

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 861

H. P. 670

House of Representatives, February 18, 1969

Referred to Committee on Natural Resources. Sent up for concurrence and 1,500 ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mrs. Brown of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Relating to Outdoor Advertising.

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

Sec. 1. R. S., T. 32, c. 38, additional. Title 32 of the Revised Statutes is amended by adding a new chapter 38, to read as follows:

CHAPTER 38

OUTDOOR ADVERTISING

§ 2711. Purpose

In order to promote maximum safety, comfort and well-being of the highway user, to protect the public investment in highways, to preserve and enhance the natural scenic beauty or aesthetic features of highways and to prevent unreasonable distraction, it is declared to be the policy of this State that the erection and maintenance of outdoor advertising in areas adjacent to the public highways within this State shall be regulated within the terms of this chapter and the rules and regulations promulgated by the State Highway Commission pursuant to this chapter.

§ 2712. Definitions

The following terms, words and phrases, wherever used in this chapter, shall have the following meanings unless a different meaning clearly appears from the context:

1. Advertisement. "Advertisement" shall mean any writing, printing, picture, painting, display, emblem, drawing, sign or similar device which is posted, displayed or exposed, in whole or in part, out-of-doors to public view

and which invites, draws attention to, solicits the patronage of the public to any goods, merchandise, property, business, services, entertainment or amusement that is manufactured, produced, bought, sold, conducted, furnished or dealt in by any person, firm or corporation.

2. Advertising structure. "Advertising structure" shall mean any rigid or semi-rigid material, with or without any advertisement displayed thereon, situated upon or attached to real property out-of-doors which furnishes a background, base or support upon which an advertisement may be affixed.

3. Business of outdoor advertising. "Business of outdoor advertising" shall mean the erection, use or maintenance of an advertising structure or structures or the posting or display of advertisements out-of-doors by any person, firm or corporation.

4. Commercial or industrial activities. "Commercial or industrial activities" means those activities generally recognized as commercial or industrial by zoning authorities in this State, except that none of the following activities shall be considered commercial or industrial:

A. Outdoor advertising structures;

B. Agricultural, forestry, grazing, farming and related activities, including but not limited to, wayside fresh produce stands;

C. Transient or temporary activities;

D. Activities not visible from the main traveled way;

E. Activities more than 300 feet from the nearest edge of the right-of-way;

F. Activities conducted in a building used principally as a residence;

G. Railroad tracks and minor sidings.

5. Commission. "Commission" means the State Highway Commission.

6. Compact or built-up section. The "compact or built-up section" of any town or city shall be the territory contiguous to any highway which is built up with buildings devoted to business or dwelling purposes which are situated less than 200 feet apart for a distance of at least $\frac{1}{4}$ of a mile.

7. 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.

8. Interstate system. "Interstate system" means those portions of the Maine Turnpike and the state highway system incorporated in the National System of Interstate and Defense Highways, as officially designated, or as may hereafter be so designated, by the commission.

9. Main traveled way. "Main traveled way" means that portion of the traveled way upon which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in

opposite directions is a main traveled way. It does not include frontage roads, turning roadways or parking areas.

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

11. **On-premise advertisement.** "On-premise advertisement" shall mean an advertisement or advertising structure advertising the sale, rent or lease of the property upon which it is located or which advertises the business or profession conducted thereon or which advertises goods manufactured or sold thereon.

12. **Panel.** "Panel" shall mean one face portion or part of any advertising structure designed and intended to contain an informative message of one advertisement.

13. **Post.** "Post" means post, display, print, paint, burn, nail, paste or otherwise attach or affix.

14. **Primary system.** "Primary system" means that portion of the state highway system which the commission has by official designation incorporated into the Federal-Aid Primary System, or as may hereafter be designated by the commission.

15. **Right-of-way boundaries.** "Right-of-way boundaries" shall mean:

A. The right-of-way limit line as established by the commission layout of interstate highways as defined by monuments;

B. The right-of-way limit line as established by the commission, county commissioners, Maine Turnpike Authority or municipal officers for other highways as the same may be defined by monuments and in the absence of such definition shall be deemed to extend 33 feet each side of the centerline of the traveled way.

16. **Scenic highway.** "Scenic highway" means any highway so designated by the commission or other authorized board, commission or state agency pursuant to state law.

17. **Sign.** "Sign" means any outdoor sign, display, device, 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 highway.

18. **Traveled way.** "Traveled way" means the portion of a roadway for the movement of vehicles exclusive of shoulders.

