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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **595**

February 9, 2009

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The bill was read for the first time and referred to the Committee on State and Local Government Operations Reform,
Technology and Elections

1.1 A bill for an act
1.2 relating to advertising devices; prohibiting erection of additional billboards near
1.3 roads and highways; restricting maintenance of advertising devices; amending
1.4 Minnesota Statutes 2008, sections 173.02, subdivisions 8, 21; 173.03; 173.05;
1.5 173.06, subdivision 1; 173.07, subdivision 1; 173.08, subdivision 1; 173.13,
1.6 subdivisions 1, 2, 4; 173.16, subdivisions 4, 5; 173.231; repealing Minnesota
1.7 Statutes 2008, sections 173.01; 173.13, subdivision 5; 173.17.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2008, section 173.02, subdivision 8, is amended to read:

1.10 Subd. 8. **Adjacent area.** "Adjacent area" means any area adjacent to the
1.11 right-of-way of ~~an interstate or trunk~~ any road or highway.

1.12 Sec. 2. Minnesota Statutes 2008, section 173.02, subdivision 21, is amended to read:

1.13 Subd. 21. **Maintain.** "Maintain" means to allow to exist without alteration, or to
1.14 repair normal wear and tear. Maintenance does not include the increase of advertisement
1.15 size or height or alteration, such as the addition of lighting, moving parts, or cutouts.

1.16 Sec. 3. Minnesota Statutes 2008, section 173.03, is amended to read:

1.17 **173.03 ROAD ADVERTISING PERMIT WITHIN SCENIC AREA.**

1.18 Except as otherwise provided in sections ~~173.01~~ 173.02 to 173.11, the ~~erection or~~
1.19 maintenance of any advertising device located within a scenic area without a written
1.20 permit therefor granted by the commissioner of transportation is prohibited. Erection of
1.21 any advertising device within a scenic area is prohibited.

2.1 Sec. 4. Minnesota Statutes 2008, section 173.05, is amended to read:

2.2 **173.05 ACQUISITION OF PROPERTY.**

2.3 The commissioner of transportation shall acquire all rights in property, personal or
2.4 real, necessary to carry out the purposes of sections ~~173.01~~ 173.02 to 173.11, by purchase,
2.5 gift, or eminent domain proceedings. All costs of acquisition of such rights shall be
2.6 necessary for a highway purpose. Nothing herein shall be construed to limit any right,
2.7 power, or authority to regulate and control the ~~erection or~~ maintenance of advertising
2.8 devices under the provisions of any other law of this state.

2.9 Sec. 5. Minnesota Statutes 2008, section 173.06, subdivision 1, is amended to read:

2.10 Subdivision 1. **Authority.** The commissioner of transportation shall adopt and may
2.11 modify, amend, or repeal rules governing the issuance of permits or renewals thereof for
2.12 the ~~erection and~~ maintenance of advertising devices within scenic areas; provided that
2.13 the commissioner shall not adopt, modify, amend, or repeal any rule that will impair any
2.14 agreement with the federal government. The commissioner of transportation may limit the
2.15 application of any rule adopted by the commissioner to exclude or include in whole or
2.16 in part, specified areas within the scenic area based upon use, nature of the surrounding
2.17 community, or such other factors as may make separate classification or rule necessary or
2.18 desirable.

2.19 Sec. 6. Minnesota Statutes 2008, section 173.07, subdivision 1, is amended to read:

2.20 Subdivision 1. **Forms; content.** Application for ~~permits or~~ permit renewals ~~thereof~~
2.21 for the ~~placement and~~ maintenance of advertising devices within scenic areas shall be
2.22 on forms prescribed by the commissioner and shall contain such information as the
2.23 commissioner may require. No advertising device shall be placed without the consent of
2.24 the owner or occupant of the land, and adequate proof of such consent shall be submitted
2.25 to the commissioner at the time application is made for ~~such permits or~~ renewals.

