

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 778

H. P. 597 House of Representatives, February 12, 1969
Referred to Committee on Highways. Sent up for concurrence and 1,000
ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Kelley of Southport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Relating to Highway Advertising Control.

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

R. S., T. 32, §§ 2765-2775, additional. Title 32 of the Revised Statutes is amended by adding 11 new sections, 2765 to 2775, to read as follows:

§ 2765. Policy

The Legislature finds and declares that the erection and maintenance of outdoor advertising signs, displays and devices in areas adjacent to the interstate and primary highway systems should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel and to preserve natural beauty. The Legislature declares it to be the policy of the State of Maine that the erection and maintenance of outdoor advertising signs, displays and devices in areas adjacent to the rights-of-way of the interstate and primary highway systems within this State shall be regulated in accordance with sections 2765 to 2775 and the agreement ratified and approved pursuant hereto. It is the intention of the Legislature to provide the statutory basis for regulation of outdoor advertising consistent with the public policy relating to areas adjacent to the interstate and primary highway systems declared by the Congress of the United States in Title 23 of the United States Code.

§ 2766. Definitions

As used in sections 2765 to 2775:

1. Information center. "Information center" means an area or site established and maintained at a roadside rest area for the purpose of informing the

public of places of interest within the State and providing such other information as the department may consider desirable.

2. Interstate highway system. "Interstate highway system" means that portion of the national system of interstate and defense highways located within this State, as officially designated, or as may hereafter be so designated by the department, and approved by the Secretary of Commerce or the Secretary of Transportation of the United States pursuant to the provisions of Title 23 of the United States Code, as amended.

3. Primary highway system. "Primary highway system" means that portion of connected main highways, as officially designated, or as may hereafter be so designated, by the department, and approved by the Secretary of Commerce or the Secretary of Transportation of the United States pursuant to the provisions of Title 23 of the United States Code, as amended.

4. Safety rest area. "Safety rest area" means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control, for the convenience of the travelling public.

§ 2767. Control

The department is authorized and directed to immediately implement the following program for the effective control of the erection and maintenance of outdoor advertising signs, displays and devices within 660' of the nearest edge of the right-of-way and visible from the main traveled way of the interstate and primary highway systems. Effective control means that such signs, displays and devices shall, pursuant to such program, be limited to directional and other official signs and notices which are required or authorized by law and which shall conform to the national standards promulgated by the Secretary of Transportation of the United States pursuant to section 131 of Title 23 of the United States Code, as amended, signs, displays and devices advertising the sale or lease of property upon which they are located, signs, displays and devices advertising activities conducted on the property on which they are located, signs, displays and devices located in areas which are zoned industrial or commercial under authority of state law and which are permitted or authorized pursuant to this section or the agreement ratified and approved by this section, signs, displays and devices which are permitted or authorized pursuant to this section or the agreement ratified and approved by this section and are located in unzoned commercial or industrial areas which areas shall be determined from actual land uses in conformance with the agreement ratified and approved by this section, and any other signs, displays and devices permitted or authorized pursuant to this section.

§ 2768. Agreement

The agreement for carrying out national policy relative to control of outdoor advertising in areas adjacent to the national system of interstate and defense highways and the federal-aid primary system entered into December 27, 1967, between the United States of America represented by the Secretary of

Transportation acting by and through the Federal Highway Administrator, and the State of Maine, acting by and through its State Highway Commission is abrogated. The agreement entered into between the department and the Secretary of Transportation of the United States dated 1969 regarding the size, lighting and spacing of signs, displays and devices which may be erected and maintained within 660' of the nearest edge of the right-of-way within areas adjacent to the interstate and primary highway systems which are zoned industrial or commercial under authority of state law, or in such other unzoned industrial or commercial areas as may be permitted pursuant to the terms of such agreement is ratified and approved. With respect to the certification permitted under subsection A of Article 4 of the said agreement, the department shall make such a certification within 30 days after it is shown to his reasonable satisfaction that the department has made a determination of customary use within, a certain zoned area, and that outdoor advertising is being controlled and regulated in accordance with such determination. The action of the department with respect to such a certification shall be reviewable by the Superior Court which shall have jurisdiction of the proceedings and the power to grant such relief as it deems just and proper.

§ 2769. Information centers ; signs

The department may agree with the Secretary of Transportation of the United States to provide for the establishment of information centers at safety rest areas. The department is directed to negotiate with such Secretary of Transportation in order to permit signs, within the areas controlled by this section, which relate to public and private natural wonders, scenic and historical attractions and other information concerning outdoor recreation, places for camping, lodging, eating and vehicle service and repair deemed to be of specific interest to the travelling public. Any of the above types of signs referred to in this section which do not violate the Federal "Highway Beautification Act of 1965," and any Acts amendatory thereto, and which conform to the national standards promulgated by the Secretary of Transportation of the United States pursuant to section 131 of Title 23 of the United States Code, as amended, are authorized to be erected and maintained in the state subject to registration with the department pursuant to section 2770.