19. **Unzoned commercial or industrial areas.** "Unzoned commercial or industrial areas", means those areas upon which there is located one or more permanent structures devoted to a business or industrial activity or upon which a commercial or industrial activity is, in fact, conducted, whether or not a permanent structure is located thereon and the area along the highway extended outward 500 feet from and beyond the edge of such activity. Each side of the highway will be considered separately in applying this definition and all measurements shall be from the outer edges of the regularly used buildings,

parking lots, storage areas or processing areas of the activities. Measurements shall not be made from the property lines of the lot upon which the activity is located. Measurements shall be made along or parallel to the centerline of the highway.

20. Visible. "Visible" means capable of being seen without visual aid by a person of normal visual acuity.

21. Zoned commercial or industrial areas. "Zoned commercial or industrial areas", means those areas reserved for business, commerce or trade pursuant to a comprehensive state or local zoning ordinance or regulation.

§ 2713. License; fee

No person, firm or corporation shall engage in or continue in the business of outdoor advertising or erect, maintain or display any advertisement or advertising structure upon property owned by others without first obtaining a license from the commission.

Every person, firm or corporation engaged in the business of outdoor advertising for profit gained from rental or other compensation from any other person, firm or corporation shall before obtaining a license pay the commission the sum of \$100 annually, except: If the person, firm or corporation is engaged in the business of outdoor advertising not for direct profit through rentals or compensation, the fee shall be \$25 annually and if the person, firm or corporation controls no more than 5 signs, none of which exceed 20 square feet in area, the fee shall be \$5 annually.

Applications for licenses or renewal of licenses shall be made on forms furnished by the commission and shall contain all information required by the commission.

The obligation to pay the license fee shall apply and be in force for such time as an advertisement or advertising structure or any part thereof shall remain visible.

Every license shall expire on December 31st of the year in which it was issued. All fees for such licenses shall be payable annually in advance.

§ 2714. Permit; fees

No person, firm or corporation shall erect or maintain any advertising structure or any advertisement thereon without first obtaining a permit from the commission.

Applications for permits shall be made on forms furnished by the commission and shall contain all information required by the commission.

Every person, firm or corporation shall before obtaining a permit pay the commission the sum of:

1. \$2.50 for each panel, affixed to an advertising structure, the total area of which does not exceed 100 square feet; and

2. \$4.50 for each panel, affixed to an advertising structure, the total area of which exceeds 100 square feet, but does not exceed 300 square feet; and

3. \$5 for each panel, affixed to an advertising structure, the total area of which exceeds 300 square feet but does not exceed 700 square feet; and

4. \$7 for each panel, affixed to an advertising structure, the total area of which exceeds 700 square feet but does not exceed 900 square feet.

The area of a panel, advertisement or advertising structure shall include all finish mouldings, but not lattice work or base trim used only for ornamental purposes.

A permit shall be required and a fee paid for each side of every panel or sign capable of use and exposed in part or in whole to public view.

A permit shall be required and a fee paid for each panel or sign used in a sign capable of use and exposed in part or in whole to public view.

The permits shall be numbered and any advertising structure or advertisement erected or maintained thereunder shall have attached to it in legible form the permit number. Permit plates to be attached to the structure or advertisement shall be furnished by the State Highway Commission.

The application for a permit shall contain a certificate stating that the proposed advertisement or advertising structure is in conformity with existing municipal ordinances.

Every permit shall expire on December 31st of the year in which it was issued. All fees for such permits shall be payable annually in advance.

§ 2715. On-premise advertisement

1. License and permit. No license and no permit shall be required for an on-premise advertisement.

2. Number. On-premise advertisements and structures on any one property shall not exceed 10 in number, except in the case of more than one business or profession being conducted on one property, each business or profession shall not exceed 10 in number.

3. Location, relation to buildings. On-premise advertisements and structures advertising the business or profession conducted on the premises shall be located within 1,000 feet of the building wherein the goods advertised are manufactured or sold or the business or profession advertised is carried on or practiced, except if such building is not adjacent to a public way designated by a state or federal highway route number, such advertisements or structures shall be within 300 feet of the junction of the nearest such highway and the way, public or private, which provides access to the building and these signs shall not exceed 2 in number and shall not exceed 100 square feet each.

4. Location, relation to right-of-way. No on-premise advertisements and structures shall be permitted:

A. Within the full width of the right-of-way of any public way, or

B. Within 33 feet of the centerline of any highway if the right-of-way is less than 66 feet in width, or

C. Within 20 feet from the outside edge of the paved portion of any highway with more than 2 travel lanes and a total paved portion in excess of 24 feet width.

Paragraphs B and C shall not apply to structures, devices or displays permanently set and in existence before September 1, 1957.

