



# DAN FEYEN

## STATE SENATOR

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To: The Senate Committee on Transportation and Veterans Affairs  
From: Sen. Dan Feyen  
Re: Senate Bill 495

Mr. Chairman, members of the committee, thank you for holding this hearing today.

Assembly Bill 595 seeks to address the issue of outdoor advertising signs, more commonly referred to as billboards, becoming "nonconforming", meaning that they no longer meet the legal parameters governing these signs. There is one critical distinction to make regarding these signs: they have become non-conforming because of a change by the state or federal DOT, not due to the sign's owner's actions. The owners of these signs did nothing to change the status of the sign.

Every year, many lawfully constructed billboards become nonconforming. Currently, almost half of all billboards in Wisconsin are deemed nonconforming by the DOT. As an example, a sign could become non-conforming if it was previously 660 feet from the highway but a lane expansion project shortened the distance between the sign and the highway. The owner has done nothing, but their property is now deemed illegal and their business is at risk of losing an income-producing asset.

Under state law, there are limits on the extent of repairs that can be made to a nonconforming sign. If the sign owner exceeds those limits, the sign becomes illegal and the DOT can remove the sign without paying just compensation to the sign owner. The potential loss of property without compensation is a huge concern to sign owners. Almost half of all billboards in Wisconsin are deemed nonconforming by Wisconsin DOT which means that repairs are limited on all of these signs.

This bill is a common-sense statutory change to ensure Wisconsinites who have made a business of outdoor advertising are not arbitrarily losing their businesses' assets through no fault of their own. It would improve the regulation of outdoor advertising signs in the following ways:

1. Indicates to both DOT and sign owners that nonconforming signs are not subject to removal for changing the advertising message and performing customary maintenance
2. Defines customary maintenance
3. Provides economic certainty to sign owners so that they can make repairs to their signs without fear that DOT will determine that the repair work is illegal and remove the sign without compensating them
4. Avoids litigation, saving both the State of Wisconsin and sign owners money
5. Increases sign repairs, which would improve the condition of existing signs and enhance the experience of the advertising viewers

Thank you for your time today. I welcome any questions you may have.



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# TYLER VORPAGEL

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STATE REPRESENTATIVE • 27<sup>TH</sup> ASSEMBLY DISTRICT

SB 495: relating to the removal of nonconforming outdoor advertising signs along highways.

Written Testimony Submitted by State Representative Tyler Vorpagel

Senate Committee on Transportation and Veterans Affairs

December 5, 2017

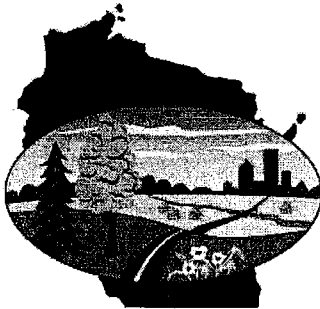
Thank you, Chairman Petrowski and members of the Transportation Committee for hearing Senate Bill 495 today. SB 495 is a fix that dates back to 1972 when the State implemented the Federal Highway Beautification Act (HBA). The HBA and Federal Highway Administration (FHWA) provided guidelines to the States on controlling outdoor advertising but let the states develop their own criteria and definitions regarding nonconforming signs. Over the years FHWA has issued guidelines to states regarding what is and isn't allowed under HBA but Wisconsin has never acted to change Statutes to reflect these guidelines. State statutes and rules don't include definitions which has made the law vague and open to miscommunication.

Currently there are many legally constructed billboards that go into nonconforming status every year. The owners of these signs haven't changed the status of the sign or made any physical changes, there is often simply a change made at the State or local that leads to the sign becoming nonconforming. Under both Federal and State law there are limits on repairs that can be made to a nonconforming sign, if these are exceeded then the sign becomes illegal and DOT can remove the sign without paying just compensation. **Interesting fact is that almost half of all billboards in Wisconsin are deemed nonconforming by WisDOT, which means that repairs are very limited on these signs.**

SB 495 would clarify for both DOT and the sign owners what types or repairs can and cannot be done. This would allow sign owners to make repairs without fear that DOT will decide that the repairs they have made are illegal and will cause removal of their sign. The bill also adds language to allow sign owners 60 days to "cure" a change to a sign that the DOT has deemed illegal so that it can return to its nonconforming status rather than be torn down immediately. This legislation would help avoid litigation saving both DOT and sign owners money by clearly defining the repairs in statute.

