

HOUSE BILL No. 5122

June 17, 2009, Introduced by Rep. Kandrevas and referred to the Committee on Transportation.

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
8 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.

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

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

6 (v) Railroad tracks and minor sidings.

7 (vi) Outdoor advertising.

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

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

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

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

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

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

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

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

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

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

27 (ii) Transient or temporary activities.

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

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

6 (v) Railroad tracks and minor sidings.

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10 a business or commercial nature for at least 2 years.

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

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

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

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

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

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

1 being or establish.

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

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

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

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

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

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

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

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

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

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

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

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

25 Sec. 7. (1) A permit fee is payable annually in advance, to be
26 credited to the state trunk line fund. The fee is \$100.00 for the
27 first year except that signs in existence prior to a highway's

1 change in designation or jurisdiction which would require signs to
2 be permitted shall only be required to pay the permit renewal
3 amount as provided in subsection (2). The department shall
4 establish an annual expiration date for each permit and may change
5 the expiration date of existing permits to spread the permit
6 renewal activity over the year. Permit fees may be prorated the
7 first year. An application for the renewal of a permit shall be
8 filed with the department at least 30 days before the expiration
9 date.

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

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

24 (4) NOTWITHSTANDING SUBSECTION (3), FOR PERMITS HAVING THE
25 SAME EXPIRATION DATE, THE MAXIMUM AMOUNT OF INCREASED ANNUAL
26 RENEWAL FEES FOR LATE PAYMENTS THAT MAY BE ASSESSED BY THE
27 DEPARTMENT UNDER THIS SECTION FROM 1 PERMIT HOLDER IS \$10,000.00.

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

8 (6) ~~(4)~~—The department shall require a transfer fee when a
9 request is made to transfer existing permits to a new sign owner.
10 Except as otherwise provided in this subsection, the transfer fee
11 shall be \$100.00 for each permit that is requested to be
12 transferred, up to a maximum of \$500.00 for a request that
13 identifies 5 or more permits to be transferred. If the department
14 incurs additional costs directly attributable to special and unique
15 circumstances associated with the requested transfer, the
16 department may assess a transfer fee greater than the maximums
17 identified in this subsection to recover those costs incurred by
18 the department.

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

22 (2) Permits issued by the department before ~~the effective date~~
23 ~~of the amendatory act that added this section~~ **JANUARY 1, 2007**
24 remain in force and valid.

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

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

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

6 (c) The holder of the permit or permits verifies the removal
7 of the sign structure or sign structures in writing to the
8 department.

9 (d) The department verifies that the sign structure or
10 structures have been removed or the removal has been deemed
11 effective under this section.

12 ~~—— (e) If a permit holder has a valid annual permit or permits~~
13 ~~for a site or sites where no sign structure exists or no~~
14 ~~construction has begun to build a sign structure on January 1,~~
15 ~~2007, the permit holder may exchange the permit or permits for an~~
16 ~~interim permit under this section or begin construction under the~~
17 ~~valid permit or permits no later than 1 year after January 1, 2007.~~
18 ~~The number of permits that can be received in an exchange shall be~~
19 ~~determined under subsection (4).~~

20 (4) ~~(3)~~ An interim permit that is issued under this section
21 shall only be utilized for the construction of a new sign structure
22 and shall remain in effect without expiration with fees renewed on
23 an annual basis.

24 ~~—— (4) Subject to subsections (2) and (8), a permit holder who is~~
25 ~~exchanging a permit or permits under subsection (2) (e) shall be~~
26 ~~issued 1 interim permit for each of the first 3 permits~~
27 ~~surrendered. For each permit surrendered under subsection (2) (e)~~

~~after the first 3 permits surrendered, a permit holder under subsection (2) (c) shall receive 1 interim permit for each 3 permits surrendered. A permit holder shall have 1 year from January 1, 2007 to exchange permits pursuant to subsection (2) (c) and this subsection. A permit that is not exchanged pursuant to subsection (2) (c) and this subsection cannot be exchanged and shall expire no later than 1 year after January 1, 2007.~~

(5) The department shall verify that an existing sign structure has been removed no later than 30 days after the department receives written notice from the permit holder that the sign structure has been removed. If the department does not respond to the written notice within 30 days after receipt of the written notice, then the permit holder shall be deemed to have removed the sign structure in compliance with this section.

