

2009 DRAFTING REQUEST

Bill

Received: **07/07/2009**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Jim Sullivan (608) 266-2512**

By/Representing: **Amy Handler**

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

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - highways**

Extra Copies: **EVM**

Submit via email: **YES**

Requester's email: **Sen.Sullivan@legis.wisconsin.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Placement of advertising signs in highway rights of way

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>
/P1	agary 07/14/2009	wjackson 07/21/2009	rschluet 07/21/2009	_____	mbarman 07/21/2009		
/P2	agary 07/31/2009	wjackson 08/07/2009	phenry 08/10/2009	_____	lparisi 08/10/2009		
/P3	agary 08/14/2009	wjackson 08/21/2009	rschluet 08/27/2009	_____	lparisi 08/27/2009		
/P4	agary	wjackson	phenry	_____	lparisi		

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	10/02/2009	10/07/2009	10/08/2009 _____		10/08/2009		
/1	agary 10/15/2009	wjackson 10/20/2009	rschluet 10/20/2009 _____		lparisi 10/20/2009	cduerst 01/08/2010	

FE Sent For:

None

<END>

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C 10/20/09
PH 10/20

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Handwritten notes below table:
 /P4 WJ/07/27
 10
 7
 mh
 ml/gof

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43 WJ 8/21
[Handwritten signature]
[Handwritten initials]
[Handwritten initials]
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/p2 wlj 8/7

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/10
ph

ph/mo
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/P1	agary	/plwj 7/21					

FE Sent For:

<END>

Gary, Aaron

From: Handler, Amy
Sent: Tuesday, July 07, 2009 4:06 PM
To: Gary, Aaron
Subject: RE: Placing signs on highway medians

The "causes the placement" would apply to the business, that is what Jim really wants (the business to be cited, not the person who actually erects the sign)

Senator Sullivan does want a forfeiture of \$50 per offense, as long as that means per sign.

Amy Handler
Office of State Senator Jim Sullivan
State Capitol, Room 15 South
P.O. Box 7882
Madison, WI 53707
608-266-2512

From: Gary, Aaron
Sent: Tuesday, July 07, 2009 3:43 PM
To: Handler, Amy
Subject: RE: Placing signs on highway medians

Hi Amy,

"Highway" is statute-speak for any road or street. So the draft, in referring to highways or highway right-of-ways, will cover all roads and medians.

If I use the language "causes the placement," we don't have to worry about situations where the business did not know - this language should provide sufficient causation and culpability.

A forfeiture is a civil penalty; a fine is a criminal penalty. So it sounds like the penalty you want is a forfeiture of \$50 per offense. So, yes, the business would be cited for the violation, could choose to contest it or not in court, and if the business is found guilty of the violation the business would have to pay the forfeiture amount.

Aaron

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

From: Handler, Amy
Sent: Tuesday, July 07, 2009 3:35 PM
To: Gary, Aaron
Cc: Sundberg, Christopher
Subject: RE: Placing signs on highway medians

07/07/2009

Hi Aaron,

Thanks for getting back to me.

First, Senator Sullivan would like this legislation to apply not just "highway right-of-ways", but to all roads and medians.

To answer your questions, yes, Senator Sullivan would like to impose a liability on the business or organizations for "causing the placement" of a sign as is done under current law as described in 2. And I'll have to check with him about cases where a business neither knew, nor should have known. Finally, Senator Sullivan would like the penalty to be \$50 per sign.

Another question, what is a civil penalty? Does this mean the business would have to appear in court? Is this just a monetary fine?

Amy Handler
Office of State Senator Jim Sullivan
State Capitol, Room 15 South
P.O. Box 7882
Madison, WI 53707
608-266-2512

From: Gary, Aaron
Sent: Tuesday, July 07, 2009 3:10 PM
To: Handler, Amy
Cc: Sundberg, Christopher
Subject: Placing signs on highway medians

Amy,

Chris Sundberg advised me that Sen. Sullivan would like a draft to prohibit the placement of highway signs in the medians of public roads. As I understand it, under the draft, the business or organization identified on the sign would be subject to a penalty.

Current law contains 2 different, overlapping provisions prohibiting the placement of signs (other than traffic control signs) within highway rights-of-way.

