



2021 ASSEMBLY BILL 1146

March 10, 2022 - Introduced by Representative BILLINGS. Referred to Committee on Rules.

1 **AN ACT** *to repeal* 84.30 (4) (bm), 84.30 (5) (br) and 84.305; *to amend* 84.30 (1),
2 84.30 (2) (a), 84.30 (2) (j), 84.30 (3) (intro.), 84.30 (3) (c) 2., 84.30 (3) (e), 84.30
3 (3) (h), 84.30 (4) (intro.), 84.30 (4) (b) 1., 84.30 (4) (b) 2., 84.30 (4) (c) 1., 84.30 (4)
4 (c) 2., 84.30 (4) (c) 3. and 227.43 (1) (bg); and *to create* 20.932, 41.17 (4) (dm),
5 84.30 (2) (dg), 84.30 (2) (im) and 84.30 (3) (gm) of the statutes; **relating to:**
6 outdoor advertising signs.

Analysis by the Legislative Reference Bureau

This bill alters several provisions relating to the regulation of outdoor advertising signs along highways.

The federal Highway Beautification Act requires states to restrict advertising along interstate and federal-aid primary (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 beyond 660 feet but visible (and erected for the purpose of being visible) from, the main-traveled way of an interstate or primary highway. The exceptions to this prohibition include, with some restrictions:

1. Directional and other official signs, including signs relating to natural wonders and scenic and historical attractions.
2. Landmark signs.
3. Signs advertising the sale or lease of property on which the signs are located.

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4. On-premises signs, which are signs advertising activities conducted on the property where the signs are located.

5. Signs located beyond 660 feet of the highway in urban areas.

6. Signs located within 660 feet of the highway in areas zoned for business, industrial, or commercial activities, or in unzoned areas used for commercial or industrial activities, that were in existence on March 18, 1972.

7. Signs located within 660 feet of the highway in areas zoned for business, industrial, or commercial activities, or in unzoned areas used for commercial or industrial activities, that were erected after March 18, 1972. These signs must comply with certain size, lighting, and spacing requirements. If, however, a county or local zoning authority has made a determination of customary use regarding size, lighting, and spacing, that determination may be accepted in lieu of the statutory requirements.

8. Certain signs erected on farm buildings.

The bill freezes, as of the effective date of the bill, the application of the exception to off-premises business area signs, thereby prohibiting the erection of signs under that exception after the bill's effective date. Signs erected under this exception prior to the bill's effective date may continue to be maintained and to vary their advertising and informative displays.

The bill also extends the provisions governing outdoor advertising signs along interstate and primary highways to scenic byways.

Under current law, the Department of Transportation 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.

Additionally, under current law as enacted in 2017 Wisconsin Act 320, business area signs, directional signs, and signs outside the adjacent area (together referred to as off-property signs) that were lawfully erected but that 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

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made. “Substantial change” to a sign is defined to mean any of the following: increasing the number of upright supports; changing the physical location; increasing the square footage or area of the sign face; adding changeable message capability; or adding illumination to a sign that was previously not illuminated. In general, a nonconforming off-property sign is subject to removal, without compensation, if a substantial change is made to the sign and notice is provided to the sign owner.

The bill repeals the provisions of 2017 Wisconsin Act 320.

Also under the bill, “customary maintenance” is defined to mean any of the following and similar activities when performed to maintain a sign in substantially the same form as when the sign became nonconforming: preparing surfaces for painting; repairing or replacing fasteners such as nails, screws, or bolts; replacing lighting components and associated fixtures; or fastening broken pieces of a sign back together with glue or fasteners. Customary maintenance specifically does not include using different materials for any replacement or adding any structural elements such as posts, poles, braces or guy wires, crossbeams, or sign faces.

Under current law, off-premises business area signs may not contain flashing, intermittent, or moving lights, except:

1. Those signs giving public service information.
2. Certain signs that contain multiple or variable messages, including messages on louvers that are rotated and messages formed solely by use of lights or other electronic or digital displays.

Under the bill, the exception from the prohibition of flashing, intermittent, or moving lights for certain signs that contain multiple or variable messages is eliminated.

Under current law, 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 (including interstate highways) but do not include connecting highways. DOT must provide for the care and protection of trees and other roadside vegetation. 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. Current law generally prohibits a person from cutting, trimming, removing, or planting a tree or other vegetation within the right-of-way of a state trunk highway without DOT’s consent.

