

CR 86-166

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DEC 19 1986

CERTIFICATE

G. Olson
Revisor of Statutes
Bureau

STATE OF WISCONSIN)
) s.s.
DEPARTMENT OF TRANSPORTATION)

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Lowell B. Jackson, Secretary of the Wisconsin Department of Transportation and custodian of the official records do hereby certify that the rule relating to erection and maintenance of specific information and business signs within the limits of public highways was duly approved and adopted by this department on December 17, 1986.

I further certify that this copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation at 4802 Sheboygan Avenue, in the City of Madison, this 17th day of December, 1986.

Lowell B. Jackson

LOWELL B. JACKSON, P.E.
Secretary

3-1-87

OFFICE OF THE SECRETARY

IN THE MATTER OF THE ADOPTION *
 OF A RULE TO REPEAL TRANS 200.06 *
 (4) (b), (c) and (d) and (5) (d); *
 TO AMEND TRANS 200.015(2) (e) and *
 200.06(1) (d), (f), (g), (h) and *
 (k), (3) (f), (4) (a) and (5) (a); *
 and TO CREATE TRANS 200.06(3) (i) *
 and (12), WISCONSIN ADMINISTRA- *
 TIVE CODE, RELATING TO ERECTION *
 AND MAINTENANCE OF SPECIFIC *
 INFORMATION AND BUSINESS SIGNS *
 WITHIN THE LIMITS OF PUBLIC *
 HIGHWAYS. *

ORDER
 ADOPTING
 RULE

Analysis Prepared by the Wisconsin Department of Transportation

General Summary of Proposed Rule. 1985 Wisconsin Act 29, SECTIONS 1603e to 1603m, changed sec. 86.195, Stats., effective July 20, 1985, in various ways to remove previous statutory impediments and restrictions to the erection and maintenance of specific information and business signs within the limits of certain public highways to advise motorists of the availability of gas, food, lodging and camping facilities. No signs were erected under the law before it was amended because only 2 business signs could be permitted in the whole state, and the cost was therefore prohibitive.

The Department of Transportation (DOT) adopted an administrative rule in final draft form on February 17, 1986, to bring the language of the existing rule into conformity with the statute which was changed after the initial adoption of the rule on February 29, 1984.

Subsequent to that date, on March 25, 1986, the Assembly Committee on Highways requested an extension of time to review the rule. DOT subsequently determined that the erection and maintenance of these signs with existing DOT staff and resources cannot be accomplished in an effective or timely manner, that delay in the implementation of this program would be inconsistent with the intent of the Wisconsin Legislature, and that an effective alternative exists through private sector, competitive contracting with DOT for the erection and maintenance of these signs. DOT therefore determined it would be necessary to change the existing rule to request, competitive, private sector proposals to establish, fund and maintain Wisconsin's specific information sign program.

On April 8, 1986, the Assembly Highways Committee met to obtain information on the rule, Clearinghouse Rule 86-21. Persons requesting the meeting to review the rule concluded that their objections related to the statutory language as well and would require legislation to correct. The Committee took no action on the rule.

DOT used this opportunity to brief the Committee on its proposed emergency rule changes to privatize this sign program by allowing private contractors to not only erect signs, but also to take a larger role in implementing the program without any cost to the State.

In order to make the rule changes necessary to implement this program this calendar year, DOT promulgated its emergency rule on June 6, 1986 to provide for submission of private sector, competitive proposals for the erection and maintenance of these signs by July 1986. This emergency rule also incorporated the changes in the rule necessitated by the changes in the statutes, sec. 86.195, Stats., that were already a part of Clearinghouse Rule 86-21 to be published in September, 1986.

This rule makes that part of the emergency rule "permanent" that was not already made permanent by Clearinghouse Rule 86-21. DOT has already entered a contract with a private contractor as envisioned under the emergency rule to implement the specific information sign program now.

A public hearing was held on the proposed rule in Rhinelander on September 16, 1986.

Final Regulatory Flexibility Analysis. This rule will not have an economic impact on a substantial number of small businesses. The on-highway advertising allowed should benefit all businesses advertising.

In addition, this rule provides that existing motorist service signs will not be removed unless specific information signs in the same direction are erected. The existing rule would not permit these signs of benefit to small businesses to remain.

This rule also allows the DOT to make exceptions to certain sign restrictions where necessary to provide motorists with service information. This flexibility should benefit small businesses.

