other~~
20 ~~thing, whether placed individually or on a T-type, V-type, back~~
21 ~~to back or double-faced display, designed, intended or used to~~
22 ~~advertise or inform.~~

23 ~~(i) "Sign structure" means the assembled components which~~
24 ~~make up an outdoor advertising display, including but not limited~~
25 ~~to uprights, supports, facings and trim. Such sign structure may~~
26 ~~contain 1 or 2 signs per facing and may be double-faced, back to~~
27 ~~back, T-type or V-type.~~

1 ~~(j) "Visible" means capable of being seen by a person of~~
2 ~~normal visual acuity.~~

3 ~~(k) "Location" means a place where there is located a~~
4 ~~single, double-faced, back to back, T-type, or V-type sign~~
5 ~~structure.~~

6 ~~(l) "Maintain" means to allow to exist and includes the~~
7 ~~periodic changing of advertising messages, customary maintenance~~
8 ~~and repair of signs and sign structures.~~

9 ~~(m) "Abandoned sign or sign structure" means a sign or sign~~
10 ~~structure subject to the provisions of this act, the owner of~~
11 ~~which has failed to secure a permit, has failed to identify the~~
12 ~~sign or sign structure or has failed to respond to notice.~~

13 ~~(n) "Department" means the department of state highways and~~
14 ~~transportation.~~

15 ~~(o) "Adjacent area" means the area measured from the nearest~~
16 ~~edge of the right of way of an interstate highway, freeway, or~~
17 ~~primary highway and extending 3,000 feet perpendicularly and then~~
18 ~~along a line parallel to the right-of-way line.~~

19 ~~(p) "Person" means any individual, partnership, private~~
20 ~~association, or corporation, state, county, city, village, town=~~
21 ~~ship, charter township, or other public or municipal association~~
22 ~~or corporation.~~

23 (A) "ABANDONED SIGN OR SIGN STRUCTURE" MEANS A SIGN OR SIGN
24 STRUCTURE SUBJECT TO THE PROVISIONS OF THIS ACT, THE OWNER OF
25 WHICH HAS FAILED TO SECURE A PERMIT, HAS FAILED TO IDENTIFY THE
26 SIGN OR SIGN STRUCTURE, OR HAS FAILED TO RESPOND TO NOTICE.

1 (B) "ADJACENT AREA" MEANS THE AREA MEASURED FROM THE NEAREST
2 EDGE OF THE RIGHT-OF-WAY OF AN INTERSTATE HIGHWAY, FREEWAY, OR
3 PRIMARY HIGHWAY UNDER THE JURISDICTION OF THE DEPARTMENT OR A
4 SECONDARY HIGHWAY, MAJOR STREET, OR LOCAL ROAD AND EXTENDING
5 3,000 FEET PERPENDICULARLY AND THEN ALONG A LINE PARALLEL TO THE
6 RIGHT-OF-WAY LINE.

