

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2014

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Legislative Document

No. 1721

H.P. 1231

House of Representatives, January 13, 2014

### **An Act To Make Changes to and Clarify Maine Traveler Information Services Laws**

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Submitted by the Department of Transportation pursuant to Joint Rule 204.  
Reference to the Committee on Transportation suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative THERIAULT of Madawaska.  
Cosponsored by Senator COLLINS of York and  
Representatives: GILLWAY of Searsport, TURNER of Burlington, VEROW of Brewer,  
Senator: MAZUREK of Knox.

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

2       **Sec. 1. 23 MRSA §1903, sub-§1-C**, as enacted by PL 1997, c. 635, §1, is  
3 repealed.

4       **Sec. 2. 23 MRSA §1903, sub-§8**, as amended by PL 2011, c. 115, §1, is further  
5 amended to read:

6       **8. On-premises sign.** "On-premises sign" means a sign that is erected and  
7 maintained according to the standards set forth in section 1914 upon the real property  
8 upon which the business, facility or point of interest advertised by the sign is located, a  
9 sign licensed pursuant to section 1914, subsection 4 that is within the portion of the  
10 public right-of-way that abuts that real property or an approach sign as permitted by  
11 section 1914, subsection 10. The sign may advertise only the business, facility or point of  
12 interest at, or the sale, rent or lease of, the property upon which it is located.

13       **Sec. 3. 23 MRSA §1903, sub-§10-B**, as enacted by PL 1997, c. 635, §1, is  
14 repealed.

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

16       **10-C. Principal building or structure.** "Principal building or structure" means a  
17 building where an advertised business or activity is regularly carried on or practiced or a  
18 parking lot or storage or processing area or other structure that is essential and customary  
19 to the conduct of the advertised business or activity.

20       **Sec. 5. 23 MRSA §1912-B, last ¶**, as amended by PL 2011, c. 344, §30, is  
21 repealed.

22       **Sec. 6. 23 MRSA §1913-A**, as amended by PL 1999, c. 152, Pt. G, §§2 and 3, is  
23 further amended to read:

24       **§1913-A. Categorical signs**

25       **1. Types of signs within the public right-of-way.** The following signs may be  
26 erected and maintained within the public right-of-way without license or permit ~~under~~ as  
27 long as they conform to applicable provisions of this subsection and rules adopted  
28 pursuant to this chapter as follows:

29       A. Signs ~~of~~ erected by a duly constituted governmental body, a soil and water  
30 conservation district or a regional planning district;

31       B. Signs located on or in the rolling stock of common carriers, except those ~~which~~  
32 that are determined by the commissioner to be circumventing the intent of this  
33 chapter. Circumvention ~~shall include~~ includes, but is not ~~be~~ limited to, signs ~~which~~  
34 that are continuously in the same location or signs that extend beyond the height,  
35 width or length of the vehicle;

36       C. Signs on registered and inspected motor vehicles, except those ~~which~~ that are  
37 determined by the commissioner to be circumventing the intent of this chapter.

1 Circumvention ~~shall include~~ includes, but ~~is not be~~ limited to, signs ~~which that~~ are  
2 continuously in the same location or signs that extend beyond the height, width or  
3 length of the vehicle;

4 D. Signs, with an area of not more than 260 square inches; identifying stops or fare  
5 zone limits of motor buses;

6 E. Signs showing the place and time of service or meetings of religious and civic  
7 organizations, in the municipality or township. Each religious or civic organization  
8 may erect no more than 4 signs. No sign may exceed in size 24 inches by 30 inches;

9 F. Memorial signs or tablets;

10 G. Hand-held or similar signs outside the public way not affixed to the ground or  
11 buildings;

12 H. Signs bearing political messages relating to an election, primary or referendum,  
13 ~~provided that these signs which~~ may not be placed within the right-of-way prior to 6  
14 weeks before the election, primary or referendum to which they relate and must be  
15 removed by the candidate or political committee not later than one week thereafter;  
16 ~~and~~

