

SENATE BILL No. 568

June 7, 2005, Introduced by Senators GILBERT and KUIPERS and referred to the Committee on Transportation.

A bill to amend 1972 PA 106, entitled "Highway advertising act of 1972," by amending sections 2, 3, 4, 6, 7, 11, 15, 17, 18a, and 19 (MCL 252.302, 252.303, 252.304, 252.306, 252.307, 252.311, 252.315, 252.317, 252.318a, and 252.319), sections 2, 3, 4, 6, 7, 15, 17, and 19 as amended and section 11 as added by 1998 PA 533 and section 18a as added by 1998 PA 464, and by adding section 11a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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 authority for industrial or commercial purposes, customarily referred to as "b" or business, "c" or commercial, "i" or industrial, "m" or manufacturing, and "s" or service, and all other

1 similar classifications and which is within a city, village, or
2 charter township or is within 1 mile of the corporate limits of a
3 city, village, or charter township or is beyond 1 mile of the
4 corporate limits of a city, village, or charter township and
5 contains 1 or more permanent structures devoted to the industrial
6 or commercial purposes described in this subdivision and which
7 extends along the highway a distance of 800 feet beyond each edge
8 of the activity. Each side of the highway is considered separately
9 in applying this definition except where it is not topographically
10 feasible for a sign or sign structure to be erected or maintained
11 on the same side of the highway as the permanent structure devoted
12 to industrial or commercial purposes, a business area may be
13 established on the opposite side of a primary highway in an area
14 zoned commercial or industrial or in an unzoned area with the
15 approval of the state highway commission. A permanent structure
16 devoted to industrial or commercial purposes does not result in the
17 establishment of a business area on both sides of the highway. All
18 measurements shall be from the outer edge of the regularly used
19 building, parking lot or storage or processing area of the
20 commercial or industrial activity and not from the property lines
21 of the activities and shall be along or parallel to the edge or
22 pavement of the highway. Commercial or industrial purposes are
23 those activities generally restricted to commercial or industrial
24 zones in jurisdictions that have zoning. In addition, the following
25 activities shall not be considered commercial or industrial:
26 (i) Agricultural, animal husbandry, forestry, grazing, farming,
27 and related activities, including, but not limited to, wayside

1 fresh produce stands.

2 (ii) Transient or temporary activities.

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

4 (iv) Activities conducted in a building principally used as a
5 residence, or in a building located on property that is used
6 principally for residential purposes or for activities recited in
7 subparagraph (i).

8 (v) Railroad tracks and minor sidings.

9 (vi) Outdoor advertising.

10 (vii) Activities more than 660 feet from the main-traveled way.

11 (viii) Activities that have not been in continuous operation of
12 a business or commercial nature for at least 2 years.

13 (ix) Public utility facilities, whether regularly staffed or
14 not.

15 (x) Structures associated with on-site outdoor recreational
16 activities such as riding stables, golf course shops, and
17 campground offices.

18 (xi) Activities conducted in a structure for which an occupancy
19 permit has not been issued or which is not a fully enclosed
20 building, having all necessary utility service and sanitary
21 facilities required for its intended commercial or industrial use.

22 (xii) A storage facility for a business or other activity not
23 located on the same property, except a storage building having at
24 least 10 separate units that are available to be rented by the
25 public.

26 (b) "Unzoned commercial or industrial area" means an area
27 which is within an adjacent area, which is not zoned by state or

1 local law, regulation or ordinance, which contains 1 or more
2 permanent structures devoted to the industrial or commercial
3 purposes described in subdivision (a), and which extends along the
4 highway a distance of 800 feet beyond each edge of the activity.
5 Each side of the highway is considered separately in applying this
6 definition except where it is not topographically feasible for a
7 sign or sign structure to be erected or maintained on the same side
8 of the highway as the permanent structure devoted to industrial or
9 commercial purposes, an unzoned commercial or industrial area may
10 be established on the opposite side of a primary highway in an area
11 zoned commercial or industrial or in an unzoned area with the
12 approval of the state highway commission. A permanent structure
13 devoted to industrial or commercial purposes does not result in the
14 establishment of an unzoned commercial or industrial area on both
15 sides of the highway. All measurements shall be from the outer edge
16 of the regularly used building, parking lot or storage or
17 processing area of the commercial or industrial activity and not
18 from the property lines of the activities and shall be along or
19 parallel to the edge or pavement of the highway. Commercial or
20 industrial purposes are those activities generally restricted to
21 commercial or industrial zones in jurisdictions that have zoning.
22 In addition, the following activities shall not be considered
23 commercial or industrial:

24 (i) Agricultural, animal husbandry, forestry, grazing, farming
25 and related activities, including, but not limited to, wayside
26 fresh produce stands.

