



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-2251/1
EVM:kjf

2019 BILL

1 **AN ACT** *to repeal* 59.70 (22), 60.23 (29), 84.30 (4) (bm), 84.30 (5) (br) and 84.305;
2 *to renumber and amend* 84.30 (10m) and 84.30 (14); *to amend* 84.30 (1),
3 84.30 (2) (a), 84.30 (2) (j), 84.30 (3) (intro.), 84.30 (3) (c) 2., 84.30 (3) (e), 84.30
4 (3) (h), 84.30 (4) (intro.), 84.30 (4) (b) 1., 84.30 (4) (b) 2., 84.30 (4) (c) 1., 84.30 (4)
5 (c) 2., 84.30 (4) (c) 3., 84.30 (5) (bm), 84.30 (10) (a), 227.43 (1) (bg) and 289.33
6 (3) (d); *to repeal and recreate* 84.30 (10m) (title); and *to create* 20.395 (9)
7 (aq), 20.932, 41.17 (4) (dm), 66.0430, 84.30 (2) (dg), 84.30 (2) (im), 84.30 (2) (jm),
8 84.30 (3) (gm), 84.30 (4m), 84.30 (9g), 84.30 (9r), 84.30 (10m) (b), 84.30 (10s) and
9 84.30 (14) (c) of the statutes; **relating to:** outdoor advertising signs, granting
10 rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill alters numerous provisions relating to the regulation of outdoor advertising signs along highways.

The federal Highway Beautification Act requires states to restrict advertising along interstate and federal-aid primary (primary) highways, and current state law incorporates these requirements. Current law prohibits, with certain exceptions,

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the erection or maintenance of outdoor advertising signs within 660 feet of, or beyond 660 feet but visible (and erected for the purpose of being visible) from, the main-traveled way of an interstate or primary highway. The exceptions to this prohibition include, with some restrictions:

1. Directional and other official signs, including signs relating to natural wonders and scenic and historical attractions.
2. Landmark signs.
3. Signs advertising the sale or lease of property on which the signs are located.
4. On-premises signs, which are signs advertising activities conducted on the property where the signs are located.
5. Signs located beyond 660 feet of the highway in urban areas.
6. Signs located within 660 feet of the highway in areas zoned for business, industrial, or commercial activities, or in unzoned areas used for commercial or industrial activities, that were in existence on March 18, 1972.
7. Signs located within 660 feet of the highway in areas zoned for business, industrial, or commercial activities, or in unzoned areas used for commercial or industrial activities, that were erected after March 18, 1972. These signs must comply with certain size, lighting, and spacing requirements. If, however, a county or local zoning authority has made a determination of customary use regarding size, lighting, and spacing, that determination may be accepted in lieu of the statutory requirements.
8. Certain signs erected on farm buildings.

The bill freezes, as of the effective date of the bill, the application of the exception to off-premises business area signs, thereby prohibiting the erection of signs under that exception after the bill's effective date. Signs erected under this exception prior to the bill's effective date may continue to be maintained and to vary their advertising and informative displays.

The bill extends the provisions governing outdoor advertising signs along interstate and primary highways to all state trunk highways and scenic byways.

Under the bill, a determination of customary use by a county or local zoning authority does not affect the applicability of statutory size, lighting, or spacing requirements.

Under current law, the Department of Transportation generally may remove signs that do not conform to applicable requirements but, for each sign removed, must pay just compensation to the owner of the sign and to the owner of the land on which the sign is located. For on-property signs, if the on-property sign was lawful when it was erected but later does not comply with the applicable requirements for on-property signs, DOT must declare the sign to be nonconforming but may not remove the sign unless additional criteria are met. These signs are not subject to removal for changing the advertising message on the sign or performing customary maintenance on the sign, but are subject to removal, without compensation, if the sign is enlarged, replaced, or relocated or if additional signs are erected. For signs lawfully erected after March 18, 1972, which subsequently become nonconforming, DOT must require removal of the signs, with compensation, by the end of the fifth

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year after they become nonconforming, but only if there are sufficient funds available to DOT to pay just compensation for the sign removal.

Additionally, under current law as enacted in 2017 Wisconsin Act 320, business area signs, directional signs, and signs outside the adjacent area (together referred to as off-property signs) that were lawfully erected but that no longer conform to applicable requirements must be declared nonconforming but are not subject to removal unless additional criteria are met. These nonconforming off-property signs are not subject to removal for changing the advertising message on the sign or performing customary maintenance on the sign. These signs must remain substantially the same as they were on the date they became nonconforming in order to be exempt from removal by DOT. “Substantially the same” is defined to mean that, since the sign became nonconforming, no “substantial change” to the sign has been made. “Substantial change” to a sign is defined to mean any of the following: increasing the number of upright supports; changing the physical location; increasing the square footage or area of the sign face; adding changeable message capability; or adding illumination to a sign that was previously not illuminated. In general, a nonconforming off-property sign is subject to removal, without compensation, if a substantial change is made to the sign and notice is provided to the sign owner.

