



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Assembly Bill 741

**Assembly
Amendment 1**

Memo published: December 2, 2005

Contact: Philip G. Cardis, Staff Attorney (267-0683)

The federal Highway Beautification Act requires states to restrict advertising along interstate and federal-aid primary highways, and current state law incorporates these requirements. **Current law** prohibits, with certain exceptions, the erection or maintenance of outdoor advertising signs within 660 feet of, or otherwise visible (and intended to be visible) from, the main-traveled way of an interstate or federal-aid primary highway. Exceptions to this prohibition include, with some restrictions, directional and other official signs, landmark signs, signs advertising the sale or lease of property, “on-premises” signs, signs located beyond 660 feet of the highway in urban areas, and signs in business areas. The Department of Transportation (DOT) may remove, upon 60 days prior written notice, certain signs that do not conform to applicable requirements but, for each sign removed, must pay just compensation to the owner of the sign and to the owner of the land on which the sign is located. A person receiving such a notice is entitled to a hearing before the Division of Hearings and Appeals (DHA) in the Department of Administration to contest the sign removal. (A person who contests only the amount of compensation payable by DOT for a sign removal or relocation is entitled to bring a condemnation action.) DOT also issues licenses to persons authorizing them to engage in the business of outdoor advertising and may, by rule, require the payment of annual permit fees for most outdoor advertising signs. Upon 30 days prior written notice, DOT may revoke a license. Hearings concerning the denial or revocation of a sign permit or license must be conducted before the DHA. A person may obtain judicial review of a final decision of the DHA in the circuit court, but this review is conducted by the court without a jury and is confined to the record before the DHA. The circuit court does not conduct its own evidentiary proceeding.

This bill allows a person aggrieved by a DOT notice of intent to remove an outdoor advertising sign or to revoke an outdoor advertising sign business license, or by a denial or revocation of any other outdoor advertising sign permit or license, to consider the notice, denial, or revocation to be DOT’s final decision on the matter and to elect to bypass the DHA administrative hearing process and institute a civil action in circuit court to contest DOT’s decision. In a circuit court action, the person is entitled to an evidentiary proceeding governed by the rules of civil procedure. A person must bring an action before

the circuit court within 20 days of DOT's decision but may not bring an action in the circuit court if a hearing before the DHA has already been initiated.

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Assembly Amendment 1 provides that a person must bring an action before the circuit court within **60 days** of DOT's final decision (rather than 20 days) to avail themselves to the bypass of the DHA administrative hearing process and institute a civil action in circuit court.

Legislative History

On December 1, 2005, the Assembly Committee on Transportation recommended for adoption Assembly Amendment 1 by a vote of Ayes, 13; Noes, 0, and recommended passage of the bill, as amended, by a vote of Ayes, 9; Noes, 4.

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