

SUBSTITUTE FOR
SENATE BILL NO. 1370

(As amended, June 27, 2008)

<<A bill to amend 1972 PA 106, entitled
"Highway advertising act of 1972,"
by amending sections 2, 7, 7a, 11a, 17, 18, and 21 (MCL 252.302,
252.307, 252.307a, 252.311a, 252.317, 252.318, and 252.321), sections 2,
7, 17, and 18 as amended and section 11a as added by 2006 PA 448 and
section 7a as added by 2006 PA 447.>>

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Business area" means an adjacent area which is zoned
3 under authority of state, county, township, or municipal zoning
4 authority for industrial or commercial purposes, customarily
5 referred to as "b" or business, "c" or commercial, "i" or
6 industrial, "m" or manufacturing, and "s" or service, and all other
7 similar classifications and which is within a city, village, or

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

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

1 (ii) Transient or temporary activities.

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

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

7 (v) Railroad tracks and minor sidings.

8 (vi) Outdoor advertising.

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

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

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

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

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

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

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

27 (b) "Unzoned commercial or industrial area" means an area

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

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

1 (ii) Transient or temporary activities.

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

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

7 (v) Railroad tracks and minor sidings.

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

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

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

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

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

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

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

27 (c) "Erect" means to construct, build, raise, assemble, place,

1 affix, attach, create, paint, draw, or in any other way bring into
2 being or establish.

3 (d) "Interstate highway" means a highway officially designated
4 as a part of the national system of interstate and defense highways
5 by the department and approved by the appropriate authority of the
6 federal government.

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

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

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

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

27 (i) "Sign structure" means the assembled components which make

1 up an outdoor advertising display, including but not limited to
2 uprights, supports, facings and trim. Such sign structure may
3 contain 1 or 2 signs per facing and may be double-faced, back to
4 back, T-type or V-type.

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

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

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

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

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

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

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

26 (q) "On-premises sign" means a sign advertising activities
27 conducted or maintained on the property on which it is located. The

1 boundary of the property shall be as determined by tax rolls, deed
2 registrations, and apparent land use delineations. When a sign
3 consists principally of brand name or trade name advertising and
4 the product or service advertised is only incidental to the
5 principal activity, or if it brings rental income to the property
6 owner or sign owner, it shall be considered the business of outdoor
7 advertising and not an on-premises sign. Signs on narrow strips of
8 land contiguous to the advertised activity, or signs on easements
9 on adjacent property, when the purpose is clearly to circumvent the
10 intent of this act, shall not be considered on-premises signs.

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

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

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

21 (U) "RELIGIOUS ORGANIZATION SIGN" MEANS A SIGN, NOT LARGER
22 THAN 8 SQUARE FEET, THAT GIVES NOTICE OF RELIGIOUS SERVICES.

23 (V) "SERVICE CLUB SIGN" MEANS A SIGN, NOT LARGER THAN 8 SQUARE
24 FEET, THAT GIVES NOTICE ABOUT NONPROFIT SERVICE CLUBS OR CHARITABLE
25 ASSOCIATIONS.

26 (W) "INTERIM PERMIT" MEANS A PERMIT THAT CAN BE EXCHANGED FOR
27 A PERMIT THAT AUTHORIZES THE CONSTRUCTION OF A NEW SIGN STRUCTURE

1 IN A LEGAL LOCATION AS DETERMINED UNDER THE ACT OR THE ISSUANCE OF
2 A NEW PERMIT FOR AN EXISTING STRUCTURE THAT WAS FORMERLY CLASSIFIED
3 AS AN ON-PREMISES SIGN.

