



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Assembly Bill 748

**Assembly Amendments
1, 2, and 3**

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Under **current law**, the Department of Transportation (DOT) is responsible for maintenance of the highway right-of-way on highways under its jurisdiction (state trunk highways). DOT must provide for the care and protection of trees and other roadside vegetation, including suitable planting to prevent soil erosion and to beautify the highways. DOT must also cut, trim, or remove, or allow others to cut, trim, or remove, trees and other vegetation in order to provide safety to highway users. DOT is also required to establish procedures for increasing the number of trees planted on state trunk highway rights-of-way.

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

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

Under this bill, if a tree or other vegetation located in the right-of-way of a state trunk highway (including any segment designated as a freeway or expressway) prevents a motorist traveling on the highway at the posted speed limit from continuously observing, for six uninterrupted seconds while the motorist's vehicle is most directly in front of, any sign located on a business premises adjacent to the highway right-of-way that advertises the business to motorists on the adjacent highway or any outdoor

advertising sign adjacent to the highway right-of-way, a person who maintains a majority ownership interest in the business or in the sign may trim or remove any obstructing tree or other vegetation located in the highway right-of-way if all of the following requirements are met:

1. The person obtains a permit from DOT.
2. The person pays the cost of trimming or removing the obstructing tree or other vegetation and of replacing any removed tree or vegetation.
3. If the person has removed any tree or other vegetation, the person replaces the removed tree or vegetation with comparable vegetation.
4. No state funds are expended for the trimming, removal, or replacement of any tree or other vegetation.

The bill requires DOT to issue permits to eligible applicants for the trimming or removal of trees and other vegetation located in the rights-of-way of state trunk highways. Each permit must specify the trees or vegetation or the portion of the highway right-of-way to which the permit applies. DOT must grant or deny each application for a permit within 30 days of receipt of the application.

Assembly Amendment 1

Adds another requirement that must be met prior to permitting removal of vegetation in the bill. The additional requirement provides that:

If the obstructing vegetation is located within a municipality and within 10 feet of the nearest edge of the roadway, as defined in s. 340.01 (54), of the highway, the person has obtained consent from the municipality for the trimming or removal of the vegetation.

Assembly Amendment 2

This amendment does the following:

- Provides notice to the adjacent landowner of the vegetation that is sought to be cut.
- Provides DOT with 30 days to review a permit application and then 30 days to either approve or deny it.
- Provides for an appeals process through Department of Administration, Division of Hearings and Appeals for contested cases.

Assembly Amendment 3

Removes the “6 uninterrupted seconds” language on page 3, line 2 in the bill and substitutes “300 feet, or for 500 feet if the highway is designated as an interstate highway under s. 84.29 or a freeway under s. 84.295.” So, if any vegetation located in the right-of-way of any highway, including any freeway or expressway, under the jurisdiction of the department, prevents the operator of a vehicle traveling at the posted speed limit from **continuously observing, for 300 feet, or for 500 feet if the**

highway is designated as an interstate highway under s. 84.29 **or a freeway under** s. 84.295,” any person maintaining a majority ownership interest in the business or in the sign may trim or remove any obstructing vegetation located in the highway right-of-way if all of the requirements are met (which are specified in the bill).

Legislative History

On March 4, 2004, the Assembly Committee on Transportation recommended adoption of Assembly Amendments 1 and 3 by a vote of Ayes, 11; Noes, 5. The Assembly Committee on Transportation recommended adoption of Assembly Amendment 2 by a vote of Ayes, 16; Noes, 0. The Assembly Committee on Transportation recommended passage of the bill, as amended, by a vote of Ayes, 11; Noes 4.

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