

## 2013 DRAFTING REQUEST

### Bill

Received: 2/1/2013 Received By: agary  
Wanted: As time permits Same as LRB: -2450  
For: Mark Honadel (608) 266-0610 By/Representing: Jason Vick  
May Contact: Drafter: agary  
Subject: Transportation - highways Addl. Drafters:  
Extra Copies: EVM

Submit via email: YES  
Requester's email: Rep.Honadel@legis.wisconsin.gov  
Carbon copy (CC) to: aaron.gary@legis.wisconsin.gov

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### Pre Topic:

No specific pre topic given

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### Topic:

Vegetation management related to outdoor advertising signs

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### Instructions:

See attached

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 2/18/2013			_____			
/P1	agary 3/21/2013	evinz 2/22/2013	jfrantze 2/22/2013	_____	rosrose 2/22/2013		State
/P2	agary 5/24/2013	evinz 3/22/2013	jmurphy 3/26/2013	_____	rosrose 3/26/2013		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1		evinz 5/24/2013	jmurphy 5/24/2013	_____	lparisi 5/24/2013	lparisi 5/29/2013	State

FE Sent For:

at  
intro

<END>

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11 ev  
5/24/13

DM  
5/24

FE Sent For:

<END>

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/P1		evinz 2/22/2013	jfrantze 2/22/2013	_____	srose 2/22/2013		State
FE Sent For:	1/p2 eev 3/22/13 Jim 3/22 self						

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See attached

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/?	agary	/pl ecv 2/21/13 jo 2/22		_____	_____		

FE Sent For:

<END>

## Gary, Aaron

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**From:** Vick, Jason  
**Sent:** Friday, February 01, 2013 3:42 PM  
**To:** Gary, Aaron  
**Subject:** Draft Request - Revisions to Vegetation Management Program for Outdoor Advertising Signs along State Highway Right-of-Way

Dear Aaron,

Rep. Honadel would like to request the following draft:

Make the following changes to Wisconsin Statutes 84.305:

1. Revise the definition of "viewing zone" in 84.305(1)(i) to be interpreted to allow vegetation relief for what are known as "cross-vista signs". The language could be changed as follows:

"Viewing zone" means, with respect to a sign, the area commencing at the point on the main-traveled way of the highway nearest the sign and extending 1000 feet in front of the sign (that is, in the direction from which the advertising content can be viewed) in a line along the highway parallel to the highway pavement edge.

2. Delete the following references to planting replacement vegetation:

- a. 84.305(1)(cm)
- b. 84.305(5)(a)
- c. 84.305(5)(ar)
- d. 84.305(5)(d) 1 and 2
- e. 84.305(5)(e) 1 and 2

3. Replace with language to achieve the following:

- a. For each tree removed that has a diameter of 4 inches or greater as measured 3 feet from the ground, the sign owner/vegetation permit holder will pay/reimburse the Department of Transportation (DOT) \$140.00.
- b. A certified arborist retained by the sign owner/permit holder shall determine the number of trees to be removed for each permit.
- c. In calculating the total number of trees that meet the criteria for payment/reimbursement to the DOT:
  1. When a multi-leader tree will be removed, only the diameter of the largest leader will be considered for purposes of payment/reimbursement to the DOT.

2. Trees that are invasive species as outlined in NR 40 will not require payment/reimbursement to the DOT.
  3. Removal of dead or diseased trees will not require payment/reimbursement to the DOT.
- d. Each year, the fee assessed for each tree removed will be adjusted using the Consumer Price Index (CPI), although the fee shall never drop below \$140/tree.
  - e. These provisions will go into effect immediately and will also apply to all applications submitted to the DOT beginning when the 2011-2012 Session changes to 84.305 went into effect.

Thanks,

**Jason Vick**

Office of Rep. Mark Honadel  
21st Assembly District  
**608-266-0611**



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2/18



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**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

D-Note

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1 **AN ACT** ...; **relating to:** maintenance and removal of vegetation obstructing the  
 2 view of outdoor advertising signs along highways under the jurisdiction of the  
 3 Department of Transportation.

***Analysis by the Legislative Reference Bureau***

Under current law, the Department of Transportation (DOT) is responsible for maintenance of the highway right-of-way on highways that, for maintenance purposes, are under its jurisdiction, which are generally state trunk highways (including interstate highways) but do not include connecting highways. DOT must provide for the care and protection of trees and other roadside vegetation. DOT must also cut, trim, or remove, or allow others to cut, trim, or remove, trees and other vegetation in order to provide safety to highway users. Current law generally prohibits a person from cutting, trimming, removing, or planting a tree or other vegetation within the right-of-way of a state trunk highway without DOT's consent.

