



## 2005 ASSEMBLY BILL 741

October 11, 2005 - Introduced by Representatives FRISKE, AINSWORTH, HAHN, DAVIS, MUSSER, ALBERS, TOWNSEND, KRAWCZYK, GUNDERSON and BALLWEG, cosponsored by Senators GROTHMAN and REYNOLDS. Referred to Committee on Transportation.

1     **AN ACT** *to renumber* 84.30 (18); *to amend* 84.30 (18) (title) and 227.43 (1) (bg);  
2             and *to create* 84.30 (18) (b) of the statutes; **relating to:** review of Department  
3             of Transportation decisions related to outdoor advertising signs.

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### *Analysis by the Legislative Reference Bureau*

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. Exceptions to this prohibition include, with some restrictions, directional and other official signs, landmark signs, signs advertising the sale or lease of property, "on-premises" signs, signs located beyond 660 feet of the highway in urban areas, and signs in business areas. The Department of Transportation (DOT) may remove, upon 60 days' prior written notice, certain 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. A person receiving such a notice is entitled to a hearing before the Division of Hearings and Appeals (DHA) in the Department of Administration to contest the sign removal. (A person who contests only the amount of compensation payable by DOT for a sign removal or relocation is entitled to bring a condemnation action.) DOT also issues licenses to persons authorizing them to engage in the business of outdoor advertising and may, by rule, require the payment

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of annual permit fees for most outdoor advertising signs. Upon 30 days' prior written notice, DOT may revoke a license. Hearings concerning the denial or revocation of a sign permit or license must be conducted before the DHA. A person may obtain judicial review of a final decision of the DHA in the circuit court, but this review is conducted by the court without a jury and is confined to the record before the DHA. The circuit court does not conduct its own evidentiary proceeding.

This bill allows a person aggrieved by a DOT notice of intent to remove an outdoor advertising sign or to revoke an outdoor advertising sign business license, or by a denial or revocation of any other outdoor advertising sign permit or license, to consider the notice, denial, or revocation to be DOT's final decision on the matter and to elect to bypass the DHA administrative hearing process and institute a civil action in circuit court to contest DOT's decision. In a circuit court action, the person is entitled to an evidentiary proceeding governed by the rules of civil procedure. A person must bring an action before the circuit court within 20 days of DOT's decision but may not bring an action in the circuit court if a hearing before the DHA has already been initiated.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 84.30 (18) (title) of the statutes is amended to read:

2           84.30 (18) (title) ~~HEARINGS; TRANSCRIPTS;~~ JUDICIAL REVIEW.

3           **SECTION 2.** 84.30 (18) of the statutes is renumbered 84.30 (18) (a).

4           **SECTION 3.** 84.30 (18) (b) of the statutes is created to read:

5           84.30 (18) (b) Notwithstanding par. (a), sub. (10) (d), and s. 801.50, a person  
6           aggrieved by a sign removal notice under sub. (11), a notice that the department may  
7           revoke the person's license under sub. (10) (d), or any other denial or revocation of  
8           a sign permit or license under this section may consider the notice, denial, or  
9           revocation to be the department's final decision on the matter and may, within 20  
10          days after this decision, bring an action to contest this decision in the circuit court  
11          of any county where the person resides or where a sign subject to such a notice is  
12          located. Any action brought under this paragraph is an action for purposes of s.

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1 801.01, governed by procedures and practice under chs. 801 to 847, except that venue  
2 for the action shall be as provided in this paragraph. A person may not bring an  
3 action under this paragraph if a hearing on the matter has been initiated under par.  
4 (a).

5 **SECTION 4.** 227.43 (1) (bg) of the statutes is amended to read:

6 227.43 (1) (bg) Assign a hearing examiner to preside over any hearing or review  
7 under ss. 84.30 (18) (a), 84.31 (6) (a), 85.013 (1), 86.073 (3), 86.16 (5), 86.195 (9) (b),  
8 86.32 (1), 101.935 (2) (b), 101.951 (7) (a) and (b), 114.134 (4) (b), 114.135 (9), 114.20  
9 (19), 175.05 (4) (b), 194.145 (1), 194.46, 218.0114 (7) (d) and (12) (b), 218.0116 (2), (4),  
10 (7) (a), (8) (a) and (10), 218.0131 (3), 218.11 (7) (a) and (b), 218.22 (4) (a) and (b), 218.32  
11 (4) (a) and (b), 218.41 (4), 218.51 (5) (a) and (b), 341.09 (2m) (d), 342.26, 343.69 and  
12 348.25 (9).

13 **SECTION 5. Initial applicability.**

14 (1) This act first applies to notices, denials, and revocations of the department  
15 of transportation occurring on the effective date of this subsection.

16 (END)