



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2017 Assembly Bill 595

**Assembly Substitute
Amendment 2**

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2017 ASSEMBLY BILL 595

Nonconforming signs are signs that were lawfully erected, but do not comply with laws passed at a later date or fail to comply with the law due to changed conditions. Under current law, certain types of nonconforming signs are not subject to removal and may be customarily maintained. Under current Department of Transportation (DOT) administrative rules, customary maintenance ceases and a substantial change occurs if repairs or maintenance, excluding message changes, on a sign exceeds 50% of the replacement costs of the sign.

Assembly Bill 595 specifies that certain types of signs, including directional and other official signs, business area signs, and signs located in urban areas outside the adjacent area, that were lawfully erected but that no longer conform to applicable requirements are declared nonconforming upon notice from DOT to the sign owner by registered mail. However, those signs are not subject to removal unless a substantial change is made to the sign or the sign is destroyed, subject to certain exceptions related to criminal or tortious acts.

Under the bill, a “substantial change” is defined as any of the following activities:

- Increasing the number of upright supports.
- Changing the physical location.
- Increasing the square footage or area of the sign face, subject to an exception for extensions, defined as a device or embellishment temporarily attached to a sign face that expands the area available for copy, that meet certain criteria.
- Adding changeable message capability.

- Adding illumination, either attached or unattached, to a sign that was not previously illuminated.

A nonconforming sign would not be subject to removal for customary maintenance or a change to the advertising message. The bill specifies that customary maintenance includes: nailing, bolting, fastening, cleaning, and painting; replacing components with equivalent or similar components; replacing structural components; making copy changes; upgrading existing illumination for energy efficiency or worker safety; adding catwalks or handrails to address safety; installing an apron to a sign structure to display identification of the sign owner; or replacing the sign face.

The bill also specifies that customary maintenance does not include a single repair that involves replacing more than 60% of the wooden upright supports of a sign or replacing more than 30% of the length above ground of each broken, bent or twisted upright metal support of a sign.

Under the bill, if DOT determines a violation has occurred, DOT is required to notify by registered mail the sign owner and the owner of the property on which the sign is located of the alleged violation. If the alleged violation is remedied within 60 days of receipt of the notice, then the activity is not a violation and removal is not warranted.

ASSEMBLY SUBSTITUTE AMENDMENT 2

Assembly Substitute Amendment 2 removes the provisions authorizing the use of extensions in certain circumstances. Specifically, under the amendment, an extension is not considered a copy change that is an acceptable form of customary maintenance, nor is an extension included in the definition of the term "sign face." Likewise, the amendment removes the exception for extensions from the definition of "substantial change."

The amendment also adds a time restriction to the definition of customary maintenance. Specifically, under the amendment, "customary maintenance" does not include repairs that involve, within a period of 36 consecutive months, replacing more than 60% of wooden upright supports of a sign or replacing more than 30% of the length above ground of each broken, bent, or twisted upright metal support of a sign. Similarly, the amendment adds a time restriction to the definition of "destroyed," in that a sign is considered "destroyed" if a certain percentage of its supports are broken or need to be replaced within a period of 36 consecutive months.

In addition, the amendment replaces the term "means" with the term "includes" in the definition of substantial change, creating a nonexhaustive list of activities that may constitute a substantial change to a sign.

Finally, the amendment provides that, when determining whether a change to a sign violates state law, DOT may not consider any changes to the sign that no longer exist.

BILL HISTORY

Representative Vorpapel offered Assembly Substitute Amendment 2 on February 14, 2018. On February 15, 2018, the Assembly Committee on Transportation recommended adoption of Assembly Substitute Amendment 2 on a vote of Ayes, 9; Noes, 4; and passage of Assembly Bill 595, as amended, on a vote of Ayes, 9; Noes, 4.

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