2.26 Sec. 7. Minnesota Statutes 2008, section 173.08, subdivision 1, is amended to read:

2.27 Subdivision 1. **Advertising devices restricted.** No advertising device, excepting
2.28 the advertising devices described and permitted under sections 173.01 to 173.27, shall be
2.29 erected or maintained in an adjacent area, ~~after June 8, 1971,~~ except the following:

2.30 (1) directional and other official signs, including, but not limited to, signs pertaining
2.31 to natural wonders, scenic and historical attractions, which are required or authorized
2.32 by law, and which comply with rules which shall be promulgated by the commissioner

3.1 relative to their lighting, size, spacing and other requirements as may be appropriate
3.2 to implement sections 173.01 to 173.27;

3.3 (2) advertising devices advertising the sale or lease of property upon which they
3.4 are located, provided that there shall not be more than one such sign, advertising the sale
3.5 or lease of the same property, visible to traffic proceeding in any one direction on any
3.6 one interstate or primary highway;

3.7 (3) advertising devices advertising activities conducted on the property on which
3.8 they are located, including, without limiting the generality of the foregoing, goods sold,
3.9 stored, manufactured, processed, or mined thereon, services rendered thereon, and
3.10 entertainment provided thereon;

3.11 (4) advertising devices stating the name and address of the owner, lessee or occupant
3.12 of such property or information otherwise required or authorized by law to be posted or
3.13 displayed thereon;

3.14 (5) public utility signs;

3.15 (6) service club and religious notices;

3.16 (7) advertising devices of which the advertising copy or the name of the owner
3.17 thereof is in no part visible from the traveled way of the aforesaid highways;

3.18 ~~(8) advertising devices which are located, or which are to be located, in business~~
3.19 ~~areas and which comply, or will comply when erected, with the provisions of sections~~
3.20 ~~173.01 to 173.27;~~

3.21 ~~(9)~~ signs placed temporarily by auctioneers under section 169.07;

3.22 ~~(10)~~ (9) community identification signs which are located within two miles of the
3.23 community and do not exceed 750 square feet. "Community" means a county, town, or
3.24 home rule charter or statutory city. Prior to the erection of a community identification
3.25 sign, the community must:

3.26 (i) obtain approval from the governing body of the community;

3.27 (ii) consult with local road authorities on placement and location of the sign; and

3.28 (iii) obtain consent of the owner of the land on which the sign is to be erected.

3.29 Sec. 8. Minnesota Statutes 2008, section 173.13, subdivision 1, is amended to read:

3.30 Subdivision 1. **Permit required.** No advertising device shall be ~~erected or~~
3.31 maintained in any adjacent area without a permit therefor being first obtained from the
3.32 commissioner, except that permit systems of legitimate local zoning authorities shall take
3.33 precedence inside a business area.

3.34 Sec. 9. Minnesota Statutes 2008, section 173.13, subdivision 2, is amended to read:

4.1 Subd. 2. **Rules.** The commissioner of transportation may adopt, modify, amend,
4.2 or repeal rules governing the issuance of permits or renewals therefor for the ~~erection~~
4.3 ~~and~~ maintenance of advertising devices adjacent to the interstate and primary system of
4.4 highways, provided that such rules shall not be more restrictive than the provisions of
4.5 sections 173.13 to 173.231.

4.6 Sec. 10. Minnesota Statutes 2008, section 173.13, subdivision 4, is amended to read:

4.7 Subd. 4. **Fees.** The annual fee for each such permit ~~or~~ renewal ~~thereof~~ shall be
4.8 as follows:

4.9 (a) If the advertising area of the advertising device does not exceed 50 square feet,
4.10 the fee shall be \$30.

4.11 (b) If the advertising area exceeds 50 square feet but does not exceed 300 square
4.12 feet, the fee shall be \$60.

4.13 (c) If the advertising area exceeds 300 square feet, the fee shall be \$120.

4.14 (d) No fee shall be charged for a permit for official signs and notices as they are
4.15 defined in section 173.02, except that a fee may be charged for a star city sign erected
4.16 under section 173.085.

4.17 Sec. 11. Minnesota Statutes 2008, section 173.16, subdivision 4, is amended to read:

4.18 Subd. 4. **Spacing.** (a) Advertising devices shall not be ~~erected~~ ~~or~~ maintained in such
4.19 a place or manner as to obscure or otherwise physically interfere with an official traffic
4.20 control device or a railroad safety signal or sign, or to obstruct or physically interfere with
4.21 the drivers' view of approaching, merging, or intersecting traffic for a distance of 500 feet.

