

First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1101

AN ACT to amend the Indiana Code concerning transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-23-20-25, AS AMENDED BY P.L.66-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 25. (a) The department shall institute a permit system to regulate the erection and maintenance of outdoor advertising signs along:

- (1) the interstate and primary system, as defined in 23 U.S.C. 131(t) on June 1, 1991; and
- (2) any other highways where control of outdoor advertising signs is required under 23 U.S.C. 131.

(b) Except as provided in subsections (c) and (g) and section 25.5(c) of this chapter, a sign may not be erected, operated, used, or maintained in areas described in subsection (a) unless the owner of the sign has obtained a permit under this section.

(c) A permit is not required to erect, operate, use, or maintain the following signs:

- (1) Directional or official signs and notices.
- (2) Signs advertising the sale or lease of the property on which the sign is located.
- (3) Signs that primarily indicate:
 - (A) the name of the business, activity, or profession conducted;
 - (B) the types of goods produced or sold; or

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- (C) the services rendered;
on the property on which the sign is located.
- (d) Signs in existence on July 1, 1993, and subject to this section:
- (1) must comply with the registration system described in subsection (h); and
 - (2) are subject to the permit requirement after the department has made the determination described in subsection (g).
- (e) The department shall adopt rules under IC 4-22-2 to carry out this section. Rules adopted under this section may be no broader than necessary to implement 23 U.S.C. 131 and 23 CFR 750.
- (f) In addition to the requirements of subsection (e), rules adopted under this section must provide the following:
- (1) A list of all roadways subject to the permit requirement.
 - (2) A procedure to appeal adverse determinations of the department under IC 4-21.5, including provisions for judicial review under IC 4-21.5.
 - (3) The fees that may be charged by the department as follows:**
 - ~~(A)~~ **(A)** A one-time fee of one hundred dollars (\$100) per structure **that** must accompany the permit application. ~~A permit fee may not be charged to a sign that is subject to and complies with the registration system described in subsection (h).~~
 - (B)** A one-time fee of forty dollars (\$40) per structure for transfer of a sign and permit to any subsequent transferee. The fee is due to be paid not later than one hundred eighty (180) days after the effective date of the transfer. If the transfer fee is not timely paid, the department may charge a late fee of not more than four hundred dollars (\$400).
 - (C)** A one-time fee of one hundred dollars (\$100) per structure for each request for modification of a sign and an addendum to the permit issued by the department.
 - (D)** A one-time fee of twenty-five dollars (\$25) per structure, if needed to obtain any replacement permit tag. The fee is due to be paid not later than sixty (60) days after the date that notice is sent by the department that a replacement tag is needed. The department may charge a late fee of not more than four hundred dollars (\$400) if:
 - (i) the fee is not timely paid; or
 - (ii) the replacement tag is not fastened to the sign within sixty (60) days after the replacement tag is received from the department.



(E) A late fee not to exceed four hundred dollars (\$400) if written notice of the current mailing address and electronic mail address of the owner of the property on which the sign is located is not received by the department within:

(i) one hundred eighty (180) days of the sign owner's actual knowledge of any sale of an ownership interest in the property; or

(ii) one hundred twenty (120) days after the sign owner's actual knowledge of other changes to any property owner's current mailing address or electronic mail address.

(4) That a permit may not be issued for a sign erected in an adjacent area after January 1, 1968, unless:

(A) the sign is erected in an area described in section 5 of this chapter; or

(B) the permit is a conditional permit issued under subdivision (6).

(5) That a permit may not be issued for a sign erected after June 30, 1976, outside of urban areas, beyond six hundred sixty (660) feet of the right-of-way, visible from the traveled way, and erected with the purpose of a message being read from the traveled way, unless:

(A) the sign is erected in an area described in section 5 of this chapter; or

(B) the permit is a conditional permit issued under subdivision (6).

(6) For the issuance of a conditional permit for a nonconforming sign that has not been acquired under section 10 of this chapter. A conditional permit issued under this subdivision may be revoked if the department subsequently acquires the sign.

(7) That the department is granted the right to enter the real property on which a sign for which a permit under this section has been applied for or issued to perform reasonable examinations and surveys necessary to administer the permit system.

(8) The department may revoke any permit when it is found that the permittee has provided false or misleading information and that such a finding may be cause to subsequently refuse to issue a permit.

(9) Any other provisions necessary to:

(A) administer this section; or

(B) avoid sanctions under 23 U.S.C. 131.



(g) A sign that is subject to and complies with the registration system described in subsection (h) may not be declared unlawful until the later of the following:

- (1) The department has made a determination of permit eligibility under this section.
- (2) December 31, 1993.

(h) A separate application for registration must be submitted to the department for each structure defined in subsection (d) and must:

- (1) be on a form furnished by the department;
- (2) be signed by the applicant or an individual authorized in writing to sign for the applicant;
- (3) provide information concerning the size, shape, and nature of the advertising sign, display, or device;
- (4) provide the sign's actual location with sufficient accuracy to enable the department to locate the sign; and
- (5) include a one-time registration fee of twenty-five dollars (\$25).

(i) A sign that is not registered before January 1, 1994, is a public nuisance subject to section 26 of this chapter.

(j) Each registrant shall fasten to each advertising sign or device a label or marker provided by the department that must be plainly visible from the traveled way.

SECTION 2. IC 8-23-20-25.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 25.6. (a) This section applies only to a conforming outdoor advertising sign located along the interstate and primary system, as defined in 23 U.S.C. 131(t) on June 1, 1991, or any other highway where control of outdoor advertising signs is required under 23 U.S.C. 131.**

(b) If a conforming outdoor advertising sign is no longer visible or becomes obstructed, or must be moved or removed, due to a noise abatement or safety measure, grade changes, construction, directional sign, highway widening, or aesthetic improvement made by any agency of the state along the interstate and primary system or any other highway, the owner or operator of the outdoor advertising sign, to the extent allowed by federal or state law, may:

- (1) elevate the outdoor advertising sign; or**
- (2) relocate the outdoor advertising sign to a point within five hundred (500) feet of its prior location, if the outdoor advertising sign complies with the applicable spacing requirements and is located in land zoned for commercial or industrial purposes or unzoned areas used for commercial or**



industrial purposes.

(c) Subject to subsection (f), the county or municipality, under IC 36-7-4, may, if necessary, provide for the elevation or relocation by ordinance for a special exception to the zoning ordinance of the county or municipality.

(d) The elevated outdoor advertising sign or outdoor advertising sign to be relocated shall be the same size as the previous outdoor advertising sign and, to the extent allowed by federal or state law, may be modified to:

- (1) elevate the sign to make the entire advertising content of the sign visible; and**
- (2) an angle to make the entire advertising content of the sign visible.**

(e) This section does not exempt an owner or operator of a sign from submitting to the department any application or fee required by law.

(f) If the county or municipality does not amend its zoning ordinance as necessary to provide for a special exception to the zoning ordinance under subsection (c), notwithstanding IC 8-23-20-10, the county or municipality is responsible for the payment for just and full compensation to an owner under IC 32-24.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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