

SENATE BILL No. 1370

June 11, 2008, Introduced by Senators GILBERT, KAHN, JANSEN, BARCIA and GLEASON and referred to the Committee on Transportation.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 2. As used in this act:

(a) "Business area" means an adjacent area which is zoned
under authority of 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 which is within a city, village, or

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

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

1 (ii) Transient or temporary activities.

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

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

7 (v) Railroad tracks and minor sidings.

8 (vi) Outdoor advertising.

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

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

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

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

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

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

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

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

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

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

1 (ii) Transient or temporary activities.

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

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

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

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13 not.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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) "NONCONFORMING SIGN" MEANS A SIGN THAT WAS ERECTED IN
22 ACCORDANCE WITH EXISTING LAW AT THE TIME OF ERECTION BUT THAT DOES
23 NOT CONFORM TO LEGAL REQUIREMENTS THAT WERE ENACTED SUBSEQUENT TO
24 THE ERECTION OF THE SIGN IF THOSE LEGAL REQUIREMENTS ENACTED
25 SUBSEQUENT TO THE ERECTION OF THE SIGN REMAIN IN FORCE AT THE TIME
26 THE SIGN IS CLASSIFIED AS A NONCONFORMING SIGN.

27 (V) "RELIGIOUS ORGANIZATION SIGN" MEANS A SIGN, NOT LARGER

1 THAN 8 SQUARE FEET, THAT GIVES NOTICE OF RELIGIOUS SERVICES.

2 (W) "SERVICE CLUB SIGN" MEANS A SIGN, NOT LARGER THAN 8 SQUARE
3 FEET, THAT GIVES NOTICE ABOUT NONPROFIT SERVICE CLUBS OR CHARITABLE
4 ASSOCIATIONS.

5 (X) "INTERIM PERMIT" MEANS A PERMIT THAT AUTHORIZES THE
6 CONSTRUCTION OF A NEW SIGN STRUCTURE IN AN ADJACENT AREA.

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

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

24 ~~(3) For each permit, the department shall assess a \$100.00~~
25 ~~penalty for delinquent payment of renewal fees. THE ANNUAL RENEWAL~~
26 ~~FEE FOR EACH PERMIT SHALL INCREASE BY AN ADDITIONAL \$20.00 IF THE~~
27 ~~FEE IS NOT PAID AT LEAST 30 DAYS BEFORE THE EXPIRATION DATE OF THE~~

1 PERMIT. IF THE ANNUAL RENEWAL FEE FOR ANY PERMIT IS NOT PAID WITHIN
2 60 DAYS AFTER THE PERMIT EXPIRATION DATE, THE DEPARTMENT MAY CANCEL
3 THE PERMIT. THE DEPARTMENT SHALL NOT ASSESS PENALTIES UNDER THIS
4 SECTION THAT TOTAL GREATER THAN \$5,000.00 AGAINST ANY SINGLE SIGN
5 OWNER IN ANY GIVEN CALENDAR YEAR.

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

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

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

27 Sec. 7a. (1) Except as otherwise provided in this section, the

1 department shall not issue annual permits for new signs on or after
2 January 1, 2007.

3 (2) Permits issued by the department before the effective date
4 of the amendatory act that added this section remain in force and
5 valid.

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

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

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

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

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

20 (e) If a permit holder has a valid annual permit or permits
21 for a site or sites where no sign structure exists or no
22 construction has begun to build a sign structure on January 1,
23 2007, the permit holder may exchange the permit or permits for an
24 interim permit under this section or begin construction under the
25 valid permit or permits no later than 1 year after January 1, 2007.
26 The number of permits that can be received in an exchange shall be
27 determined under subsection ~~(4)~~—(5).

1 (4) ~~(3)~~—An interim permit that is issued under this section
2 shall only be utilized for the construction of a new sign structure
3 and shall remain in effect without expiration with fees renewed on
4 an annual basis. **A SIGN CONSTRUCTED PURSUANT TO AN INTERIM PERMIT**
5 **SHALL NOT BE CLOSER THAN 1,000 FEET TO ANOTHER SIGN STRUCTURE ON**
6 **THE SAME SIDE OF THE HIGHWAY ALONG INTERSTATE HIGHWAYS AND FREEWAYS**
7 **OR 500 FEET TO ANOTHER SIGN STRUCTURE ON THE SAME SIDE OF THE**
8 **HIGHWAY ALONG PRIMARY HIGHWAYS.**

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

20 (6) ~~(5)~~—The department shall verify that an existing sign
21 structure has been removed no later than 30 days after the
22 department receives written notice from the permit holder that the
23 sign structure has been removed. If the department does not respond
24 to the written notice within 30 days after receipt of the written
25 notice, then the permit holder shall be deemed to have removed the
26 sign structure in compliance with this section.