The federal Highway Beautification Act requires states to restrict advertising along interstate and federal-aid primary highways, which includes state trunk highways and connecting highways, and current state law incorporates these requirements. Current law prohibits, with certain exceptions, the erection or maintenance of outdoor advertising signs (signs) within 660 feet of, or beyond 660 feet but visible (and erected for the purpose of being visible) from, the main-traveled way of an interstate or federal-aid primary highway. Exceptions to this prohibition include, with some restrictions, signs advertising activities conducted on the property on which the signs are located; signs located beyond 660 feet of the highway in urban areas; and signs located within 660 feet of the highway in certain business, industrial, or commercial areas.

Under current law, DOT administers a permit system for the maintenance and removal by sign owners of vegetation obstructing the view of signs along state trunk highways, including interstate highways. With limited exceptions, DOT issues permits to sign owners for the trimming or removal of vegetation in the highway right-of-way if, for a distance of 500 continuous feet within the ~~1,000 feet~~ <sup>1,000 = foot</sup> distance motorists travel immediately before reaching the sign, the vegetation obstructs the view of any portion of the face of the sign. A permit authorizes the sign owner, or a third-party contractor employed by the sign owner, to trim or remove obstructing vegetation to the extent necessary to eliminate the obstruction and restore an unobstructed view of the sign for a distance of 500 continuous feet along the highway. A permit must specify the vegetation or the portion of the highway right-of-way to which the permit applies. A permittee that removes vegetation with a diameter of four inches or more must plant replacement vegetation to compensate for the vegetation removed. DOT must determine where the replacement vegetation is to be planted, but it must be planted in the highway right-of-way within ten miles of the location where the vegetation was removed.

This bill eliminates the requirement that a permittee ~~which~~ <sup>that</sup> removes <sup>\*</sup> vegetation with a diameter of four inches or more must plant replacement vegetation. Instead, the bill requires the permittee to compensate DOT \$140, adjusted annually for inflation, for each tree removed that has a diameter of four inches or more. <sup>e</sup> The permittee must retain a certified arborist to determine the number of qualifying trees removed, for purposes of calculating payment to DOT.

This bill also allows DOT to issue permits to sign owners for the trimming or removal of vegetation in the highway right-of-way if, for a distance of 500 continuous feet within the ~~1,000 feet~~ <sup>1,000 = foot</sup> distance directly in front of the sign, the vegetation obstructs the view of any portion of the face of the sign.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 1           SECTION 1. 84.305 (1) (am) of the statutes is created to read:
- 2           84.305 (1) (am) "Invasive species" has the meaning given in s. 23.22 (1) (c) and,
- 3           in addition, means species not indigenous to Wisconsin including hybrids, cultivars,
- 4           subspecific taxa, and genetically modified variants whose introduction causes or is
- 5           likely to cause economic or environmental harm or harm to human health, and also
- 6           includes individual specimens, seeds, propagules, and any other viable life-stages
- 7           of such species.

1           **SECTION 2.** 84.305 (1) (cm) of the statutes is repealed.

2           **SECTION 3.** 84.305 (1) (i) of the statutes is renumbered 84.305 (1) (i) (intro.) and

3 amended to read:

4           84.305 (1) (i) <sup>(intro.)</sup> "Viewing zone" means, with respect to a sign, the area  
5 commencing at the point on the main-traveled way of the highway nearest the sign  
6 and extending, ~~in a~~ for a distance of 1,000 feet in any of the following directions:

7           1. In a direction opposite of the direction of travel in the nearest through traffic  
8 lanes, in a line along the highway parallel to the highway pavement edge ~~for a~~  
9 distance of 1,000 feet.

History: 2005 a. 465; 2011 a. 230.

10           **SECTION 4.** 84.305 (1) (i) 2. of the statutes is created to read:

11           84.305 (1) (i) 2. In a direction directly in front of the sign, perpendicular to the  
12 face of the sign.

13           **SECTION 5.** 84.305 (3) (g) of the statutes is amended to read:

14           84.305 (3) (g) A permit issued under this section may not authorize the  
15 permittee to clear-cut any highway right-of-way. The permit authorizes the  
16 permittee to trim or remove only the vegetation specified in the permit, or only  
17 vegetation within the area of the right-of-way specified in the permit, in accordance  
18 with the terms of the permit. All trimming of vegetation authorized under a permit  
19 shall be performed in compliance with applicable standards of the American  
20 National Standards Institute, but if the trimming cannot be accomplished in  
21 compliance with these standards, the vegetation may be removed and replaced as  
22 provided in sub. (5).

History: 2005 a. 465; 2011 a. 230.

