

2013 DRAFTING REQUEST

Bill

Received: **2/4/2013** Received By: **agary**
Wanted: **As time permits** Same as LRB:
For: **Joseph Leibham (608) 266-2056** By/Representing: **Alex Hansen**
May Contact: Drafter: **agary**
Subject: **Transportation - highways** Addl. Drafters:
Extra Copies: **EVM**

Submit via email: **YES**
Requester's email: **Sen.L Leibham@legis.wisconsin.gov**
Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Nonconforming outdoor advertising signs

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>
/?	agary 2/4/2013	scalvin 2/21/2013	jmurphy 2/21/2013	_____			
/P1	agary 3/5/2013			_____	sbasford 2/21/2013		State
/P2	agary 4/16/2013	scalvin 3/6/2013	jmurphy 3/6/2013	_____	mbarman 3/6/2013		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	agary 4/29/2013	scalvin 4/17/2013	rschluet 4/17/2013	_____	sbasford 4/17/2013		State
/1		scalvin 4/29/2013	phenry 4/29/2013	_____	srose 4/29/2013	mbarman 4/30/2013	State

FE Sent For:

*at
intro*

<END>

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FE Sent For: *1 sac*
04/29/2013

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		P3 sac 04/17/2013	4/18	SM			

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/?	agary 2/4/2013	scalvin 2/21/2013	jmurphy 2/21/2013	_____			
/P1		<i>1P2 SAC</i> 03/06/2013	<i>jm</i> 3/6/13	<i>jm</i> 3/6	sbasford 2/21/2013		State

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1?	agary	/PI SAC 02/21/2013	gm 2/21	SELF			

FE Sent For:

<END>

Mueller, Eric

From: Hansen, Alex
Sent: Monday, February 04, 2013 1:59 PM
To: Mueller, Eric
Subject: Redraft of 2011 LRB 1682/P5

Eric,

On behalf of Senator Leibham, I would like to request a redraft of 2011 LRB 1682/P5. Could you please draft this in preliminary form?

Thank you.

Alex Hansen

Office of Senator Joe Leibham

Phone: (608) 266-2056

Room 15 South, State Capitol

www.leibhamsenate.com

"RESEARCH APPENDIX"

... Drafting History Reproduction Request Form ...

 DRAFTING ATTORNEYS: PLEASE COMPLETE THIS FORM AND GIVE TO MIKE BARMAN


(Request Made By: ARG) (Date: 02/05/2013)

Note:

BOTH DRAFTS SHOULD HAVE THE SAME "REQUESTOR"


(exception: companion bills)



 Please transfer the drafting file for
2011 LRB - 1682 (For: Rep./Sen. Leibham)
to the drafting file for

2013 LRB - 1497 (For: Rep./Sen. Leibham)

-----OR-----

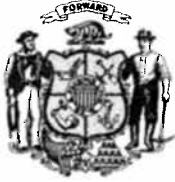
 Please copy the drafting file for
2013 LRB _____ / _____ (For: Rep./Sen. _____)
and place it in the drafting file for

2013 LRB _____ (For: Rep./Sen. _____)

 Are These "Companion Bills"?? ... Yes No

If yes, who in the initial requestor's office authorized the copy/transfer of the drafting history

("guts") from the original file: _____



State of Wisconsin
2011 - 2012 LEGISLATURE

3 4

in
2/K



1497/P1

LRB-1082/P5

ARC:kjf&cjs:pd

D-Not

see

RMNR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gen act

1 AN ACT *to create* 84.30 (5) (br) of the statutes; **relating to:** the removal of
2 nonconforming outdoor advertising signs along highways.

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. However, various exceptions apply to this prohibition, including exceptions for the following: 1) signs advertising activities conducted on the property on which the sign is located (on-property signs) if certain conditions are met; 2) signs in business areas if certain conditions are met or the signs were erected before March 19, 1972 (business area signs); 3) directional and other official signs meeting certain criteria (directional signs); and 4) certain signs located more than 660 feet from the highway (signs outside the adjacent area).

Under current law, the Department of Transportation (DOT) generally may remove 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. For on-property signs, if the on-property sign was lawful when it was erected but later does not comply with the applicable requirements for on-property signs, DOT must declare the sign to be nonconforming but may not remove the sign unless additional criteria are met. These signs are not subject to removal for changing the advertising message on the sign or performing

1 b. “Copy change” means the process of substituting copy on a sign face, which
2 may include removing a face and substituting another face or other processes such
3 as painting on wood, metal, or vinyl, affixing printed paper or vinyl to the face,
4 changing the message mechanically, or electronically changing the copy from a
5 remote location.