Currently, DOT administers a permit system for the maintenance and removal by sign owners of vegetation obstructing the view of signs along state trunk highways, including interstate highways. DOT is required to issue permits to sign owners for the trimming or removal of vegetation in the highway right-of-way if, within a distance of 500 continuous feet along the highway, the vegetation obstructs motorists’ view of the face of a sign. A permit authorizes the sign owner, or a third-party contractor employed by the sign owner, to trim or remove obstructing vegetation to the extent necessary to eliminate the obstruction and restore an unobstructed view of the sign for the 500 continuous feet along the highway. Each permit must require a sign owner that removes certain planted vegetation to plant comparable replacement vegetation or compensate DOT for the removed vegetation.

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The bill eliminates the permit system for the maintenance and removal by sign owners of vegetation obstructing the view of signs along state trunk highways.

The bill prohibits any office, department, or independent agency in the executive branch, the legislature, or the courts from purchasing, leasing, accepting, or using billboard space on nonconforming signs.

Under current law, the Department of Tourism may award joint effort marketing funds to nonprofit organizations, including American Indian tribes or bands, for projects designed to promote attractions and facilities in this state. While an applicant for joint effort marketing funds must specify the advertising media to be used in a project funded by the funds, there is no restriction on the kinds of media that may be used. The bill prohibits the use of joint effort marketing funds for advertising on nonconforming signs.

For further information see the state and local 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.** 20.932 of the statutes is created to read:

2 **20.932 Prohibition on use of certain signs.** A state agency may not
3 purchase, lease, accept, or use space on a sign that does not conform to the
4 requirements under s. 84.30. If a state agency owns space on a sign that does not
5 conform to the requirements under s. 84.30 on the effective date of this section ...
6 [LRB inserts date], the state agency shall sell the space as soon as practically
7 possible. If a state agency leases space on a sign that does not conform to the
8 requirements under s. 84.30 on the effective date of this section ... [LRB inserts
9 date], the state agency may not renew the lease.

10 **SECTION 2.** 41.17 (4) (dm) of the statutes is created to read:

11 41.17 (4) (dm) No funds may be used for advertising on a sign that does not
12 conform to the requirements under s. 84.30.

13 **SECTION 3.** 84.30 (1) of the statutes is amended to read:

ASSEMBLY BILL 1146**SECTION 3**

1 84.30 (1) LEGISLATIVE FINDINGS AND PURPOSE. To promote the safety, convenience
2 and enjoyment of public travel, to preserve the natural beauty of Wisconsin, to aid
3 in the free flow of interstate commerce, to protect the public investment in highways,
4 and to conform to the expressed intent of congress to control the erection and
5 maintenance of outdoor advertising signs, displays and devices adjacent to the
6 national system of interstate and defense highways, it is hereby declared to be
7 necessary in the public interest to control the erection and maintenance of billboards
8 and other outdoor advertising devices adjacent to said system of interstate and
9 federal-aid primary highways ~~and~~, the Great River Road, and scenic byways.

10 **SECTION 4.** 84.30 (2) (a) of the statutes is amended to read:

11 84.30 (2) (a) “Adjacent area” means an area which is adjacent to and within 660
12 feet of the nearest edge of the right-of-way of any interstate or primary highway ~~or~~,
13 the Great River Road, or a scenic byway, which 660 feet distance shall be measured
14 horizontally along a line normal or perpendicular to the center line of the highway.

15 **SECTION 5.** 84.30 (2) (dg) of the statutes is created to read:

16 84.30 (2) (dg) “Customary maintenance” means any of the following and
17 similar activities when performed to maintain a sign in substantially the same form
18 as when the sign became nonconforming: preparing surfaces for painting; repairing
19 or replacing fasteners such as nails, screws, or bolts; replacing lighting components
20 and associated fixtures; or fastening broken pieces of a sign back together with glue
21 or fasteners. “Customary maintenance” does not include using different materials
22 for any replacement or adding any structural elements such as posts, poles, braces
23 or guy wires, crossbeams, or sign faces.

24 **SECTION 6.** 84.30 (2) (im) of the statutes is created to read:

ASSEMBLY BILL 1146**SECTION 6**

1 84.30 (2) (im) “Scenic byway” means a highway designated by the department
2 as a scenic byway under s. 84.106.

3 **SECTION 7.** 84.30 (2) (j) of the statutes is amended to read:

4 84.30 (2) (j) “Sign” means any outdoor advertising sign, display, device, notice,
5 figure, painting, drawing, message, placard, poster, billboard, or other thing, which
6 is designed, intended, or used to advertise or inform, any part of the advertising or
7 informative contents of which is visible from any place on the main-traveled way of
8 any portion of an interstate highway ~~or~~, primary highway, or scenic byway.

