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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. **862**

02/06/2017 Authored by Petersburg  
The bill was read for the first time and referred to the Committee on Transportation and Regional Governance Policy  
03/09/2017 Adoption of Report: Amended and re-referred to the Committee on Transportation Finance

1.1 A bill for an act  
1.2 relating to transportation; modifying provisions governing outdoor advertising  
1.3 near roadways and highways; amending Minnesota Statutes 2016, sections 173.02,  
1.4 subdivisions 18, 23, by adding subdivisions; 173.06, subdivision 1; 173.07,  
1.5 subdivision 1; 173.08, by adding subdivisions; 173.13, subdivision 11; 173.16, by  
1.6 adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter  
1.7 173; repealing Minnesota Rules, parts 8810.0800, subpart 3; 8810.1300, subpart  
1.8 4.

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

1.10 Section 1. Minnesota Statutes 2016, section 173.02, is amended by adding a subdivision  
1.11 to read:

1.12 Subd. 7a. **Abandoned and discontinued.** "Abandoned and discontinued" means an  
1.13 outdoor advertising device that ceases to display advertising copy for a minimum of one  
1.14 year and is not otherwise being actively marketed to display advertising copy.

1.15 Sec. 2. Minnesota Statutes 2016, section 173.02, is amended by adding a subdivision to  
1.16 read:

1.17 Subd. 17a. **Conforming.** "Conforming" means an outdoor advertising device that  
1.18 complies with the requirements of this chapter.

1.19 Sec. 3. Minnesota Statutes 2016, section 173.02, subdivision 18, is amended to read:

1.20 Subd. 18. **Commercial or industrial activity.** (a) "Commercial or industrial activity"  
1.21 for the purposes of unzoned commercial or industrial areas means an activity generally  
1.22 recognized as commercial or industrial by zoning authorities in this state, ~~except that,~~

1.23 (b) None of the following activities shall be considered commercial or industrial:

- 2.1 (1) outdoor advertising devices;
- 2.2 (2) agricultural, forestry, ranching, grazing, farming and related activities, including,
- 2.3 but not limited to, temporary wayside fresh produce stands;
- 2.4 (3) transient or temporary activities;
- 2.5 (4) activities not visible from the main-traveled way;
- 2.6 (5) activities more than 660 feet from the nearest edge of the right-of-way;
- 2.7 (6) activities conducted in a building principally used as a residence;
- 2.8 (7) railroad tracks and minor sidings;
- 2.9 (8) advertising located on vehicles or tractor trailers;
- 2.10 (9) commercial establishments or businesses that have ceased to exist or operate; or
- 2.11 (10) a business created to install new outdoor advertising devices.

2.12 Sec. 4. Minnesota Statutes 2016, section 173.02, is amended by adding a subdivision to

2.13 read:

2.14 Subd. 21a. **Nonconforming.** "Nonconforming" means an outdoor advertising device

2.15 that was lawfully erected and has been maintained lawfully but does not comply with the

2.16 requirements of this chapter. A nonconforming sign is one that remains in substantially the

2.17 same condition it was on the effective date of this chapter.

2.18 Sec. 5. Minnesota Statutes 2016, section 173.02, is amended by adding a subdivision to

2.19 read:

2.20 Subd. 21b. **Off-premise** "Off-premise" means an outdoor advertising device that

2.21 advertises or pertains to any business, product, person, activity, event, or service that is not

2.22 primarily conducted, sold, manufactured, offered, or located on the property where the sign

2.23 is located.

2.24 Sec. 6. Minnesota Statutes 2016, section 173.02, subdivision 23, is amended to read:

2.25 Subd. 23. **Scenic area.** "Scenic area" means an area within which control and regulation

2.26 of the erection and maintenance of advertising devices may be exercised to the extent herein

2.27 provided and such areas shall include only those established as such by the commissioner

2.28 of transportation. Scenic area includes a scenic byway under United States Code, title 23,

2.29 section 162.

3.1 Sec. 7. Minnesota Statutes 2016, section 173.02, is amended by adding a subdivision to  
3.2 read:

3.3 Subd. 23a. **Scenic byways.** "Scenic byways" means roads that recognize outstanding  
3.4 scenic, cultural, historic, natural, recreational, and archaeological qualities and landscapes  
3.5 pursuant to United States Code, title 23, section 162.

3.6 Sec. 8. Minnesota Statutes 2016, section 173.06, subdivision 1, is amended to read:

3.7 Subdivision 1. **Authority.** The commissioner of transportation shall adopt and may  
3.8 modify, amend, or repeal rules governing the ~~issuance of permits or renewals thereof for~~  
3.9 ~~the erection and~~ maintenance of legal nonconforming advertising devices within scenic  
3.10 areas; provided that the commissioner shall not adopt, modify, amend, or repeal any rule  
3.11 that will impair any agreement ~~with~~ between the state and the federal government under  
3.12 this chapter. The commissioner of transportation may limit the application of any rule  
3.13 adopted by the commissioner to exclude or include in whole or in part, specified areas within  
3.14 the scenic area based upon use, nature of the surrounding community, or such other factors  
3.15 as may make separate classification or rule necessary or desirable.