27 (ii) Transient or temporary activities.

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

2 (iv) Activities conducted in a building principally used as a
3 residence, or in a building located on property that is used
4 principally for residential purposes or for activities recited in
5 subparagraph (i).

6 (v) Railroad tracks and minor sidings.

7 (vi) Outdoor advertising.

8 (vii) Activities more than 660 feet from the main-traveled way.

9 (viii) Activities that have not been in continuous operation of
10 a business or commercial nature for at least 2 years.

11 (ix) Public utility facilities, whether regularly staffed or
12 not.

13 (x) Structures associated with on-site outdoor recreational
14 activities such as riding stables, golf course shops, and
15 campground offices.

16 (xi) Activities conducted in a structure for which an occupancy
17 permit has not been issued or which is not a fully enclosed
18 building, having all necessary utility service and sanitary
19 facilities required for its intended commercial or industrial use.

20 (xii) A storage facility for a business or other activity not
21 located on the same property, except a storage building having at
22 least 10 separate units that are available to be rented by the
23 public.

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

27 (d) "Interstate highway" means a highway officially designated

1 as a part of the national system of interstate and defense highways
2 by the department and approved by the appropriate authority of the
3 federal government.

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

9 (f) "Primary highway" means a highway, other than an
10 interstate highway or freeway, officially designated as a part of
11 the primary system as defined in section 131 of title 23 of the
12 United States Code, 23 ~~U.S.C.~~ **USC** 131, by the department and
13 approved by the appropriate authority of the federal government.

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

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

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

1 back, T-type or V-type.

2 (j) "Visible" means a sign that has a message that is capable
3 of being seen and read by a person of normal visual acuity when
4 traveling in a motor vehicle.

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

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

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

14 (n) "Department" means the state transportation department.

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,
21 township, charter township, or other public or municipal
22 association or corporation.

23 (q) "On-premises sign" means a sign advertising activities
24 conducted or maintained on the property on which it is located. The
25 boundary of the property shall be as determined by tax rolls, deed
26 registrations, and apparent land use delineations. When a sign
27 consists principally of brand name or trade name advertising and

1 the product or service advertised is only incidental to the
2 principal activity, or if it brings rental income to the property
3 owner or sign owner, it shall be considered the business of outdoor
4 advertising and not an on-premises sign. Signs on narrow strips of
5 land contiguous to the advertised activity, or signs on easements
6 on adjacent property, when the purpose is clearly to circumvent the
7 intent of this act, shall not be considered on-premises signs.

8 (R) "BILLBOARD" MEANS A SIGN SEPARATE FROM A PREMISES ERECTED
9 FOR THE PURPOSE OF ADVERTISING A PRODUCT, EVENT, PERSON, OR SUBJECT
10 NOT RELATED TO THE PREMISES ON WHICH THE SIGN IS LOCATED. OFF-
11 PREMISES DIRECTIONAL SIGNS AS PERMITTED IN THIS ACT SHALL NOT BE
12 CONSIDERED BILLBOARDS FOR THE PURPOSES OF THIS SECTION.

13 (S) "SECONDARY HIGHWAY" MEANS A STATE SECONDARY ROAD OR COUNTY
14 PRIMARY ROAD.

15 (T) "TOBACCO PRODUCT" MEANS ANY TOBACCO PRODUCT SOLD TO THE
16 GENERAL PUBLIC AND INCLUDES, BUT IS NOT LIMITED TO, CIGARETTES,
17 TOBACCO SNUFF, AND CHEWING TOBACCO.

