

Wisconsin Department of Transportation

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00-152 #
49

The Honorable Senator Roger Breske
Chairman, Senate Transportation Committee
Room 18 South, State Capitol
Madison, Wisconsin 53702

January 2, 2001

The Honorable Representative Jeff Stone
Chairman, Assembly Transportation Committee
Room 306 North, State Capitol
Madison, Wisconsin 53702

RE: Proposed Administrative Rule **TRANS 201**
Notification of Legislative Standing Committees
CLEARINGHOUSE RULE 00-152

Dear Senator Breske and Representative Stone:

In accordance with the Department of Transportation's efforts to keep you informed of its ongoing rulemaking actions, enclosed is a courtesy copy of Final Draft rule **Trans 201**, relating to **outdoor advertising sign annual fees**, which is being submitted to the Legislature for committee review.

Sincerely,

A handwritten signature in cursive script that reads "Julie A. Johnson".

Julie A. Johnson
Paralegal

JAJ/dim

Enclosure

cc: Dave Vieth
Deb Brucaya

CR 00-152

The Wisconsin Department of Transportation proposes an order to repeal TRANS 201.13; renumber TRANS 201.02(4); amend TRANS 201.01, 201.07(1), 201.10(2)(intro.) and 201.19(2); and create TRANS 201.02(intro.) and (4) to (12), 201.035, 201.07(3) and 201.075, relating to outdoor advertising sign annual fees.

**REPORT OF THE DEPARTMENT OF TRANSPORTATION
ON THE FINAL RULE DRAFT**

This report is submitted to the presiding officers of the Senate and Assembly for referral to the appropriate standing committees. The report consists of the following parts:

Part 1--Analysis prepared by the Department of Transportation.

Part 2--Rule text in final draft form.

Part 3--Recommendations of the Legislative Council.

Part 4--Analysis prepared pursuant to the provisions of s. 227.19(3), Stats.

Submitted by:



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PART 1

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: 84.30, Stats.

STATUTES INTERPRETED: 84.30, Stats.

General Summary of Proposed Rule. 1999 Wisconsin Act 9 directed the Department to assess annual fees to the owners of outdoor advertising signs in order to recoup a portion of the costs of the state's regulatory program governing outdoor advertising structures. The state has regulated outdoor advertising since the 1960's in compliance with the requirements of the Federal Highway Beautification and Bonus Acts, the regulations promulgated by the U.S. Department of Transportation interpreting those acts, and the 1961 and 1972 agreements between the State of Wisconsin and U.S. DOT.

This proposed rule making establishes fees for outdoor advertising structures based upon the regulatory burden created by the sign. This rule proposes to create annual fees of \$50 for directional, grandfathered and nonconforming signs and \$35 for nearly all other off-premises advertising signs.

Directional, nonconforming and grandfathered signs are assessed a fee of \$50 per sign regardless of size, because regulating those classes of signs requires significantly more resources than regulating other types of permitted signs.

The proposed rule would define some commonly used terms in ch. Trans 201 and this proposed rule making for clarity.

This rule creates s. Trans 201.075 to replace the substantive provisions of current s. Trans 201.02(3) which is repealed. Current drafting standards call for that provision to be moved from the definition portion of ch. Trans 201.

Finally, this proposed rule spells out what happens if sign permit fees are not timely paid and a process for sign owners to appeal a fee assessment. Nonpayment of a fee for a permitted sign results in the expiration of the permit, subjecting a sign to potential removal. Nonpayment of the fee for a nonconforming or grandfathered sign is considered abandonment subjecting the sign to removal. s. 84.30(10m), Stats.

Persons wishing to appeal the amount of an assessment need to pay the proposed fee and state particularly the facts regarding the appeal. If that does not resolve a dispute, further appeal to the Division of Hearings and Appeals may be sought.

Fiscal Effect. The proposed rule implements a provision of 1999 Wisconsin Act 9, the biennial budget, which requires the Department to charge annual fees for outdoor advertising sign owners. The Act limits revenue raised from the program to \$510,000

during Fiscal Year 2001 and provides appropriation authority for \$510,000 to improve the sign inventory information system.

This proposed rule implements the fee provision of the budget and proposes to set annual revenues after FY01 at a rate that covers a larger portion of the program costs through a combination of annual fees and an increased nonrefundable application fee. The application fee replaces the current one-time refundable fee that has been in effect since 1972.

Under the program, the department expects to recover \$87,500 per calendar year from sign permit application fees, based on an estimated 500 permit applications per year at \$175 per permit. This estimate may be imprecise because fewer applications may be submitted under the new fee structure.

In addition, the Department expects to raise fees from annual permits on an ongoing basis as follows:

CATEGORY	ESTIMATED # IN CATEGORY	FEES	\$ GENERATED
All Signs 8 sq. ft. and less, and Exempt Signs	3,000	\$0	\$0
Directional	1,700	\$50	\$85,000
Nonconforming and Grandfathered	5,000	\$50	\$250,000
All Other Permitted Signs	7,500	\$35	\$262,500
TOTALS			\$597,500

Because the Department expects to first notice sign owners of these fees in May 2001 or later, the Department does not expect to collect more than \$510,000 in fiscal year 2001 from annual permit fees. The Department anticipates collecting no more than \$30,000 in fiscal year 2001 from permit application fees.

Preparation and Copies of Proposed Rule. Preparation of this proposed rule was done by Attorney John Sobotik. Copies of the rule may be obtained upon request, without cost, by writing to Deborah Brucaya, Department of Transportation, Bureau of Highway Operations, Room 501, P. O. Box 7986, Madison, WI 53707-7986, or by calling

(608) 266-3813. Alternate formats of the proposed rule will be provided to individuals at their request.

PART 2
TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by s. 84.30, Stats., the department hereby proposes to amend a rule interpreting s. 84.30, Stats., relating to outdoor advertising sign annual fees.

SECTION 1. Trans 201.01 is amended to read:

Trans 201.01 General. Pursuant to authority contained in ss. 84.30 and 86.19, Stats., the department of transportation adopts the following rules to apply to signs along and visible from the controlled highways in Wisconsin. Section 84.30, Stats., and these rules apply to the interstate and system, federal aid primary systems or national highway system, and the Great River Road established under 23 USC 148, which are referred to herein as "controlled highways". These rules are so closely associated with the Wisconsin Statutes, and make such extensive reference to s. 84.30, Stats., that it is essential to refer to both these rules and the law in order to apply the controls. This chapter shall be interpreted consistently with the requirements of the 23 U.S.C. s. 131, federal regulations related to outdoor advertising control at 23 CFR Part 750, and the agreements between the state of Wisconsin and the U.S. federal highway administration dated June 9, 1961 and March 28, 1972.

Note: The 1961 Agreement involved application of the Federal Bonus Act (part of the Federal Aid Highway Act of 1958), P.L. 85-381; the 1972 Agreement involves application of the Federal Highway Beautification Act of 1965, P.L. 89-285.

SECTION 2. Trans 201.02(intro.) is created to read:

Trans 201.02 Definitions. (intro.) The words and phrases defined in s. 84.30(2), Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

SECTION 3. Trans 201.02(4) is renumbered Trans 201.02(13).

SECTION 4. Trans 201.02(4) to (12) are created to read:

Trans 201.02(4) "Grandfathered sign" means a sign that lawfully existed in a business area on March 18, 1972, and that does not conform to the size, spacing or lighting restrictions of s. 84.30(4), Stats.

(5) "Illegal sign" means a sign erected after March 18, 1972, without a permit, a sign that is erected or maintained in a manner that violates any requirement of a permit, this chapter, or s. 84.30, Stats., a non-conforming sign that has lost its nonconforming status, or a grandfathered sign that has lost its grandfathered status.

(6) "License" means a license to engage in the business of outdoor advertising.

(7) "Nonconforming sign" means any of the following:

(a) A sign that lawfully existed on March 18, 1972, outside of a business area.

(b) A sign that was lawfully erected after March 18, 1972, that subsequently did or does not conform to the requirements of s. 84.30, Stats., or this chapter.

(8) "Off-premises" or "off-property sign" means a sign that is not an on-premises sign.

(9) "On-premises" or "on-property sign" means a sign at a business location advertising a business that is conducted on the property and that is located in the immediate vicinity of the business. "Immediate vicinity" in this subsection means the

sign is within the area bounded by the buildings, driveways and parking areas in which the activity is conducted or within 50 feet of that area. "Immediate vicinity" does not include any area across a street or road from the area where the business is conducted or any area developed for the purpose of erecting a sign.

(10) "Permit" means a permit issued by the department to erect or maintain a sign at a defined location under a specific paragraph of s. 84.30(3), Stats.

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

NOTE: See 23 U.S.C. s. 131(t). The DOT Bureau of Planning, P. O. Box 7913, Madison, WI 53717 maintains a list of highways that are primary highways as defined herein. Information regarding which highways are primary highways under this section may also be obtained from the sign permit coordinator in any DOT district office.

(12) "Visible" means the sign, or any part of the sign structure, can be seen from the main-traveled way of a highway by a person of normal visual acuity, regardless of whether the sign is designed, erected or intended to be read from the main-traveled way.

SECTION 5. Trans 201.035 is created to read:

Trans 201.035 Annual sign fees. (1) SIGN IDENTIFIER. The department shall assign a unique identifier to each off-property sign in the state of Wisconsin. The identifier shall be assigned to a sign upon any of the following occurrences:

(a) Approval of a permit to erect the sign.

(b) First payment of an annual fee for a sign erected before the effective date of this section [revisor insert date].

(c) Addition of the sign to the sign database of signs maintained by the department.

(2) DATABASE OF SIGN OWNERS. The department shall maintain a sign database to track the name and address of the owner of each sign, and such other information related to the sign as the department considers appropriate.

NOTE: The Department shall use the address of record in this database for correspondence with a sign owner.

(3) CHANGE OF SIGN OWNERSHIP. Any person who acquires a sign shall provide the department with a notice containing all of the following information for the sign:

(a) The unique identifier assigned to the sign by the department.

(b) The name, address and telephone number of the person from whom the sign was acquired and the name of the person acquiring the sign.

(c) The location of the sign, listing the name of the primary or interstate highway to which it is adjacent, the county and town in which the sign stands, the section number of the township in which the sign is located, the name, address and telephone number of the person owning the real property upon which the sign is located, and the distance of the sign from the centerline of the nearest crossroad or intersection.

(d) The size of the sign measured in accordance with s. 84.30(4)(a)2., Stats. If the sign shape is not rectangular, a drawing showing the dimensions of the various

triangles, circles, rectangles, and squares encompassing the entire sign shall be provided.

(e) The height above ground level of the bottom edge of the sign face or any border or trim to the sign face.

(4) ANNUAL FEE NOTICE. The department shall mail an annual fee notice to the owner of record with the department of every off-premises sign within the state of Wisconsin that is subject to the requirement of paying a fee under sub. (9). All annual fee notices shall be considered delivered upon mailing to the owner of record indicated in the department's database of sign owners as of the first day of the month in which the notices are mailed. Annual fee notices may include a summary of information related to one or more signs and require owners to update or correct information at the time of paying any required fee. The department may require owners of signs not subject to the fee requirement of sub. (9) to update or correct information from a summary of information with respect to any sign.