5. Interstate highways. Not more than one on-premise advertisement advertising the sale or lease of the property shall be permitted on land adjacent to any portion of the interstate system, including ramps and interchange areas which is visible therefrom.

Not more than one on-premise advertisement advertising activities being conducted upon the real property where the sign is located and visible from any portion of the interstate system, including ramps and interchange areas, may be permitted more than 50 feet from the building, structure or permanently emplaced fixture where the goods advertised are sold or the business or profession advertised is carried on.

No on-premise advertisement located more than 50 feet from the building, structure or permanently emplaced fixture where the goods advertised are sold or the business or profession advertised is carried on, shall exceed 20 feet in length, width or height or 150 square feet in area, including border and trim, but excluding supports.

Any on-premise advertisement located more than 50 feet from the building, structure or permanently emplaced fixture where the goods advertised are sold or the business or profession advertised is carried on that displays any trade name which refers to or identifies any service rendered or product sold shall display the name of the advertised activity as conspicuously as such trade name.

No on-premise advertisement or structure shall be permitted which :

A. Attempts or appears to attempt to direct the movement of traffic or which interferes with, imitates or resembles any official traffic sign, signal or device;

B. Prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic;

C. Contains, includes or is illuminated by any flashing, intermittent or moving light or lights;

D. Uses lighting in any way unless the light is in the opinion of the commission effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the highway or is of such intensity or brilliance as to cause glare or impair the vision of the operator of any motor vehicle as to otherwise interfere with any driver's operation of a motor vehicle;

E. Moves or has any animated or moving parts.

No on-premise advertisements or structures shall be permitted which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

§ 2716. Limitations and restrictions

1. Limitations. No permit shall be granted for the erection, construction or maintenance of any advertisement or advertising structure:

A. Within the distance of 300 feet of the intersection or junction of a highway with another highway or with a railway at a point where it would obstruct or interfere with the view of a train or any vehicle on the intersecting or joining highway or railway; or

B. Within 300 feet of any public park, reservation, public forest, public playground, school, church or cemetery and in public view; or

C. Within 50 feet from the nearer edge of the traveled way of any public highway and visible from that public highway; or

D. On any public highway; or

E. On any public property; or

F. Which in the judgment of the commission is or would be injurious to the property in the vicinity thereof, or would injuriously affect any public interest or endanger the safety of persons using the highway; or

G. In a place prohibited by municipal ordinance or regulation; or

H. Upon real property owned by or leased to a person, firm or corporation other than the applicant except with the consent of the owner or lessee; or

I. That shall exceed 900 square feet in area; or

J. Which, in whole or in part, shall move or simulate motion, or has any animated or moving parts; or

K. Which contains, includes or is illuminated by any flashing intermittent or moving light or lights; or

L. Which uses lighting in any way unless the light is in the opinion of the commission effectively shielded to prevent beams or rays from being directed at any portion of the traveled way, or is of such low intensity or brilliance as not to cause glare as to impair the vision of the driver of any motor vehicle or interfere with any driver's operation of a motor vehicle; or

M. Which is or shall be painted upon any rock or tree or any other natural features; or

N. Unless the advertising structures front, back, braces, anchors and any lattice work are kept in proper condition; or

O. Which obscure or interfere with the effectiveness of an official traffic sign, signal or device; or

P. Within the distance of 300 feet of a scenic area designated as such by the State; or

Q. On any public highway, public park property or on any other public property.

2. Interstate, primary and scenic highway system. No person, firm or corporation shall erect or maintain within 660 feet of the nearest right-of-way boundary line of any portion of the interstate system, including ramps and interchange areas or any portion of the primary system or any portion of a scenic highway, any advertising structure or advertisement of any kind except:

A. Official signs erected and maintained by the commission;

B. On-premise signs permitted under section 2715;

C. Advertisements or advertising structures in areas adjacent to segments of the interstate system in urban areas established by the commission as of January 1, 1970, which traverse commercial areas legally zoned as such by incorporated municipalities and which conform to the controls on size, lighting and spacing as described in paragraph D;

D. Advertisements or advertising structures in areas adjacent to segments of a scenic highway or segments of the primary system which traverse commercial or industrial areas legally zoned as such by incorporated municipalities, or which traverse unzoned commercial or industrial areas and conform to the following controls on size, lighting and spacing:

(1) Size of signs and structures

(a) The maximum area of a sign facing, including all finish mouldings, but not including lattice work or base trim used only for ornamental purposes, shall be 900 square feet;

(b) Double faced, back to back or V-type signs shall be permitted;

(c) Maximum height: 25 feet;

(d) Maximum length: 60 feet;

(2) Spacing of signs

(a) No 2-sign structures shall be spaced less than 500 feet apart in permitted areas adjacent to the interstate system and freeways on the primary system;

(b) No 2-sign structures shall be spaced less than 300 feet apart in permitted areas adjacent to the primary system outside compact or built-up sections of any municipality;

(c) No 2-sign structures shall be spaced less than 100 feet apart in permitted areas adjacent to the primary system in compact or built-up sections of any municipality;

(d) The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway;

(e) No structure may be located within 300 feet of an interchange or intersection at grade or rest area along the interstate and freeways on the primary system as measured from the sign to the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.

