

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

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No. 483

H.P. 333

House of Representatives, February 14, 2013

An Act To Promote Small Businesses by Enhancing the Use of On-premises Signs

Reference to the Committee on Transportation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative KESCHL of Belgrade.
Cosponsored by Senator SAVIELLO of Franklin and
Representatives: CHASE of Wells, CLARK of Easton, DUNPHY of Embden, FREDETTE of
Newport, NUTTING of Oakland, WINSOR of Norway.

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

2 **Sec. 1. 23 MRSA §1901, sub-§2**, as repealed and replaced by PL 1981, c. 318,
3 §1, is amended to read:

4 **2. Information discrimination.** Very few convenient means exist in the State to
5 provide information on available public accommodations, commercial services for the
6 traveling public and other lawful businesses and points of scenic, historic, cultural,
7 educational and religious interest. Provision of those facilities can be a major factor in
8 encouraging the development of the tourist industry in Maine. Signs are recognized as a
9 key component in providing valuable information to the motoring public regarding the
10 availability of goods and services, rest facilities, health services and historic and scenic
11 sites to enhance interest and educate visitors about the full spectrum of reasons to visit
12 and to live in this State.

13 **Sec. 2. 23 MRSA §1901, sub-§4**, as repealed and replaced by PL 1981, c. 318,
14 §1, is amended to read:

15 **4. Preservation of scenic resources.** The scattering of outdoor advertising not
16 located on the site of the business throughout the State is detrimental to the preservation
17 of those scenic resources, and so to the economic base of the State; ~~and is also not an~~
18 ~~effective method of providing information to tourists about available facilities.~~

19 **Sec. 3. 23 MRSA §1901, sub-§5**, as repealed and replaced by PL 1981, c. 318,
20 §1, is repealed.

21 **Sec. 4. 23 MRSA §1902, sub-§3**, as repealed and replaced by PL 1981, c. 318,
22 §1, is amended to read:

23 **3. Control outdoor advertising.** Prohibit and control the indiscriminate use of
24 outdoor advertising not located on the site of the business; and

25 **Sec. 5. 23 MRSA §1903, sub-§3**, as repealed and replaced by PL 1981, c. 318,
26 §1, is amended to read:

27 **3. Interstate system or interstate highway.** "Interstate system" or "interstate
28 highway" means any state highway ~~which that~~ is or ~~does become~~ becomes part of the
29 national system of interstate or defense highways, as described in ~~the 23~~ United States
30 Code, ~~Title 23, section~~ Section 103(d) and amendments thereto or replacements thereof.
31 "Interstate system" or "interstate highway" includes ramps and interchange areas.

32 **Sec. 6. 23 MRSA §1903, sub-§8-A** is enacted to read:

33 **8-A. Outdoor area.** "Outdoor area" means an area or point of interest in which the
34 majority of activities are conducted outdoors, including a recreational area such as a golf
35 course or ski area, a scenic area such as a park or overlook, a farm or an orchard.

36 **Sec. 7. 23 MRSA §1903, sub-§9-A** is enacted to read:

1 **9-A. Point of interest.** "Point of interest" means, without limitation, an outdoor area
2 or other place of scenic, historical, cultural, educational or religious interest, whether
3 publicly or privately owned.

4 **Sec. 8. 23 MRSA §1903, sub-§10-C** is enacted to read:

5 **10-C. Principal structure.** "Principal structure" means a regularly used building
6 where an advertised business or activity is carried on or practiced or a parking lot, storage
7 or processing area or other structure that is essential and customary to the conduct of the
8 advertised business or activity.

9 **Sec. 9. 23 MRSA §1903, sub-§16**, as repealed and replaced by PL 1981, c. 318,
10 §1, is amended to read:

11 **16. Traffic control sign or device.** "Traffic control sign or device" means an
12 official route marker, warning sign, sign directing traffic to or from a community, bridge,
13 ferry or airport, or public facility, as defined in Title 27, section 452, subsection 5, or
14 sign regulating traffic, which that has been erected by officers having jurisdiction over the
15 public way and these signs shall be; a traffic control sign or device is exempt from the
16 requirements of this chapter.