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

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

21 ~~(3) For each permit, the department shall assess a \$100.00~~
22 ~~penalty for delinquent payment of renewal fees. THE ANNUAL RENEWAL~~
23 ~~FEE FOR EACH PERMIT SHALL INCREASE BY AN ADDITIONAL \$20.00 IF THE~~
24 ~~FEE IS NOT PAID AT LEAST 30 DAYS BEFORE THE EXPIRATION DATE OF THE~~
25 ~~PERMIT. IF THE ANNUAL RENEWAL FEE FOR ANY PERMIT IS NOT PAID WITHIN~~
26 ~~60 DAYS AFTER THE PERMIT EXPIRATION DATE, THE DEPARTMENT MAY CANCEL~~
27 ~~THE PERMIT WITHOUT TAKING FURTHER ADMINISTRATIVE ACTION UNLESS AN~~

1 ADMINISTRATIVE HEARING IS REQUESTED BY THE PERMIT HOLDER WITHIN 60
2 DAYS OF THE PERMIT EXPIRATION DATE.

3 (4) NOTWITHSTANDING SUBSECTION (3), FOR PERMITS HAVING THE
4 SAME EXPIRATION DATE, THE MAXIMUM AMOUNT OF ADDITIONAL FEES THAT
5 MAY BE ASSESSED BY THE DEPARTMENT UNDER THIS SECTION FROM 1 PERMIT
6 HOLDER IS \$5,000.00.

7 (5) IF THE DEPARTMENT HAS COLLECTED FEES OR PENALTIES UNDER
8 THIS SECTION DURING THE PERIOD BEGINNING JANUARY 1, 2007 AND ENDING
9 ON THE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION AND
10 THE TOTAL AMOUNT COLLECTED DURING THAT PERIOD FROM ANY 1 PERMIT
11 HOLDER EXCEEDS \$5,000.00, THE EXCESS AMOUNT FOR THAT PERIOD SHALL
12 BE CREDITED AGAINST FUTURE RENEWAL FEES OF THE PERMIT HOLDER.

13 (6) ~~(4)~~—The department shall require a transfer fee when a
14 request is made to transfer existing permits to a new sign owner.
15 Except as otherwise provided in this subsection, the transfer fee
16 shall be \$100.00 for each permit that is requested to be
17 transferred, up to a maximum of \$500.00 for a request that
18 identifies 5 or more permits to be transferred. If the department
19 incurs additional costs directly attributable to special and unique
20 circumstances associated with the requested transfer, the
21 department may assess a transfer fee greater than the maximums
22 identified in this subsection to recover those costs incurred by
23 the department.

24 Sec. 7a. (1) Except as otherwise provided in this section, the
25 department shall not issue annual permits for new signs on or after
26 January 1, 2007.

27 (2) Permits issued by the department before ~~the effective date~~

1 ~~of the amendatory act that added this section~~ **JANUARY 1, 2007**
2 remain in force and valid.

3 (3) On and after January 1, 2007, the department shall issue
4 an interim permit or permits to a holder of a valid permit or
5 permits if all of the following conditions are met:

6 (a) The holder of the valid permit or permits is otherwise in
7 compliance with this act.

8 (b) The holder of the permit or permits surrenders the permit
9 or permits to the department upon the removal of a sign structure
10 or sign structures that have a valid permit under this act.

11 (c) The holder of the permit or permits verifies the removal
12 of the sign structure or sign structures in writing to the
13 department.

14 (d) The department verifies that the sign structure or
15 structures have been removed or the removal has been deemed
16 effective under this section.

17 ~~—— (e) If a permit holder has a valid annual permit or permits~~
18 ~~for a site or sites where no sign structure exists or no~~
19 ~~construction has begun to build a sign structure on January 1,~~
20 ~~2007, the permit holder may exchange the permit or permits for an~~
21 ~~interim permit under this section or begin construction under the~~
22 ~~valid permit or permits no later than 1 year after January 1, 2007.~~
23 ~~The number of permits that can be received in an exchange shall be~~
24 ~~determined under subsection (4).~~

25 (4) ~~(3) An~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, AN**
26 interim permit that is issued under this section shall only be
27 utilized for the construction of a new sign structure and shall

