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An Act To Amend the Laws Restricting Advertising on Public Ways

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

Sec. 1. 23 MRSA §1901, sub-§2, as repealed and replaced by PL 1981, c. 318, §1, is amended to read:

2. Information discrimination. Very few convenient means exist in the State to provide information on available public accommodations, commercial services for the traveling public and other lawful businesses and points of scenic, historic, cultural, educational and religious interest. Provision of those facilities can be a major factor in encouraging the development of the tourist industry in Maine. Signs are recognized as a key component in providing valuable information to the motoring public regarding the availability of basic services, including rest facilities and health services and historic and scenic sites to enhance the interest of and educate visitors about the full spectrum of reasons to visit and to live in this State.

Sec. 2. 23 MRSA §1901, sub-§4, as repealed and replaced by PL 1981, c. 318, §1, is amended to read:

4. Preservation of scenic resources. The scattering of outdoor advertising not located on the site of the business throughout the State is detrimental to the preservation of those scenic resources, and so to the economic base of the State, ~~and is also not an effective method of providing information to tourists about available facilities.~~

Sec. 3. 23 MRSA §1901, sub-§5, as repealed and replaced by PL 1981, c. 318, §1, is repealed.

Sec. 4. 23 MRSA §1902, sub-§3, as repealed and replaced by PL 1981, c. 318, §1, is amended to read:

3. Control outdoor advertising. Prohibit and control the indiscriminate use of outdoor advertising not located on the site of the business; and

Sec. 5. 23 MRSA §1903, sub-§3, as repealed and replaced by PL 1981, c. 318, §1, is amended to read:

3. Interstate system or interstate highway. "Interstate system" or "interstate highway" means any state highway ~~which~~that is or ~~does become~~becomes part of the national system of interstate or defense highways, as described in the United States Code, Title 23, section 103(d) and amendments thereto or replacements thereof. "Interstate system" or "interstate highway" includes ramps and interchange areas.

Sec. 6. 23 MRSA §1903, sub-§8, as repealed and replaced by PL 1981, c. 318, §1, is amended to read:

8. On-premises sign. "~~On-premise~~Onpremises sign" means a sign ~~which~~that is erected and maintained according to the standards set forth in section 1914 upon the same real property that the business, facility or point of interest is located or an approach sign as permitted by section 1914, subsection 10. ~~The signs shall~~sign may only advertise the business, facility or point of interest conducted thereon or the sale, rent or lease of the property upon which it is located.

Sec. 7. 23 MRSA §1903, sub-§8-A is enacted to read:

8-A. Outdoor area. "Outdoor area" means an area in which the majority of activities are conducted outdoors, including a recreational area such as a golf course or ski area, a scenic area such as a park or overlook, a farm or an orchard.

Sec. 8. 23 MRSA §1903, sub-§9-A is enacted to read:

9-A. Point of interest. "Point of interest" means, without limitation, an outdoor area or other place of historical, cultural, educational or religious interest, whether publicly or privately owned.

Sec. 9. 23 MRSA §1903, sub-§10-C is enacted to read:

10-C. Principle structure. "Principle structure" means a regularly used building where the advertised business or activity is carried on or practiced or a parking lot, storage or processing area or other structure that is essential and customary to the conduct of the advertised business or activity.

Sec. 10. 23 MRSA §1903, sub-§16, as repealed and replaced by PL 1981, c. 318, §1, is amended to read:

16. Traffic control sign or device. "Traffic control sign or device" means an official route marker, warning sign, sign directing traffic to or from a community, bridge, ferry ~~or~~, airport;or public facility, as defined in Title 27, section 452, subsection 5, or sign regulating traffic, which has been erected by officers having jurisdiction over the public way and these signs ~~shall be~~are exempt from the requirements of this chapter.

Sec. 11. 23 MRSA §1913-A, sub-§1, ¶H, as amended by PL 1999, c. 152, Pt. G, §2, is further amended to read:

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

Sec. 12. 23 MRSA §1913-A, sub-§1, ¶I, as enacted by PL 1999, c. 152, Pt. G, §3, is amended to read:

I. Adopt-A-Highway Program signs allowed under section 1117-: and

Sec. 13. 23 MRSA §1913-A, sub-§1, ¶J, is enacted to read:

J. Signs erected by a real estate brokerage agency to advertise the sale of real estate.

Sec. 14. 23 MRSA §1914, sub-§3, as repealed and replaced by PL 1981, c. 318, §4, is repealed and the following enacted in its place:

3. Location. On-premises signs must be located within 2,500 feet of a principle structure or within 2,500 feet of the point of interest.

For purposes of determining distance under this subsection:

A. If the advertised business or activity is a commercial or industrial activity, the measurement must be from a principle structure; and

B. If the advertised business or activity is a point of interest, the measurement must be from a principle structure unless the point of interest is an outdoor area, in which case the measurement must be from the geographical boundary of that outdoor area.

Sec. 15. 23 MRSA §1914, sub-§4, as repealed and replaced by PL 1981, c. 318, §4, is amended to read:

4. Location; relation to public way. ~~No on-premise signs may be~~An onpremises sign is not permitted:

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

B. Within 20 feet from the outside edge of the paved portion of any public way with more than 2 travel lanes and a total paved portion in excess of 24 feet in width unless the sign is erected using breakaway mounting devices approved by the Department of Transportation. For purposes of this paragraph, a turning lane in an area with a posted speed limit of 35 miles per hour or less is not considered a travel lane; or

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

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

Sec. 16. 23 MRSA §1914, sub-§5, as repealed and replaced by PL 1981, c. 318, §4, is repealed and the following enacted in its place:

5. Interstate highways. On-premises signs adjacent to the interstate system are controlled by this subsection.

A. Not more than one on-premises sign visible from the interstate system advertising the sale or lease of a property is permitted on land adjacent to any portion of the interstate system.

