



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4418/1
EVM:amn&ahe

2017 SENATE BILL 495

October 27, 2017 - Introduced by Senators FEYEN, OLSEN and TIFFANY, cosponsored by Representatives VORPAGEL, JACQUE, TUSLER, BALLWEG, HORLACHER, KULP, FELZKOWSKI, ALLEN, FIELDS, THIESFELDT and KLEEFISCH. Referred to Committee on Transportation and Veterans Affairs.

1 **AN ACT** *to create* 84.30 (5) (br) of the statutes; **relating to:** the removal of
2 nonconforming outdoor advertising signs along highways.

Analysis by the Legislative Reference Bureau

This bill declares certain outdoor advertising signs along highways to be nonconforming, but does not require the signs to be removed unless certain criteria are met.

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. However, various exceptions apply to this prohibition, including exceptions for the following: 1) signs advertising activities conducted on the property on which the sign is located (on-property signs) if certain conditions are met; 2) signs in business areas if certain conditions are met or the signs were erected before March 19, 1972 (business area signs); 3) directional and other official signs meeting certain criteria (directional signs); and 4) certain signs located more than 660 feet from the highway (signs outside the adjacent area).

Under current law, the Department of Transportation generally may remove 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. For on-property signs, if the on-property sign was lawful when it was erected but later does not comply with the applicable requirements for

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on-property signs, DOT must declare the sign to be nonconforming but may not remove the sign unless additional criteria are met. These signs are not subject to removal for changing the advertising message on the sign or performing customary maintenance on the sign, but are subject to removal, without compensation, if the sign is enlarged, replaced, or relocated or if additional signs are erected. For signs lawfully erected after March 18, 1972, which subsequently become nonconforming, DOT must require removal of the signs, with compensation, by the end of the fifth year after they become nonconforming, but only if there are sufficient funds available to DOT to pay just compensation for the sign removal.

Under this bill, business area signs, directional signs, and signs outside the adjacent area (together referred to as off-property signs) that were lawfully erected but that no longer conform to applicable requirements must be declared nonconforming but are not subject to removal unless additional criteria are met. These nonconforming off-property signs are not subject to removal for changing the advertising message on the sign or performing customary maintenance on the sign. These signs must remain substantially the same as they were on the date they became nonconforming in order to be exempt from removal by DOT although they can have an extension temporarily attached to the sign face if certain conditions are met. "Substantially the same" is defined to mean that, since the sign became nonconforming, no "substantial change" to the sign has been made. "Substantial change" to a sign is defined to mean any of the following: increasing the number of upright supports; changing the physical location; increasing the square footage or area of the sign face, except by adding a temporary extension meeting certain conditions; adding changeable message capability; or adding illumination to a sign that was previously not illuminated. With exceptions, these nonconforming off-property signs are subject to removal, without compensation, if a substantial change is made to the sign, if additional signs are erected, or if the sign is considered "destroyed," as defined under the bill. However, under one exception, if a nonconforming off-property sign is damaged or destroyed by a criminal or tortious act, the sign may be replaced or repaired. The bill also creates several definitions applicable to these nonconforming off-property signs, including a definition of "customary maintenance."

For further information see the *state and local* 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.** 84.30 (5) (br) of the statutes is created to read:
- 2 84.30 (5) (br) 1. In this paragraph:
- 3 a. "Copy" means the advertising or other information or images on a sign face
- 4 created to communicate to the public.

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1 b. “Copy change” means the process of substituting copy on a sign face, which
2 may include removing a face and substituting another face, adding an extension, or
3 other processes such as painting on wood, metal, or vinyl, affixing printed paper or
4 vinyl to the face, changing the message mechanically, or electronically changing the
5 copy from a remote location.

6 c. “Customary maintenance” on a sign includes nailing, bolting, fastening,
7 cleaning, and painting; replacing its components with equivalent or similar
8 components; except as provided in this subd. 1. c., replacing structural components,
9 including upright supports; making copy changes; upgrading existing illumination
10 for energy efficiency or worker safety; adding catwalks or handrails to address
11 safety; installing an apron to a sign structure to display identification of the sign
12 owner; or replacing the sign face. “Customary maintenance” does not include a single
13 repair that involves replacing more than 60 percent of the wooden upright supports
14 of a sign or replacing more than 30 percent of the length above ground of each broken,
15 bent, or twisted upright metal support of a sign.

