

Substitute for SENATE BILL No. 253

AN ACT relating to the department of transportation; concerning the highway advertising control act of 1972; amending K.S.A. 68-2232, 68-2233, 68-2234, 68-2235, 68-2236, 68-2240 and 68-2243 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 68-2232 is hereby amended to read as follows: 68-2232. As used in this act the following words and phrases shall have the meanings respectively ascribed to them herein: (a) "Adjacent area" "~~controlled area~~" means an area which is adjacent to ~~and within 660 feet of the nearest edge of~~ the right-of-way on any interstate or primary highway; ~~which distance shall be measured horizontally along a line perpendicular to, or at an angle of 90 degrees to, the center line of the highway and is visible from the main traveled way.~~

(b) "Business area" means any part of an adjacent area, except areas adjacent to scenic byways, designated by the secretary of transportation, which is ~~at any time~~:

(1) Zoned for industrial or commercial activities under the authority of any law or by a local zoning authority; or

(2) ~~not so zoned, but which constitutes~~ an unzoned commercial or industrial area as herein defined.

(c) "Center line of the highway" means a line equidistant from the edges of the median separating the main traveled ways on a divided highway, or the center line of the main traveled way on a nondivided highway.

(d) "Commercial or industrial activities" means, for the purpose of establishing unzoned commercial or industrial areas, those activities generally recognized as commercial or industrial by local zoning authorities in this state, but excludes the following activities:

(1) Outdoor advertising structures;

(2) agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands;

(3) transient or temporary activities;

(4) activities not visible from the *traffic lanes of the* main traveled way;

(5) activities more than 660 feet from the nearest edge of a highway right-of-way;

(6) activities conducted in a building principally used as a residence; ~~and~~

(7) railroad tracks and minor sidings;

~~(c) "Commission" means the secretary of transportation.~~

(8) *on-premise or on-property signs as provided for in subsection (c) of K.S.A. 68-2233, and amendments thereto, if the on-premise or on-property sign is the only part of the commercial or industrial activity that is visible from the main traveled way;*

(9) *any outdoor advertising activity or any other business or commercial activity carried on in connection with an outdoor advertising activity; and*

(10) *illegal junkyards as provided for in K.S.A. 68-2201 through 68-2215, and amendments thereto, and junkyards lawfully in existence pursuant to K.S.A. 68-2207, and amendments thereto.*

(e) "Comprehensive zoning" means zoning by local zoning authorities of each parcel of land under the jurisdiction of the local zoning authority placed in a zoning classification pursuant to a comprehensive plan or reserved for future classification.

(f) "Department" means the Kansas department of transportation.

~~(f)~~ (g) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish, but it shall not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance or repair of a sign structure.

~~(g)~~ (h) "Freeway" means any primary highway which is either:

~~(1) A controlled-access highway, as defined by K.S.A. 8-1410, and amendments thereto;~~

~~(2) a controlled access facility constructed pursuant to K.S.A. 68-1001 et seq., and amendments thereto, or~~

~~(3) a modern express highway or freeway constructed pursuant to K.S.A. 68-2301, and amendments thereto a divided arterial highway with four or more lanes available for through traffic with full control of access and grade separation at intersections.~~

~~(h)~~ (i) "Highway" means a highway as defined by K.S.A. 8-1424, and

amendments thereto. *For the purpose of this act, a highway shall be considered a highway when the project for improvement and final alignment has been approved by the appropriate authorities.*

(j) “Interstate highway” means any highway at any time officially designated as a part of the national system of interstate and defense highways by the secretary of transportation and approved by the appropriate authority of the federal government.

(k) “Local zoning authority” means an incorporated city or a county which is authorized by law to zone areas within its jurisdiction and which has an active zoning authority.

(l) “Main traveled way” means the traveled way of a highway on which through traffic is carried. On a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main traveled way, but ~~said~~ *such* term does not include such facilities as frontage roads, turning roadways or parking areas.

