

HIGHWAY SIGN REQUIREMENTS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 953 (reported from House committee as H-2)

Sponsor: Sen. Tom Casperson

House Committee: Transportation and Infrastructure

Senate Committee: Transportation

Complete to 12-14-16

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 953 would amend the Highway Advertising Act (MCL 252.302, et al.) to do all of the following:

- Specify the Department of Transportation (MDOT) could not remove an erected sign or sign structure that meets the following conditions: a permit was issued for the sign as provided in Section 6 of the act; the permit was renewed at least one time as provided in Section 7 of the act; the sign complies with the provision of the 1972 agreement for carrying out national policy relating to control of outdoor advertising in areas adjacent to the National System of Interstate and Defense Highways and the Federal Aid Primary System.
- Revise the conditions that apply to an annual permit that is issued when a sign or sign structure becomes subject to the act's permit requirements for a reason outside the owner's control.
- Allow the owner of a digital billboard that was legally erected, or who applied before August 1, 2015, for a digital billboard permit that was revoked or denied, to apply for a digital billboard permit.
- Require an individual to apply for, and require MDOT to issue, a digital billboard permit if the individual obtained approval to convert an existing billboard to a digital billboard from the department and the local unit of government by January 1, 2016.
- Extend a January 30, 2015, deadline for an owner who applied for a digital billboard permit but had not received approval from local unit of government. The extension would be equal to the time elapsed between the date of application and the date of approval. The owner would not be required to surrender three interim permits, under specific circumstances.
- Specify that an owner of an existing sign could apply for a new annual permit and surrender an interim permit, or pay a penalty of \$500. However, 180 days after notice is sent to the owner whose permit expired one year or less after the renewal fee was due because of non-payment, the owner could apply for a new annual

permit as stated above but would not be required to submit more than one interim permit per signed structure, or pay a fee of \$500.

- The overall height of a nonconforming sign structure could not be increased. However, this provision would not apply to a county having more than a population of 75,000.
- Allow the website address and telephone number of an activity or attraction to be displayed on a sign that was issued a permit for a publicly or privately owned activity or attraction that is nationally or regionally known.
- Include public school property in the definition of "unzoned commercial or industrial area."
- Specify that a "billboard viewing zone" is to be measured from the billboard face intended for viewing, and would include a highway median.
- Revise the term "Business Area" so that it would include an adjacent area that is zoned by a state, county, city, village, township, or charter township zoning authority as part of a comprehensive land development project or planned unit in which commercial or industrial activity is allowed, but would not include an adjacent area that is not along an interstate highway, freeway, primary highway or other regulated route.
- "Public School Property" would be defined to mean property located along an interstate highway, freeway, primary highway, or other regulated route, owned or leased by the governing board or property that is owned or leased by a foundation owned or managed by the governing board of a public school on or before December 31, 2016.
- "Permanent School Structure Devoted to Industrial or Commercial Purposes" would be defined to include a school building or a high school building, including an athletic field or facility located on school property and used for instructional or non-instructional school purposes.
- "Replacement Costs" would be defined to mean the total sum of the costs incurred to erect a new replacement sign or sign structure with equivalent materials and equipment at current market prices.

Any section of this act would no longer apply if it was found to be out of compliance with federal statutes, published rules or regulations, or federal-state agreements on outdoor advertising, and this state was notified in writing the federal government would withhold transportation funding due to non-compliance.

FISCAL IMPACT:

The Highway Advertising Act gives to the Michigan Department of Transportation the authority to license, regulate, control, and prohibit outdoor advertising signs under circumstances and conditions described in the act. The act also establishes permitting fees and designates fee revenue to the State Trunkline Fund (STF). Sign permit fees currently generate approximately \$1.0 million per year for credit to the STF. This figure includes both routine billboard permit fee revenue, fees associated with billboard permit transfer fees and vegetation removal permits, and penalties assessed on billboard permit violations.

STF revenue is appropriated for preservation of the state trunkline highway system and for MDOT administration, including costs of administering the right-of-way and highway sign permit programs.

We note that federal law, the Highway Beautification Act of 1965, as codified in 23 U.S.C. 131, requires that states "effectively control" outdoor advertising along certain federal-aid highway systems. Under Section 131(b), a state's failure to comply with the Highway Beautification Act can subject that state to the loss of 10% of its federal-aid highway funds. Representatives of the Michigan Department of Transportation have expressed concern that the proposed changes of Senate Bill 953 would result in state non-compliance with the federal Highway Beautification Act.

The Committee substitute adds new language to Section 20 to indicate that "if any section of this act is found to be out of compliance with federal statutes, published rules or regulations, or the federal-state agreement on outdoor advertising, and this state is notified in writing that the federal government shall withhold transportation funding due to the noncompliance, that section shall no longer apply."

Senate Bill 953 does not add any new sections to the Highway Advertising Act. It adds amendatory language to certain current sections, such as changes to the definitions in Section 2, or the inclusion of website address and telephone number in allowable directional signs under Section 7b. If this new language of Senate Bill 953 were found to put Michigan out of compliance with federal law, the new language of Section 20 would apparently invalidate the entire offending section—not merely the new language. For example, if the change to the definitions section put Michigan out of compliance, all of the definitions of Section 2 would no longer be effective. If the addition of website and telephone number to authorized directional signs, put Michigan out of compliance, all of Section 7b, dealing with directional signs, would be no longer be in force.

POSITIONS:

AAA Michigan supports the bill (12-6-16)

Adams Outdoor supports the bill (12-6-16)

A representative of International Outdoor testified in support of the bill. (12-6-16)

Michigan Road Preservation Association supports the bill. (12-6-16)

Outdoor Advertising Association of Michigan supports the bill. (12-6-16)

Department of Transportation opposes the bill. (12-6-16)

Secretary of State opposes the bill (12-6-16)

City of Grand Rapids opposes the bill. (12-6-16)

Michigan Environmental Council opposes the bill (12-6-16)

Michigan Municipal League opposes the bill. (12-6-16)

Michigan Township Association testified in opposition to the bill. (12-6-16)

Scenic Michigan testified in opposition to the bill. (12-6-16)

Legislative Analyst: E. Best
Fiscal Analyst: William E. Hamilton

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.