6 c. “Customary maintenance” on a sign includes nailing, cleaning and painting;
7 replacing its components with equivalent or similar components; replacing
8 structural components, including vertical supports; making copy changes;
9 upgrading existing lighting for energy efficiency or worker safety; adding catwalks
10 or handrails to address safety; raising the sign to restore its original height above
11 road-grade; raising the sign to restore visibility of its face after noise barriers have
12 been constructed along a highway; installing an apron to a sign structure to display
13 identification of the sign owner; or replacing the sign face.

14 d. “Destroyed,” with respect to a nonconforming sign, means that the cost to
15 repair the sign exceeds 50 percent of the replacement cost of the sign after a single
16 incident necessitating repair.

17 e. “Replacement cost” means the cost to build and locate a comparable sign, not
18 including the sign face, based on current market prices for materials and labor, as
19 determined under the then-current agreement between the department and the
20 sign owner governing cost recovery for sign relocation.

21 f. “Sign face” or “face” means the material components of a sign on which the
22 advertising, directional, or other information is displayed including any trim, border,
23 or molding.

24 g. “Substantial change,” with respect to a nonconforming sign, means
25 increasing the number of vertical supports; changing the physical location;

1 increasing the square footage or area of the sign face; adding changeable message
2 capability; or adding lighting, either attached or unattached, to a sign that
3 previously did not have lights.

4 h. "Substantially the same," with respect to a nonconforming sign, means that
5 no substantial change has been made to the sign since it became nonconforming.

6 2. Notwithstanding par. (b), signs described in sub. (3) (a), (d), (e), (f), or (h)
7 which were lawfully erected but which no longer conform to applicable requirements
8 are declared nonconforming but are not subject to removal, except as provided in
9 subd. 4.

10 3. A sign described in subd. 2. shall remain substantially the same as it was
11 on the date it became nonconforming. To allow a sign described in subd. 2. to exist,
12 to perform customary maintenance on such a sign, or to change the advertising
13 message on such a sign, does not constitute a violation of sub. (3) or (4).

14 4. Except as provided in subd. 5., to enlarge, replace, or relocate a sign described
15 in subd. 2., to make a substantial change in such a sign, or to erect additional signs,
16 shall constitute a violation of subs. (3) and (4) subjecting the sign to removal without
17 compensation, unless upon completion of such work all signs upon the property
18 conform to the requirements of subs. (3) and (4). For purposes of this subdivision,
19 no substantial change in a sign that has been allowed to exist for 10 or more years
20 may be considered.

21 5. The department shall give a sign owner reasonable notice of any change
22 considered by the department to be a substantial change in a sign under subd. 4. If,
23 within a reasonable time after receiving this notice, the sign owner removes or
24 eliminates the change, the department may not consider the change to be a
25 substantial change in a sign for purposes of subd. 4.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1497/P1dn

ARG: /.....

sac

- date -

ATTN: Alex Hansen

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

You may wish to have this draft reviewed by DOT or the Federal Highway Administration to advise whether, if the changes in this bill are enacted, the state will continue to be in compliance with the "effective control" requirement for outdoor advertising signs under 23 CFR 750.705, most notably pars. (e), (h), and (j). If these changes take the state out of compliance, the state risks losing a portion of its allocation of federal highway aid.

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.state.wi.us

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

LRB-1497/P1dn
ARG:sac:jm

February 21, 2013

ATTN: Alex Hansen

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

You may wish to have this draft reviewed by DOT or the Federal Highway Administration to advise whether, if the changes in this bill are enacted, the state will continue to be in compliance with the "effective control" requirement for outdoor advertising signs under 23 CFR 750.705, most notably pars. (e), (h), and (j). If these changes take the state out of compliance, the state risks losing a portion of its allocation of federal highway aid.

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.state.wi.us

Gary, Aaron

From: Hansen, Alex
Sent: Monday, March 04, 2013 11:39 AM
To: Gary, Aaron
Subject: FW: OAAW - nonconforming sign draft
Attachments: Proposed drafting instructions for revisions to LRB 1497-P1 03-01-13.docx

Aaron,

We would like to request a redraft of LRB 1497 for a P2. Could you please incorporate the following changes in the attachment?

Thank you.

Alex Hansen

Office of Senator Joe Leibham

Phone: (608) 266-2056

Room 15 South, State Capitol

www.leibhamsenate.com

From: Janet Swandby [<mailto:Swandby@swandby.com>]
Sent: Monday, March 04, 2013 7:32 AM
To: Hansen, Alex
Cc: Kathi Kilgore
Subject: OAAW - nonconforming sign draft

Alex:

We met with Steve Krieser of the DOT and have come to an agreement on the revisions to LRB 1497/P1. Attached are drafting instructions for the changes. Please forward this document to Aaron Gary in the LRB.

