

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 568

H. P. 456

House of Representatives, February 15, 1979

On Motion of Mr. Howe of South Portland, referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Boudreau of Waterville.

Cosponsors: Mrs. Curtis of Milbridge, Mr. Dow of West Gardiner and Miss Brown of Bethel.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

**AN ACT Amending Maine Traveler Information Services Statutes.**

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

**Sec. 1. 23 MRSA § 1901, sub-§ 3-A is enacted to read:**

**3-A. Economic stability and growth. The stability and growth of the economy requires that free enterprise retain a significant measure of freedom and initiative in its choice of message and a range of media through which to address the public.**

**Sec. 2. 23 MRSA § 1901, sub-§§ 4 and 5, as enacted by PL 1977, c. 494, § 1, are repealed.**

**Sec. 3. 23 MRSA § 1902, first sentence, as enacted by PL 1977, c. 494, § 1, is amended to read:**

To promote the public health, safety, economic development and other aspects of the general welfare, it is in the public interest to provide tourists and travelers with information and guidance concerning public accommodations, facilities, commercial services and other businesses, and points of scenic, cultural, historic, educational, recreational and religious interest **and to insure the private sector a measure of free expression compatible with the goals of this section.**

**Sec. 4.** 23 MRSA § 1902, sub-§ 3, as enacted by PL 1977, c. 494, § 1, is repealed and the following enacted in its place:

**3. Regulate outdoor advertising. Regulate the use of outdoor advertising; and**

**Sec. 5.** 23 MRSA § 1903, as enacted by PL 1977, c. 494, § 1, is repealed.

**Sec. 6.** 23 MRSA § 1903-A is enacted to read:

**§ 1903-A. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings:

**1. Business of outdoor advertising.** “Business of outdoor advertising” means the erection, use or maintenance of one or more off-premise signs for income through rental or receipt of compensation by any person, firm or corporation.

**2. 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; or**

**G. Railroad tracks and minor sidings.**

**3. Commissioner.** “Commissioner” means the Commissioner of Transportation.

**4. 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.

**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.

**6. Interstate system or interstate highway.** “Interstate system” or “interstate highway” means any state highway which is or does become part of the national system of interstate or defense highways, as described in the United States Code, Title 13, section 103 (d) and amendments thereto or replacements thereof.

7. **Logo.** “Logo” means a single or multicolored symbol or design used by a business as a means of identifying its products or services.

8. **Maintain.** “Maintain” means to allow to exist.

9. **Motor vehicle.** “Motor vehicle” means a self-propelled vehicle capable of legal operation on the traveled portion of the State highways.

10. **Official business directional sign.** “Official business directional sign” means a sign erected and maintained in accordance with this chapter, to indicate to the traveling public the route and distance to public accommodations, facilities, commercial services for the traveling public and points of scenic, historical, cultural, recreational, educational and religious interest.

11. **Off-premise sign.** “Off-premise sign” means a sign not located on the same real property that the business, facility or point of interest is located.

12. **On-premise sign.** “On-premise sign” means a sign which is located upon the same real property that the business, facility or point of interest is located.

13. **Person.** “Person” means an individual, corporation, joint venture, partnership or any other legal entity.

14. **Primary system or primary highway.** “Primary system” or “primary highway” means any state highway which is or does become part of the federal aid primary system, as described in the United States Code, Title 23, section 103 (b) and amendments thereto and replacements thereof.

15. **Public way.** “Public way” means any road capable of carrying motor vehicles, including, but not limited to, any state highway, municipal road, county road, unincorporated territory road or other road dedicated to the public.

16. **Residential directional sign.** “Residential directional sign” means an off-premise sign erected and maintained by an individual to indicate the location of his residence.

17. **Secondary system or secondary highway.** “Secondary system” or “secondary highway” means any state highway, but which is not part of the interstate or primary systems.

18. **Sign.** “Sign” means any structure, display, logo, devise or representation which is designed or used to advertise or call attention to any thing, person, business, activity or place and is visible from any public way. It does not include the flag, pennant or insignia of any nation, state or town. Whenever dimensions of a sign are specified they shall include the frames.

19. **State highway or highway.** “State highway” or “highway” means any public way which is so designated by this Title, including interstate, primary and secondary highways.

20. **Traffic control sign or device.** “Traffic control sign or device” means an official route marker, warning sign, sign directing traffic to or from a bridge,

ferry or airport, or sign regulating traffic, which has been erected by officers having jurisdiction over the public way.

21. **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 extending outward 750 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.

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

23. **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.

Sec. 7. 23 MRSA § 1913, sub-§§ 12 and 13, as enacted by PL 1977, c. 494, § 1, are amended to read:

12. **Agricultural products signs.** Signs with a total surface area not to exceed 4 square feet, providing directions to places of business offering for sale agriculture products harvested or produced on the premises where the sale is taking place, provided such sign is located within the municipality where the sale is located; ~~and~~

13. **Signs for nonprofit historical and cultural institutions.** Signs erected by nonprofit historical and cultural institutions, no more than 2 in number, with a total surface area not to exceed 50 square feet each; ~~and~~

Sec. 8. 23 MRSA § 1913, sub-§ 15 is enacted to read:

15. **Off-premise signs.** Off-premise signs as provided in section 1915-A.

Sec. 9. 23 MRSA § 1915, as enacted by PL 1977, c. 494, § 1, is repealed.