1. The broader provision prohibits the placement of signs, other than traffic guidance or warning signs, within the limits of any street or highway and punishes a person who violates this provision with a fine (a criminal penalty, thus making it a misdemeanor) of not less than \$10 nor more than \$100 for a 1st offense and not less than \$10 nor more than \$500 for a 2nd offense.

2. The narrower provision prohibits a person from erecting, or causing to be erected, any advertising sign or certain other signs at certain locations within public highways outside of cities and villages. A person who violates this prohibition is also guilty of a misdemeanor and may be fined not less than \$25 nor more than \$100 or imprisoned in the county jail for not more than 30 days or both.

It seems problematic to me to impose a penalty on the business or organization identified on the sign unless there is some showing of responsibility for placement of the sign. Do you want to impose liability on the business or organization for "causing the placement" of the sign, as is done under current law as described in 2. above? Or do you want to allow an affirmative defense that liability will not be imposed if the business or organization shows that it neither knew, nor should have known, that its signs were being placed within highway rights-of-way? And what should the penalty be? The same as one of those above? Or a civil penalty? And if so, in what amount?

Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau

07/07/2009

608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

Gary, Aaron

From: Handler, Amy
Sent: Wednesday, July 08, 2009 4:58 PM
To: Gary, Aaron
Subject: RE: Placing signs on highway medians

That sounds good, thanks Aaron.

Also, Senator Sullivan did specify today that in cases where businesses attempt to prove they did not know about the signs being placed in medians he wants there to be a clause which indicates that if a business had the signs printed then there is constructive assumption of their intent to distribute the signs.

Amy Handler
Office of State Senator Jim Sullivan
State Capitol, Room 15 South
P.O. Box 7882
Madison, WI 53707
608-266-2512

From: Gary, Aaron
Sent: Wednesday, July 08, 2009 1:46 PM
To: Handler, Amy
Subject: RE: Placing signs on highway medians

Amy,

I'm not exactly sure - probably a couple of weeks. I have quite a few drafts ahead of this one in the queue.

Aaron

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

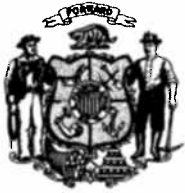
From: Handler, Amy
Sent: Wednesday, July 08, 2009 12:27 PM
To: Gary, Aaron
Subject: RE: Placing signs on highway medians

Hi Aaron,

I meant to ask, when do you think the draft will be ready?

Thanks!

07/10/2009



soon

in 7/14

WJ
D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

^ except a sign that is
^ necessary for the guidance or
warning of traffic, ^

Gen Cat

1 AN ACT ..., relating to: the placement of advertising signs in highway
2 rights-of-way.

Analysis by the Legislative Reference Bureau

* Under current law, with limited exceptions, no sign may be placed within the limits of any highway except signs that are necessary for the guidance or warning of traffic. A person who violates this prohibition must be fined not less than \$10 nor more than \$100 for a first violation and not less than \$10 nor more than \$500 for a subsequent violation.

Under a different provision of current law, with limited exceptions, a person may not erect, or cause to be erected, any advertising, guide, or warning sign within a highway that is outside a city or village and is 1,000 feet or less from an intersection with another highway. A person who violates this prohibition must be fined not less than \$25 nor more than \$100 or imprisoned in the county jail for not more than 30 days or both.

* This bill prohibits, with exceptions, a person from placing, or causing to be placed, any sign within a highway right-of-way that advertises or promotes a business or organization identified on the sign. If a sign has been placed in violation of this prohibition and the business or organization identified on the sign had the sign made, there is a rebuttable presumption that this business or organization

caused the sign to be placed. A person who violates this prohibition must forfeit \$50 for each sign.

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

1 **SECTION 1.** 86.191 (5) of the statutes is amended to read:

2 86.191 (5) Any person who violates ~~any of the provisions of this section sub. (1),~~
3 (3), or (4) shall be guilty of a misdemeanor and on conviction thereof shall be
4 punished by a fine of not less than \$25 nor more than \$100 for each offense, or by
5 imprisonment in the county jail for a period not exceeding 30 days, or by both such
6 fine and imprisonment in the discretion of the court.