23           **SECTION 6.** 84.305 (3) (h) of the statutes is amended to read:

1           84.305 (3) (h) All trimming and removal of vegetation under a permit issued  
2 under sub. (2), ~~and all planting of vegetation under sub. (5)~~, shall be conducted within  
3 the hours of the day and days of the week specified by the department in the permit.

4 History: 2005 a. 465; 2011 a. 230.

**SECTION 7.** 84.305 (4) of the statutes is amended to read:

5           84.305 (4) Each permit issued under this section shall authorize the permittee  
6 to employ 3rd-party contractors, including any arborist or landscape contractor, to  
7 perform work authorized under the permit. Each permit issued under this section  
8 shall require the permittee to retain a certified arborist for the purposes specified in  
9 sub. (5) (d). A permittee shall be responsible for any such work performed by a  
10 contractor on behalf of the permittee that is not authorized by the permit as if the  
11 work were performed directly by the permittee.

12 History: 2005 a. 465; 2011 a. 230.

**SECTION 8.** 84.305 (5) (a) of the statutes is amended to read:

13           84.305 (5) (a) ~~Subject to par. (ar), each~~ Each permit issued under this section  
14 shall require a permittee that removes any tree with a diameter of 4 inches or more  
15 as measured at 3 feet from the ground, ~~or any other vegetation with a diameter of 4~~  
16 ~~inches or more, to plant comparable replacement vegetation~~ to compensate the  
17 department for all such vegetation trees removed, in compliance with the  
18 requirements under pars. (d) and ~~(e)~~ (f).

19 History: 2005 a. 465; 2011 a. 230.

**SECTION 9.** 84.305 (5) (ar) of the statutes is repealed.

20           **SECTION 10.** 84.305 (5) (d) 1. of the statutes is amended to read:

21           84.305 (5) (d) 1. ~~In planting replacement vegetation under par. (a),~~ For each  
22 permit issued under sub. (2), a certified arborist retained by the permittee shall  
23 determine the diameters number of all trees with a diameter of 4 inches or more, as  
24 measured at 3 feet from the ground, and of all other vegetation with a diameter of

1 ~~4 inches or more, that was are to be removed and shall calculate the sum total of these~~  
2 ~~diameters for each category of vegetation, such as for trees, for shrubs, and for~~  
3 ~~hedges.~~

4 ~~3. In calculating the sum total of these diameters, the permittee number of~~  
5 ~~trees under subd. 1., a certified arborist shall not include any vegetation that was~~  
6 ~~dead, diseased, or determined to be an invasive species at the time of its removal.~~

7 History: 2005 a. 465; 2011 a. 230.

~~SECTION 11. 84.305 (5) (d) 2. of the statutes is repealed.~~

8 ~~SECTION 12. 84.305 (5) (d) 4. of the statutes is created to read:~~

9 ~~84.305 (5) (d) 4. In determining whether a tree with multiple leaders has a~~  
10 ~~diameter of 4 inches or more, as measured at 3 feet from the ground, for purposes of~~  
11 ~~calculating the total number of trees under subd. 1., a certified arborist shall consider~~  
12 ~~only the diameter of the tree's largest leader.~~

13 ~~SECTION 13. 84.305 (5) (e) of the statutes is repealed.~~

14 ~~SECTION 14. 84.305 (5) (f) of the statutes is created to read:~~

15 ~~84.305 (5) (f) 1. A permittee shall compensate the department \$140, as adjusted~~  
16 ~~under subd. 2., for each tree removed under a permit, as calculated by the certified~~  
17 ~~arborist retained by the permittee according to the method specified in par. (d).~~

18 ~~2. Annually, beginning on July 1, 2015, the department shall adjust the fee~~  
19 ~~under subd. 1. by a percentage that is equal to the percentage change in the U.S.~~  
20 ~~consumer price index for all urban consumers, U.S. city average, as determined by~~  
21 ~~the bureau of labor statistics of the U.S. department of labor, for the 12-month period~~  
22 ~~ending on December 31 of the previous calendar year. However, the department may~~  
23 ~~not adjust the fee under subd. 1. to an amount that is less than \$140.~~

24 **SECTION 15. Initial applicability.**

1

(1) This act first applies to permits for which applications to the Department

2

of Transportation were submitted to the department on May 19, 2012.

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(END)

D-Note

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1480/P1dn

ARG:.....

eev

date

ATTN: Jason Vick

Please review the attached draft carefully to ensure that it is consistent with your intent.

