HIGHWAY ADVERTISING ACT OF 1972
Act 106 of 1972

AN ACT to provide for the licensing, regulation, control, and prohibition of outdoor advertising adjacent to certain roads and highways; to prescribe powers and duties of certain state agencies and officials; to promulgate rules; to provide remedies and prescribe penalties for violations; and to repeal acts and parts of acts.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 1998, Act 464, Eff. Mar. 23, 1999.

The People of the State of Michigan enact:

252.301 Short title.

Sec. 1. This act shall be known and may be cited as the “highway advertising act of 1972”.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972.

252.302 Definitions.

Sec. 2. As used in this act:

(a) "Abandoned or discontinued sign or sign structure" or "abandoned sign" means a sign or sign structure subject to 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.

(b) "Adjacent area" means the area measured from the nearest edge of the right-of-way of an interstate highway, freeway, or primary highway and, in urbanized areas, extending 3,000 feet perpendicularly and then along a line parallel to the right-of-way line or, outside of urbanized areas, extending perpendicularly to the limit where a sign is visible and then along a line parallel to the right-of-way line.

(c) "Annual permit" means a permit for a billboard under this act.

(d) "Billboard" means a sign separate from a premises erected for the purpose of advertising a product, event, person, or subject not related to the premises on which the sign is located. Billboard does not include an off-premises directional sign.

(e) "Business area" means an adjacent area that is zoned by a state, county, township, or municipal zoning authority for industrial or commercial purposes, customarily referred to as "b" or business, "c" or commercial, "i" or industrial, "m" or manufacturing, and "s" or service, and all other similar classifications and that is within a city, village, or charter township or is within 1 mile of the corporate limits of a city, village, or charter township or is beyond 1 mile of the corporate limits of a city, village, or charter township and contains 1 or more permanent structures devoted to the industrial or commercial purposes described in this subdivision and that 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 that 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 are not commercial or industrial:

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

(*ii*) Transient or temporary activities.

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

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

(*v*) Railroad tracks and minor sidings.

(*vi*) Outdoor advertising.

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

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

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

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

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

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

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

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

(g) "Destroyed sign" means a nonconforming sign that has been damaged by storm, fire, or other casualty that requires customary maintenance and repair in excess of 60% of the replacement cost of a new sign structure constructed of equivalent materials and equipment. Destroyed sign does not include a nonconforming sign that has been damaged by vandalism or a negligent act of a person.

(h) "Digital billboard" means a sign or sign structure that utilizes an electronic means to display a series of messages that are changed by electronic means. Digital billboard does not include a sign that contains an embedded electronic message device or a trivision sign.

(i) "Digital billboard permit" means a permit for a digital billboard that is renewable on an annual basis.

(j) "Directional sign" means a sign that contains only directional information regarding and the identification of 1 of the following:

(*i*) A public or private activity or attraction that is owned or operated by the federal or a state or local government or an agency of the federal or a state or local government.

(*ii*) A publicly or privately owned natural phenomenon or a historic, cultural, scientific, educational, or religious site.

(*iii*) An area that is in the interest of the traveling public, if the area is of natural scenic beauty or is naturally suited for outdoor recreation.

(k) "Embedded electronic message device" means an accessory that is made part of a sign, sign face, or sign structure with a total area that is less than that of the sign face to which it is attached, and displays only static messages containing text or numbers that are directly associated with the current advertiser. Embedded electronic message device does not include a digital billboard or a device that displays graphics other than messages containing text or numbers.

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

(m) "Existing vegetation" means trees, bushes, and ground cover that the department intends to maintain and that are at least the same size as similar vegetation that the department would customarily install and maintain or allow to be installed and maintained as part of a roadside management plan, roadside management project, or landscaping project.

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

(o) "Incorporated municipality" means a city, village, or charter township.

(p) "Index" means the Detroit consumer price index for all urban consumers published by the United States bureau of labor statistics or, if that index ceases to be published by the United States bureau of labor statistics, the published index that most closely measures inflation, as determined by the department.

(q) "Interim permit" means a permit that can be utilized by the applicant to construct a sign structure that is visible from a freeway, interstate, or primary highway.

(r) "Interstate highway" means a highway officially designated as a part of the national system of interstate and defense highways by the department and approved by the federal government under 23 USC 103.

(s) "Location" means a place where a sign structure subject to this act is located.

(t) "Main-traveled way" means the traveled way of a highway on which through traffic is carried. Main-traveled way includes the traveled way of each of the separate roadways for traffic in opposite directions on a divided highway. Main-traveled way does not include facilities such as frontage roads, turning roadways, or parking areas.

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

(v) "Nationally known" means an activity or attraction that is all of the following:

(*i*) An active part of a national advertising promotion.

(*ii*) Listed on a national register, if applicable.

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(*iii*) Staffed and maintains a register of visitors.

(*iv*) Listed in national travel guides.

(*v*) Organized to provide information or conducted tours for a significant portion of the year, or for at least 3 months if the activity or attraction is seasonal in nature.

(w) "Nonconforming sign" means a sign or sign structure, other than a nonstandard sign or a sign that is erected and maintained in a business area along a scenic byway prior to the designation as a scenic byway, that satisfies 1 of the following:

(*i*) Was legally erected before March 31, 1972 but could not be legally erected under the current provisions of this act.

(*ii*) Is a sign or sign structure regulated under this act that was legally erected after March 31, 1972 but could not be legally erected under the current provisions of this act.

(x) "Nonstandard sign" means a sign or sign structure other than a nonconforming sign, that is subject to this act, was legally erected before March 23, 1999, is not a nonconforming sign, and does not comply with the spacing requirements in section 17(1), but otherwise complies with this act.

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

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

(aa) "Primary highway" means a highway other than an interstate highway or freeway that is a regulated route.

(bb) "Regionally known" means an activity or attraction that is all of the following:

(*i*) Known throughout this state or the peninsula of this state in which the activity or attraction is located and in 1 or more states adjoining this state.

(*ii*) Listed on a state register, if applicable.

(*iii*) Staffed and maintains a register of visitors.

(*iv*) Organized to provide information or conducted tours for a significant portion of the year, or for at least 3 months if the activity or attraction is seasonal in nature.

(cc) "Regulated route" means an interstate highway, freeway, or primary highway required to be regulated under 23 USC 131 and any other route that is required to be regulated or may become required to be regulated by the department under this act or another state or federal statute or legal requirement.

(dd) "Religious organization sign" means a sign, not larger than 8 square feet, that gives notice of religious services.

(ee) "Scenic byway" means a regulated route that is required to be regulated as a scenic byway under 23 USC 131.

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

(gg) "Service club sign" means a sign, not larger than 8 square feet, that gives notice about nonprofit service clubs or charitable associations.

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

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

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

(kk) "Trivision sign" means a sign or sign structure that uses mechanical means to display more than 1 message in sequence.

