



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 1370 (as introduced 6-11-08)
Sponsor: Senator Jud Gilbert, II
Committee: Transportation

Date Completed: 6-17-08

CONTENT

The bill would amend the Highway Advertising Act to do the following:

- Require the Michigan Department of Transportation (MDOT) to issue a new permit for a religious organization sign or a service club sign that was not larger than eight square feet.**
- Permit a sign owner to maintain and repair a nonconforming sign, but prohibit such a sign from being moved or extended by more than 15%.**
- Provide that nonconforming signs that were damaged, destroyed, or removed and not repaired or replaced within 120 days would be considered abandoned.**
- Extend from 60 to 90 days the two annual application periods for a permit to manage vegetation around a highway sign.**
- Require MDOT to issue its decision on an application for a vegetation management permit within 90 days after receiving the application, rather than 30 days after the end of the application period, as currently required.**
- Prohibit MDOT from assessing against the applicant the cost of employing nondepartmental personnel or outside vendors for the purpose of meeting statutory deadlines.**
- Reduce the minimum distance between signs along interstate highways and freeways from 1,000 feet to 500 feet, and along primary highways from 500 feet to 300 feet, but retain the current minimum distances for a sign constructed under an interim permit.**
- Revise the penalty for delinquent payment of a highway sign permit renewal fee, and limit to \$5,000 the amount that could be assessed in penalties from one permit holder in a given calendar year.**

The bill is described in detail below.

New Signs; Interim Permit

The Act requires a sign owner to apply for a permit for each sign to be maintained or erected in an adjacent area where the sign face is visible from an interstate highway, freeway, or primary highway. The Act also prohibits MDOT from issuing annual permits for new signs on or after January 1, 2007.

The bill would require MDOT to issue a permit for a new sign structure that measured less than eight square feet for signs in the categories of service club signs and religious organization signs.

"Religious organization sign" would mean a sign, not larger than eight square feet, that gives notice of religious services. "Service club sign" would mean a sign, not larger than eight square feet, that gives notice about nonprofit service clubs or charitable organizations.

On or after January 1, 2007, MDOT must issue an interim permit to a holder of a valid permit under certain circumstances. An interim permit may be used only for the construction of a new sign structure and remains in effect without expiration, with fees renewed on an annual basis.

Under the bill, a sign constructed under an interim permit could not be closer than 1,000 feet to another sign structure on the same side of the highway along interstate highways and freeways, or 500 feet to another sign structure on the same side of the highway along primary highways.

The bill would define "interim permit" as a permit that authorizes the construction of a new sign structure in an adjacent area.

Nonconforming Signs

The bill would permit a sign owner to maintain and repair a nonconforming sign, including performing repairs and alterations that would improve the structural integrity of the sign or enhance the safety of workers who performed maintenance on it. A nonconforming sign could not be moved or enlarged, but a temporary embellishment or extension that did not exceed 15% of the sign face would not be considered an enlargement. The advertising methods on a nonconforming sign could be changed periodically by any means not prohibited by the Act. Nonconforming signs that were damaged, destroyed, or removed and not repaired or replaced within 120 days would be considered to be abandoned. A nonconforming sign that ceased to display advertising matter for a period of one year also would be considered abandoned.

Under the bill, "nonconforming sign" would mean a sign that was erected in accordance with existing law at the time of erection but that does not conform to legal requirements that were enacted after the erection of the sign if those legal requirements remain in force at the time the sign is classified as a nonconforming sign.

Vegetation Management

Under the Act, MDOT is authorized to issue permits for the management of vegetation to the owner of a sign. A sign owner may apply to MDOT for a permit to manage vegetation. The application must be submitted during the two or more annual application periods of at least 60 days each, as specified by MDOT. Under the bill, the application periods would be at least 90 days each.

The Act requires MDOT to issue its decision on an application within 30 days after the last day of the application period. The bill would require a decision to be made within 90 days after proper receipt of an application and an application fee, unless otherwise agreed to by MDOT and an applicant.

If MDOT approves the application, it must notify the applicant. The notification must include the value of the vegetation to be managed, as determined by MDOT using the most recent version of the International Society of Arboriculture's Guide for Plant Appraisal and the corresponding Michigan Tree Evaluation Supplement 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 five years.

The bill would require a value schedule to be based on the principles outlined in the Guide for Plant Appraisal. Establishing a value schedule or using another authoritative guide would not be limited to cases in which the guide or the supplement had not been updated for more than five years.

Unless the applicant or MDOT requested otherwise, the established value schedule would have to be used for all vegetation valuation. If established, MDOT would have to update the value schedule in consultation with representatives of the outdoor advertising industry and other interested parties at least every three years.

The vegetation management permit fee under the Act is \$300. In special and unique situations and circumstances in which MDOT incurs additional costs directly attributable to the approval of the permit, however, the Department may assess a greater fee adequate for the recovery of additional costs.

The bill specifies that the employment of nondepartmental personnel or outside vendors for the purpose of meeting statutory deadlines would not be a special and unique situation, and no additional costs could be assessed against the applicant.

The Act prohibits MDOT from planting or authorizing the planting of 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 the Act.

Under the bill, that provision would apply within a previously approved zone of five seconds of continuous, clear, and unobstructed view of the billboard face, as provided in the Act. (The Act requires that a permit to manage vegetation provide for at least five seconds of continuous, clear, and unobstructed view of the billboard face, based on travel at the posted speed.)

Distance between Signs

Currently, along interstate highways and freeways, a sign structure located in a business area or unzoned commercial or industrial area may not be erected closer than 1,000 feet to another sign structure on the same side of the highway. The bill would reduce that limit to 500 feet.

Along primary highways a sign structure may not be closer than 500 feet to another sign structure. The bill would reduce that limit to 300 feet.

Permit Fees

Under the Act, a sign permit fee is payable annually in advance, and the fee is \$100 for the first year, with certain exceptions. For signs up to 300 square feet in size, the annual permit renewal fee is \$50. For signs larger than 300 square feet, the annual permit renewal fee is \$80.

The Act requires MDOT, for each permit, to assess a \$100 penalty for delinquent payment of renewal fees. The bill, instead, would require that the annual renewal fee for each permit increase by an additional \$20 if the fee were not paid at least 30 days before the permit's expiration date. If the annual renewal fee for any permit were not paid within 60 days after the expiration date, MDOT could cancel the permit. The Department could not assess penalties that totaled more than \$5,000 against any single sign owner in a given calendar year. In addition, for permits having the same expiration date, the maximum amount of additional fees that MDOT could assess from one permit holder would be \$5,000.

If MDOT had collected fees or penalties under the Act during the period beginning January 1, 2007, and ending on the bill's effective date, and the total amount collected during that period from any one permit holder exceeded \$5,000, the excess amount for that period would have to be credited against future renewal fees of the permit holder.

MCL 252.302 et al.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bill would change the penalty for delinquent payment of the annual permit renewal fee for highway signs and billboards. Under current law, the penalty is \$100 for delinquent payment. The bill would change the penalty to \$20 if the payment were 30 days or more delinquent, and would authorize the Department of Transportation to cancel the permit if the annual renewal fee were not paid within 60 days. In addition, the bill would set a maximum amount for penalties at \$5,000. Because it is unknown how many entities would be delinquent in paying the renewal fee or how many would meet the maximum penalty level, the exact fiscal impact of the bill cannot be determined at this time.

Fiscal Analyst: Debra Hollon

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.