

SENATE BILL No. 445

April 28, 2005, Introduced by Senators ALLEN, KUIPERS, JELINEK, GILBERT, VAN WOERKOM, McMANUS, GOSCHKA, BIRKHOLZ and GARCIA and referred to the Committee on Agriculture, Forestry and Tourism.

A bill to amend 1972 PA 106, entitled "Highway advertising act of 1972," by amending sections 2, 5, and 13 (MCL 252.302, 252.305, and 252.313), as amended by 1998 PA 533.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (A) "AGRICULTURAL OPERATION" MEANS A BUSINESS OR INDIVIDUAL
3 THAT OFFERS 1 OR MORE OF THE FOLLOWING PRODUCTS OR SERVICES:

4 (i) THE SALE OF AN AGRICULTURALLY RELATED PRODUCT OR SERVICE,
5 INCLUDING, BUT NOT LIMITED TO, HAY RIDES, FARM TOURS, ORCHARD
6 TOURS, OR CUSTOMER-HARVESTED FRUIT OR PRODUCE.

7 (ii) THE SALE OF A FARM PRODUCT, AS THAT TERM IS DEFINED IN
8 SECTION 2 OF THE MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL
9 286.472.

1 **(B)** ~~—(a)—~~ "Business area" means an adjacent area which is
2 zoned under authority of state, county, township, or municipal
3 zoning authority for industrial or commercial purposes, customarily
4 referred to as "b" or business, "c" or commercial, "i" or
5 industrial, "m" or manufacturing, and "s" or service, and all other
6 similar classifications and which is within a city, village, or
7 charter township or is within 1 mile of the corporate limits of a
8 city, village, or charter township or is beyond 1 mile of the
9 corporate limits of a city, village, or charter township and
10 contains 1 or more permanent structures devoted to the industrial
11 or commercial purposes described in this subdivision and which
12 extends along the highway a distance of 800 feet beyond each edge
13 of the activity. Each side of the highway is considered separately
14 in applying this definition except where it is not topographically
15 feasible for a sign or sign structure to be erected or maintained
16 on the same side of the highway as the permanent structure devoted
17 to industrial or commercial purposes, a business area may be
18 established on the opposite side of a primary highway in an area
19 zoned commercial or industrial or in an unzoned area with the
20 approval of the state highway commission. A permanent structure
21 devoted to industrial or commercial purposes does not result in the
22 establishment of a business area on both sides of the highway. All
23 measurements shall be from the outer edge of the regularly used
24 building, parking lot or storage or processing area of the
25 commercial or industrial activity and not from the property lines
26 of the activities and shall be along or parallel to the edge or
27 pavement of the highway. Commercial or industrial purposes are

1 those activities generally restricted to commercial or industrial
2 zones in jurisdictions that have zoning. In addition, the following
3 activities shall not be considered commercial or industrial:

4 (i) Agricultural, animal husbandry, forestry, grazing, farming,
5 and related activities, including, but not limited to, wayside
6 fresh produce stands.

7 (ii) Transient or temporary activities.

8 (iii) Activities not visible from the main-traveled way.

9 (iv) Activities conducted in a building principally used as a
10 residence, or in a building located on property that is used
11 principally for residential purposes or for activities recited in
12 subparagraph (i).

13 (v) Railroad tracks and minor sidings.

14 (vi) Outdoor advertising.

15 (vii) Activities more than 660 feet from the main-traveled way.

16 (viii) Activities that have not been in continuous operation of
17 a business or commercial nature for at least 2 years.

18 (ix) Public utility facilities, whether regularly staffed or
19 not.

20 (x) Structures associated with on-site outdoor recreational
21 activities such as riding stables, golf course shops, and
22 campground offices.

23 (xi) Activities conducted in a structure for which an occupancy
24 permit has not been issued or which is not a fully enclosed
25 building, having all necessary utility service and sanitary
26 facilities required for its intended commercial or industrial use.

27 (xii) A storage facility for a business or other activity not

1 located on the same property, except a storage building having at
2 least 10 separate units that are available to be rented by the
3 public.