17 I. Adopt-A-Highway Program signs allowed under section 1117;

18 J. Signs erected by a producer of farm and food products, as defined in Title 7,  
19 section 415, subsection 1, paragraph B, as long as such signs advertise products that  
20 are grown, produced and sold on the producer's premises. A producer that grows,  
21 produces and sells farm and food products from a location with frontage on a  
22 numbered state highway may not erect a sign pursuant to this paragraph adjacent to  
23 that highway. Signs must be directional in nature and may advertise only the farm  
24 and food product that is available for immediate purchase. A sign may not exceed 8  
25 square feet in size and must be located within 5 miles of where the farm and food  
26 product is sold. A producer may not erect more than 4 signs pursuant to this  
27 paragraph, and the total number of signs erected by that producer pursuant to this  
28 paragraph and section 1911, subsection 2 may not exceed 6; and

29 K. Signs erected for a farmers' market, as defined in Title 7, section 415, subsection  
30 1, paragraph A, as long as such signs are directional in nature and advertise only the  
31 farm and food products that are available for purchase at that farmers' market. A  
32 farmers' market may not erect more than 4 signs pursuant to this paragraph, and the  
33 total number of signs erected by that farmers' market pursuant to this paragraph and  
34 section 1911, subsection 2 may not exceed 6. A farmers' market may erect a banner  
35 advertising a farmers' market over a public way if the farmers' market obtains  
36 municipal approval and complies with rules adopted pursuant to this chapter.

37 **2. Types of signs outside the right-of-way.** The following signs may be erected and  
38 maintained outside of the public right-of-way without license or permit ~~under this chapter~~  
39 as follows as long as they meet applicable provisions of this subsection and rules adopted  
40 pursuant to this chapter:

41 A. Signs erected by a public, civic, philanthropic, charitable or religious organization  
42 announcing an auction, public supper, lawn sale, campaign or drive or other like  
43 event or soliciting contributions;

1 B. Signs erected by fairs and expositions within the county where the activity is  
2 located;

3 C. Signs bearing religious messages and signs showing the time and place of services  
4 or meetings of religious and civic organizations;

5 D. Signs erected by nonprofit historical and cultural institutions. Each institution  
6 ~~which~~ that has certified its nonprofit status with the commissioner; may erect not  
7 more than 2 signs with a surface area not to exceed 50 square feet per sign; and

8 E. Signs bearing political messages; ~~and,~~

9 ~~G. Signs erected between May 1st and December 31st by a producer of agricultural~~  
10 ~~products, as long as those signs advertise products that are grown, produced and sold~~  
11 ~~on the producer's premise. A producer that grows, produces and sells an agricultural~~  
12 ~~product from a location with frontage on a numbered state highway may not erect a~~  
13 ~~sign under this paragraph adjacent to that highway. Signs must be directional in~~  
14 ~~nature and may advertise only the agricultural product that is available for immediate~~  
15 ~~purchase. The producer erecting the sign shall remove the sign once the agricultural~~  
16 ~~product advertised on the sign is no longer available. A sign may not exceed 8 square~~  
17 ~~feet in size and must be located within 5 miles of where the product is sold. A sign~~  
18 ~~may only be erected on private property after the producer erecting the sign has~~  
19 ~~obtained the landowner's written consent. A sign must be a minimum of 33 feet from~~  
20 ~~the center of a road. A producer may not erect more than 4 signs pursuant to this~~  
21 ~~paragraph and the total number of signs erected by that producer under this paragraph~~  
22 ~~and section 1911, subsection 2 may not exceed 6.~~

23 **3. Regulations.** ~~The commissioner may promulgate regulations and orders,~~  
24 ~~including prohibitions, to protect highway safety and implement the intent of this chapter.~~

25 ~~The signs referred to in this section shall be subject to regulation, including prohibition,~~  
26 ~~as set forth in section 1922.~~

27 **4. Zones.** The commissioner may ~~promulgate regulations~~ adopt rules permitting  
28 signs, including signs bearing commercial messages, in any zone or area of the State,  
29 together with ~~regulations~~ rules concerning the dimensions, construction, illumination and  
30 other characteristics of such signs if the Attorney General certifies to the commissioner  
31 that the United States Supreme Court has determined that signs in such zones or areas  
32 must be permitted.

33 **5. Prohibited practices.** None of the signs referred to in this section may be erected  
34 or maintained on any traffic control signs or devices, public utility poles or fixtures or  
35 upon any trees. None of these signs may be painted or drawn upon rocks or other natural  
36 features.

37 **6. Interstate system.** None of the signs referred to in this section, other than signs  
38 conforming with subsection 1, paragraphs B and C and logo signs erected pursuant to  
39 section 1912-B, may be located within the right-of-way limits of the interstate system or  
40 within 660 feet of the nearest edge of the interstate system and erected in such a fashion  
41 that the message may be read from the interstate highway.