7 (C) "BUSINESS AREA" MEANS AN ADJACENT AREA THAT IS ZONED
8 UNDER AUTHORITY OF STATE, COUNTY, TOWNSHIP, OR MUNICIPAL ZONING
9 AUTHORITY FOR INDUSTRIAL OR COMMERCIAL PURPOSES, CUSTOMARILY
10 REFERRED TO AS "B" OR BUSINESS, "C" OR COMMERCIAL, "I" OR INDUS-
11 TRIAL, "M" OR MANUFACTURING, AND "S" OR SERVICE, AND ALL OTHER
12 SIMILAR CLASSIFICATIONS AND CONTAINS 1 OR MORE PERMANENT STRUC-
13 TURES DEVOTED TO THE INDUSTRIAL OR COMMERCIAL PURPOSES DESCRIBED
14 IN THIS SUBDIVISION AND THAT EXTENDS ALONG THE HIGHWAY A DISTANCE
15 OF 800 FEET BEYOND EACH EDGE OF THE ACTIVITY. EACH SIDE OF THE
16 HIGHWAY IS CONSIDERED SEPARATELY IN APPLYING THIS DEFINITION
17 EXCEPT WHERE IT IS NOT TOPOGRAPHICALLY FEASIBLE FOR A SIGN OR
18 SIGN STRUCTURE TO BE ERECTED OR MAINTAINED ON THE SAME SIDE OF
19 THE HIGHWAY AS THE PERMANENT STRUCTURE DEVOTED TO INDUSTRIAL OR
20 COMMERCIAL PURPOSES, A BUSINESS AREA MAY BE ESTABLISHED ON THE
21 OPPOSITE SIDE OF A PRIMARY HIGHWAY IN AN AREA ZONED COMMERCIAL OR
22 INDUSTRIAL OR IN AN UNZONED AREA WITH THE APPROVAL OF THE STATE
23 HIGHWAY COMMISSION. A PERMANENT STRUCTURE DEVOTED TO INDUSTRIAL
24 OR COMMERCIAL PURPOSES SHALL NOT RESULT IN THE ESTABLISHMENT OF A
25 BUSINESS AREA ON BOTH SIDES OF THE HIGHWAY. ALL MEASUREMENTS
26 SHALL BE FROM THE OUTER EDGE OF THE REGULARLY USED BUILDING,
27 PARKING LOT, OR STORAGE OR PROCESSING AREA OF THE COMMERCIAL OR

1 INDUSTRIAL ACTIVITY AND NOT FROM THE PROPERTY LINES OF THE
2 ACTIVITIES AND SHALL BE ALONG OR PARALLEL TO THE EDGE OR PAVEMENT
3 OF THE HIGHWAY. COMMERCIAL OR INDUSTRIAL PURPOSES ARE THOSE
4 ACTIVITIES GENERALLY RECOGNIZED AS COMMERCIAL OR INDUSTRIAL BY
5 ZONING AUTHORITIES EXCEPT THAT THE FOLLOWING ACTIVITIES ARE NOT
6 CONSIDERED COMMERCIAL OR INDUSTRIAL:

7 (i) AGRICULTURAL, FORESTRY, GRAZING, FARMING, AND RELATED
8 ACTIVITIES, INCLUDING, BUT NOT LIMITED TO, WAYSIDE FRESH PRODUCE
9 STANDS.

10 (ii) TRANSIENT OR TEMPORARY ACTIVITIES.

11 (iii) ACTIVITIES NOT VISIBLE FROM THE MAIN-TRAVELED WAY.

12 (iv) ACTIVITIES CONDUCTED IN A BUILDING PRINCIPALLY USED AS
13 A RESIDENCE.

14 (v) RAILROAD TRACKS AND MINOR SIDINGS.

15 (vi) OUTDOOR ADVERTISING.

16 (vii) ACTIVITIES MORE THAN 660 FEET FROM THE MAIN-TRAVELED
17 WAY.

18 (D) "DEPARTMENT" MEANS THE STATE TRANSPORTATION DEPARTMENT.

19 (E) "ERECT" MEANS TO CONSTRUCT, BUILD, RAISE, ASSEMBLE,
20 PLACE, AFFIX, ATTACH, CREATE, PAINT, DRAW, OR IN ANY OTHER WAY
21 BRING INTO BEING OR ESTABLISH.

22 (F) "FREEWAY" MEANS A DIVIDED HIGHWAY OF NOT LESS THAN 2
23 LANES IN EACH DIRECTION TO WHICH OWNERS OR OCCUPANTS OF ABUTTING
24 PROPERTY OR THE PUBLIC DO NOT HAVE A RIGHT OF INGRESS OR EGRESS
25 TO, FROM, OR ACROSS THE HIGHWAY, EXCEPT AT POINTS DETERMINED BY
26 OR AS OTHERWISE PROVIDED BY THE AUTHORITIES RESPONSIBLE FOR THE
27 HIGHWAY.

1 (G) "INTERSTATE HIGHWAY" MEANS A HIGHWAY OFFICIALLY
2 DESIGNATED AS A PART OF THE NATIONAL SYSTEM OF INTERSTATE AND
3 DEFENSE HIGHWAYS BY THE DEPARTMENT AND APPROVED BY THE APPROPRI-
4 ATE AUTHORITY OF THE FEDERAL GOVERNMENT.