18 Sec. 3. To improve and enhance scenic beauty consistent with
19 section 131 of title 23 of the United States Code, 23 U.S.C.— USC
20 131, AND TO LIMIT AND REDUCE THE ILLEGAL POSSESSION AND USE OF
21 TOBACCO BY MINORS, the legislature finds it appropriate to regulate
22 and control outdoor advertising and outdoor advertising as it
23 pertains to tobacco adjacent to the ~~interstate highway, freeway,~~
24 ~~and primary highway systems, and outdoor advertising as it pertains~~
25 ~~to tobacco on secondary highway, major street, and local roads~~
26 STREETS, ROADS, HIGHWAYS, AND FREEWAYS within this state and that
27 outdoor advertising is a legitimate accessory commercial use of

1 private property ~~, is~~ **AND SERVES AN IMPORTANT PUBLIC NEED AS** an
2 integral part of the marketing function and an established segment
3 of the economy of this state. ~~In addition, the legislature finds it~~
4 ~~appropriate to protect minors from exposure to advertising that~~
5 ~~encourages them to illegally possess tobacco.~~

6 Sec. 4. This act regulates and controls the size, lighting,
7 and spacing of signs and sign structures in adjacent areas and
8 occupies the whole field of that regulation and control except for
9 the following:

10 (a) A city, village, township, or charter township may enact
11 ordinances to regulate and control the size, lighting, and spacing
12 of signs and sign structures ~~—, but the ordinances—~~ shall not
13 permit a sign or sign structure that is otherwise prohibited by
14 this act or require or cause the removal of lawfully erected signs
15 or sign structures subject to this act without the payment of just
16 compensation. A sign owner shall apply for an annual permit
17 pursuant to section 6 for each sign to be maintained or to be
18 erected within that city, village, charter township, or township. A
19 sign erected or maintained within that city, village, township, or
20 charter township shall also comply with all applicable provisions
21 of this act.

22 (b) A city, village, charter township, or township vested by
23 law with authority to enact zoning codes has full authority under
24 its own zoning codes or ordinances to establish commercial or
25 industrial areas and the actions of a city, village, charter
26 township, or township in so doing shall be accepted for the
27 purposes of this act. However, except as provided in subdivision

1 (a), zoning which is not part of a comprehensive zoning plan and is
2 taken primarily to permit outdoor advertising structures shall not
3 be accepted for purposes of this act. A zone in which limited
4 commercial or industrial activities are permitted as incidental to
5 other primary land uses is not a commercial or industrial zone for
6 outdoor advertising control purposes.

7 (c) An ordinance or code of a city, village, township, or
8 charter township that existed on March 31, 1972 and that prohibits
9 signs or sign structures is not made void by this act.

10 (d) A county, on its own initiative or at the request of a
11 city, village, township, or charter township within that county,
12 may prepare a model ordinance as described in subdivision (a). A
13 city, village, township, or charter township within that county may
14 adopt the model ordinance.

15 Sec. 6. A sign owner shall apply for an annual permit on a
16 form prescribed by the department for each sign to be maintained or
17 to be erected in an adjacent area where the facing of the sign is
18 visible from an interstate highway, freeway, or primary highway. A
19 ~~sign owner shall apply for a separate sign permit for each sign for~~
20 ~~each highway subject to this act from which the facing of the sign~~
21 ~~is visible.~~ The owner shall apply for the permit for such signs
22 which become subject to **THE PERMIT REQUIREMENTS OF** this act because
23 of a change in highway designation or other reason not within the
24 control of the sign owner within 2 months after the sign becomes
25 subject to **THE PERMIT REQUIREMENTS OF** this act. The form shall
26 require the name and business address of the applicant, the name
27 and address of the owner of the property on which the sign is to be

1 located, the date the sign, if currently maintained, was erected,
2 the zoning classification of the property, a precise description of
3 where the sign is or will be situated and a certification that the
4 sign is not prohibited by section 18(a), (b), (c), or (d) and that
5 the sign does not violate any provisions of this act. The sign
6 permit application shall include a statement signed by the owner of
7 the land on which the sign is to be placed, acknowledging that no
8 trees or shrubs in the adjacent highway right-of-way may be
9 removed, trimmed, or in any way damaged or destroyed without the
10 written authorization of the department. The department may require
11 documentation to verify the zoning, the consent of the land owner,
12 and any other matter considered essential to the evaluation of the
13 compliance with this act.

