

1971 Assembly Bill 1411

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CHAPTER 197, Laws of 1971

AN ACT to amend 20.395 (2) (xb); to repeal and recreate 84.30; and to create 20.395 (2) (wf) of the statutes, relating to control of outdoor advertising in areas adjacent to certain highways, granting rule-making authority and making an appropriation.

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

SECTION 1. 20.395 (2) (wf) of the statutes is created to read:

20.395 (2) (wf) Compensation for removal of outdoor advertising. A sum sufficient for the execution of its functions under s. 84.30.

SECTION 2. 20.395 (2) (xb) of the statutes is amended to read:

20.395 (2) (xb) State fund; supplemental. On June 30, 40% of the amount remaining from highway fund revenues collected by the division of motor vehicles of the department of transportation, department of revenue and public service commission, after deducting the amount appropriated from the highway fund by subs. (1) and (3) and ss. 20.155 (1) (u), 20.370 (4) (z), 20.505 (3), 20.566 (1) (u) and 20.765 (2) (u) and the amounts allotted from the appropriations made by pars. (u), (vb), (vd), (vf), (vh), (vj), (vm), (vo), (vr), (vt), (vw), (vx), (wb), (wd), ~~(wf)~~, (xd) and (yd) have been set aside, to supplement the appropriation made by par. (vt). From the appropriation credited to this paragraph an amount adequate to reimburse towns for claims arising under s. 60.29 (20) (e) 2 shall be paid to such towns at the beginning of each fiscal year for claims arising in the prior fiscal year.

SECTION 3. 84.30 of the statutes is repealed and recreated to read:

84.30 REGULATION OF OUTDOOR ADVERTISING. (1) LEGISLATIVE FINDINGS AND PURPOSE. To promote the safety, convenience and enjoyment of public travel, to preserve the natural beauty of Wisconsin, to aid in the free flow of interstate commerce, to protect the public investment in highways, and to conform to the expressed intent of congress to control the erection and maintenance of outdoor advertising signs, displays and devices adjacent to the national system of interstate and defense highways, it is hereby declared to be necessary in the public interest to control the erection and maintenance of billboards and other outdoor advertising devices adjacent to said system of interstate and federal-aid primary highways.

(2) DEFINITIONS. In this section, unless the context otherwise requires:

(a) "Adjacent area" means an area which is adjacent to and within 660 feet of the nearest edge of the right-of-way of any interstate or primary highway, which 660 feet distance shall be measured horizontally along a line normal or perpendicular to the center line of the highway.

(b) "Business area" means any part of an adjacent area which is zoned for business, industrial or commercial activities under the authority of the laws of this state; or not zoned, but which constitutes an unzoned commercial or industrial area as defined in par. (k). In adjacent areas along the interstate system business areas shall be limited to commercial or industrial zones within the boundaries of incorporated municipalities, as those boundaries existed on September 1, 1959, and all other areas where the land-use as of September 1, 1959, was clearly established by state law as industrial or commercial.

(c) "Center line of the highway" means a line equidistant from the edges of the median separating the main-traveled ways of a divided highway, or the center line of the main-traveled way of a nondivided highway.

(d) "Commercial or industrial activities" for purposes of unzoned industrial and commercial areas mean those activities generally recognized as commercial or industrial by local zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

1. Outdoor advertising structures.
2. Agricultural, forestry, ranching, grazing, farming and similar activities, including, but not limited to wayside fresh produce stands.
3. Activities normally or regularly in operation less than 3 months of the year.
4. Transient or temporary activities.
5. Activities not visible from the main-traveled way.
6. Activities more than 660 feet from the nearest edge of the right-of-way.
7. Railroad tracks and minor sidings.
8. Areas which are predominantly used for residential purposes.

(e) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish; but it does not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance of the sign structures.

(f) "Interstate highway" means any highway at any time officially designated as a part of the national system of interstate and defense highways by the highway commission and approved by the appropriate authority of the federal government.

(g) "Main-traveled way" means the through traffic lanes exclusive of frontage roads, auxiliary lanes and ramps.

(h) "Maintain" means to allow to exist.

(i) "Primary highway" means any highway, other than an interstate highway, at any time officially designated as a part of the federal-aid primary system by the highway commission and approved by the appropriate authority of the federal government.

(j) "Sign" means any outdoor advertising sign, display, device, notice, figure, painting, drawing, message, placard, poster, billboard, or other thing, which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of any portion of an interstate highway or primary highway.

(k) "Unzoned commercial or industrial areas" mean those areas which are not zoned by state or local law, regulation or ordinance, and on which there is located one or more permanent structures devoted to a commercial or industrial activity or on which a commercial or industrial activity is actually conducted whether or not a permanent structure is located thereon, and the area along the highway extending outward 800 feet from and beyond the edge of such activity. Each side of the highway will be considered separately in applying this definition. All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing and landscaped areas of the commercial or industrial activities, not from the property lines of the activities, and shall be along or parallel to the edge or pavement of the highway.