5 (H) "LOCATION" MEANS A PLACE WHERE THERE IS LOCATED A
6 SINGLE, DOUBLE-FACED, BACK TO BACK, T-TYPE, OR V-TYPE SIGN
7 STRUCTURE.

8 (I) "MAINTAIN" MEANS TO ALLOW TO EXIST AND INCLUDES THE
9 PERIODIC CHANGING OF ADVERTISING MESSAGES, CUSTOMARY MAINTENANCE,
10 AND REPAIR OF SIGNS AND SIGN STRUCTURES. MAINTAIN DOES NOT
11 INCLUDE THE ENLARGING OF A SIGN OR OTHERWISE ALTERING THE SIGN
12 STRUCTURE.

13 (J) "MAIN-TRAVELED WAY" MEANS THE TRAVELED WAY OF A HIGHWAY
14 ON WHICH THROUGH TRAFFIC IS CARRIED. THE TRAVELED WAY OF EACH OF
15 THE SEPARATE ROADWAYS FOR TRAFFIC IN OPPOSITE DIRECTIONS IS A
16 MAIN-TRAVELED WAY OF A DIVIDED HIGHWAY. IT DOES NOT INCLUDE
17 FACILITIES AS FRONTAGE ROADS, TURNING ROADWAYS, OR PARKING
18 AREAS.

19 (K) "PERSON" MEANS ANY INDIVIDUAL, PARTNERSHIP, ASSOCIATION,
20 CORPORATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

21 (L) "PRIMARY HIGHWAY" MEANS A HIGHWAY, OTHER THAN AN INTER-
22 STATE HIGHWAY OR FREEWAY, OFFICIALLY DESIGNATED AS A PART OF THE
23 FEDERAL AID PRIMARY SYSTEM AS DEFINED IN SECTION 103 OF CHAPTER 1
24 OF TITLE 23 OF THE UNITED STATES CODE, 23 U.S.C. 103, BY THE
25 DEPARTMENT AND APPROVED BY THE APPROPRIATE AUTHORITY OF THE FED-
26 ERAL GOVERNMENT.

1 (M) "SECONDARY HIGHWAY" MEANS A STATE SECONDARY ROAD OR
2 COUNTY PRIMARY ROAD.

3 (N) "SIGN" MEANS ANY OUTDOOR SIGN, DISPLAY, DEVICE, FIGURE,
4 PAINTING, DRAWING, MESSAGE, PLACARD, POSTER, BILLBOARD, OR OTHER
5 THING, WHETHER PLACED INDIVIDUALLY OR ON A T-TYPE, V-TYPE, BACK
6 TO BACK, OR DOUBLE-FACED DISPLAY DESIGNED, INTENDED, OR USED TO
7 ADVERTISE OR INFORM.

8 (O) "SIGN STRUCTURE" MEANS THE ASSEMBLED COMPONENTS THAT
9 MAKE UP AN OUTDOOR ADVERTISING DISPLAY, INCLUDING, BUT NOT
10 LIMITED TO, UPRIGHTS, SUPPORTS, FACINGS, AND TRIM. THE SIGN
11 STRUCTURE MAY CONTAIN 1 OR 2 SIGNS PER FACING AND MAY BE
12 DOUBLE-FACED, BACK TO BACK, T-TYPE, OR V-TYPE.