The requested change to the definition of viewing zone in the drafting instructions is internally contradictory and cannot be used as written. If the sign sits at an angle to the highway, the line of the viewing zone cannot both extend directly in front of the sign and be parallel to the highway. In this draft, I have eliminated this inconsistency but the provision may not accomplish your objective. The intent of the viewing zone is to mark the relevant area through which a motorist is passing the sign. To define the viewing zone as extending straight in front of the sign suggests that the viewer would pass directly through or under the sign (that is, off the roadway). To identify the line of vision in this way fundamentally changes the way the "500 continuous feet" language in s. 84.305 (2) and (3)(a) operates. Is the intent to provide a "viewing area" for motorists proceeding in the lanes for the opposite direction of travel? If so, perhaps the changes to the definition of "viewing area" could be drafted to directly address this and modifications to the "500 continuous feet" language could be made for motorists proceeding in the lanes for the opposite direction of travel.

The attached draft refers to tree "leaders." I am not familiar with this term but assume that it is well-known in the industry. If not, the term should be defined or we should use a different term.

I have included the requested initial applicability provision in this draft, but I consider it to be problematic. At this point, it is not known when this bill will be enacted. It is conceivable that permits will be issued, permit holders will incur the cost of replacing vegetation, this bill will pass, and then the initial applicability provision will require permit holders to incur the double expense of paying \$140 per tree for the same vegetation that has already been replaced. I recommend against trying to impose the changes in this bill retroactively, as it may have unintended and undesired consequences.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1480/P1dn  
ARG:eev:jf

February 22, 2013

ATTN: Jason Vick

Please review the attached draft carefully to ensure that it is consistent with your intent.

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Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us

## Gary, Aaron

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**From:** Gary, Aaron  
**Sent:** Thursday, March 21, 2013 10:51 AM  
**To:** Vick, Jason  
**Subject:** RE: RE: 1480/P1

Jason,  
I've been working with Janet Swandby and we came up with a definition of viewing zone that we're both happy with. We also agreed that a definition of multi-leader tree isn't necessary. I'll send out a redraft soon.

Aaron

Aaron R. Gary  
*Attorney, Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

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**From:** Vick, Jason  
**Sent:** Wednesday, March 13, 2013 5:10 PM  
**To:** Gary, Aaron  
**Subject:** RE: 1480/P1

Aaron,

The following is in response to your drafter's note on LRB 1480/P1:

Viewing zone -- The goal is to allow for the trimming and removal of vegetation in front of not only signs that read to travelers on the right-hand side of the highway, but also to signs that read to a traveler's left, referred to as cross-vista signs by the industry. Would you have any suggestions on how to revise current law to assure that vegetation in the right-of-way can be trimmed in front of both types of signs?

"Multi-leader trees" -- not certain whether this is a standard term. If it would improve the draft, we would be amenable to including a definition.

We are working with Janet Swandby representing the Outdoor Advertising Association of Wisconsin, and give permission to speak to her about this draft if it is helpful to get information about these issues and definitions. She can be reached at 262-370-1714.

Thanks,

**Jason Vick**  
Office of Rep. Mark Honadel  
21st Assembly District  
**608-266-0611**



State of Wisconsin  
2013 - 2014 LEGISLATURE

in 3/21



LRB-1480/PZ

ARG:eev:jf

marked  
by 3/28

Stays  
RMR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

repeal

1 **AN ACT** *to repeal* 84.305 (1) (cm), 84.305 (5) (ar), 84.305 (5) (d) 2. and 84.305 (5)  
2 (e); *to renumber and amend* 84.305 (1) (i); *to amend* 84.305 (3) (g), 84.305  
3 (3) (h), 84.305 (4), 84.305 (5) (a) and 84.305 (5) (d) 1.; and *to create* 84.305 (1)  
4 (am), 84.305 (1) (i) 2., 84.305 (5) (d) 4. and 84.305 (5) (f) of the statutes; **relating**  
5 **to:** maintenance and removal of vegetation obstructing the view of outdoor  
6 advertising signs along highways under the jurisdiction of the Department of  
7 Transportation.

***Analysis by the Legislative Reference Bureau***

Under current law, the Department of Transportation (DOT) is responsible for maintenance of the highway right-of-way on highways that, for maintenance purposes, are under its jurisdiction, which are generally state trunk highways (including interstate highways) but do not include connecting highways. DOT must provide for the care and protection of trees and other roadside vegetation. DOT must also cut, trim, or remove, or allow others to cut, trim, or remove, trees and other vegetation in order to provide safety to highway users. Current law generally prohibits a person from cutting, trimming, removing, or planting a tree or other vegetation within the right-of-way of a state trunk highway without DOT's consent.

The federal Highway Beautification Act requires states to restrict advertising along interstate and federal-aid primary highways, which includes state trunk

highways and connecting highways, and current state law incorporates these requirements. Current law prohibits, with certain exceptions, the erection or maintenance of outdoor advertising signs (signs) within 660 feet of, or beyond 660 feet but visible (and erected for the purpose of being visible) from, the main-traveled way of an interstate or federal-aid primary highway. Exceptions to this prohibition include, with some restrictions, signs advertising activities conducted on the property on which the signs are located; signs located beyond 660 feet of the highway in urban areas; and signs located within 660 feet of the highway in certain business, industrial, or commercial areas.

