

Legislative Analysis



HIGHWAY ADVERTISING ACT: EXEMPT SIGNS UNDER 40 FEET SQUARE

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House Bill 4162 (Reported without amendment)

Sponsor: Rep. Kenneth Kurtz

Committee: Transportation

First Analysis (10-19-11)

BRIEF SUMMARY: The bill would exempt signs or sign structures smaller than 40 square feet from the Highway Advertising Act (1972 PA 106). The act applies to signs along primary highways, freeways, and interstates, and generally speaking, a permit is needed under the act to put up or maintain a sign or billboard along such roads.

FISCAL IMPACT: The Highway Advertising Act gives to the Michigan Department of Transportation the authority to license, regulate, control, and prohibit outdoor advertising signs under circumstances and conditions described in the act. The act also establishes permitting fees and designates fee revenue to the State Trunkline Fund. Sign permit fees currently generate approximately \$1.0 million per year for credit to the State Trunkline Fund. To the extent that the bill would eliminate a class of billboard from the permitting requirements, it would result in a loss of permit fee revenue, although the amount cannot be readily determined at this time.

We also note that federal law, the Highway Beautification Act of 1965, as codified in 23 U.S.C. 131, requires that states "effectively control" outdoor advertising along certain federal-aid highway systems. Under Section 131(b), a state's failure to comply with the Highway Beautification Act can subject that state to the loss of 10% of its federal-aid highway funds. We do not know if the bill would result in state non-compliance with the federal Highway Beautification Act. We will provide additional information to this analysis based on committee testimony.

THE APPARENT PROBLEM:

Small business representatives say that often a small business will erect a sign off-premises with the permission of a property owner in order to direct traffic to their business or to advertise the business. Currently, they point out, a permit is required by the Department of Transportation if a business erects a sign where the sign face is visible from an interstate highway, freeway, or primary highway. MDOT notifies the owner that a permit is required under the law even if the sign has been in place for many years. But, they say, when business owners contact the department to obtain a permit, they are informed that permits are no longer being issued and are told to remove the sign or face penalties. Some business owners claim that more than half of their sales are attributable to signage that supports their businesses and would like current restrictions lifted.

THE CONTENT OF THE BILL:

The bill would exempt signs or sign structures smaller than 40 square feet from the Highway Advertising Act (1972 PA 106). The act applies to signs along primary highways, freeways,

and interstates, and generally speaking, a permit is needed under the act to put up or maintain a sign or billboard along such roads.

MCL 252.305

ARGUMENTS:

For:

Supporters of the bill say that some small businesses report that more than half their sales can be attributed to off-premises signage. This bill would allow certain small signs to be placed along highways to notify consumers where products and services can be found. This is considered important for the state's small businesses, which make a significant contribution to the state's economy. Proponents say that laws that regulate highway signage limit economic growth and increase statewide unemployment. Critics of the current law have testified that MDOT will enforce the billboard law against signs that have been in place for many years with the permission of property owners; businesses are forced to remove the signs or face penalties, since permits for such signs are no longer being issued under the state billboard law.

Against:

Opponents have testified that Michigan's highways and roads already have over 16,000 billboards along highways "obscuring the view from the road, distracting drivers, and detracting from Michigan scenic beauty." Michigan businesses, they note, can make use of the availability of a Tourist Oriented Directional Sign Program (TODS) and Specific Services Signing Program (known as LOGO Signing), which allow for uniform and attractive signs for businesses to use to advertise their locations and services. These are an affordable alternative to small signs.

Opponents also say that the bill, as introduced, would cause the Department of Transportation to be in violation of federal standards on zoning and spacing in relation to billboards. Federal penalties might be imposed if the bill is enacted and this classification of signs deregulated. Deregulation might also cause an increase in the number of small signs statewide, conflict with local ordinances, and frustrate roadside beautification efforts.

POSITIONS:

National Federation of Independent Business-Michigan, supports the bill. (9-21-11)

Michigan Department of Transportation opposes the bill. (10-12-11)

Michigan Environmental Council opposes the bill. (9-21-11)

Legislative Analyst: E. Best

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