7 History: 1991 a. 316; 1993 a. 490.

8 **SECTION 2.** 86.191 (6) of the statutes is created to read:

9 86.191 (6) (a) Subject to subs. (1) and (4) and s. 86.19, and except as provided
10 in par. (c), no person may place, or cause to be placed, any sign within a highway
11 right-of-way that advertises or promotes a business or organization identified on
12 the sign.

13 (b) If a sign has been placed in violation of par. (a) and the business or
14 organization identified on the sign had the sign made, there is a rebuttable
15 presumption that this business or organization caused the sign to be placed in
16 violation of par. (a).

17 (c) This subsection does not apply to any of the following:

18 1. Any sign placed with the permission of an official charged with the
19 maintenance of the highway.

20 2. Any sign authorized under s. 60.23 (17m), 66.0429, 84.01 (30) (g), 84.30,
21 86.195, or 86.196.

22 3. The name of a newspaper on a newspaper tube or receptacle.

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

LRB-3093/P1/n
ARG:...

WLj

Date

ATTN: Amy Handler

Please review the attached draft carefully to ensure that it is consistent with your intent.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

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

LRB-3093/P1dn
ARG:wlj:rs

July 21, 2009

ATTN: Amy Handler

Please review the attached draft carefully to ensure that it is consistent with your intent.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

7/30

Army - Sen. Sullivan
LCB-3093 6-2512

- ~~the~~ business only gets punished - want to punish only the business, not the individual
- business ^{only} → who places the sign
 - except realtors



500v

in 7/31

stays

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

1 AN ACT *to amend* 86.191 (5); and *to create* 86.191 (6) of the statutes; **relating**
2 **to:** the placement of advertising signs in highway rights-of-way.

Analysis by the Legislative Reference Bureau

Under current law, with limited exceptions, no sign, except a sign that is necessary for the guidance or warning of traffic, may be placed within the limits of any highway. A person who violates this prohibition must be fined not less than \$10 nor more than \$100 for a first violation and not less than \$10 nor more than \$500 for a subsequent violation.

Under a different provision of current law, with limited exceptions, a person may not erect, or cause to be erected, any advertising, guide, or warning sign within a highway that is outside a city or village and is 1,000 feet or less from an intersection with another highway. A person who violates this prohibition must be fined not less than \$25 nor more than \$100 or imprisoned in the county jail for not more than 30 days or both.

* This bill prohibits, with exceptions, a ^{business entity} ~~person~~ from placing, or causing to be placed, within a highway right-of-way any sign that advertises or promotes a business ~~or organization~~ identified on the sign. If a sign has been placed in violation of this prohibition and the business ~~or organization~~ identified on the sign had the sign made, there is a rebuttable presumption that this business ~~or organization~~

✓
✓
✓

business entity that

*

caused the sign to be placed. A ~~person~~ violates this prohibition must forfeit \$50 for each sign.

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

1 SECTION 1. 86.191 (5) of the statutes is amended to read:

2 86.191 (5) Any person who violates any of the provisions of this section sub. (1),
3 (3), or (4) shall be guilty of a misdemeanor and on conviction thereof shall be
4 punished by a fine of not less than \$25 nor more than \$100 for each offense, or by
5 imprisonment in the county jail for a period not exceeding 30 days, or by both such
6 fine and imprisonment in the discretion of the court.

7 SECTION 2. 86.191 (6) of the statutes is created to read:

8 86.191 (6) (a) Subject to subs. (1) and (4) and s. 86.19, and except as provided
9 in par. (b), no ~~person~~ ^{business entity} may place, or cause to be placed, within a highway right-of-way
10 any sign that advertises or promotes a business or organization identified on the
11 sign.

12 (b) If a sign has been placed ^{insert 2-12} in violation of par. (a) and ^{this} ~~the~~ business or
13 organization identified on the sign had the sign made, there is a rebuttable
14 presumption that this business or organization caused the sign to be placed in
15 violation of par. (a).

16 (c) This subsection does not apply to any of the following:

17 1. Any sign placed with the permission of an official charged with the
18 maintenance of the highway.

19 2. Any sign authorized under s. 60.23 (17m), 66.0429, 84.01 (30) (g), 84.30,
20 86.195, or 86.196.

