

SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 5122

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

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2. As used in this act:

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

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

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

1           (ii) Transient or temporary activities.

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

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

7           (v) Railroad tracks and minor sidings.

8           (vi) Outdoor advertising.

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

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

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

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

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

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

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

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

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

1           (ii) Transient or temporary activities.

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

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

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13 not.

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15 activities such as riding stables, golf course shops, and  
16 campground offices.

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18 permit has not been issued or which is not a fully enclosed  
19 building, having all necessary utility service and sanitary  
20 facilities required for its intended commercial or industrial use.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 Sec. 7. (1) A permit fee is payable annually in advance, to be  
27 credited to the state trunk line fund. The fee is \$100.00 for the



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

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

16 (3) ~~For each permit, the department shall assess a \$100.00~~  
17 ~~penalty for delinquent payment of renewal fees.~~ **THE ANNUAL RENEWAL**  
18 **FEE FOR EACH PERMIT SHALL INCREASE BY AN ADDITIONAL \$20.00 IF THE**  
19 **FEE IS NOT PAID AT LEAST 30 DAYS BEFORE THE EXPIRATION DATE OF**  
20 **THE PERMIT. IF THE ANNUAL RENEWAL FEE IS NOT PAID AS REQUIRED UNDER**  
21 **THIS SECTION, THE DEPARTMENT SHALL SEND NOTICE OF NONPAYMENT BY**  
22 **CERTIFIED MAIL TO THE PERMIT HOLDER'S ADDRESS ON FILE NOT MORE THAN**  
23 **30 DAYS AFTER THE PERMIT EXPIRATION DATE. IF THE ANNUAL RENEWAL FEE**  
24 **FOR ANY PERMIT IS NOT PAID WITHIN 60 DAYS AFTER THE PERMIT**  
25 **EXPIRATION DATE, THE DEPARTMENT MAY CANCEL THE PERMIT WITHOUT**  
26 **TAKING FURTHER ADMINISTRATIVE ACTION UNLESS AN ADMINISTRATIVE**  
27 **HEARING IS REQUESTED BY THE PERMIT HOLDER WITHIN 60 DAYS OF THE**

1 PERMIT EXPIRATION DATE.

2 (4) NOTWITHSTANDING SUBSECTION (3), FOR PERMITS HAVING THE  
3 SAME EXPIRATION DATE, THE MAXIMUM AMOUNT OF INCREASED ANNUAL  
4 RENEWAL FEES FOR LATE PAYMENTS THAT MAY BE ASSESSED BY THE  
5 DEPARTMENT UNDER THIS SECTION AGAINST 1 PERMIT HOLDER IS  
6 \$10,000.00.

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

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

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

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

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

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

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

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

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

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

26           (4) ~~(3)~~ An interim permit that is issued under this section  
27 shall only be utilized for the construction of a new sign structure

1 and shall remain in effect without expiration with fees renewed on  
2 an annual basis.

3 ~~—— (4) Subject to subsections (2) and (8), a permit holder who is~~  
4 ~~exchanging a permit or permits under subsection (2) (e) shall be~~  
5 ~~issued 1 interim permit for each of the first 3 permits~~  
6 ~~surrendered. For each permit surrendered under subsection (2) (e)~~  
7 ~~after the first 3 permits surrendered, a permit holder under~~  
8 ~~subsection (2) (e) shall receive 1 interim permit for each 3 permits~~  
9 ~~surrendered. A permit holder shall have 1 year from January 1, 2007~~  
10 ~~to exchange permits pursuant to subsection (2) (e) and this~~  
11 ~~subsection. A permit that is not exchanged pursuant to subsection~~  
12 ~~(2) (e) and this subsection cannot be exchanged and shall expire no~~  
13 ~~later than 1 year after January 1, 2007.~~

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

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

26 (7) A holder of a valid permit for a sign structure with a  
27 single face is entitled to exchange that permit under this section

1 for an interim permit with a single face. A holder of valid permits  
2 for 2 different single-face structures may exchange the 2 permits  
3 under this section for 2 interim permits to construct 2 single-face  
4 sign structures or 2 interim permits to construct 1 sign structure  
5 with 2 faces.