(5) DUE DATE. Payment of annual permit fees and responses to information requests are due 60 days from the date of mailing of notices by the department, or on such other date as indicated in the fee notice.

(6) NONCONFORMING SIGNS. Nonconforming signs for which the annual fee is not paid within 60 days of the due date shall be removed as abandoned signs. Payment of an annual fee may not be considered in determining whether a sign is subject to removal under the federal highway beautification act, the regulations promulgated thereunder, or s. Trans 201.10.

NOTE: See s. 84.30(10m), Stats.

(7) PERMITTED SIGNS. The permit for a sign shall expire upon the due date for payment unless the annual fee for the sign has been paid. Signs with expired permits are subject to removal 60 days from the due date specified in the notice. The department shall notify a sign owner that a sign is subject to removal under this section in accordance with s. 84.30(11), Stats. The department may not issue a permit within any minimum required spacing limitations under ss. 84.30(4)(c), Stats., s. Trans 201.05(2)(d), or s. Trans 201.06, of a sign with an expired permit until and unless that sign is removed.

(8) REFUNDS. Permit fees are non-refundable and may not be prorated.

(9) FEE SCHEDULE. Permit fees shall be assessed as follows:

(a) Except as provided in par. (b), no annual fee may be assessed for any of the following:

1. On-premises signs.
2. Official signs and notices as defined in s. Trans 201.05(1)(d).
3. Public utility signs as defined in s. Trans 201.05(1)(e).
4. Public service signs as defined in s. Trans 201.05(1)(g).
5. Political signs as defined in s. Trans 201.16(1), if exempt from permit requirements under s. Trans 201.16(2).
6. Real estate signs as defined in s. Trans 201.17(1) if exempt from permit requirements under s. Trans 201.17(3).
7. Farm signs as defined in s. Trans 201.18(1)(b) if exempt from permit requirements under s. Trans 201.18(2).

8. Agricultural test plot signs as defined in s. Trans 201.18(1)(a) if exempt from permit requirements under s. Trans 201.18(3).

9. Signs of 8 square feet or less in area.

Note: Service club and religious notices are limited to 8 square feet or less by s. Trans 201.05(1)(f).

(b) Nonconforming, grandfathered and directional signs as defined in s. Trans 201.05(1)(c), shall be assessed an annual fee of \$50 per sign.

(c) Except as provided in pars. (a) and (b), all off-property signs shall be assessed an annual fee of \$35 per sign.

(10) APPEAL OF ANNUAL ASSESSMENT FEE. (a) Any person may appeal the assessment of an annual fee under sub. (9) by mailing a notice of appeal to the address provided on the notice of fee assessment within 15 days of the date the assessment is mailed.

(b) A notice of appeal shall particularly state all of the following:

1. The error or mistake alleged by appellant in the fee calculation made by the department.

2. Whether appellant contends the sign is an on-premises sign, official sign or notice, religious notice, service club notice, public utility sign, public service sign, farm sign, agricultural test plot sign, real estate sign, directional sign, nonconforming sign, grandfathered sign or other category of sign.

3. The exact size of the sign, measured in accordance with sub. (3)(d).

(c) Payment in the amount of the annual fee assessed by the department shall be included with a notice of appeal. The department shall hold the payment in trust pending the outcome of the appeal.

(d) Upon receipt of a notice of appeal with the required fee, the department shall investigate the matter and, if appropriate, amend the annual fee assessment for the sign and return any balance due appellant from the fees deposited under par. (c) or impose any additional assessment required.

(e) Appeals of decisions issued under par. (d) may be made to the department of administration, division of hearings and appeals within 15 days of the date the decision is mailed to the appellant.

SECTION 6. Trans 201.07(1) is amended to read:

Trans 201.07(1) Requests may be submitted to the department for permits to erect or maintain specific signs at defined locations in a manner to be visible from a travel lane of a controlled highway. A separate application shall be presented to describe each such sign proposed, ~~to change the classification of the sign, or to add displays to an existing sign,~~ shall be presented on forms furnished by the department, and shall include a \$175 nonrefundable application fee and all information and exhibits which the application form requires. No permit fee may be required to amend or supplement a defective permit application for a particular location for which an application fee was paid, provided the amendment or supplemental materials are provided to the department within 60 days of denial of the permit application or a request for supplemental materials.

SECTION 7. Trans 201.07(3) is created to read:

Trans 201.07(3) This section does not apply to any of the following:

- (a) Official signs and notices as defined in s. Trans 201.05(1)(d).
- (b) Public utility signs as defined in s. Trans 201.05(1)(e).
- (c) Public service signs as defined in s. Trans 201.05(1)(g).
- (d) Political signs as defined in s. Trans 201.16(1), if exempt from permit requirements under s. Trans 201.16(2).
- (e) Real estate signs as defined in s. Trans 201.17(1) if exempt from permit requirements under s. Trans 201.17(3).
- (f) Farm signs as defined in s. Trans 201.18(1)(b) if exempt from permit requirements under s. Trans 201.18(2).
- (g) Agricultural test plot signs as defined in s. Trans 201.18(1)(a) if exempt from permit requirements under s. 201.18(3).
- (h) Service club and religious notice signs as defined in s. Trans 201.05(1)(f).

SECTION 8. Trans 201.075 is created to read:

Trans 201.075 Signs outside the adjacent area. (1) No person may maintain an off-premises sign that was erected after March 18, 1972, or erect an off-premises sign outside the adjacent area if a person with normal visual acuity traveling at the speed limit on that highway can do any of the following:

- (a) Read any message on the sign.
- (b) See and recognize any trademarks, logos, or other symbols associated with a business or business product or service displayed on the sign.

(2) No person may erect an off-premises sign outside the adjacent area for the purpose of being seen or read from the main traveled way of an interstate or primary highway or the Great River Road.

(3) A sign outside the adjacent area that is changed in a manner that creates a violation of sub. (1) is subject to removal.

(4) Notwithstanding sub. (1), any off-premises sign erected after March 18, 1972, and existing on the effective date of this section [revisor insert date] may continue to exist and be maintained so long as the advertisement on the sign remains exactly the same. Any sign in this classification is subject to removal if the advertisement is changed and the sign does not comply with sub. (1).

(5) This section does not apply in urban areas.

NOTE: Signs are considered outside the adjacent area if they are more than 660 feet from the nearest edge of the right-of-way of the Great River Road, an interstate or a primary highway. s. 84.30(2).

SECTION 9. Trans 201.10(2)(intro.) is amended to read:

Trans 201.10(2)(intro.) In order to lawfully maintain and continue a nonconforming sign, or a so-called grandfathered sign under s. 84.30(3)(d), Stats., the following conditions apply:

SECTION 10. Trans 201.13 is repealed.

SECTION 11. Trans 201.19(2) is amended as follows:

Trans 201.19(2)(title) ~~DEFINITION~~ OFF PREMISES ADVERTISING NOT PERMITTED. ~~"On-property~~ An on-property sign" ~~means a sign advertising may advertise only activities conducted on the property on which it is located. This includes a sign which consists solely of,~~ the name of an the establishment and a sign which

identifies the establishment's principal product or service offered on the premises. A permit for an off-property sign is required for any sign violating the content restrictions of this subsection.

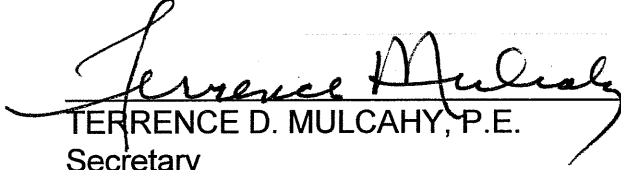
SECTION 12. Trans 201.19(5) is created to read:

Trans 201.19(5) ON-PREMISES SIGNS PROHIBITED. No on-property sign may be erected in an area across a street or road from the area where the business is conducted or in any area developed for the purpose of erecting a sign.

(END OF RULE TEXT)

Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 2 day of January, 2000.


TERRENCE D. MULCAHY, P.E.
Secretary
Wisconsin Department of Transportation

RULES CLEARINGHOUSE

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PART 3

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-152

AN ORDER to repeal Trans 201.02 (3) and 201.13; to renumber Trans 201.02 (4); to amend Trans 201.01, 201.07 (1), 201.10 (2) (intro.) and 201.19 (2); and to create Trans 201.02 (intro.) and (3) to (12), 201.035 and 201.075, relating to outdoor advertising sign annual fees.

Submitted by **DEPARTMENT OF TRANSPORTATION**

10-31-00 RECEIVED BY LEGISLATIVE COUNCIL.
11-29-00 REPORT SENT TO AGENCY.

RNS:WF:jal;tlu

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

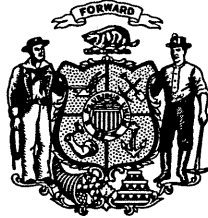
Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 00-152

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. In s. Trans 201.01, "This chapter shall" should replace "These rules are intended to." Also, "under those acts" should replace "thereunder." Finally, in this provision and elsewhere, the U.S. Code citation should replace the name of the federal act or the public law number. If the department wishes to use those also, they could be included in a note.

b. In s. Trans 201.035 (4), "the" should replace "such."

c. In s. Trans 201.035 (11) (b) (intro.), "all of the following" should be inserted before the colon.

4. Adequacy of References to Related Statutes, Rules and Forms

The correct reference in s. Trans 201.035 (11) (b) 3. is to sub. (3) (d).

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section Trans 201.035 (10) (b) should be drafted in a manner that specifies a fee for signs of all sizes. As currently drafted, signs which are greater than eight square feet but less than nine square feet, greater than 32 square feet but less than 33 square feet, etc., do not have a fee specified for them. It is suggested that the rule paragraph be drafted to cover signs of eight

square feet or less, signs that are more than eight square feet and less than or equal to 32 square feet, signs that are greater than 32 square feet and less than or equal to 200 square feet, etc., so that signs of all sizes have a fee specified for them.

b. Section Trans 201.035 (11) (c) would be more clear if drafted in a manner similar to the following: "Payment in the amount of the annual fee assessed by the department shall be included with a notice of appeal. The department shall hold the payment in trust pending the outcome of the appeal."

ANALYSIS OF FINAL DRAFT OF TRANS 201

(a) **Need for Amended Rule.** 1999 Wisconsin Act 9 directed the Department to assess annual fees to the owners of outdoor advertising signs in order to recoup a portion of the costs of the state's regulatory program governing outdoor advertising structures. The state has regulated outdoor advertising since the 1960's in compliance with the requirements of the Federal Highway Beautification and Bonus Acts, the regulations promulgated by the U.S. Department of Transportation interpreting those acts, and the 1961 and 1972 agreements between the State of Wisconsin and U.S. DOT.

(b) **Modifications as a Result of Testimony at Public Hearing.** The hearing was held in Madison on November 30, 2000. The Department received comments from a variety of sources including sign industry lobbyists and companies, individual businesses that use outdoor advertising, members of the public concerned about outdoor advertising, and public interest groups that follow outdoor advertising matters.

