

# State of Wisconsin



2013 Assembly Bill 258

Date of enactment:  
Date of publication\*:

## 2013 WISCONSIN ACT

AN ACT *to repeal* 84.305 (1) (cm), 84.305 (1) (g), 84.305 (1) (j), 84.305 (5) (ar), 84.305 (5) (d) 2. and 84.305 (5) (e); *to amend* 84.305 (1) (i), 84.305 (3) (a), 84.305 (3) (g), 84.305 (3) (h), 84.305 (4), 84.305 (5) (a) and 84.305 (5) (d) 1.; and *to create* 84.305 (1) (am), 84.305 (3) (i), 84.305 (5) (d) 4. and 84.305 (5) (f) of the statutes; **relating to:** maintenance and removal of vegetation obstructing the view of outdoor advertising signs along highways under the jurisdiction of the Department of Transportation.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 84.305 (1) (am) of the statutes is created to read:

84.305 (1) (am) "Invasive species" has the meaning given in s. 23.22 (1) (c) and, in addition, means species not indigenous to Wisconsin including hybrids, cultivars, subspecific taxa, and genetically modified variants whose introduction causes or is likely to cause economic or environmental harm or harm to human health, and also includes individual specimens, seeds, propagules, and any other viable life-stages of such species.

**SECTION 2.** 84.305 (1) (cm) of the statutes is repealed.

**SECTION 2m.** 84.305 (1) (g) of the statutes is repealed.

**SECTION 3.** 84.305 (1) (i) of the statutes is amended to read:

84.305 (1) (i) "Viewing zone" means, with respect to a sign, the area commencing at the point on the main-traveled way of the highway nearest the sign for the direction of travel for which the sign face is oriented and extending, in a direction opposite of the direction of travel in the nearest through traffic lanes of the main-

traveled way from which the sign face is visible and intended to be viewed, in a line along the highway parallel to the highway pavement edge for a distance of 1,000 feet.

**SECTION 3g.** 84.305 (1) (j) of the statutes is repealed.

**SECTION 3r.** 84.305 (3) (a) of the statutes is amended to read:

84.305 (3) (a) Subject to pars. (d) to ~~(h)~~ (i) and subs. (2m) (b), (4), and (6), a permit issued under this section authorizes the permittee to trim or remove obstructing vegetation to the extent necessary to eliminate the obstruction and provide an unobstructed view of a sign for 500 continuous feet within the viewing zone. A permit issued under this section shall specify the vegetation or the portion of the highway right-of-way to which the permit applies.

**SECTION 4.** 84.305 (3) (g) of the statutes is amended to read:

84.305 (3) (g) A permit issued under this section may not authorize the permittee to clear-cut any highway right-of-way. The permit authorizes the permittee to trim or remove only the vegetation specified in the permit, or only vegetation within the area of the right-of-way specified in the permit, in accordance with the terms of the permit. All trimming of vegetation autho-

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

rized under a permit shall be performed in compliance with applicable standards of the American National Standards Institute, but if the trimming cannot be accomplished in compliance with these standards, the vegetation may be removed and replaced as provided in sub. (5).

**SECTION 5.** 84.305 (3) (h) of the statutes is amended to read:

84.305 (3) (h) All trimming and removal of vegetation under a permit issued under sub. (2), and all planting of vegetation under sub. (5), shall be conducted within the hours of the day and days of the week specified by the department in the permit.

**SECTION 5m.** 84.305 (3) (i) of the statutes is created to read:

84.305 (3) (i) A permit issued under this section may not authorize the permittee to trim or remove vegetation in the median of a divided highway.

**SECTION 6.** 84.305 (4) of the statutes is amended to read:

84.305 (4) Each permit issued under this section shall authorize the permittee to employ 3rd-party contractors, including any arborist or landscape contractor, to perform work authorized under the permit. Each permit issued under this section shall require the permittee to retain a certified arborist for the purposes specified in sub. (5) (d). A permittee shall be responsible for any such work performed by a contractor on behalf of the permittee that is not authorized by the permit as if the work were performed directly by the permittee.

**SECTION 7.** 84.305 (5) (a) of the statutes is amended to read:

84.305 (5) (a) ~~Subject to par. (ar), each~~ Each permit issued under this section shall require a permittee that removes any tree with a diameter of ~~4 2~~ inches or more as measured at ~~3 feet from the ground, or any other vegetation with a diameter of 4 inches or more, to plant comparable replacement vegetation breast height~~ to compensate the department for all such ~~vegetation trees~~ removed, in compliance with the requirements under pars. (d) and ~~(e)~~ (f).

**SECTION 8.** 84.305 (5) (ar) of the statutes is repealed.

**SECTION 9.** 84.305 (5) (d) 1. of the statutes is amended to read:

84.305 (5) (d) 1. ~~In planting replacement vegetation under par. (a),~~ For each permit issued under sub. (2), a

certified arborist retained by the permittee shall determine the diameters number of all trees with a diameter of ~~4 2~~ inches or more, as measured at ~~3 feet from the ground, and of all other vegetation with a diameter of 4 inches or more, breast height, that was are to be removed and shall calculate the sum total of these diameters for each category of vegetation, such as for trees, for shrubs, and for hedges.~~

3. In calculating the sum total of these diameters, the permittee number of trees under subd. 1., a certified arborist shall not include in the calculation the diameter of any vegetation that was dead, diseased, or determined to be an invasive species at the time of its removal.

**SECTION 10.** 84.305 (5) (d) 2. of the statutes is repealed.

**SECTION 11.** 84.305 (5) (d) 4. of the statutes is created to read:

84.305 (5) (d) 4. In determining whether a tree with multiple leaders has a diameter of 2 inches or more, as measured at breast height, for purposes of calculating the total number of trees under subd. 1., a certified arborist shall consider only the diameter of the tree's largest leader.

**SECTION 12.** 84.305 (5) (e) of the statutes is repealed.

**SECTION 13.** 84.305 (5) (f) of the statutes is created to read:

84.305 (5) (f) 1. A permittee shall compensate the department \$200, as adjusted under subd. 2., for each tree removed under a permit, as calculated by the certified arborist retained by the permittee according to the method specified in par. (d).

2. Annually, beginning on July 1, 2015, the department shall adjust the fee under subd. 1. by a percentage that is equal to the percentage change in the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the bureau of labor statistics of the U.S. department of labor, for the 12-month period ending on December 31 of the previous calendar year. However, the department may not adjust the fee under subd. 1. to an amount that is less than \$200.

**SECTION 14. Initial applicability.**

(1) This act first applies to permits for which applications to the department of transportation were submitted to the department on May 19, 2012.