

2005 DRAFTING REQUEST

Assembly Amendment (AA-AB20)

Received: 03/10/2005

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **John Ainsworth (608) 266-3097**

By/Representing: **Kristina Boardman (aide)**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - highways**

Extra Copies: **PJH**

Submit via email: **YES**

Requester's email: **Rep.Ainsworth@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

specific information signs; outdoor advertising language

Instructions:

See Attached

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	agary 03/15/2005	lkunkel 03/15/2005	pgreensl 03/15/2005	_____	mbarman 03/15/2005	mbarman 03/15/2005	

FE Sent For:

<END>

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/?	agary	1 lmk 3/15	3/15 p8	3/15 selo			

FE Sent For:

<END>

Gary, Aaron

From: Gary, Aaron
Sent: Thursday, March 10, 2005 10:06 AM
To: Boardman, Kristina
Subject: RE: AB 20

Hi Kristina,

I can draft this amendment as outlined if you like, but I think it is an imperfect way to draft it and think it could create more problems than it solves.

With regard to bill section 4 of AB-20, I advised at the time of drafting that I thought the provision had no legal effect, since there is no language in either s. 84.30 or s. 86.195 that would suggest that a person who obtains a sign under s. 86.195 could be prohibited from then having a sign under s. 84.30. However, if you add pinpoint cites like (c), (d), (e), etc. in the bill as DOT suggests, one might argue that the omission of (a), (b) etc. indicates that a person *can* be prohibited from having one of these signs if the person has a sign under s. 86.195. So we try to avoid drafting in this way. Moreover, adding the (a) back into it (per OAA) means that the problem that DOT perceives will still exist.

As I read the DOT memo, what they are really saying is that, on p. 2, line 10 of AB-20, the word "advertising" isn't a good choice of words. While this seems pretty minor given that the section is called "regulation of outdoor advertising" and I think the intent is still clear, this criticism also has merit, particularly in the context of signs under s. 84.30 (3) (a).

From a drafting perspective, I think that the best solution is for the amendment to simply change the word "advertising" on p. 2, line 10, to the phrase "advertising or displaying information". This should address DOT's concern in the technical memo and doesn't have the problems identified above. (And I should not that, with respect to those problems, bill section 4 refers to all SIS signs, not just attraction signs, so I think the omission of "(b)" from the list could possibly creates litigation issues even if OAA doesn't.)

How would you like me to proceed? I can draft the amendment as specified in the e-mail below or as I describe above (adding "or displaying information" after "advertising"). Or I could contact DOT and ask if my suggested change would satisfy their concerns?

Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

-----Original Message-----

From: Boardman, Kristina
Sent: Wednesday, March 09, 2005 3:32 PM
To: Gary, Aaron
Subject: AB 20

Aaron:

Rep. Ainsworth would like to request an amendment to AB 20:

page 2 - line 11:

"s. 84.30 (3) (a) (c) (d) (e) (f) (g) or (h), subject to any limitation on such signs under s. 84.30."

This amendment addresses the WisDOT Technical Memo - while inserting (a) to address the concerns of the Outdoor Advertising Association of Wisconsin. If you have any questions - please let me know.

The Committee plans to vote on this bill on March 24th. If I could receive the amendment by March 18th - that would be great!

Thank you Aaron.

Kristina Boardman, Committee Clerk
Wisconsin State Assembly Transportation Committee
Representative Ainsworth's Office
608.266.3097- phone
608.282.3603 - fax
kristina.boardman@legis.state.wi.us

CORRESPONDENCE MEMORANDUM

DT1175 97

Wisconsin Department of Transportation

Date: February 23, 2005

To: Aaron Gary
Legislative Reference Bureau

From: David Vieth
Division of Transportation Infrastructure Development

Subject: Technical Memo – AB 20

2005 Assembly Bill 20: It would be helpful if the provision in section 4 were more specific as to the type of signs regulated under s. 84.30 to which the bill refers. While clarity could be added through the rule making process, clarity in the bill would be useful to assure an understanding of the legislative intent.