(*ll*) "Unzoned commercial or industrial area" means an area that is within an adjacent area, that is not zoned by state or local law, regulation, or ordinance, that contains 1 or more permanent structures devoted to the industrial or commercial purposes described in subdivision (e), and that 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 that where it is not topographically feasible for a sign or sign structure to be

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erected or maintained on the same side of the highway as the permanent structure devoted to industrial or commercial purposes, an unzoned commercial or industrial area may be established on the opposite side of a primary highway in an area zoned commercial or industrial or in an unzoned area with the approval of the state highway commission. A permanent structure devoted to industrial or commercial purposes does not result in the establishment of an unzoned commercial or industrial area on both sides of the highway. All measurements shall be from the outer edge of the regularly used building, parking lot, or storage or processing area of the commercial or industrial activity and not from the property lines of the activities and shall be along or parallel to the edge or pavement of the highway. Commercial or industrial purposes are those activities generally restricted to commercial or industrial zones in jurisdictions that have zoning. In addition, the following activities are not commercial or industrial:

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

(*ii*) Transient or temporary activities.

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

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

(*v*) Railroad tracks and minor sidings.

(*vi*) Outdoor advertising.

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

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

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

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

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

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

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

(mm) "Visible" means a sign that has a message that is capable of being seen by an individual of normal visual acuity when traveling in a motor vehicle.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 1976, Act 265, Imd. Eff. Oct. 1, 1976;—Am. 1998, Act 533, Eff. Mar. 23, 1999;—Am. 2006, Act 448, Eff. Jan. 1, 2007;—Am. 2009, Act 86, Imd. Eff. Sept. 3, 2009;—Am. 2014, Act 2, Imd. Eff. Jan. 30, 2014.

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252.303 Purpose.

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

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 1998, Act 464, Eff. Mar. 23, 1999;—Am. 1998, Act 533, Eff. Mar. 23, 1999;—Am. 2006, Act 448, Eff. Jan. 1, 2007.

252.304 Size, lighting, and spacing of signs and sign structures; regulation and control; exceptions.

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

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

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

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

(d) A county ordinance that regulates and controls the size, lighting, and spacing of signs and sign structures shall only apply in a township within the county if the township has not enacted an ordinance to regulate and control the size, lighting, and spacing of signs and sign structures.

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

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 1980, Act 36, Imd. Eff. Mar. 12, 1980;—Am. 1990, Act 153, Eff. Oct. 1, 1990;—Am. 1998, Act 533, Eff. Mar. 23, 1999;—Am. 2006, Act 448, Eff. Jan. 1, 2007;—Am. 2008, Act 93, Imd. Eff. Apr. 8, 2008;—Am. 2014, Act 2, Imd. Eff. Jan. 30, 2014.

Compiler's note: Section 2 of Act 153 of 1990 provides: "This amendatory act shall take effect October 1, 1990."

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252.305 Signs subject to act.

Sec. 5. A person shall not engage or continue to engage in outdoor advertising through the erection, use or maintenance of any signs in an adjacent area where the facing of the sign is visible from an interstate highway, freeway, or primary highway, except as provided in this act. A sign having a facing visible from more than 1 state highway or other public road shall comply with the requirements for outdoor advertising for each state highway and each public road from which it is visible.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 1998, Act 533, Eff. Mar. 23, 1999.

252.306 Permit; application; contents of form; change in highway designation or other reason; digital billboard permit; owner of nonstandard sign.

Sec. 6. (1) A sign owner shall apply for an annual permit on a form prescribed by the department for each sign or sign structure to be maintained or erected in an adjacent area where the facing of the sign or sign structure is visible from a regulated route. The form shall require the name and business address of the applicant, the name and address of the owner of the property on which the sign or sign structure is to be located, the date the sign or sign structure, if currently maintained, was erected, the zoning classification of the property, a precise description of where the sign or sign structure is or will be situated and a certification that the sign or sign structure is not prohibited by section 18(a), (b), (c), or (d) and that the sign or sign structure does not violate any provisions of this act. The sign permit application shall include a statement signed by the owner of the land on which the sign or sign structure is to be placed, acknowledging that no trees or shrubs in the adjacent highway right-of-way may be removed, trimmed, or in any way damaged or destroyed without the written authorization of the department. The department may require documentation to verify the zoning, the consent of the land owner, and any other matter considered essential to the evaluation of compliance with this act. A sign owner shall apply for a separate annual permit for each sign or sign structure for each regulated route subject to this act from which the facing of the sign or sign structure is visible.

(2) The owner of a sign or sign structure shall apply for an annual permit for each sign or sign structure that becomes subject to the permit requirements of this act because of a change in highway designation or other reason not within the control of the sign owner within 2 months after receiving notice from the department that the sign or sign structure is subject to the permit requirements of this act. Both of the following apply to an annual permit issued under this subsection:

(a) The annual permit is not subject to section 7a.

(b) The annual permit may not be surrendered for an interim permit under section 7a(3).

(3) In addition to an annual permit under subsection (1), a sign owner shall apply for and the department shall issue a digital billboard permit for each digital billboard that is not a nonconforming sign and that meets the requirements of section 17(3) to be maintained or erected in an adjacent area where the facing of the sign or sign structure is visible from a regulated route. The information provided by an applicant under this subsection shall be on a form prescribed by the department. A sign owner shall apply for a separate digital billboard permit for each sign or sign structure allowed under section 17(3) for each regulated route from

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which the facing of the sign or sign structure is visible. The owner of a sign or sign structure shall apply for a digital billboard permit for each digital billboard that becomes subject to the permit requirements of this act because of a change in highway designation or other reason not within the control of the sign owner within 2 months after receiving notice from the department that the sign or sign structure is subject to the permit requirements of this act. Both of the following apply to a digital billboard permit issued under this subsection:

(a) The digital billboard permit is not subject to section 7a.

(b) The digital billboard permit may not be surrendered for an interim permit under section 7a(3).

(4) Notwithstanding any other provision of this act, within 90 days after the effective date of the amendatory act that added this subsection, the owner of a digital billboard that was legally erected before the effective date of the amendatory act that added this subsection shall apply for, and the department shall issue, a digital billboard permit. A digital billboard permitted under this subsection or subsection (5) is exempt from section 17(3), and the department shall not require any form of consideration for a digital billboard permitted under this subsection or subsection (5) other than payment of the appropriate application fee and annual renewal fees as required under this act.

(5) Notwithstanding any other provision of this act, if, on the effective date of the amendatory act that added this subsection, an individual has obtained location approval from the department and approval from the local unit of government having jurisdiction of that location to erect a digital billboard, he or she shall apply for, and the department shall issue, a digital billboard permit.

(6) Both of the following apply to the owner of a nonstandard sign:

(a) In addition to an annual permit under subsection (1), the owner of a nonstandard sign may apply for a digital billboard permit to erect and maintain a digital billboard on a nonstandard sign by applying for a digital billboard permit on a form prescribed by the department, paying the required fee, and surrendering 3 interim permits to the department. The owner of a nonstandard sign seeking a digital billboard permit under this subsection shall apply for a separate digital billboard permit for each sign or sign structure for each regulated route from which the facing of the sign or sign structure is visible, but shall not be required to surrender more than a total of 3 interim permits.

