

2003 SENATE BILL 390

January 14, 2004 - Introduced by Senators KANAVAS, M. MEYER, BROWN, SCHULTZ and HANSEN, cosponsored by Representatives WARD, NISCHKE, LADWIG, VAN ROY, ALBERS, MCCORMICK, GUNDERSON, FREESE, MUSSER, GRONEMUS, M. LEHMAN, TOWNSEND, HAHN, HUEBSCH, GIELOW, SUDER, MONTGOMERY, F. LASEE, SERATTI, J. WOOD, HONADEL, KRAWCZYK, AINSWORTH and VRAKAS. Referred to Committee on Transportation and Information Infrastructure.

- 1 **AN ACT to create** 86.03 (5m) of the statutes; **relating to:** removal of vegetation
2 along highways 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 under its jurisdiction (state trunk highways). DOT must provide for the care and protection of trees and other roadside vegetation, including suitable planting to prevent soil erosion and to beautify the highways. 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. DOT is also required to establish procedures for increasing the number of trees planted on state trunk highway rights-of-way.

Current law also prohibits a person from cutting, trimming, removing, or injuring any tree or other vegetation within the right-of-way of a state trunk highway without the consent of DOT. With DOT's approval, an owner of land adjoining a state trunk highway may plant and maintain trees and other vegetation on the side of the highway within 10 feet of the owner's land, and these trees and other vegetation may be cut or removed only by the owner or DOT.

The federal Highway Beautification Act requires states to restrict advertising along interstate and federal-aid primary highways, which includes state trunk 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 beyond 660 feet but visible (and erected for the purpose of being visible) from, the main-traveled way of an interstate or

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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 this bill, if a tree or other vegetation located in the right-of-way of a state trunk highway (including any segment designated as a freeway or expressway) prevents a motorist traveling on the highway at the posted speed limit from continuously observing, for six uninterrupted seconds while the motorist's vehicle is most directly in front of, any sign located on a business premises adjacent to the highway right-of-way that advertises the business to motorists on the adjacent highway or any outdoor advertising sign adjacent to the highway right-of-way, a person who maintains a majority ownership interest in the business or in the sign may trim or remove any obstructing tree or other vegetation located in the highway right-of-way if all of the following requirements are met:

1. The person obtains a permit from DOT.
2. The person pays the cost of trimming or removing the obstructing tree or other vegetation and of replacing any removed tree or vegetation.
3. If the person has removed any tree or other vegetation, the person replaces the removed tree or vegetation with comparable vegetation.
4. No state funds are expended for the trimming, removal, or replacement of any tree or other vegetation.

The bill requires DOT to issue permits to eligible applicants for the trimming or removal of trees and other vegetation located in the rights-of-way of state trunk highways. Each permit must specify the trees or vegetation or the portion of the highway right-of-way to which the permit applies. DOT must grant or deny each application for a permit within 30 days of receipt of the application.

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.** 86.03 (5m) of the statutes is created to read:
- 2 **86.03 (5m)** TREES AND OTHER VEGETATION BLOCKING VIEW OF BUSINESS OR SIGN.
- 3 (a) In this subsection, "vegetation" means any tree, shrub, hedge, or other foliage.
- 4 (b) Notwithstanding s. 80.01 (3) and any other provision of this section, if any
- 5 vegetation located in the right-of-way of any highway, including any freeway or
- 6 expressway designated under s. 84.295, under the jurisdiction of the department

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1 prevents the operator of a vehicle traveling on such a highway at the posted speed
2 limit from continuously observing, for 6 uninterrupted seconds while the vehicle is
3 most directly in front of, any sign located on a business premises adjacent to the
4 highway right-of-way that advertises the business to motorists on the adjacent
5 highway or any sign specified under s. 84.30 adjacent to the highway right-of-way,
6 any person who maintains a majority ownership interest in the business or in the
7 sign may trim or remove any obstructing vegetation located in the highway
8 right-of-way if all of the following requirements are met:

9 1. The person obtains a permit from the department under par. (c).

10 2. The person pays for the cost of trimming or removing the obstructing
11 vegetation, including the cost of cleanup and disposal, and for replacing any removed
12 vegetation, including the cost of purchasing and planting the replacement
13 vegetation.

14 3. If the person has removed vegetation, the person replaces the removed
15 vegetation with comparable vegetation along the same highway right-of-way,
16 provided that the person may not locate replacement vegetation in a manner that
17 obstructs, or will obstruct in the foreseeable future, the view from the highway of
18 another existing sign identified in this paragraph.

19 4. No state funds are expended for the trimming, removal, or replacement of
20 vegetation under this paragraph.

21 (c) The department shall issue permits to eligible applicants for the trimming
22 or removal of vegetation located in a highway right-of-way under par. (b). Any
23 permit issued under this paragraph shall specify the vegetation or the portion of the

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1 highway right-of-way to which the permit applies. The department shall grant or
2 deny an application for a permit within 30 days of receipt of the application.

3 (END)