27 (7) ~~(6)~~—A holder of 2 valid permits for a sign structure with

1 2 faces who complies with this section shall receive 2 interim
2 permits for the construction of a sign structure with 2 faces. A
3 permit holder under this subsection shall not receive 2 interim
4 permits to construct 2 single-face sign structures.

5 (8) ~~(7)~~—A holder of a valid permit for a sign structure with a
6 single face is entitled to exchange that permit under this section
7 for an interim permit with a single face. A holder of valid permits
8 for 2 different single-face structures may exchange the 2 permits
9 under this section for 2 interim permits to construct 2 single-face
10 sign structures or 2 interim permits to construct 1 sign structure
11 with 2 faces.

12 (9) ~~(8)~~—A holder of more than 2 valid permits for a sign
13 structure with more than 2 faces may exchange the permits under
14 this section for a maximum of 2 interim permits. The 2 interim
15 permits received under this section shall only be used to construct
16 1 sign structure with no more than 2 faces.

17 (10) ~~(9)~~—After construction of a sign structure under an
18 interim permit is complete, the department shall issue renewable
19 permits annually for the completed sign structure.

20 (11) ~~(10)~~—If a permit holder for a sign structure that exists
21 on January 1, 2007 requires additional permits for any reason, the
22 department may issue a valid renewable permit renewable on an
23 annual basis without complying with subsection (2) even if the
24 permit holder has more than 2 valid permits as a result.

25 (12) **THE DEPARTMENT SHALL ISSUE A PERMIT FOR A NEW SIGN**
26 **STRUCTURE THAT MEASURES LESS THAN 8 SQUARE FEET FOR SIGNS IN THE**
27 **CATEGORIES OF SERVICE CLUB SIGNS AND RELIGIOUS ORGANIZATION SIGNS.**

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

5 (2) A sign owner may apply to the department for a permit to
6 manage vegetation using the department's approved form. The
7 application shall be accompanied by an application fee of \$150.00
8 to cover the costs of evaluating and processing the application.
9 The application shall be submitted during the 2 or more annual
10 application periods not less than ~~60~~90 days each, as specified by
11 the department. The application shall clearly identify the
12 vegetation to be managed in order to create visibility of the sign
13 within the billboard viewing zone and all proposed mitigation for
14 the impacts of the vegetation management undertaken. The
15 application shall also include anticipated management that will be
16 needed in the future to maintain the visibility of the sign within
17 the billboard viewing zone for the time specified in subsection (4)
18 and procedures for clearing vegetation as determined by the
19 department.

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

1 ~~day of the application period~~ **PROPER RECEIPT OF AN APPLICATION AND**
2 **AN APPLICATION FEE.** The department shall approve the application,
3 approve the application with modification, or deny the application.
4 If the department approves the application or approves the
5 application with modification, it shall notify the applicant and
6 the notification shall include the value of the vegetation to be
7 managed as determined by the department using the most recent
8 version of the international society of arboriculture's guide for
9 plant appraisal and the corresponding Michigan tree evaluation
10 supplement to the guide for plant appraisal published by the
11 Michigan forestry and park association. The department may use
12 another objective authoritative guide or establish a value schedule
13 **BASED ON THE PRINCIPLES OUTLINED IN THE GUIDE FOR PLANT APPRAISAL,**
14 in consultation with representatives of the outdoor advertising
15 industry and other interested parties. ~~, if either the guide or the~~
16 ~~supplement has not been updated for more than 5 years.~~ **UNLESS THE**
17 **APPLICANT OR THE DEPARTMENT REQUESTS OTHERWISE, THE ESTABLISHED**
18 **VALUE SCHEDULE SHALL BE USED FOR ALL VEGETATION VALUATION. IF**
19 **ESTABLISHED, THE VALUE SCHEDULE SHALL BE UPDATED BY THE DEPARTMENT**
20 **IN CONSULTATION WITH REPRESENTATIVES OF THE OUTDOOR ADVERTISING**
21 **INDUSTRY AND OTHER INTERESTED PARTIES AT LEAST EVERY 3 YEARS.** The
22 notification to the applicant shall also include any required
23 mitigation for the vegetation to be managed and all conditions and
24 requirements associated with the issuance of the permit. The permit
25 fee shall be \$300.00, except that in special and unique situations
26 and circumstances where the department incurs additional costs
27 directly attributable to the approval of the permit, a fee greater