(b) Beginning on the effective date of the amendatory act that added this subdivision and ending 1 year after the effective date of the amendatory act that added this subdivision, for the first 8 nonstandard signs for which the owner applies for a digital billboard permit under subdivision (a), the owner shall not be required to surrender 3 interim permits. This subdivision only applies to signs located in a county having a population of not less than 750,000. The spacing requirements under section 17(4) apply to the first 8 nonstandard signs for which the owner applies for a digital billboard permit under subdivision (a).

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 1998, Act 533, Eff. Mar. 23, 1999;—Am. 2006, Act 448, Eff. Jan. 1, 2007;—Am. 2014, Act 2, Imd. Eff. Jan. 30, 2014.

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252.307 Permit; fees; expiration; renewal; exception; effect of nonpayment; notice of permit cancellation; maximum amount of increased renewal fees for late payments; transfer fee.

Sec. 7. (1) A permit fee is payable annually in advance, to be credited to the state trunk line fund. For a digital billboard permit, the fee is $200.00 for the first year. For an annual permit for a billboard that does not require a digital billboard permit, the fee is $100.00 for the first year except that signs in existence prior to a highway's change in designation or jurisdiction that requires signs to be permitted shall only be required to pay the permit renewal amount under subsection (2). The department shall establish an annual expiration date for each permit and may change the expiration date of existing permits to spread the permit renewal activity over the year. Permit fees may be prorated the first year. An application for the renewal of a permit shall be filed with the department no later than the permit's expiration date.

(2) For signs up to and including 300 square feet, the annual permit renewal fee is $50.00. For signs greater than 300 square feet, the annual permit renewal fee is $80.00. The annual permit renewal fee for an interim permit is $80.00. The annual permit renewal fee for a digital billboard permit is $200.00. Signs of the service club and religious category are not subject to an annual renewal fee.

(3) If the annual renewal fee is not paid by the expiration date of the permit as required under this section, the annual renewal fee shall increase by an additional $50.00. The department shall send notice of nonpayment by certified mail to the permit holder's address on file within 30 days after the expiration date and shall inform the permit holder that if the annual renewal fee as increased under this subsection is not paid within 60 days after the permit expiration date, the department may cancel the permit without taking further administrative action unless an administrative hearing is requested by the permit holder within 60 days after the permit expiration date.

(4) The department shall send notice of a permit's cancellation to the permit holder using 1 of the following methods:

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(a) For a permit that was canceled between 2011 and the day before the effective date of the amendatory act that added this sentence, by certified mail to the permit holder's address on file. The department shall send the notice within 60 days after the effective date of the amendatory act that added this sentence. The notice shall advise the permit holder that he or she may request reinstatement of the permit within 60 days after the date of the notice as provided in section 7a(16).

(b) For a permit that was canceled on or after the effective date of the amendatory act that added this sentence, by certified mail to the permit holder's address on file. The department shall send the notice within 60 days after the date the permit was canceled. The notice shall advise the permit holder that he or she may request reinstatement of the permit within 60 days after the date of the notice as provided in section 7a(16).

(5) Notwithstanding subsection (3), for permits having the same expiration date, the maximum amount of increased annual renewal fees for late payments that may be assessed by the department under this section against 1 permit holder is $10,000.00.

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

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 1976, Act 265, Imd. Eff. Oct. 1, 1976;—Am. 1998, Act 533, Eff. Mar. 23, 1999;—Am. 2006, Act 448, Eff. Jan. 1, 2007;—Am. 2009, Act 86, Imd. Eff. Sept. 3, 2009;—Am. 2014, Act 2, Imd. Eff. Jan. 30, 2014.

252.307a Issuance of annual permit for new sign on or after January 1, 2007; permit issued before January 1, 2007; interim permit; conditions; limitations; renewable permit; size limitation on service club signs or religious organization signs; sign advertising product, service, or retail business owned and operated by sign owner; transfer of permit; permit canceled due to nonpayment of renewal fees.

Sec. 7a. (1) Except as otherwise provided in this section, section 6(2)(a), and section 7b, the department shall not issue an annual permit for a new sign on or after January 1, 2007.

(2) A permit issued by the department before January 1, 2007 remains in force and valid.

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

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

(b) The holder of the permit surrenders the permit to the department upon the removal of a sign structure that has a valid permit under this act.

(c) The holder of the permit verifies the removal of the sign structure in writing to the department.

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

(4) An interim permit issued under this section shall only be utilized for the construction of a sign structure and shall remain in effect without expiration with fees renewed on an annual basis. A sign erected using an interim permit shall not be closer than 1,000 feet to another sign structure on the same side of the highway along interstate highways and freeways or closer than 500 feet to another sign structure on the same side of the highway along primary highways. An interim permit shall not be used to erect a sign in a location where existing vegetation is greater than 8 feet tall or where existing vegetation was removed without the department's permission.

(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 with more than 2 faces may exchange the permits under this section for a maximum of 2 interim permits. The 2 interim permits received under this

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section shall only be used to construct 1 sign structure with no more than 2 faces.

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

(10) If a permit holder for a sign structure that exists on January 1, 2007 requires additional permits for any reason, or if the owner of a sign that meets the requirements of section 17(10) applies for a permit before July 1, 2011, the department may issue a valid renewable permit renewable on an annual basis without complying with subsection (1) even if the permit holder has more than 2 valid permits as a result.

(11) The department may issue a permit for a new sign structure that measures no more than 8 square feet for service club signs or religious organization signs.

(12) Notwithstanding anything in this act to the contrary, permits issued under subsection (11) are not eligible to be surrendered for an interim permit.

(13) Notwithstanding anything in this act to the contrary, the department may issue a permit for an existing sign that advertises a product, service, or retail business that is owned and operated by the sign owner if the location for the sign meets all existing requirements of this act, or if the sign is an existing nonconforming sign that advertises a product, service, or retail business that is owned and operated by the sign owner and the sign owner held an original permit for that sign on January 1, 2007.

(14) A permit issued under subsection (13) is not transferable and is not eligible to be surrendered for an interim permit.

(15) Notwithstanding anything in this act to the contrary, the department may issue a permit for a sign that is no more than 150 square feet in size and that advertises a product, service, attraction, destination, or retail business that is owned and operated or served by the sign owner, if the sign meets all other requirements of this act. A permit issued under this subsection is not transferable and is not eligible to be surrendered for an interim permit. The department shall not issue more than 4 permits under this subsection to an attraction, destination, or retail business.

(16) Both of the following apply to the owner of an existing sign or sign structure whose permit was canceled due to nonpayment of renewal fees:

(a) He or she may apply for a new annual permit by submitting an application for a new annual permit and surrendering an interim permit.