If you or Aaron have any questions, please feel free to contact me. Best to call my cell at 262.370.1714.

Thanks for your help.

Janet

Janet R. Swandby
Swandby/Kilgore Associates, Inc.
608.286.9599
swandby@swandby.com

Proposed Drafting Instructions – Revisions to LRB 1497/P1

1. Where appropriate, add a provision clarifying that when a sign permitted as a “directional sign” under 84.30 becomes nonconforming, the sign cannot be converted to a nonconforming off-premises sign.
2. Page 4, Lines 18-20, delete “For purposes of this subdivision, no substantial change in a sign that has been allowed to exist for 10 or more years may be considered.”
3. Page 4, Line 21, delete “reasonable”.
4. Page 4, Line 23, change “a reasonable time” to “180 days”.
5. Page 4, Line 24, change “may” to “shall”.
6. On Page 3, Line 17, insert a definition of “extension”.

A device temporarily attached to a sign face in order to expand the area available for copy. “Extensions” can also be referred to as “cut-outs” or “bump-outs”.

7. Where appropriate, insert an exception to the language regarding “substantial change” to allow extensions.
 - a. An addition of an extension will not be considered a substantial change to a sign or an increase in size of a sign face provided that the extension meets the following criteria:
 - b. The area or square footage of the extension is thirty-three (33%) or less of the total area or square footage of the sign face, prior to the addition of the extension. The area of the extension will be measured in accordance with the method used in 84.30(4) (a)(2)
 - c. An extension may be added to a sign face for a period of time of no more than three (3) years.

Gary, Aaron

From: Gary, Aaron
Sent: Tuesday, March 05, 2013 9:23 AM
To: Hansen, Alex
Subject: RE: OAAW - nonconforming sign draft

Hi Alex,

I made these changes (except 5.) and put the redraft into editing. Regarding 5., our drafting conventions prohibit us from using "the department shall not" We use "the department may not", which has the same meaning.

Aaron

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

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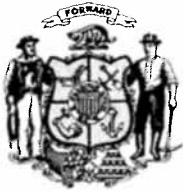
Alex Hansen
Office of Senator Joe Leibham
Phone: (608) 266-2056
Room 15 South, State Capitol
www.leibhamsenate.com

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State of Wisconsin
2013 - 2014 LEGISLATURE

5002



LRB-1497/01 PE

ARG:sac:jm

in

3/5

RMR

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gen act

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Under current law, the Department of Transportation (DOT) generally may remove 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. For on-property signs, if the on-property sign was lawful when it was erected but later does not comply with the applicable requirements for on-property signs, DOT must declare the sign to be nonconforming but may not remove the sign unless additional criteria are met. These signs are not subject to removal for changing the advertising message on the sign or performing

customary maintenance on the sign, but are subject to removal, without compensation, if the sign is enlarged, replaced, or relocated or if additional signs are erected. For signs lawfully erected after March 18, 1972, which subsequently become nonconforming, DOT must require removal of the signs, with compensation, by the end of the fifth year after they become nonconforming, but only if there are sufficient funds available to DOT to pay just compensation for the sign removal.

Under this bill, business area signs, directional signs, and signs outside the adjacent area (together referred to as off-property signs) that were lawfully erected but which no longer conform to applicable requirements must be declared nonconforming but are not subject to removal unless additional criteria are met. These nonconforming off-property signs are not subject to removal for changing the advertising message on the sign or performing customary maintenance on the sign. These signs must remain substantially the same as they were on the date they became nonconforming in order to be exempt from removal by DOT. "Substantially the same" is defined to mean that, since the sign became nonconforming, no "substantial change" to the sign has been made. "Substantial change" to a sign is defined to mean any of the following: increasing the number of vertical supports; changing the physical location; increasing the square footage or area of the sign face; adding changeable message capability; or adding lighting to a previously unlit sign. With exceptions, these nonconforming off-property signs are subject to removal, without compensation, if the sign is enlarged, replaced, or relocated, if additional signs are erected, or if a substantial change is made to the sign. However, under one exception, if DOT considers a change in a sign to be substantial, DOT must give a sign owner ~~reasonable~~ notice of the change and if the sign owner removes or eliminates the change, then DOT may not remove the sign based on the change. ~~DOT also may not consider a substantial change in a sign that has been allowed to exist for at least ten years.~~ Under another exception, if a nonconforming off-property sign is damaged or destroyed by a criminal or tortious act, the sign may be replaced or repaired. The bill also creates several definitions applicable to these nonconforming off-property signs, including a definition of "customary maintenance."

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

insert ANAL-A

insert ANAL-B

insert ANAL-C

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

- 1 SECTION 1. 84.30 (5) (br) of the statutes is created to read:
- 2 84.30 (5) (br) 1. In this paragraph:
- 3 a. "Copy" means the advertising, directional, or other information or images on
- 4 a sign face created to communicate to the public.

