

# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

## Appendix A ... segment II

### LRB BILL HISTORY RESEARCH APPENDIX

The drafting file for

2011 LRB-1682 (For: Senator Leibham)

has been transferred to the drafting file for

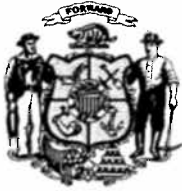
**2013 LRB-1497** (For: Senator Leibham)



**RESEARCH APPENDIX -**  
**PLEASE KEEP WITH THE DRAFTING FILE**

Date Transfer Requested: 02/05/2013 (Per: ARG)

The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



State of Wisconsin  
2011 - 2012 LEGISLATURE

Scan



LRB-1682/28 P4  
ARG:kjf:jf

in  
12/28

RMR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Regen

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. ~~These~~ 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,~~ 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 definitions of ~~substantial change~~ and "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. 84.30 (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.

5           b. "Copy change" means the process of substituting copy on a sign face, which  
6 may include removing a face and substituting another face or other processes such  
7 as painting on wood, metal, or vinyl, affixing printed paper or vinyl to the face,  
8 changing the message mechanically, or electronically changing the copy from a  
9 remote location.

Insert  
ANAL-B

Insert  
ANAL-A

9

1 c. "Customary maintenance" on a sign includes nailing, cleaning and painting,  
2 and replacement of nuts and bolts; <sup>insert 3-2</sup> replacing structural components, including  
3 vertical supports, with the same material if the cost of this component replacement  
4 does not exceed 50 percent of the replacement cost of the sign; making copy changes;  
5 upgrading existing lighting for energy efficiency or worker safety; or adding catwalks  
6 or handrails <sup>e</sup> when required to resolve safety concerns. <sup>insert 3-6</sup>

7 d. "Destroyed," with respect to a nonconforming sign, means that the cost to  
8 repair the sign exceeds 50 percent of the replacement cost of the sign. <sup>insert 3-8</sup>

9 e. "Replacement cost" means the cost to build a comparable sign based on  
10 current market prices for materials and labor.

11 f. "Sign face" or "face" means the material components of a sign on which the  
12 advertising, directional, or other information is displayed including any trim, border,  
13 or molding.

14 g. "Substantial change," with respect to a nonconforming sign, means  
15 increasing the number of vertical supports; <sup>e</sup> changing the vertical support materials,  
16 such as replacing wooden supports with metal; changing the physical location;  
17 changing the configuration of the sign structure, such as changing a stacked sign to  
18 a back-to-back sign; increasing the size or dimensions of the sign face, including the  
19 addition of a face; <sup>e</sup> adding bracing, guy wires, or other reinforcing devices; adding  
20 changeable message capability; <sup>or</sup> adding lighting, either attached or unattached, to a  
21 sign that previously did not have lights; <sup>e</sup> or removing or reerecting the structure.

<sup>insert 3-21</sup>  
22 2. Notwithstanding par. (b), signs described in sub. (3) (a), (d), (e), (f), or (h)  
23 which were lawfully erected but which no longer conform to applicable requirements  
24 are declared nonconforming but are not subject to removal, except as provided in  
25 subd. 4.



1

2

**INSERT ANAL-A:**

(no 4) “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 size or dimensions of the sign face, including the addition of a face; adding changeable message capability; or adding lighting to a previously unlit sign. With exceptions, these nonconforming off-property

3

**INSERT ANAL-B:**

(no 4) 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,

4

**INSERT 3-2:**

5

(no 4) replacing its components with equivalent or similar components;

6

7

**INSERT 3-6:**

8

(no 4) ; raising the sign to restore its original height above road-grade; raising the sign to restore visibility of its face after noise barriers have been constructed along a highway; installing an apron to a sign structure to display identification of the sign owner; or replacing the sign face.