1           **Sec. 7. 23 MRSA §1914**, as amended by PL 2011, c. 115, §§2 to 4 and corrected  
2 by RR 2011, c. 1, §36, is further amended to read:

3           **§1914. On-premises signs**

4           **1. License and permit.** ~~No~~ Except as provided in subsection 4, a license or permit  
5 may not be required for an on-premises sign.

6           **2. Number.** On-premises signs on any one property ~~shall~~ may not exceed 10 in  
7 number, except in the case of more than one business, facility or point of interest being  
8 conducted on one property, signs for each business, facility or point of interest ~~shall~~ may  
9 not exceed 10 in number.

10          **3. Location.** On-premises signs ~~shall~~ must be located within 1,000 feet of the  
11 principal building or structure where the business or facility is carried on or practiced or  
12 within 1,000 feet of the point of interest. ~~Storage areas, warehouses and other auxiliary~~  
13 ~~structures and fixtures are not deemed to be buildings where the business, facility or point~~  
14 ~~of interest is carried on or practiced.~~

15          **4. Location; relation to public way; license.** ~~On-premises~~ Unless a license is  
16 obtained from the commissioner pursuant to this subsection, on-premises signs are  
17 prohibited:

18           A. Within 33 feet of the center line of any public way ~~if the highway is less than 66~~  
19 ~~feet in width;~~

20           B. ~~Except as provided in subsection 4-A, within~~ Within 20 feet from the outside edge  
21 of the paved portion of any public way with more than 2 travel lanes and a total  
22 paved portion in excess of 24 feet in width; and

23           C. Within the full width of the right-of-way of any public way.

24          Paragraphs A and B do not apply to signs erected before September 1, 1957.

25          Neither the granting of a license nor the installation of a sign on the public way conveys  
26 permanent property rights relating to the public way. The Department of Transportation  
27 is not responsible for loss or damage to an on-premises sign under this subsection from  
28 the use of the right-of-way of the public way for highway purposes. An on-premises sign  
29 under this subsection may be removed by the department to accommodate highway uses  
30 at any time without compensation to the owner of the on-premises sign and at the owner's  
31 expense.

32          ~~**4-A. Waiver.** The commissioner may grant a person a written waiver of the~~  
33 ~~prohibition under subsection 4, paragraph B for an on-premises sign when the owner of~~  
34 ~~property on which the on-premises sign is to be located assumes all costs for removal and~~  
35 ~~installation of the on-premises sign and provides a written statement of this fact to the~~  
36 ~~registry of deeds for the county where the on-premises sign is to be located if:~~

37           A. ~~The majority of on-premises signs on either edge of the public way within 1,000~~  
38 ~~feet of the location of the proposed on-premises sign are located within 20 feet from~~  
39 ~~the outside edge of the paved portion of the public way; or~~

~~B. The proposed on-premises sign replaces an existing on-premises sign at the same location within 20 feet from the outside edge of the paved portion of the public way.~~

~~If an on-premises sign is granted a waiver under this subsection, the owner of the on-premises sign does not gain any permanent property rights relating to the right of way of the public way by installing the on-premises sign within the right of way of the public way. The department is not responsible for loss or damage to an on-premises sign under this subsection from the use of the right of way of the public way for highway purposes. An on-premises sign under this subsection may be removed by the department at any time without compensation to the owner of the on-premises sign and at the owner's expense to accommodate highway uses.~~

~~The commissioner may adopt rules necessary for the implementation of this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~

**5. Interstate highways.** Not more than one on-premises sign, advertising the sale or lease of the property, may be permitted on land adjacent to any portion of the interstate system, including ramps and interchange areas, which is visible therefrom when that land is visible from any portion of the interstate system.

Not more than one on-premises sign visible from any portion of the interstate system, including ramps and interchange areas, may be permitted more than 50 feet from the principal building or structure where the business, facility or point of interest is carried on.

No on-premises advertisement, located more than 50 feet from the principal building or structure where the business, facility or point of interest advertised is carried on, may exceed 20 feet in length, width or height or 150 square feet in area, including border and trim, but excluding supports.

Any on-premises sign located more than 50 feet from the principal building or structure where the business, facility or point of interest is carried on that displays any trade name ~~which that~~ refers to or identifies any service rendered or product sold ~~shall~~ must display the name of the advertised business, facility or point of interest as conspicuously as such trade name.