1 b. “Copy change” means the process of substituting copy on a sign face, which
2 may include removing a face and substituting another face or other processes such
3 as painting on wood, metal, or vinyl, affixing printed paper or vinyl to the face,
4 changing the message mechanically, or electronically changing the copy from a
5 remote location.

6 c. “Customary maintenance” on a sign includes nailing, cleaning and painting;
7 replacing its components with equivalent or similar components; replacing
8 structural components, including vertical supports; making copy changes;
9 upgrading existing lighting for energy efficiency or worker safety; adding catwalks
10 or handrails to address safety; raising the sign to restore its original height above
11 road-grade; raising the sign to restore visibility of its face after noise barriers have
12 been constructed along a highway; installing an apron to a sign structure to display
13 identification of the sign owner; or replacing the sign face.

14 d. “Destroyed,” with respect to a nonconforming sign, means that the cost to
15 repair the sign exceeds 50 percent of the replacement cost of the sign after a single
16 incident necessitating repair.

17 *f.* “Replacement cost” means the cost to build and locate a comparable sign, not
18 including the sign face, based on current market prices for materials and labor, as
19 determined under the then-current agreement between the department and the
20 sign owner governing cost recovery for sign relocation.

21 *g.* “Sign face” or “face” means the material components of a sign on which the
22 advertising, directional, or other information is displayed including any trim, border,
23 or molding.

24 *h.* “Substantial change,” with respect to a nonconforming sign, means
25 increasing the number of vertical supports; changing the physical location;

nsat
3-16
→

except as provided in subd. 6,

1 increasing the square footage or area of the sign face; adding changeable message
2 capability; or adding lighting, either attached or unattached, to a sign that
3 previously did not have lights.

4 *i*. "Substantially the same," with respect to a nonconforming sign, means that
5 no substantial change has been made to the sign since it became nonconforming.

6 2. Notwithstanding par. (b), signs described in sub. (3) (a), (d), (e), (f), or (h)
7 which were lawfully erected but which no longer conform to applicable requirements
8 are declared nonconforming but are not subject to removal, except as provided in
9 subd. 4.

10 3. A sign described in subd. 2. shall remain substantially the same as it was
11 on the date it became nonconforming. To allow a sign described in subd. 2. to exist,
12 to perform customary maintenance on such a sign, or to change the advertising
13 message on such a sign, does not constitute a violation of sub. (3) or (4).

14 4. Except as provided in subd. 5, ⁵ *and 6,* to enlarge, replace, or relocate a sign described
15 in subd. 2., to make a substantial change in such a sign, or to erect additional signs,
16 shall constitute a violation of subs. (3) and (4) subjecting the sign to removal without
17 compensation, unless upon completion of such work all signs upon the property
18 conform to the requirements of subs. (3) and (4).

19 For purposes of this subdivision,
20 no substantial change in a sign that has been allowed to exist for 10 or more years
may be considered.

21 5. The department shall give a sign owner reasonable notice of any change
22 considered by the department to be a substantial change in a sign under subd. 4. If,
23 within ^{180 days} a reasonable time after receiving this notice, the sign owner removes or
24 eliminates the change, the department may not consider the change to be a
25 substantial change in a sign for purposes of subd. 4.

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insert
5-1

insert
5-6

⁷ 6. Notwithstanding subds. 3. and 4., if a nonconforming sign is damaged or destroyed by a criminal or tortious act, the sign may be repaired or replaced. If the sign is replaced, the replacement sign may not incorporate any elements that constitute a substantial change from the sign that was damaged or destroyed. The repair or replacement of a sign under this subdivision is not limited to activities constituting customary maintenance.

SECTION 2. Initial applicability.

(1) This act first applies to nonconforming signs in existence on the effective date of this subsection.

(END)

1 **INSERT ANAL-A:**

(no P) although they can have an extension temporarily attached to the sign face if certain conditions are met

2 **INSERT ANAL-B:**

(no P) , except by adding a temporary extension meeting certain conditions

3 **INSERT ANAL-C:**

(no P) within 180 days of the notice

4 **INSERT 3-16:**

5 e. "Extension," also known as a "cut-out" or "bump-out," means a device
6 temporarily attached to a sign face in order to expand the area available for copy.

7 **INSERT 5-1:**

8 6. An addition of an extension to a sign is not a substantial change to or
9 enlargement of the sign or an increase in size of the sign face if the extension meets
10 all of the following criteria:

11 a. The square footage or area of the extension is thirty-three³³ percent or less of
12 the total square footage or area of the sign face, prior to the addition of the extension.
13 The area of the extension shall be measured in accordance with the method in sub.
14 (4) (a) 2.

