

SECOND REGULAR SESSION

HOUSE BILL NO. 1998

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ST. ONGE.

Read 1st time March 10, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5179L.01I

AN ACT

To repeal sections 226.527, 226.530, and 226.580, and to enact in lieu thereof three new sections relating to outdoor advertising permits.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 226.527, 226.530, and 226.580, RSMo, are repealed and three new
2 sections enacted in lieu thereof, to be known as sections 226.527, 226.530, and 226.580, RSMo,
3 to read as follows:

226.527. 1. On and after August 13, 1976, no outdoor advertising shall be erected or
2 maintained beyond six hundred and sixty feet of the right-of-way, located outside of urban areas,
3 visible from the main traveled way of the interstate or primary system and erected with the
4 purpose of its message being read from such traveled way, except such outdoor advertising as
5 is defined in subdivisions (1) and (2) of section 226.520.

6 2. No compensation shall be paid for the removal of any sign erected in violation of
7 subsection 1 of this section unless otherwise authorized or permitted by sections 226.501 to
8 226.580. No sign erected prior to August 13, 1976, which would be in violation of this section
9 if it were erected or maintained after August 13, 1976, shall be removed unless such removal is
10 required by the Secretary of Transportation and federal funds required to be contributed to this
11 state under section 131(g) of Title 23, United States Code, to pay compensation for such removal
12 have been appropriated and allocated and are immediately available to this state, and in such
13 event, such sign shall be removed pursuant to section 226.570.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 3. In the event any portion of this chapter is found in noncompliance with Title 23,
15 United States Code, section 131, by the Secretary of Transportation or his representative, and any
16 portion of federal-aid highway funds or funds authorized for removal of outdoor advertising are
17 withheld, or declared forfeited by the Secretary of Transportation or his representative, all
18 removal of outdoor advertising by the Missouri state highways and transportation commission
19 pursuant to this chapter shall cease, and shall not be resumed until such funds are restored in full.
20 Such cessation of removal shall not be construed to affect compensation for outdoor advertising
21 removed or in the process of removal pursuant to this chapter.

22 4. In addition to any applicable regulations set forth in sections 226.500 through 226.600,
23 signs within an area subject to control by a local zoning authority and wherever located within
24 such area shall be subject to reasonable regulations of that local zoning authority relative to size,
25 lighting, spacing, and location; provided, however, that no local zoning authority shall have
26 authority to require any sign within its jurisdiction which was lawfully erected and which is
27 maintained in good repair to be removed without the payment of just compensation. **The**
28 **requirement by a local zoning authority that a legally erected outdoor advertising structure**
29 **be removed or altered as a condition or prerequisite for the issuance or continued**
30 **effectiveness of a permit, license, or other approval for any use, structure, development,**
31 **or activity other than outdoor advertising, including a request for rezoning, constitutes a**
32 **compelled removal or alteration, which is prohibited without the payment of just**
33 **compensation as required by this subsection.**

226.530. **1. The state highways and transportation commission [is required to] shall**
2 **issue one-time permanent permits as provided in section 226.550 for the erection and**
3 **maintenance of outdoor advertising along [the interstate and primary highway systems and] any**
4 **interstate highways, the federal-aid primary system as it existed on June 1, 1991, or the**
5 **national highway system.**

6 **2. The commission is authorized to void any permit and no compensation shall be**
7 **paid under any of the following conditions:**

8 **(1) When there has been any misrepresentation of a material fact by the applicant**
9 **on a permit application and the sign is removed under section 226.580;**

10 **(2) When the commission determines that a change has been made to a conforming**
11 **sign by the sign owner and the sign has been removed under section 226.580; or**

12 **(3) When the commission determines that a substantial change has been made to**
13 **a nonconforming sign by the sign owner such that the sign's nonconforming status was**
14 **terminated and the sign was removed under the commission's administrative rules for**
15 **maintenance of nonconforming signs.**

16 **3. The commission is authorized to void any permit when the commission**
17 **determines that such permit has been erroneously issued by department of transportation**
18 **staff in violation of any state law or administrative rule and the outdoor advertising shall**
19 **be subject to removal and compensation and shall be paid under section 226.570.**

20 **4. Subject to section 226.540, the commission is authorized** to promulgate only those
21 rules and regulations of minimal necessity and consistent with customary use to secure to this
22 state any federal aid contingent upon compliance with federal laws, rules and regulations relating
23 to outdoor advertising. No rule or portion of a rule promulgated under the authority of this
24 section shall become effective unless it has been promulgated pursuant to the provisions of
25 section 536.024, RSMo.