21 3. The name of a newspaper on a newspaper tube or receptacle.

Handwritten annotations: 'insert 2-8' with arrow pointing to line 7; 'business entity' with arrow pointing to line 9; 'insert 2-12' with arrow pointing to line 12; 'within a highway right-of-way' with arrows pointing to lines 9 and 10; 'this' with arrow pointing to line 12; 'a' with arrow pointing to line 13; 'b' with arrow pointing to line 15.

e
business entity

1

(~~1~~) Any ~~person~~ violating this subsection shall forfeit \$50 for each offense. Each

2

sign placed in violation of par. (~~1~~) constitutes a separate offense.

3

(END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3093/P2ins
ARG:.....

1 **INSERT 2-8:**

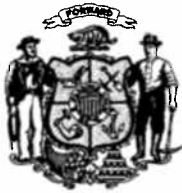
2 (a) In this subsection, "business entity" has the meaning given in s. 13.62 (5),
3 but does not include any real estate broker or salesperson licensed under ch. 452 or
4 any other individual selling real estate owned by the individual.

5

6 **INSERT 2-12:**

7 ~~within a highway right-of-way~~ that advertises or promotes a business
8 identified on the sign

9



State of Wisconsin
2009 - 2010 LEGISLATURE

Socw

LRB-3093/12 P3

ARG:wlj:ph

in 8/14

stays
RMP

8/14 mtg w/ Amy Handlov - changes per Amy

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

or whose telephone number appears on the sign

ReGen

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2 to: the placement of advertising signs in highway rights-of-way.

Analysis by the Legislative Reference Bureau

Under current law, with limited exceptions, no sign, except a sign that is necessary for the guidance or warning of traffic, may be placed within the limits of any highway. A person who violates this prohibition must be fined not less than \$10 nor more than \$100 for a first violation and not less than \$10 nor more than \$500 for a subsequent violation.

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This bill prohibits, with exceptions, a business entity from placing, or causing to be placed, within a highway right-of-way any sign that advertises or promotes a business identified on the sign. If a sign has been placed in violation of this prohibition and the business identified on the sign had the sign made, there is a rebuttable presumption that this business caused the sign to be placed. A business entity that violates this prohibition must forfeit \$50 for each sign.

*
*

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

or a business whose telephone number appears on the sign

Not

Or a business whose telephone number appears on the sign

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8 86.191 (6) (a) In this subsection, "business entity" has the meaning given in s.
9 13.62 (5), but does not include any real estate broker or salesperson licensed under
10 ch. 452 or any other individual selling real estate ^{or personal property} owned by the individual.

11 (b) Subject to subs. (1) and (4) and s. 86.19, and except as provided in par. (d),
12 no business entity may place, or cause to be placed, within a highway right-of-way
13 any sign that advertises or promotes a business identified on the sign

14 (c) If a sign ^{described in para. (b)} ~~that advertises or promotes a business identified on the sign~~, has
15 been placed within a highway right-of-way and ^{the} ~~this~~ business had the sign made,
16 there is a rebuttable presumption that this business caused the sign to be placed in
17 violation of par. (b).

18 (d) This subsection does not apply to any of the following:

- 19 1. Any sign placed with the permission of an official charged with the
- 20 maintenance of the highway.
- 21 2. Any sign authorized under s. 60.23 (17m), 66.0429, 84.01 (30) (g), 84.30,
- 22 86.195, or 86.196.
- 23 3. The name of a newspaper on a newspaper tube or receptacle.

Not

identified on the sign or whose telephone number appears on the sign

10/1 Hc w/ Amy

Gary, Aaron

From: Gary, Aaron
Sent: Tuesday, September 08, 2009 1:11 PM
To: Handler, Amy
Subject: RE: Placing signs on highway medians

Hi Amy,

Regarding the first change, a fine is a criminal offense (a forfeiture is not). Is that what the senator wants? (Typically if it is serious enough to make it a crime, the monetary penalty would be more than \$50).

Regarding 4., I'm not sure what a residential yard sign is. If it is a sign in someone's yard, that generally wouldn't be within the highway right-of-way. Is this intended to cover any sign on the "terrace" (the area between the sidewalk and the roadway) in front of a person's residence?