15 b. The extension is added to the sign for a period of not more than 3 years.

16 **INSERT 5-6:**

17 8. A sign described in sub. (3) (a) that is declared nonconforming as provided
18 in subd. 2. may not be converted to any sign described in sub. (3) (d), (e), (f), or (h).

19

Gary, Aaron

From: Hansen, Alex
Sent: Thursday, April 11, 2013 3:31 PM
To: Gary, Aaron
Subject: RE: OAAW - revisions to nonconforming sign draft

Hi Aaron,

My apologies—I missed this e-mail somehow. I'll get back to you on #2 shortly.

Thank you.

Alex Hansen

Office of Senator Joe Leibham

Phone: (608) 266-2056

Room 15 South, State Capitol

www.leibhamsenate.com

From: Gary, Aaron
Sent: Friday, March 08, 2013 10:52 AM
To: Hansen, Alex
Subject: RE: OAAW - revisions to nonconforming sign draft

Hi Alex,

I have begun making these changes.

1. Regarding item 1. of the attachment, I made this change to read, on p. 3, line 6, "... including nailing, bolting, fastening, cleaning and painting;"
2. Regarding item 2. of the attachment, I made this change to remove "enlarge, replace, or relocate". However, the language that is supposed to replace it is already present on the next line (p. 4, line 17), so I modified that line slightly but of course did not duplicate the "make a substantial change" language that is already on line 17. I should also note that with this change removing the "enlarge" language on p. 4, line 16 (and given that the "except as provided in subd. 6." language already exists in the definition of "substantial change" on p. 4, lines 2-3), the language on p. 5, lines 1-2 ("or enlargement of the sign or an increase in size of the sign face") becomes superfluous. I recommend taking out this clause in red, as unnecessary, but will not do so unless you OK it. in red
3. Regarding item 3. of the attachment, the department "may not" means the same as the department "shall not" but our drafting protocol (per Drafting Manual) is to always use "may not."
4. Regarding item 4. of the attachment, the answer to the question is "yes." Therefore no change would be needed.

Please let me know your thoughts on 2. above and any other comments/questions/concerns you have. When I hear back, I'll finish this redraft and get it out to you.

Thanks. Aaron

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

From: Hansen, Alex
Sent: Thursday, March 07, 2013 5:12 PM
To: Gary, Aaron
Subject: FW: OAAW - revisions to nonconforming sign draft

Hi Aaron,

We would like to request a P3 version of LRB 1497 that incorporates the attached recommendations.

Thank you.

Alex Hansen
Office of Senator Joe Leibham
Phone: (608) 266-2056
Room 15 South, State Capitol
www.leibhamsenate.com

From: Janet Swandby [<mailto:Swandby@swandby.com>]
Sent: Thursday, March 07, 2013 3:08 PM
To: Hansen, Alex
Cc: Kathi Kilgore
Subject: OAAW - revisions to nonconforming sign draft

Alex:

We reviewed LRB 1497/P2 very carefully and have some additional changes we'd like to see made to the draft. In a couple cases, we are asking the drafter whether the language is sufficient or needs to be modified. Attached is a list of our requested changes that can be shared with Aaron in LRB.

Let me know if you or he has any questions.

As always, thanks for your help.

Janet

Janet R. Swandby
Swandby/Kilgore Associates, Inc.
608.286.9599
swandby@swandby.com

Drafting instructions for changes to LRB-1497/P2

1. On Page 3, line 6, insert "fastening or bolting" after "nailing".
2. On Page 4, lines 4 and 5, 16 + 17
 - a. Delete "to enlarge, replace, or relocate a sign described in subd.2" and
 - b. Change to read "Except as provided in subds. 5. and 6., to make a substantial change to a sign described in subd. 2, "
3. On Page 4, line 24, can the word "may" be changed to "shall" or is that change unnecessary?
4. On Page 5, line 7: Does this language allow a sign owner to add an extension to a sign, remove that extension and replace it with a new extension as long as each extension is attached to the sign face for no more than 3 years? If not, please suggest new language to achieve this goal.

Gary, Aaron

From: Hansen, Alex
Sent: Friday, April 12, 2013 4:51 PM
To: Gary, Aaron
Subject: FW: Update on Nonconforming Signs Draft

Aaron—

FYI.

Thank you.

Alex Hansen

Office of Senator Joe Leibham

Phone: (608) 266-2056

Room 15 South, State Capitol

www.leibhamsenate.com

From: Janet Swandby [<mailto:Swandby@swandby.com>]
Sent: Thursday, April 11, 2013 6:42 PM
To: Hansen, Alex
Cc: Kathi Kilgore
Subject: RE: Update on Nonconforming Signs Draft

Alex:

I looked over Aaron's email and believe that the changes he suggests make sense. Please have him make these changes for P3. I will, of course, have to check with my client when we get the next draft to make sure that they agree with my assessment.