B. Not more than one on-premises sign visible from any portion of the interstate system is permitted at a distance of more than 50 feet from a principle structure.

C. The advertising display of an on-premises sign located within 600 feet of the interstate system and more than 50 feet from a principle structure may not exceed 20 feet in length or width or 150 square feet in area, including border and trim, but excluding supports.

D. Notwithstanding paragraph C, the commissioner shall authorize placement of larger signs that advertise facilities for food, fuel or lodging as follows.

(1) A sign may be placed in a travel plaza as long as the sign is no more than 100 feet in height, the display area does not exceed 400 square feet and the dimensions of the advertisement do not exceed 35 feet in length or width.

(2) A sign may be placed on property abutting the interstate system if that sign is set back from the interstate system between 100 feet and 250 feet and the sign is no more than 50 feet in height, the display area does not exceed 200 square feet and the dimensions of the advertisement do not exceed 25 feet in length or width.

(3) A sign may be placed on property abutting the interstate system if that sign is set back from the interstate system more than 250 feet but no more than 400 feet and the sign is no more than 75 feet in height, the display area does not exceed 300 square feet and the dimensions of the advertisement do not exceed 30 feet in length or width.

(4) A sign may be placed on property abutting the interstate system if that sign is set back from the interstate system more than 400 feet but no more than 600 feet and the sign is no more than 100 feet in height, the display area does not exceed 400 square feet and the dimensions of the advertisement do not exceed 35 feet in length or width.

E. Any on-premises sign located more than 50 feet from a principle structure that displays a trade name that refers to or identifies a service rendered or product sold must display the name of the advertised business, facility or point of interest as conspicuously as that trade name.

For purposes of determining compliance with this subsection, distances must be measured in the same manner as in subsection 3. The commissioner shall adopt routine technical rules, as defined in Title 5, chapter 375, subchapter 2A, to implement this subsection.

Sec. 17. 23 MRSA §1914, sub-§8, as repealed and replaced by PL 1981, c. 318, §4, is amended to read:

8. Height. ~~The maximum height of on-premise signs shall be 25~~an onpremises sign except on land adjacent to the interstate system is 35 feet above the ground level of land upon which it is located or if the sign is affixed to or is part of a building, the maximum is 10 feet above the roof of the building.

The maximum height of a sign approved by the commissioner as described in subsection 5, paragraph D on property that abuts or is within the interstate system is 100 feet above the land upon which the sign is located.

Sec. 18. 23 MRSA §1914, sub-§10, as repealed and replaced by PL 1981, c. 318, §4, is amended to read:

10. Approach signs. ~~Any~~A business or facility whose ~~principal building~~, or a point of interest, ~~which~~when the business's or point of interest's principle structure is located on a public or private way more than 1,000 feet from the nearest intersection with a public way; or is not visible to traffic from the nearest public way, may erect no more than 23 approach signs, each with a total surface area not to exceed 100 square feet per signside. These signs ~~are to~~must be located on a lot of record, as that term is defined in subsection 11A, paragraph A, subparagraph (3), that is contiguous with property of the place of business or point of interest outside the public right-of-way limits within 300 feet of the junction of the public and private ways intersection with the other public way. For purposes of determining compliance with this subsection, distances must be measured in the same manner as in subsection 3.

Sec. 19. 23 MRSA §1914, sub-§11-A, as amended by PL 2007, c. 124, §§1 and 2, is further amended to read:

11-A. Changeable signs. Notwithstanding subsection 6, paragraphs C and E, changeable signs are not prohibited as long as the sign complies with all the terms of this subsection. The Department of Transportation shall administer the provisions of this subsection.

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

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

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

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

(4) "Message" means a communication conveyed by means of a visual display of 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 only the time and temperature or date by the complete substitution or replacement of a display showing the time with a display showing the temperature or the date.

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

(1) May be changed no more than once ~~every 20 minutes~~per minute, 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~~ may not exceed 80% of the total advertising area of the entire sign structure; 20% of the total advertising area of a sign structure must remain static.

D. No more than one changeable sign with 2 sides is allowed per street abutting the lot of record.

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 on a freestanding sign structure may not exceed a height of ~~25~~35 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.

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

SUMMARY

This bill amends the use of on-premises signs in the following ways.

1. It increases the distance that a sign may be erected from a principle structure of a business or point of interest from 1,000 feet to 2,500 feet.

2. It provides definitions of "point of interest," "outdoor area" and "principle structure" for purposes of determining distance for placement of on-premises signs.

3. It allows on-premises signs to be placed within 20 feet of the edge of certain public ways with more than 2 travel lanes if the signs are erected using approved breakaway mounting devices.

4. It requires the Commissioner of Transportation to manage the permitting process and to authorize the placement of signs adjacent to interstate highways larger and taller than allowed under current law.

5. It increases from 2 to 3 the number of approach signs a business or point of interest may have if that business or point of interest is not visible from or is located more than 1,000 feet from a public way intersection and permits those approach signs to be 2sided.

6. It allows changeable signs to change once per minute; current law limits the change to once every 20 minutes.

7. It allows a business or point of interest to have one changeable sign per public way that the business or point of interest abuts.

8. It allows time and temperature signs to also display the date and permits those signs to change as frequently as once every 2 seconds.

9. It allows for changeable signs to be erected adjacent to and for viewing from the interstate highway system.

10. It increases the maximum height of a freestanding sign structure statewide from 25 feet to 35 feet above grade.

11. It recognizes the value and the role of signs for disseminating information to the motoring public.

12. It allows for placement of signs by real estate brokerage agencies for the sale of real estate.