Thanks. Aaron

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

↳ no, don't include terrace stuff - omit residential yard sign + leave rest as is

leave a
no, forfeiture

From: Handler, Amy
Sent: Tuesday, September 08, 2009 12:39 PM
To: Gary, Aaron
Subject: RE: Placing signs on highway medians

Hi Aaron.

My boss has a couple changes for the signs in medians draft.

On page two, he would like to change "must forfeit \$50 for each sign" to "may be fined \$50 for each sign"

If these groups are not already exempt, on page three he would like to add

- 4. Any residential yard sign or rummage sale
- 5. Any event associated with a church or school

• make only these

Hc w/ Amy 10/1

Thanks, Aaron! Hope you had a nice labor day weekend.

Amy

changes - everything else is OK

From: Gary, Aaron
Sent: Tuesday, July 07, 2009 3:43 PM
To: Handler, Amy
Subject: RE: Placing signs on highway medians

• make /py

Hi Amy,

"Highway" is statute-speak for any road or street. So the draft, in referring to highways or highway right-of-ways, will cover all roads and medians.

If I use the language "causes the placement," we don't have to worry about situations where the business did not know - this language should provide sufficient causation and culpability.

A forfeiture is a civil penalty; a fine is a criminal penalty. So it sounds like the penalty you want is a forfeiture of \$50 per offense. So, yes, the business would be cited for the violation, could choose to contest it or not in court, and if the business is found guilty of the violation the business would have to pay the forfeiture amount.

Aaron

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

From: Handler, Amy
Sent: Tuesday, July 07, 2009 3:35 PM
To: Gary, Aaron
Cc: Sundberg, Christopher
Subject: RE: Placing signs on highway medians

Hi Aaron,

Thanks for getting back to me.

First, Senator Sullivan would like this legislation to apply not just "highway right-of-ways", but to all roads and medians.

To answer your questions, yes, Senator Sullivan would like to impose a liability on the business or organizations for "causing the placement" of a sign as is done under current law as described in 2. And I'll have to check with him about cases where a business neither knew, nor should have known. Finally, Senator Sullivan would like the penalty to be \$50 per sign.

Another question, what is a civil penalty? Does this mean the business would have to appear in court? Is this just a monetary fine?

Amy Handler
Office of State Senator Jim Sullivan
State Capitol, Room 15 South
P.O. Box 7882
Madison, WI 53707
608-266-2512

From: Gary, Aaron
Sent: Tuesday, July 07, 2009 3:10 PM
To: Handler, Amy
Cc: Sundberg, Christopher
Subject: Placing signs on highway medians

Amy,
Chris Sundberg advised me that Sen. Sullivan would like a draft to prohibit the placement of highway signs in

10/01/2009

the medians of public roads. As I understand it, under the draft, the business or organization identified on the sign would be subject to a penalty.

Current law contains 2 different, overlapping provisions prohibiting the placement of signs (other than traffic control signs) within highway rights-of-way.

1. The broader provision prohibits the placement of signs, other than traffic guidance or warning signs, within the limits of any street or highway and punishes a person who violates this provision with a fine (a criminal penalty, thus making it a misdemeanor) of not less than \$10 nor more than \$100 for a 1st offense and not less than \$10 nor more than \$500 for a 2nd offense.

2. The narrower provision prohibits a person from erecting, or causing to be erected, any advertising sign or certain other signs at certain locations within public highways outside of cities and villages. A person who violates this prohibition is also guilty of a misdemeanor and may be fined not less than \$25 nor more than \$100 or imprisoned in the county jail for not more than 30 days or both.

It seems problematic to me to impose a penalty on the business or organization identified on the sign unless there is some showing of responsibility for placement of the sign. Do you want to impose liability on the business or organization for "causing the placement" of the sign, as is done under current law as described in 2. above? Or do you want to allow an affirmative defense that liability will not be imposed if the business or organization shows that it neither knew, nor should have known, that its signs were being placed within highway rights-of-way? And what should the penalty be? The same as one of those above? Or a civil penalty? And if so, in what amount?