This rule also permits existing businesses to have priority in retaining their permitted business signs. The existing rule would subject these business signs to bumping if the businesses were not the closest to the highway intersection each year. This change should benefit existing small businesses.

Finally, this rule allows the Department to enter contracts with private businesses that can use alternative, more flexible application and permit renewal procedures, and effective sign program implementation methods. The Department has entered into a contract with a private contractor. This rule change permits flexibility that should help small businesses obtain business signs on specific information signs on the public highway rights of way that are eligible for such signing.

Fiscal Estimate Summary. This rule has no fiscal effect on state or local governments. A fiscal estimate is attached. The risk of not being paid for business and specific information signs once erected on public highway rights of way is shifted from the state to a private contractor. It is not possible to quantify the extent of this risk, if any, at this time; or the potential savings to the state it may reflect.

Preparation. This analysis was prepared by James S. Thiel, General Counsel, Wisconsin Department of Transportation, Room 103B Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin 53702.

Pursuant to the authority vested in the Wisconsin department of transportation by ss. 86.19(2) and 86.195, Stats., the department of transportation hereby repeals Trans 200.06(4)(b), (c) and (d) and (5)(d); amends Trans 200.015(2)(e) and 200.06(1)(d), (f), (g), (h) and (k), (3)(f), (4)(a) and (5)(a); and creates Trans 200.06(3)(i) and (12) as follows:

TEXT OF RULE

SECTION 1. Trans 200.015(2)(e) is amended to read:

Trans 200.015(2)(e) "District office" means an office of the division of highways and transportation districts services of the department of transportation.

SECTION 2. Trans 200.06(1)(d) is amended to read:

Trans 200.06(1)(d) When a business sign is erected, any existing motorist service signs for the same services at the same intersection in the same direction shall be removed.

SECTION 3. Trans 200.06(1)(f) is amended to read:

Trans 200.06(1)(f) Any person permitted to have a business sign shall provide any supplemental signing deemed necessary to guide traffic to the motorist service. Supplemental signing includes ramp signing or other lawful signing.

SECTION 4. Trans 200.06(1)(g) is amended to read:

Trans 200.06(1)(g) No business sign may be erected or maintained on an exit ramp sign without a corresponding business sign on the specific information sign along the main roadway. A business sign may be erected and maintained on a specific information sign along the main roadway without a corresponding business sign on an exit ramp sign unless deemed necessary by the department to guide traffic to the motorist service.

SECTION 5. Trans 200.06(1)(h) is amended to read:

Trans 200.06(1)(h) No business sign may be erected or maintained on a freeway for a business that is reached by any other freeway. No business sign may be erected or maintained on an expressway for a business that is reached by any other expressway or by any freeway. No business sign may be erected or maintained on a conventional highway for a business that is reached by any other conventional federal-aid primary or secondary highway or by any expressway or freeway. The department may allow exceptions to the restrictions in this paragraph when it deems it necessary to provide motorists with service information.

SECTION 6. Trans 200.06(1)(k) is amended to read:

Trans 200.06(1)(k) When there are more business signs requested than the number that may be permitted, the businesses with existing permitted signs shall have priority; then the businesses that are nearest the through federal-aid primary or secondary highway shall have next priority. At double exit interchanges, the distance shall be measured separately for each pair of double exists, and the shorter distance shall determine priority.

SECTION 7. Trans 200.06(3)(f) is amended to read:

Trans 200.06(3)(f) If an application is approved and a permit issued, an annual permit renewal fee shall be required for administrative costs and routine inspection. Annual renewal of the permit shall be subject to review and approval or denial by the department. If there are more business signs requested than the number that may be permitted, the permit shall be denied or not renewed in favor of existing permitted signs and then any eligible applicant providing a motorist service that is nearer the through federal-aid primary or secondary highway. If motorist services are at equal distance from the through federal-aid primary or secondary highway upon which the sign is to be placed, then the earliest received application shall have priority.

SECTION 8. Trans 200.06(3)(i) is created to read:

Trans 200.06(3)(i) In lieu of the application and permit renewal procedure stated in pars. (a) to (h), the department may enter into a contract that specifies alternative application and permit renewal procedures with a private contractor.

