

**1999 DRAFTING REQUEST**

**Assembly Amendment (AA-AB133)**

Received: 06/10/99

Received By: nelsorp1

Wanted: Soon

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Dyck

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters: nilsepe

Subject: Transportation - highways

Extra Copies:

TNF  
PEN

**Pre Topic:**

LFB:.....Dyck -

**Topic:**

Authorizing signs and commercial activities within highway rights-of-way

**Instructions:**

See Attached 99-1865

**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>
/1	nelsorp1 06/10/99	jgeller 06/10/99	martykr 06/10/99	_____	lrb_docadmin 06/10/99		

FE Sent For:

<END>

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/1	nelsorp1	1 6/10 jlg	km 6/10	km 6/10			

FE Sent For:

<END>

TRANSPORTATION -- STATE HIGHWAY PROGRAM

Signs and Commercial Activities Within Highway Rights-of-Way

*Farm out*

Motion:

Move to permit DOT, as part of a build-operate-lease or transfer agreement for the construction or operation of a transportation facility, to exempt a private entity from the prohibition against: (a) conducting a commercial enterprise within or on property acquired for, or designated as, a controlled-access highway; and (b) placing a sign, other than a sign necessary for the guidance or warning of traffic, within the limits of any street or highway. Specify that DOT may only exempt a private entity from these restrictions if the Department: (a) determines that such an exemption advances the public interest; and (b) specifies any requirements, as part of the build-operate-lease agreement, that the Department determines will practicably advance the purposes of those restrictions.

*LRB 1865/1*

Note:

Under current law, DOT is authorized to enter into build-operate-lease or transfer agreements for the construction of transportation facilities or for the operation and maintenance of transportation facilities if those facilities are not purchased by the state upon completion. DOT is required to include several provisions in any such agreement. This motion would allow DOT to include a provision that exempts the private entity from restrictions against conducting commercial activities within the highway right-of-way and against placing signs within the limits of any street or highway.

MO#	
Burke	<input checked="" type="checkbox"/> N
Decker	<input checked="" type="checkbox"/> N
Jauch	<input checked="" type="checkbox"/> N
Moore	<input checked="" type="checkbox"/> N
Shibilski	<input checked="" type="checkbox"/> N
Plache	<input checked="" type="checkbox"/> N
Cowles	<input checked="" type="checkbox"/> N
Panzer	<input checked="" type="checkbox"/> N
Gard	<input checked="" type="checkbox"/> N
Porter	<input checked="" type="checkbox"/> N
Kaufert	<input checked="" type="checkbox"/> N
Albers	<input checked="" type="checkbox"/> N
Duff	<input checked="" type="checkbox"/> N
Ward	<input checked="" type="checkbox"/> N
Huber	<input checked="" type="checkbox"/> N
Riley	<input checked="" type="checkbox"/> N

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

LRB-1865/1dn  
PEN:wlj&jlg:jf

January 19, 1999

The introductory language at s. 84.01 (30) *requires all* BOLT agreements to contain the specified provisions. Do you want the language at proposed s. 84.01 (30) (g) to apply to *all* BOLT agreements? I assumed not, so I included language in s. 84.01 (30) (g) limiting the exemption to circumstances that DOT determines advance the public interest. This allows DOT to grant the exception or withhold it, as appropriate, to advance the public interest. I also limited the restrictions that DOT may impose under s. 84.01 (30) (g) to restrictions related to the exemption granted by that paragraph. OK?

Paul E. Nilsen  
Legislative Attorney  
261-6926

**1999 BILL**

1 **AN ACT to amend** 84.25 (11) and 86.19 (1); and **to create** 84.01 (30) (g) of the  
2 statutes; **relating to:** authorizing signs and commercial activities within  
3 highway rights-of-way under build-operate-lease or transfer agreements.

---

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

Current law authorizes the department of transportation (DOT) to enter into build-operate-lease or transfer agreements with private entities for the construction of transportation projects on state-owned lands and for the maintenance and operation of transportation projects. Current law also prohibits conducting commercial enterprise, except licensed vending facilities operated by blind or visually impaired persons, within or on property acquired for or designated as a controlled-access highway and prohibits the placement of signs within the limits of any street or highway.

This bill authorizes DOT to allow a person to conduct private commercial enterprise within or on property acquired for or designated as a controlled-access highway and to place signs within the limits of a street or highway, if the person acts under a build-operate-lease or transfer agreement. DOT may allow such commercial enterprise and such placement of signs only if such activities advance the public interest. The bill allows DOT to restrict the commercial enterprise and the placement of such signs to practically advance the purposes of the general prohibitions against such activities.