If you have any questions, give me a call at 262.370.1714.

Thanks.

Janet

Janet R. Swandby
Swandby/Kilgore Associates, Inc.
608.286.9599
swandby@swandby.com

From: Hansen, Alex [<mailto:Alex.Hansen@legis.wisconsin.gov>]
Sent: Thursday, April 11, 2013 2:57 PM
To: Janet Swandby
Subject: Update on Nonconforming Signs Draft

Janet,

Aaron Gary had the following question—what should the language in read be added? Please advise:

1. Regarding item 2. of the attachment, I made this change to remove “enlarge, replace, or relocate”. However, the language that is supposed to replace it is already present on the next line (p. 4, line 17), so I modified that line slightly but of course did not duplicate the “make a substantial change” language that is already on line 17. I should also note that with this change removing the “enlarge” language on p. 4, line 16 (and given that the “except as provided in subd. 6.” Language already exists in the definition of “substantial change” on p. 4, lines 2-3), the language on p. 5, lines 1-2 (“or enlargement of the sign or an increase in size of the sign face”) becomes superfluous. I recommend taking out this clause in red, as unnecessary, but will not do so unless you OK it.

Thanks.

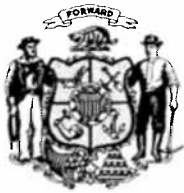
Alex Hansen

Office of Senator Joe Leibham

Phone: (608) 266-2056

Room 15 South, State Capitol

www.leibhamsenate.com



in
4/16



LRB-1497/11 P3

ARG:sac:jfb

sent
by 4/19

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gen cat

1 **AN ACT to create** 84.30 (5) (br) of the statutes; **relating to:** the removal of
2 nonconforming outdoor advertising signs along highways.

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. However, various exceptions apply to this prohibition, including exceptions for the following: 1) signs advertising activities conducted on the property on which the sign is located (on-property signs) if certain conditions are met; 2) signs in business areas if certain conditions are met or the signs were erected before March 19, 1972 (business area signs); 3) directional and other official signs meeting certain criteria (directional signs); and 4) certain signs located more than 660 feet from the highway (signs outside the adjacent area).

Under current law, the Department of Transportation (DOT) generally may remove 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. For on-property signs, if the on-property sign was lawful when it was erected but later does not comply with the applicable requirements for on-property signs, DOT must declare the sign to be nonconforming but may not remove the sign unless additional criteria are met. These signs are not subject to removal for changing the advertising message on the sign or performing

customary maintenance on the sign, but are subject to removal, without compensation, if the sign is enlarged, replaced, or relocated or if additional signs are erected. For signs lawfully erected after March 18, 1972, which subsequently become nonconforming, DOT must require removal of the signs, with compensation, by the end of the fifth year after they become nonconforming, but only if there are sufficient funds available to DOT to pay just compensation for the sign removal.

Under this bill, business area signs, directional signs, and signs outside the adjacent area (together referred to as off-property signs) that were lawfully erected but which no longer conform to applicable requirements must be declared nonconforming but are not subject to removal unless additional criteria are met. These nonconforming off-property signs are not subject to removal for changing the advertising message on the sign or performing customary maintenance on the sign. These signs must remain substantially the same as they were on the date they became nonconforming in order to be exempt from removal by DOT although they can have an extension temporarily attached to the sign face if certain conditions are met. "Substantially the same" is defined to mean that, since the sign became nonconforming, no "substantial change" to the sign has been made. "Substantial change" to a sign is defined to mean any of the following: increasing the number of vertical supports; changing the physical location; increasing the square footage or area of the sign face, except by adding a temporary extension meeting certain conditions; adding changeable message capability; or adding lighting to a previously unlit sign. With exceptions, these nonconforming off-property signs are subject to removal, without compensation, ~~if the sign is enlarged, replaced, or relocated,~~ ^{or} if additional signs are erected, ~~or~~ if a substantial change is made to the sign. However, under one exception, if DOT considers a change in a sign to be substantial, DOT must give a sign owner notice of the change and if the sign owner removes or eliminates the change within 180 days of the notice then DOT may not remove the sign based on the change. Under another exception, if a nonconforming off-property sign is damaged or destroyed by a criminal or tortious act, the sign may be replaced or repaired. The bill also creates several definitions applicable to these nonconforming off-property signs, including a definition of "customary maintenance."

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. 84.30¹ (5) (br) of the statutes is created to read:

2 84.30 (5) (br) 1. In this paragraph:

3 a. "Copy" means the advertising, directional, or other information or images on
4 a sign face created to communicate to the public.

