

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1443

S. P. 542

In Senate, March 8, 1967

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Good of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT Relating to Highway Advertising Control.

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 32, §§ 2765 - 2778, additional. Title 32 of the Revised Statutes is amended by adding 14 new sections to be numbered 2765 to 2778, to read as follows:

§ 2765. Policy

The Legislature finds and declares:

1. Legitimate use of private property. That outdoor advertising is a legitimate, commercial use of private property adjacent to roads and highways;
2. Regulation. That the erection and maintenance of outdoor advertising signs, displays and devices in areas adjacent to interstate highways and primary highways should be regulated in order to protect the public investment in such highways, to promote the recreational value of public travel, to preserve natural beauty and to promote the reasonable, orderly and effective display of such signs, displays and devices;
3. To operate. That outdoor advertising is an integral part of the business and marketing function, and an established segment of the national economy, and should be allowed to operate in business and industrial areas;
4. Application. That the regulatory standards set forth in section 2768 are consistent with customary use in this State and will properly and adequately carry out each and all of the purposes of sections 2765 to 2778; more severe restrictions being inconsistent with customary use and ineffective to accomplish the purposes of sections 2765 to 2778.

§ 2766. Definitions

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

2. **Business area.** "Business area" means any part of an adjacent area which is at any time zoned to permit business, industrial or commercial activities under the authority of any law of this State, or not so zoned, but which constitutes an unzoned commercial or industrial area as defined.

3. **Center line of the highway.** "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.

4. **Department.** "Department" means the State Highway Department.

5. **Erect.** "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish. It shall not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance of the sign structure.

6. **Interstate highway.** "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.

7. **Maintain.** "Maintain" means to allow to exist.

8. **Primary highway.** "Primary highway" means any highway, other than an interstate highway, at any time officially designated as a part of the federal-aid primary system of the department and approved by the appropriate authority of the Federal Government.

9. **Sign.** "Sign" means any outdoor 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 or primary highway.

10. **Unzoned commercial and industrial area.** "Unzoned commercial and industrial area" means any part of an adjacent area as defined, except any portion of such area adjacent to an interstate highway constructed upon right-of-way, the entire width of which is acquired subsequent to July 1, 1956, not zoned by any county or municipality and which lies within 1,000 feet of any commercial or industrial activity, or which lies within 1,000 feet of any 2 such unzoned areas. An activity for purposes of this definition shall include all land, buildings, other structures or ancillary uses such as, without limiting the generality of the foregoing, driveways, parking lots, storage areas and landscaped areas which constitute an integral part of such activity.

§ 2767. Directional; on-premises signs

No sign shall, subject to section 2769, be erected or maintained in an adjacent area after January 1, 1968, except the following:

1. **Directional.** 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 regulations which shall be promulgated by the department relative to their lighting, size, number, spacing and such other requirements as may be appropriate to implement sections 2765 to 2778, provided that such regulations shall not be inconsistent with, nor more restrictive than, such national standards as may be promulgated from time to time by the Secretary of the Department of Commerce of the United States, pursuant to subsection (c) of section 131 of Title 23, United States Code;

2. **Advertising sale or lease of property.** Signs advertising the sale or lease of property upon which they are located, provided that there shall not be more than one such sign, advertising the sale or lease of the same property, visible to traffic proceeding in any one direction on any one interstate highway;

3. **Activities.** Signs advertising activities conducted on the property on which they are located, including, without limiting the generality of the foregoing, goods sold, stored, manufactured, processed or mined thereon, services rendered thereon, and entertainment provided thereon, provided all such signs located in an adjacent area along an interstate highway outside a business area must comply with the following regulations:

A. There shall not be more than one such sign visible to traffic proceeding in any one direction on any one interstate highway located more than 50 feet from such activity; and

B. No such sign visible to traffic on an interstate highway and located more than 50 feet from such activity, which displays any trade name which refers to or identifies any service rendered or any product sold, shall be permitted unless the name of the advertised activity is displayed as conspicuously as such trade name.