16 d. “Destroyed,” with respect to a nonconforming sign, means that upright
17 supports are physically damaged such that, in the case of a sign structure with
18 wooden upright supports, at a particular time more than 60 percent of the supports
19 are broken and, under normal repair practices, would need to be replaced or, in the
20 case of a sign structure with metal upright supports, at a particular time more than
21 30 percent of the length above ground of each broken, bent, or twisted support would,
22 under normal repair practices, need to be replaced.

23 e. “Extension,” also known as a “cut-out” or “bump-out,” means a device or
24 embellishment temporarily attached to a sign face in order to expand the area
25 available for copy.

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1 f. "Sign face" or "face" means the material components of a sign on which the
2 advertising or other information is displayed including any trim, border, molding, or
3 extension.

4 g. "Substantial change," with respect to a nonconforming sign, means
5 increasing the number of upright supports; changing the physical location; except as
6 provided in subd. 5., increasing the square footage or area of the sign face; adding
7 changeable message capability; or adding illumination, either attached or
8 unattached, to a sign that was previously not illuminated. "Substantial change" does
9 not include customary maintenance.

10 h. "Substantially the same," with respect to a nonconforming sign, means that
11 no substantial change has been made to the sign since it became nonconforming.

12 2. Notwithstanding par. (a) or (b), signs described in sub. (3) (a), (d), (e), (f), or
13 (h) that were lawfully erected but that no longer conform to applicable requirements
14 are, upon noticed by registered mail from the department to the sign owner, declared
15 nonconforming but are not subject to removal, except as provided in subds. 4. and 6.

16 3. A sign described in subd. 2. shall remain substantially the same as it was
17 on the date it became nonconforming. To allow a sign described in subd. 2. to exist,
18 to perform customary maintenance on such a sign, or to change the advertising
19 message on such a sign, does not constitute a violation of sub. (3) or (4).

20 4. Except as provided in this subdivision and subd. 5., to make a substantial
21 change to a sign described in subd. 2. or to erect additional signs shall constitute a
22 violation of subs. (3) and (4). If the department determines that an activity under
23 this subdivision constitutes a violation of sub. (3) or (4), the department shall notify
24 by registered mail the sign owner and the owner of the property upon which the sign
25 is located of the alleged violation. If the alleged violation is remedied within 60 days

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1 of receipt of the notice under this subdivision, the activity does not constitute a
2 violation of sub. (3) or (4).

3 5. An addition of an extension to a sign is a copy change and is not a substantial
4 change to the sign if the extension meets all of the following criteria:

5 a. The square footage or area of the extension is 33 percent or less of the total
6 square footage or area of the sign face, prior to the addition of the extension. In
7 making this calculation, the area of the smallest square, rectangle, triangle, circle,
8 or contiguous combination of shapes that will encompass the extension shall be
9 compared to, and divided by, the area of the smallest square, rectangle, triangle,
10 circle, or contiguous combination of shapes that will encompass the sign face without
11 the extension.

12 b. The extension is added to the sign face for a period of no more than 3 years.
13 After the extension has been removed from the sign face, an extension may not be
14 added to that sign face for a period of 6 months.

15 6. a. Except as provided in subd. 6. b., and notwithstanding subd. 3., a sign
16 described in subd. 2. that is destroyed is subject to removal without compensation.

17 b. Notwithstanding subds. 3. and 4., if a nonconforming sign is damaged or
18 destroyed by a criminal or tortious act, the sign may be repaired or replaced. If the
19 sign is replaced, the replacement sign may not incorporate any elements that
20 constitute a substantial change from the sign that was damaged or destroyed. The
21 repair or replacement of a sign under this subdivision is not limited to activities
22 constituting customary maintenance.

23 7. A sign described in sub. (3) (a) that is declared nonconforming as provided
24 in subd. 2. may not be converted to any sign described in sub. (3) (d), (e), (f), or (h).

