

FIRST REGULAR SESSION

SENATE BILL NO. 120

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOUFFER.

Read 1st time January 18, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

0897S.011

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Section A. Section 226.540, RSMo, is repealed and two new sections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

226.540. Notwithstanding any other provisions of sections 226.500 to
2 226.600, outdoor advertising shall be permitted within six hundred and sixty feet
3 of the nearest edge of the right-of-way of highways located on the interstate,
4 federal-aid primary system as it existed on June 1, 1991, or the national highway
5 system as amended in areas zoned industrial, commercial or the like and in
6 unzoned commercial and industrial areas as defined in this section, subject to the
7 following regulations which are consistent with customary use in this state:

8 (1) Lighting:

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

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

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

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

28 (2) Size of signs:

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

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

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

54 (3) Spacing of signs:

55 (a) On all interstate highways, freeways, and nonfreeway federal-aid

56 primary highways as of June 1, 1991, and all highways designated as part of the
57 National Highway System by the National Highway System Designation Act of
58 1995 and those highways subsequently designated as part of the National
59 Highway System:

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

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

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

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

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

88 (4) As used in this section, the words "unzoned commercial and industrial
89 land" shall be defined as follows: that area not zoned by state or local law or
90 ordinance and on which there is located one or more permanent structures used
91 for a commercial business or industrial activity or on which a commercial or

92 industrial activity is actually conducted together with the area along the highway
93 extending outwardly seven hundred fifty feet from and beyond the edge of such
94 activity. All measurements shall be from the outer edges of the regularly used
95 improvements, buildings, parking lots, landscaped, storage or processing areas
96 of the commercial or industrial activity and along and parallel to the edge of the
97 pavement of the highway. Unzoned land shall not include:

98 (a) Land on the opposite side of the highway from an unzoned commercial
99 or industrial area as defined in this section and located adjacent to highways
100 located on the interstate, federal-aid primary system as it existed on June 1,
101 1991, or the national highway system as amended, unless the opposite side of the
102 highway qualifies as a separate unzoned commercial or industrial area; or

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

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

108 (a) Outdoor advertising structures;

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

111 (c) Transient or temporary activities;

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

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

115 (f) Railroad tracks and minor sidings;

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

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

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

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

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

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

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

139 c. On-premise signs or other identification;

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

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

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

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

161 **(c) Local regulations adopted pursuant to this section or section**
162 **71.288 may be more restrictive than the size, lighting, and spacing**
163 **provisions specified in this section, provided such local regulations are**

164 reasonable, allow for customary industry usage, and comply with the
165 intent of this section. Local regulations may not have the intent or
166 effect of prohibiting off-premise outdoor advertising structures on
167 commercial or industrial property within six hundred sixty feet of
168 federal aid primary or interstate highways and local ordinance with
169 such intent or effect shall be invalid and unenforceable. In the event
170 a local regulation is determined by the courts to be prohibitive,
171 unreasonable, or failing to allow for customary industry usage;
172 statutory size, lighting, and spacing regulations shall automatically
173 apply in such areas until such time as a valid local ordinance
174 complying with the requirements under this section is adopted by the
175 local zoning authority;

176 (8) The state highways and transportation commission on behalf of the
177 state of Missouri, may seek agreement with the Secretary of Transportation of the
178 United States under Section 131 of Title 23, United States Code, as amended,
179 that sections 226.500 to 226.600 are in conformance with that Section 131 and
180 provides effective control of outdoor advertising signs as set forth therein. If such
181 agreement cannot be reached and the penalties under subsection (b) of Section
182 131 are invoked, the attorney general of this state shall institute proceedings
183 described in subsection (1) of that Section 131.

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

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

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

15 (3) "Reset", movement of a sign structure from one location to
16 another location on the same or adjoining property, if the adjoining
17 property is zoned commercial or industrial and the owner of the sign

18 has obtained the legal right to erect a sign on the adjoining property
19 from its owner, as authorized by a sign permit amendment and the
20 terms of an executed written partial waiver and reset agreement
21 between the permit owner and the state highways and transportation
22 commission;

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

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

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

40 4. Owners of existing signs which meet the requirements for
41 outdoor advertising in effect on August 27, 1999, and the requirements
42 of the federal/state agreement and who voluntarily execute a partial
43 waiver and reset agreement may reset such signs on the same or
44 adjoining property. Such reset agreements shall be contingent upon
45 obtaining any required local approval to reset the sign structure. Any
46 sign which has been reset must still comply with the August 27, 1999,
47 outdoor advertising regulations after it has been reset.

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

53 6. Sign owners may elect to reset existing qualifying signs by
54 executing a partial waiver and reset agreement with the

55 commission. Such agreement shall specify the size, type, and location
56 of the rebuilt sign and the reset expenses to be paid to the owner by the
57 commission. In the event the owner fails to execute such an agreement
58 within one hundred twenty days of receiving written notice the sign
59 will be displaced by construction, the commission shall have the right
60 at its sole discretion to initiate normal condemnation procedures for
61 the compensated removal of the sign.

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

66 8. Local zoning authorities may prohibit the resetting of
67 qualifying signs which fail to comply with local regulations, but local
68 authorities which choose to prohibit such resetting shall reimburse the
69 commission the cost to condemn such signs less the cost to reset the
70 sign under the provisions in this section.

71 9. All signs shall be subject to the biennial inspection fees under
72 section 226.550.

Bill

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