§ 2770. Interstate and primary highways

The department is authorized to control the erection and maintenance of outdoor advertising signs, displays and devices along the interstate and primary highway systems in conformance with sections 2766 to 2775 and in conformity with the agreement ratified and approved by sections 2766 to 2775 and the national standards promulgated by the Secretary of Transportation of the United States pursuant to subdivision (c) of section 131 of Title 23 of the United States Code, as amended. The department may provide for a system of registration of outdoor advertising signs, displays and devices which complies with the terms of the agreement, ratified and approved by sections 2766 to 2775, with the Secretary of Transportation of the United States. No registration shall be required for signs, displays and devices advertising the sale or lease of property upon which they are located and signs, displays and

devices advertising activities conducted on the property on which they are located.

§ 2771. Signs already erected

Notwithstanding section 2767, any outdoor advertising sign, display or device lawfully in existence along the interstate and primary highway systems on September 1, 1965, which is not permitted or authorized pursuant to sections 2766 to 2775 may continue to be maintained until July 1, 1970 and shall not be replaced or relocated along the interstate and primary highway systems except in those areas authorized pursuant to sections 2766 to 2775, or areas authorized under the terms of the agreement ratified and approved by sections 2766 to 2775. Notwithstanding section 2767, any other outdoor advertising sign, display or device lawfully erected which is not permitted or authorized pursuant to sections 2766 to 2775 or the agreement ratified and approved by sections 2766 to 2775, may continue to be maintained until the end of the 5th year after it becomes nonconforming pursuant to sections 2766 to 2775 or under the terms of the agreement ratified and approved by section 2766 to 2775, unless an earlier removal is required in order for the State to comply with the Federal "Highway Beautification Act of 1965", as amended, and shall not be replaced or relocated along the interstate and primary highway systems except in those areas authorized pursuant to sections 2766 to 2775 or areas which are permitted under the terms of the agreement ratified and approved by sections 2766 to 2775.

§ 2772. Rights and compensation

The department is authorized to acquire the necessary rights in and to property and is directed to pay compensation therefor, in the same manner as other property is acquired for state highway purposes pursuant to this Title, with respect to the following outdoor advertising signs, displays and devices which are not permitted or authorized pursuant to sections 2766 to 2775 or with the terms of the agreement ratified and approved by sections 2766 to 2775: Those lawfully in existence on October 22, 1965, those lawfully along any highway made a part of the interstate or primary highway systems on or after October 22, 1965, and those lawfully erected on or after January 1, 1968. Such compensation is authorized to be paid only for the following: The taking from the owner of such sign, display or device of all right, title, leasehold and interest in such sign, display or device, and the taking from the owner of the real property on which such sign, display or device is located, of the right to erect and maintain such signs, displays and devices thereon. The term "property" as used in this section is defined to include lands, waters, rights in land or waters, structures, franchises and interest in land, including lands under water and riparian rights and any and all other things and rights usually included within the said term and includes any and all interests in such property less than full title, such as easements, permanent or temporary, rights-of-way, use, lease, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable. Notwithstanding section 2767, no rights in and to property shall be acquired with respect to any outdoor advertising sign, display or device except to the extent that federal funds authorized to be appropriated pursuant to the Federal "Highway Beautification Act

of 1965", as amended, to reimburse the State for 75% of the cost thereof, are in fact appropriated and allocated to the State for that purpose.

§ 2773. Violations

Any outdoor advertising sign, display or device erected or maintained in violation of sections 2766 to 2775, or of the terms of the agreement ratified and approved by sections 2766 to 2775, is declared to be, and is a public nuisance. The department shall give 30 days' notice, by registered mail, to the owner of the property on which such advertising sign, display or device is located and to the owner of such advertising sign, display or device, to remove the same if it is a prohibited sign, display or device or to cause it to conform to the requirements of sections 2766 to 2775 or the terms of the agreement ratified and approved by sections 2766 to 2775 or the national standards if it is an authorized or permitted sign, display or device. If the owner of the property or the owner of the advertising sign, display or device fails to act within 30 days as required in the notice, the department or its duly authorized agent shall cause the removal of such advertising sign, display or device at the expense of the owner of the property or the owner of the advertising sign, display or device, except that the State shall pay the expense of removing any advertising sign, display or device which was lawfully erected on the date of enactment of sections 2766 to 2775 which becomes nonconforming under the terms of sections 2766 to 2775 or the agreement ratified and approved by sections 2766 to 2775.

§ 2774. Application

Nothing in this section shall be construed to abrogate or affect the provisions of any other statute, lawful ordinance, regulation pursuant thereto or resolution which are more restrictive than sections 2766 to 2775 or the agreement ratified and approved by sections 2766 to 2775.

§ 2775. Maps, directories, etc.

In order to provide information in the specific interest of the travelling public, the department is authorized to maintain maps and to permit informational directories and advertising pamphlets to be made available at safety rest areas, and to establish information centers at safety rest areas for the purpose of informing the public of places of interest within the State and providing such other information as it may consider desirable.