SECTION 9. Trans 200.06(4)(a) is renumbered 200.06(4) and amended to read:

Trans 200.06(4) The applicant requesting the erection of a business sign shall pay to the department an application of \$40 for administrative costs and the cost of routine sign inspection. A separate application and \$40 fee is required for each business sign requested. A business sign along the main roadway and its corresponding sign on an exit ramp sign under sub. (7)(a)4 shall be considered 2 business signs. The applicant granted a permit shall pay the department an annual permit renewal fee of \$40 for each business sign and \$40 for each corresponding business sign on an exit ramp sign, if any, before ~~January-1~~ of the anniversary date of the erection of the business sign each ~~calendar~~ year following erection of the sign. If the department does not receive payment of the annual renewal fee by ~~January-1~~, the anniversary date, the department shall not renew the permit.

SECTION 10. Trans 200.06(4)(b), (c) and (d) are repealed.

SECTION 11. Trans 200.06(5)(a) is amended to read:

Trans 200.06(5)(a) The department shall prepare plans and specifications for the manufacture, erection and maintenance of signs. The department's specifications shall require all sign panel supports to be of a breakaway design. The department may elect to undertake the manufacture and erection of signs by erection contract or by maintenance contract. The department may also elect to undertake the manufacture of specific information

signs by separate contract from the maintenance or erection contracts and contracts may be of any statewide, regional, district or local scope deemed reasonable and cost effective by the department. All erection and maintenance work shall be done under contracts administered by the department. No work may be done by any applicant. The applicant shall furnish the department's contractor the applicant's brand, symbol, trademark or name, or combination of these, or the business sign meeting the department's specifications as the business sign. All materials furnished as business signs by an applicant or by the department's contractor shall become and remain property of the department once erected within any public highway, or as otherwise specified in the department's contract with its contractor. Failure to deliver the business sign within the specified period, to provide necessary supplemental signs, or to conform the sign to the department's specification may result in the forfeiture of the \$40 fee and another business may be given the opportunity to qualify for the vacated space.

SECTION 12. Trans 200.06(5)(d) is created to read:

Trans 200.06(5)(d) In lieu of or in addition to the contracting procedures stated in pars. (a) to (c), the department may enter into a contract that specifies alternative manufacture, erection, maintenance, marketing and implementation methods with a private contractor.

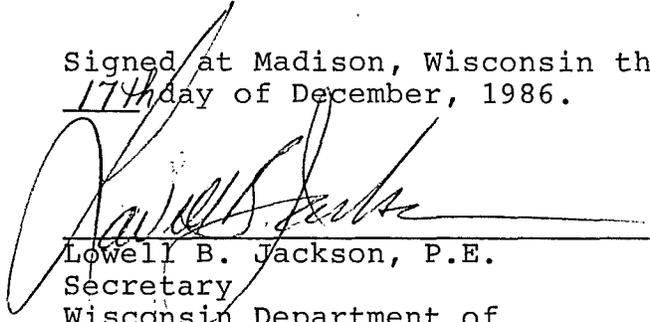
SECTION 13. Trans 200.06(12) is created to read:

Trans 200.06(12) In lieu of or in addition to Form Trans 200.06, the department may enter into a contract that specifies alternative application forms with a private contractor.

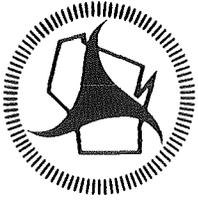
(END OF RULE TEXT)

The rule repeals, amendments and creations, contained in this order shall take effect on the first day of the month following its publication in the Wisconsin Administrative Register as provided in s. 227.026(1)(intro.), Stats. (1983-1984) (s. 227.22(1)(intro.) as affected by 1985 Wis Act 182).

Signed at Madison, Wisconsin this
17th day of December, 1986.



Lowell B. Jackson, P.E.
Secretary
Wisconsin Department of
Transportation



Wisconsin Department of Transportation

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DEC 19 1986

Revisor of Statutes
Bureau

December 19, 1986

Mr. Gary Poulson
Assistant Revisor of Statutes
30 West Mifflin Street
Suite 904
Madison, Wisconsin 53703

RE: Clearinghouse Rule 86-166
In the Matter of the Adoption
of TRANS 200, Wis. Admin. Code,
Relating to Erection and Maintenance
of Specific Information and Business Signs
within the Limits of Public Highways

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of CR 86-166, an administrative rule relating to erection and maintenance of specific information and business signs within the limits of public highways. An additional, uncertified copy of CR 86-166 is enclosed to be used as a printer's copy. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,

James S. Thiel
James S. Thiel (dlm)
Director

JST:dlm
Enclosures
CC: K. Sue Gallagher
Maynard Schneider