

SECOND REGULAR SESSION

HOUSE BILL NO. 2097

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DIXON.

4499L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 226.540, RSMo, and to enact in lieu thereof two new sections relating to billboards.

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

Section A. Section 226.540, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 226.540 and 226.541, to read as follows:

226.540. Notwithstanding any other provisions of sections 226.500 to 226.600, outdoor advertising shall be permitted within six hundred and sixty feet of the nearest edge of the right-of-way of highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system as amended in areas zoned industrial, commercial or the like and in unzoned commercial and industrial areas as defined in this section, subject to the following regulations which are consistent with customary use in this state:

(1) Lighting:

(a) No revolving or rotating beam or beacon of light that simulates any emergency light or device shall be permitted as part of any sign. No flashing, intermittent, or moving light or lights will be permitted except scoreboards and other illuminated signs designating public service information, such as time, date, or temperature, or similar information, will be allowed; tri-vision, projection, and other changeable message signs shall be allowed subject to Missouri highways and transportation commission regulations;

(b) External lighting, such as floodlights, thin line and gooseneck reflectors are permitted, provided the light source is directed upon the face of the sign and is effectively shielded so as to prevent beams or rays of light from being directed into any portion of the main traveled way of the federal-aid primary highways as of June 1, 1991, and all highways designated

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.

18 as part of the National Highway System by the National Highway System Designation Act of
19 1995 and those highways subsequently designated as part of the National Highway System and
20 the lights are not of such intensity so as to cause glare, impair the vision of the driver of a motor
21 vehicle, or otherwise interfere with a driver's operation of a motor vehicle;

22 (c) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures,
23 an official traffic sign, device, or signal;

24 (2) Size of signs:

25 (a) The maximum area for any one sign shall be eight hundred square feet with a
26 maximum height of thirty feet and a maximum length of seventy-two feet, inclusive of border
27 and trim but excluding the base or apron, supports, and other structural members. The area shall
28 be measured as established herein and in rules promulgated by the commission. In determining
29 the size of a conforming or nonconforming sign structure, temporary cutouts and extensions
30 installed for the length of a specific display contract shall not be considered a substantial increase
31 to the size of the permanent display; provided the actual square footage of such temporary
32 cutouts or extensions may not exceed thirty-three percent of the permanent display area. Signs
33 erected in accordance with the provisions of sections 226.500 to 226.600 prior to August 28,
34 2002, which fail to meet the requirements of this provision shall be deemed legally
35 nonconforming as defined herein;

36 (b) The maximum size limitations shall apply to each side of a sign structure, and signs
37 may be placed back to back, double faced, or in V-type construction with not more than two
38 displays to each facing, but such sign structure shall be considered as one sign;

39 (c) After August 28, 1999, no new sign structure shall be erected in which two or more
40 displays are stacked one above the other. Stacked structures existing on or before August 28,
41 1999, in accordance with sections 226.500 to 226.600 shall be deemed legally nonconforming
42 and may be maintained in accordance with the provisions of sections 226.500 to 226.600.
43 Structures displaying more than one display on a horizontal basis shall be allowed, provided that
44 total display areas do not exceed the maximum allowed square footage for a sign structure
45 pursuant to the provisions of paragraph (a) of this subdivision;

46 (3) Spacing of signs:

47 (a) On all interstate highways, freeways, and nonfreeway federal-aid primary highways
48 as of June 1, 1991, and all highways designated as part of the National Highway System by the
49 National Highway System Designation Act of 1995 and those highways subsequently designated
50 as part of the National Highway System:

51 a. No sign structure shall be erected within one thousand four hundred feet of an existing
52 sign on the same side of the highway;

53 b. Outside of incorporated municipalities, no structure may be located adjacent to or
54 within five hundred feet of an interchange, intersection at grade, or safety rest area. Such five
55 hundred feet shall be measured from the beginning or ending of the pavement widening at the
56 exit from or entrance to the main traveled way. For purpose of this subparagraph, the term
57 "incorporated municipalities" shall include "urban areas", except that such "urban areas" shall
58 not be considered "incorporated municipalities" if it is finally determined that such would have
59 the effect of making Missouri be in noncompliance with the requirements of Title 23, United
60 States Code, Section 131;

61 (b) The spacing between structure provisions of this subdivision do not apply to signs
62 which are separated by buildings, natural surroundings, or other obstructions in such manner that
63 only one sign facing located within such distance is visible at any one time. Directional or other
64 official signs or those advertising the sale or lease of the property on which they are located, or
65 those which advertise activities on the property on which they are located, including products
66 sold, shall not be counted, nor shall measurements be made from them for the purpose of
67 compliance with spacing provisions;