Most testimony centered on the fee structure contained in the proposed rule which would have assessed fees as follows:

- Assessed a small initial permit application fee of \$50.
- Assessed an annual fee of \$100 for directional, nonconforming and grandfathered signs.
- Assessed an annual fee from \$5 to \$100 based on the square footage of the sign for all other off-property signs.

This structure was favored by groups and individuals who generally oppose expansion of outdoor advertising or favor reduction in the amount of outdoor advertising allowed by law. In general, these parties felt that assessing higher costs to larger signs, which they contend cause more "visual pollution," is appropriate to discourage such signs and is consistent with the intent of the Federal Highway Beautification Act and s. 84.30, Stats.

The proposed fee structure was opposed by industry groups, who testified that costs for the department to inventory, track and permit signs are the same regardless of the size or type of the sign. The industry also favored higher sign permit application fees, on the grounds that investigating and resolving a permit application is the most costly aspect of permitting signs. Finally, the industry opposed the exemption for official signs and signs smaller than 8 square feet in area in the proposed rule.

The Department chose in this final draft being submitted to the legislature to adopt a different fee schedule than that proposed in the hearing draft. The Department proposes to charge a \$175 application fee for a sign permit, \$50 annual fees for nonconforming, grandfathered and directional signs, and a \$35 annual fee for other off-property signs. No fees will be charged on signs smaller than 8 square feet in area, official signs belonging to other government agencies, or other types of signs that are exempt from many of the requirements of s. 84.30, Stats., such as political and farm signs.

This addresses many of the concerns addressed by the sign industry, by eliminating distinctions based on sign size. It also addresses some concerns of interest groups by imposing additional fees on directional, grandfathered and nonconforming signs, which require more attention by department staff and are located in areas that are not commercial in nature.

The rule that the Department will not assess fees for signs of 8 square feet or less in area will be carried forward from the old system to this fee system in order to encourage construction of smaller, less obtrusive signs. So, too, are the exemptions for other types of signs carried forward, as there is no indication in the legislative history for 1999 Wisconsin Act 9 that the legislature intended the Department to change its practices with regard to those exempt categories of signs.

The increased \$175 permit application fee should more accurately reflect the costs to the Department of reviewing the application, making one or more site visits, adding the sign to the inventory and issuing the permit.

(c) **List of Persons who Appeared or Registered at Public Hearing.** The following persons registered at the hearing:

Vernie Smith, Citizens for a Scenic Wisconsin, 540 East South Street, Viroqua, WI 54665—spoke in favor of the rule. Mr. Smith also submitted written comments (2 letters).

Paul Gagnon, ARCA Field Manager, Lamar Outdoor Advertising, 2809 South Fifth Court, Milwaukee, WI 53207—spoke in opposition to the rule.

Daniel G. Pomeroy, Real Estate/Public Service Manager, Eller Media, 24600 Silvernail Road, Pewaukee, WI 53072—spoke for information. Mr. Pomeroy also submitted written comments.

Jim Peterson, 4814 South Hill Drive, Madison, WI 53705—registered in favor of the rule.

Janet R. Swandby, Executive Director and Lobbyist, Outdoor Advertising Association of Wisconsin, 44 East Mifflin, Suite 101, Madison, WI 53703—registered in opposition to the rule.

Written comments were also received from the following persons:

Joseph W. Davy, 404-B Gillette Street, La Crosse, WI 54603 (member of the La Crosse Sign Study Committee).

Dennis Myhre, Owner/Old 400 Depot Cafe, 2616 Hills Court, Menomonie, WI 54751.

Michael C. Collins, Collins Outdoor Advertising, Inc., 325 N. 3rd Street, P. O. Box 968, La Crosse, WI 54602-0968.

Jeremy McCune, Northland Signs, 23698 Larson Road, Grantsburg, WI 54840.

Chuck Mitchell, President, Citizens for a Scenic Wisconsin, 7525 Oakhill Avenue, Wauwatosa, WI 53213 (two letters).

(d) **Response to Legislative Council Recommendations**. All of the Legislative Council's suggestions have been incorporated into the proposed rule, except that comments related to the fee structure have been made irrelevant by the changes made in this rule.

(e) **Final Regulatory Flexibility Analysis**. The Department expects that the fee schedule established in this rule revision will have a negligible adverse impact on small businesses that use outdoor advertising as a method of advertising. Small businesses that own signs will now be required to pay \$35 or \$50 each year for each sign they erect or maintain. Because the majority of small businesses typically own only two to six outdoor advertising signs, the annual impact is expected to be minimal. For those small businesses that are more reliant on outdoor advertising signs, the costs aspects of choosing this advertising medium will not be significantly impacted by the fees, which are relatively modest in relation to the cost of erecting or maintaining a sign or leasing sign space.

The annual sign fees that would be paid under this proposed rule by both small independent sign companies that own approximately 20-75 billboards and large sign companies that own hundreds of signs, are expected to be passed on to the advertisers. This new fee should not significantly affect the monthly lease rental rates charged by these companies for outdoor advertising and is not expected to have an effect on "small businesses" under s. 227.114, Stats.

These fees may have some impact on sign companies that fall within the definition of "small business" under s. 227.114, Stats., to the extent that these companies have entered into long term leases for sign space and are unable to pass through the cost to their customers until the lease is renewed. Industry testimony on this aspect of the rule, however, did not suggest that any sign companies would suffer economic hardship as a result of these fees.

Because the Department does not compile or maintain records reflecting the number of employees or annual income of sign companies, establishing less stringent requirements for sign companies that qualify as small businesses under s. 227.114(1)(a), Stats., is not feasible.

This rule making proposes to exempt signs under 8 square feet in area from an annual fee requirement. Also exempted are public utility, public service, political, real estate, official notice, farm and agricultural test plot signs.

Applicants for sign permits will be generally be required to pay the one-time \$175 sign permit application fee. Exempted from this requirement are public utility, public service, real estate, farm, agricultural test plot, political, service club and religious notice and official signs. The Department has not collected sign permit application fees from these entities historically. The Department does not anticipate that the one-time \$175 application fee structure will adversely affect small businesses.

Because the rule application process and annual fee billing and payment processes are relatively straightforward and simple, because many exemptions from fee requirements exist, and because DOT district sign permit coordinators are available to assist small businesses in completing permit applications and determining whether a proposed sign site is acceptable under s. 84.30, Stats., the Department concluded further simplifying the permit process or creating different deadline dates for small businesses is unwarranted.

00-152/4

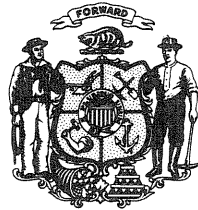
ROGER BRESKE

STATE SENATOR

12th District

Capitol Address:
State Capitol, South Wing
P.O. Box 7882
Madison, WI 53707-7882
(608) 266-2509

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Home Address:
8800 Hwy. 29
Eland, WI 54427
(715) 454-6575

E-Mail Address:
Sen.Breske@legis.state.wi.us

MEMORANDUM

January 18, 2001

TO: Senate Committee on Insurance, Tourism & Transportation

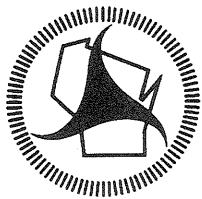
FR: Senator Roger Breske, Chair

RE: Proposed Administrative Rule 00-152

Relating to outdoor advertising sign annual fees

The Senate Committee on Insurance, Tourism & Transportation is in receipt of proposed administrative rule 00-152, related to outdoor advertising sign annual fees. For your reference, I have attached a summary of the rule prepared by the department. If you would like a copy of this rule, or if you would like to request a hearing, please contact Vaughn in my office before **Friday, February 2, 2001**.

Public Hearing Nov 30



Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson
Governor

Terrence D. Mulcahy, P.E.
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-Mail: ogc.exec@dot.state.wi.us

October 31, 2000

The Honorable Senator Roger Breske
Chairman, Senate Transportation Committee
Room 18 South, State Capitol
Madison, Wisconsin 53702

The Honorable Representative David Brandemuehl
Chairman, Assembly Committee on Highways & Transportation
Room 317 North, State Capitol
Madison, Wisconsin 53702

RE: **NOTICE OF PUBLIC HEARING** and Text of Proposed Rule, relating to **outdoor advertising sign annual fees**, Trans 201

Dear Senator Breske and Representative Brandemuehl:

In accordance with the Department of Transportation's practice of notifying the Legislative Transportation Committees concerning rulemaking actions, I submit the enclosed documents for your information. These documents have also been filed with the Revisor of Statutes and with the Legislative Council, with copy to the Department of Administration, in accordance with the requirements of §§ 227.15 and 227.17, Stats.

Sincerely,

A handwritten signature in cursive script that reads "Julie A. Johnson".

Julie A. Johnson
Paralegal

Enclosure

cc: Alice Morehouse
Mike Goetzman
Dave Vieth
Deb Brucaya

The Wisconsin Department of Transportation proposes an order to repeal TRANS 201.02(3) and 201.13; renumber TRANS 201.02(4); amend TRANS 201.01, 201.07(1), 201.10(2)(intro.) and 201.19(2); and create TRANS 201.02(intro.) and (3) to (12), 201.035 and 201.075, relating to outdoor advertising sign annual fees.

**NOTICE OF HEARING
AND
TEXT OF PROPOSED RULE**

NOTICE IS HEREBY GIVEN that pursuant to s. 84.30, Stats., and interpreting s. 84.30, Stats., the Department of Transportation will hold a public hearing in **Room 501** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the 30th day of **November**, 2000, at **9:00 AM**, to consider the amendment of chapter Trans 201, Wisconsin Administrative Code, relating to outdoor advertising sign annual fees.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

The public record on this proposed rule making will be held open until close of business on December 5, 2000, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Deborah Brucaya, Department of Transportation, Bureau of Highway Operations, Room 501, P. O. Box 7986, Madison, WI 53707-7986.

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: 84.30, Stats.

STATUTES INTERPRETED: 84.30, Stats.

General Summary of Proposed Rule. 1999 Wisconsin Act 9 directed the Department to assess annual fees to the owners of outdoor advertising signs in order to recoup a portion of the costs of the state's regulatory program governing outdoor advertising structures. The state has regulated outdoor advertising since the 1960's in compliance with the requirements of the Federal Highway Beautification and Bonus Acts, the regulations promulgated by the U.S. Department of Transportation interpreting those acts, and the 1961 and 1972 agreements between the State of Wisconsin and U.S. DOT.

This proposed rule making establishes fees for outdoor advertising structures based upon two criteria: the size of the sign, and the regulatory burden created by the sign. Larger signs tend to generate more income and are less consistent with the stated objective in s. 84.30, Stats., to "preserve the natural beauty" of Wisconsin. Therefore, this rule proposes to create annual fees that increase based upon sign size that range from \$10 per year for signs of 9 to 32 square feet in area to a maximum fee of \$100 per year for signs 1200 square feet in size and above.