C. Signs giving specific information in the interest of the traveling public located within the rights-of-way of the interstate system in areas at appropriate distances from interchanges on the interstate system, the location of which areas shall be determined by the State Highway Commission in consultation with the United States Secretary of Transportation.

4. **Business areas.** Signs which are located, or which are to be located, in business areas and which comply, or will comply when erected, with section 2768.

§ 2768. Signs in business areas

After January 1, 1968, signs in a business area shall, subject to section 2769, comply with the following standards:

1. **General.** Signs shall not be erected or maintained which

A. Imitate or resemble any official traffic sign, signal or device;

B. Are erected or maintained upon trees or painted or drawn upon rocks or other natural features and which are structurally unsafe or in disrepair.

2. Size.

A. Signs shall not be erected which exceed 900 square feet in area, including finished mouldings, but excluding lattice work or base trim used only for ornamental purposes.

B. The maximum size limitations shall apply to each sign facing. Two signs not exceeding 350 square feet each may be erected in a facing.

C. The department may permit the erection and maintenance, at specified locations within a business area, of signs larger in area than above provided, if the department finds:

(1) That a sign of smaller dimension at a proposed location would not be fully visible and readable by a motorist on the main-traveled way of the interstate or primary system;

(2) That the larger sign would not obstruct or interfere with the view of other outdoor structures or of the surrounding area; and

(3) That the granting of such exception would promote the reasonable, orderly and effective display of outdoor advertising.

3. Lighting.

A. Signs shall not be erected which contain, include or are illuminated by any flashing, intermittent or moving red, green or amber light or lights, except those giving public service information such as, without limiting the generality of the foregoing, time, date, temperature, weather or news;

B. Signs shall not be erected or maintained 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 any interstate or primary highway and are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle; or

C. Signs shall not be erected or maintained which shall be so illuminated that they obscure any official traffic sign, device or signal;

D. This subsection shall not be construed to require more strict regulation of lighting of signs permitted under section 2768 than is required by local authorities for signs permitted under section 2767, subsection 3, which are located in the same business area.

4. Spacing.

A. Signs shall not be erected or maintained in such a manner as to obscure or otherwise physically interfere with an official traffic sign, signal or device or to obstruct or physically interfere with the driver's view of approaching, merging or intersecting traffic;

B. Signs shall not be erected or maintained which do not comply with all applicable county and municipal zoning, building, electrical, sign and other ordinances and regulations as locally interpreted, applied and enforced;

C. Signs designed to be viewed primarily from an interstate or primary highway shall not be erected in unzoned commercial or industrial areas within the limits of a municipality less than 150 feet from another such sign, other than a sign described in section 2767, subsections 1, 2 or 3, unless separated by a building, structure or roadway, provided that this provision shall not prevent the erection of double-faced, back-to-back or V-type signs with a maximum of 2 signs per facing, as permitted by subsection 2.

§ 2769. Time of removal

Any sign lawfully in existence in an adjacent area on October 22, 1965, and which is not on that date in conformity with sections 2765 to 2778, shall not be required to be removed until 58 months have elapsed following the date of its erection, provided that no such signs shall be required to be removed before July 1, 1970. Any other sign lawfully erected which does not on January 1, 1968, or at any time thereafter, conform to sections 2765 to 2778, shall not be required to be removed until the end of the 5th year after it becomes nonconforming.

§ 2770. Compensation for removal

Just compensation shall be paid upon the removal, on or after the effective date of this Act, of any of the following signs which are not then in conformity with sections 2765 to 2778:

1. October 22, 1965. Signs lawfully in existence on October 22, 1965;
2. Lawfully in existence. Signs on real property adjoining any highway made an interstate or primary highway between October 21, 1965 and January 1, 1968, provided such signs were lawfully in existence at the date such highway is so classified;
3. January 1, 1968. Signs lawfully existing on or lawfully erected on or after January 1, 1968.