Thanks. Aaron

Aaron R. Gary
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aaron.gary@legis.state.wi.us



soon

LRB-3093/118 P4

ARG:wlj:rs

in 10/2

stay

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

and providing a penalty

Regen

1
2

AN ACT to amend 86.191 (5); and to create 86.191 (6) of the statutes; relating to: the placement of advertising signs in highway rights-of-way.

Analysis by the Legislative Reference Bureau

Under current law, with limited exceptions, no sign, except a sign that is necessary for the guidance or warning of traffic, may be placed within the limits of any highway. A person who violates this prohibition must be fined not less than \$10 nor more than \$100 for a first violation and not less than \$10 nor more than \$500 for a subsequent violation.

Under a different provision of current law, with limited exceptions, a person may not erect, or cause to be erected, any advertising, guide, or warning sign within a highway that is outside a city or village and is 1,000 feet or less from an intersection with another highway. A person who violates this prohibition must be fined not less than \$25 nor more than \$100 or imprisoned in the county jail for not more than 30 days or both.

This bill prohibits, with exceptions, a business entity from placing, or causing to be placed, within a highway right-of-way any sign that advertises or promotes a business identified on the sign or a business whose telephone number appears on the sign. If a sign has been placed in violation of this prohibition and the business identified on the sign or whose telephone number appears on the sign had the sign

made, there is a rebuttable presumption that this business caused the sign to be placed. A business entity that violates this prohibition must forfeit \$50 for each sign.

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

1 **SECTION 1.** 86.191 (5) of the statutes is amended to read:

2 86.191 (5) Any person who violates ~~any of the provisions of this section sub. (1),~~
3 ~~(3), or (4)~~ shall be guilty of a misdemeanor and on conviction thereof shall be
4 punished by a fine of not less than \$25 nor more than \$100 for each offense, or by
5 imprisonment in the county jail for a period not exceeding 30 days, or by both such
6 fine and imprisonment in the discretion of the court.

7 **SECTION 2.** 86.191 (6) of the statutes is created to read:

8 86.191 (6) (a) In this subsection, "business entity" has the meaning given in s.
9 13.62 (5), but does not include any real estate broker or salesperson licensed under
10 ch. 452 or any other individual selling real estate or personal property owned by the
11 individual.

12 (b) Subject to subs. (1) and (4) and s. 86.19, and except as provided in par. (d),
13 no business entity may place, or cause to be placed, within a highway right-of-way
14 any sign that advertises or promotes a business identified on the sign or a business
15 whose telephone number appears on the sign.

16 (c) If a sign described in par. (b) has been placed within a highway right-of-way
17 and the business identified on the sign or whose telephone number appears on the
18 sign had the sign made, there is a rebuttable presumption that this business caused
19 the sign to be placed in violation of par. (b).

20 (d) This subsection does not apply to any of the following:

1 1. Any sign placed with the permission of an official charged with the
2 maintenance of the highway.

3 2. Any sign authorized under s. 60.23 (17m), 66.0429, 84.01 (30) (g), 84.30,
4 86.195, or 86.196.

5 3. The name of a newspaper on a newspaper tube or receptacle.

6 (e) Any business entity violating this subsection shall forfeit \$50 for each
7 offense. Each sign placed in violation of par. (b) constitutes a separate offense.

8 (END)

④ 40 Any sign advertising a yard sale, garage sale, rummage sale, or similar event.

④ 50 Any sign advertising an event associated with a church or school.

10/15 VM from Amy - change to "may be subject to a civil forfeiture of up to \$50"

Gary, Aaron

From: Handler, Amy
Sent: Thursday, October 15, 2009 1:51 PM
To: Gary, Aaron
Subject: RE: Placing signs on highway medians

o wants / 1

Thanks, Aaron.

If the second option gives a broader discretion to impose no forfeiture then I think Senator Sullivan would go with option 1.

Thanks, again.

Amy

From: Gary, Aaron
Sent: Thursday, October 15, 2009 1:44 PM
To: Handler, Amy
Subject: RE: Placing signs on highway medians

Hi Amy,

I got your voice mail. I'll need to change the language "shall forfeit \$50 ..." on p. 3, line 9. My two options for replacing this language are:

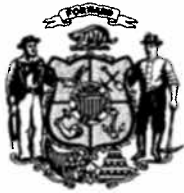
- 1. "is subject to a forfeiture of not more than \$50 ..."
- OR
- 2. "may be required to forfeit not more than \$50 ..."