Directional and nonconforming signs are assessed a fee of \$100 per sign regardless of size, because regulating those classes of signs requires significantly more resources than regulating other types of permitted signs.

The proposed rule would define some commonly used terms in ch. Trans 201 and this proposed rule making for clarity.

This rule creates s. Trans 201.075 to replace the substantive provisions of current s. Trans 201.02(3) which is repealed. Current drafting standards call for that provision to be moved from the definition portion of ch. Trans 201.

Finally, this proposed rule spells out what happens if sign permit fees are not timely paid and a process for sign owners to appeal a fee assessment. Nonpayment of a fee for a permitted sign results in the expiration of the permit, subjecting a sign to potential removal. Nonpayment of the fee for a nonconforming sign is considered abandonment subjecting the sign to removal. s. 84.30(10m), Stats.

Persons wishing to appeal the amount of an assessment need to pay the proposed fee and state particularly the facts regarding the appeal. Because the only issue involved would usually be the size of the sign, the Department believes that any disputes regarding the assessment should be easily resolved by remeasuring the sign. If that does not resolve a dispute, further appeal to the Division of Hearings and Appeals may be sought.

Fiscal Effect. The proposed rule implements a provision of 1999 Wisconsin Act 9, the biennial budget, which requires the Department to charge annual fees for outdoor advertising sign owners. The Act limits revenue raised from the program to \$510,000 during Fiscal Year 2001 and provides appropriation authority for \$510,000 to improve the sign inventory information system.

This proposed rule implements the fee provision of the budget and proposes to set annual revenues after FY01 at a rate that covers a larger portion of the program costs through a combination of annual fees, a nonrefundable application fee, and changes to the applicability of the sign company license requirement. The application fee replaces the current one-time fee refundable that has been in effect since 1972.

Under the current program, the following fees are charged generating annual revenue shown:

- A one-time \$5 to \$100 fee based on sign size collected only upon approval of a permit application generates approximately \$25,000 of revenue per year.
- Annual outdoor advertising license fees of \$250 from companies that erect more than two signs per year generates approximately \$7,500 per year.

Under the proposed rule, only nonconforming and grandfathered signs will be assessed a fee for fiscal year 2001. This approach to structuring the applicability of the fee is designed to ease implementation of the fee process by only addressing a portion of the total signs in the first year. Collecting a fee only on nonconforming signs will allow the Department to direct their first billing efforts toward a more manageable number of signs, rather than the entire 15,000 to 20,000 signs in the state.

The approach also works well with the limitation on generating fees for the fiscal year 2001, yet allowing for the fees to generate a more substantial portion of the total program costs in subsequent years. Approximately 5,075 nonconforming signs have been identified in Wisconsin. Collecting a flat \$100 fee on only nonconforming signs should generate approximately \$507,500 in revenue in fiscal year 2001, in accordance with the requirements of s. 9150(3m) of 1999 Wis. Act 9.

The revenue expected to be generated from annual fees after fiscal year 2001 is \$1,015,280, estimated as shown in the following schedule:

Square Footage		Proposed Fee	Est. # of Signs	Est. Revenue FY 2002
Business Area Signs				
8 or less		\$ 0		
9-32		\$ 10	411	\$ 4,110
33-200		\$ 20	1,646	\$ 32,920
201-600		\$ 25	2,880	\$ 71,975
601-800		\$ 50	823	\$ 41,150
801-1200		\$ 75	823	\$ 61,725
1201 and above		\$ 100	1,234	\$ 123,400
Other (all sizes)				
Directional		\$ 100	1,725	\$ 172,500
Nonconforming or Grandfathered		\$ 100	5,075	\$ 507,500
TOTALS			17,652	\$1,015,280

is the fee assessed at the time of application?

Fees to be generated by the application fee for new signs is difficult to predict, since fewer applications may be submitted primarily since the fee will be nonrefundable, and to a lesser degree because of the fee increase. For FY01 it is expected that very few new applications would be received subject to the new application fee. The revenue generated by the application fee may approximate or perhaps be slightly less than the fees currently generated from issuance of the one time permits.

Initial Regulatory Flexibility Analysis. The Department expects that the fee schedule established in this rule revision will have a negligible adverse impact on small businesses that use outdoor advertising as a method of advertising. They will now be required to pay between \$5 and \$100 each year for each sign they erect or maintain. The types of small businesses that erect their own outdoor advertising signs are often resorts, campgrounds, antique stores, automotive shops, etc., the majority of which build smaller signs than the standard industry signs. Small business signs are frequently smaller than 150 square feet, which will have an annual fee of \$20. Because the majority of small businesses typically own only two to six outdoor advertising signs, the annual impact is expected to be minimal. For those small businesses that are more reliant on outdoor advertising signs, the costs aspects of choosing this advertising medium will not be significantly impacted by the fees, which are relatively modest in relation to the cost or erecting an maintaining a sign or leasing sign space.

The annual sign fees that would be paid under this proposed rule, both small, independent sign companies that own approximately 20-75 billboards and large, industry sign companies that own hundreds of signs, are expected to be passed on to the advertisers. This new fee should not significantly affect the monthly lease rental rates charged by these companies for outdoor advertising and is not expected to have

an effect on sign companies that are considered "small businesses" under s. 227.114, Stats.

Because the Department does not compile or maintain records reflecting the number of employees or annual income of sign companies, establishing less stringent requirements for small businesses, as defined in s. 227.114(1)(a), Stats., is not feasible. Chapter Trans 201 does exempt businesses that erect 2 or fewer signs from the requirements of obtaining a sign company license, and this rule making would not alter that law.

This rule making proposes to exempt official, service club, religious notice signs and signs under 8 square feet in area from an annual fee requirement. Applicants for these types of signs will be required to pay the one-time \$50 sign permit application fee. The Department does not anticipate that this one-time fee will adversely affect small businesses.

Because the rule application process and annual fee billing and payment processes are relatively straightforward and simple, and because DOT district sign permit coordinators are available to assist small businesses in completing permit applications and determining whether a proposed sign site is acceptable under s. 84.30, Stats., the Department concluded further simplifying the permit process or creating different deadline dates for small businesses is unwarranted.

Preparation and Copies of Proposed Rule. Preparation of this proposed rule was done by Attorney John Sobotik. Copies of the rule may be obtained upon request, without cost, by writing to Deborah Brucaya, Department of Transportation, Bureau of Highway Operations, Room 501, P. O. Box 7986, Madison, WI 53707-7986, or by calling (608) 266-3813. Alternate formats of the proposed rule will be provided to individuals at their request.

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by s. 84.30, Stats., the department of transportation hereby proposes to amend a rule interpreting s. 84.30, Stats., relating to outdoor advertising sign annual fees.

SECTION 1. Trans 201.01 is amended to read:

Trans 201.01 General. Pursuant to authority contained in ss. 84.30 and 86.19, Stats., the department of transportation adopts the following rules to apply to signs along

and visible from the controlled highways in Wisconsin. Section 84.30, Stats., and these rules apply to the interstate and federal aid primary systems and the Great River Road established under 23 USC 148, which are referred to herein as "controlled highways". These rules are so closely associated with the Wisconsin Statutes, and make such extensive reference to s. 84.30, Stats., that it is essential to refer to both these rules and the law in order to apply the controls. These rules are intended to be interpreted consistently with the requirements of the Federal Bonus Act, P.L. 85-381, and the Federal Highway Beautification Act, 23 U.S.C. s. 131, regulations promulgated thereunder by the U. S. department of transportation, and the agreements between the state of Wisconsin and the U.S. federal highway administration dated June 9, 1961 and March 28, 1972.

SECTION 2. Trans 201.02(intro.) is created to read:

Trans 201.02 Definitions. (intro.) The words and phrases defined in s. 84.30(2), Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

SECTION 3. Trans 201.02(3) is repealed and recreated to read:

Trans 201.02(3) "Display" or "sign display" means the area of a sign on which a message, trademark, logo, or other advertising material appears.

SECTION 4. Trans 201.02(4) is renumbered Trans 201.02(13).

SECTION 5. Trans 201.02(4) to (12) are created to read:

Trans 201.02(4) "Grandfathered sign" means a sign that lawfully existed in a business area on March 18, 1972, and that does not conform to the size, spacing or lighting restrictions of s. 84.30(4), Stats.

(5) "Illegal sign" means a sign erected after March 18, 1972, without a permit, a sign that is erected or maintained in a manner that violates any requirement of a permit, this chapter, or s. 84.30, Stats., a non-conforming sign that has lost its nonconforming status, or a grandfathered sign that has lost its grandfathered status.

(6) "License" means a license to engage in the business of outdoor advertising.

(7) "Nonconforming sign" means any of the following:

(a) A sign that lawfully existed on March 18, 1972, outside of a business area.

(b) A sign that was lawfully erected after March 18, 1972, that subsequently did or does not conform to the requirements of s. 84.30, Stats., or this chapter.

(8) "Off-premises" or "off-property sign" means a sign that is not an on-premises sign.

(9) "On-premises" or "on-property sign" means a sign at a business location advertising a business that is conducted on the property and that is located in the immediate vicinity of the business. "Immediate vicinity" in this subsection means the sign is within the area bounded by the buildings, driveways and parking areas in which the activity is conducted. "Immediate vicinity" does not include any area across a street or road from the area where the business is conducted or any area developed for the express purpose of erecting a sign.

(10) "Permit" means a permit issued by the department to erect or maintain a sign at a defined location under a specific paragraph of s. 84.30(3), Stats.

(11) "Primary highway" means any highway, other than an interstate highway, at any time officially designated as a part of the federal-aid primary system or national

highway system by the department and approved by the appropriate authority of the federal government.

NOTE: See 23 U.S.C. s. 131(t). The DOT Bureau of Planning, P. O. Box 7913, Madison, WI 53717 maintains a list of highways that are primary highways as defined herein. Information regarding which highways are primary highways under this section may also be obtained from the sign permit coordinator in any DOT district office.

(12) "Visible" means the sign, or any part of the sign structure, can be seen from the main-traveled way of a highway by a person of normal visual acuity, regardless of whether the sign is designed, erected or intended to be read from the main-traveled way.

SECTION 6. Trans 201.035 is created to read:

Trans 201.035 Annual sign fees. (1) SIGN IDENTIFIER. The department shall assign a unique identifier to each off-premises sign in the state of Wisconsin. The identifier shall be assigned to a sign upon any of the following occurrences:

- (a) Approval of a permit to erect the sign.
- (b) First payment of an annual fee for a sign erected before the effective date of this chapter [revisor insert date].
- (c) Addition of the sign to the sign database of signs maintained by the department.

(2) DATABASE OF SIGN OWNERS. The department shall maintain a sign database to track the name and address of the owner of each sign, and such other information related to the sign as the department considers appropriate.

NOTE: All correspondence from the Department to the sign owner shall be done using the address of record in this database.

(3) CHANGE OF SIGN OWNERSHIP. Any person who acquires a sign shall provide the department with a notice containing all of the following information for each display on the sign:

(a) The unique identifier assigned to the sign by the department.

(b) The name and address of the sign owner.