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

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

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

19 **(11) THE DEPARTMENT MAY ISSUE A PERMIT FOR A NEW SIGN**  
20 **STRUCTURE THAT MEASURES NO MORE THAN 8 SQUARE FEET FOR SIGNS IN THE**  
21 **CATEGORIES OF SERVICE CLUB SIGNS AND RELIGIOUS ORGANIZATION SIGNS.**

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

25 Sec. 11a. (1) Subject to the requirements of this section, the  
26 department is authorized to and shall issue permits for the  
27 management of vegetation to the owner of a sign subject to this

1 act.

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

16 ~~(3) From January 1, 2007 until January 1, 2008, upon proper~~  
17 ~~receipt by the department of an application and application fee,~~  
18 ~~and based on the provisions of subsection (4), an applicant shall~~  
19 ~~be notified of approval, approval with modifications, or denial no~~  
20 ~~later than 90 days after the last day of the application period.~~  
21 ~~Beginning January 1, 2008~~ **UNLESS OTHERWISE AGREED TO BY THE**  
22 **DEPARTMENT AND AN APPLICANT**, the department shall issue its  
23 decision on an application no later than 30 days after the last day  
24 of the application period. The department shall approve the  
25 application, approve the application with modification, or deny the  
26 application. If the department approves the application or approves  
27 the application with modification, it shall notify the applicant

1 and the notification shall include the value of the vegetation to  
2 be managed as determined by the department using the most recent  
3 version of the international society of arboriculture's guide for  
4 plant appraisal and the corresponding Michigan tree evaluation  
5 supplement to the guide for plant appraisal published by the  
6 Michigan forestry and park association. The department may use  
7 another objective authoritative guide ~~or establish a value~~  
8 ~~schedule,~~ in consultation with representatives of the outdoor  
9 advertising industry and other interested parties, if either the  
10 guide or the supplement has not been updated for more than 5 years.  
11 **THE DEPARTMENT, IN CONSULTATION WITH REPRESENTATIVES OF THE OUTDOOR**  
12 **ADVERTISING INDUSTRY AND OTHER INTERESTED PARTIES, MAY DEVELOP A**  
13 **VALUE SCHEDULE FOR VEGETATION. IF AGREED TO BY BOTH THE DEPARTMENT**  
14 **AND THE APPLICANT, THIS VALUE SCHEDULE SHALL BE USED TO DETERMINE**  
15 **THE VALUE OF THE VEGETATION TO BE MANAGED.** The notification to the  
16 applicant shall also include any required mitigation for the  
17 vegetation to be managed and all conditions and requirements  
18 associated with the issuance of the permit. The permit fee shall be  
19 \$300.00, except that in special and unique situations and  
20 circumstances where the department incurs additional costs directly  
21 attributable to the approval of the permit, a fee greater than  
22 \$300.00 adequate for the recovery of additional costs may be  
23 assessed. Upon receipt of the permit fee, payment for the value of  
24 the vegetation, and compliance with MDOT conditions and  
25 requirements, the department shall issue the permit.

26 (4) Subject to the provisions of this subsection, a permit to  
27 manage vegetation shall provide for a minimum of 5 seconds of

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

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



1 billboard viewing zone.

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

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

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

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

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

15 (e) The vegetation to be managed was planted or permitted to  
16 be planted by the department for a specific purpose.

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

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

26 (h) The application is for a sign that has been found, after a  
27 hearing in accordance with section 19, not to be in compliance with

1 this act.

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

5 (7) If the department denies an application or issues a  
6 limited permit under this subsection, the department shall provide  
7 a specific rationale for denying an application or approving a  
8 limited permit.

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

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

27 (10) If, after review and reconsideration as provided for in

1 subsection (8), the applicant is denied a permit or issued a  
2 limited permit, the applicant may appeal the decision of the  
3 department to a court of competent jurisdiction.

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

7 (12) The department shall not plant or authorize to be planted  
8 any vegetation that obstructs, or through expected normal growth  
9 will obstruct in the future, the visibility within the billboard  
10 viewing zone of any portion of a sign face subject to this act.

