Act No. 448
Public Acts of 2006
Approved by the Governor
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STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006

Introduced by Senators Gilbert and Kuipers

ENROLLED SENATE BILL No. 568

AN ACT to amend 1972 PA 106, entitled "An act to provide for the licensing, regulation, control, and prohibition of outdoor advertising adjacent to certain roads and highways; to prescribe powers and duties of certain state agencies and officials; to promulgate rules; to provide remedies and prescribe penalties for violations; and to repeal acts and parts of acts," by amending sections 2, 3, 4, 6, 7, 9, 11, 12, 15, 16, 17, 18, 18a, and 19 (MCL 252.302, 252.303, 252.304, 252.306, 252.307, 252.309, 252.311, 252.312, 252.315, 252.316, 252.317, 252.318, 252.318a, and 252.319), sections 2, 3, 4, 6, 7, 9, 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 similar classifications and which is within a city, village, or charter township or is within 1 mile of the corporate limits of a city, village, or charter township or is beyond 1 mile of the corporate limits of a city, village, or charter township and contains 1 or more permanent structures devoted to the industrial or commercial purposes described in this subdivision and which extends along the highway a distance of 800 feet beyond each edge of the activity. Each side of the highway is considered separately in applying this definition except where it is not topographically feasible for a sign or sign structure to be erected or maintained on the same side of the highway as the permanent structure devoted to industrial or commercial purposes, a business area may be established on the opposite side of a primary highway in an area zoned commercial or industrial or in an unzoned area with the approval of the state highway commission. A permanent structure devoted to industrial or commercial purposes does not result in the establishment of a business area on both sides of the highway. All measurements shall be from the outer edge of the regularly used building, parking lot or storage or processing area of the commercial or

industrial activity and not from the property lines of the activities and shall be along or parallel to the edge or pavement of the highway. Commercial or industrial purposes are those activities generally restricted to commercial or industrial zones in jurisdictions that have zoning. In addition, the following activities shall not be considered commercial or industrial:

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

(*ii*) Transient or temporary activities.

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

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

(*v*) Railroad tracks and minor sidings.

(*vi*) Outdoor advertising.

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

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

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

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

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

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

(*xiii*) A temporary business solely established to qualify as commercial or industrial activity under this act.

(b) "Unzoned commercial or industrial area" means an area which is within an adjacent area, which is not zoned by state or local law, regulation or ordinance, which contains 1 or more permanent structures devoted to the industrial or commercial purposes described in subdivision (a), and which extends along the highway a distance of 800 feet beyond each edge of the activity. Each side of the highway is considered separately in applying this definition except where it is not topographically feasible for a sign or sign structure to be erected or maintained on the same side of the highway as the permanent structure devoted to industrial or commercial purposes, an unzoned commercial or industrial area may be established on the opposite side of a primary highway in an area zoned commercial or industrial or in an unzoned area with the approval of the state highway commission. A permanent structure devoted to industrial or commercial purposes does not result in the establishment of an unzoned commercial or industrial area on both sides of the highway. All measurements shall be from the outer edge of the regularly used building, parking lot or storage or processing area of the commercial or industrial activity and not from the property lines of the activities and shall be along or parallel to the edge or pavement of the highway. Commercial or industrial purposes are those activities generally restricted to commercial or industrial zones in jurisdictions that have zoning. In addition, the following activities shall not be considered commercial or industrial:

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

(*ii*) Transient or temporary activities.

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

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

(*v*) Railroad tracks and minor sidings.

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

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

(*xiii*) A temporary business solely established to qualify as commercial or industrial activity under this act.

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

(d) "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.

(e) "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 therefor.

(f) "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 USC 131, by the department and approved by the appropriate authority of the federal government.

(g) "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.

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

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

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

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

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

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

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

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

(p) "Person" means any individual, partnership, private association, or corporation, state, county, city, village, township, charter township, or other public or municipal association or corporation.