(c) The location of the sign, listing the name of the primary or interstate highway to which it is adjacent, the county and town in which the sign stands, the section number of the township in which the sign is located, the name of the person owning the real property upon which the sign is located, and the approximate distance of the sign from the nearest crossroad or intersection.

(d) The height and width of the display. In cases where signs are not rectangular in shape, the height and width shall be the height and width of the smallest imaginary rectangle parallel to the ground which would entirely encompass the display, including any edge or border.

(e) The height of the bottom edge of the display or any border to the display above ground level.

(4) ANNUAL FEE NOTICE. The department shall mail an annual fee notice to the owner of every off-premises sign within the state of Wisconsin that is subject to the requirement of paying a fee under sub. (10). All annual fee notices shall be considered delivered upon mailing to the owner of record indicated in the department's database of sign owners as of the first day of the month in which such notices are mailed.

(5) DUE DATE. Payment of annual permit fees are due 60 days from the date of mailing of notices by the department, or on such other date as indicated in the fee notice.

(6) NONCONFORMING SIGNS. Nonconforming signs for which no annual fee is timely paid shall be removed as abandoned signs. Payment of an annual fee may not be considered in determining whether a sign is subject to removal under the federal highway beautification act, the regulations promulgated thereunder, or s. Trans 201.10.

NOTE: See s. 84.30(10m), Stats.

(7) PERMITTED SIGNS. The permit for a sign shall expire upon the due date for payment unless the annual fee for the sign has been paid. Signs with expired permits are subject to removal. New permit applications for the area in which a sign with an expired permit exists may be accepted by the department.

(8) LATE PAYMENT. Late payment of annual fees may be accepted by the department, and an expired permit renewed, except where another person has applied for and been granted a permit for the area in which the sign is located.

(9) REFUNDS. Permit fees are non-refundable and may not be prorated.

(10) FEE SCHEDULE. Permit fees shall be assessed as follows:

(a) On-property signs, official signs and notices as defined in s. Trans 201.05(1)(d) and service club and religious notices as defined in s. Trans 201.05(1)(f), may not be assessed an annual fee.

Note: Service club and religious notices are limited to 8 square feet or less by s. Trans 201.05(1)(f).

(b) Except as provided in par. (c), off-property permitted signs shall be assessed fees based upon the total area of all displays on the sign determined by using the height and width of the sign as measured under sub. (3)(d), calculated as follows:

1. 8 square feet or less: no fee.
2. 9 to 32 square feet: \$10.
3. 33 to 200 square feet: \$20.
4. 201 to 600 square feet: \$25.
5. 601 to 800 square feet: \$50.
6. 801 to 1200 square feet: \$75.
7. 1201 square feet and greater: \$100.

(c) Directional signs as defined in s. Trans 201.05(1)(c) shall be assessed an annual fee of \$100 per sign.

(d) Nonconforming and grandfathered signs shall be assessed an annual fee of \$100 per sign.

(11) APPEAL OF ANNUAL ASSESSMENT FEE. (a) Any person may appeal the assessment of an annual fee under sub. (10) by mailing a notice of appeal to the address provided on the notice of fee assessment within 15 days of the date the assessment is mailed.

(b) A notice of appeal shall particularly state:

1. The error or mistake alleged by appellant in the fee calculation made by the department.

2. Whether appellant contends the sign is an official, religious, service club notice, directional, nonconforming, grandfathered or other legally permitted sign.

3. The exact size of the sign, measured in accordance with sub. (3)(c).

(c) Payment representing the annual fee shall be included with a notice of appeal. All funds so paid shall be held in trust by the department pending the outcome of the appeal.

(d) Upon receipt of a notice of appeal with the required fee, the department shall investigate the matter and, if appropriate, amend the annual fee assessment for the sign and return any balance due appellant from the fees deposited under par. (c) or impose any additional assessment required.

(e) Appeals of decisions issued under par. (d) may be made to the department of administration, division of hearings and appeals.

SECTION 8. Trans 201.07(1) is amended to read:

Trans 201.07(1) Requests may be submitted to the department for permits to erect or maintain specific signs at defined locations in a manner to be visible from a travel lane of a controlled highway. A separate application shall be presented to describe each such sign proposed, to change the classification of the sign, or to add displays to an existing sign, shall be presented on forms furnished by the department, and shall include a \$50 nonrefundable application fee and all information and exhibits which the application form requires.

SECTION 9. Trans 201.075 is created to read:

Trans 201.075 Signs outside the adjacent area. (1) No person may maintain a sign that was erected after March 18, 1972, or erect a sign outside the adjacent area if a person with normal visual acuity travelling at the speed limit on that highway can do any of the following:

(a) Read any message on the sign.

(b) See and recognize any trademarks, logos, or other symbols associated with a business or business product or service displayed on the sign.

(2) A sign outside the adjacent area that is changed in a manner that creates a violation of sub. (1) is subject to removal.

(3) No person may erect a sign outside the adjacent area for the purpose of being seen or read from the main traveled way of an interstate or primary highway or the Great River Road.

(4) This section does not apply in urban areas.

NOTE: Signs are considered outside the adjacent area if they are more than 660 feet from the nearest edge of the right-of-way of the Great River Road, an interstate or a primary highway. s. 84.30(2).

SECTION 10. Trans 201.10(2)(intro.) is amended to read:

Trans 201.10(2)(intro.) In order to lawfully maintain and continue a nonconforming sign, or a ~~so-called~~ grandfathered sign under s. 84.30(3)(d), Stats., the following conditions apply:

SECTION 11. Trans 201.13 is repealed.

SECTION 12. Trans 201.19(2) is amended as follows:

Trans 201.19(2)(title) ~~DEFINITION~~ OFF PROPERTY ADVERTISING NOT PERMITTED. ~~"On-property~~ An on-property sign" ~~means a sign advertising may~~

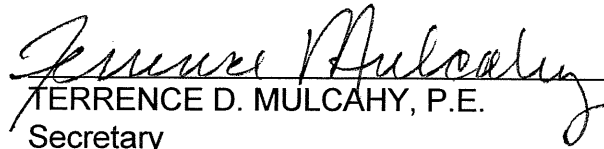
advertise only activities conducted on the property on which it is located. This includes
a sign which consists solely of, the name of an the establishment and a sign which
identifies the establishment's principal product or services offered on the premises. A
permit for an off-property sign is required for any sign violating the content restrictions
of this subsection.

(END OF RULE TEXT)

Effective Date. (1) Except as provided in (2), this rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

(2) Trans 201.035(10)(b) shall take effect on November 1, 2001.

Signed at Madison, Wisconsin, this 30 day of
October, 2000.


TERRENCE D. MULCAHY, P.E.
Secretary
Wisconsin Department of Transportation

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

Chapter Trans 201

CONTROL OF OUTDOOR ADVERTISING ALONG AND VISIBLE FROM HIGHWAYS ON THE INTERSTATE AND FEDERAL-AID PRIMARY SYSTEMS

Trans 201.01	General.
Trans 201.02	Definitions.
Trans 201.03	Licensing.
Trans 201.04	Clear vision areas.
Trans 201.05	Directional and official signs.
Trans 201.06	Sign criteria.
Trans 201.07	Sign permit requirements.
Trans 201.08	Changes in permitted signs.
Trans 201.09	Removal of illegal signs.
Trans 201.10	Removal of nonconforming signs.
Trans 201.11	Access to permitted signs.

Trans 201.12	Signs on federal-aid urban system exempted.
Trans 201.13	Permit fees.
Trans 201.14	Sign removal.
Trans 201.15	Electronic signs.
Trans 201.16	Political signs.
Trans 201.17	Real estate signs.
Trans 201.18	Farm and agricultural test plot signs.
Trans 201.19	On-property signs.
Trans 201.20	Local certification.
Trans 201.21	Local acquisition of signs.
Trans 201.22	Effect of rule.

Trans 201.01 General. Pursuant to authority contained in ss. 84.30 and 86.19, Stats., the department of transportation adopts the following rules to apply to signs along and visible from the controlled highways in Wisconsin. Section 84.30, Stats., and these rules apply to the interstate and federal aid primary systems and the Great River Road established under 23 USC 148, which are referred to herein as "controlled highways". These rules are so closely associated with the Wisconsin Statutes, and make such extensive reference to s. 84.30, Stats., that it is essential to refer to both these rules and the law in order to apply the controls.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; am. Register, October, 1976, No. 250, eff. 11-1-76; am. Register, May, 1977, No. 257, eff. 6-1-77; renum. from Hy 19.001 and am., Register, July, 1980, No. 295, eff. 8-1-80.

Trans 201.02 Definitions. (1) "Back-to-back", "side-by-side", "bottom-on-top" and "V-shaped" signs means signs which are physically contiguous and which share a common structure, in whole or in part, or are located not more than 15 feet apart at their nearest point in cases of "back-to-back" or "V-shaped" signs.

(2) "Department" means the department of transportation.

(3) A sign shall be presumed to be designed, erected or intended to be read from the main-traveled way if an advertising message on the sign is readable from the main-traveled way by a person having normal visual acuity traveling at the speed limit.

(4) "Zoned" includes the establishment of districts without restrictions on use.

History: Cr. Register, October, 1976, No. 250, eff. 11-1-76; renum. from Hy 19.005 and am. (2), Register, July, 1980, No. 295, eff. 8-1-80.

Trans 201.03 Licensing. The licensing requirement under s. 84.30 (10), Stats., applies to persons who erect or maintain on-property signs as well as to persons who erect or maintain off-premises advertising signs. Persons who erect or maintain signs for the purpose of advertising their own business are not subject to the licensing requirement. The licensing requirement does not apply to persons who erect 2 or less signs during the calendar year. Any person who violates the licensing requirement shall be required to forfeit not less than \$500 nor more than \$1000. Violations shall be referred to the proper district attorney for prosecution.

History: Cr. Register, October, 1976, No. 250, eff. 11-1-76; renum. from Hy 19.006 and am., Register, July, 1980, No. 295, eff. 8-1-80.

Trans 201.04 Clear vision areas. Requirements for the preservation of unobstructed driver vision are established by ss. 86.191 and 84.30 (4) (b), Stats., and by these rules. No sign

shall exist or remain in nonconformance with those requirements.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; renum. from Hy 19.02 and am., Register, July, 1980, No. 295, eff. 8-1-80.

Trans 201.05 Directional and official signs. The following standards apply to directional and official signs and notices which are visible from the main-traveled way of a controlled highway. These standards do not apply to directional and official signs erected on the highway right-of-way.

(1) **DEFINITIONS.** (a) "Scenic area" means any area of particular scenic beauty or historical significance as determined by the federal, state, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation, and enhancement of scenic beauty.

(b) "Parkland" means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.

(c) "Directional and other official signs and notices" includes only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.

(d) "Official signs and notices" means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies may be considered official signs.

(e) "Public utility signs" means warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations.

(f) "Service club and religious notices" means signs and notices, whose erection is authorized by law, relating to meetings of nonprofit service clubs or charitable associations, or religious services, which signs do not exceed 8 square feet in area.