1 b. “Copy change” means the process of substituting copy on a sign face, which
2 may include removing a face and substituting another face or other processes such
3 as painting on wood, metal, or vinyl, affixing printed paper or vinyl to the face,
4 changing the message mechanically, or electronically changing the copy from a
5 remote location.

6 c. “Customary maintenance” on a sign includes nailing, cleaning and painting;
7 replacing its components with equivalent or similar components; replacing
8 structural components, including vertical supports; making copy changes;
9 upgrading existing lighting for energy efficiency or worker safety; adding catwalks
10 or handrails to address safety; raising the sign to restore its original height above
11 road-grade; raising the sign to restore visibility of its face after noise barriers have
12 been constructed along a highway; installing an apron to a sign structure to display
13 identification of the sign owner; or replacing the sign face.

14 d. “Destroyed,” with respect to a nonconforming sign, means that the cost to
15 repair the sign exceeds 50 percent of the replacement cost of the sign after a single
16 incident necessitating repair.

17 e. “Extension,” also known as a “cut-out” or “bump-out,” means a device
18 temporarily attached to a sign face in order to expand the area available for copy.

19 f. “Replacement cost” means the cost to build and locate a comparable sign, not
20 including the sign face, based on current market prices for materials and labor, as
21 determined under the then-current agreement between the department and the
22 sign owner governing cost recovery for sign relocation.

23 g. “Sign face” or “face” means the material components of a sign on which the
24 advertising, directional, or other information is displayed including any trim, border,
25 or molding.

1 h. "Substantial change," with respect to a nonconforming sign, means
2 increasing the number of vertical supports; changing the physical location; except as
3 provided in subd. 6., increasing the square footage or area of the sign face; adding
4 changeable message capability; or adding lighting, either attached or unattached, to
5 a sign that previously did not have lights.

6 i. "Substantially the same," with respect to a nonconforming sign, means that
7 no substantial change has been made to the sign since it became nonconforming.

8 2. Notwithstanding par. (b), signs described in sub. (3) (a), (d), (e), (f), or (h)
9 which were lawfully erected but which no longer conform to applicable requirements
10 are declared nonconforming but are not subject to removal, except as provided in
11 subd. 4.

12 3. A sign described in subd. 2. shall remain substantially the same as it was
13 on the date it became nonconforming. To allow a sign described in subd. 2. to exist,
14 to perform customary maintenance on such a sign, or to change the advertising
15 message on such a sign, does not constitute a violation of sub. (3) or (4).

16 4. Except as provided in subs. 5. and 6., to enlarge, replace, or relocate a sign
17 described in subd. 2. to make a substantial change in such a sign, or to erect
18 additional signs, shall constitute a violation of subs. (3) and (4) subjecting the sign
19 to removal without compensation, unless upon completion of such work all signs
20 upon the property conform to the requirements of subs. (3) and (4).

insert 4-16

21 5. The department shall give a sign owner notice of any change considered by
22 the department to be a substantial change in a sign under subd. 4. If, within 180 days
23 after receiving this notice, the sign owner removes or eliminates the change, the
24 department may not consider the change to be a substantial change in a sign for
25 purposes of subd. 4.

1 6. An addition of an extension to a sign is not a substantial change to ^eor
2 enlargement of the sign or an increase in size of the sign face if the extension meets
3 all of the following criteria:

4 a. The square footage or area of the extension is 33 percent or less of the total
5 square footage or area of the sign face, prior to the addition of the extension. The area
6 of the extension shall be measured in accordance with the method in sub. (4) (a) 2.

7 b. The extension is added to the sign for a period of not more than 3 years.

8 7. Notwithstanding subds. 3. and 4., if a nonconforming sign is damaged or
9 destroyed by a criminal or tortious act, the sign may be repaired or replaced. If the
10 sign is replaced, the replacement sign may not incorporate any elements that
11 constitute a substantial change from the sign that was damaged or destroyed. The
12 repair or replacement of a sign under this subdivision is not limited to activities
13 constituting customary maintenance.

14 8. A sign described in sub. (3) (a) that is declared nonconforming as provided
15 in subd. 2. may not be converted to any sign described in sub. (3) (d), (e), (f), or (h).

16 **SECTION 2. Initial applicability.**

17 (1) This act first applies to nonconforming signs in existence on the effective
18 date of this subsection.

19 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1497/P3ins
ARG:.....