(q) "On-premises sign" means a sign advertising activities conducted or maintained on the property on which it is located. The boundary of the property shall be as determined by tax rolls, deed registrations, and apparent land use delineations. When a sign consists principally of brand name or trade name advertising and the product or service advertised is only incidental to the principal activity, or if it brings rental income to the property owner or sign owner, it shall be considered the business of outdoor advertising and not an on-premises sign. Signs on narrow strips of land contiguous to the advertised activity, or signs on easements on adjacent property, when the purpose is clearly to circumvent the intent of this act, shall not be considered on-premises signs.

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

(s) "Secondary highway" means a state secondary road or county primary road.

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

Sec. 3. To improve and enhance scenic beauty consistent with section 131 of title 23 of the United States Code, 23 USC 131, and to limit and reduce the illegal possession and use of tobacco by minors, the legislature finds it appropriate to regulate and control outdoor advertising and outdoor advertising as it pertains to tobacco adjacent to the streets, roads, highways, and freeways within this state and that outdoor advertising is a legitimate accessory commercial use of private property, is an integral part of the marketing function and an established segment of the economy of this state.

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

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

(b) A city, village, charter township, or township vested by law with authority to enact zoning codes has full authority under its own zoning codes or ordinances to establish commercial or industrial areas and the actions of a city, village, charter township, or township in so doing shall be accepted for the purposes of this act. However, except as provided in subdivision (a), zoning which is not part of a comprehensive zoning plan and is taken primarily to permit outdoor advertising structures shall not be accepted for purposes of this act. A zone in which limited commercial or industrial activities are permitted as incidental to other primary land uses is not a commercial or industrial zone for outdoor advertising control purposes.

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

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

Sec. 6. A sign owner shall apply for an annual permit on a form prescribed by the department for each sign to be maintained or to be erected in an adjacent area where the facing of the sign is visible from an interstate highway, freeway, or primary highway. A sign owner shall apply for a separate sign permit for each sign for each highway subject to this act from which the facing of the sign is visible. The owner shall apply for the permit for such signs which become subject to the permit requirements of this act because of a change in highway designation or other reason not within the control of the sign owner within 2 months after the sign becomes subject to the permit requirements of this act. The form shall require the name and business address of the applicant, the name and address of the owner of the property on which the sign is to be located, the date the sign, if currently maintained, was erected, the zoning classification of the property, a precise description of where the sign is or will be situated and a certification that the sign is not prohibited by section 18(a), (b), (c), or (d) and that the sign does not violate any provisions of this act. The sign permit application shall include a statement signed by the owner of the land on which the sign is to be placed, acknowledging that no trees or shrubs in the adjacent highway right-of-way may be removed, trimmed, or in any way damaged or destroyed without the written authorization of the department. The department may require documentation to verify the zoning, the consent of the land owner, and any other matter considered essential to the evaluation of the compliance with this act.

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

(2) For signs up to and including 300 square feet, the annual permit renewal fee is $50.00. For signs greater than 300 square feet, the annual permit renewal fee is $80.00. Signs of the service club and religious category as defined in rules promulgated by the department are not subject to an annual renewal fee.

(3) For each permit, the department shall assess a $100.00 penalty for delinquent payment of renewal fees.

(4) The department shall require a transfer fee when a request is made to transfer existing permits to a new sign owner. Except as otherwise provided in this subsection, the transfer fee shall be $100.00 for each permit that is requested to be transferred, up to a maximum of $500.00 for a request that identifies 5 or more permits to be transferred. If the department incurs additional costs directly attributable to special and unique circumstances associated with the requested transfer, the department may assess a transfer fee greater than the maximums identified in this subsection to recover those costs incurred by the department.

Sec. 9. Except for signs existing on March 31, 1972, a permit shall be issued or denied within 30 days after proper receipt of the permit form and the permit fee from the applicant. A permit shall not be issued for a sign which is prohibited by section 18(a), (b), (c), or (d). A permit shall not be issued for a sign that violates this act unless the sign is eligible for removal compensation under section 22.

Sec. 11. (1) Except as otherwise provided in subsection (2), a person who trims or removes trees or shrubs within a highway right-of-way for the purpose of making a proposed or existing sign more visible may pay a penalty of up to 5 times the value of the trees or shrubs trimmed or removed unless the person trimmed or removed the trees or shrubs under the authority of a permit issued under section 11a. The value of the removed trees or shrubs shall be determined by the department in accordance with section 11a(3).