(g) "Public service signs" means signs located on school bus stop shelters, which signs:

1. Identify the donor, sponsor, or contributor of said shelters;
2. Contain public service messages, which shall occupy not less than 50% of the area of the signs;
3. Contain no other message;
4. Are located on school bus shelters which are authorized or approved by city, county, or state law, regulation, or ordinance.

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nance, and at places approved by the city, county, or state agency controlling the highway involved; and

5. May not exceed 32 square feet in area. Not more than one sign on each shelter shall face in any one direction.

(h) "Directional signs" means signs containing directional information about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.

(2) CRITERIA FOR DIRECTIONAL AND OTHER OFFICIAL SIGNS.

(a) *Prohibited signs.* 1. Signs advertising activities that are illegal under federal or state laws or regulations in effect at the location of those signs or at the location of those activities.

2. Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.

3. Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

4. Obsolete signs.

5. Signs which are structurally unsafe or in disrepair.

6. Signs which move or have any animated or moving parts.

7. Signs located in rest areas, parklands or scenic areas.

(b) *Size.* 1. No sign shall exceed the following limits:

a. Maximum area—150 square feet.

b. Maximum height—20 feet.

c. Maximum length—20 feet. All dimensions include border and trim, but exclude supports.

(c) *Lighting.* Signs may be illuminated, subject to the following:

1. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited.

2. Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of a controlled highway or 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 may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal.

(d) *Spacing.* 1. Each location of a directional sign must be approved by the department.

2. No directional sign may be located within 2,000 feet of an interchange or intersection at grade along the interstate system or other freeways (measured along the interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way).

3. No directional sign may be located within 2,000 feet of a rest area, parkland, or scenic area.

4. a. No 2 directional signs facing the same direction of travel shall be spaced less than 1 mile apart;

b. Not more than 3 directional signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity;

c. Signs located adjacent to the interstate system shall be within 75 air miles of the activity; and

d. Signs located adjacent to the primary system or Great River Road shall be within 50 air miles of the activity.

(e) *Message content.* The message on directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descrip-

tive words or phrases, and pictorial or photographic representations of the activity or its environs are prohibited.

(f) *Selection methods and criteria.* 1. Privately owned activities or attractions eligible for directional signing are limited to the following: natural phenomena; scenic attractions; historic, educational, cultural, scientific, and religious sites; and outdoor recreational areas.

2. To be eligible, privately owned attractions or activities must be nationally or regionally known, and of outstanding interest to the traveling public.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; am. intro. and (1) (g) 2., Register, October, 1976, No. 250, eff. 11-1-76; am. (intro.), (2) (c) 2. and (d) 4., Register, May, 1977, No. 257, eff. 6-1-77; renum. from Hy 19.03 and am. intro. and (2) (d) 1., Register, July, 1980, No. 295, eff. 8-1-80.

Trans 201.06 Sign criteria. (1) Signs visible from the main-traveled way of a controlled highway shall conform to the requirements of s. 84.30 (4), Stats., and to these rules. On non-freeway federal-aid primary highways outside of cities and villages, no sign may be adjacent to or within 300 feet of an interchange, intersection at grade, safety rest area, or wayside. Said 300 feet shall be measured along the highway from the beginning or ending of the pavement widening at the exit from or entrance to the main-traveled way of the primary highway.

(2) In addition to the spacing criteria of s. 84.30 (4) (c), Stats., s. Trans 201.05 (2) (d), and sub. (1), a permit may not be issued for an otherwise eligible sign location if the erection of a sign at that location would obstruct motorists' view of another lawfully erected sign.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; renum. from Hy 19.04 and am. Register, July, 1980, No. 295, eff. 8-1-80; cr. (2), Register, July, 1983, No. 331, eff. 8-1-83.

Trans 201.07 Sign permit requirements. (1) Requests may be submitted to the department for permits to erect or maintain specific signs at defined locations in a manner to be visible from a travel lane of a controlled highway. A separate application shall be presented to describe each such sign proposed, shall be presented on forms furnished by the department, and shall include all information and exhibits which the application form requires.

(2) A new sign permit shall automatically expire one year after issuance if the sign permitted has not been erected and the permit holder has not received an extension from the department. The department may for good cause grant one 6-month extension of a new sign permit.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; am. Register, May, 1977, No. 257, eff. 6-1-77; renum. from Hy 19.07 and am., Register, July, 1980, No. 295, eff. 8-1-80; cr. (2), Register, July, 1983, No. 331, eff. 8-1-83.

Trans 201.08 Changes in permitted signs. State permitted signs may be changed in size, lighting, shape, color scheme or copy subject to compliance with the following criteria:

(1) No change shall result in signing which violates s. 84.30, Stats., or these rules. Any sign which is found to be in non-compliance will be required to be altered to conform, or removed, at the expense of the owner thereof.

(2) Any proposal to change the location of any state permitted sign must be approved by the department in advance of the physical accomplishment of the change. To propose a change of this kind, the applicant shall submit a complete new permit application together with a request that the prior permit (identified by its number) be cancelled and superseded by the new application.

(3) (a) The department may permit directional signs to be changed on a seasonal basis to identify alternate attractions or activities. If all of the attractions or activities are listed on the initial permit application, only a single permit fee shall be charged. If additional attractions or activities are listed on a later applica-

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6. Public or private recreation areas, including campgrounds, wildlife and waterfowl refuges, and nature trails.

7. Plays, concerts and fairs.

8. Antique and gift shops.

9. Agricultural products in a natural state, including vegetables and fruit.

(c) "Signs advertising products" means signs advertising only products.

(2) PRIORITIES. (a) Nonconforming signs shall be removed or relocated in the order listed below:

1. First, signs advertising products of general availability in commercial channels.

2. Second, nontourist-oriented directional advertising signs.

3. Last, tourist-oriented directional advertising signs.

(b) The priority system shall be implemented on a district-by-district basis. The department shall coordinate the priority system program to accomplish an equitable statewide progression from one priority category to the next; provided that signs in par. (a) 3. may not be removed or relocated until all signs in par. (a) 1. and 2. are removed or relocated.

(3) SPECIAL CASES. Notwithstanding the general provisions in sub. (2):

(a) The priority system applies only to nonconforming signs. Top priority shall continue to be given to the removal of illegal and abandoned signs.

(b) Signs may be acquired regardless of priority category in hardship and other cases where acquisition of the signs is voluntarily negotiated between the sign owner and the department.

(c) The priority system does not apply to sign removals necessitated by a highway improvement project.

(d) The priority system does not apply to signs removed in accordance with a scenic easement or preservation project.

(e) If the removal or relocation of a sign is delayed because of a pending lawsuit or contested case under ch. 227, Stats., that sign shall not be considered in determining whether the removal or relocation of signs in a priority category has been completed.

(f) The priority system does not apply to sign removals necessary to maintain the state's eligibility for federal payments under the bonus program established by 23 USC 131 (j) and 23 CFR 750.101-750.110.

(4) REPORTS. (a) The department shall make reports to the appropriate standing committees of the legislature at the completion of each priority category and before progressing from one priority category to the next, as provided in sub. (2) (b).

(b) The department shall make reports to the appropriate standing committees of the legislature on June 1 and November 1 of each year until all signs have been removed under s. 84.30, Stats.

(5) GENERAL PROVISIONS. The advertising message on signs may be changed so as to move a sign from one priority category to another; however, once an acquisition order for a sign project is approved by the department, signs covered by the order will be removed regardless of changes made in the advertising message after the acquisition order is approved.

History: Cr. Register, January, 1977, No. 253, eff. 2-1-77; renum. from Hy 19.25 and am. (1) (a) and (b) (intro.), (2) (a) 2. and 3., (2) (b), (3) (b) and (e), (4) and (5), Register, July, 1980, No. 295, eff. 8-1-80; cr. (3) (f), Register, August, 1980, No. 296, eff. 9-1-80.

Trans 201.15 Electronic signs. (1) PURPOSE. The purpose of this section is to set standards for the use of signs whose messages may be changed by electronic process in accordance with 23 USC 131 (c) (3) and (j), and ss. 84.30 (3) (c) and (4) (b), Stats.

(2) DEFINITIONS. In this section:

(a) "Activities conducted on the property on which the signs are located" has the meaning provided in s. Trans 201.19 (2).

(b) "Message" means anything displayed on a sign, including copy, art animations and graphics.

(c) "Multiple message sign" means an outdoor advertising sign, display or device whose messages are on triangular louvered facings and are changed by electronic rotation of the louvers.

(d) "Public service information" means a message on an electronic sign which provides the time, date, temperature, weather, or information concerning civic, charitable or other noncommercial activities.

(e) "Segmented message" means any message or distinct subunit of a message presented by means of at least one display change on a variable message sign.

(f) "Traveling message" means a message which appears to move across a variable message sign.

(g) "Variable message sign" means an outdoor advertising sign, display or device without moving parts whose message may be changed by electronic process through the use of moving or intermittent light or lights.

(3) VARIABLE MESSAGE SIGNS. Signs authorized under s. 84.30 (3) (c) and (e), Stats., may consist in whole or in part of a variable message sign subject to all of the following restrictions:

(a) Signs erected under s. 84.30(3)(c), Stats., may be used only to advertise activities conducted on the property on which the signs are located or to present public service information.

(b) Signs erected under s. 84.30(3)(e), Stats., may be used only to present public service information.

(c) No message may be displayed for less than one-half of a second.

(d) No message may be repeated at intervals of less than 2 seconds.

(e) No segmented message may last longer than 10 seconds.

(f) No traveling message may travel at a rate slower than 16 light columns per second or faster than 32 columns per second.

(g) No variable message sign lamp may be illuminated to a degree of brightness that is greater than necessary for adequate visibility. Signs found to be brighter than necessary for adequate visibility shall be adjusted by the person owning or controlling the sign in accordance with the instructions of the department.

(4) MULTIPLE MESSAGE SIGNS. Signs authorized under s. 84.30 (3) (c) and (e), Stats., may consist in whole or in part of a multiple message sign subject to all of the following restrictions:

(a) The louver rotation time to change a message shall be one second or less.

(b) The time a message remains in a fixed position shall be 6 seconds or more.

(c) During an appeal under s. 84.30(18), Stats., or any other litigation with the department concerning a multiple message sign, the person owning or controlling the sign shall place the louvers in a fixed position and may not rotate them until a final decision has been rendered.

Note: A multiple message sign as defined in s. Trans 201.15 (2) (c) refers to the sign known in the outdoor advertising industry as a tri-vision sign, and a variable message sign defined in s. Trans 201.15 (2) (g) includes the device known in the outdoor advertising industry as a commercial electronic variable message sign.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83; r. and recr. Register, April, 1998, No. 508, eff. 5-1-98.

Trans 201.16 Political signs. (1) DEFINITIONS. "Political sign" means a sign erected for the purpose of soliciting support for or opposition to a candidate or a political party or relating to a referendum question in an election held under the laws of this state.