68 (c) No sign shall be located in such manner as to obstruct or otherwise physically
69 interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or
70 physically interfere with a motor vehicle operator's view of approaching, merging, or intersecting
71 traffic;

72 (d) The measurements in this section shall be the minimum distances between outdoor
73 advertising sign structures measured along the nearest edge of the pavement between points
74 directly opposite the signs along each side of the highway and shall apply only to outdoor
75 advertising sign structures located on the same side of the highway involved;

76 (4) As used in this section, the words "unzoned commercial and industrial land" shall
77 be defined as follows: that area not zoned by state or local law or ordinance and on which there
78 is located one or more permanent structures used for a commercial business or industrial activity
79 or on which a commercial or industrial activity is actually conducted together with the area along
80 the highway extending outwardly seven hundred fifty feet from and beyond the edge of such
81 activity. All measurements shall be from the outer edges of the regularly used improvements,
82 buildings, parking lots, landscaped, storage or processing areas of the commercial or industrial
83 activity and along and parallel to the edge of the pavement of the highway. Unzoned land shall
84 not include:

85 (a) Land on the opposite side of the highway from an unzoned commercial or industrial
86 area as defined in this section and located adjacent to highways located on the interstate,
87 federal-aid primary system as it existed on June 1, 1991, or the national highway system as

88 amended, unless the opposite side of the highway qualifies as a separate unzoned commercial
89 or industrial area; or

90 (b) Land zoned by a state or local law, regulation, or ordinance;

91 (5) "Commercial or industrial activities" as used in this section means those which are
92 generally recognized as commercial or industrial by zoning authorities in this state, except that
93 none of the following shall be considered commercial or industrial:

94 (a) Outdoor advertising structures;

95 (b) Agricultural, forestry, ranching, grazing, farming, and related activities, including
96 seasonal roadside fresh produce stands;

97 (c) Transient or temporary activities;

98 (d) Activities more than six hundred sixty feet from the nearest edge of the right-of-way
99 or not visible from the main traveled way;

100 (e) Activities conducted in a building principally used as a residence;

101 (f) Railroad tracks and minor sidings;

102 (6) The words "unzoned commercial or industrial land" shall also include all areas not
103 specified in this section which constitute an "unzoned commercial or industrial area" within the
104 meaning of the present Section 131 of Title 23 of the United States Code, or as such statute may
105 be amended. As used in this section, the words "zoned commercial or industrial area" shall refer
106 to those areas zoned commercial or industrial by the duly constituted zoning authority of a
107 municipality, county, or other lawfully established political subdivision of the state, or by the
108 state and which is within seven hundred fifty feet of one or more permanent commercial or
109 industrial activities. Commercial or industrial activities as used in this section are limited to
110 those activities:

111 (a) In which the primary use of the property is commercial or industrial in nature;

112 (b) Which are clearly visible from the highway and recognizable as a commercial
113 business;

114 (c) Which are permanent as opposed to temporary or transitory and of a nature that
115 would customarily be restricted to commercial or industrial zoning in areas comprehensively
116 zoned; and

117 (d) In determining whether the primary use of the property is commercial or industrial
118 pursuant to paragraph (a) of this subdivision, the state highways and transportation commission
119 shall consider the following factors:

120 a. The presence of a permanent and substantial building;

121 b. The existence of utilities and local business licenses, if any, for the commercial
122 activity;

123 c. On-premise signs or other identification;

124 d. The presence of an owner or employee on the premises for at least twenty hours per
125 week;

126 (7) In zoned commercial and industrial areas, whenever a state, county or municipal
127 zoning authority has adopted laws or ordinances which include regulations with respect to the
128 size, lighting and spacing of signs, which regulations are consistent with the intent of sections
129 226.500 to 226.600 and with customary use, then from and after the effective date of such
130 regulations, and so long as they shall continue in effect, the provisions of this section shall not
131 apply to the erection of signs in such areas. Notwithstanding any other provisions of this section,
132 after August 28, 1992, with respect to any outdoor advertising which is regulated by the
133 provisions of subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527:

134 (a) No county or municipality shall issue a permit to allow a regulated sign to be newly
135 erected without a permit issued by the state highways and transportation commission;

136 (b) A county or municipality may charge a reasonable one-time permit or inspection fee
137 to assure compliance with local wind load and electrical requirements when the sign is first
138 erected, but a county or municipality may not charge a permit or inspection fee for such sign after
139 such initial fee. Changing the display face or performing routine maintenance shall not be
140 considered as erecting a new sign;