13 (P) "UNZONED COMMERCIAL OR INDUSTRIAL AREA" MEANS AN AREA
14 THAT IS WITHIN AN ADJACENT AREA, WHICH IS NOT ZONED BY STATE OR
15 LOCAL LAW, REGULATION, OR ORDINANCE, THAT CONTAINS 1 OR MORE PER-
16 MANENT STRUCTURES DEVOTED TO THE INDUSTRIAL OR COMMERCIAL PUR-
17 POSES DESCRIBED IN SUBDIVISION (C), AND THAT EXTENDS ALONG THE
18 HIGHWAY A DISTANCE OF 800 FEET BEYOND EACH EDGE OF THE ACTIVITY.
19 A PERMANENT STRUCTURE DEVOTED TO INDUSTRIAL OR COMMERCIAL PUR-
20 POSES SHALL NOT RESULT IN THE ESTABLISHMENT OF AN UNZONED COMMER-
21 CIAL OR INDUSTRIAL AREA ON BOTH SIDES OF THE HIGHWAY. ALL MEA-
22 SUREMENTS SHALL BE FROM THE OUTER EDGE OF THE REGULARLY USED
23 BUILDING, PARKING LOT, OR STORAGE OR PROCESSING AREA OF THE COM-
24 MERCIAL OR INDUSTRIAL ACTIVITY AND NOT FROM THE PROPERTY LINES OF
25 THE ACTIVITIES AND SHALL BE ALONG OR PARALLEL TO THE EDGE OR
26 PAVEMENT OF THE HIGHWAY. COMMERCIAL OR INDUSTRIAL PURPOSES ARE
27 THOSE ACTIVITIES GENERALLY RECOGNIZED AS COMMERCIAL OR INDUSTRIAL

1 BY ZONING AUTHORITIES EXCEPT THAT THE FOLLOWING ACTIVITIES ARE
2 NOT CONSIDERED COMMERCIAL OR INDUSTRIAL:

3 (i) AGRICULTURAL, FORESTRY, GRAZING, FARMING, AND RELATED
4 ACTIVITIES, INCLUDING, BUT NOT LIMITED TO, WAYSIDE FRESH PRODUCE
5 STANDS.

6 (ii) TRANSIENT OR TEMPORARY ACTIVITIES.

7 (iii) ACTIVITIES NOT VISIBLE FROM THE MAIN-TRAVELED WAY.

8 (iv) ACTIVITIES CONDUCTED IN A BUILDING PRINCIPALLY USED AS
9 A RESIDENCE.

10 (v) RAILROAD TRACKS AND MINOR SIDINGS.

11 (vi) OUTDOOR ADVERTISING.

12 (vii) ACTIVITIES MORE THAN 660 FEET FROM THE MAIN-TRAVELED
13 WAY.

14 (Q) "VISIBLE" MEANS CAPABLE OF BEING SEEN BY A PERSON OF
15 NORMAL VISUAL ACUITY.

16 Sec. 3. To improve and enhance scenic beauty consistent
17 with ~~the provision of~~ section 131 OF CHAPTER 1 of title 23 of
18 the United States ~~code~~ CODE, 23 U.S.C. 131, as amended, the
19 legislature finds it appropriate to regulate and control outdoor
20 advertising adjacent to the interstate highway, freeway, ~~and~~
21 primary highway, SECONDARY HIGHWAY, MAJOR STREET, AND LOCAL ROADS
22 systems within this state. ~~and that outdoor advertising is a~~
23 ~~legitimate commercial use of private property, is an integral~~
24 ~~part of the marketing function and an established segment of the~~
25 ~~economy of this state.~~

1 Sec. 7. (1) A permit fee OF \$5.00 is payable annually in
2 advance, to be credited to the state trunk line fund. ~~The fee~~
3 ~~is \$5.00.~~

4 (2) A SIGN SHALL NOT ADVERTISE THE PURCHASE OR CONSUMPTION
5 OF TOBACCO PRODUCTS AFTER 1 YEAR FROM THE EFFECTIVE DATE OF THE
6 AMENDATORY ACT THAT ADDED THIS SUBSECTION. AS USED IN THIS SUB-
7 SECTION, "TOBACCO PRODUCT" MEANS ANY TOBACCO PRODUCT SOLD TO THE
8 GENERAL PUBLIC AND INCLUDES, BUT IS NOT LIMITED TO, CIGARETTES,
9 CIGARS, TOBACCO SNUFF, AND CHEWING TOBACCO.

10 (3) Permits expire on June 30 of each year and permit fees
11 may not be prorated after the first year. An application for the
12 renewal of a permit AND THE RENEWAL FEE shall be filed with the
13 department before June 1 preceding the expiration date.