14 Sec. 7. (1) A permit fee is payable annually in advance, to be
15 credited to the state trunk line fund. The fee is \$100.00 for the
16 first year except that signs in existence prior to a highway's
17 change in designation or jurisdiction which would require signs to
18 be permitted shall only be required to pay the permit renewal
19 amount as provided in subsection (2). The department shall
20 establish an annual expiration date for each permit and may change
21 the expiration date of existing permits to spread the permit
22 renewal activity over the year. Permit fees may be prorated the
23 first year. An application for the renewal of a permit shall be
24 filed with the department at least 30 days before the expiration
25 date.

26 (2) For signs ~~greater than 8 square feet and~~ up to and
27 including 300 square feet, the annual permit renewal fee is \$25.00.

1 For signs greater than 300 square feet, the annual permit renewal
2 fee is \$40.00. Signs of the service club and religious category as
3 defined in rules promulgated by the department are not subject to
4 an annual renewal fee.

5 Sec. 11. A- **UNLESS THE DEPARTMENT HAS ISSUED A VEGETATION**
6 **MANAGEMENT PERMIT UNDER SECTION 11A,** A person who destroys trees or
7 shrubs within a highway right-of-way for the purpose of making a
8 sign, whether proposed or existing, more visible is guilty of a
9 felony punishable by imprisonment for not more than 2 years or a
10 fine of not more than \$10,000.00, or both. If a court determines
11 that trees or shrubs within a highway right-of-way have been
12 removed **WITHOUT A VEGETATION MANAGEMENT PERMIT UNDER SECTION 11A** by
13 the sign owner, the land owner, or an agent of either party for the
14 purpose of making a sign more visible, the sign shall be considered
15 illegal and the department may remove the sign pursuant to the
16 procedures contained in section 19.

17 **SEC. 11A. (1) BEGINNING ON THE EFFECTIVE DATE OF THE**
18 **AMENDATORY ACT THAT ADDED THIS SECTION THROUGH DECEMBER 31, 2008,**
19 **THE DEPARTMENT IS AUTHORIZED TO ISSUE VEGETATION MANAGEMENT PERMITS**
20 **UNDER THIS SECTION TO THE OWNER OF A SIGN SUBJECT TO THIS ACT.**

21 **(2) A SIGN OWNER MAY APPLY TO THE DEPARTMENT FOR A VEGETATION**
22 **MANAGEMENT PERMIT USING THE DEPARTMENT'S APPROVED FORM. A SIGN**
23 **OWNER APPLYING FOR A VEGETATION MANAGEMENT PERMIT SHALL SUBMIT A**
24 **VEGETATION MANAGEMENT PLAN PREPARED AND SIGNED BY AN ARBORIST OR**
25 **FORESTER CERTIFIED BY THE INTERNATIONAL SOCIETY OF ARBORCULTURE OR**
26 **A LOCAL CHAPTER OF THE INTERNATIONAL SOCIETY OF ARBORCULTURE. A FEE**
27 **OF \$50.00 SHALL BE PAID TO THE DEPARTMENT WITH EACH APPLICATION.**

1 THE VEGETATION MANAGEMENT PLAN SHALL CLEARLY IDENTIFY THE
2 VEGETATION TO BE REMOVED, TRIMMED, OR RELOCATED IN ORDER TO PERMIT
3 FULL VISIBILITY OF THE SIGN WITHIN THE MOTORIST VIEWING ZONE. THE
4 VEGETATION MANAGEMENT PLAN SHALL DESCRIBE ALL RECURRING OR PERIODIC
5 TRIMMING OF VEGETATION THAT WILL BE NEEDED IN THE FUTURE TO PERMIT
6 VISIBILITY OF THE SIGN WITHIN THE MOTORIST VIEWING ZONE. THE
7 VEGETATION MANAGEMENT PLAN SHALL INCLUDE A STATEMENT OF THE VALUE
8 OF ANY TREE THAT IS TO BE REMOVED. THE STATEMENT OF THE VALUE SHALL
9 BE DETERMINED BY REFERENCE TO THE SHADE TREE EVALUATION CHART OF
10 THE MICHIGAN FORESTRY AND PARKS ASSOCIATION.