141 (c) **Local regulations adopted pursuant to this section or section 71.288 may be**
142 **more restrictive than the size, lighting, and spacing provisions specified in this section,**
143 **provided such local regulations are reasonable, allow for customary industry usage, and**
144 **comply with the intent of this section. Local regulations may not have the intent or effect**
145 **of prohibiting off-premise outdoor advertising structures on commercial or industrial**
146 **property within six hundred sixty feet of federal aid primary or interstate highways and**
147 **local ordinance with such intent or effect shall be invalid and unenforceable. In the event**
148 **a local regulation is determined by the courts to be prohibitive, unreasonable, or failing to**
149 **allow for customary industry usage; statutory size, lighting, and spacing regulations shall**
150 **automatically apply in such areas until such time as a valid local ordinance complying with**
151 **the requirements under this section is adopted by the local zoning authority;**

152 (8) The state highways and transportation commission on behalf of the state of Missouri,
153 may seek agreement with the Secretary of Transportation of the United States under Section 131
154 of Title 23, United States Code, as amended, that sections 226.500 to 226.600 are in
155 conformance with that Section 131 and provides effective control of outdoor advertising signs
156 as set forth therein. If such agreement cannot be reached and the penalties under subsection (b)
157 of Section 131 are invoked, the attorney general of this state shall institute proceedings described
158 in subsection (1) of that Section 131.

226.541. 1. As used in this section, the following words or phrases mean:

(1) "Conforming out of standard signs", signs that fail to meet the current statutory and administrative rule requirements for outdoor advertising but currently comply with the terms of the federal/state agreement and meet the August 27, 1999, statutory and administrative rule requirements that governed outdoor advertising and the highway beautification act of 1965;

(2) "Federal/state agreement", an agreement executed between the United States Department of Transportation and the state highways and transportation commission on February 22, 1972, for carrying out national policy relative to control of outdoor advertising in areas adjacent to the national system of interstate and defense highways and the federal-aid primary system;

(3) "Reset", movement of a sign structure from one location to another location on the same or adjoining property, if the adjoining property is zoned commercial or industrial and the owner of the sign has obtained the legal right to erect a sign on the adjoining property from its owner, as authorized by a sign permit amendment and the terms of an executed written partial waiver and reset agreement between the permit owner and the state highways and transportation commission;

(4) "Substantially rebuilt", any reconstruction or repair of a sign that requires the replacement of fifty percent or more of the sign structure's support poles in a twelve-month period.

2. Subject to the provisions of this section, conforming out of standard signs shall be treated as conforming signs under commission administrative rules, including new display technologies, lighting, cutouts, and extensions, except that such signs shall not be substantially rebuilt except in accordance with the provisions of this section. New technologies, lighting, cutouts, and extensions may be utilized on conforming and conforming out of standard signs in accordance with Missouri department of transportation regulations.

3. On the date the commission approves funding for any phase or portion of construction or reconstruction of any street or highway, the rules in effect for outdoor advertising on August 27, 1999, shall be reinstated for that section of highway scheduled for construction and there shall immediately be a moratorium imposed on the issuance of state sign permits for new sign structures.

4. Owners of existing signs which meet the requirements for outdoor advertising in effect on August 27, 1999, and the requirements of the federal/state agreement and who voluntarily execute a partial waiver and reset agreement may reset such signs on the same or adjoining property. Such reset agreements shall be contingent upon obtaining any

37 required local approval to reset the sign structure. Any sign which has been reset must still
38 comply with the August 27, 1999, outdoor advertising regulations after it has been reset.

39 **5. Owners of existing signs who elect to reset qualifying signs shall receive**
40 **compensation representing the actual cost to reset the existing sign. Signs which have been**
41 **reset under these provisions must be reconstructed of the same type materials and may not**
42 **exceed the square footage of the original sign structure.**

43 **6. Sign owners may elect to reset existing qualifying signs by executing a partial**
44 **waiver and reset agreement with the commission. Such agreement shall specify the size,**
45 **type, and location of the rebuilt sign and the reset expenses to be paid to the owner by the**
46 **commission. In the event the owner fails to execute such an agreement within one hundred**
47 **twenty days of receiving written notice the sign will be displaced by construction, the**
48 **commission shall have the right at its sole discretion to initiate normal condemnation**
49 **procedures for the compensated removal of the sign.**

50 **7. Immediately upon the completion of construction on any section of highway, the**
51 **moratorium on new permits shall be lifted and the rules for outdoor advertising in effect**
52 **on the date the construction is completed shall apply to such section of highway.**

53 **8. Local zoning authorities may prohibit the resetting of qualifying signs which fail**
54 **to comply with local regulations, but local authorities which choose to prohibit such**
55 **resetting shall reimburse the commission the cost to condemn such signs less the cost to**
56 **reset the sign under the provisions in this section.**

57 **9. All signs shall be subject to the biennial inspection fees under section 226.550.**

✓