Sec. 10. 23 MRSA § 1915-A is enacted to read:

**§ 1915-A. Off-premise signs**

1. **License; fee.** No person, firm or corporation shall engage in or continue the business of outdoor off-premise advertising for rental or receipt of compensation from any other person, firm or corporation without first obtaining a license from the Department of Transportation. Any person, firm or corporation engaged in the business of outdoor advertising shall pay to the Department of Transportation annually the following schedule of fees:

- A. \$100 for the maintenance of up to 500 permits for advertising structures;
- B. \$250 for the maintenance of more than 500 but less than 1,000 permits for advertising structures; or
- C. \$500 for the maintenance of more than 1,000 permits for advertising structures.

The applications for license or renewal of licenses shall be made on forms furnished by the Department of Transportation and shall contain all the information required. The obligation to pay the license fee shall apply and be enforced for such time as an off-premise sign or any part thereof shall remain visible. Every license shall expire on December 31st in the year in which it was issued. All fees for such licenses shall be payable annually in advance.

2. Permits; fees. Every person, firm or corporation shall pay the Department of Transportation annually in advance, during each year that the off-premise sign or any part thereof remains visible, the sum of:

- A. \$5 for each panel, affixed to an advertising structure, the total area of which does not exceed 200 square feet;
- B. \$10 for each panel, affixed to an advertising structure, the total area of which exceeds 200 square feet, but does not exceed 450 square feet; or
- C. \$15 for each panel, affixed to an advertising structure, the total area of which exceeds 450 square feet, but does not exceed 700 square feet.

The permits shall be numbered and every off-premise sign erected and maintained hereunder shall have attached to it in legible form the permit number. The application for any permit shall contain a certificate stating that the proposed advertisement or advertising structure is in conformity with existing municipal ordinances. Every permit shall terminate upon nonpayment of the annual fee as of December 31st of the last year for which the annual fee was paid.

3. Restrictions. No permit shall be granted for the erection, construction or maintenance of any off-premise sign:

- 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;
- B. Within 300 feet of any public park, reservation, public forest, public playground, school, church or cemetery and in public view;
- C. Within 50 feet from the nearer edge of the traveled way of any public highway and visible from that public highway but this limitation shall not be applicable in zoned or unzoned commercial or industrial areas in the compact or built-up sections of cities and towns;
- D. On any public highway;

- E. On any public property;**
  - 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;**
  - G. In a place prohibited by municipal ordinance or regulation;**
  - 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;**
  - I. That shall exceed 700 square feet in area;**
  - J. Which, in whole or in part, shall move or simulate motion, or has any animated or moving parts;**
  - K. Which contains, includes or is illuminated by any flashing intermittent or moving light or lights;**
  - 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;**
  - M. Which is or shall be painted upon any rock or tree or any other natural features;**
  - N. Unless the advertising structures front, back, braces, anchors and any other lattice work are kept in proper condition;**
  - O. Which obscure or interfere with the effectiveness of an official traffic sign, signal or device;**
  - 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.**
- 4. Interstate, primary and scenic highway system. No person, firm or corporation shall erect or maintain any off-premise sign or legible advertisement that can be seen from 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 1914;**
  - C. Off-premise signs in areas adjacent to segments of the interstate system and urban areas subsequently established or enlarged or commercial areas legally zoned as such by incorporated municipalities and which conform to the control on size, lighting and spacing as described in paragraph D; and**

**D. Off-premise signs 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 700 square feet;**
- (b) Double faced, back to back or V-type signs shall be permitted;**
- (c) Maximum height: 25 feet; and**
- (d) Maximum length: 60 feet;**

**(2) Spacing of signs:**

- (a) Sign structures shall not be spaced less than 500 feet apart in permitted areas adjacent to the interstate system and freeways on the primary system;**
- (b) Sign structures shall not 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) Sign structures shall not 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; and**
- (f) On the primary system, other than freeways, the spacing limitations shall not apply in zoned or unzoned commercial and industrial areas in the compact or built-up sections of cities and towns if the signs are separated by a building or roadway;**

**(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;**



- (ii) Which has any animated or moving parts;
  - (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 option of the commission effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled 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; and
- (5) Notwithstanding the other provisions of this chapter the criteria for spacing and lighting established in this subsection shall not apply to signs as of the effective date hereof in zoned or unzoned commercial and industrial areas or in the compact or built-up sections of cities and towns adjacent to primary highways.

Sec. 11. 23 MRSA § 1916, as enacted by PL 1977, c. 494, § 1, is repealed.

Sec. 12. 23 MRSA § 1916-A is enacted to read:

#### § 1916-A. Compensation

1. **Compensation.** The Department of Transportation may acquire on behalf of the State by gift, purchase or condemnation all right, title, leasehold or any other interest in signs that are non conforming to this chapter. Purchase, condemnation, negotiation, assessment of damages in appeal procedure shall be in accordance with this subsection and sections 153 to 159.

2. **Acceptance of federal funds.** The commissioner may accept any allotment of funds by the United States, or any agency thereof, appropriated to carry out the United States Code, Title 23, section 131 and amendments thereto or replacements thereof. Any such funds will be applied to effectuate this chapter.

Sec. 13. 23 MRSA § 1923, as enacted by PL 1977, c. 494, § 1, is repealed.

#### STATEMENT OF FACT

This bill amends the Maine traveler information services laws in order to provide for greater economic growth and greater freedom in the choice of media.