226.580. 1. The following outdoor advertising within six hundred sixty feet of the
2 right-of-way of interstate or primary highways is deemed unlawful and shall be subject to
3 removal:

4 (1) Signs erected after March 30, 1972, contrary to the provisions of sections 226.500
5 to 226.600 and signs erected on or after January 1, 1968, but before March 30, 1972, contrary
6 to the sizing, spacing, lighting, or location provisions of sections 226.500 to 226.600 as they
7 appeared in the revised statutes of Missouri 1969; or

8 (2) Signs for which a permit is not obtained or a biennial inspection fee is more than
9 twelve months past due; or

10 (3) Signs which are obsolete. Signs shall not be considered obsolete solely because they
11 temporarily do not carry an advertising message; or

12 (4) Signs that are not in good repair; or

13 (5) Signs not securely affixed to a substantial structure; or

14 (6) Signs which attempt or appear to attempt to regulate, warn, or direct the movement
15 of traffic or which interfere with, imitate, or resemble any official traffic sign, signal, or device;
16 or

17 (7) Signs which are erected or maintained upon trees or painted or drawn upon rocks or
18 other natural features; **or**

19 **(8) Signs for which a permit was obtained based on a misrepresentation of a**
20 **material fact.**

21 2. Signs erected after August 13, 1976, beyond six hundred sixty feet of the right-of-way
22 outside of urban areas, visible from the main traveled way of the interstate or primary system and
23 erected with the purpose of their message being read from such traveled way, except those signs
24 described in subdivisions (1) and (2) of section 226.520 are deemed unlawful and shall be
25 subject to removal.

26 3. If a sign is deemed to be unlawful for any of the reasons set out in subsections 1 to [7]
27 **8** of this section, the state highways and transportation commission shall give notice either by
28 certified mail or by personal service to the owner or occupant of the land on which advertising
29 believed to be unlawful is located and the owner of the outdoor advertising structure. Such
30 notice shall specify the basis for the alleged unlawfulness, shall specify the remedial action
31 which is required to correct the unlawfulness and shall advise that a failure to take the remedial
32 action within sixty days will result in the sign being removed. Within sixty days after receipt of
33 the notice as to him, the owner of the land or of the structure may remove the sign or may take
34 the remedial action specified or may file an action for administrative review pursuant to the
35 provisions of sections 536.067 to 536.090, RSMo, to review the action of the state highways and
36 transportation commission, or he may proceed under the provisions of section 536.150, RSMo,
37 as if the act of the highways and transportation commission was one not subject to administrative
38 review. Notwithstanding any other provisions of sections 226.500 to 226.600, no outdoor
39 advertising structure erected prior to August 28, 1992, defined as a "structure lawfully in
40 existence" or "lawfully existing", by subdivision (1), (2) or (3) of subsection 3 of section
41 226.550, shall be removed for failure to have a permit until a notice, as provided in this section,
42 has been issued which shall specify failure to obtain a permit or pay a biennial inspection fee as
43 the basis for alleged unlawfulness, and shall advise that failure to take the remedial action of
44 applying for a permit or paying the inspection fee within sixty days will result in the sign being
45 removed. Signs for which biennial inspection fees are delinquent shall not be removed unless
46 the fees are more than twelve months past due and actual notice of the delinquency has been
47 provided to the sign owner. Upon application made within the sixty-day period as provided in
48 this section, and accompanied by the fee prescribed by section 226.550, together with any
49 inspection fees that would have been payable if a permit had been timely issued, the state
50 highways and transportation commission shall issue a one-time permanent permit for such sign.
51 Such signs with respect to which permits are so issued are hereby determined by the state of
52 Missouri to have been lawfully erected within the meaning of "lawfully erected" as that term is
53 used in Title 23, United States Code, Section 131(g), as amended, and shall only be removed
54 upon payment of just compensation, except that the issuance of permits shall not entitle the
55 owners of such signs to compensation for their removal if it is finally determined that such signs
56 are not "lawfully erected" as that term is used in Section 131(g) of Title 23 of the United States
57 Code.

58 4. If actual notice as provided in this section is given and neither the remedial action
59 specified is taken nor an action for review is filed, or if an action for review is filed and is finally
60 adjudicated in favor of the state highways and transportation commission, the state highways and
61 transportation commission shall have authority to immediately remove the unlawful outdoor

62 advertising. The owner of the structure shall be liable for the costs of such removal. The
63 commission shall incur no liability for causing this removal, except for damage caused by
64 negligence of the commission, its agents or employees.

65 5. If notice as provided in this section is given and an action for review is filed under the
66 provisions of section 536.150, RSMo, or if administrative review pursuant to the provisions of
67 sections 536.067 to 536.090, RSMo, is filed and the state highways and transportation
68 commission enters its final decision and order to remove the outdoor advertising structure, the
69 advertising message contained on the structure shall be removed or concealed by the owner of
70 the structure, at the owner's expense, until the action for judicial review is finally adjudicated.
71 If the owner of the structure refuses or fails to remove or conceal the advertising message, the
72 commission may remove or conceal the advertising message and the owner of the structure shall
73 be liable for the costs of such removal or concealment. The commission shall incur no liability
74 for causing the removal or concealment of the advertising message while an action for review
75 is pending, except if the owner finally prevails in its action for judicial review, the commission
76 will compensate the owner at the rate the owner is actually receiving income from the advertiser
77 pursuant to written lease from the time the message is removed until the judicial review is final.

78 6. Any signs advertising tourist-oriented type business will be the last to be removed.

79 7. Any signs prohibited by section 226.527 which were lawfully erected prior to August
80 13, 1976, shall be removed pursuant to section 226.570.

81 8. The transportation department shall reimburse to the lawful owners of any said
82 nonconforming signs that are now in existence as defined in sections 226.540, 226.550, 226.580
83 and 226.585, said compensation calculated and/or based on a fair market value and not mere
84 replacement cost.

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