

SECOND REGULAR SESSION

# HOUSE BILL NO. 1405

100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE LOVE.

3589H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

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

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*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Section A. Sections 226.540 and 226.550, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 226.540 and 226.550, to read as follows: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 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. **On nonfreeway  
84 primary highways where there is an unzoned commercial or industrial area on one side of  
85 the road in accordance with this section, the unzoned commercial or industrial area shall  
86 also include those lands located on the opposite side of the highway to the extent of the  
87 same dimensions.** Unzoned land shall not include:

88 (a) Land on the opposite side of the highway from an unzoned commercial or industrial  
89 area as defined in this section and located adjacent to highways located on the interstate;  
90 ~~federal-aid primary system as it existed on June 1, 1991, or the national highway system as~~  
91 ~~amended, unless the opposite side of the highway qualifies as a separate unzoned commercial~~  
92 ~~or industrial area] or primary freeway highways; or~~

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

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

97 (a) Outdoor advertising structures;

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

100 (c) Transient or temporary activities;

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

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

104 (f) Railroad tracks and minor sidings;

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

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

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

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

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

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

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

126 c. On-premise signs or other identification;

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

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

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

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

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

226.550. 1. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of  
2 section 226.520 or subsection 1 of section 226.527 shall be erected or maintained on or after  
3 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 by  
6 a permit fee of two hundred dollars for all signs; except that, tax-exempt religious organizations  
7 as defined in subdivision (11) of section 313.005, service organizations as defined in subdivision  
8 (12) of section 313.005, veterans' organizations as defined in subdivision (14) of section  
9 313.005, and fraternal organizations as defined in subdivision (8) of section 313.005 shall be

10 granted a permit for signs less than seventy-six square feet without payment of the fee. **The**  
11 **permit fee of two hundred dollars shall be waived for landowners, provided that the**  
12 **landowner owns both the land upon which the outdoor advertising is placed and the**  
13 **business being advertised on the sign, so long as the business being advertised is located**  
14 **within seven hundred fifty feet of the sign location.** In the event a permit holder fails to erect  
15 a sign structure within twenty-four months of issuance, said permit shall expire and a new permit  
16 must be obtained prior to any construction.

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

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

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

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

43 (3) All signs erected after March 30, 1972, which are in conformity with sections  
44 226.500 to 226.600;

45 (4) All signs erected in compliance with sections 226.500 to 226.600 prior to August 28,  
46 2002.

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

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

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

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

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