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

15 (a) The number of application periods.

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

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

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

19 (e) The number of permits denied.

20 (f) The number of modified or denied permits which were  
21 appealed.

22 (g) The number of appeals that reversed the department's  
23 decision.

24 (h) The number of appeals that upheld the department's  
25 decision.

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

1 (j) The amount of compensation paid to the state for removed  
2 vegetation.

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

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

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

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

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

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

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

27 (c) For the fourth violation during a 3-year period, and any

1 additional violation, a person is not eligible to obtain or renew a  
2 permit under this section for a period of 3 years from the date of  
3 the fourth violation.

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

18 (17) As used in this act:

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

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

25 (c) "Viewing cone" means the triangular area described as the  
26 point directly below the face of the billboard closest to the  
27 roadway, the point directly below the billboard face farthest away

1 from the roadway, a point as measured from a point directly  
2 adjacent to the part of the billboard closest to the roadway and  
3 extending back parallel to the roadway the distance that provides  
4 the view of the billboard prescribed in this section, and the  
5 triangle described by the points extending upward to the top of the  
6 billboard.

7       Sec. 17. (1) Along interstate highways and freeways, a sign  
8 structure located in a business area or unzoned commercial or  
9 industrial area shall not be erected closer than 1,000 feet to  
10 another sign structure on the same side of the highway.

11       (2) Along primary highways a sign structure shall not be  
12 closer than 500 feet to another sign structure.

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

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

25       (5) Official signs as described in section 13(1)(a) and on-  
26 premises signs shall not be counted nor shall measurements be made  
27 from them for purposes of determining compliance with the spacing

1 requirements provided in this section.

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

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

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

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

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

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

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

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

24 (e) Those which are abandoned.

25 (f) Those that involve motion or rotation of any part of the  
26 structure, running animation or displays, or flashing or moving  
27 lights. This subdivision does not apply to a sign or sign structure

1 with static messages or images that change if the rate of change  
2 between 2 static messages or images does not exceed more than 1  
3 change per 6 seconds, each change is complete in 1 second or less,  
4 and the ~~maximum daylight sign luminance level does not exceed~~  
5 ~~62,000 candelas per meter squared at 40,000 lux illumination~~  
6 ~~beginning 1/2 hour after sunrise and continuing until 1/2 hour~~  
7 ~~before sunset and does not exceed 375 candelas per meter squared at~~  
8 ~~4 lux illumination at all other times.~~ **SIGN POSSESSES AND UTILIZES**  
9 **AUTOMATIC DIMMING CAPABILITIES SO THAT THE MAXIMUM LUMINESCENCE**  
10 **LEVEL IS NOT MORE THAN 0.3 FOOT CANDLES OVER AMBIENT LIGHT LEVELS**  
11 **MEASURED AT A DISTANCE OF 150 FEET FOR THOSE SIGN FACES LESS THAN**  
12 **OR EQUAL TO 300 SQUARE FEET, MEASURED AT A DISTANCE OF 200 FEET FOR**  
13 **THOSE SIGN FACES GREATER THAN 300 SQUARE FEET BUT LESS THAN OR**  
14 **EQUAL TO 378 SQUARE FEET, MEASURED AT A DISTANCE OF 250 FEET FOR**  
15 **THOSE SIGN FACES GREATER THAN 378 SQUARE FEET AND LESS THAN 672**  
16 **SQUARE FEET, AND MEASURED AT A DISTANCE OF 350 FEET FOR THOSE SIGN**  
17 **FACES EQUAL TO OR GREATER THAN 672 SQUARE FEET.** In addition to the  
18 above requirements, signs exempted under this subdivision shall be  
19 configured to default to a static display in the event of  
20 mechanical failure.

21 (g) Signs found to be in violation of subdivision (f) shall be  
22 brought into compliance by the permit holder or its agent no later  
23 than 24 hours after receipt by the permit holder or its agent of an  
24 official written notice from the department. Failure to comply with  
25 this subdivision within this specified time frame shall result in a  
26 \$100.00 penalty being assessed to the sign owner for each day the  
27 sign remains out of compliance. The first repeat violation of



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

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