(2) EXEMPTION. A political sign which would otherwise be subject to the permit requirement of s. Trans 201.07, is exempted if all of the following conditions are satisfied:

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- (a) The sign does not exceed 32 square feet in surface area.
- (b) The sign is erected entirely on private property with the property owner's consent.
- (c) The sign is erected less than 45 days before the election for which it is intended and is removed within 7 days after the election except that a sign erected before a primary election may remain in place until 7 days after the next following general election if the sign solicits support for a candidate, political party or referendum question that is before the electorate in both the primary and the general election.

(d) The sign does not contain flashing lights or moving parts or in any other way fail to conform with s. 84.30 (4) (b), Stats.

(e) The sign is not erected in a location where it constitutes a traffic hazard.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83; am. (2) (e), Register, July, 1996, No. 487, eff. 8-1-96.

Trans 201.17 Real estate signs. (1) DEFINITION. "Real estate sign" means a sign advertising the sale or lease of land upon which it is located or of a building on that land.

(2) APPLICABILITY. A real estate sign that is erected along an interstate highway is subject to the permit requirement of s. Trans 201.07.

(3) EXEMPTION. A real estate sign that is erected along a controlled highway other than an interstate highway is exempted from the permit requirement of s. Trans 201.07 if all of the following conditions are satisfied:

- (a) The sign does not exceed 32 square feet in surface area.
- (b) There is no more than one real estate sign on the property facing each direction of travel for each controlled highway from which a sign on the property is visible.
- (c) The sign does not contain flashing lights or moving parts or in any other way fail to conform with s. 84.30 (4) (b), Stats.
- (d) The sign is not erected in a location where it constitutes a traffic hazard.
- (e) The sign is not erected until the property is actually offered for sale or lease, and is removed within 7 days after the property has been sold or leased.

Note: The term "controlled highway" as used in sub. (3) has the meaning set forth in s. Trans 201.01.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

Trans 201.18 Farm and agricultural test plot signs.

(1) DEFINITIONS. (a) "Agricultural test plot sign" means a sign used to mark test plot areas on a farm and includes a sign identifying the manufacturer of the seed being tested.

(b) "Farm sign" means a sign located on farm property which identifies the farm or advertises a farm product produced on that farm.

(2) FARM SIGN EXEMPTION. A farm sign that would otherwise be subject to the permit requirement of s. Trans 201.07 is exempted if all of the following conditions are satisfied:

- (a) The sign conforms with the on-property sign criteria contained in s. 84.30 (3) (c), Stats.
- (b) The sign does not contain flashing lights, moving parts, or in any other way fail to conform to s. 84.30 (4) (b), Stats.
- (c) The sign is not erected in a location where it constitutes a traffic hazard.

(3) AGRICULTURAL TEST PLOT SIGNS. Agricultural test plot sign displays are subject to the permit requirement of s. Trans 201.07, and the following provisions:

- (a) One permit shall cover all the signs in an agricultural test plot sign display. Permit fees shall be based on the total surface areas of all signs in the display.
- (b) There may be no more than one sign facing traffic in each direction that identifies the test plot and the seed manufacturer.

Such a sign must be located within 50 feet of the test plot that it identifies.

(c) Signs shall be permitted only during the growing season and shall be removed within 7 days after harvest of the test plot crop is completed and in any event shall be removed prior to November 1 of each year.

(d) Row markers and variety markers may not contain identification of the seed manufacturer.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

Trans 201.19 On-property signs. (1) PURPOSE. The purpose of this section is to interpret the provisions of s. 84.30 (3) (c), Stats., relating to on-property signs.

(2) DEFINITION. "On-property sign" means a sign advertising activities conducted on the property on which it is located. This includes a sign which consists solely of the name of an establishment and a sign which identifies the establishment's principal product or services offered on the premises.

(3) NARROW STRIPS. Where the sign site is located at or near the end of a narrow strip contiguous to the advertised activity, the sign site shall not be considered part of the premises on which the activity being advertised is conducted. A narrow strip shall include any configuration of land which is such that it cannot be put to any reasonable use related to the activity other than for signing purposes.

(4) PROPERTIES FLANKED BY 2 CONTROLLED HIGHWAYS. (a) When a property may contain signs visible from 2 controlled highways, the department interprets s. 84.30 (3) (c) 1., Stats., to allow up to 4 single-faced or 2 double-faced signs on the property, with one sign exposure visible and designed to be read from each of 4 different directions of travel.

(b) Whether or not a property may contain signs visible from 2 controlled highways, the department interprets s. 84.30 (3) (c) 2., Stats., to allow only one extra on-property sign exposure.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

Trans 201.20 Local certification. (1) PURPOSE. The purpose of this section is to set out the standards employed by the department in making determinations of customary use under s. 84.30 (4) (intro.), Stats., which are used for certifying local sign control ordinances to the federal highway administration under 23 USC 131 (d).

(2) APPLICABILITY. This section applies to local certification applications filed by counties, cities, villages or towns after August 1, 1983, and to applications for the re-certification of previously certified ordinances filed after that date.

(3) DEFINITION. "Local certification" means the department's acceptance, under s. 84.30 (4) (intro.), Stats., of a local zoning authority's determination of customary use as to the size, lighting and spacing of outdoor advertising signs in the zoned commercial or industrial areas of the locality.

(4) INVENTORY. An application for local certification must include a copy of the local zoning ordinance and an inventory of all existing signs within the area to be certified.

(5) ORDINANCE. The local determination of customary use shall be in the form of an ordinance. The department shall accept for certification an ordinance that meets the other requirements of this section, that includes provisions ensuring effective enforcement and that conforms to and complies with the following:

(a) The local zoning authority's controls shall include the regulation of size, of lighting and of spacing of signs, in all commercial and industrial zones.

(b) Unless a Wisconsin statute or administrative rule requires otherwise, the local zoning authority's controls may be either more or less restrictive than the appropriate controls set forth in the agreement in effect between the department and the secre-

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tary of transportation of the United States entered pursuant to s. 84.30 (12), Stats.

(c) If a local zoning authority has extraterritorial zoning jurisdiction under s. 62.23 (7a), Stats., and exercises control of signs in commercial and in industrial zones within this extraterritorial zoning jurisdiction, sign control by that local zoning authority may be accepted in lieu of the otherwise applicable control within the extraterritorial zoning jurisdiction.

(d) The department shall notify the federal highway administration in writing of those zoning jurisdictions wherein a local zoning authority's controls apply and shall periodically assure itself that the size, lighting and spacing control provisions of each applicable local zoning ordinance certified under this section are actually being enforced by the appropriate local zoning authority.

(e) Nothing in this section shall diminish the department's authority or relieve the department from responsibility to limit signs within controlled areas of commercial and industrial zones.

Note: Each of the provisions in sub. (5) (a) to (e) are based upon the provisions of 23 CFR 750.706 (c).

(6) NONCONFORMING SIGNS. The ordinance shall commit the local government to pay the full costs of removing any signs erected after local certification is granted which acquire nonconforming status under state law. This shall include any liability of the state or federal government under s. 84.30 (6), Stats., or 23 USC 131 (g). The department shall require a bond or insurance policy to cover this commitment as a condition of local certification.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

Trans 201.21 Local acquisition of signs. (1) PURPOSE. The purpose of this section is to interpret s. 84.30 (6) and (15), Stats., as these provisions affect the removal of signs along controlled highways under local ordinances.

(2) COMPENSATION. (a) This section applies to local government sign acquisitions in which s. 84.30 (6), Stats., requires compensation for the removal of a lawful nonconforming sign under a local ordinance. This section does not attempt to address the validity of local sign amortization ordinances adopted before the enactment of the "just compensation" amendments to the state and federal sign control laws (s. 84.30 (6), Stats., as amended by chapter 253, laws of 1979, effective May 10, 1980; 23 USC 131 (g) as amended by P.L. 95-599, section 122, effective November 6, 1978) or the validity of the application of such local ordinances after the enactment of these amendments.

(b) A local government may not remove a lawful nonconforming sign for which compensation is required under s. 84.30 (6), Stats., unless at the time of removal the department certifies that sufficient funds are available to pay just compensation for the sign. If sufficient funds are not available from state or federal sources, or both, the department may certify that availability of sufficient funds upon deposit of the required amount with the department from any source. The department shall determine the availability of state and federal funds by evaluating overall state obligations under the sign control program and the priority requirements of s. Trans 201.14. The department shall determine the required amount for deposit by evaluating the local government appraisal and conducting any further appraisal or investigation that appears to be necessary to ensure that the estimated compensation requirement is accurate.

(3) REVIEW. The department may periodically review a deposit required under sub. (2) and for good cause may raise or lower the amount required.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

Trans 201.22 Effect of rule. Nothing in s. Trans 201.20 or 201.21 creates any new obligations upon any local unit of government to pay compensation for the removal of a lawful nonconforming sign beyond any obligations to compensate that may already be in effect under other state or federal laws.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

the department relative to vacation, relocation, extension or combining of a public highway under jurisdiction of any county, town, city or village shall be conclusive.

(7) **AUTHORITY TO RELOCATE AND CLOSE HIGHWAYS.** (a) Without limiting the authority extended by other provisions of this section the department may, on behalf of the state, enter into an agreement with the governing body of any county or municipality having jurisdiction over any highway and, as provided in such agreement, relocate or extend any such highway or close the same at or near the point of intersection with any freeway or expressway, or make provision for carrying such highway over or under the freeway or expressway, and may do any and all things on such highway as may be necessary to lay out, acquire rights-of-way for, and build the same.

(b) No highway of any kind shall be opened into or connected with a freeway or expressway by a municipality unless the department approves the same and fixes the terms and conditions on which such connections shall be made. The department may give or withhold its approval or fix such terms and conditions as it deems will best serve the public interest.

(8) **POWERS GRANTED LIBERALLY CONSTRUED.** The provisions of this section are not restricted by other provisions of the statutes, and all powers granted in this section shall be liberally construed in favor of the state in the furtherance of the expeditious and orderly construction of any freeway or expressway project and in the furtherance of the orderly operation of a freeway or expressway designated pursuant to this section.

(9) **ESTABLISHING FREEWAY STATUS.** After the adoption of an order by the department laying out and designating any portion of a state trunk highway as a freeway or expressway, the highway described in the order shall have the status of a freeway or expressway for all purposes of this section. Such orders shall not affect private property rights of access to preexisting public highways, and any property rights to be taken shall be acquired in the manner provided by law. No previously existing public highway shall be developed as a freeway or expressway without acquiring by donation, purchase or condemnation the right of access thereto of the owners of abutting land.