Thank you for your time today, I am happy to answer any questions at this time.

*This goes with  
my registration slip  
Thanks!*



**Scenic Wisconsin**

## ***Citizens for a Scenic Wisconsin***

To: Members, State Senate Committee on Transportation and Veterans Affairs  
Senator Jerry Petrowski, Chair

From: Gary R. Goyke, President, Citizens for a Scenic Wisconsin, Inc.

Date: December 5, 2017

Re: Opposition to SB 495 and SB. 496

Chairman Petrowski, thank you for holding this public hearing and thank you and the members of the Committee for giving us this opportunity to speak with you today.

Citizens for a Scenic Wisconsin is a proud affiliate of Scenic America. In fulfillment of our mission statement we are actively involved in the promotion and growth of the Rustic Road program in our state, we actively support the Wisconsin Department of Transportation Scenic Byway System, we believe in the preservation efforts for rural historic barns, we support and enhance agricultural tourism and often join in the battle to fight the proliferation of billboards in our state and our Interstate highway thoroughfares. and carefully monitor state legislation.

Our Board of Directors has debated and discussed these two bills. We have consulted with municipal leaders, transportation providers and wish to convey our strong opposition to both these measures. We will set up meetings with your offices to bring our concerns in person as well as through this statement today. We have constructed a physical model, which shows you what the words really mean and will demonstrate the usurpation of local control contained in those words and danger they create to property values and property rights. We urge the Committee to reject the bills.

Thank you for your time and attention. We view this matter very seriously.

Citizens for a Scenic Wisconsin (CSW) is a 501(c) 3 organization, dedicated to preserving and enhancing the scenic character of Wisconsin communities.



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DATE: December 5, 2017

TO: Members of Senate Transportation and Veterans Affairs Committee  
Senator Jerry Petrowski, Chairman

FROM: Kathi Kilgore, Executive Director and Lobbyist

RE: **SB 495 and AB 595 Relating to the Repair and Maintenance of Nonconforming Signs**