Under current law, DOT administers a permit system for the maintenance and removal by sign owners of vegetation obstructing the view of signs along state trunk highways, including interstate highways. With limited exceptions, DOT issues permits to sign owners for the trimming or removal of vegetation in the highway right-of-way if, for a distance of 500 continuous feet within the 1,000-foot distance motorists travel immediately before reaching the sign, the vegetation obstructs the view of any portion of the face of the sign. A permit authorizes the sign owner, or a third-party contractor employed by the sign owner, to trim or remove obstructing vegetation to the extent necessary to eliminate the obstruction and restore an unobstructed view of the sign for a distance of 500 continuous feet along the highway. A permit must specify the vegetation or the portion of the highway right-of-way to which the permit applies. A permittee that removes vegetation with a diameter of four inches or more must plant replacement vegetation to compensate for the vegetation removed. DOT must determine where the replacement vegetation is to be planted, but it must be planted in the highway right-of-way within ten miles of the location where the vegetation was removed.

This bill eliminates the requirement that a permittee that removes vegetation with a diameter of four inches or more must plant replacement vegetation. Instead, the bill requires the permittee to compensate DOT \$140, adjusted annually for inflation, for each tree removed that has a diameter of four inches or more. The permittee must retain a certified arborist to determine the number of qualifying trees removed, for purposes of calculating payment to DOT.

*Insert*  
*ANAL* → ~~This bill also allows DOT to issue permits to sign owners for the trimming or removal of vegetation in the highway right-of-way if, for a distance of 500 continuous feet within the 1,000-foot distance directly in front of the sign, the vegetation obstructs the view of any portion of the face of the sign.~~

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1 84.305 (1) (am) "Invasive species" has the meaning given in s. 23.22 (1) (c) and,  
2 in addition, means species not indigenous to Wisconsin including hybrids, cultivars,  
3 subspecific taxa, and genetically modified variants whose introduction causes or is  
4 likely to cause economic or environmental harm or harm to human health, and also  
5 includes individual specimens, seeds, propagules, and any other viable life-stages  
6 of such species.

insert  
3-7

7 SECTION 2. 84.305 (1) (cm) of the statutes is repealed.

8 SECTION 3. 84.305 (1) (i) of the statutes is renumbered 84.305 (1) (f) (intro.) and  
9 amended to read:

10 84.305 (1) (i) (intro.) "Viewing zone" means, with respect to a sign, the area  
11 commencing at the point on the main-traveled way of the highway nearest the sign  
12 and extending, ~~in a~~ for a distance of 1,000 feet in any of the following directions:

13 1. In a direction opposite of the direction of travel in the nearest through traffic  
14 lanes, in a line along the highway parallel to the highway pavement edge ~~for a~~  
15 ~~distance of 1,000 feet.~~

16 SECTION 4. 84.305 (1) (i) 2. of the statutes is created to read:

17 84.305 (1) (i) 2. In a direction directly in front of the sign, perpendicular to the  
18 face of the sign.

19 SECTION 5. 84.305 (3) (g) of the statutes is amended to read:

20 84.305 (3) (g) A permit issued under this section may not authorize the  
21 permittee to clear-cut any highway right-of-way. The permit authorizes the  
22 permittee to trim or remove only the vegetation specified in the permit, or only  
23 vegetation within the area of the right-of-way specified in the permit, in accordance  
24 with the terms of the permit. All trimming of vegetation authorized under a permit  
25 shall be performed in compliance with applicable standards of the American

1 National Standards Institute, but if the trimming cannot be accomplished in  
2 compliance with these standards, the vegetation may be removed ~~and replaced~~ as  
3 provided in sub. (5).

4 **SECTION 6.** 84.305 (3) (h) of the statutes is amended to read:

5 84.305 (3) (h) All trimming and removal of vegetation under a permit issued  
6 under sub. (2), ~~and all planting of vegetation under sub. (5)~~, shall be conducted within  
7 the hours of the day and days of the week specified by the department in the permit.

8 **SECTION 7.** 84.305 (4) of the statutes is amended to read:

9 84.305 (4) Each permit issued under this section shall authorize the permittee  
10 to employ 3rd-party contractors, including any arborist or landscape contractor, to  
11 perform work authorized under the permit. Each permit issued under this section  
12 shall require the permittee to retain a certified arborist for the purposes specified in  
13 sub. (5) (d). A permittee shall be responsible for any such work performed by a  
14 contractor on behalf of the permittee that is not authorized by the permit as if the  
15 work were performed directly by the permittee.