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13

**INSERT 3-8:**

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(no 4) after a single incident necessitating repair

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**INSERT 3-21:**

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

**INSERT 4-9:**

(no 4) 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, but any such substantial change may not be repeated on the same sign.

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

**Gary, Aaron**

---

**From:** Moench, Lucas  
**Sent:** Tuesday, June 19, 2012 2:57 PM  
**To:** Gary, Aaron  
**Subject:** LRB 1682/P4

**Attachments:** Nonconforming bill draft proposed changes 06-19-12.docx

Aaron-

Could you please make the attached changes to LRB 1682/P4?

Thanks,

Lucas Moench  
Office of State Senator Joe Leibham  
9th Senate District  
608-266-2056



Nonconforming  
bill draft propo...



Proposed Changes to LRB -1682/P4

- ✓ 1. Page 3, Line 10  
Change to "or handrails to address safety."
- ✓ 2. Page 3, Line 15
  - a. Change to "Repair the sign exceeds 50 percent of the replacement cost as determined using the "Moving Cost Agreement for the Relocation of Outdoor Advertising Signs" . . ."
- ✓ 3. Page 3, Line 17
  - a. Change to "Replacement cost" means the cost to build and locate a comparable sign, not including the sign face, based on . . ."
- ✓ 4. Page 3, Line 24
  - a. Change to "increasing the square footage or area of the sign face,
  - b. Delete "including the addition of a face".
- ✓ 5. Page, 4, Line 19
  - a. Delete ",but any such substantial change may not be repeated on the same sign."

## Gary, Aaron

---

**From:** Moench, Lucas  
**Sent:** Thursday, June 21, 2012 2:45 PM  
**To:** Gary, Aaron  
**Subject:** RE: LRB 1682/P4

Aaron-

I've got answers to your questions after discussing with the Outdoor Advertising Association folks.

1. Feel free to dispense with the title of the Agreement (although it has been in place for many years and was approved by the Joint Committee on Finance). The language suggested is fine.
2. All of the language in the bill would be consistent with how replacement cost is calculated in the Moving Cost Agreement, but it may make more sense to move that phrase to the definition of "replacement cost" rather than the definition of "destroyed".

If you have any further questions on this, feel free to discuss with Janet Swandby of the Outdoor Advertising Association. She can be reached at: 262-370-1714.

Thanks,

Lucas Moench  
Office of State Senator Joe Leibham  
9th Senate District  
608-266-2056

---

**From:** Gary, Aaron  
**Sent:** Thursday, June 21, 2012 12:55 PM  
**To:** Moench, Lucas  
**Subject:** RE: LRB 1682/P4

Hi Lucas,

I have made changes 1., 3., 4., and 5. I have a question/concern about proposed change 2.

When we draft a statute, we assume it will be in effect for decades. The statutory languages becomes permanent and forever unless the legislature decides to change it. For this reason, we rarely reference documents outside the statutes, as these documents are subject to change at any time. If the document changes, the statute no longer works. The "Moving Cost Agreement for the Relocation of Outdoor Advertising Signs" would be such a document. A few years after this bill is enacted, this Agreement might be replaced by something else, perhaps with a different title. If so, having used this language in the statute would create a significant problem. Is it possible to describe the document in more general terms? For example, can we use language more like the following: "as determined under the then-current agreement between the department and sign owners governing cost recovery for sign relocation" (sign is already defined to mean outdoor advertising sign). I am open to suggested language but it is problematic to refer to the title of this document, as proposed.

I also have another concern. As instructed, this draft includes a definition of "replacement cost". The change in item 2. is essentially a modification of the meaning of "replacement cost" - it specifies how replacement cost is calculated. Is this requirement that replacement cost be determined as per the Moving Cost Agreement consistent in all respects with the way "replacement cost" is defined in the draft (p. 3, lines 17-18). If not, that would be another problem. If so, would it make more sense to include this proposed language somewhere within lines 17-18 (defining replacement cost) instead of within lines 14-16 (defining destroyed).