9 **SECTION 8.** 84.30 (3) (intro.) of the statutes is amended to read:

10 84.30 (3) SIGNS PROHIBITED. (intro.) No sign visible from the main-traveled way
11 of any interstate or federal-aid highway or scenic byway may be erected or
12 maintained, except the following:

13 **SECTION 9.** 84.30 (3) (c) 2. of the statutes is amended to read:

14 84.30 (3) (c) 2. Signs that are not effectively shielded as to prevent beams or
15 rays of light from being directed at any portion of the traveled ways of the interstate
16 or federal-aid primary highway or scenic byway and that are of such intensity or
17 brilliance as to cause glare or to impair the vision of the driver of any motor vehicle,
18 or that otherwise interfere with any driver’s operation of a motor vehicle, are
19 prohibited.

20 **SECTION 10.** 84.30 (3) (e) of the statutes is amended to read:

21 84.30 (3) (e) Signs ~~to be~~ erected in business areas subsequent to March 18, 1972
22 ~~which when erected will,~~ but before the effective date of this paragraph [LRB
23 inserts date], that comply with sub. (4).

24 **SECTION 11.** 84.30 (3) (gm) of the statutes is created to read:

ASSEMBLY BILL 1146**SECTION 11**

1 84.30 (3) (gm) Signs that were lawfully in existence on the effective date of this
2 paragraph ... [LRB inserts date], and that conform to the requirements of s. 84.30,
3 2019 stats.

4 **SECTION 12.** 84.30 (3) (h) of the statutes is amended to read:

5 84.30 (3) (h) Signs outside the adjacent area which are not erected with the
6 purpose of their message being read from the main-traveled way of an interstate or
7 primary highway or scenic byway.

8 **SECTION 13.** 84.30 (4) (intro.) of the statutes is amended to read:

9 84.30 (4) SIGN CRITERIA. (intro.) The department shall effectively control or
10 cause to be controlled, the erection and maintenance of outdoor advertising signs,
11 displays and devices that are erected subsequent to March 18, 1972, but before the
12 effective date of this subsection ... [LRB inserts date], in all business areas.
13 Whenever a bona fide county or local zoning authority has made a determination of
14 customary use, as to size, lighting and spacing such determination may be accepted
15 in lieu of controls by agreement in the zoned commercial and industrial areas within
16 the geographical jurisdiction of such authority. In all other business areas, the
17 criteria set forth below shall apply:

18 **SECTION 14.** 84.30 (4) (b) 1. of the statutes is amended to read:

19 84.30 (4) (b) 1. Signs which contain, include, or are illuminated by any flashing,
20 intermittent, or moving light or lights are prohibited, ~~except those specified in par.~~
21 ~~(bm)~~ and those giving public service information such as time, date, temperature,
22 weather, or similar information.

23 **SECTION 15.** 84.30 (4) (b) 2. of the statutes is amended to read:

24 84.30 (4) (b) 2. Signs which are not effectively shielded as to prevent beams or
25 rays of light from being directed at any portion of the traveled ways of the interstate

ASSEMBLY BILL 1146**SECTION 15**

1 or federal-aid primary highway or scenic byway and which are of such intensity or
2 brilliance as to cause glare or to impair the vision of the driver of any motor vehicle,
3 or which otherwise interfere with any driver's operation of a motor vehicle are
4 prohibited.

5 **SECTION 16.** 84.30 (4) (bm) of the statutes is repealed.

6 **SECTION 17.** 84.30 (4) (c) 1. of the statutes is amended to read:

7 84.30 (4) (c) 1. On interstate and federal-aid primary highways and scenic
8 byways signs may not be located in such a manner as to obscure, or otherwise
9 physically interfere with the effectiveness of an official traffic sign, signal, or device,
10 obstruct or physically interfere with the driver's view of approaching, merging, or
11 intersecting traffic.

12 **SECTION 18.** 84.30 (4) (c) 2. of the statutes is amended to read:

13 84.30 (4) (c) 2. On interstate highways ~~and~~, freeways on the federal-aid
14 primary system, and freeways on a scenic byway no 2 structures shall be spaced less
15 than 500 feet apart. Outside of incorporated villages and cities, no structure may be
16 located adjacent to or within 500 feet of an interchange, intersection at grade, or
17 safety rest area. Said 500 feet shall be measured along the interstate or freeway from
18 the beginning or ending of pavement widening at the exit from or entrance to the
19 main-traveled way.

20 **SECTION 19.** 84.30 (4) (c) 3. of the statutes is amended to read:

21 84.30 (4) (c) 3. On nonfreeway federal-aid primary highways and scenic
22 byways outside incorporated villages and cities, no 2 structures shall be spaced less
23 than 300 feet apart. Within incorporated villages and cities, no 2 structures shall be
24 spaced less than 100 feet apart.

25 **SECTION 20.** 84.30 (5) (br) of the statutes is repealed.