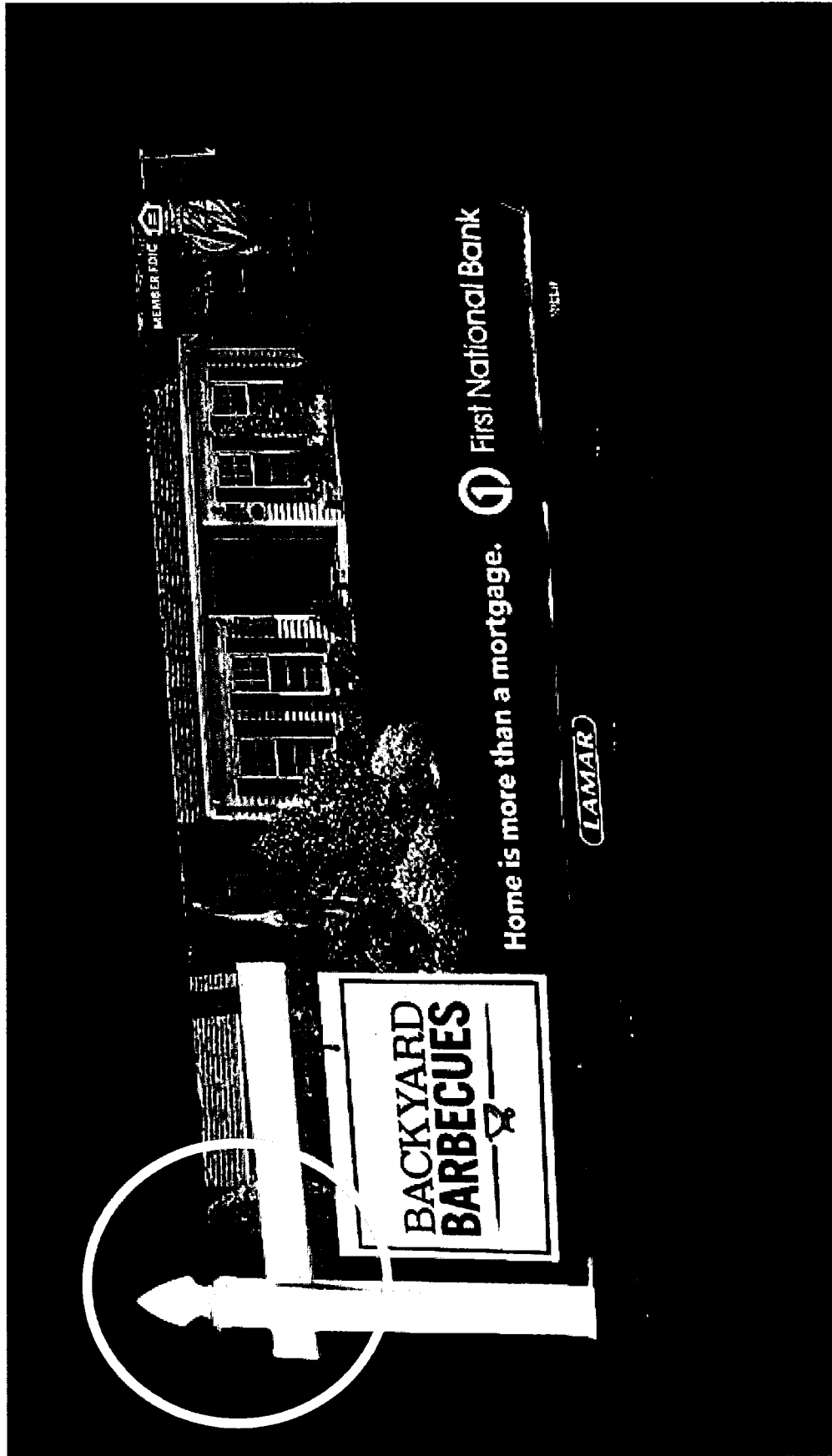
This issue is extremely important to Outdoor Advertising Association of Wisconsin (OAAW) because:

1. More than half of all billboards in Wisconsin are nonconforming, not because of a change made by the sign owner, but changes made by the State or local government.
2. These nonconforming signs are not all old, wooden structures. Fewer than 2% of all the billboards in Wisconsin along Wisconsin highways today existed when the Federal Highway Beautification Act (HBA) was implemented in 1972.
3. Changes to nonconforming signs can result in the Department of Transportation (DOT) determining that the sign is illegal and, therefore, must be removed without compensation.
4. The current statutes relating to nonconforming signs have not been changed since 1972 and, because they are so vague, DOT and sign companies end up litigating what can be done to a nonconforming sign.

SB 495 and AB 595 would address the repair and maintenance of outdoor advertising signs as follows:

1. For the first time, define terms used in the HBA and the Federal Highway Administration (FHWA) Guidelines to the States. The definition for "customary maintenance" will clarify what repairs can and cannot be made to a nonconforming sign. The definition of "substantial change" will clarify when a sign has been changed significantly enough that it becomes illegal and must be removed without compensation.
2. Clarify when a nonconforming sign is "destroyed" and, therefore, is illegal and must be removed without compensation. The definition of "destroyed" in the legislation comes from guidelines provided by the FHWA in 2009. The definition of "destroyed" is based on a percentage of damage to a sign structure's uprights.
3. Clarify that extensions can be temporarily added to a nonconforming sign as a copy change and the extension is not a substantial change if it meets certain size and timeframe requirements. The language in the bill is based on an existing Missouri law that has been in effect since 2009.
4. Add a definition of "substantially the same" which has been widely disputed in litigation between the DOT and sign owners for decades.
5. Maintain current law regarding signs damaged or destroyed by criminal or tortious acts. This language is recommended by FHWA and currently exists in administrative rule.
6. Add language to allow sign owners 60 days to "cure" a change to a nonconforming sign that the DOT maintains is illegal.
7. Require the DOT to notify sign owners when a sign's status has been changed to nonconforming.