**6. On-premises signs prohibited.** An on-premises sign is prohibited if it:

A. Attempts or appears to attempt to direct the movement of traffic or 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 a flashing, intermittent or moving light or lights, except as provided in subsection 11-A;

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

1 E. Moves, has any animated or moving parts or has the appearance of movement,  
2 except as provided in subsection 11-A.

3 ~~**7. Signs erected on natural features.** No on-premises sign may be permitted which~~  
4 ~~is erected or maintained upon trees or painted or drawn upon rocks or other natural~~  
5 ~~features.~~

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

9 **9. Jurisdiction by local authority in compact areas.** Except as otherwise provided  
10 in this chapter, administration of this chapter ~~by the Department of Transportation does~~  
11 ~~not apply to~~ for on-premises advertisements located in compact areas of an urban  
12 compact municipality, as defined in section 754, ~~the administration of which~~ is the  
13 responsibility of local authority. In compact areas of an urban compact municipality  
14 adjacent to the interstate, the Department of Transportation is responsible for the  
15 administration of this section.

16 **10. Approach signs.** Any business or facility whose principal building or structure,  
17 or a point of interest, which is located on a private way more than 1,000 feet from the  
18 nearest public way, or is not visible to traffic from the nearest public way, may erect no  
19 more than 2 approach signs with a total surface area not to exceed 100 square feet per  
20 sign. These signs are to be located outside the public right-of-way limits within 300 feet  
21 of the junction of the public and private ways.

22 **11-A. Changeable signs.** Notwithstanding subsection 6, paragraphs C and E,  
23 changeable signs are not prohibited as long as the sign complies with ~~all the terms~~  
24 applicable provisions of this subsection and rules adopted pursuant to this chapter. The  
25 Department of Transportation shall administer the provisions of this subsection, except as  
26 provided in paragraph B.

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

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

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

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

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



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

(6) "Time and temperature sign" means a changeable sign that electronically or mechanically displays the time and temperature by the complete substitution or replacement of a display showing the time with a display showing the temperature.

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

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

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

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

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

~~D. No more than~~ Only one changeable sign with 2 sides is allowed per lot of record for each public way that provides direct vehicular access to the business, facility or point of interest.

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

F. The highest point of the display of a changeable sign may not exceed a height of 25 feet above either the centerline of the nearest public way or actual ground level adjacent to the sign, whichever is lower.

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

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

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

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

7 **Sec. 8. 23 MRSA §1925**, as amended by PL 2011, c. 344, §31, is further amended  
8 to read:

9 **§1925. Administration of chapter**

10 ~~The~~ Except as otherwise provided in this chapter, the commissioner shall administer  
11 this chapter. The commissioner may employ, subject to the Civil Service Law, clerical  
12 and other assistants required for the administration of this chapter. The commissioner  
13 may delegate to personnel of the Department of Transportation the authority to administer  
14 this chapter. The commissioner may adopt rules ~~to administer the various provisions for~~  
15 the implementation of this chapter ~~that are consistent with the provisions of this chapter.~~  
16 Rules adopted pursuant to this section are routine technical rules as defined in Title 5,  
17 chapter 375, subchapter 2-A. The commissioner may execute contracts and other  
18 agreements to carry out the purposes of this chapter.

19 **SUMMARY**

20 This bill makes several adjustments to the Maine traveler information services laws.  
21 It clarifies the definition of "on-premises sign" and provides that the principal building or  
22 structure of an advertised business or activity includes parking lots and outbuildings. It  
23 allows farm stands and farmers' markets to erect signs without a license or permit within  
24 the public right-of-way. The bill clarifies the manner in which the Commissioner of  
25 Transportation may issue a license for on-premises signs. The bill removes the  
26 prohibition on placing on-premises signs on natural features. It provides that within  
27 compact areas of an urban compact municipality, the municipality is responsible for the  
28 administration of the law as regards on-premises advertisements.

29 The bill adjusts the changeable signs provision of the law to allow a business one  
30 changeable sign with 2 sides for each public way that provides direct vehicular access to  
31 the business. It removes the provision requiring the changeable portion of an on-premises  
32 changeable sign to constitute no more than 50% of the sign's surface area.

33 Finally, the bill clarifies the commissioner's rule-making authority with respect to the  
34 Maine traveler information services laws.