Under s. 84.30 a distinction is made between many types of regulated signs. The entire section is entitled Regulation of outdoor advertising, yet there are meaningful distinctions drawn in the law about signs which advertise and other signs which direct or provide official or other types of information. With regard to this bill, it appears the intent is to assure that a person requesting installation of a business sign for an attraction would also be able to advertise that attraction on other off right of way advertising signs.

That could be accomplished by specifying that a person advertising the attraction on signs regulated under s. 84.30 (3) (c), (d), (e), (f), (g), or (h) would not be prohibited from requesting installation of a business sign.

Here is a possible revision to section 4 to make that clarification:

Section 4. 86.195 (2) (b) 4. of the statutes is created to read:

86.195 (2) (b) 4. Nothing in this section prohibits a person requesting installation of a business sign under sub. (3) (e) from advertising on any sign under s. 84.30 (3) (c), (d), (e), (f), (g), or (h), subject to any limitation on such signs under 84.30.

The effect would be to avoid confusion as to whether directional or official signs, and certain other signs regulated under 84.30 would be considered advertising signs for the purposes of this provision. The most relevant conflict would be from the specific regulated sign category identified under (a) as directional signs, which are distinguished from advertising signs. These signs may only provide directional information about qualifying attractions without advertising, and are subject to other limitations and criteria as to size, qualifying activities, spacing, and numbers. Because they are distinguished from advertising signs, they are not limited to locations where the zoning is commercial or industrial. Given the direct connection between off highway right-of-way directional signs, which are used for certain qualifying attractions, and an attractions category of business signs located on the highway right-of-way created in this bill, there is a need to provide clear guidance in the law.

Further, understanding that the bill intends that attractions with advertising signs are not to be prohibited from requesting installation of a sign under the specific information sign program, it is reasonable to anticipate that the administrative rule making needed to implement this proposed law will include additional criteria for choosing among applications for these limited sign opportunities.

Prepared by David Vieth, 267-8999

Gary, Aaron

a0300

From: Gary, Aaron
Sent: Thursday, March 10, 2005 11:39 AM
To: Seaquist, Linda
Cc: Vieth, David
Subject: Technical Memo to AB-20

Hi Linda,

I have reviewed DOT's Technical Memo related to bill section 4 of AB-20. The suggested language change would not be my preferred way of drafting to address DOT's concern. If I add pinpoint cites like (c), (d), (e), etc. as suggested, one might argue that the omission of (a), (b) etc. creates an inference that a person *can* be prohibited from having a sign under par. (a), (b), etc. if the person has a sign under s. 86.195, given the way the provision is phrased in the line before (p. 2, line 9 of the bill). Or at least it begs the question: If nothing prohibits a person from advertising on a sign under s. 84.30 (c), (d), etc., is there (based on the omission of (a), (b), etc.) something that prohibits a person from advertising on a sign under s. 84.30 (a), (b), etc.? To avoid creating an inference by omission, we try to avoid drafting language like this.

As I read the DOT memo, what I perceive as the gist of the memo is that, on p. 2, line 10 of AB-20, the word "advertising" isn't a good choice of words. I see the concern, particularly in the context of signs under s. 84.30 (3) (a). I would like to address this concern while making no change to the status quo under s. 84.30.

From a drafting perspective, I think that the best solution is for an amendment to simply change the word "advertising" on p. 2, line 10, to the phrase "advertising or displaying information". Would this adequately satisfy DOT's concern giving rise to the Technical Memo?

Thanks for your feedback. Aaron

Aaron R. Gary
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Legislative Reference Bureau
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608.264.6948 (fax)
aaron.gary@legis.state.wi.us

f/- w/ Dave Vieth 3/14

a no, really what DOT wants is that DOT can deny the SIS if you have a s. 84.30 sign for some attraction in same area (ie they want a policy change not a technical change)

Wanted
by 3/16
end of day

lmk

**ASSEMBLY AMENDMENT ,
TO 2005 ASSEMBLY BILL 20**

- 1 At the locations indicated, amend the bill as follows: ✓
- 2 **1.** Page 2, line 10: after “advertising” insert “or displaying information”. ✓
- 3 (END)