(10) **ESTABLISHING LOCATIONS AND RIGHT-OF-WAY WIDTHS FOR FUTURE FREEWAYS OR EXPRESSWAYS.** (a) Where, as the result of its investigations and studies, the department finds that there will be a need in the future for the development and construction of segments of a state trunk highway as a freeway or expressway, and where the department determines that in order to prevent conflicting costly economic development on areas of lands to be available as rights-of-way when needed for such future development, there is need to establish, and to inform the public of, the approximate location and widths of rights-of-way needed, it may proceed to establish such location and the approximate widths of rights-of-way in the following manner. It shall hold a public hearing in the matter in a courthouse or other convenient public place in or near the region to be affected by the proposed change, which public hearing shall be advertised and held as are state trunk highway change hearings. The department shall consider and evaluate the testimony presented at the public hearing. It may make a survey and prepare a map showing the location of the freeway or expressway and the approximate widths of the rights-of-way needed for the freeway or expressway, including the right-of-way needed for traffic interchanges with other highways, grade separations, frontage roads and other incidental facilities and for the alteration or relocation of existing public highways to adjust traffic service to grade separation structures and interchange ramps. The map shall also show the existing highways and the property lines and record owners of lands needed. Upon approval of the map by the department, a notice of such action and the map showing the lands or interests therein needed in any county shall be recorded in the office of the register of deeds of such county. Notice of the action and of the recording shall be published as a class 1 notice, under ch. 985, in such county, and within 60 days after recording, notice

of the recording shall be served by registered mail on the owners of record on the date of recording. With like approval, notice and publications, and notice to the affected record owners, the department may from time to time supplement or change the map.

(b) After such location is thus established, within the area of the rights-of-way as shown on the map or in such proximity thereto as to result in consequential damages when the right-of-way is acquired, no one shall erect or move in any additional structure, nor rebuild, alter or add to any existing structure, without first giving to the department by registered mail 60 days' notice of such contemplated construction, alteration or addition describing the same, provided that this prohibition and requirement shall not apply to any normal or emergency repairs or replacements which are necessary to maintain an existing structure or facility in approximately its previously existing functioning condition. When the right-of-way is acquired, no damages shall be allowed for any construction, alterations or additions in violation of this paragraph.

(c) Without limiting any authority otherwise existing, any of the rights-of-way needed may be acquired at any time by the state or by the county or municipality in which such freeway or expressway is located. If one owner's contiguous land is acquired to an extent which is less than the total thereof shown on the map as needed, consequential damages to the portion not acquired shall be allowed if found to exist.

History: 1971 c. 252; 1975 c. 425; 1977 c. 29 ss. 945, 1654 (3); (8) (a); 1983 a. 532 s. 36; 1993 a. 301, 490.

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 and the Great River Road.

(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 or the Great River Road, 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.

(em) "Great River Road" means any highway officially designated as part of the Great River Road system by the department and approved by the appropriate authority of the federal government and any highway designated as part of the Great River Road under s. 84.107. Signs along the Great River Road shall be regulated as are signs along primary highways.

(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 department and approved by the appropriate authority of the federal government.

(fm) "Landmark sign" means a sign of historic or artistic significance, the preservation of which is consistent with the purposes of this section, as determined by the department, including signs on farm structures or natural surfaces.

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

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

(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 department 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.

(km) "Urban area" means any area which is an urbanized area or urban place, as determined by the department under 23 USC 101 (a) and regulations adopted thereunder and approved by the appropriate federal authority. Maps of urban area boundaries shall be available for inspection at offices of the department and copies of such maps shall be provided at cost to anyone requesting the same.

(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 visible from the main-traveled way of any interstate or federal-aid highway may be erected or maintained, 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 department 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 USC 131 (c).

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

(c) Signs advertising activities conducted on the property on which they are located if such signs comply with applicable federal law and the June 1961 agreement between the department and the federal highway administrator relative to control of advertising adjacent to interstate highways. Additionally, any such sign located outside the incorporated area of a city or village shall comply with the following criteria:

1. An activity may be permitted one sign exposure visible and designed to be read from each direction of travel on the interstate or primary highway.

2. In addition to any sign permitted under subd. 1., an activity may be permitted one sign exposure located on or within 50 feet of the building in which the advertised activity is primarily conducted or managed. For purposes of this subdivision, all signs located on and within the profile of the building in which the advertised activity is primarily conducted or managed shall be considered as one sign exposure.

2m. In addition to any sign permitted under subds. 1. and 2., an activity may be permitted any number of signs not designed to be read from the interstate or primary highway and not exceeding 75 square feet in aggregate area, whose purpose is to direct or control traffic which has already entered the property on which the advertised activity is conducted.

3. No sign exposure permitted under subd. 1. may exceed 500 square feet in area. No sign exposure permitted under subd. 2. may exceed 200 square feet in area.

5. The area of a sign shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which encompasses the entire sign, including border and trim but excluding supports. The profile of a building is bounded by the outer edges of its structure as they appear to an observer positioned in the area to which the sign is directed.

(d) Signs located in business areas on March 18, 1972.

(e) Signs to be erected in business areas subsequent to March 18, 1972 which when erected will comply with sub. (4).

(f) Signs located in urban areas outside the adjacent area.

(g) Landmark signs lawfully in existence on October 22, 1965.

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

(i) Signs on farm buildings which are utilized by owners of the building for agricultural purposes if the signs promote a Wisconsin agricultural product unless prohibited by federal law.

(j) 1. Signs erected by the Crime Stoppers, the nationwide organization affiliated with local police departments, on or before October 14, 1997, without regard to whether the department has issued a license for the sign. The department may not remove a sign authorized under this paragraph unless the sign does not conform to federal requirements. The requirements under s. 86.19 do not apply to signs described in this subdivision.

2. Notwithstanding subd. 1., whenever a sign authorized under this paragraph requires replacement due to damage or deterioration, the department shall require the sign to be licensed

under sub. (10) and to meet all of the requirements of this section and s. 86.19.

(4) **SIGN CRITERIA.** The department shall effectively control or cause to be controlled, the erection and maintenance of outdoor advertising signs, displays and devices that are erected subsequent to March 18, 1972 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 subs. 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 subs. 1., 2. and 3. is visible from the highway at any one time.

5. a. Official and on-premises signs, as defined in 23 USC 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, except landmark signs.

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 March 18, 1972 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 March 18, 1972 and which subsequently does not conform to this section shall be removed by the end of the 5th year after it becomes nonconforming.

(bm) Signs lawfully erected, but which do not conform to the requirements of sub. (3) (c), are declared nonconforming but are not subject to removal, except as otherwise provided in this paragraph. To allow such signs to exist, to perform customary maintenance thereon or to change the advertising message thereof, does not constitute a violation of sub. (3), but to enlarge, replace or relocate such signs, or to erect additional signs, shall constitute a violation subjecting the sign to removal without compensation, unless upon completion of such work all signs upon the property conform to the requirements of sub. (3).

(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.

(d) The department shall give highest priority to the removal or relocation of signs advertising products of general availability in commercial channels when such signs fail to conform under this subsection.

(6) **JUST COMPENSATION.** The department shall pay just compensation upon the removal or relocation on or after March 18, 1972, of any of the following signs which are not then in conformity with this section, regardless of whether the sign was removed because of this section:

(a) Signs lawfully in existence on March 18, 1972.

(b) Signs lawfully in existence on land adjoining any highway made an interstate or primary highway after March 18, 1972.

(c) Signs lawfully erected on or after March 18, 1972.

(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 the owner's 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 department and the owner reach agreement on the amount of compensation payable to such owner in respect to any removal or relocation, the department may pay such compensation to the owner and thereby require or terminate the owner's rights or interests by purchase.

If the department and the owner do not reach agreement as to such amount of compensation, the department or owner may institute an action to have such compensation determined under s. 32.05.

(9) **SIGN INFORMATION.** On and after March 18, 1972 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 department 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 department. 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 department, shall contain such information as the department requires and shall be verified under oath by the applicant or an 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 department shall issue a license to the applicant or renew the 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 or foreign limited liability company not authorized to do business in this state until such applicant files with the department 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 department 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 department may, after a hearing with 30 days' prior written notice to the licensee, revoke the license if the department finds that the licensee has knowingly made false statements in the 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 or she corrects such false statement or terminates any such violation.

(11) **DEPARTMENT REMOVAL.** Any sign erected in an adjacent area after March 18, 1972, in violation of this section or the rules promulgated under this section, may be removed by the department 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 department.

(12) **FEDERAL COMPLIANCE.** The department 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 USC 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 department may accept any allotment of funds by the United States, or any agency thereof, appropriated to carry out the purposes of 23 USC 131, as amended, from time to time. The department 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 USC 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 USC 131 (g) and this section.

(14) **DEPARTMENT RULES.** The department may promulgate rules deemed necessary to implement and enforce this section. The department 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. The department shall by rule establish a priority system for the removal or relocation of all signs not specified in sub. (5) (d) which fail to conform to the requirements of sub. (5).

(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 department 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 USC 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) **TRANSPORTATION FUND.** All fees collected for the issuance of permits provided for under this section shall be paid into the transportation fund.

(18) **HEARINGS; TRANSCRIPTS.** Hearings concerning sign removal notices under sub. (11) or the denial or revocation of a sign permit or license shall be conducted before the division of hearings and appeals as are hearings in contested cases under ch. 227. The decision of the division of hearings and appeals is subject to judicial review under ch. 227. Any person requesting a transcript of the proceedings from the division of hearings and appeals shall pay the amount established by the division of hearings and appeals by rule for the transcript.

History: 1971 c. 197; 1975 c. 196, 340, 418; 1977 c. 29 ss. 946, 1654 (1), (8) (a); 1977 c. 43, 273; 1977 c. 418 s. 924 (48); 1979 c. 90 s. 24; 1979 c. 154, 253; 1981 c. 347; 1983 a. 92, 189, 463; 1989 a. 56; 1991 a. 316; 1993 a. 16, 112, 357; 1997 a. 27.

Legislative Council Note, 1979: [As to sub. (5) (bm)] Chapter 196, laws of 1975, outlined standards for outdoor advertising signs. Section 2 of chapter 196, laws of 1975, pertaining to existing signs which did not conform to the standards, was not incorporated into the statutes. This act incorporates section 2 of chapter 196, laws of 1975, into the statutes. [Bill 458-A]

"Highway use district" as described in county zoning ordinance was "business area" under (2) (b). *Transp. Dept. v. Transp. Com'r*, 135 W (2d) 195, 400 NW (2d) 15 (Ct. App. 1986).

Persons in the business of erecting on-premise signs are subject to the licensing requirement of (10) (a). 66 Atty. Gen. 295.

This section is the exclusive remedy for determining just compensation for signs meeting the criteria of sub. (6). Compensation includes the value of the sign structure, leasehold value and location, but it does not include attorney fees. *Vivid, Inc. v. Fielder*, 219 W (2d) 765, 580 W (2d) 644 (1998).

Outdoor sign regulation in Eden and Wisconsin. *Larsen*, 1972 WLR 153.

84.31 Regulation of junkyards. (1) DECLARATION OF PURPOSE; PUBLIC NUISANCES. In order to promote the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, to preserve and enhance the scenic beauty of lands bordering public highways, to attract tourists and promote the prosperity, economic well-being and general welfare of the state, it is declared to be in the public interest to regulate and restrict the establishment, operation and maintenance of junkyards in areas adjacent to interstate and primary highways within this state. All junkyards in violation of this section are declared public nuisances.

(2) **DEFINITIONS.** In this section:

(a) "Automobile graveyard" means an establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts. Ten or more such vehicles constitute an automobile graveyard.