1 than \$300.00 adequate for the recovery of additional costs may be
2 assessed. **THE EMPLOYMENT OF NONDEPARTMENT PERSONNEL OR OUTSIDE**
3 **VENDORS FOR THE PURPOSE OF MEETING STATUTORY DEADLINES IS NOT A**
4 **SPECIAL AND UNIQUE SITUATION, AND NO ADDITIONAL COSTS SHALL BE**
5 **ASSESSED AGAINST THE APPLICANT.** Upon receipt of the permit fee,
6 payment for the value of the vegetation, and compliance with MDOT
7 conditions and requirements, the department shall issue the permit.

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

1 for a minimum of 5 seconds of continuous, clear, and unobstructed
2 view of the billboard face based on travel at the posted speed or
3 the distance between the billboard and the adjacent billboard,
4 whichever is less.

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

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

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

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

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

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

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

26 (f) Vegetation would be managed for a newly constructed
27 billboard or vegetation existed that obscured the billboard or

1 would have obscured the billboard before it was constructed. In
2 denying an application or providing a limited permit, the
3 department shall consider previous vegetation management that was
4 allowed at the billboard site.

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

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

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

14 (7) If the department denies an application or issues a
15 limited permit under this subsection, the department shall provide
16 a specific rationale for denying an application or approving a
17 limited permit.

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

27 (9) No later than 90 days after January 1, 2007, the

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

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

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

16 (12) ~~The~~ **WITHIN A PREVIOUSLY APPROVED ZONE OF 5 SECONDS OF**
17 **CONTINUOUS, CLEAR, AND UNOBSTRUCTED VIEW OF THE BILLBOARD FACE**
18 **PROVIDED IN SUBSECTION (4), THE** department shall not plant or
19 authorize to be planted any vegetation that obstructs, or through
20 expected normal growth will obstruct in the future, the visibility
21 within the billboard viewing zone of any portion of a sign face
22 subject to this act.

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

27 (a) The number of application periods.

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

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

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

4 (e) The number of permits denied.

5 (f) The number of modified or denied permits which were
6 appealed.

7 (g) The number of appeals that reversed the department's
8 decision.

9 (h) The number of appeals that upheld the department's
10 decision.

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

13 (j) The amount of compensation paid to the state for removed
14 vegetation.

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

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

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

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

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

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

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

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

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

1 authorizes shall be subject to the appeals process contained in
2 ~~section 11(8)~~ **SUBSECTIONS (8), (9), and (10).**

3 (17) As used in this act:

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

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

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

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

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

25 (3) The provisions of this section do not apply to signs
26 separated by a building or other visual obstruction in such a
27 manner that only 1 sign located within the spacing distances is

1 visible from the highway at any time, provided that the building or
2 other visual obstruction has not been created for the purpose of
3 visually obstructing either of the signs at issue.

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

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

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

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

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

24 **SEC. 17A. A SIGN OWNER MAY MAINTAIN AND REPAIR A NONCONFORMING**
25 **SIGN, INCLUDING PERFORMING REPAIRS AND ALTERATIONS THAT IMPROVE THE**
26 **STRUCTURAL INTEGRITY OF THE SIGN OR ENHANCE THE SAFETY OF WORKERS**
27 **WHO PERFORM MAINTENANCE ON THE SIGN. A NONCONFORMING SIGN SHALL NOT**

1 BE MOVED OR ENLARGED, BUT A TEMPORARY EMBELLISHMENT OR EXTENSION,
2 IF IT DOES NOT EXCEED 15% OF THE SIGN FACE, SHALL NOT BE CONSIDERED
3 AN ENLARGEMENT. THE ADVERTISING MESSAGES ON A NONCONFORMING SIGN
4 MAY BE PERIODICALLY CHANGED BY ANY MEANS NOT PROHIBITED UNDER THIS
5 ACT. NONCONFORMING SIGNS THAT ARE DAMAGED, DESTROYED, OR REMOVED
6 AND NOT REPAIRED OR REPLACED WITHIN 120 DAYS SHALL BE CONSIDERED TO
7 BE ABANDONED UNDER SECTION 19. A NONCONFORMING SIGN THAT CEASES TO
8 DISPLAY ADVERTISING MATTER FOR A PERIOD OF 1 YEAR SHALL BE
9 CONSIDERED TO BE ABANDONED UNDER SECTION 19.

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