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1 remain in effect without expiration with fees renewed on an annual
2 basis. A SIGN CONSTRUCTED PURSUANT TO AN INTERIM PERMIT SHALL NOT
3 BE CLOSER THAN 1,000 FEET TO ANOTHER SIGN STRUCTURE ON THE SAME
4 SIDE OF THE HIGHWAY ALONG INTERSTATE HIGHWAYS AND FREEWAYS OR 500
5 FEET TO ANOTHER SIGN STRUCTURE ON THE SAME SIDE OF THE HIGHWAY
6 ALONG PRIMARY HIGHWAYS. AN APPLICATION FOR AN INTERIM PERMIT FOR AN
7 EXISTING SIGN STRUCTURE SHALL BE GRANTED IF ALL OF THE FOLLOWING
8 CONDITIONS ARE MET:

9 (A) THE APPLICATION IS SUBMITTED BETWEEN JULY 1, 2008 AND
10 OCTOBER 1, 2008.

11 (B) THE EXISTING STRUCTURE IS NOT CLOSER THAN 500 FEET TO
12 ANOTHER SIGN STRUCTURE ALONG THE SAME SIDE OF THE HIGHWAY.

13 (C) THE COUNTY IN WHICH THE EXISTING SIGN STRUCTURE IS LOCATED
14 HAS A POPULATION OF LESS THAN 211,000 <<AND MORE THAN 175,000 AS
DETERMINED BY THE MOST RECENT FEDERAL DECENNIAL CENSUS>>.

15 ~~—— (4) Subject to subsections (2) and (8), a permit holder who is~~
16 ~~exchanging a permit or permits under subsection (2)(c) shall be~~
17 ~~issued 1 interim permit for each of the first 3 permits~~
18 ~~surrendered. For each permit surrendered under subsection (2)(c)~~
19 ~~after the first 3 permits surrendered, a permit holder under~~
20 ~~subsection (2)(c) shall receive 1 interim permit for each 3 permits~~
21 ~~surrendered. A permit holder shall have 1 year from January 1, 2007~~
22 ~~to exchange permits pursuant to subsection (2)(c) and this~~
23 ~~subsection. A permit that is not exchanged pursuant to subsection~~
24 ~~(2)(c) and this subsection cannot be exchanged and shall expire no~~
25 ~~later than 1 year after January 1, 2007.~~

26 (5) The department shall verify that an existing sign
27 structure has been removed no later than 30 days after the

1 department receives written notice from the permit holder that the
2 sign structure has been removed. If the department does not respond
3 to the written notice within 30 days after receipt of the written
4 notice, then the permit holder shall be deemed to have removed the
5 sign structure in compliance with this section.

6 (6) A holder of 2 valid permits for a sign structure with 2
7 faces who complies with this section shall receive 2 interim
8 permits for the construction of a sign structure with 2 faces. A
9 permit holder under this subsection shall not receive 2 interim
10 permits to construct 2 single-face sign structures.

11 (7) A holder of a valid permit for a sign structure with a
12 single face is entitled to exchange that permit under this section
13 for an interim permit with a single face. A holder of valid permits
14 for 2 different single-face structures may exchange the 2 permits
15 under this section for 2 interim permits to construct 2 single-face
16 sign structures or 2 interim permits to construct 1 sign structure
17 with 2 faces.

18 (8) A holder of more than 2 valid permits for a sign structure
19 with more than 2 faces may exchange the permits under this section
20 for a maximum of 2 interim permits. The 2 interim permits received
21 under this section shall only be used to construct 1 sign structure
22 with no more than 2 faces.

23 (9) After construction of a sign structure under an interim
24 permit is complete, the department shall issue renewable permits
25 annually for the completed sign structure.

26 (10) If a permit holder for a sign structure that exists on
27 January 1, 2007 requires additional permits for any reason, the

1 department may issue a valid renewable permit renewable on an
2 annual basis without complying with subsection (2) even if the
3 permit holder has more than 2 valid permits as a result.

