

FIRST REGULAR SESSION

# HOUSE BILL NO. 805

## 102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KALBERLOH.

1892H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal sections 226.540 and 226.550, RSMo, and to enact in lieu thereof two new sections relating to outdoor advertising.

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

Section A. Sections 226.540 and 226.550, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 226.540 and 226.550, to read as follows: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

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 main traveled way of the federal-aid primary highways as of June 1, 1991, and all highways  
19 designated as part of the National Highway System by the National Highway System  
20 Designation Act of 1995 and those highways subsequently designated as part of the National  
21 Highway System and the lights are not of such intensity so as to cause glare, impair the vision  
22 of the driver of a motor vehicle, or otherwise interfere with a driver's operation of a motor  
23 vehicle;

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

26 (2) Size of signs:

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

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

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

48 (3) Spacing of signs:

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

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

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

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

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

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

78           (4) As used in this section, the words "unzoned commercial and industrial land" shall  
79 be defined as follows: that area not zoned by state or local law or ordinance and on which  
80 there is located one or more permanent structures used for a commercial business or industrial  
81 activity or on which a commercial or industrial activity is actually conducted together with  
82 the area along the highway extending outwardly seven hundred fifty feet from and beyond the  
83 edge of such activity. All measurements shall be from the outer edges of the regularly used  
84 improvements, buildings, parking lots, landscaped, storage or processing areas of the  
85 commercial or industrial activity and along and parallel to the edge of the pavement of the  
86 highway. **On nonfreeway primary highways where there is an unzoned commercial or**  
87 **industrial area on one side of the road in accordance with this section, the unzoned**  
88 **commercial or industrial area shall also include those lands located on the opposite side**  
89 **of the highway to the extent of the same dimensions.** Unzoned land shall not include:

90           (a) Land on the opposite side of the highway from an unzoned commercial or  
91 industrial area as defined in this section and located adjacent to highways located on the

92 interstate[, federal aid primary system as it existed on June 1, 1991, or the national highway  
93 system as amended, unless the opposite side of the highway qualifies as a separate unzoned  
94 commercial or industrial area] or primary freeway highways; or

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

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

99 (a) Outdoor advertising structures;

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

102 (c) Transient or temporary activities;

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

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

106 (f) Railroad tracks and minor sidings;

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

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

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

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

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

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

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

128 c. On-premise signs or other identification;

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

131 (7) In zoned commercial and industrial areas, whenever a state, county or municipal  
132 zoning authority has adopted laws or ordinances which include regulations with respect to the  
133 size, lighting and spacing of signs, which regulations are consistent with the intent of sections  
134 226.500 to 226.600 and with customary use, then from and after the effective date of such  
135 regulations, and so long as they shall continue in effect, the provisions of this section shall not  
136 apply to the erection of signs in such areas. Notwithstanding any other provisions of this  
137 section, after August 28, 1992, with respect to any outdoor advertising which is regulated by  
138 the provisions of subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section  
139 226.527:

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

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

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

226.550. 1. No outdoor advertising which is regulated by subdivision (1), (3) or (4)  
2 of section 226.520 or subsection 1 of section 226.527 shall be erected or maintained on or  
3 after August 28, 1992, without a one-time permanent permit issued by the state highways and  
4 transportation commission. Application for permits shall be made to the state highways and  
5 transportation commission on forms furnished by the commission and shall be accompanied  
6 by a permit fee of two hundred dollars for all signs; except that, tax-exempt religious  
7 organizations as defined in subdivision (11) of section 313.005, service organizations as  
8 defined in subdivision (12) of section 313.005, veterans' organizations as defined in  
9 subdivision (14) of section 313.005, and fraternal organizations as defined in subdivision (8)  
10 of section 313.005 shall be granted a permit for signs less than seventy-six square feet without  
11 payment of the fee. **The permit fee of two hundred dollars shall be waived for**  
12 **landowners, provided that the landowner owns both the land upon which the outdoor**

13 **advertising is placed and the business being advertised on the sign, so long as the**  
14 **business being advertised is located within seven hundred fifty feet of the sign location.**

15 In the event a permit holder fails to erect a sign structure within twenty-four months of  
16 issuance, said permit shall expire and a new permit must be obtained prior to any  
17 construction.