17 **Sec. 10. 23 MRSA §1914, sub-§3**, as repealed and replaced by PL 1981, c. 318,
18 §4 and amended by PL 2011, c. 115, §4, is repealed and the following enacted in its
19 place:

20 **3. Location.** On-premises signs must be located within 1,500 feet of a principal
21 structure or within 1,500 feet of the point of interest.

22 For purposes of determining distance under this subsection:

23 A. If the advertised business or activity is a commercial or industrial activity, the
24 measurement must be from a principal structure; and

25 B. If the advertised business or activity is a point of interest, the measurement must
26 be from a principal structure unless the point of interest is an outdoor area, in which
27 case the measurement must be from the geographical boundary of that outdoor area.

28 **Sec. 11. 23 MRSA §1914, sub-§4, ¶B**, as amended by PL 2011, c. 115, §2, is
29 further amended to read:

30 B. ~~Except as provided in subsection 4-A, within~~ Within 20 feet from the outside edge
31 of the paved portion of any public way with more than 2 travel lanes and a total
32 paved portion in excess of 24 feet in width unless the sign is erected using breakaway
33 mounting devices approved by the Federal Highway Administration. For purposes of
34 this paragraph, a turning lane in an area with a posted speed limit of 35 miles per
35 hour or less is not considered a travel lane; and

36 **Sec. 12. 23 MRSA §1914, sub-§4-A**, as enacted by PL 2011, c. 115, §3, is
37 repealed.

1 **Sec. 13. 23 MRSA §1914, sub-§8**, as repealed and replaced by PL 1981, c. 318,
2 §4 and amended by PL 2011, c. 115, §4, is further amended to read:

3 **8. Height.** The maximum height of an on-premises sign shall be 25 sign is 35 feet
4 above the ground level of land upon which it is located or, if the sign is affixed to or is
5 part of a building, the maximum is 10 feet above the roof of the building.

6 **Sec. 14. 23 MRSA §1914, sub-§10**, as repealed and replaced by PL 1981, c. 318,
7 §4, is repealed and the following enacted in its place:

8 **10. Approach signs.** A business or a point of interest, when the business's or point
9 of interest's principal structure is located on a public or private way more than 1,000 feet
10 from the nearest intersection with a public way or is not visible to traffic from the nearest
11 public way, may erect no more than 3 approach signs, each with a total surface area not to
12 exceed 100 square feet per side. These signs must be located:

13 A. On a lot of record, as that term is defined in subsection 11-A, paragraph A,
14 subparagraph (3), that is contiguous with property of the business or point of interest;

15 B. Outside the public right-of-way limits; and

16 C. Within 300 feet of the intersection with the other public way.

17 For purposes of determining compliance with this subsection, distances must be
18 determined as provided in subsection 3.

19 **Sec. 15. 23 MRSA §1914, sub-§11-A**, as amended by PL 2007, c. 124, §§1 and
20 2 and PL 2011, c. 115, §4, is further amended to read:

21 **11-A. Changeable signs.** Notwithstanding subsection 6, paragraphs C and E,
22 changeable signs are not prohibited as long as the sign complies with all the terms of this
23 subsection. The Department of Transportation shall administer the provisions of this
24 subsection.

25 A. As used in this subsection, unless the context otherwise indicates, the following
26 terms have the following meanings.

27 (1) "Changeable sign" means an on-premises sign created, designed,
28 manufactured or modified in such a way that its message may be electronically,
29 digitally or mechanically altered by the complete substitution or replacement of
30 one display by another on each side.

31 (2) "Display" means that portion of the surface area of a changeable sign that is
32 or is designed to be or is capable of being periodically altered for the purpose of
33 conveying a message.

34 (3) "Lot of record" means a lot for which the deed was legally recorded, or that
35 was created by a plan legally recorded, in the registry of deeds for the county
36 where the lot is located. Contiguous lots of record in the same ownership are
37 considered one lot.

38 (4) "Message" means a communication conveyed by means of a visual display of
39 text, a graphic element or pictorial or photographic image.

1 (5) "Sign assembly" means the display, border, trim and all supporting apparatus,
2 including posts, columns, pedestals and foundation.

3 (6) "Time and temperature sign" means a changeable sign that electronically or
4 mechanically displays only the time ~~and~~, temperature or date by the complete
5 substitution or replacement of a display showing the time with a display showing
6 the temperature or the date.