4 (C) ~~(b)~~ "Unzoned commercial or industrial area" means an
5 area which is within an adjacent area, which is not zoned by state
6 or local law, regulation or ordinance, which contains 1 or more
7 permanent structures devoted to the industrial or commercial
8 purposes described in subdivision ~~(a)~~ (B), and which extends
9 along the highway a distance of 800 feet beyond each edge of the
10 activity. Each side of the highway is considered separately in
11 applying this definition except where it is not topographically
12 feasible for a sign or sign structure to be erected or maintained
13 on the same side of the highway as the permanent structure devoted
14 to industrial or commercial purposes, an unzoned commercial or
15 industrial area may be established on the opposite side of a
16 primary highway in an area zoned commercial or industrial or in an
17 unzoned area with the approval of the state highway commission. A
18 permanent structure devoted to industrial or commercial purposes
19 does not result in the establishment of an unzoned commercial or
20 industrial area on both sides of the highway. All measurements
21 shall be from the outer edge of the regularly used building,
22 parking lot or storage or processing area of the commercial or
23 industrial activity and not from the property lines of the
24 activities and shall be along or parallel to the edge or pavement
25 of the highway. Commercial or industrial purposes are those
26 activities generally restricted to commercial or industrial zones
27 in jurisdictions that have zoning. In addition, the following

1 activities shall not be considered commercial or industrial:

2 (i) Agricultural, animal husbandry, forestry, grazing, farming
3 and related activities, including, but not limited to, wayside
4 fresh produce stands.

5 (ii) Transient or temporary activities.

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7 (iv) Activities conducted in a building principally used as a
8 residence, or in a building located on property that is used
9 principally for residential purposes or for activities recited in
10 subparagraph (i).

11 (v) Railroad tracks and minor sidings.

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14 (viii) Activities that have not been in continuous operation of
15 a business or commercial nature for at least 2 years.

16 (ix) Public utility facilities, whether regularly staffed or
17 not.

18 (x) Structures associated with on-site outdoor recreational
19 activities such as riding stables, golf course shops, and
20 campground offices.

21 (xi) Activities conducted in a structure for which an occupancy
22 permit has not been issued or which is not a fully enclosed
23 building, having all necessary utility service and sanitary
24 facilities required for its intended commercial or industrial use.

25 (xii) A storage facility for a business or other activity not
26 located on the same property, except a storage building having at
27 least 10 separate units that are available to be rented by the

1 public.

2 (D) ~~—(e)—~~ "Erect" means to construct, build, raise, assemble,
3 place, affix, attach, create, paint, draw, or in any other way
4 bring into being or establish.

5 (E) ~~—(d)—~~ "Interstate highway" means a highway officially
6 designated as a part of the national system of interstate and
7 defense highways by the department and approved by the appropriate
8 authority of the federal government.

9 (F) ~~—(e)—~~ "Freeway" means a divided highway of not less than 2
10 lanes in each direction to which owners or occupants of abutting
11 property or the public do not have a right of ingress or egress to,
12 from or across the highway, except at points determined by or as
13 otherwise provided by the authorities responsible therefor.

14 (G) ~~—(f)—~~ "Primary highway" means a highway, other than an
15 interstate highway or freeway, officially designated as a part of
16 the primary system as defined in section 131 of title 23 of the
17 United States Code, 23 ~~U.S.C.—~~ **USC** 131, by the department and
18 approved by the appropriate authority of the federal government.

19 (H) ~~—(g)—~~ "Main-traveled way" means the traveled way of a
20 highway on which through traffic is carried. The traveled way of
21 each of the separate roadways for traffic in opposite directions is
22 a main-traveled way of a divided highway. It does not include
23 facilities as frontage roads, turning roadways or parking areas.

24 (I) ~~—(h)—~~ "Sign" means any outdoor sign, display, device,
25 figure, painting, drawing, message, placard, poster, billboard, or
26 other thing, whether placed individually or on a T-type, V-type,
27 back to back or double-faced display, designed, intended or used to

1 advertise or inform.

2 **(J)** ~~-(i)-~~ "Sign structure" means the assembled components
3 which make up an outdoor advertising display, including but not
4 limited to uprights, supports, facings and trim. Such sign
5 structure may contain 1 or 2 signs per facing and may be double-
6 faced, back to back, T-type or V-type.