(b) No later than 60 days after notice is sent under section 7(4)(a), the owner of an existing sign or sign structure whose permit expired during December 2012 due to nonpayment of renewal fees may apply for a new annual permit by submitting an application for a new annual permit and surrendering 1 interim permit per sign, but shall not be required to submit more than 1 interim permit per sign structure.

History: Add. 2006, Act 447, Eff. Jan. 1, 2007;—Am. 2009, Act 86, Imd. Eff. Sept. 3, 2009;—Am. 2010, Act 350, Imd. Eff. Dec. 22, 2010;—Am. 2011, Act 13, Imd. Eff. Mar. 24, 2011;—Am. 2014, Act 2, Imd. Eff. Jan. 30, 2014.

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252.307b Directional sign for publicly or privately owned activity or attraction; permit; limitations; display of message.

Sec. 7b. (1) Notwithstanding anything in this act to the contrary, the department may issue a permit for a directional sign for a publicly or privately owned activity or attraction that is nationally known or regionally known, that is of outstanding interest to the traveling public, and that is generally considered to be 1 of the following:

(a) A natural phenomenon.

(b) A scenic attraction.

(c) A historic, educational, cultural, scientific, or religious site.

(d) An outdoor recreational area.

(2) A permit issued under this section is exempt from section 7a, is not transferable, and is not eligible to be surrendered for an interim permit.

(3) A permit issued under this section shall be for a sign that is no larger than 150 square feet in size, no more than 20 feet high, and no more than 20 feet long, including border and trim and excluding supports.

(4) A sign for which a permit is issued under this section shall not be any of the following:

(a) Closer than 2,000 feet to an interchange, rest area, park land, scenic area, or intersection at-grade along the interstate system, a freeway, or a primary highway, as measured from the nearest point of the beginning or ending of pavement widening at the exit from, or entrance to, the main-traveled way.

(b) Closer than 1 mile to another directional sign on either side of the road facing the same direction.

(c) Located adjacent to a regulated route at a distance greater than 50 air miles from the activity or attraction.

(5) The department shall not issue a permit under this section if there are more than 3 signs identifying the same activity or attraction facing the same direction on either side of the road along a single regulated route

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approaching the activity or attraction.

(6) The message displayed on a sign for which a permit is issued under this section shall only identify the activity or attraction and directional information useful to the traveler in locating the activity or attraction, including mileage, route numbers, and exit numbers. The message displayed on a sign for which a permit is issued under this section shall not include descriptive words or phrases or pictorial or photographic representations of the activity or attraction or the surrounding area.

History: Add. 2014, Act 2, Imd. Eff. Jan. 30, 2014.

252.308 Repealed. 1976, Act 265, Imd. Eff. Oct. 1, 1976.

Compiler's note: The repealed section pertained to bond of permit applicant.

252.309 Permit; issuance or denial.

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

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 1976, Act 265, Imd. Eff. Oct. 1, 1976;—Am. 1998, Act 533, Eff. Mar. 23, 1999;—Am. 2006, Act 448, Eff. Jan. 1, 2007.

252.310 Permit; exemption.

Sec. 10. The owner of a sign allowed under section 13(1)(b) or (c) is not required to obtain a permit for that sign.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 1998, Act 533, Eff. Mar. 23, 1999.

252.311 Trimming or removing trees or shrubs within highway right-of-way; violation; penalty; hearing; removal of sign.

Sec. 11. (1) A person who trims or removes trees or shrubs within a highway right-of-way for the purpose of making a proposed or existing sign more visible without a permit issued under section 11a is guilty of a misdemeanor punishable by imprisonment for not more than 30 days or a fine of $10,000.00 or up to 5 times the value of the trees or shrubs trimmed or removed, whichever is greater. The value of the removed trees or shrubs shall be determined by the department under section 11a.

(2) If a sign owner, sign owner's agent, or a property owner or agent of a property owner with whom the sign owner has a contractual relationship to maintain the sign on his or her property trims or removes trees or shrubs without first having obtained a permit under section 11a, the sign owner is not eligible to obtain a permit under section 11a for 3 years from the date of trimming or removal of trees or shrubs.

(3) If trees or shrubs have been trimmed or removed without a permit under section 11a by a sign owner, a sign owner's agent, a property owner, or a property owner's agent, the department shall conduct a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. After providing notice and opportunity for hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the department may impose a fine not to exceed 5 times the value of the vegetation that was trimmed or removed, restrict future vegetation management permits, restrict use of the sign or sign structure for a period not to exceed 1 year, or, for a second or subsequent violation, remove the sign under section 19. A sign, the use of which has been restricted under this subsection, shall not be considered an abandoned sign.

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

History: Add. 1998, Act 533, Eff. Apr. 1, 1999;—Am. 2006, Act 448, Eff. Jan. 1, 2007;—Am. 2014, Act 2, Imd. Eff. Jan. 30, 2014.

252.311a Permit to manage vegetation.

Sec. 11a. (1) Subject to the requirements of this section, the department is authorized to and shall issue permits for the management of vegetation to the owner of a sign, agent of the owner of a sign, or a property owner or agent of a property owner with whom the sign owner has a contractual relationship to maintain the sign on his or her property, subject to this act.

(2) A sign owner may apply to the department for a permit to manage vegetation using the department's approved form. The application shall be accompanied by an application fee of $150.00 to cover the costs of evaluating and processing the application. Beginning October 1, 2014, the department shall annually adjust the application fee to ensure that the fee covers the total cost of evaluating and processing the application. The department shall not increase the application fee by an annual percentage amount greater than the index.

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(3) An application submitted under subsection (2) shall be on a form and in a manner specified by the department and shall clearly identify the vegetation to be managed in order to create visibility of the sign within the billboard viewing zone and all proposed mitigation for the impacts of the vegetation management undertaken. The application shall also include anticipated management that will be needed in the future to maintain the visibility of the sign within the billboard viewing zone for the time specified in subsection (6) and procedures for clearing vegetation as determined by the department.

(4) Unless otherwise agreed to by the department and an applicant, the department shall issue its decision on an application no later than 90 days after receipt of a completed application. The department shall approve the application, approve the application with modification, or deny the application. In deciding whether to approve an application, approve an application with modification, or deny an application, the department shall consider the vegetation management that was previously allowed at the billboard site. If the department approves the application or approves the application with modification, it shall notify the applicant. The notification required by this subsection shall include the value of the vegetation to be managed as determined under subsection (5). The notification shall also include any required mitigation for the vegetation to be managed and all conditions and requirements associated with the issuance of the permit. The permit fee is $500.00, except that in special and unique situations and circumstances where the department incurs additional costs directly attributable to the approval of the permit, a fee greater than $500.00 adequate for the recovery of additional costs may be assessed. Beginning October 1, 2014, the department shall annually adjust the permit fee to ensure that the fee covers the total cost of issuing the permit and the cost of all departmental responsibilities associated with the permit. The department shall not increase the permit fee by an annual percentage amount greater than the consumer price index. Upon receipt of the permit fee, payment for the value of the vegetation, and compliance with department conditions and requirements, the department shall issue the permit. Within 5 years after the issuance of a vegetation management permit under this section, if a sign owner applies to manage vegetation at the same location, he or she may trim or remove any vegetation that has regrown if that vegetation was originally trimmed or removed under the vegetation management permit, and is not required to pay the value of the vegetation that has regrown or any fees other than the application fees required under this act.