Each such removal, whether by the sign owner, by the department or otherwise, shall be deemed to constitute a taking and appropriation by the State of the following:

1. Owner of sign. From the owner of such sign, all right, title and interest in and to such sign, and his leasehold related thereto; and
2. Owner of property. From the owner of the real property on which such sign is located immediately prior to its removal, the right to erect and maintain thereon signs, other than those described in section 2767, subsections 1, 2 and 3; and full compensation therefor, including severance damage and damage to the remainder of the outdoor advertising plant, shall be included in the amounts paid to the respective owners.

§ 2771. Claim for compensation

Such compensation shall be paid to the person or persons entitled thereto upon presentation to the department of such information as it may reasonably require, provided that the claim for compensation is filed within 180 days after removal is completed. The state's share of such compensation shall be paid from funds appropriated for such purpose.

§ 2772. Hearing on compensation

If the department and a claimant do not reach agreement on the amount of compensation payable to such claimant in respect to any removal within 120 days after the filing of such claim, the claimant may institute a proceeding to have the matter determined by the Land Damage Board, with rights of appeal by all parties.

§ 2773. Name on signs

On and after January 1, 1968, all signs, or the structures on which they are displayed, shall have stated thereon the name and address of the owner thereof, provided that if the address of the owner is on file with the department, then only the name of the owner shall be required to be so displayed.

§ 2774. Permits

After the effective date of this Act, no sign, other than signs described in section 2767, subsections 2 and 3, may be erected in an unzoned commercial or industrial area without first obtaining a permit therefor from the department.

Application for permits shall be on a uniform form provided by the department and shall contain such information as the department may reasonably require. Upon receipt of an application containing all required information in due form and appropriately executed, and upon payment of a fee of \$5, the department shall, within 10 days thereof, issue a permit to the applicant for the erection of the sign, provided such sign will not violate any provision of sections 2765 to 2778.

§ 2775. Removal

All signs erected or maintained after January 1, 1968, in violation of sections 2765 to 2778 or the regulations established hereunder, may be removed by the department upon 60 days prior notice, by certified or registered mail, to the owner thereof and to the owner of the real property on which such sign is located, provided that no notice shall be required to be given to the owner of a sign whose name is not stated on the sign or the structure on which it is displayed or whose address is not stated thereon and is not on file with the department. The period of such notice shall be computed from the date of mailing.

§ 2776. Agreements with Secretary of Commerce

The department in behalf of the State is authorized and directed to seek agreement with the Secretary of Commerce of the United States acting under section 131 of Title 23, United States Code, as amended, that sections 2765 to 2778 are in conformance with said section 131 and provide effective control of outdoor advertising signs as set forth therein. In the event that such agreement cannot be achieved, the Attorney General of this State in its behalf is authorized and directed promptly to institute proceedings of the kind provided for in subsection (1) of said section 131 in order to obtain a judicial determination as to whether sections 2765 to 2778 conform with said section 131 and provide effective control as set forth therein.

§ 2777. 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 section 131 of Title 23, United States Code, as amended, from time to time. The department shall take such steps as may be necessary from time to time to obtain from the United States, or the appropriate agency thereof, funds allotted and appropriated, pursuant to said section 131, for the purpose of paying the federal 75% share of the just compensation to be paid to sign owners and owners of real property under the terms of subsection (g) of said section 131 and sections 2769, 2770 and 2771 of this Title. Sufficient funds are to be appropriated from the General Fund in each fiscal year and continuing until otherwise provided in subsequent legislation for the purpose of building a fund for compensating sign owners and landowners, as required under the Federal Highway Beautification Act of 1965 and section 2770. Despite any provision in sections 2765 to 2778 to the contrary, no sign, display or device shall be removed unless at the time of removal there are sufficient funds available to pay the affected parties the just compensation required under section 2770, after due allowance for the 75% contribution by the Federal Government, provided that the latter contribution is available for immediate payment.

§ 2778. Name of Act

Sections 2765 to 2778 may be cited as the "Highway Advertising Control Act of 1967."