7 **(K)** ~~-(j)-~~ "Visible" means a sign that has a message that is
8 capable of being seen and read by a person of normal visual acuity
9 when traveling in a motor vehicle.

10 **(L)** ~~-(k)-~~ "Location" means a place where there is located a
11 single, double-faced, back to back, T-type, or V-type sign
12 structure.

13 **(M)** ~~-(l)-~~ "Maintain" means to allow to exist and includes the
14 periodic changing of advertising messages, customary maintenance
15 and repair of signs and sign structures.

16 **(N)** ~~-(m)-~~ "Abandoned sign or sign structure" means a sign or
17 sign structure subject to the provisions of this act, the owner of
18 which has failed to secure a permit, has failed to identify the
19 sign or sign structure or has failed to respond to notice.

20 **(O)** ~~-(n)-~~ "Department" means the state transportation
21 department.

22 **(P)** ~~-(o)-~~ "Adjacent area" means the area measured from the
23 nearest edge of the right of way of an interstate highway, freeway,
24 or primary highway and extending 3,000 feet perpendicularly and
25 then along a line parallel to the right-of-way line.

26 **(Q)** ~~-(p)-~~ "Person" means any individual, partnership, private
27 association, or corporation, state, county, city, village,

1 township, charter township, or other public or municipal
2 association or corporation.

3 (R) ~~(e)~~ "On-premises sign" means a sign advertising
4 activities conducted or maintained on the property on which it is
5 located. The boundary of the property shall be as determined by tax
6 rolls, deed registrations, and apparent land use delineations. When
7 a sign consists principally of brand name or trade name advertising
8 and the product or service advertised is only incidental to the
9 principal activity, or if it brings rental income to the property
10 owner or sign owner, it shall be considered the business of outdoor
11 advertising and not an on-premises sign. Signs on narrow strips of
12 land contiguous to the advertised activity, or signs on easements
13 on adjacent property, when the purpose is clearly to circumvent the
14 intent of this act, shall not be considered on-premises signs.

15 Sec. 5. (1) ~~A~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION**
16 **(2), A** person shall not engage or continue to engage in outdoor
17 advertising through the erection, use, or maintenance of any signs
18 in an adjacent area where the facing of the sign is visible from an
19 interstate highway, freeway, or primary highway, except as provided
20 in this act. A sign having a facing visible from more than 1 state
21 highway or other public road shall comply with the requirements for
22 outdoor advertising for each state highway and each public road
23 from which it is visible.

24 **(2) A BUSINESS OR INDIVIDUAL THAT IS ENGAGED IN A SEASONAL**
25 **AGRICULTURAL OPERATION IS EXEMPT FROM THE REQUIREMENT TO OBTAIN A**
26 **PERMIT FROM THE DEPARTMENT UNDER THIS ACT.**

27 Sec. 13. (1) A sign shall not be erected or maintained in an

1 adjacent area where the facing of the sign is visible from an
2 interstate highway, freeway, or primary highway except the
3 following:

4 (a) Directional and other official signs, including, but not
5 limited to, signs pertaining to natural wonders, scenic and
6 historical attractions, which are required or authorized by law,
7 and which comply with rules promulgated by the department relative
8 to the lighting, size, number, and spacing thereof.

9 (b) Signs advertising the sale or lease of real property upon
10 which they are located.

11 (c) On-premises signs.

12 (d) Signs located in a business area, ~~or~~ an unzoned
13 commercial and industrial area, **OR A SIGN ADVERTISING AN**
14 **AGRICULTURAL OPERATION LOCATED IN AN AREA THAT IS ZONED FOR**
15 **AGRICULTURAL USE** and that comply with sections 12, 15, 16, and 17
16 except that a sign not described in subdivision (a), (b), or (c)
17 shall not be erected or maintained beyond 660 feet of the nearest
18 edge of the right of way.

19 (2) If the department is authorized by law to designate scenic
20 areas along an interstate highway, freeway, or primary highway,
21 signs shall not be erected or maintained within areas so designated
22 unless located within a business area or an unzoned commercial or
23 industrial area where signs may be erected or maintained in
24 compliance with this act.