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

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

(8) A holder of more than 2 valid permits for a sign structure

1 with more than 2 faces may exchange the permits under this section
2 for a maximum of 2 interim permits. The 2 interim permits received
3 under this section shall only be used to construct 1 sign structure
4 with no more than 2 faces.

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

8 (10) If a permit holder for a sign structure that exists on
9 January 1, 2007 requires additional permits for any reason, the
10 department may issue a valid renewable permit renewable on an
11 annual basis without complying with subsection (2) even if the
12 permit holder has more than 2 valid permits as a result.

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

16 **(12) NOTWITHSTANDING ANYTHING ELSE IN THIS ACT THAT MAY BE TO**
17 **THE CONTRARY, PERMITS ISSUED UNDER SUBSECTION (11) ARE NOT ELIGIBLE**
18 **TO BE SURRENDERED FOR AN INTERIM PERMIT.**

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

23 (2) A sign owner may apply to the department for a permit to
24 manage vegetation using the department's approved form. The
25 application shall be accompanied by an application fee of \$150.00
26 to cover the costs of evaluating and processing the application.
27 The application shall be submitted during the 2 or more annual

1 application periods not less than 60 days each, as specified by the
2 department. The application shall clearly identify the vegetation
3 to be managed in order to create visibility of the sign within the
4 billboard viewing zone and all proposed mitigation for the impacts
5 of the vegetation management undertaken. The application shall also
6 include anticipated management that will be needed in the future to
7 maintain the visibility of the sign within the billboard viewing
8 zone for the time specified in subsection (4) and procedures for
9 clearing vegetation as determined by the department.

10 ~~(3) From January 1, 2007 until January 1, 2008, upon proper~~
11 ~~receipt by the department of an application and application fee,~~
12 ~~and based on the provisions of subsection (4), an applicant shall~~
13 ~~be notified of approval, approval with modifications, or denial no~~
14 ~~later than 90 days after the last day of the application period.~~
15 ~~Beginning January 1, 2008~~ **UNLESS OTHERWISE AGREED TO BY THE**
16 **DEPARTMENT AND AN APPLICANT**, the department shall issue its
17 decision on an application no later than 30 days after the last day
18 of the application period. The department shall approve the
19 application, approve the application with modification, or deny the
20 application. If the department approves the application or approves
21 the application with modification, it shall notify the applicant
22 and the notification shall include the value of the vegetation to
23 be managed as determined by the department using the most recent
24 version of the international society of arboriculture's guide for
25 plant appraisal and the corresponding Michigan tree evaluation
26 supplement to the guide for plant appraisal published by the
27 Michigan forestry and park association. The department may use

1 another objective authoritative guide or establish a value schedule
2 **BASED ON THE PAST HISTORY OF THE VALUATION PROCESS AND THE**
3 **PRINCIPLES OUTLINED IN THE GUIDE FOR PLANT APPRAISAL,** in
4 consultation with representatives of the outdoor advertising
5 industry and other interested parties. ~~7 if either the guide or the~~
6 ~~supplement has not been updated for more than 5 years.~~ **UNLESS THE**
7 **APPLICANT OR THE DEPARTMENT REQUESTS OTHERWISE, A VALUE SCHEDULE,**
8 **IF ESTABLISHED, SHALL BE USED FOR ALL VEGETATION VALUATION. IF**
9 **ESTABLISHED, THE VALUE SCHEDULE SHALL BE UPDATED BY THE DEPARTMENT**
10 **IN CONSULTATION WITH REPRESENTATIVES OF THE OUTDOOR ADVERTISING**
11 **INDUSTRY AND OTHER INTERESTED PARTIES AT LEAST EVERY 3 YEARS.** The
12 notification to the applicant shall also include any required
13 mitigation for the vegetation to be managed and all conditions and
14 requirements associated with the issuance of the permit. The permit
15 fee shall be \$300.00, except that in special and unique situations
16 and circumstances where the department incurs additional costs
17 directly attributable to the approval of the permit, a fee greater
18 than \$300.00 adequate for the recovery of additional costs may be
19 assessed. **THE EMPLOYMENT OF NONDEPARTMENT PERSONNEL OR OUTSIDE**
20 **VENDORS FOR THE SOLE PURPOSE OF MEETING STATUTORY DEADLINES IS NOT**
21 **A SPECIAL AND UNIQUE SITUATION, AND NO ADDITIONAL COSTS SHALL BE**
22 **ASSESSED AGAINST THE APPLICANT.** Upon receipt of the permit fee,
23 payment for the value of the vegetation, and compliance with MDOT
24 conditions and requirements, the department shall issue the permit.
25 (4) Subject to the provisions of this subsection, a permit to
26 manage vegetation shall provide for a minimum of 5 seconds of
27 continuous, clear, and unobstructed view of the billboard face