7 B. The display on each side of a changeable sign:

8 (1) May be changed no more than once ~~every 20 minutes~~ per minute, unless the
9 municipality in which the sign is located adopts an ordinance to the contrary and
10 notifies the Department of Transportation in writing of that ordinance. If a
11 municipal ordinance is adopted, the municipality is responsible for the
12 administration of that ordinance;

13 (2) Must change as rapidly as technologically practicable, with no phasing,
14 rolling, scrolling, flashing or blending, unless the municipality in which the sign
15 is located adopts an ordinance to the contrary and notifies the Department of
16 Transportation in writing of that ordinance. If a municipal ordinance is adopted,
17 the municipality is responsible for the administration of that ordinance.
18 Notwithstanding this subparagraph, a municipality may not adopt an ordinance
19 that allows the sign to flash or display continuous streaming of information or
20 video animation; and

21 (3) May consist of alphabetic or numeric text on a plain or colored background
22 and may include graphic, pictorial or photographic images ~~unless the~~
23 ~~municipality in which the sign is located adopts an ordinance to the contrary and~~
24 ~~notifies the Department of Transportation in writing of that ordinance. If a~~
25 ~~municipal ordinance is adopted, the municipality is responsible for the~~
26 ~~administration of that ordinance.~~

27 ~~C. The display may comprise no more than 50% of the surface area of a changeable~~
28 ~~sign.~~

29 D. No more than one changeable sign with 2 sides is allowed per public way abutting
30 the lot of record.

31 ~~E. Changeable signs may not be located so that the message is readable from a~~
32 ~~controlled-access highway or ramp.~~

33 F. The highest point of the display of a changeable sign on a freestanding sign
34 structure may not exceed a height of ~~25~~ 35 feet above either the centerline of the
35 nearest public way or actual ground level adjacent to the sign, whichever is ~~lower~~
36 higher.

37 G. Changeable message board signs existing in accordance with the requirements of
38 former subsection 11 continue to exist if the signs:

39 (1) Are reasonably incapable of being modified or reprogrammed to comply with
40 this section as amended; and

41 (2) Are not replaced, substantially rebuilt, reconstructed or repaired beyond
42 routine maintenance.

1 H. ~~The size, intensity of illumination and acceptable rate of change between the time~~
2 ~~display, the date display and the temperature display of a time and temperature sign~~
3 ~~must comply with rules, policies or guidelines adopted by the Department of~~
4 ~~Transportation. Rules adopted pursuant to this section are routine technical rules as~~
5 ~~defined in Title 5, chapter 375, subchapter 2 A. Time and temperature signs erected~~
6 ~~prior to September 29, 1995 need not comply with those rules, policies or guidelines~~
7 ~~may not occur more often than once every 2 seconds.~~

8 SUMMARY

9 This bill amends the use of on-premises signs in the following ways.

10 1. It recognizes the value and the role of signs for disseminating information to the
11 motoring public.

12 2. It provides definitions of "point of interest," "outdoor area" and "principal
13 structure" for purposes of determining distance for placement of on-premises signs.

14 3. It increases the distance that a sign may be erected from a principal structure of a
15 business or point of interest from 1,000 feet to 1,500 feet.

16 4. It allows on-premises signs to be placed within 20 feet of the edge of the paved
17 portion of certain public ways with more than 2 travel lanes only if the signs are erected
18 using approved breakaway mounting devices.

19 5. It repeals the authority of the Commissioner of Transportation to waive the
20 prohibition on the placement of certain on-premises signs within 20 feet of the edge of
21 the paved portion of certain public ways.

22 6. It increases from 2 to 3 the number of approach signs a business or point of
23 interest may have on its lot of record if that business or point of interest is not visible
24 from or is located more than 1,000 feet from a public way intersection and expands the
25 limit of the total surface area to 100 square feet per side.

26 7. It allows changeable signs to change once per minute; current law limits the
27 change to once every 20 minutes. It also removes the restriction on the percentage of a
28 changeable sign that may be used for display.

29 8. It allows a business or point of interest to have one changeable sign per public
30 way that the business or point of interest abuts.

31 9. It allows time and temperature signs to also display the date and permits those
32 signs to change as frequently as once every 2 seconds.

33 10. It allows for changeable signs to be erected adjacent to and for viewing from the
34 interstate highway system.

35 11. It increases the maximum height of a freestanding sign structure statewide from
36 25 feet to 35 feet above grade.