(2) A person who removes trees or shrubs within a highway right-of-way for the purpose of making a proposed or existing sign more visible without first obtaining a permit under section 11a is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $25,000.00, or both. If no criminal action pursuant to this section has been brought against the person within 1 year of the removal of trees or shrubs without a permit, the department may proceed to recover the penalty prescribed in subsection (1). If a criminal action is brought against a person pursuant to this subsection, the department shall not proceed to recover the penalty prescribed in subsection (1).

(3) If a sign owner or the sign owner's agent trims or removes trees or shrubs without first having obtained a permit under section 11a, the sign owner shall not be eligible to obtain a permit under section 11a for 3 years from the date of trimming or removal of trees or shrubs.

(4) If trees or shrubs within a highway right-of-way have been trimmed or removed by a sign owner or its agent for the purpose of making the sign more visible, the sign shall be considered illegal and the department may remove the sign pursuant to the procedures established in section 19 if a court determines any of the following:

(a) The trimming or removal was in violation of a local ordinance.

(b) The trimming or removal resulted in the intentional trimming or removal of trees or shrubs that were not authorized to be trimmed or removed in a permit issued under section 11a.

(c) The sign owner trimmed or removed trees or shrubs and did not obtain a permit under section 11a.

(5) If a sign is removed under this section and the department subsequently receives an application for a permit under section 6 for the same area, the department shall consider that the conditions for the permit issued under section 6 remain in force for spacing and all other requirements of this act.

Sec. 11a. (1) Subject to the requirements of this section, the department is authorized to and shall issue permits for the management of vegetation to the owner of a sign subject to this act.

(2) A sign owner may apply to the department for a permit to manage vegetation using the department's approved form. The application shall be accompanied by an application fee of $150.00 to cover the costs of evaluating and processing the application. The application shall be submitted during the 2 or more annual application periods not less than 60 days each, as specified by the department. The application shall clearly identify the vegetation to be managed in order to create visibility of the sign within the billboard viewing zone and all proposed mitigation for the impacts of the vegetation management undertaken. The application shall also include anticipated management that will be needed in the future to maintain the visibility of the sign within the billboard viewing zone for the time specified in subsection (4) and procedures for clearing vegetation as determined by the department.

(3) From January 1, 2007 until January 1, 2008, upon proper receipt by the department of an application and application fee, and based on the provisions of subsection (4), an applicant shall be notified of approval, approval with modifications, or denial no later than 90 days after the last day of the application period. Beginning January 1, 2008, the department shall issue its decision on an application no later than 30 days after the last day of the application period. The department shall approve the application, approve the application with modification, or deny the application. If the department approves the application or approves the application with modification, it shall notify the applicant and the notification shall include the value of the vegetation to be managed as determined by the department using the most recent version of the international society of arboriculture's guide for plant appraisal and the corresponding Michigan tree evaluation supplement to the guide for plant appraisal published by the Michigan forestry and park association. The department may use another objective authoritative guide or establish a value schedule, in consultation with representatives of the outdoor advertising industry and other interested parties, if either the guide or the supplement has not been updated for more than 5 years. The notification to the applicant shall also include any required mitigation for the vegetation to be managed and all conditions and requirements associated with the issuance of the permit. The permit fee shall be $300.00, except that in special and unique situations and circumstances where the department incurs additional costs directly attributable to the approval of the permit, a fee greater than $300.00 adequate for the recovery of additional costs may be assessed. Upon receipt of the permit fee, payment for the value of the vegetation, and compliance with MDOT conditions and requirements, the department shall issue the permit.

(4) Subject to the provisions of this subsection, a permit to manage vegetation shall provide for a minimum of 5 seconds of continuous, clear, and unobstructed view of the billboard face based on travel at the posted speed as measured from the point directly adjacent to the point of the billboard closest to the highway. The department and the applicant may enter into an agreement, at the request of the applicant, identifying the specific location of the continuous, clear, and unobstructed view within the billboard viewing zone. The specific location may begin at a point anywhere within the billboard viewing zone but shall result in a continuous, clear, and unobstructed view of not less

than 5 seconds. An applicant shall apply for a permit that minimizes the amount of vegetation to be managed for the amount of viewing time requested. Applications for vegetation management that provide for greater than 5 seconds of continuous, clear, and unobstructed viewing at the posted speed as measured from a point directly adjacent to the point of the billboard closest to the highway shall not be rejected based solely upon the application exceeding the 5-second minimum. For billboards spaced less than 500 feet apart, vegetation management, when permitted, shall provide for a minimum of 5 seconds of continuous, clear, and unobstructed view of the billboard face based on travel at the posted speed or the distance between the billboard and the adjacent billboard, whichever is less.