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2

3

INSERT 3-6:

4 (no P)

bolting, fastening,

5

6

INSERT 4-16:

7 (no P)

make a substantial change to

8

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10

11

12

13

Gary, Aaron

From: Hansen, Alex
Sent: Monday, April 29, 2013 2:04 PM
To: Gary, Aaron
Cc: Phillips, Justin
Subject: LRB 1497 Final Form

Aaron,

Could we please get a /1 version of LRB 1497? Also, please draft an Assembly companion for Rep. Jeff Stone.

Thank you.

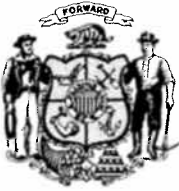
Alex Hansen

Office of Senator Joe Leibham

Phone: (608) 266-2056

Room 15 South, State Capitol

www.leibhamsenate.com



State of Wisconsin
2013 - 2014 LEGISLATURE

in
4/29



LRB-1497/28

ARG:sac:ts

wanted
by 5/1

KMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

No change

- gen cat

1 AN ACT *to create* 84.30 (5) (br) of the statutes; **relating to:** the removal of
2 nonconforming outdoor advertising signs along highways.

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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. However, various exceptions apply to this prohibition, including exceptions for the following: 1) signs advertising activities conducted on the property on which the sign is located (on-property signs) if certain conditions are met; 2) signs in business areas if certain conditions are met or the signs were erected before March 19, 1972 (business area signs); 3) directional and other official signs meeting certain criteria (directional signs); and 4) certain signs located more than 660 feet from the highway (signs outside the adjacent area).

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3 as painting on wood, metal, or vinyl, affixing printed paper or vinyl to the face,
4 changing the message mechanically, or electronically changing the copy from a
5 remote location.

6 c. “Customary maintenance” on a sign includes nailing, bolting, fastening,
7 cleaning and painting; replacing its components with equivalent or similar
8 components; replacing structural components, including vertical supports; making
9 copy changes; upgrading existing lighting for energy efficiency or worker safety;
10 adding catwalks or handrails to address safety; raising the sign to restore its
11 original height above road-grade; raising the sign to restore visibility of its face after
12 noise barriers have been constructed along a highway; installing an apron to a sign
13 structure to display identification of the sign owner; or replacing the sign face.

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15 repair the sign exceeds 50 percent of the replacement cost of the sign after a single
16 incident necessitating repair.

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18 temporarily attached to a sign face in order to expand the area available for copy.

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20 including the sign face, based on current market prices for materials and labor, as
21 determined under the then-current agreement between the department and the
22 sign owner governing cost recovery for sign relocation.

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24 advertising, directional, or other information is displayed including any trim, border,
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9 which were lawfully erected but which no longer conform to applicable requirements
10 are declared nonconforming but are not subject to removal, except as provided in
11 subd. 4.

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13 on the date it became nonconforming. To allow a sign described in subd. 2. to exist,
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15 message on such a sign, does not constitute a violation of sub. (3) or (4).

16 4. Except as provided in subs. 5. and 6., to make a substantial change to a sign
17 described in subd. 2. or to erect additional signs shall constitute a violation of subs.
18 (3) and (4) subjecting the sign to removal without compensation, unless upon
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22 the department to be a substantial change in a sign under subd. 4. If, within 180 days
23 after receiving this notice, the sign owner removes or eliminates the change, the
24 department may not consider the change to be a substantial change in a sign for
25 purposes of subd. 4.

Barman, Mike

From: Gary, Aaron
Sent: Tuesday, April 30, 2013 3:08 PM
To: Hansen, Alex
Cc: Barman, Mike
Subject: RE: LRB 1497 Final Form

Thanks Alex.

Mike, Can you please jacket LRB-1497 for Sen. Leibham?

Aaron

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

From: Hansen, Alex
Sent: Tuesday, April 30, 2013 3:02 PM
To: Gary, Aaron
Subject: RE: LRB 1497 Final Form

Thanks for your efforts on this Aaron! Can I get the jacket for this too?

Regards,

Alex Hansen
Office of Senator Joe Leibham
Phone: (608) 266-2056
Room 15 South, State Capitol
www.leibhamsenate.com

From: Gary, Aaron
Sent: Monday, April 29, 2013 2:36 PM
To: Hansen, Alex
Cc: Phillips, Justin
Subject: RE: LRB 1497 Final Form

Hi Alex,

You should have this soon.

The LRB # for Rep. Stone's companion will be LRB-2269.

Aaron

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

From: Hansen, Alex
Sent: Monday, April 29, 2013 2:04 PM

To: Gary, Aaron
Cc: Phillips, Justin
Subject: LRB 1497 Final Form

Aaron,

Could we please get a /1 version of LRB 1497? Also, please draft an Assembly companion for Rep. Jeff Stone.

Thank you.

Alex Hansen
Office of Senator Joe Leibham
Phone: (608) 266-2056
Room 15 South, State Capitol
www.leibhamsenate.com