(5) The department shall annually develop and publish a replacement cost schedule for trees and shrubs to be removed under a vegetation management permit. The replacement cost schedule shall specify the size, number, type, and cost of replacement trees to be paid for by an applicant based on the diameter at breast height for each tree that is removed and a conversion factor determined by the department for the number of replacement trees required for any shrubs that are removed. The total cost shall be based on the department's total cost for planting trees according to the most recent version of the standard specifications for construction used by the department and the expected cost of plants, labor, and materials required to install and establish plants for that year. As an alternative, the department and the applicant may agree that the department will develop the value of the vegetation to be trimmed or removed using the most recent version of the international society of arboriculture's guide for plant appraisal and the corresponding Michigan tree evaluation supplement to the guide for plant appraisal published by the Michigan forestry and park association. The department may use another objective authoritative guide in consultation with representatives of the outdoor advertising industry and other interested parties if either the guide or the supplement has not been updated in more than 5 years. The department, in consultation with representatives of the outdoor advertising industry and other interested parties, may develop a value schedule for vegetation.

(6) Subject to this subsection, a permit to manage vegetation shall provide for a minimum of 5 seconds of continuous, clear, and unobstructed view of the billboard face based on travel at the posted speed as measured from the point directly adjacent to the point of the billboard closest to the highway. The department and the applicant may enter into an agreement, at the request of the applicant, identifying the specific location of the continuous, clear, and unobstructed view within the billboard viewing zone. The specific location may begin at a point anywhere within the billboard viewing zone but shall result in a continuous, clear, and unobstructed view of not less than 5 seconds. An applicant shall apply for a permit that minimizes the amount of vegetation to be managed for the amount of viewing time requested. Applications for vegetation management that provide for greater than 5 seconds of continuous, clear, and unobstructed viewing at the posted speed as measured from a point directly adjacent to the point of the billboard closest to the highway shall not be rejected based solely upon the application exceeding the 5-second minimum. For billboards spaced less than 500 feet apart, vegetation management, when permitted, shall provide for a minimum of 5 seconds of continuous, clear, and unobstructed view of the billboard face based on travel at the posted speed or the distance between the billboard and the adjacent billboard, whichever is less.

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

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The department may, in its discretion, issue a permit for vegetation management outside of the billboard viewing zone.

(8) If no suitable alternative exists or the applicant is unable to provide acceptable mitigation, the department may deny an application or provide a limited permit to manage vegetation if 1 or more of the following situations exist:

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

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

(c) The vegetation management conflicts with federal or state law or promulgated rules.

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

(e) The vegetation to be managed is existing vegetation and was planted, permitted to be planted, or allowed to grow naturally by the department for a specific purpose, as shown by the department's records or the department's practices.

(f) Existing vegetation greater than 8 feet in height would be managed for a newly constructed billboard or vegetation existed that was greater than 8 feet in height that obscured a billboard or would have obscured the billboard before it was constructed. When denying an application or providing a limited permit, The department shall consider previous vegetation management that was allowed at the billboard site.

(g) The vegetation management would occur on a scenic or heritage route that was designated on or before January 1, 2007, unless the proposed vegetation management permit is for vegetation management for a sign that would be a conforming sign or a nonstandard sign if the sign was not located on a scenic byway or heritage route.

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

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

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

(10) No later than 45 days after receiving a denial of a request to begin the 5 seconds of continuous, clear, and unobstructed view at a point other than a point directly adjacent to the point of the billboard closest to the highway as provided in subsection (6), or a denial or a limited permit under subsection (8), an applicant may request review and reconsideration of the denial or limited permit. The applicant shall submit its request in writing on a form as determined by the department. The applicant shall state the specific item or items for which review and reconsideration are being requested. An applicant who received a limited permit may manage vegetation in accordance with that permit during the review and reconsideration period.

(11) The department shall develop and maintain a procedure for review and reconsideration of applications that are denied or that result in the issuance of a limited permit. This procedure shall include at least 2 levels of review and provide for input from the applicant. The review period shall not exceed 120 days. The department shall consult with all affected and interested parties, including, but not limited to, representatives of the outdoor advertising industry, in the development of this procedure.

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

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

(14) Except for ground cover, the department shall not plant or authorize to be planted any vegetation that obstructs, or through expected normal growth will obstruct in the future, the visibility within the billboard viewing zone of any portion of a sign face subject to this act. Both of the following apply to vegetation planted or allowed to be planted by the department:

(a) If the vegetation planted or allowed to be planted by the department within the billboard viewing zone after January 1, 2007 obstructs the visibility of any portion of a sign face subject to this act, the department shall trim or remove at the department's cost, or allow the sign permit holder to trim or remove, the vegetation obstructing the visibility of any portion of the sign face.

(b) This subsection does not apply to the replacement of existing vegetation that was removed for transportation purposes.

(15) The department shall consider the impact on the visibility of a billboard before erecting or authorizing the erection of a digital information sign or any other sign within the highway right-of-way. A billboard owner may propose, and the department shall consider, the relocation of an existing sign within the highway right-of-way. A billboard owner is responsible for all costs associated with relocation of a sign under this subsection. Not later than 90 days after receipt of a billboard owner's request for the relocation of an existing sign, the department shall respond in writing to the billboard owner with 1 of the following:

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(a) Notice of department approval of relocating the sign, an estimate of the cost associated with relocating the sign, and notice that all costs associated with the proposed sign relocation are the responsibility of the billboard owner.

(b) Notice of department denial of relocation of the sign and the justification for that denial that may include, but is not limited to, federal requirements, safety considerations, or emergency or operational purposes.

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

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

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

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

(17) If the department alleges that a person has trimmed or removed more trees or shrubs than the permit authorizes, then the department shall notify the person of its intent to seek 1 or more of the penalties provided in subsection (16). The notification shall be in writing and delivered via United States certified mail, and shall detail the conduct the department alleges constitutes a violation of subsection (16), and shall indicate the penalties the department is seeking under subsection (16). Notification shall occur within 30 days after the filing of the completion order for the trimming or removal of trees or shrubs the department alleges violated the permit. Any allegation by the department that a person has trimmed or removed more trees or shrubs than the permit authorizes is subject to the appeals process contained in subsections (10), (11), and (12).

(18) As used in this section:

(a) "Billboard viewing zone" means the 1,000-foot area measured at the pavement edge of the main-traveled way closest to the billboard having as its terminus the point of the right-of-way line immediately adjacent to the billboard except that, for a location where a vegetation permit has been granted within the 5 years prior to the effective date of the 2013 amendatory act that amended this subdivision, the billboard viewing zone includes the area subject to the vegetation permit.