4 **(11) THE DEPARTMENT MAY ISSUE A PERMIT FOR A NEW SIGN**
5 **STRUCTURE THAT MEASURES LESS THAN 8 SQUARE FEET FOR SIGNS IN THE**
6 **CATEGORIES OF SERVICE CLUB SIGNS AND RELIGIOUS ORGANIZATION SIGNS.**

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

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

25 ~~(3) From January 1, 2007 until January 1, 2008, upon proper~~
26 ~~receipt by the department of an application and application fee,~~
27 ~~and based on the provisions of subsection (4), an applicant shall~~

1 ~~be notified of approval, approval with modifications, or denial no~~
2 ~~later than 90 days after the last day of the application period.~~
3 ~~Beginning January 1, 2008~~ **UNLESS OTHERWISE AGREED TO BY THE**
4 **DEPARTMENT AND AN APPLICANT**, the department shall issue its
5 decision on an application no later than ~~30~~ **60** days after the ~~last~~
6 ~~day of the application period~~ **PROPER RECEIPT OF AN APPLICATION AND**
7 **AN APPLICATION FEE**. The department shall approve the application,
8 approve the application with modification, or deny the application.
9 If the department approves the application or approves the
10 application with modification, it shall notify the applicant and
11 the notification shall include the value of the vegetation to be
12 managed as determined by the department using the most recent
13 version of the international society of arboriculture's guide for
14 plant appraisal and the corresponding Michigan tree evaluation
15 supplement to the guide for plant appraisal published by the
16 Michigan forestry and park association. The department may use
17 another objective authoritative guide or establish a value schedule
18 **BASED ON THE PRINCIPLES OUTLINED IN THE GUIDE FOR PLANT APPRAISAL**,
19 in consultation with representatives of the outdoor advertising
20 industry and other interested parties. ~~, if either the guide or the~~
21 ~~supplement has not been updated for more than 5 years.~~ **UNLESS THE**
22 **APPLICANT OR THE DEPARTMENT REQUESTS OTHERWISE, THE ESTABLISHED**
23 **VALUE SCHEDULE SHALL BE USED FOR ALL VEGETATION VALUATION. IF**
24 **ESTABLISHED, THE VALUE SCHEDULE SHALL BE UPDATED BY THE DEPARTMENT**
25 **IN CONSULTATION WITH REPRESENTATIVES OF THE OUTDOOR ADVERTISING**
26 **INDUSTRY AND OTHER INTERESTED PARTIES AT LEAST EVERY 3 YEARS.** The
27 notification to the applicant shall also include any required

1 mitigation for the vegetation to be managed and all conditions and
2 requirements associated with the issuance of the permit. The permit
3 fee shall be \$300.00, except that in special and unique situations
4 and circumstances where the department incurs additional costs
5 directly attributable to the approval of the permit, a fee greater
6 than \$300.00 adequate for the recovery of additional costs may be
7 assessed. **THE EMPLOYMENT OF NONDEPARTMENT PERSONNEL OR OUTSIDE**
8 **VENDORS FOR THE SOLE PURPOSE OF MEETING STATUTORY DEADLINES IS NOT**
9 **A SPECIAL AND UNIQUE SITUATION, AND NO ADDITIONAL COSTS SHALL BE**
10 **ASSESSED AGAINST THE APPLICANT.** Upon receipt of the permit fee,
11 payment for the value of the vegetation, and compliance with MDOT
12 conditions and requirements, the department shall issue the permit.

13 (4) Subject to the provisions of this subsection, a permit to
14 manage vegetation shall provide for a minimum of 5 seconds of
15 continuous, clear, and unobstructed view of the billboard face
16 based on travel at the posted speed as measured from the point
17 directly adjacent to the point of the billboard closest to the
18 highway. The department and the applicant may enter into an
19 agreement, at the request of the applicant, identifying the
20 specific location of the continuous, clear, and unobstructed view
21 within the billboard viewing zone. The specific location may begin
22 at a point anywhere within the billboard viewing zone but shall
23 result in a continuous, clear, and unobstructed view of not less
24 than 5 seconds. An applicant shall apply for a permit that
25 minimizes the amount of vegetation to be managed for the amount of
26 viewing time requested. Applications for vegetation management that
27 provide for greater than 5 seconds of continuous, clear, and

1 unobstructed viewing at the posted speed as measured from a point
2 directly adjacent to the point of the billboard closest to the
3 highway shall not be rejected based solely upon the application
4 exceeding the 5-second minimum. For billboards spaced less than 500
5 feet apart, vegetation management, when permitted, shall provide
6 for a minimum of 5 seconds of continuous, clear, and unobstructed
7 view of the billboard face based on travel at the posted speed or
8 the distance between the billboard and the adjacent billboard,
9 whichever is less.