(5) The department shall issue permits for vegetation management in a viewing cone or, at the department's discretion, another shape that provides for the continuous, clear, and unobstructed view of the billboard face. The department may, in its discretion, issue a permit for vegetation management outside of the billboard viewing zone.

(6) If no suitable alternative exists or the applicant is unable to provide acceptable mitigation, the department may deny an application or provide a limited permit to manage vegetation when it can be demonstrated that 1 or more of the following situations exist:

(a) The vegetation management would have an adverse impact on safety.

(b) The vegetation management would have an adverse impact on operations of the state trunk line highway.

(c) The vegetation management conflicts with federal or state law, rules, or statutory requirements.

(d) The applicant does not have the approval of the owner of the property.

(e) The vegetation to be managed was planted or permitted to be planted by the department for a specific purpose.

(f) Vegetation would be managed for a newly constructed billboard or vegetation existed that obscured the billboard or would have obscured the billboard before it was constructed. In denying an application or providing a limited permit, the department shall consider previous vegetation management that was allowed at the billboard site.

(g) The management would occur on a scenic or heritage route that was designated on or before the effective date of the amendatory act that added this section.

(h) The application is for a sign that has been found, after a hearing in accordance with section 19, not to be in compliance with this act.

(i) Other special or unique circumstances or conditions exist, including, but not limited to, adverse impact on the environment, natural features, or adjacent property owners.

(7) If the department denies an application or issues a limited permit under this subsection, the department shall provide a specific rationale for denying an application or approving a limited permit.

(8) No later than 30 days after receiving a denial or a limited permit under subsection (6), an applicant may request the review and reconsideration of the denial or limited permit. The applicant shall submit its request in writing on a form as determined by the department. The applicant shall state the specific item or items for which review and reconsideration are being requested. An applicant who received a limited permit may manage vegetation in accordance with that permit during the review and reconsideration period.

(9) No later than 90 days after January 1, 2007, the department shall develop a procedure for review and reconsideration of applications that are denied or that result in the issuance of a limited permit. This procedure shall include at least 2 levels of review and provide for input from the applicant. The review period shall not exceed 120 days. The department shall consult with all affected and interested parties, including, but not limited to, representatives of the outdoor advertising industry, in the development of this procedure.

(10) If, after review and reconsideration as provided for in subsection (8), the applicant is denied a permit or issued a limited permit, the applicant may appeal the decision of the department to a court of competent jurisdiction.

(11) All work performed in connection with trimming, removing, or relocating vegetation shall be performed at the sign owner's expense.

(12) The department shall not plant or authorize to be planted any vegetation that obstructs, or through expected normal growth will obstruct in the future, the visibility within the billboard viewing zone of any portion of a sign face subject to this act.

(13) The department shall prepare an annual report for submission to the legislature regarding the vegetation management undertaken pursuant to this section. At a minimum, this report shall include all of the following items:

(a) The number of application periods.

(b) The number of applications submitted under this section.

(c) The number of permits approved without modifications.

(d) The number of permits approved with modifications.

(e) The number of permits denied.

(f) The number of modified or denied permits which were appealed.

(g) The number of appeals that reversed the department's decision.

(h) The number of appeals that upheld the department's decision.

(i) The number of permits approved which requested a visibility time period exceeding 5 seconds.

(j) The amount of compensation paid to the state for removed vegetation.

(k) The average number of days after the end of the application period before an applicant was sent notice that a permit was approved.

(*l*) A summary of the reasons for which the department denied or modified permits.

(m) A summary of the amount of all revenues and expenses associated with the management of the vegetation program.