18         2. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of section  
19 226.520 or subsection 1 of section 226.527 which was erected prior to August 28, 1992, shall  
20 be maintained without a one-time permanent permit for outdoor advertising issued by the  
21 state highways and transportation commission. If a one-time permanent permit was issued by  
22 the state highways and transportation commission after March 30, 1972, and before August  
23 28, 1992, it is not necessary for a new permit to be issued. If a one-time permanent permit  
24 was not issued for a lawfully erected and lawfully existing sign by the state highways and  
25 transportation commission after March 30, 1972, and before August 28, 1992, a one-time  
26 permanent permit shall be issued by the commission for each sign which is lawfully in  
27 existence on the day prior to August 28, 1992, upon application and payment of a permit fee  
28 of two hundred dollars. All applications and fees due pursuant to this subsection shall be  
29 submitted before December 31, 1992. **The permit fee of two hundred dollars shall be**  
30 **waived for landowners, provided that the landowner owns both the land upon which the**  
31 **outdoor advertising is placed and the business being advertised on the sign, so long as**  
32 **the business being advertised is located within seven hundred fifty feet of the sign**  
33 **location.**

34         3. For purposes of sections 226.500 to 226.600, the terminology "structure lawfully in  
35 existence" or "lawfully existing" sign or outdoor advertising shall, nevertheless, include the  
36 following signs unless the signs violate the provisions of subdivisions (3) to (7) of subsection  
37 1 of section 226.580:

38         (1) All signs erected prior to January 1, 1968;

39         (2) All signs erected before March 30, 1972, but on or after January 1, 1968, which  
40 would otherwise be lawful but for the failure to have a permit for such signs prior to March  
41 30, 1972, except that any sign or structure which was not in compliance with sizing, spacing,  
42 lighting, or location requirements of sections 226.500 to 226.600 as the sections appeared in  
43 the revised statutes of Missouri 1969, wheresoever located, shall not be considered a lawfully  
44 existing sign or structure;

45         (3) All signs erected after March 30, 1972, which are in conformity with sections  
46 226.500 to 226.600;

47         (4) All signs erected in compliance with sections 226.500 to 226.600 prior to August  
48 28, 2002.

49           4. On or after August 28, 1992, the state highways and transportation commission  
50 may, in addition to the fees authorized by subsections 1 and 2 of this section, collect a  
51 biennial inspection fee every two years after a state permit has been issued. Biennial  
52 inspection fees due after August 28, 2002, and prior to August 28, 2003, shall be fifty dollars.  
53 Biennial inspection fees due on or after August 28, 2003, shall be seventy-five dollars.  
54 Biennial inspection fees due on or after August 28, 2004, shall be one hundred dollars; except  
55 that, tax-exempt religious organizations as defined in subdivision (11) of section 313.005,  
56 service organizations as defined in subdivision (12) of section 313.005, veterans'  
57 organizations as defined in subdivision (14) of section 313.005, and fraternal organizations  
58 as defined in subdivision (8) of section 313.005 shall not be required to pay such fee. **The**  
59 **biennial inspection fee shall be waived for landowners, provided that the landowner**  
60 **owns both the land upon which the outdoor advertising is placed and the business being**  
61 **advertised on the sign, so long as the business being advertised is located within seven**  
62 **hundred fifty feet of the sign location.**

63           5. In order to effect the more efficient collection of biennial inspection fees, the state  
64 highways and transportation commission is encouraged to adopt a renewal system in which  
65 all permits in a particular county are renewed in the same month. In conjunction with the  
66 conversion to this renewal system, the state highways and transportation commission is  
67 specifically authorized to prorate renewal fees based on changes in renewal dates.

68           6. Sign owners or owners of the land on which signs are located must apply to the  
69 state highways and transportation commission for biennial inspection and submit any fees as  
70 required by this section on or before December 31, 1992. For a permitted sign which does not  
71 have a permit, a permit shall be issued at the time of the next biennial inspection.

72           7. The state highways and transportation commission shall deposit all fees received  
73 for outdoor advertising permits and inspection fees in the state road fund, keeping a separate  
74 record of such fees, and the same may be expended by the commission in the administration  
75 of sections 226.500 to 226.600.

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