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

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

History: Add. 2006, Act 448, Eff. Jan. 1, 2007;—Am. 2009, Act 86, Imd. Eff. Sept. 3, 2009;—Am. 2014, Act 2, Imd. Eff. Jan. 30, 2014.

252.312 Placing permit number on sign; violation; penalty.

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

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

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 2006, Act 448, Eff. Jan. 1, 2007.

252.313 Signs prohibited on adjacent areas; exceptions.

Sec. 13. (1) A sign shall not be erected or maintained in an adjacent area where the facing of the sign is visible from an interstate highway, freeway, or primary highway except the following:

(a) Directional and other official signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, and which comply with rules promulgated by the department relative to the lighting, size, number, and spacing thereof.

(b) Signs advertising the sale or lease of real property upon which they are located.

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(c) On-premises signs.

(d) Signs located in a business area or an unzoned commercial and industrial area and that comply with sections 12, 15, 16, and 17 except that a sign not described in subdivision (a), (b), or (c) shall not be erected or maintained beyond 660 feet of the nearest edge of the right of way.

(2) If the department is authorized by law to designate scenic areas along an interstate highway, freeway, or primary highway, signs shall not be erected or maintained within areas so designated unless located within a business area or an unzoned commercial or industrial area where signs may be erected or maintained in compliance with this act.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 1976, Act 265, Imd. Eff. Oct. 1, 1976;—Am. 1998, Act 533, Eff. Mar. 23, 1999.

Administrative rules: R 247.701 et seq. of the Michigan Administrative Code.

252.314 Signs on land leased from state; conditions; terms; cancellation.

Sec. 14. (1) The state highway commission may lease land owned by the department along an interstate highway, freeway or primary highway in business areas or unzoned, commercial or industrial areas, to the owner or operator of any gasoline station, repair garage, restaurant, lodging facility, retail store, tourist attraction or to sports, cultural, educational, charitable, service, religious or civic organizations, for the purpose of erecting and maintaining a sign, the advertising copy of which publicizes or calls attention only to goods, services or facilities available on, or events or attractions on, the premises of the owner or operator. Signs may be permitted if all of the following conditions exist:

(a) The advertised premises of the owner or operator are located within 5 miles of the land so leased.

(b) There is no business area or unzoned commercial or industrial area available for outdoor advertising along the interstate highway, freeway or primary highway within 5 miles of the advertised premises of the owner or operator.

(c) The inability to publicize or call attention to goods, services or facilities available on, or events or attractions on, the premises of the owner or operator except by a sign erected and maintained pursuant to this section would work a financial hardship upon the owner or operator under such reasonable criteria as may be determined by the state highway commission.

(d) The leasing of such land and the erection and maintenance of such sign would not be cause for the reduction of federal aid highway funds to the state, pursuant to section 131 of title 23 of the United States code, as amended.

(2) Any signs so erected or maintained shall be subject to the provisions of sections 15, 16 and 17 and if erected or maintained by a permittee under this act, to the provisions of section 12.

(3) The leases made pursuant to this section shall be on a year to year term and shall be subject to cancellation at any time the signs erected or maintained on the leased property cease to meet the requirements of this section. The signs shall be subject to removal pursuant to section 19 upon cancellation of the lease.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972.

252.315 Size requirements and limitations.

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

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

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

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

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

(3) A single sign face may be divided into not more than 2 smaller sign faces if all of the following are satisfied:

(a) The sign being divided is not a nonconforming sign.

(b) The resulting smaller sign faces are equal in size.

(c) Each of the resulting smaller sign faces does not exceed 350 square feet in area.

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(d) Each of the resulting smaller sign faces is legally permitted under this act.

(e) Both before and after the larger sign face is divided into smaller sign faces, there are no more than 2 permits for signs at that location facing the same direction of travel.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 1998, Act 533, Eff. Mar. 23, 1999;—Am. 2006, Act 448, Eff. Jan. 1, 2007;—Am. 2014, Act 2, Imd. Eff. Jan. 30, 2014.

252.316 Illuminated signs.

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

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

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

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

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 2006, Act 448, Eff. Jan. 1, 2007.

252.317 Distances between signs; sign utilizing digital billboard; distance from interchange, intersection, or rest area.

Sec. 17. (1) Except as otherwise provided in subsections (10) and (11), along interstate highways and freeways, a sign structure located in a business area or unzoned commercial or industrial area shall not be erected or maintained closer than 1,000 feet to another sign structure on the same side of the highway.

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

(3) Except as otherwise provided in subsection (4), a sign utilizing a digital billboard permit shall not be closer than 1,750 feet to another sign utilizing a digital billboard permit on either side of the highway facing the same direction of oncoming traffic.

(4) Beginning on the effective date of the amendatory act that added this subsection and ending 1 year after the effective date of the amendatory act that added this subsection, for the first 8 nonstandard signs for which the owner applies for a digital billboard permit under section 6(6)(a) without having to surrender 3 interim permits as provided under section 6(6)(b), each sign shall not be closer than 1,000 feet to another sign using a digital billboard permit on either side of the highway facing the same direction of traffic. This subsection only applies to signs located in a county having a population of not less than 750,000.

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

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

(7) Official signs as described in section 13(1)(a) and on-premises signs shall not be counted and measurements shall not be made from them for purposes of determining compliance with the spacing requirements in this section.

(8) Except as provided in subsection (3), the spacing requirements in this section apply separately to each side of the highway.

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

(10) A sign that was erected in compliance with the spacing requirements of this section that were in effect at the time when the sign was erected, but that does not comply with the spacing requirements of this section after March 23, 1999, is not unlawful under section 22.

(11) Along an interstate highway that is designated by 1 letter and 3 numbers and located in a county with a population of less than 211,000 but more than 175,000, an existing sign structure that was erected prior to March 24, 2011 shall not be closer than 900 feet to another sign structure on the same side of the highway.

(12) Nothing in this section shall be construed to cause a sign that was legally erected prior to March 23, 1999 to be defined as a nonconforming sign.

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History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 1998, Act 533, Eff. Mar. 23, 1999;—Am. 2006, Act 448, Eff. Jan. 1, 2007;—Am. 2009, Act 86, Imd. Eff. Sept. 3, 2009;—Am. 2011, Act 13, Imd. Eff. Mar. 24, 2011;—Am. 2014, Act 2, Imd. Eff. Jan. 30, 2014.

252.317a Nonconforming sign; maintenance and repair; compliance with federal statutes, rules, regulations, or agreements; nonstandard sign; "customary maintenance and repair" defined.

Sec. 17a. (1) A nonconforming sign may continue to exist as long as it is not a destroyed, abandoned, discontinued, or prohibited sign. A nonconforming sign that has not displayed an advertising message for more than 1 year shall be considered an abandoned sign.

(2) A sign owner may perform customary maintenance and repair of a nonconforming sign. The annual cost of the customary maintenance and repair shall not exceed 40% of the replacement cost of a new sign structure constructed using equivalent materials and equipment.