(3) Lighting; animation

(a) No sign shall be erected or maintained:

(i) Which, in whole or in part, in its operation shall move or simulate motion; or

(ii) Which has any animated or moving parts; or

(iii) Which contains, includes or is illuminated by any flashing intermittent or moving light or lights; or

(iv) Which uses lighting in any way unless the light is in the opinion of the commission so effectively shielded as to prevent beams or rays of light from being directed at any portion of the travelled way or is of such intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle; or the illumination of which interferes with the effectiveness of, or obscures an official traffic sign, device or signal.

(4) Public service information

(a) Signs giving public service information such as time, date, temperature, weather or similar information may display only the public information thereon by an intermittent or moving light.

The commission is authorized, empowered and directed:

§ 2717. Powers of State Highway Commission

1. Personnel. To employ, subject to the Personnel Law, clerical or other assistants required for the administration of this chapter;

2. Revocation. To revoke any license or permit for any violation of this chapter or the rules and regulations promulgated by the commission after hearing, the time and place for which the commission will give not less than 30 days' written notice to the alleged violator, licensee or permittee, and such written notice shall be sent by registered mail addressed to the licensee or permittee at the address shown on the application.

3. Forms. To prepare application and permit forms which shall contain such information as the commission may require.

4. Removal of structures. To order or cause the removal of any outdoor advertisement or advertising structure violating this chapter or when public safety requires:

A. The commission may remove without hearing any advertisement or advertising structure for which no application has been filed and no permit

granted, and recover the cost of removal from the permittee. The State Police or police officers of any municipality shall at the request of the commissioner remove or cause to be removed any advertisement or advertising structure erected or maintained without license or permit.

B. The commission shall order the removal of any advertisement or advertising structure which in its judgment is erected or maintained in violation of this chapter or the rules and regulations promulgated by the commission remove or cause to be removed any advertisement or advertising public safety requires it. A copy of the order shall be mailed by registered mail to the permittee at the address shown on the permit together with a notice of hearing which shall state the time and place of hearing. The notice shall be mailed at least 30 days prior to the date of hearing. If after hearing the commission orders the advertisement or advertising structure removed and the order of removal is not complied with within 30 days thereafter, the commission may enter and remove or cause the removal and recover the cost of removal from the permittee, licensee or person, firm or corporation owning or controlling the advertising structure.

C. The commission may elect to file a complaint in the Superior Court for removal of any advertisement or advertising structure and the Superior Court shall have jurisdiction of any such proceeding.

5. Rules and regulations. To make such rules and regulations as it deems necessary to administer the intent of this chapter.

A. Interstate-primary highways. The commission shall promulgate rules and regulations for the control of all advertisements and advertising structures erected on property adjacent to interstate and primary highways.

B. Other highways. The commission shall promulgate rules and regulations for the control of all advertisements and advertising structures erected on property adjacent to other highways.

C. Information sites. The commission shall promulgate rules and regulations for the control of informational sites, including fees, size, lighting and spacing.

6. Information sites. To provide information centers in the specific interest of the traveling public at rest areas for the purpose of informing the public of places of interest, gas, food and lodging consistent with the national standards.

§ 2718. Agreements with United States Government

The commission is authorized, empowered and directed to enter into agreements with the United States Government or its agencies and subdivisions to control outdoor advertising in accordance with national standards, this chapter or the best interests of the State.

§ 2719. Taking, removal, disposal, compensation, condemnation and amortization

1. Interest in nonconforming signs. The commission may acquire on behalf of the State by gift, purchase or condemnation all right, title, leasehold or any interest in signs that are nonconforming to this chapter, as follows:

A. Those lawfully erected in areas adjacent to the interstate system by virtue of being in existence on or before May 26, 1961;

B. Those adjacent to the interstate system, the right-of-way of which was acquired prior to July 1, 1956;

C. Those adjacent to the interstate system and outside incorporated municipalities where the land use as of September 21, 1959 was legally established as commercial or industrial;

D. Those adjacent to segments of the interstate system which traverse commercial or industrial areas legally designated as such by incorporated municipalities on or after September 21, 1959.