The bill repeals the provisions of 2017 Wisconsin Act 320.

Also under the bill, “customary maintenance” is defined to mean any of the following and similar activities when performed to maintain a sign in substantially the same form as when the sign became nonconforming: preparing surfaces for painting; repairing or replacing fasteners such as nails, screws, or bolts; replacing lighting components and associated fixtures; or fastening broken pieces of a sign back together with glue or fasteners. Customary maintenance specifically does not include using different materials for any replacement or adding any structural elements such as posts, poles, braces or guy wires, crossbeams, or sign faces. Also under this bill, the owner of a nonconforming on-property sign must maintain a record of all work performed on the sign, including a photograph of each item of work performed, and provide a report to DOT of the work performed.

Under current law, off-premises business area signs may not contain flashing, intermittent, or moving lights, except:

1. Those signs giving public service information.
2. Certain signs that contain multiple or variable messages, including messages on louvers that are rotated and messages formed solely by use of lights or other electronic or digital displays.

Under the bill, the exception from the prohibition of flashing, intermittent, or moving lights for certain signs that contain multiple or variable messages is eliminated.

Under the bill, DOT must promulgate rules establishing size, height, setback, brightness, and hours of operation standards for signs that are illuminated. Signs may be illuminated only if the owner of the sign has received a permit from DOT, which is issued if the sign complies with DOT illumination rules.

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The bill requires DOT to conduct biennial surveys of signs, including certain measurements and assessments of each sign.

Under the bill, DOT must maintain a database of information related to signs. The database must include the information from DOT sign surveys and certain additional information for each sign.

Also under the bill, an owner of a sign must provide any information required to be included in the database to DOT and must update the information whenever the information in the database is no longer accurate.

Under current law, no person may erect or maintain an outdoor advertising sign visible from the main-traveled way of an interstate or federal-aid highway unless he or she possesses a license issued by DOT, the sign complies with applicable regulations, and, if DOT has promulgated a rule requiring payment of an annual permit fee for the sign, the person has paid the annual permit fee.

Under the bill, DOT must establish a license fee and an annual permit fee. DOT is required to set the fees so as to recover its approximate costs of regulating outdoor advertising signs.

Under current law, DOT is responsible for maintenance of the highway right-of-way on highways that, for maintenance purposes, are under its jurisdiction, which are generally state trunk highways (including interstate highways) but do not include connecting highways. DOT must provide for the care and protection of trees and other roadside vegetation. DOT must also cut, trim, or remove, or allow others to cut, trim, or remove, trees and other vegetation in order to provide safety to highway users. Current law generally prohibits a person from cutting, trimming, removing, or planting a tree or other vegetation within the right-of-way of a state trunk highway without DOT's consent.

Currently, DOT administers a permit system for the maintenance and removal by sign owners of vegetation obstructing the view of signs along state trunk highways, including interstate highways. DOT is required to issue permits to sign owners for the trimming or removal of vegetation in the highway right-of-way if, within a distance of 500 continuous feet along the highway, the vegetation obstructs motorists' view of the face of a sign. A permit authorizes the sign owner, or a third-party contractor employed by the sign owner, to trim or remove obstructing vegetation to the extent necessary to eliminate the obstruction and restore an unobstructed view of the sign for the 500 continuous feet along the highway. Each permit must require a sign owner that removes certain planted vegetation to plant comparable replacement vegetation or compensate DOT for the removed vegetation.

The bill eliminates the permit system for the maintenance and removal by sign owners of vegetation obstructing the view of signs along state trunk highways.

Under current law, towns and counties are authorized to regulate the maintenance and construction of billboards and other similar structures on premises abutting on certain highways in the town or county so as to promote the safety of public travel on the highways.

Under the bill, a city, village, town, or county may enact an ordinance that regulates the construction and maintenance of billboards and other similar structures on premises abutting on highways that are maintained by the city, village,

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town, or county. If enacted, such an ordinance must promote aesthetic values and public safety on the highways.

The bill prohibits any office, department, or independent agency in the executive branch, the legislature, or the courts from purchasing, leasing, accepting, or using billboard space on nonconforming signs.

Under current law, the Department of Tourism may award joint effort marketing funds to nonprofit organizations, including American Indian tribes or bands, for projects designed to promote attractions and facilities in this state. While an applicant for joint effort marketing funds must specify the advertising media to be used in a project funded by the funds, there is no restriction on the kinds of media that may be used. The bill prohibits the use of joint effort marketing funds for advertising on nonconforming signs.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.