(L) "Zoned commercial or industrial areas" mean those areas which are zoned for business, industry, commerce or trade pursuant to a state or local zoning ordinance or regulation.

(3) SIGNS PROHIBITED. No sign shall, subject to sub. (4), be erected or maintained in an adjacent area after the effective date of this section (1971), except the following:

(a) Directional and other official signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, and which comply with rules which shall be promulgated by the highway commission relative to their lighting, size, number, spacing and such other requirements as are appropriate to implement this section, but such rules shall not be inconsistent with, nor more restrictive than, such national standards as may be promulgated from time to time by the secretary of transportation of the United States under 23 U.S.C. 131 (c).

(b) Signs advertising the sale or lease of property upon which they are located if such signs comply with rules of the highway commission.

(c) Signs advertising activities conducted on the property on which they are located if such signs comply with rules of the highway commission.

(d) Signs located in business areas on the effective date of this section (1971).

(e) Signs to be erected in business areas subsequent to the effective date of this section (1971) which when erected will comply with sub. (4).

(4) SIGN CRITERIA. The highway commission shall effectively control or cause to be controlled, the erection and maintenance of outdoor advertising signs, displays and devices that are erected subsequent to the effective date of this section (1971) in all business areas. Whenever a bona fide county or local zoning authority has made a determination of customary use, as to size, lighting and spacing such determination may be accepted in lieu of controls by

agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority. In all other business areas, the criteria set forth below shall apply:

(a) Size of signs shall be as follows:

1. The maximum areas for any one sign shall be 1,200 square feet with a maximum height of 30 feet and maximum length of 60 feet, inclusive of any border and trim but excluding the base or apron, supports and other structural members.

2. The areas shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire sign.

3. The maximum size limitations shall apply to each side of a sign structure and signs may be placed back-to-back, side-by-side, or in V-type construction with not more than 2 displays to each facing, and such sign structure shall be considered as one sign.

(b) Signs may be illuminated, subject to the following restrictions:

1. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.

2. Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the interstate or federal-aid primary highway and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

3. No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.

(c) Spacing of signs shall be as follows:

1. On interstate and federal-aid primary highways signs may not be located in such a manner as to obscure, or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device, obstruct or physically interfere with the driver's view of approaching, merging, or intersecting traffic.

2. On interstate highways and freeways on the federal-aid primary system no 2 structures shall be spaced less than 500 feet apart. Outside of incorporated villages and cities, no structure may be located adjacent to or within 500 feet of an interchange, intersection at grade, or safety rest area. Said 500 feet shall be measured along the interstate or freeway from the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way.

3. On nonfreeway federal-aid primary highways outside incorporated villages and cities, no 2 structures shall be spaced less than 300 feet apart. Within incorporated villages and cities, no 2 structures shall be spaced less than 100 feet apart.

4. The spacing between structures provisions in subds. 1, 2 and 3 do not apply to structures separated by buildings or other obstructions in such a manner that only one sign-facing located within the spacing distances in subds. 1, 2 and 3 is visible from the highway at any one time.

5. a. Official and on-premises signs, as defined in 23 U.S.C. 131 (c), and structures that are not lawfully maintained shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.

b. The minimum distances between structures shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and shall apply only to structures located on the same side of the highway.

(d) 1. Signs shall not be erected or maintained which imitate or resemble any official traffic sign, signal or device.

2. Signs shall not be erected or maintained upon trees, or painted or drawn upon rocks or other natural features.

3. Signs shall not be erected or maintained which are structurally unsafe or in substantial disrepair.

(5) NONCONFORMING SIGNS. (a) Signs outside of business areas which are lawfully in existence on the effective date of this section (1971) but which do not conform to the requirements herein are declared nonconforming and shall be removed by the end of the 5th year from said date.

(b) A sign lawfully erected after the effective date of this section (1971) and which subsequently does not conform to this section shall be removed by the end of the 5th year after it becomes nonconforming.

(c) Should any commercial or industrial activity, which has been used in defining or delineating an unzoned area, cease to operate, the unzoned area shall be redefined or redelineated based on the remaining activities. Any signs located within the former unzoned area but located outside the unzoned area, based on its new dimensions, shall become nonconforming.

(6) JUST COMPENSATION. Just compensation shall be paid upon the removal or relocation on or after the effective date of this section (1971) of any of the following signs which are not then in conformity with this section:

(a) Signs lawfully in existence on the effective date of this section (1971).

(b) Signs lawfully in existence on land adjoining any highway made an interstate or primary highway after the effective date of this section (1971).

(c) Signs lawfully erected on or after the effective date of this section (1971).

(7) MEASURE. The just compensation required by sub. (6) shall be paid for the following:

(a) The taking from the owner of such sign, all right, title and interest in and to the sign and his leasehold relating thereto, including severance damages to the remaining signs which have a unity of use and ownership with the sign taken, shall be included in the amounts paid to the respective owner, excluding any damage to factories involved in manufacturing, erection, maintenance or servicing of any outdoor advertising signs or displays.