16 **SECTION 8.** 84.305 (5) (a) of the statutes is amended to read:

17 84.305 (5) (a) ~~Subject to par. (ar), each~~ Each permit issued under this section  
18 shall require a permittee that removes any tree with a diameter of 4 inches or more  
19 as measured at 3 feet from the ground, ~~or any other vegetation with a diameter of 4~~  
20 ~~inches or more, to plant comparable replacement vegetation~~ to compensate the  
21 department for all such ~~vegetation~~ trees removed, in compliance with the  
22 requirements under pars. (d) and ~~(e)~~ (f).

23 **SECTION 9.** 84.305 (5) (ar) of the statutes is repealed.

24 **SECTION 10.** 84.305 (5) (d) 1. of the statutes is amended to read:

1           84.305 (5) (d) 1. ~~In planting replacement vegetation under par. (a),~~ For each  
2 permit issued under sub. (2), a certified arborist retained by the permittee shall  
3 determine the diameters number of all trees with a diameter of 4 inches or more, as  
4 measured at 3 feet from the ground, ~~and of all other vegetation with a diameter of~~  
5 ~~4 inches or more, that was~~ are to be removed and shall calculate the sum total of these  
6 diameters for each category of vegetation, such as for trees, for shrubs, and for  
7 hedges.

8           3. In calculating the ~~sum total of these diameters,~~ the permittee number of .  
9 trees under subd. 1., a certified arborist shall not include ~~any vegetation that was~~ in the calculation the diameters  
10 dead, diseased, or determined to be an invasive species at the time of its removal.

11           **SECTION 11.** 84.305 (5) (d) 2. of the statutes is repealed.

12           **SECTION 12.** 84.305 (5) (d) 4. of the statutes is created to read:

13           84.305 (5) (d) 4. In determining whether a tree with multiple leaders has a  
14 diameter of 4 inches or more, as measured at 3 feet from the ground, for purposes of  
15 calculating the total number of trees under subd. 1., a certified arborist shall consider  
16 only the diameter of the tree's largest leader.

17           **SECTION 13.** 84.305 (5) (e) of the statutes is repealed.

18           **SECTION 14.** 84.305 (5) (f) of the statutes is created to read:

19           84.305 (5) (f) 1. A permittee shall compensate the department \$140, as adjusted  
20 under subd. 2., for each tree removed under a permit, as calculated by the certified  
21 arborist retained by the permittee according to the method specified in par. (d).

22           2. Annually, beginning on July 1, 2015, the department shall adjust the fee  
23 under subd. 1. by a percentage that is equal to the percentage change in the U.S.  
24 consumer price index for all urban consumers, U.S. city average, as determined by  
25 the bureau of labor statistics of the U.S. department of labor, for the 12-month period

1 ending on December 31 of the previous calendar year. However, the department may  
2 not adjust the fee under subd. 1. to an amount that is less than \$140.

3 **SECTION 15. Initial applicability.**

4 (1) This act first applies to permits for which applications to the department  
5 of transportation were submitted to the department on May 19, 2012.

6 (END)

**2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1480/P2ins  
ARG:.....

**INSERT ANAL:**

The bill also specifies that a permit for the trimming or removal of vegetation applies with respect to a sign erected along the highway on the opposite side of the direction of travel if the sign face is visible and intended to be viewed from the direction of travel (known as a “cross-vista” sign).

**INSERT 3-7:**

**SECTION 1.** 84.305 (1) (i) of the statutes is amended to read:

84.305 (1) (i) “Viewing zone” means, with respect to a sign, the area commencing at the point on the main-traveled way of the highway nearest the sign for the direction of travel for which the sign face is oriented and extending, in a direction opposite of the direction of travel ~~in the nearest through traffic lanes of the~~ main-traveled way from which the sign face is visible and intended to be viewed, in a line along the highway ~~parallel to the highway pavement edge~~ for a distance of 1,000 feet.

**History:** 2005 a. 465; 2011 a. 230.

**Gary, Aaron**

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**From:** Vick, Jason  
**Sent:** Thursday, May 23, 2013 2:37 PM  
**To:** Gary, Aaron  
**Cc:** Wenzlaff, Tyler  
**Subject:** LRB 1480/P2 (maintenance and removal of vegetation obstructing the view of outdoor advertising signs...)

Aaron,

All looks good with LRB 1480/P2. Can you convert it to a draft that can be introduced?

Also, please release it to Sen. Tiffany's office for a companion draft.