4.22 (b) No advertising device shall be ~~erected~~ located closer to any other such advertising
4.23 device on the same side of the same highway facing traffic proceeding in the same
4.24 direction than (1) 500 feet on any interstate highway or fully controlled freeway in a zoned
4.25 or unzoned commercial or industrial area within or outside an incorporated city, (2) 300
4.26 feet on a primary highway in a zoned commercial or industrial area outside an incorporated
4.27 city, (3) 400 feet on a primary highway in an unzoned commercial or industrial area
4.28 outside an incorporated city, (4) 100 feet on a primary highway inside an incorporated
4.29 city; provided, however, that this provision shall not prevent the ~~erection~~ maintenance
4.30 of double-faced, back-to-back, or V-type advertising devices with a maximum of two
4.31 signs per facing; provided further, however, that such spacing requirements shall not
4.32 apply as between any off-premise advertising device permitted under the provisions of
4.33 Laws 1971, chapter 883.

5.1 (c) The above spacing between advertising devices does not apply to structures
5.2 separated by buildings or other obstructions in such a manner that only one sign facing
5.3 located within the above spacing distances is visible from the highway at any one time.

5.4 (d) On interstate highways or fully controlled-access freeways outside of
5.5 incorporated cities, no advertising device may be located adjacent to or within 500 feet of
5.6 an interchange, intersection at grade, or safety rest area. Said 500 feet shall be measured
5.7 along such highway from the beginning or ending of pavement widening at the exit from
5.8 or entrance to the main-traveled way.

5.9 (e) On primary highways outside of incorporated cities, no advertising device may
5.10 be located closer than 300 feet from the intersection of any primary highway at grade with
5.11 another highway, or with a railroad; provided that advertising may be affixed to or located
5.12 adjacent to a building at such intersection in such a manner as not to cause any greater
5.13 obstruction of vision than that caused by the building itself.

5.14 Sec. 12. Minnesota Statutes 2008, section 173.16, subdivision 5, is amended to read:

5.15 Subd. 5. **Local control.** (a) Whenever a bona fide county or local zoning authority
5.16 has made a legitimate determination of customary usage and in the judgment of the
5.17 commissioner, reasonably provides for size, lighting and spacing control of advertising
5.18 devices, such determination shall be accepted in lieu of the provisions of this chapter in
5.19 the zoned commercial and industrial areas within the geographical jurisdiction of such
5.20 authority.

5.21 (b) All county and local zoning authorities shall give notice to the commissioner of
5.22 transportation of the establishment or revision of any commercial and industrial zones
5.23 pursuant to subdivision 1. Notice shall be by certified mail sent to the Office of the
5.24 Commissioner of Transportation in St. Paul, Minnesota, within 15 days after the effective
5.25 date of the zoning change or establishment.

5.26 (c) The commissioner may not disapprove any zoning ordinance adopted by a
5.27 county or local zoning authority that has the effect of establishing a business area unless
5.28 the zoning ordinance would result in the loss to the state of federal highway funds.

5.29 (d) Nothing in this section prohibits a local unit of government from adopting stricter
5.30 standards to regulate the erection, maintenance, and removal of outdoor advertising
5.31 devices within its jurisdiction.

5.32 Sec. 13. Minnesota Statutes 2008, section 173.231, is amended to read:

5.33 **173.231 FEES; PROCEEDS TO TRUNK HIGHWAY FUND.**

6.1 All fees collected under ~~sections~~ section 173.07 and ~~173.13, shall~~ must be paid into

6.2 the trunk highway fund.

6.3 Sec. 14. **REVISOR'S INSTRUCTION.**

6.4 In each section of Minnesota Statutes listed in column A, the revisor shall delete

6.5 every corresponding reference in column B and insert the reference listed in column C.