(3) A sign owner may perform customary maintenance and repair of a nonconforming sign that is damaged as a result of storm, fire, or casualty. Customary maintenance and repair of a nonconforming sign that is damaged as a result of storm, fire, or casualty shall not exceed 60% of the replacement cost of a new sign structure constructed using equivalent materials and equipment. The 60% limitation in this subsection does not apply if the damage to the nonconforming sign is caused by vandalism or a negligent act of a person other than the sign owner.

(4) A nonconforming sign owner may not take any action that places this state out of compliance with federal statutes, published rules, regulations, or the federal-state agreement on outdoor advertising.

(5) A nonstandard sign may continue to exist and a sign owner may perform any action to a nonstandard sign that is allowed under this act, except for the following:

(a) Increasing the overall height of an existing sign structure.

(b) Increasing the total square footage of a sign face to a size greater than its original square footage.

(c) Increasing the number of sign faces to more than 2.

(6) As used in this section, "customary maintenance and repair" means the repair or replacement of materials or equipment with equivalent materials or equipment on a sign or sign structure that restores the structural integrity of the sign or sign structure or the functionality of the equipment. Customary maintenance and repair includes, but is not limited to, modifications to the sign or sign structure that are designed to comply with state and federal worker safety regulations and requirements, modifications to the sign structure that are primarily for the conservation of energy or environmental preservation, paint, the installation of trim or borders, and removal of 1 or more sign faces or relocation of all or part of the sign or sign structure upon request by the department. All of the following apply to customary maintenance and repair:

(a) Customary maintenance and repair does not include any of the following:

(*i*) Enlargement of the sign or sign structure. As used in this subparagraph, "enlargement of the sign or sign structure" does not include either of the following:

(A) The installation of a temporary copy enhancement.

(B) The installation of an embedded message device, if the installation is not prohibited by federal statute or a rule promulgated by the federal highway administration.

(*ii*) Except as otherwise provided in this subsection, a change in the location of the sign structure.

(*iii*) An increase in the height of the sign structure.

(*iv*) Installation of additional signs on a sign structure.

(*v*) Electrification of the sign or sign structure.

(b) Notwithstanding any other provision of this act, customary maintenance and repair includes a modification to a sign or sign structure that was completed prior to January 1, 2007, other than electrification, conversion to a digital billboard, or conversion to a trivision sign. Customary maintenance and repair includes the reversal of electrification, conversion to a digital billboard, or conversion to a trivision sign if the electrification, conversion to a digital billboard, or conversion to a trivision sign was completed before January 1, 2007.

History: Add. 2014, Act 2, Imd. Eff. Jan. 30, 2014.

252.317b Crossing limited right-of-way to erect or maintain sign; penalties.

Sec. 17b. (1) The owner of a sign, agent of the owner of a sign, or a property owner or the agent of a property owner with whom the sign owner has a contractual relationship to maintain the sign on his or her property shall not cross a limited access right-of-way to erect or maintain a sign.

(2) The department shall not issue a permit to cross a limited access right-of-way for purposes of erecting or maintaining a sign to the owner of a sign, agent of the owner of a sign, or a property owner or the agent of a property owner with whom the sign owner has a contractual relationship to maintain the sign on his or her

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property.

(3) If the owner of a sign, agent of the owner of a sign, or a property owner or the agent of a property owner with whom the sign owner has a contractual relationship to maintain the sign on his or her property accesses a sign by crossing a limited access right-of-way to erect or maintain the sign, the owner of the sign is subject to the following penalties:

(a) For the first violation, a fine of $1,000.00 for each sign location.

(b) For a second violation, removal of the sign and sign structure and cancellation of the permit associated with the sign.

History: Add. 2014, Act 2, Imd. Eff. Jan. 30, 2014.

252.318 Prohibited signs or sign structures.

Sec. 18. Except as otherwise provided in this section, the following signs or sign structures are prohibited:

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

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

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

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

(e) Those that are erected or maintained upon property in which the department has a highway easement or a similar property interest except where otherwise allowed under this act or state or federal statute or legal requirement.

(f) Those that are erected or maintained in an adjacent area along a scenic byway that did not exist prior to the designation as a scenic byway. Notwithstanding any other provision of this act, a sign that is erected and maintained in a business area along a scenic byway prior to the designation as a scenic byway is not prohibited.

(g) Those that are abandoned.

(h) 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 using a digital billboard 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 8 seconds, each change is complete in 1 second or less, and the sign possesses and utilizes automatic dimming capabilities so that the maximum luminescence level is not more than 0.3 foot candles over ambient light levels measured at a distance of 150 feet for those sign faces less than or equal to 300 square feet, measured at a distance of 200 feet for those sign faces greater than 300 square feet but less than or equal to 378 square feet, measured at a distance of 250 feet for those sign faces greater than 378 square feet and less than 672 square feet, and measured at a distance of 350 feet for those sign faces equal to or greater than 672 square feet. 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.

(i) Signs in violation of subdivision (h) 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 (h), 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 (h), for a specific sign, shall result in permanent removal of the variable message display device from that sign by the department or the sign owner.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 2006, Act 448, Eff. Jan. 1, 2007;—Am. 2009, Act 86, Imd. Eff. Sept. 3, 2009;—Am. 2014, Act 2, Imd. Eff. Jan. 30, 2014.

252.318a Billboards; advertising purchase or consumption of tobacco products prohibited; advertising sexually oriented business prohibited; violation; civil fine.

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

(2) Beginning January 1, 2011, any billboard within this state that advertises a sexually oriented business

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shall display only words or numbers and may display the business's trademark if the trademark has been registered under the Lanham act, 15 USC 1051 to 1141n, or under 1969 PA 242, MCL 429.31 to 429.46. The words on a billboard shall not describe or relate to a specified sexual activity or specified anatomical area. As used in this subsection:

(a) "Sexually oriented business" includes, but is not limited to, an adult bookstore, adult video store, adult cabaret, adult motion picture theater, sexual device shop, sexual encounter center, or an establishment that regularly features live performances characterized by the exposure of a specific anatomical area or by a specific sexual activity or in which persons appear in a state of nudity or seminudity in the performance of their duties. However, sexually oriented business does not include a business solely because it shows, sells, or rents materials that may depict sex.

(b) "Specified anatomical area" means less than completely and opaquely covered human genitals, pubic region, buttocks, or female breasts below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if covered.

(c) "Specified sexual activity" means the fondling or other erotic touching of covered or uncovered human genitals, pubic region, buttocks, or female breast.

(d) "Seminudity" means a state of dress in which opaque clothing fails to cover the genitals, anus, anal cleft or cleavage, pubic area, vulva, or nipple and areola of the female breast.

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

History: Add. 1998, Act 464, Eff. Mar. 23, 1999;—Am. 2006, Act 448, Eff. Jan. 1, 2007;—Am. 2010, Act 343, Eff. Mar. 30, 2011.

252.318b Voluntary agreement.