Thanks,

**Jason Vick**

Office of Rep. Mark Honadel  
21st Assembly District  
**608-266-0611**



TODAY



LRB-1480/1

ARG:eev:jm

in 5/24

STAYS MVR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

No changes

regln

1 **AN ACT** *to repeal* 84.305 (1) (cm), 84.305 (5) (ar), 84.305 (5) (d) 2. and 84.305 (5)  
 2 (e); *to amend* 84.305 (1) (i), 84.305 (3) (g), 84.305 (3) (h), 84.305 (4), 84.305 (5)  
 3 (a) and 84.305 (5) (d) 1.; and *to create* 84.305 (1) (am), 84.305 (5) (d) 4. and  
 4 84.305 (5) (f) of the statutes; **relating to:** maintenance and removal of  
 5 vegetation obstructing the view of outdoor advertising signs along highways  
 6 under the jurisdiction of the Department of Transportation.

***Analysis by the Legislative Reference Bureau***

Under current law, the Department of Transportation (DOT) is responsible for maintenance of the highway right-of-way on highways that, for maintenance purposes, are under its jurisdiction, which are generally state trunk highways (including interstate highways) but do not include connecting highways. DOT must provide for the care and protection of trees and other roadside vegetation. DOT must also cut, trim, or remove, or allow others to cut, trim, or remove, trees and other vegetation in order to provide safety to highway users. Current law generally prohibits a person from cutting, trimming, removing, or planting a tree or other vegetation within the right-of-way of a state trunk highway without DOT's consent.

The federal Highway Beautification Act requires states to restrict advertising along interstate and federal-aid primary highways, which includes state trunk highways and connecting highways, and current state law incorporates these requirements. Current law prohibits, with certain exceptions, the erection or

maintenance of outdoor advertising signs (signs) within 660 feet of, or beyond 660 feet but visible (and erected for the purpose of being visible) from, the main-traveled way of an interstate or federal-aid primary highway. Exceptions to this prohibition include, with some restrictions, signs advertising activities conducted on the property on which the signs are located; signs located beyond 660 feet of the highway in urban areas; and signs located within 660 feet of the highway in certain business, industrial, or commercial areas.

Under current law, DOT administers a permit system for the maintenance and removal by sign owners of vegetation obstructing the view of signs along state trunk highways, including interstate highways. With limited exceptions, DOT issues permits to sign owners for the trimming or removal of vegetation in the highway right-of-way if, for a distance of 500 continuous feet within the 1,000-foot distance motorists travel immediately before reaching the sign, the vegetation obstructs the view of any portion of the face of the sign. A permit authorizes the sign owner, or a third-party contractor employed by the sign owner, to trim or remove obstructing vegetation to the extent necessary to eliminate the obstruction and restore an unobstructed view of the sign for a distance of 500 continuous feet along the highway. A permit must specify the vegetation or the portion of the highway right-of-way to which the permit applies. A permittee that removes vegetation with a diameter of four inches or more must plant replacement vegetation to compensate for the vegetation removed. DOT must determine where the replacement vegetation is to be planted, but it must be planted in the highway right-of-way within ten miles of the location where the vegetation was removed.

This bill eliminates the requirement that a permittee that removes vegetation with a diameter of four inches or more must plant replacement vegetation. Instead, the bill requires the permittee to compensate DOT \$140, adjusted annually for inflation, for each tree removed that has a diameter of four inches or more. The permittee must retain a certified arborist to determine the number of qualifying trees removed, for purposes of calculating payment to DOT.

The bill also specifies that a permit for the trimming or removal of vegetation applies with respect to a sign erected along the highway on the opposite side of the direction of travel if the sign face is visible and intended to be viewed from the direction of travel (known as a “cross-vista” sign).

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

- 1           **SECTION 1.** 84.305 (1) (am) of the statutes is created to read:
- 2           84.305 (1) (am) “Invasive species” has the meaning given in s. 23.22 (1) (c) and,
- 3           in addition, means species not indigenous to Wisconsin including hybrids, cultivars,

1 subspecific taxa, and genetically modified variants whose introduction causes or is  
2 likely to cause economic or environmental harm or harm to human health, and also  
3 includes individual specimens, seeds, propagules, and any other viable life-stages  
4 of such species.

5 **SECTION 2.** 84.305 (1) (cm) of the statutes is repealed.

6 **SECTION 3.** 84.305 (1) (i) of the statutes is amended to read:

7 84.305 (1) (i) “Viewing zone” means, with respect to a sign, the area  
8 commencing at the point on the main-traveled way of the highway nearest the sign  
9 for the direction of travel for which the sign face is oriented and extending, in a  
10 direction opposite of the direction of travel ~~in the nearest through traffic lanes of the~~  
11 main-traveled way from which the sign face is visible and intended to be viewed, in  
12 a line along the highway ~~parallel to the highway pavement edge~~ for a distance of  
13 1,000 feet.