(14) The report in subsection (13) shall contain a summary for the entire state and report in detail for each department region. The department shall provide the report to the legislature for review no later than 90 days following the completion of each fiscal year. The reporting deadline for the initial report is 18 months after January 1, 2007.

(15) A person who under the authority of a permit obtained under this section trims or removes more trees and shrubs than the permit authorizes is subject to 1 or more of the following penalties:

(a) For the first 3 violations during a 3-year period, a penalty of an amount up to $5,000.00 or the amount authorized as a penalty in section 11(1), whichever is greater.

(b) For the fourth violation during a 3-year period and any additional violation during that period, a penalty of an amount up to $25,000.00 or double the amount authorized as a penalty in section 11(1), whichever is greater, for each violation.

(c) For the fourth violation during a 3-year period, and any additional violation, a person is not eligible to obtain or renew a permit under this section for a period of 3 years from the date of the fourth violation.

(16) If the department alleges that a person has trimmed or removed more trees or shrubs than the permit authorizes, then the department shall notify the person of its intent to seek any 1 or more of the penalties provided in subsection (15). The notification shall be in writing and delivered via United States certified mail, and shall detail the conduct the department alleges constitutes a violation of subsection (15), shall indicate what penalties the department will be seeking under subsection (15), and shall occur within 30 days of the filing of the completion order for the trimming or removal of trees or shrubs the department alleges violated the permit. Any allegation by the department that a person has trimmed or removed more trees or shrubs than the permit authorizes shall be subject to the appeals process contained in section 11(8), (9), and (10).

(17) As used in this act:

(a) "Billboard viewing zone" means the 1,000-foot area measured at the pavement edge of the main-traveled way closest to the billboard having as its terminus the point of the right-of-way line immediately adjacent to the billboard.

(b) "Vegetation management" means the trimming, removal, or relocation of trees, shrubs, or other plant material.

(c) "Viewing cone" means the triangular area described as the point directly below the face of the billboard closest to the roadway, the point directly below the billboard face farthest away from the roadway, a point as measured from a point directly adjacent to the part of the billboard closest to the roadway and extending back parallel to the roadway the distance that provides the view of the billboard prescribed in this section, and the triangle described by the points extending upward to the top of the billboard.

Sec. 12. (1) All persons holding permits under this act, at their own expense, shall place the permit number on each sign facing erected or maintained by them within 4 months after receiving a permit for signs existing on March 31, 1972 and within 3 business days for all other signs. The numbers shall be of a size and type specified by the department and located on the lower corner thereof nearest the adjacent highway.

(2) Any person who does not display the correct permit number or who does not display any permit number on a sign as required under subsection (1) is subject to a $250.00 penalty. The department shall give a person who is not in compliance with this subsection written notice of noncompliance, and a person not in compliance with this subsection shall have 30 days to remedy the violation before any penalty is assessed. A person subject to this section may verify compliance with the department via time-dated electronic means.

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

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

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

(c) For signs erected after March 23, 1999, signs on a sign structure shall not be stacked 1 on top of another. For signs erected prior to March 23, 1999, the sign or sign structure shall not be modified to provide a sign or sign structure that is stacked 1 on top of another.

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

Sec. 16. (1) A sign that is subject to this act may be illuminated so as to allow the sign to be seen and read but the illumination shall be employed in a manner that prevents beams or rays of light from being directed at any portion of the main-traveled way of the highway in a manner that interferes with safe driving.

(2) A sign containing changing illumination shall not be erected in any area except in an incorporated city or village over 35,000 in population where the department determines it is consistent with customary usage in the area. A sign permitted under section 18(f) is not a sign containing changing illumination.

(3) A sign shall not be so illuminated that it obscures or interferes with the effectiveness of an official traffic sign, device, or signal.

(4) All lighting shall be subject to any other provisions relating to lighting of signs presently applicable to all highways under the jurisdiction of the state.

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

(2) Along primary highways a sign structure shall not be closer than 500 feet to another sign structure.

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

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

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

(6) The spacing requirements provided in this section apply separately to each side of the highway.

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

(8) A sign that was erected in compliance with the spacing requirements of this section that were in effect at the time when the sign was erected, but which does not comply with the spacing requirements of this section after March 23, 1999, shall not be considered unlawful as that term is used in section 22.