1 based on travel at the posted speed as measured from the point
2 directly adjacent to the point of the billboard closest to the
3 highway. The department and the applicant may enter into an
4 agreement, at the request of the applicant, identifying the
5 specific location of the continuous, clear, and unobstructed view
6 within the billboard viewing zone. The specific location may begin
7 at a point anywhere within the billboard viewing zone but shall
8 result in a continuous, clear, and unobstructed view of not less
9 than 5 seconds. An applicant shall apply for a permit that
10 minimizes the amount of vegetation to be managed for the amount of
11 viewing time requested. Applications for vegetation management that
12 provide for greater than 5 seconds of continuous, clear, and
13 unobstructed viewing at the posted speed as measured from a point
14 directly adjacent to the point of the billboard closest to the
15 highway shall not be rejected based solely upon the application
16 exceeding the 5-second minimum. For billboards spaced less than 500
17 feet apart, vegetation management, when permitted, shall provide
18 for a minimum of 5 seconds of continuous, clear, and unobstructed
19 view of the billboard face based on travel at the posted speed or
20 the distance between the billboard and the adjacent billboard,
21 whichever is less.

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

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

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

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

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

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

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

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

27 (g) The management would occur on a scenic or heritage route

1 that was designated on or before the effective date of the
2 amendatory act that added this section.

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

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

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

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

22 (9) No later than 90 days after January 1, 2007, the
23 department shall develop a procedure for review and reconsideration
24 of applications that are denied or that result in the issuance of a
25 limited permit. This procedure shall include at least 2 levels of
26 review and provide for input from the applicant. The review period
27 shall not exceed 120 days. The department shall consult with all

1 affected and interested parties, including, but not limited to,
2 representatives of the outdoor advertising industry, in the
3 development of this procedure.

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

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

11 (12) The department shall not plant or authorize to be planted
12 any vegetation that obstructs, or through expected normal growth
13 will obstruct in the future, the visibility within the ~~billboard~~
14 ~~viewing~~ **5-SECOND zone OF CONTINUOUS, CLEAR, UNOBSTRUCTED VIEW OF**
15 **THE BILLBOARD FACE** of any portion of a sign face subject to this
16 act.

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

21 (a) The number of application periods.

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

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

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

25 (e) The number of permits denied.

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

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

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

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

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

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

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

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

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

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

26 (a) For the first 3 violations during a 3-year period, a
27 penalty of an amount up to \$5,000.00 or the amount authorized as a

1 penalty in section 11(1), whichever is greater.

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

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

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

24 (17) As used in this act:

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

1 line immediately adjacent to the billboard.

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

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

13 Sec. 17. (1) Along interstate highways and freeways, a sign
14 structure located in a business area or unzoned commercial or
15 industrial area shall not be ~~erected~~ closer than ~~1,000~~ 500 feet to
16 another sign structure on the same side of the highway.