Thanks. Aaron

Aaron R. Gary  
Attorney, Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)

[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

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**Sent:** Tuesday, June 19, 2012 2:57 PM  
**To:** Gary, Aaron  
**Subject:** LRB 1682/P4

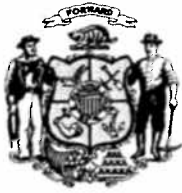
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Office of State Senator Joe Leibham  
9th Senate District  
608-266-2056

<< File: Nonconforming bill draft proposed changes 06-19-12.docx >>



State of Wisconsin  
2011 - 2012 LEGISLATURE

~~seen~~



LRB-1682/PS

ARG:kjfrs

dgis

D-note

in  
6/26

RMA

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

needed  
by 7/6

CAV

Color 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).

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 ~~size or dimensions~~ of the sign face, including the addition of a 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."

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insert  
ANAL-A

✓

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 <sup>address</sup> resolve safety <sup>e</sup> concerns; raising the sign to restore its original height ✓  
11 above road-grade; raising the sign to restore visibility of its face after noise barriers  
12 have been constructed along a highway; installing an apron to a sign structure to  
13 display 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 <sup>and locate</sup> a comparable sign <sup>insert 3-17</sup> based on  
18 current market prices for materials and labor. <sup>insert 3-18</sup> ✓

19 f. "Sign face" or "face" means the material components of a sign on which the  
20 advertising, directional, or other information is displayed including any trim, border,  
21 or molding.

22 g. "Substantial change," with respect to a nonconforming sign, means  
23 increasing the number of vertical supports; changing the physical location;  
24 increasing the size or dimensions of the sign face, including the addition of a face; ✓

insert 3-24

1 adding changeable message capability; or adding lighting, either attached or  
2 unattached, to a sign that previously did not have lights.

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

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

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

13 4. Except as provided in subd. 5., to enlarge, replace, or relocate a sign described  
14 in subd. 2., to make a substantial change in such a sign, or to erect additional signs,  
15 shall constitute a violation of subs. (3) and (4) subjecting the sign to removal without  
16 compensation, unless upon completion of such work all signs upon the property  
17 conform to the requirements of subs. (3) and (4). For purposes of this subdivision,  
18 no substantial change in a sign that has been allowed to exist for 10 or more years  
19 may be considered, but any such substantial change may not be repeated on the same

20 sign

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.





2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1682/P5ins  
ARG:.....

1

2 Insert ANAL-A:

3 (no ff) square footage or area ✓  
4

5 Insert 3-17:

6 (no ff) , not including the sign face, ✓  
7

8 Insert 3-18:

9 (no ff) , as determined under the then-current agreement between the department

10 and <sup>the</sup> ~~sign owners~~ governing cost recovery for sign relocation

11

12 Insert 3-24:

13 (no ff) square footage or area of the sign ✓  
14

15

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

LRB-1682/P5dn

ARG:.....

ejs

— Date —

Please review the attached draft carefully to ensure that it is consistent with your intent. As we discussed by e-mail, I have not specifically named the "Moving Cost Agreement for the Relocation of Outdoor Advertising Signs" in this draft, but have instead inserted a more general description of the agreement. I have not seen this agreement, and I am not familiar with its terms or when it is applicable. Therefore I cannot be certain that the reference in this draft will work under all circumstances and I am relying on the OAA and DOT to advise if it will not. I also note that this draft assumes there will always be such an agreement, although its terms may change over time. This assumption may someday prove to be incorrect.

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Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us

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**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

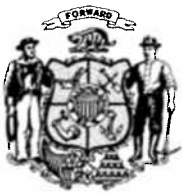
LRB-1682/P5dn  
ARG:cjs:ph

July 3, 2012

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Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: [aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-1682/P5  
ARG:kjf&cjs:ph

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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  
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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.

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

7           **SECTION 2. Initial applicability.**

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

10

(END)