These changes would reduce the administrative burden for the DOT and would clarify what repairs can be made to signs assuring that the signs along our highways are in good repair. The members of the OAAW urge you to recommend passage of SB 495 and AB 595. Thank you for your time today and your consideration.



Extensions or Bump Outs



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**OTC**

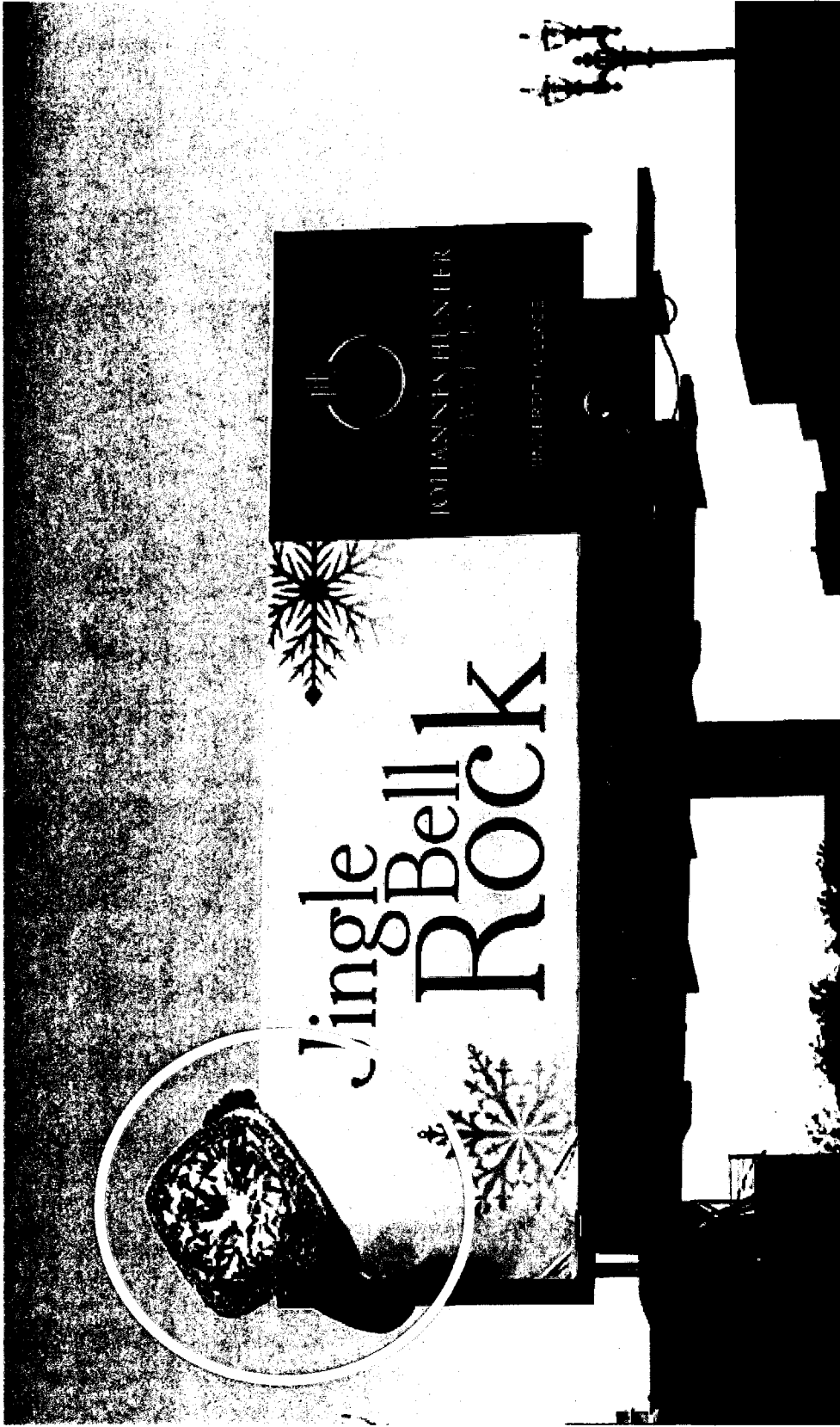
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021532

**Extensions or Bump Outs**



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