Sec. 18. The following signs or sign structures are prohibited:

(a) Those which purport to regulate, warn, or direct the movement of traffic or which interfere with, imitate, or resemble any official traffic sign, signal, or device.

(b) Those which are not adequately maintained and in a good state of repair.

(c) Those which are erected or maintained upon trees or painted or drawn upon rocks or other natural resources.

(d) Those which prevent the driver of a motor vehicle from having a clear and unobstructed view of approaching, intersecting, or merging traffic.

(e) Those which are abandoned.

(f) Those that involve motion or rotation of any part of the structure, running animation or displays, or flashing or moving lights. This subdivision does not apply to a sign or sign structure with static messages or images that change if the rate of change between 2 static messages or images does not exceed more than 1 change per 6 seconds, each change is complete in 1 second or less, and the maximum daylight sign luminance level does not exceed 62,000 candelas per meter squared at 40,000 lux illumination beginning 1/2 hour after sunrise and continuing until 1/2 hour before sunset and does not exceed 375 candelas per meter squared at 4 lux illumination at all other times. In addition to the above

requirements, signs exempted under this subdivision shall be configured to default to a static display in the event of mechanical failure.

(g) Signs found to be in violation of subdivision (f) shall be brought into compliance by the permit holder or its agent no later than 24 hours after receipt by the permit holder or its agent of an official written notice from the department. Failure to comply with this subdivision within this specified time frame shall result in a $100.00 penalty being assessed to the sign owner for each day the sign remains out of compliance. The first repeat violation of subdivision (f), for a specific sign, shall also be brought into compliance by the permit holder or its agent within 24 hours after receipt of an official written notice from the department. Failure to comply with the official written notice within the 24-hour period for the first repeat violation subjects the sign owner to a $1,000.00 penalty for each day the sign remains out of compliance. These penalties are required to be submitted to the department before the sign's permit is renewed under section 6. Second repeat violations of subdivision (f), for a specific sign, shall result in permanent removal of the variable message display device from that sign by the department or the sign owner.

Sec. 18a. (1) Notwithstanding any other provision of this act, beginning January 1, 2000, all billboards within this state are subject to this act and shall not advertise the purchase or consumption of tobacco products.

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

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

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

(4) The department shall conduct a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, at which it shall confirm that the sign is abandoned, that due process has been observed, and that the sign may be removed by the department without payment of compensation and at the expense of the owner. Signs or sign structures considered abandoned, and any other sign or sign structure erected or maintained in violation of this act that is not eligible for removal compensation as provided in section 22, shall be removed by the department forthwith or upon the expiration of such further time as the department allows. The department may recover as a penalty from the owner of the sign or sign structure or, if he or she cannot be found, the owner of the real property upon which the sign or sign structure is located, double the cost of removal or $500.00, whichever is greater. For frivolous hearings as determined by the administrative law judge, the department may recover as a penalty from the owner of the sign or sign structure, or, if the owner of the sign or sign structure cannot be found, the owner of the real property upon which the sign or sign structure is located, double the cost of an administrative hearing incurred by the department or $500.00, whichever is greater. Any penalty imposed under this section is subject to de novo review in circuit court.

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

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

(7) Any repeat violation of this act shall be considered a continuing violation of this act.

(8) A sign or sign structure erected or maintained in violation of this act is a nuisance per se. The department, before or after a hearing is conducted, may apply to the circuit court in the county in which a sign is located for an order to show cause why the use of a sign erected or maintained in violation of this act should not be enjoined pending its removal in accordance with this section.

Enacting section 1. This amendatory act takes effect January 1, 2007.

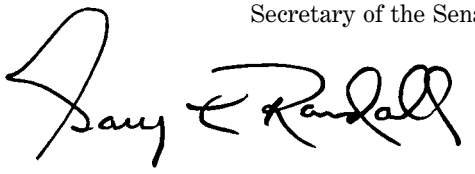
Enacting section 2. Section 25 of the highway advertising act of 1972, 1972 PA 106, MCL 252.325, is repealed.

Enacting section 3. This amendatory act does not take effect unless Senate Bill No. 567 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate



Clerk of the House of Representatives

Approved _____

_____

Governor