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

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

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

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

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

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

1 the property.

2 (e) The vegetation to be managed was planted or permitted to
3 be planted by the department for a specific purpose. **THIS**
4 **SUBDIVISION DOES NOT APPLY TO REQUESTS TO MANAGE VEGETATION THAT**
5 **WAS PLANTED IN THE BILLBOARD VIEWING ZONE AFTER JANUARY 1, 2007**
6 **EXCEPT WHERE THE REQUEST TO MANAGE VEGETATION WOULD PROVIDE FOR**
7 **GREATER THAN 5 SECONDS OF CONTINUOUS, CLEAR, AND UNOBSTRUCTED VIEW**
8 **OF THE BILLBOARD FACE.**

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

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

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

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

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

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

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

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

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

26 (12) The department shall not plant or authorize to be planted
27 any vegetation that obstructs, or through expected normal growth

1 will obstruct in the future, the visibility within the billboard
2 ~~viewing~~ **5-SECOND zone OF CONTINUOUS, CLEAR, UNOBSTRUCTED VIEW OF**
3 **THE BILLBOARD FACE** of any portion of a sign face subject to this
4 act.

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

9 (a) The number of application periods.

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

11 (c) The number of permits approved without modifications.

12 (d) The number of permits approved with modifications.

13 (e) The number of permits denied.

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

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

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

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

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

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

27 (l) A summary of the reasons for which the department denied or

1 modified permits.

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

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

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

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

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

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

25 (16) If the department alleges that a person has trimmed or
26 removed more trees or shrubs than the permit authorizes, then the
27 department shall notify the person of its intent to seek any 1 or

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

12 (17) As used in this act:

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

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

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

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~~ **500** feet to
4 another sign structure on the same side of the highway.

5 (2) Along primary highways a sign structure shall not be
6 closer than ~~500~~ **300** feet to another sign structure.

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

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

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

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

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

1 ~~—— (8) A sign that was erected in compliance with the spacing~~
2 ~~requirements of this section that were in effect at the time when~~
3 ~~the sign was erected, but which does not comply with the spacing~~
4 ~~requirements of this section after March 23, 1999, shall not be~~
5 ~~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

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sign by the department or the sign owner.

(H) THOSE THAT VIOLATE COMMUNITY STANDARDS OF DECENCY.

(I) FOR A SEXUALLY-ORIENTED BUSINESS, ALL SIGN AND SIGN STRUCTURES, EXCEPT 2 EXTERIOR SIGNS, CONSISTING OF 1 IDENTIFICATION SIGN AND 1 SIGN GIVING NOTICE THAT THE PREMISES ARE OFF LIMITS TO MINORS.>>

6 Sec. 21. ~~A~~**EXCEPT AS OTHERWISE PROVIDED IN SECTION 7, A** person
7 who erects or maintains any sign or sign structure or other object
8 for outdoor advertising subject to the provisions of this act
9 without complying with this act is liable for a penalty of not less
10 than \$100.00 nor more than \$1,000.00 for each violation which shall
11 be paid into the state trunk line fund. Penalties shall be sued
12 for, by and in the name of the department and shall be recoverable
13 with the reasonable costs thereof in the district or circuit court
14 in the county where the person maintains his principal place of
15 business or in the county where the signs erected or maintained
16 without complying with this act are located. A person who falsely
17 misrepresents information submitted in a permit form pursuant to
18 section 6 is guilty of a misdemeanor. A sign erected or maintained
19 under a permit falsely secured in such a manner shall be deemed to
20 be abandoned and is not eligible for removal compensation.