11 (3) NO LATER THAN 30 DAYS AFTER THE RECEIPT OF AN APPLICATION
12 FOR A VEGETATION MANAGEMENT PERMIT, THE DEPARTMENT SHALL ISSUE A
13 VEGETATION MANAGEMENT PERMIT TO THE PERMIT APPLICANT UNLESS THE
14 DEPARTMENT DETERMINES THAT THE SUBMITTED VEGETATION MANAGEMENT PLAN
15 IDENTIFIES VEGETATION TO BE REMOVED, TRIMMED, OR RELOCATED THAT
16 DOES NOT IMPAIR THE VISIBILITY OF ANY PORTION OF THE SIGN WITHIN
17 THE MOTORIST VIEWING ZONE. NO VEGETATION MANAGEMENT PLAN SHALL BE
18 IMPLEMENTED BEFORE THE APPLICANT PAYS A FEE TO THE DEPARTMENT FOR
19 TREE REPLACEMENT IN THE AMOUNT IDENTIFIED IN THE VEGETATION
20 MANAGEMENT PLAN STATEMENT OF VALUE OF ANY TREE THAT IS TO BE
21 REMOVED. IF NO TREES ARE TO BE REMOVED, NO TREE REPLACEMENT FEE
22 SHALL BE PAID. IF THE DEPARTMENT TAKES NO ACTION ON AN APPLICATION
23 WITHIN 30 DAYS OF RECEIPT OF THE APPLICATION, THE APPLICANT MAY
24 IMPLEMENT THE VEGETATION MANAGEMENT PLAN UPON PAYMENT TO THE
25 DEPARTMENT OF THE APPLICATION FEE AND THE TREE REPLACEMENT FEE, IF
26 APPLICABLE.

27 (4) A SIGN OWNER MAY APPLY TO THE DEPARTMENT ON A FORM

1 APPROVED BY THE DEPARTMENT FOR A VEGETATION MANAGEMENT RENEWAL
2 PERMIT TO PERFORM RECURRING OR PERIODIC TRIMMING OF VEGETATION
3 DESCRIBED IN A VEGETATION MANAGEMENT PLAN PREVIOUSLY SUBMITTED AND
4 IMPLEMENTED IN CONNECTION WITH THE SIGN OWNER'S VEGETATION
5 MANAGEMENT PERMIT. THE DEPARTMENT SHALL ISSUE THE RENEWAL PERMIT
6 WITHIN 10 DAYS OF RECEIPT OF AN ADMINISTRATIVELY COMPLETE RENEWAL
7 APPLICATION. NO TRIMMING IN CONNECTION WITH A VEGETATION MANAGEMENT
8 RENEWAL PERMIT SHALL BE PERFORMED BEFORE THE SIGN OWNER PAYS A PLAN
9 COMPLIANCE FEE OF \$100.00 TO THE DEPARTMENT. THE PLAN COMPLIANCE
10 FEE SHALL BE USED BY THE DEPARTMENT TO DETERMINE COMPLIANCE WITH
11 THE IMPLEMENTED VEGETATION MANAGEMENT PLAN.

12 (5) ALL WORK PERFORMED IN CONNECTION WITH A VEGETATION
13 MANAGEMENT PLAN SHALL BE PERFORMED AT THE SIGN OWNER'S EXPENSE.

14 (6) THE DEPARTMENT SHALL NOT PLANT OR AUTHORIZE TO BE PLANTED
15 ANY VEGETATION THAT IMPAIRS, OR THROUGH EXPECTED NORMAL GROWTH WILL
16 IMPAIR IN THE FUTURE, THE VISIBILITY WITHIN THE MOTORIST VIEWING
17 ZONE OF ANY PORTION OF A SIGN SUBJECT TO THIS ACT.

18 (7) FOR PURPOSES OF THIS ACT, "MOTORIST VIEWING ZONE" MEANS
19 THE AREA WITHIN THE RIGHT-OF-WAY BETWEEN THE MAIN TRAVELED WAY AND
20 A SIGN FOR WHICH A PERMIT HAS BEEN ISSUED UNDER SECTION 6, FOR A
21 DISTANCE OF 500 FEET BEFORE A SIGN ALONG PRIMARY HIGHWAYS AND FOR A
22 DISTANCE OF 1,000 FEET BEFORE A SIGN ALONG INTERSTATE HIGHWAYS AND
23 FREEWAYS. MEASUREMENTS SHALL BE MADE IN THE MANNER PROVIDED IN
24 SECTION 17.