1999

Date (time) needed soon

LRB b 06341 1

**LFB BUDGET AMENDMENT  
[ONLY FOR LFB]**

RPN: jlg:

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**LFB AMENDMENT  
TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45**

>>FOR JT. FIN. SUB. — NOT FOR INTRODUCTION<<

At the locations indicated, amend the bill as follows:

#. Page 910, line 6: after that line insert:  
Insert A →

#. Page 910, line 19: after that line insert:  
Insert B

#. Page 921, line 8: after that line insert:  
Insert C

#. Page ....., line .....:  
(End) ✓

#. Page ....., line .....

#. Page ....., line .....

**BILL**

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 ~~7~~. <sup>1818m</sup> (30) (g) of the statutes is created to read:

2 84.01 (30) (g) If the department determines that such a provision advances the  
3 public interest, a provision exempting the private entity from the restrictions under  
4 ss. 84.25 (11) and 86.19 (1), and specifying any requirements that the department  
5 determines will practicably advance the purposes of ss. 84.25 (11) and 86.19 (1). "

6 " SECTION ~~7~~. <sup>1820m</sup> 84.25 (11) of the statutes is amended to read:

7 84.25 (11) COMMERCIAL ENTERPRISES. No commercial enterprise, except a  
8 vending facility which is licensed by the department of workforce development and  
9 operated by blind or visually impaired persons, or a commercial enterprise exempted  
10 from this subsection by an agreement under s. 84.01 (30) (g), shall be authorized or  
11 conducted within or on property acquired for or designated as a controlled-access  
12 highway. "

13 " SECTION ~~7~~. <sup>1855 KP</sup> 86.19 (1) of the statutes is amended to read:

14 86.19 (1) Except as provided in sub. (1m) or s. 84.01 (30) (g), no sign shall be  
15 placed within the limits of any street or highway except such as are necessary for the  
16 guidance or warning of traffic or as provided by ss. 60.23 (17m) and 66.046. The  
17 authorities charged with the maintenance of streets or highways shall cause the  
18 removal therefrom and the disposal of all other signs. "

19

(END)

*INS A*

*INS B*

*INS C*

6/15/69

b0634/1

I advised Jon Dyck of Leg. Fiscal Bureau that 23 USC ~~111~~ 111 prohibits commercial activities within rights-of-way of federal-aid highways.

Jon advised me that ~~not~~ Fred Ammerman does not want to add language to this draft referencing the federal prohibition

I recommended adding, at page 1, line 5: after "interest" insert "and does not violate 23 USC 111", Jon Dyck declined.

-PEN





State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb0634/1  
RPN;jlg:km

LFB:.....Dyck – Authorizing signs and commercial activities within highway  
rights-of-way

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

**LFB AMENDMENT**

**TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 910, line 6: after that line insert:

3 “SECTION 1818m. 84.01 (30) (g) of the statutes is created to read:

4 84.01 (30) (g) If the department determines that such a provision advances the  
5 public interest, a provision exempting the private entity from the restrictions under  
6 ss. 84.25 (11) and 86.19 (1), and specifying any requirements that the department  
7 determines will practicably advance the purposes of ss. 84.25 (11) and 86.19 (1).”.

8 **2.** Page 910, line 19: after that line insert:

9 “SECTION 1820m. 84.25 (11) of the statutes is amended to read:

10 84.25 (11) COMMERCIAL ENTERPRISES. No commercial enterprise, except a  
11 vending facility which is licensed by the department of workforce development and

1 operated by blind or visually impaired persons, or a commercial enterprise exempted  
2 from this subsection by an agreement under s. 84.01 (30) (g), shall be authorized or  
3 conducted within or on property acquired for or designated as a controlled-access  
4 highway.”.

5 **3.** Page 921, line 8: after that line insert:

6 “**SECTION 1855p.** 86.19 (1) of the statutes is amended to read:

7 86.19 (1) Except as provided in sub. (1m) or s. 84.01 (30) (g), no sign shall be  
8 placed within the limits of any street or highway except such as are necessary for the  
9 guidance or warning of traffic or as provided by ss. 60.23 (17m) and 66.046. The  
10 authorities charged with the maintenance of streets or highways shall cause the  
11 removal therefrom and the disposal of all other signs.”.

12

(END)