3.16 Sec. 9. Minnesota Statutes 2016, section 173.07, subdivision 1, is amended to read:

3.17 Subdivision 1. **Forms; content.** Application for permits or renewals thereof for the  
3.18 placement ~~and maintenance~~ of advertising devices ~~within scenic areas~~ shall be on forms  
3.19 prescribed by the commissioner and shall contain such information as the commissioner  
3.20 may require. No advertising device shall be placed without the consent of the owner or  
3.21 occupant of the land, and adequate proof of such consent shall be submitted to the  
3.22 commissioner at the time application is made for such permits or renewals. A permit is  
3.23 required to access state right-of-way to maintain an advertising device.

3.24 Sec. 10. Minnesota Statutes 2016, section 173.08, is amended by adding a subdivision to  
3.25 read:

3.26 Subd. 3. **Seed sign exemption.** Crop varietal and seed corn signs adjacent to interstate  
3.27 and primary highways may be erected if the device:

3.28 (1) is located on demonstration plats;

3.29 (2) is located on private property;

3.30 (3) does not violate section 160.27 or 160.2715; and

3.31 (4) does not reference an off-site address where the product may be sold.

4.1 Sec. 11. Minnesota Statutes 2016, section 173.08, is amended by adding a subdivision to  
4.2 read:

4.3 Subd. 4. **Violations; removal.** The Department of Transportation may remove signs  
4.4 that violate this section using the removal procedures under section 173.13, subdivision 11.

4.5 Sec. 12. Minnesota Statutes 2016, section 173.13, subdivision 11, is amended to read:

4.6 Subd. 11. **Removal of advertising device for noncompliance.** Advertising devices  
4.7 erected or maintained after June 8, 1971, not complying with ~~Laws 1971, chapter 883, and~~  
4.8 ~~not otherwise by Laws 1971, chapter 883, permitted to stand~~ this chapter may be removed  
4.9 by the commissioner upon 60 days prior written notice by certified mail to the owner thereof  
4.10 of the advertising device and to the owner of the real property on which ~~such~~ the advertising  
4.11 device is located, ~~provided that~~. No notice shall be is required to be given to the owner of  
4.12 an advertising device whose name is not stated upon the advertising device or the structure  
4.13 on which it is displayed, unless the name of ~~such~~ the owner is otherwise reasonably known  
4.14 to the commissioner. The owner of the removed device is liable to the state for the costs of  
4.15 removal. The period of ~~such~~ notice shall be computed from the date of mailing to both the  
4.16 owner of the advertising device and the owner of the real property where the device is  
4.17 located. The department must store a removed outdoor advertising device for a minimum  
4.18 of 30 days prior to disposal. If the outdoor advertising device is not retrieved by the owner  
4.19 within 30 days of removal, the department may dispose of the outdoor advertising device.  
4.20 The state is not liable for trespass actions or sign costs for outdoor advertising devices  
4.21 removed under this subdivision if proper notice has been served.

4.22 Sec. 13. [173.155] CHANGEABLE ELECTRONIC VARIABLE MESSAGE SIGNS.

4.23 Subdivision 1. **Definition.** For the purposes of this section, "changeable electronic  
4.24 variable message sign" or "CEVMS" means an outdoor advertising device that contains  
4.25 light-emitting diodes or other technology to display copy visible during the day and during  
4.26 the night, with the copy changes initiated electronically.

4.27 Subd. 2. **Prohibition.** Intermittent, animated, scrolling, full-motion video elements, or  
4.28 moving lights are prohibited on outdoor advertising devices, including CEVMS.

4.29 Subd. 3. **Exceptions.** (a) Notwithstanding subdivision 2, a CEVMS is permissible if:

4.30 (1) the message does not change more frequently than once every six seconds;

4.31 (2) the transition between messages or copy does not exceed two seconds in duration;

5.1 (3) the message brightness does not exceed 0.3 foot-candles over ambient light, as  
5.2 measured using a foot candle meter from the following distances:

5.3 (i) for signs with a nominal face size of 12 feet by 25 feet, from 150 feet;

5.4 (ii) for signs with a nominal face size of 10 feet, six inches, by 36 feet, from 200 feet;

5.5 and

5.6 (iii) for signs with a nominal face size of 14 feet by 48 feet, from 250 feet; and

5.7 (4) the sign does not direct toward the traveled way beams or rays of light of intensity  
5.8 or brilliance that cause glare that impairs the vision of the driver of a motor vehicle, or  
5.9 otherwise interferes with the operation of the motor vehicle.