25 (8) IF A SIGN OWNER REMOVES VEGETATION NOT IDENTIFIED FOR
26 REMOVAL IN A VEGETATION MANAGEMENT PLAN, THE SIGN OWNER SHALL PAY
27 TO THE DEPARTMENT A PENALTY OF TWICE THE VALUE OF THE REMOVED

1 **VEGETATION.**

2 Sec. 15. (1) All signs erected or maintained in business areas
3 or unzoned commercial and industrial areas shall comply with the
4 following size requirements and limitations:

5 (a) In counties of less than 425,000 population, signs shall
6 not exceed 1,200 square feet in area, including border or trim but
7 excluding ornamental base or apron, supports and other structural
8 members.

9 (b) In counties having a population of 425,000 or more, signs
10 of a size exceeding 1,200 square feet in area but not in excess of
11 6,500 square feet in area, including border or trim but excluding
12 ornamental base or apron, supports and other structural members,
13 shall be permitted if the department determines that the signs are
14 in accord with customary usage in the area where the sign is
15 located.

16 (c) For signs erected after ~~the effective date of the~~
17 ~~amendatory act that added this subdivision~~ **MARCH 23, 1999**, signs on
18 a sign structure shall not be stacked 1 on top of another. For
19 signs erected prior to ~~the effective date of the amendatory act~~
20 ~~that added this subdivision~~ **MARCH 23, 1999**, the sign or sign
21 structure shall not be modified to provide a sign or sign structure
22 that is stacked 1 on top of another.

23 (2) Maximum size limitations shall apply to each side of a
24 sign structure. Signs may be placed back to back, side by side or
25 in V-type or T-type construction, with not more than 2 sign
26 displays to each side. Any such sign structure shall be considered
27 as 1 sign for the purposes of this section.

1 Sec. 17. (1) Along interstate highways and freeways, a sign
2 structure located in a business area or unzoned commercial or
3 industrial area shall not be erected closer than 1,000 feet to
4 another sign structure on the same side of the highway.

5 (2) Along primary highways ~~within the limits of an~~
6 ~~incorporated municipality~~ a sign structure shall not be closer
7 than 500 feet to another sign structure.

8 ~~—(3) Along primary highways in areas outside of the limits of~~
9 ~~an incorporated municipality a sign structure shall not be closer~~
10 ~~than 500 feet to another sign structure.~~

11 (3) ~~—(4)~~ The provisions of this section do not apply to signs
12 separated by a building or other visual obstruction in such a
13 manner that only 1 sign located within the spacing distances is
14 visible from the highway at any time, provided that the building or
15 other visual obstruction has not been created for the purpose of
16 visually obstructing either of the signs at issue.

17 (4) ~~—(5)~~ Along interstate highways and freeways located
18 outside of incorporated municipalities, a sign structure shall not
19 be permitted adjacent to or within 500 feet of an interchange, an
20 intersection at grade or a safety roadside rest area. The 500 feet
21 shall be measured from the point of beginning or ending of pavement
22 widening at the exit from, or entrance to, the main-traveled way.

23 (5) ~~—(6)~~ Official signs as described in section 13(1)(a) and
24 on-premises signs shall not be counted nor shall measurements be
25 made from them for purposes of determining compliance with the
26 spacing requirements provided in this section.

27 (6) ~~—(7)~~ The spacing requirements provided in this section

1 apply separately to each side of the highway.

2 (7) ~~—(8)—~~ The spacing requirements provided in this section
3 shall be measured along the nearest edge of the pavement of the
4 highway between points directly opposite each sign.

5 (8) ~~—(9)—~~ A sign that was erected in compliance with the
6 spacing requirements of this section that were in effect at the
7 time when the sign was erected, but which does not comply with the
8 spacing requirements of this section ~~as modified by the amendatory~~
9 ~~act that added this subsection~~ **AFTER MARCH 23, 1999**, shall not be
10 considered unlawful as that term is used in section 22.

11 Sec. 18a. (1) Notwithstanding any other provision of this act,
12 beginning January 1, 2000, ~~a billboard~~ **ALL BILLBOARDS WITHIN THIS**
13 **STATE ARE SUBJECT TO THIS ACT AND** shall not advertise the purchase
14 or consumption of tobacco products.

15 (2) Notwithstanding any other provision of this act, a person
16 who violates this section is responsible for a civil fine of not
17 less than \$5,000.00 or more than \$10,000.00 for each day of
18 violation. A civil fine collected under this section shall be
19 distributed to public libraries as provided under 1964 PA 59, MCL
20 397.31 to 397.40.

