



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2005 Wisconsin Act 465
[2005 Assembly Bill 967]

Maintenance and Removal of Vegetation Obstructing View of Outdoor Advertising Signs

Under **current law**, the Department of Transportation (DOT) is responsible for maintenance of the highway right-of-way on highways that, for maintenance purposes, are under its jurisdiction, which are generally state trunk highways but do not include connecting highways (state trunk highways). DOT must provide for the care and protection of trees and other roadside vegetation, including suitable planting to prevent soil erosion and to beautify the highways. DOT must also cut, trim, or remove, or allow others to cut, trim, or remove, trees and other vegetation in order to provide safety to highway users. DOT is also required to establish procedures for increasing the number of trees planted on state trunk highway rights-of-way.

Current law also prohibits a person from cutting, trimming, removing, or injuring any tree or other vegetation within the right-of-way of a state trunk highway without the consent of DOT. With DOT's approval, an owner of land adjoining a state trunk highway may plant and maintain trees and other vegetation on the side of the highway within 10 feet of the owner's land, and these trees and other vegetation may be cut or removed only by the owner or DOT. Under certain conditions, a person may cut or trim grass within the highway right-of-way without DOT's consent.

The federal Highway Beautification Act requires states to restrict advertising along interstate and federal-aid primary highways, which includes state trunk highways and connecting highways, and current state law incorporates these requirements. **Current law** prohibits, with certain exceptions, the erection or maintenance of outdoor advertising signs (signs) within 660 feet of, or beyond 660 feet but visible (and erected for the purpose of being visible) from, the main-traveled way of an interstate or federal-aid primary highway. Exceptions to this prohibition include, with some restrictions, signs advertising activities conducted on the property on which the signs are located; signs located beyond 660 feet of the highway in urban areas; and signs located within 660 feet of the highway in certain business, industrial, or commercial areas.

2005 Wisconsin Act 465 creates a DOT permit system for the maintenance and removal by sign owners of vegetation obstructing the view of signs along highways under the jurisdiction of DOT for

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

maintenance purposes. Under the **Act**, DOT may issue permits to sign owners for the trimming, removal, or relocation of vegetation that is located in the right-of-way of a state trunk highway and that obstructs a sign if, within various specified distances along the main-traveled way of the highway, the face of the sign is not viewable because of an obstruction to sight by vegetation in the highway right-of-way. A permit authorizes the sign owner, or a third-party contractor employed by the sign owner, to trim obstructing vegetation or remove or relocate obstructing individual plants to the extent necessary to eliminate the obstruction and restore an unobstructed view of the sign for the applicable specified distance along the highway. A permit must specify the vegetation or the portion of the highway right-of-way to which the permit applies. Each permit must require a sign owner that removes planted vegetation to either relocate the planted vegetation or reimburse DOT for the value of the planted vegetation. DOT must present to the sign owner DOT's calculation of the value of the planted vegetation, and the sign owner may elect to relocate the planted vegetation or to reimburse DOT in the amount calculated by DOT. A permit may not authorize: trimming, removal, or relocation of vegetation located within a municipality and within 10 feet of the nearest edge of the highway pavement unless the municipality approves the trimming, removal, or relocation; trimming, removal, or relocation of vegetation in existence prior to the erection of the sign obstructed by the vegetation; or clear-cutting any highway right-of-way.

DOT must grant or deny an application for a permit within 60 days of receiving the application. If an application is incomplete, DOT must return the application within 30 days of receiving the application and inform the applicant of what information must be provided to complete the application. If DOT denies an application, DOT must notify the applicant of reasons for the denial. Under certain conditions, a sign owner applying for a permit must, at the time of the application, provide written notice of the permit application to the owner of any property adjacent to the vegetation that is the subject of the permit application and to the municipality in which this adjacent property is located.

DOT has authority to supervise and determine how the work authorized under a permit is carried out, and may require as a condition or restriction under any permit that the work authorized under the permit meet standards established by DOT. If a sign owner employs a third-party contractor to perform work authorized under the permit, the sign owner is responsible for any work performed by the contractor that is not authorized by the permit as if the work had been performed directly by the sign owner.

The **Act** generally does not prevent a sign owner and DOT from voluntarily agreeing to a sign owner's trimming, removal, or relocation, without a permit, of vegetation that obstructs the view of a sign.

If a sign owner is aggrieved by a DOT decision or by DOT's failure to act on an application, the sign owner may seek review through a contested case hearing before the Division of Hearings and Appeals in the Department of Administration and may thereafter seek court review.

Also, the **Act** requests the Legislative Audit Bureau to conduct a performance audit of the permit program created under the bill during the 2007-08 fiscal year and to file a report by June 30, 2008.

Effective Date: The effective date of 2005 Wisconsin Act 465 is June 10, 2006.

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