5.10 (b) The brightness measurement under paragraph (a), clause (3), must be conducted at  
5.11 least 30 minutes after sunset or at least 30 minutes before sunrise. Each CEVMS must have  
5.12 automatic dimming technology that adjusts the device's brightness levels in response to  
5.13 changes in ambient light.

5.14 Sec. 14. Minnesota Statutes 2016, section 173.16, is amended by adding a subdivision to  
5.15 read:

5.16 Subd. 6. **Stationary structure.** Advertising devices must:

5.17 (1) be stationary;

5.18 (2) be immobile;

5.19 (3) not have wheels; and

5.20 (4) be incapable of relocation without a permit.

5.21 Sec. 15. Minnesota Statutes 2016, section 173.16, is amended by adding a subdivision to  
5.22 read:

5.23 Subd. 7. **Permanent business.** (a) A business that is located in an unzoned commercial  
5.24 and industrial area must be in existence for at least three months before a permit may be  
5.25 issued. An outdoor advertising device erected prior to receiving a permit is subject to  
5.26 removal.

5.27 (b) A commercial establishment may demonstrate evidence of its existence by having  
5.28 a Web site, a telephone number that is answered or has an answering machine identifying  
5.29 the business, a storefront, pictorial evidence of the business, a building permit, or a lease.

6.1 Sec. 16. [173.265] OUTDOOR ADVERTISING DEVICES; REMOVAL;  
6.2 MAINTENANCE.

6.3 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have  
6.4 the meanings given them.

6.5 (b) "Destroyed" means that more than 50 percent of a nonconforming outdoor advertising  
6.6 device's upright supports are physically damaged to a degree that normal repair practices  
6.7 would require replacement of broken wooden supports or replacement of broken, bent, or  
6.8 twisted supports for metal sign structures.

6.9 (c) "Reasonable repair and maintenance" means customary maintenance and change of  
6.10 a sign's copy or message, and includes replacement of existing light fixtures with energy  
6.11 efficient fixtures or installation of other energy efficiency improvements. Reasonable repair  
6.12 and maintenance does not include:

6.13 (1) the addition of illumination;

6.14 (2) repair, reinstallation, erection, or maintenance for outdoor advertising devices that  
6.15 are destroyed, as defined under paragraph (b);

6.16 (3) enlarging the nonconforming device;

6.17 (4) changing the device from a wood structure to a steel or concrete structure; or

6.18 (5) any change that would terminate nonconforming status.

6.19 (d) "Substantial change" means any action that does not constitute reasonable repair and  
6.20 maintenance.

6.21 Subd. 2. Application. This section applies only to outdoor advertising devices subject  
6.22 to state and federal regulation under United States Code, title 23, section 131, and any  
6.23 regulations adopted under that law.

6.24 Subd. 3. Removal. The department may remove a destroyed, abandoned, or discontinued  
6.25 outdoor advertising device, subject to the limitations provided under this chapter.

6.26 Subd. 4. Reasonable repair and maintenance. (a) The owner of an outdoor advertising  
6.27 device may perform reasonable repair and maintenance on any device, provided the device  
6.28 is not destroyed.

6.29 (b) Any action not constituting reasonable repair and maintenance will subject the outdoor  
6.30 advertising device to immediate removal under subdivision 3.

7.1 Subd. 5. **Substantial change.** Substantial changes to outdoor advertising devices are  
7.2 prohibited. A substantial change to a nonconforming outdoor advertising device will subject  
7.3 the sign to immediate removal under subdivision 3.

7.4 Sec. 17. **REPEALER.**

7.5 Minnesota Rules, parts 8810.0800, subpart 3; and 8810.1300, subpart 4, are repealed.

**8810.0800 SCENIC AREAS.**

Subp. 3. **On-premise signs.** Within a scenic area on-premise signs as follows are allowed:

A. one name plate sign per real estate parcel not to exceed eight square feet in size including trim and border but excluding base and apron supports and other structural members;

B. two signs, one facing each direction of traffic per real estate parcel not exceeding eight square feet in size per each face, including trim and border but excluding base and apron supports and other structural members, for the purpose of advertising the sale, hire, or lease of the property or contiguous property of the parcel owner, lessee, or occupant; and

C. any sign not exceeding 150 square feet in size (per face) including border, trim, or other embellishments, excluding base and apron supports and other structural members advertising the business conducted, services rendered, goods produced or sold that is within 100 feet in either direction of travel (as measured along the edge of the roadbed) from the site on the property where said activity or activities are conducted or access thereto is provided. Outside this 100 feet of the site on the property where said activity or activities are conducted or access thereto is provided there shall not be more than two on-premise advertising devices, one facing each direction of traffic.

**8810.1300 PERMITS, FEES, AND RENEWALS.**

Subp. 4. **Expiration and renewal.** Requests for permit renewals will not be accepted more than 60 calendar days prior to the expiration date of the permit. All permits within scenic areas will expire on December 31 of each year. All permits for signs in nonscenic areas will expire on June 30 of every year.