14 **SECTION 4.** 84.305 (3) (g) of the statutes is amended to read:

15 84.305 (3) (g) A permit issued under this section may not authorize the  
16 permittee to clear-cut any highway right-of-way. The permit authorizes the  
17 permittee to trim or remove only the vegetation specified in the permit, or only  
18 vegetation within the area of the right-of-way specified in the permit, in accordance  
19 with the terms of the permit. All trimming of vegetation authorized under a permit  
20 shall be performed in compliance with applicable standards of the American  
21 National Standards Institute, but if the trimming cannot be accomplished in  
22 compliance with these standards, the vegetation may be removed ~~and replaced~~ as  
23 provided in sub. (5).

24 **SECTION 5.** 84.305 (3) (h) of the statutes is amended to read:

1           84.305 (3) (h) All trimming and removal of vegetation under a permit issued  
2 under sub. (2), ~~and all planting of vegetation under sub. (5)~~, shall be conducted within  
3 the hours of the day and days of the week specified by the department in the permit.

4           **SECTION 6.** 84.305 (4) of the statutes is amended to read:

5           84.305 (4) Each permit issued under this section shall authorize the permittee  
6 to employ 3rd-party contractors, including any arborist or landscape contractor, to  
7 perform work authorized under the permit. Each permit issued under this section  
8 shall require the permittee to retain a certified arborist for the purposes specified in  
9 sub. (5) (d). A permittee shall be responsible for any such work performed by a  
10 contractor on behalf of the permittee that is not authorized by the permit as if the  
11 work were performed directly by the permittee.

12           **SECTION 7.** 84.305 (5) (a) of the statutes is amended to read:

13           84.305 (5) (a) ~~Subject to par. (ar), each~~ Each permit issued under this section  
14 shall require a permittee that removes any tree with a diameter of 4 inches or more  
15 as measured at 3 feet from the ground, ~~or any other vegetation with a diameter of 4~~  
16 ~~inches or more, to plant comparable replacement vegetation to compensate the~~  
17 department for all such ~~vegetation~~ trees removed, in compliance with the  
18 requirements under pars. (d) and ~~(e)~~ (f).

19           **SECTION 8.** 84.305 (5) (ar) of the statutes is repealed.

20           **SECTION 9.** 84.305 (5) (d) 1. of the statutes is amended to read:

21           84.305 (5) (d) 1. ~~In planting replacement vegetation under par. (a),~~ For each  
22 permit issued under sub. (2), a certified arborist retained by the permittee shall  
23 determine the diameters number of all trees with a diameter of 4 inches or more, as  
24 measured at 3 feet from the ground, and of all other vegetation with a diameter of  
25 4 inches or more, that was are to be removed and shall calculate the sum total of these

1 ~~diameters for each category of vegetation, such as for trees, for shrubs, and for~~  
2 ~~hedges.~~

3 ~~3. In calculating the sum total of these diameters, the permittee number of~~  
4 ~~trees under subd. 1., a certified arborist shall not include in the calculation the~~  
5 ~~diameter of any vegetation that was dead, diseased, or determined to be an invasive~~  
6 ~~species at the time of its removal.~~

7 **SECTION 10.** 84.305 (5) (d) 2. of the statutes is repealed.

8 **SECTION 11.** 84.305 (5) (d) 4. of the statutes is created to read:

9 84.305 (5) (d) 4. In determining whether a tree with multiple leaders has a  
10 diameter of 4 inches or more, as measured at 3 feet from the ground, for purposes of  
11 calculating the total number of trees under subd. 1., a certified arborist shall consider  
12 only the diameter of the tree's largest leader.

13 **SECTION 12.** 84.305 (5) (e) of the statutes is repealed.

14 **SECTION 13.** 84.305 (5) (f) of the statutes is created to read:

15 84.305 (5) (f) 1. A permittee shall compensate the department \$140, as adjusted  
16 under subd. 2., for each tree removed under a permit, as calculated by the certified  
17 arborist retained by the permittee according to the method specified in par. (d).

18 2. Annually, beginning on July 1, 2015, the department shall adjust the fee  
19 under subd. 1. by a percentage that is equal to the percentage change in the U.S.  
20 consumer price index for all urban consumers, U.S. city average, as determined by  
21 the bureau of labor statistics of the U.S. department of labor, for the 12-month period  
22 ending on December 31 of the previous calendar year. However, the department may  
23 not adjust the fee under subd. 1. to an amount that is less than \$140.

24 **SECTION 14. Initial applicability.**



**Parisi, Lori**

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**From:** Vick, Jason  
**Sent:** Wednesday, May 29, 2013 9:58 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -1480/1 Topic: Vegetation management related to outdoor advertising signs

Please Jacket LRB -1480/1 for the ASSEMBLY.