Sec. 18b. (1) Notwithstanding any other provision of this act to the contrary, the department may enter into a voluntary agreement as proposed by the Michigan billboard advisory council created under section 18c, or the department, if the Michigan billboard advisory council no longer exists, and approved by the state transportation commission with the federal highway administration for a pilot program to address concerns and issues related to outdoor advertising control, including, but not limited to, all of the following:

(a) Festival advertising.

(b) Reduction in the number of nonconforming signs.

(c) Advertising in underserved areas.

(d) Temporary or seasonal businesses.

(e) Safety programs.

(f) Designation of rural areas for special lighting provisions.

(g) Vegetation management practices.

(2) The department shall inform the legislature of its intent to enter into a voluntary agreement under subsection (1) no later than 30 days before entering into the agreement.

History: Add. 2014, Act 2, Imd. Eff. Jan. 30, 2014.

252.318c Michigan billboard advisory council; creation; purpose; duration; recommendations as advisory; membership; appointment; terms; vacancy.

Sec. 18c. (1) The Michigan billboard advisory council is created within the department for the purpose of advising the department and the state transportation commission regarding voluntary agreements entered into under section 18b(1), lighting, and any other general policy for the effective control of outdoor advertising.

(2) The Michigan billboard advisory council shall exist for a period of 2 years after the effective date of the amendatory act that added this section.

(3) Recommendations of the Michigan billboard advisory council are advisory only.

(4) The Michigan billboard advisory council shall consist of the following members appointed by the director of the department:

(a) The chairperson of the senate transportation committee or his or her designee.

(b) The chairperson of the house transportation and infrastructure committee or his or her designee.

(c) A representative of the state transportation commission.

(d) A representative of the conservation community.

(e) A representative of the outdoor advertising industry.

(f) A representative of the tourism industry or a trade group that represents statewide tourism interests.

(g) A representative from the general public. The member appointed under this subdivision shall be a private sector lessee of billboard space whose business is based in this state.

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(h) A sign owner that resides in this state.

(5) The members appointed under subsection (4)(c) to (h) shall serve at the pleasure of the director of the department. All of the members appointed under subsection (4) shall serve on a voluntary basis and without compensation.

(6) Members of the Michigan billboard advisory council shall serve for terms of 2 years. If a vacancy occurs on the Michigan billboard advisory council, the director of the department shall make an appointment for the unexpired term in the same manner as the original appointment.

History: Add. 2014, Act 2, Imd. Eff. Jan. 30, 2014.

252.319 Removal of signs or sign structures; procedure.

Sec. 19. (1) Signs and their supporting structures erected or maintained in violation of this act may be removed by the department in the manner prescribed in this section.

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

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

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

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

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

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

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

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 1998, Act 533, Eff. Mar. 23, 1999;—Am. 2006, Act 448, Eff. Jan. 1, 2007.

252.320 Severability.

Sec. 20. If any part of this act is found by a court to be invalid or unconstitutional, the remaining parts of this act shall not be affected but shall remain in full force and effect.

History: Add. 1998, Act 464, Eff. Mar. 23, 1999.

252.321 Penalty; misrepresentation.

Sec. 21. Except as otherwise provided in section 7, a person who erects or maintains any sign or sign structure or other object for outdoor advertising subject to the provisions of this act without complying with this act is liable for a penalty of not less than $100.00 nor more than $1,000.00 for each violation which shall be paid into the state trunk line fund. Penalties shall be sued for, by and in the name of the department and shall be recoverable with the reasonable costs thereof in the district or circuit court in the county where the

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person maintains his principal place of business or in the county where the signs erected or maintained without complying with this act are located. A person who falsely misrepresents information submitted in a permit form pursuant to section 6 is guilty of a misdemeanor. A sign erected or maintained under a permit falsely secured in such a manner shall be deemed to be abandoned and is not eligible for removal compensation.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 2009, Act 86, Imd. Eff. Sept. 3, 2009.

252.322 Removal of signs or sign structures; compensation; condition.

Sec. 22. (1) Just compensation shall be paid from the state trunk line fund upon the removal by or in behalf of the department of any sign or sign structure lawfully in existence on March 31, 1972 but which does not comply with the requirements of sections 13(1)(d), 15, 16, and 17 and any sign or sign structure lawfully erected after March 31, 1972 but which thereafter becomes unlawful because of a change in the designation of the highway or in the zoning of the area in which it is located.

(2) Each removal constitutes a taking and appropriation by the state of the following:

(a) From the owner of the sign or sign structure, all right, title and interest in and to the sign or sign structure, and the owner's leasehold related thereto.

(b) From the owner of the real property on which the sign or sign structure is located immediately prior to its removal, the right to erect and maintain signs on that property, other than those described in section 13(1)(a), (b), and (c).

(3) The compensation to be paid pursuant to this section shall be paid to the persons entitled to it upon presentation to the department of such information as the department may reasonably require.

(4) Unless a sign is exempt under section 10, its owner shall secure and shall keep in force a permit under sections 6 and 7. Compliance with this subsection is a condition for eligibility for compensation. Compensation shall not be paid for any sign, including a sign described in subsection (1), which is removed by the department because it is abandoned.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972;—Am. 1976, Act 265, Imd. Eff. Oct. 1, 1976;—Am. 1998, Act 533, Eff. Mar. 23, 1999.

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252.322a Rescission of rules.

Sec. 22a. All of the following rules are rescinded:

(a) R 247.705 to R 247.707 of the Michigan administrative code.

(b) R 247.710 of the Michigan administrative code.

(c) R 247.721(6) of the Michigan administrative code.

(d) R 247.723 of the Michigan administrative code.

(e) R 247.732 of the Michigan administrative code.

(f) R 247.733 of the Michigan administrative code.

(g) R 247.737 of the Michigan administrative code.

(h) R 247.742 of the Michigan administrative code.

(i) R 247.748 of the Michigan administrative code.

History: Add. 2014, Act 2, Imd. Eff. Jan. 30, 2014.

252.323 Rules; hearings; review.

Sec. 23. (1) The department may promulgate and enforce rules to implement this act in accordance with and subject to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Compiled Laws of 1948.

(2) If a person is aggrieved by any action or inaction of the department, he may request a formal hearing on the matter involved. The hearing shall be conducted by the department in accordance with the provisions for contested cases in Act No. 306 of the Public Acts of 1969, as amended.

(3) A determination, action or inaction by the department following the hearing shall be subject to judicial review as provided in Act No. 306 of the Public Acts of 1969, as amended.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972.

Administrative rules: R 247.701 et seq. of the Michigan Administrative Code.

252.324 Repeal.

Sec. 24. Act No. 333 of the Public Acts of 1966, being sections 252.251 to 252.262 of the Compiled Laws of 1948, is repealed.

History: 1972, Act 106, Imd. Eff. Mar. 31, 1972.

252.325 Repealed. 2006, Act 448, Eff. Jan. 1, 2007.

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Compiler's note: The repealed section pertained to analysis and funding of study.

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