Do you have a preference? They are basically the same, although one might argue that option 2. gives broader discretion for a court to impose no forfeiture.

Thanks.

Aaron

Aaron R. Gary
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aaron.gary@legis.state.wi.us



State of Wisconsin
2009 - 2010 LEGISLATURE

soon

LRB-3093/1

ARG:wlj:ph

in
10/15

stays

TRMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT ^{Regen} to amend 86.191 (5); and to create 86.191 (6) of the statutes; relating
2 to: the placement of advertising signs in highway rights-of-way and providing
3 a penalty.

Analysis by the Legislative Reference Bureau

Under current law, with limited exceptions, no sign, except a sign that is necessary for the guidance or warning of traffic, may be placed within the limits of any highway. A person who violates this prohibition must be fined not less than \$10 nor more than \$100 for a first violation and not less than \$10 nor more than \$500 for a subsequent violation.

Under a different provision of current law, with limited exceptions, a person may not erect, or cause to be erected, any advertising, guide, or warning sign within a highway that is outside a city or village and is 1,000 feet or less from an intersection with another highway. A person who violates this prohibition must be fined not less than \$25 nor more than \$100 or imprisoned in the county jail for not more than 30 days or both.

This bill prohibits, with exceptions, a business entity from placing, or causing to be placed, within a highway right-of-way any sign that advertises or promotes a business identified on the sign or a business whose telephone number appears on the sign. If a sign has been placed in violation of this prohibition and the business identified on the sign or whose telephone number appears on the sign had the sign

is subject to a civil forfeiture of not more than

made, there is a rebuttable presumption that this business caused the sign to be placed. A business entity that violates this prohibition ~~must forfeit~~ \$50 for each sign.

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

SECTION 1. 86.191 (5) of the statutes is amended to read:

86.191 (5) Any person who violates any of the provisions of this section sub. (1), (3), or (4) shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than \$25 nor more than \$100 for each offense, or by imprisonment in the county jail for a period not exceeding 30 days, or by both such fine and imprisonment in the discretion of the court.

SECTION 2. 86.191 (6) of the statutes is created to read:

86.191 (6) (a) In this subsection, "business entity" has the meaning given in s. 13.62 (5), but does not include any real estate broker or salesperson licensed under ch. 452 or any other individual selling real estate or personal property owned by the individual.

(b) Subject to subs. (1) and (4) and s. 86.19, and except as provided in par. (d), no business entity may place, or cause to be placed, within a highway right-of-way any sign that advertises or promotes a business identified on the sign or a business whose telephone number appears on the sign.

(c) If a sign described in par. (b) has been placed within a highway right-of-way and the business identified on the sign or whose telephone number appears on the sign had the sign made, there is a rebuttable presumption that this business caused the sign to be placed in violation of par. (b).

(d) This subsection does not apply to any of the following:

1 1. Any sign placed with the permission of an official charged with the
2 maintenance of the highway.

3 2. Any sign authorized under s. 60.23 (17m), 66.0429, 84.01 (30) (g), 84.30,
4 86.195, or 86.196.

5 3. The name of a newspaper on a newspaper tube or receptacle.

6 4. Any sign advertising a yard sale, garage sale, rummage sale, or similar
7 event.

8 5. Any sign advertising an event associated with a church or school.

9 (e) Any business entity violating this subsection shall forfeit \$50 for each
10 offense. Each sign placed in violation of par. (b) constitutes a separate offense.

11 (END)

is subject to a forfeiture
of not more than

Duerst, Christina

From: Handler, Amy
Sent: Friday, January 08, 2010 4:41 PM
To: LRB.Legal
Subject: Jacket for LRB 3093/1

Can I get a jacket for LRB 3093/1 relating to the placement of advertising signs in highway rights-of-way and providing a penalty.

Thank you!

Amy Handler
Office of State Senator Jim Sullivan
State Capitol, Room 15 South
P.O. Box 7882
Madison, WI 53707
608-266-2512