6.6	<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
6.7	<u>173.04, subd.4</u>	<u>173.01</u>	<u>173.02</u>
6.8	<u>173.07, subd. 2</u>	<u>173.01</u>	<u>173.02</u>
6.9	<u>173.08, subd. 1</u>	<u>173.01</u>	<u>173.02</u>
6.10	<u>173.09</u>	<u>173.01</u>	<u>173.02</u>
6.11	<u>173.10</u>	<u>173.01</u>	<u>173.02</u>
6.12	<u>173.11</u>	<u>173.01</u>	<u>173.02</u>
6.13	<u>173.12</u>	<u>173.01</u>	<u>173.02</u>

6.14 Sec. 15. **REPEALER.**

6.15 Minnesota Statutes 2008, sections 173.01; 173.13, subdivision 5; and 173.17, are

6.16 repealed.

173.01 DECLARATION OF POLICY.

It is hereby found and declared that in the interest of and to promote the general welfare of the people and to conserve the natural beauty of areas adjacent to certain highways, it is necessary to reasonably and effectively regulate and control the erection or maintenance of advertising devices on land adjacent to such highways. It is further declared that inasmuch as outdoor advertising is an integral part of the business and marketing function, an established segment of the national economy, and a legitimate commercial use of property adjacent to roads and highways, it should be allowed to operate where other business and commercial activities are conducted, and the regulation of outdoor advertising should occur by the application of reasonable regulatory standards consistent with customary use of outdoor advertising and zoning principles in this state which will properly and adequately carry out each and all of the purposes of Laws 1971, chapter 883; that the regulatory standards set forth in Laws 1971, chapter 883, are consistent with customary use in this state. It is the intention hereby to comply with the policies declared by Congress in United States Code, title 23, "Highways."

173.13 PERMIT TO ADVERTISE ALONG INTERSTATE AND PRIMARY HIGHWAYS.

Subd. 5. **Effective date; applicability.** The provisions of this section shall be effective on July 1, 1971, and the provisions relating to permits and fees shall apply to then legally existing devices as well as devices that may be erected and maintained thereafter.

173.17 REMOVAL OF ADVERTISING DEVICE; COMPENSATION.

(a) It is hereby declared that where in order to carry out the provisions of this chapter it is necessary that property rights be acquired, such acquisition is for a public purpose and is necessary for a highway purpose. The commissioner of transportation is authorized to acquire by purchase, gift or condemnation all advertising devices and all property rights pertaining thereto which are prohibited under the provisions of this chapter, and any rules promulgated pursuant thereto, provided that such advertising devices were in lawful existence on June 8, 1971. In any such acquisition, purchase or condemnation, just compensation shall be paid for:

(1) 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

(2) the taking from the owner of the real property on which such advertising device is located immediately prior to its removal or relocation, the right to erect and maintain thereon advertising devices, and full compensation therefor, including severance damage and damage to the remainder of the outdoor advertising plant regardless of whether it is located on property contiguous to or a part of that on which such sign is located, shall be included in the amounts paid to the respective owners. Provided, however, that no compensation shall be paid for severance damage and damage to the remainder of the outdoor advertising plant unless federal laws, or rules and regulations promulgated by the United States Department of Transportation provide for federal participation in the cost of such severance damage and damage to the remainder of the outdoor advertising plant.

(b) Compensation required herein shall be paid to the person or persons entitled thereto. Notwithstanding any other provisions of Laws 1971, chapter 883, no advertising device shall be required to be removed or relocated unless and until the commissioner of transportation shall tender payment to the owner of the advertising device and the owner of real property upon which the same is located, in cash or check drawn on the state treasury, of 100 percent of the amount of just compensation required herein, as determined by the commissioner of transportation; provided that the acceptance of said tendered amount by the person or persons to be compensated shall be without prejudice to further rights to have just compensation finally determined in accordance with the provisions of Laws 1971, chapter 883, and to receive any greater or additional amount under chapter 117.

(c) Notwithstanding any other provision of this chapter, including section 173.20, no advertising device which was lawfully erected shall be removed until all rights in the property, personal or real, have been acquired by purchase, gift, or eminent domain proceedings under chapter 117, whether or not the advertising device is removed pursuant to this chapter or any other statute, ordinance, or regulation of any political subdivision of the state or local zoning authority.