(b) The taking of the right to erect and maintain such signs thereon from the owner of the real property on which the sign is located.

(8) **AGREED PRICE.** Compensation required under subs. (6) and (7) shall be paid to the person entitled thereto. If the highway commission and the owner reach agreement on the amount of compensation payable to such owner in respect to any removal or relocation, the highway commission may pay such compensation to the owner and thereby require or terminate his rights or interests by purchase. If the highway commission and the owner do not reach agreement as to such amount of compensation, the highway commission or owner may institute an action to have such compensation determined under s. 32.05.

(9) **SIGN INFORMATION.** On and after the effective date of this section (1971) all signs, or structures on which there are displays, shall have stated thereon the names and addresses of the owner thereof, and the date of its erection; but if the address of the owner is on file with the highway commission it need not be stated thereon.

(10) **LICENSE REQUIREMENT.** (a) On or after January 1, 1972, no person shall engage or continue to engage in the business of outdoor advertising in areas subject to this section without first obtaining a license therefor from the highway commission. The fee for the issuance of a license or for the renewal thereof shall be \$250 payable in advance. Each license shall remain in force until the next succeeding December 31 and may be renewed annually.

(b) Application for license or a renewal thereof shall be made on forms to be furnished by the highway commission, shall contain such information as the highway commission requires and shall be verified under oath by the applicant or his duly authorized officer or agent. Renewal applications shall be filed on or before the December 1 preceding the expiration date. Upon receipt of an application containing all required information, in due form and properly executed, together with any bond required by par. (c) and upon payment of the required license fee, the highway commission shall issue a license to the applicant or renew his existing license.

(c) No license to engage or continue to engage in the business of outdoor advertising shall be granted to any applicant who does not reside in this state or, in the case of a foreign corporation not authorized to do business in this state until such applicant files with the highway commission a bond payable to the state and with a surety approved by the attorney general, in the sum of \$5,000 conditioned upon the licensee observing and fulfilling all applicable provisions of this section. Upon default thereof the highway commission may enforce the collection of such bond in any court of competent jurisdiction. The bond shall remain in effect so long as any obligation of such licensee to the state remains unsatisfied.

(d) The highway commission may, after a hearing with 30 days' prior written notice to the licensee, revoke his license if the highway commission finds that the licensee has knowingly made false statements in his application or is violating this section. Such revocation shall not become effective if within 30 days after written notice of the findings has been given to the licensee, he corrects such false statement or terminates any such violation.

(11) **COMMISSION REMOVAL.** Any sign erected in an adjacent area after the effective date of this section (1971), in violation of this section or the rules promulgated under this section, may be removed by the highway commission upon 60 days' prior notice by registered mail to the owner thereof and to the owner of the land on which said sign is located, unless such sign is brought into conformance within said 60 days. No notice shall be required to be given to the owner of a sign whose name is not stated on the sign or

on the structure on which it is displayed, or whose address is not stated thereon or is not on file with the highway commission.

(12) FEDERAL COMPLIANCE. The highway commission on behalf of the state is authorized and directed to seek agreement with the secretary of transportation of the United States acting under the provisions of 23 U.S.C. 131, as amended, that the provisions of this section are in conformance with that federal law and provide effective control of outdoor advertising signs as set forth therein.

(13) FEDERAL FUNDS. The highway commission may accept any allotment of funds by the United States, or any agency thereof, appropriated to carry out the purposes of 23 U.S.C. 131, as amended, from time to time. The highway commission shall take such steps as are necessary from time to time to obtain from the United States, or the appropriate agency thereof, funds allotted and appropriated, under 23 U.S.C. 131 for the purposes of paying the federal government's 75% of the just compensation to be paid to sign owners and owners of real property under 23 U.S.C. 131 (g) and this section.

(14) COMMISSION RULES. The highway commission may promulgate rules deemed necessary to implement and enforce provisions of this section. The commission shall promulgate rules to restrict the erection and maintenance of signs as to their lighting, size, number and spacing when such signs are visible from the highway but outside the adjacent area.

(15) FUNDS REQUIRED. Despite any contrary provision in this section no sign shall be required to be removed unless at the time of removal there are sufficient funds, from whatever source, appropriated and immediately made available to the highway commission with which to pay the just compensation required and unless at such time the federal funds, required to be contributed to this state under 23 U.S.C. 131 have been appropriated and are immediately available to the state for the payment of compensation which is eligible for federal participation.

(16) SEVERABILITY. If any provision or clause of this section or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable. If any portion of this section is found not to comply with federal law and federal billboard removal compensation that portion shall be void without affecting the validity of other provisions of the section.

(17) HIGHWAY FUND. All fees collected for the issuance of permits provided for under this section shall be paid into the highway fund.