21 ~~—(3) As used in this section:~~

22 ~~—(a) "Billboard" means a sign separate from a premises erected~~
23 ~~for the purpose of advertising a product, event, person, or subject~~
24 ~~not related to the premises on which the sign is located. Off-~~
25 ~~premises directional signs as permitted in this act shall not be~~
26 ~~considered billboards for the purpose of this section.~~

27 ~~—(b) "Freeway" means a divided highway of not less than 2 lanes~~

~~in each direction to which owners or occupants of abutting property or the public do not have a right of ingress or egress to, from, or across the highway, except at points determined by or as otherwise provided by the authorities responsible for the highway.~~

~~—— (c) "Interstate highway" means a highway officially designated as a part of the national system of interstate and defense highways by the department and approved by the appropriate authority of the federal government.~~

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

~~—— (e) "Primary highway" means a highway, other than an interstate highway or freeway, officially designated as a part of the primary system as defined in section 131 of title 23 of the United States code, 23 U.S.C. 131, by the department and approved by the appropriate authority of the federal government.~~

~~—— (f) "Secondary highway" means a state secondary road or county primary road.~~

~~—— (g) "Tobacco product" means any tobacco product sold to the general public and includes, but is not limited to, cigarettes, cigars, tobacco snuff, and chewing tobacco.~~

Sec. 19. (1) Signs and their supporting structures erected or maintained in violation of this act may be removed by the department in the manner prescribed in this section.

(2) There shall be mailed to the owner of the sign by

1 certified mail a notice that the sign or its supporting sign
2 structure violates stated specified provisions of this act and is
3 subject to removal. If the owner's address cannot be determined, a
4 notice shall be posted on the sign. The posted notice shall be
5 written on red waterproof paper stock of a size not less than 8 1/2
6 inches by 11 inches. The notice shall be posted in the area
7 designated by section 12 for the placing of permit numbers, in a
8 manner so that it is visible from the highway faced by the sign or
9 sign structure.

10 (3) If the sign or sign structure is not removed or brought
11 into compliance with this act within 60 days following the date of
12 posting or mailing of written notice or within such further time as
13 the department may allow in writing, the sign or sign structure
14 shall be considered to be abandoned.

15 (4) The department shall conduct a hearing pursuant to the
16 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
17 24.328, at which it shall confirm that the sign is abandoned, that
18 due process has been observed, and that the sign may be removed by
19 the department without payment of compensation and at the expense
20 of the owner. Signs or sign structures considered abandoned, and
21 any other sign or sign structure erected or maintained in violation
22 of this act that is not eligible for removal compensation as
23 provided in section 22, shall be removed by the department
24 forthwith or upon the expiration of such further time as the
25 department allows. The department may recover as a penalty from the
26 owner of the sign or sign structure - or, if he **OR SHE** cannot be
27 found, the owner of the real property upon which the sign or sign

1 structure is located, double the cost of removal or \$50.00,
2 whichever is greater.

3 (5) The department, its agents and employees, and any person
4 acting under the authority of 7 or by contract with the department
5 7 may enter upon private property without liability for so doing in
6 connection with the posting or the removal of any sign or sign
7 structure pursuant to this act.

8 (6) The department may contract on a negotiated basis without
9 competitive bidding with a permittee under this act for the removal
10 of any sign or sign structure pursuant to this act.

11 (7) A SIGN OR SIGN STRUCTURE ERECTED OR MAINTAINED IN
12 VIOLATION OF THIS ACT IS A NUISANCE PER SE. THE DEPARTMENT, BEFORE
13 OR AFTER A HEARING IS CONDUCTED, MAY APPLY TO THE CIRCUIT COURT IN
14 THE COUNTY IN WHICH A SIGN IS LOCATED FOR AN ORDER TO SHOW CAUSE
15 WHY THE USE OF A SIGN ERECTED OR MAINTAINED IN VIOLATION OF THIS
16 ACT SHOULD NOT BE ENJOINED PENDING ITS REMOVAL IN ACCORDANCE WITH
17 THIS SECTION.

18 Enacting section 1. Section 25 of the highway advertising act
19 of 1972, 1972 PA 106, MCL 252.325, is repealed.

20 Enacting section 2. This amendatory act does not take effect
21 unless Senate Bill No. 567

22 of the 93rd Legislature is enacted into law.