2. Other signs. The commission on behalf of the State may acquire by gift, purchase or condemnation, all right, title, leasehold or any interest in other signs which do not conform to this chapter.

3. Property right. The commission on behalf of the State may acquire by gift, purchase or condemnation the property right to maintain all signs, which are not in conformity with this chapter.

4. Compensation. When the commission acquires the following nonconforming outdoor advertising signs, displays and devices by purchase or condemnation just compensation shall be paid upon the immediate removal of such signs:

A. Those enumerated in subsections 1 and 2;

B. Those lawfully in existence on the effective date of this chapter;

C. Those lawfully on any highway made a part of the interstate or primary systems on or after the effective date of this chapter;

D. Those lawfully erected on or after the effective date of this chapter.

5. Procedure. The purchase, condemnation, negotiation, assessment of damage and appeal procedures shall be in accordance with this section and Title 23, sections 153 to 159.

6. Eminent domain; limitation. The commission may acquire by the power of eminent domain all right, title, leasehold or any interest in nonconforming signs, and the property right to maintain signs not in conformity with this chapter when and only when the federal share of just compensation prescribed in the Highway Beautification Act of 1965 and the Federal-Aid Highway Act of 1968 is available to the State of Maine or the Maine Legislature makes a specific appropriation and such acquisition shall be in accordance with a priority to be established by the commission.

7. Police power; amortization. When the federal share of just compensation for the removal of nonconforming outdoor advertising signs as prescribed

in the Highway Beautification Act of 1965 and the Federal-Aid Highway Act of 1968 is not available to the State of Maine or when the immediate removal of nonconforming outdoor advertising signs is not required but removal via regulation over an extended period of time is satisfactory, the commission is authorized to use the police power of the State to establish a reasonable amortization period which will be long enough to allow recoupment of the capital investment which these nonconforming signs represent but which contemplates that at the end of this period the nonconforming sign will be removed by the owner without compensation. The length of the amortization period may vary for different types of signs but in no case shall it be longer than 5 years. Determination of amortization periods for different types of signs will be made by the commission based on the original value of the sign, the ease of its removal to a conforming area, the length of time the sign has been in use in its present location, the present physical condition of the sign, and any other factors which fairly reflect its present capital value, the returns to the owner which the sign has already produced, and the returns to the owner which the sign ought to be allowed to produce in the future before its uncompensated removal is ordered.

§ 2720. Fees; expenses

The fees collected by the commission under this chapter shall be paid over to the Treasurer of State and deposited in the General Highway Fund. All the costs and expenses of the commission incurred in administering this chapter shall be paid out of such amounts as the Legislature may appropriate for administrative costs of the commission.

§ 2721. Applicability of regulations

Except for outdoor advertising in areas adjacent to the interstate system, the primary system and scenic highways, these regulations shall not apply to outdoor advertising in the compact or built-up section of any town or city, but such outdoor advertising is subject to regulation and control by town or city bylaws or ordinances.

§ 2722. Exceptions

Warning or directional signs upon or near highways erected by the State or its political subdivisions or other signs erected or intended exclusively for the safety of persons using such highways or temporary signs or posters for political or agricultural fair purposes shall not be deemed outdoor advertisement or advertising structures within the meaning of this chapter, but they shall not be painted upon or annexed to any rock or tree and are subject to regulations and supervision by the commission to prevent or remove whatever will injuriously affect the public interest or public safety. Signs erected, maintained or displayed under any statutory authority other than this chapter and directional signs and informational signs erected and maintained by authority of the commission shall not be deemed outdoor advertising or advertising structures within the meaning of this chapter, but will be subject to the rules and regulations promulgated by the commission.

§ 2723. Penalty

Any person, firm or corporation who shall erect, maintain or display an advertisement or advertising structure contrary to and in violation of this chapter, the rules and regulations promulgated by the commission, municipal zoning or ordinances shall be punished by a fine of not less than \$10 nor more than \$100. The display of each advertisement or advertising structure shall constitute a separate offense. Whoever, after conviction for violating this chapter or the rules and regulations, unlawfully maintains any advertisement or advertising structure for 10 days after the conviction, may be punished by a fine of not more than \$50 for each day the advertisement or advertising structure remains in violation after conviction. The fines and costs shall be paid to the Treasurer of State and deposited in the General Highway Fund.

Sec. 2. R. S., T. 32, c. 39, repealed. Chapter 39 of Title 32 of the Revised Statutes is repealed.