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

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

25 (4) Along interstate highways and freeways located outside of
26 incorporated municipalities, a sign structure shall not be
27 permitted adjacent to or within 500 feet of an interchange, an

1 intersection at grade or a safety roadside rest area. The 500 feet
2 shall be measured from the point of beginning or ending of pavement
3 widening at the exit from, or entrance to, the main-traveled way.

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

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

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

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

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

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

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

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

27 (d) Those which prevent the driver of a motor vehicle from

1 having a clear and unobstructed view of approaching, intersecting,
2 or merging traffic.

3 (e) Those which are abandoned.

4 (f) Those that involve motion or rotation of any part of the
5 structure, running animation or displays, or flashing or moving
6 lights. This subdivision does not apply to a sign or sign structure
7 with static messages or images that change if the rate of change
8 between 2 static messages or images does not exceed more than 1
9 change per 6 seconds, each change is complete in 1 second or less,
10 and the ~~maximum daylight sign luminance level does not exceed~~
11 ~~62,000 candelas per meter squared at 40,000 lux illumination~~
12 ~~beginning 1/2 hour after sunrise and continuing until 1/2 hour~~
13 ~~before sunset and does not exceed 375 candelas per meter squared at~~
14 ~~4 lux illumination at all other times.~~ **SIGN POSSESSES AND UTILIZES**
15 **AUTOMATIC DIMMING CAPABILITIES SO THAT THE MAXIMUM LUMINESCENCE**
16 **LEVEL IS NOT MORE THAN 0.3 FOOT CANDLES OVER AMBIENT LIGHT LEVELS**
17 **MEASURED AT A DISTANCE OF 150 FEET FOR THOSE SIGN FACES AT LEAST**
18 **300 SQUARE FEET AND LESS THAN OR EQUAL TO 378 SQUARE FEET, MEASURED**
19 **AT A DISTANCE OF 250 FEET FOR THOSE SIGN FACES MEASURING GREATER**
20 **THAN 378 SQUARE FEET AND LESS THAN OR EQUAL TO 672 SQUARE FEET, AND**
21 **MEASURED AT 350 FEET FOR THOSE SIGN FACES MEASURING GREATER THAN**
22 **672 SQUARE FEET.** In addition to the above requirements, signs
23 exempted under this subdivision shall be configured to default to a
24 static display in the event of mechanical failure.

25 (g) Signs found to be in violation of subdivision (f) shall be
26 brought into compliance by the permit holder or its agent no later
27 than 24 hours after receipt by the permit holder or its agent of an

1 official written notice from the department. Failure to comply with
2 this subdivision within this specified time frame shall result in a
3 \$100.00 penalty being assessed to the sign owner for each day the
4 sign remains out of compliance. The first repeat violation of
5 subdivision (f), for a specific sign, shall also be brought into
6 compliance by the permit holder or its agent within 24 hours after
7 receipt of an official written notice from the department. Failure
8 to comply with the official written notice within the 24-hour
9 period for the first repeat violation subjects the sign owner to a
10 \$1,000.00 penalty for each day the sign remains out of compliance.
11 These penalties are required to be submitted to the department
12 before the sign's permit is renewed under section 6. Second repeat
13 violations of subdivision (f), for a specific sign, shall result in
14 permanent removal of the variable message display device from that
15 sign by the department or the sign owner.

16 Sec. 21. ~~A~~**EXCEPT AS OTHERWISE PROVIDED IN SECTION 7, A** person
17 who erects or maintains any sign or sign structure or other object
18 for outdoor advertising subject to the provisions of this act
19 without complying with this act is liable for a penalty of not less
20 than \$100.00 nor more than \$1,000.00 for each violation which shall
21 be paid into the state trunk line fund. Penalties shall be sued
22 for, by and in the name of the department and shall be recoverable
23 with the reasonable costs thereof in the district or circuit court
24 in the county where the person maintains his principal place of
25 business or in the county where the signs erected or maintained
26 without complying with this act are located. A person who falsely
27 misrepresents information submitted in a permit form pursuant to

1 section 6 is guilty of a misdemeanor. A sign erected or maintained
2 under a permit falsely secured in such a manner shall be deemed to
3 be abandoned and is not eligible for removal compensation.