(m) “Maintain” means to ~~allow to exist~~ *keep in a state of continuing existence. A sign must remain substantially the same as it was when permitted on the effective date of compliance with state law. Customary maintenance of a sign includes only change of message, replacing electrical wiring and bulbs, painting of the face and structure, clearing of vegetation on the parcel the sign is located, reinforcing the structure and repairing the apron or catwalks or any addition or enhancements to safety equipment on structures including safety cables, railings and other modifications necessary to meet current safety standards. An increase in dimension, a change in dimension, any change in location, increase in height or the addition of lighting does not constitute customary maintenance. Additional maintenance activities, other than customary maintenance, require a new sign permit.*

(n) “Primary highway” means any highway, other than an interstate highway, that was part of the federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the national highway system.

~~(n) “Roadway” means a roadway as defined by K.S.A. 8-1450, and amendments thereto.~~

(o) “Safety rest area” means an area or site established and maintained within or adjacent to the highway right-of-way, which area is under public supervision or control and for the convenience of the traveling public.

(p) “Sign” or “outdoor advertising device” means any outdoor sign structure, display, light, device, notice, bulletin, figure, painting, drawing, message, placard, poster, billboard, vehicle or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is ~~located within an adjacent area, and is~~ visible from any place on the main traveled way or any portion of an interstate or primary highway.

(q) “Sign facing” means and includes a sign display or displays at the same location and facing the same direction.

(r) “Sign display” means a single panel or part of the sign, including trim and background, which contains a message or messages.

(s) “Sign structure” means and includes all components of the sign, which may include poles, bracings, lateral supports, vehicles, displays and other materials of every kind and nature used to support a facing or facings on which advertising is placed.

(t) “Traveled way” means the portion of a roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

(u) “Unzoned commercial or industrial area” means ~~an area which is not zoned by state or local law, ordinance or resolution, and on which there is located one or more permanent structures devoted to a commercial or industrial activity, or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is located thereon, and the area along the highway extending outward 600 feet from and beyond the edge of such activity on both sides of the highway except that the unzoned area shall not include land on the opposite side of a freeway or interstate highway from the commercial or industrial activity establishing the unzoned commercial or industrial area, nor shall it include land on the opposite side of any other primary highway, which land is deemed scenic by an appropriate agency of the state. All measurement of distances shall be from the outer edges of the regularly used~~

buildings, parking lots, storage or processing areas of the commercial or industrial activities, not from the property lines of the activities, and shall be along or parallel to the edge of the highway pavement.

—Such term shall not include any area which is within 500 feet of any of the following: Public park, garden, recreation area or forest preserve; church, school, any public museum or historical monument, any safety rest or recreation area which is publicly owned, controlled and maintained pursuant to section 319 of title 23 of the United States code; or any sanitary or other facility for the accommodation of the motorist which is publicly owned, controlled and maintained pursuant to section 319 of title 23 of the United States code. Nor shall such term include any area which is within 500 feet of any strip of land, an interest in which has been acquired by the state of Kansas for the restoration, preservation or enhancement of scenic beauty, and which is publicly controlled and maintained pursuant to section 319 of title 23 of the United States code *an area which is not zoned by state or local law, regulation or ordinance, which is within 660 feet of the nearest edge of the right-of-way of the controlled area, and on which there is located one or more permanent structures devoted to a commercial or industrial activity or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is located thereon, which meets all the requirements specified in subsection (h) of K.S.A. 68-2234, and amendments thereto.*

(s) (v) “Visible” means capable of being seen without visual aid by a person of normal visual acuity.

(t) (w) “Zoned commercial or industrial areas” means those areas which are *comprehensively* zoned for business, industry, commerce or trade pursuant to a state or local zoning ordinance or resolution or an area which is zoned for business, industry, commerce or trade pursuant to a state or local zoning ordinance or regulation. Local zoning action must be taken pursuant to the state’s zoning enabling statute or constitutional authority in accordance therewith. Zoning which is not part of comprehensive zoning or which is created primarily to permit advertising devices or structures shall not be recognized as valid zoning for purposes of the Kansas highway advertising control act and the rules and regulations promulgated thereunder, unless there actually exists a commercial or industrial activity as defined under subsection (d) of K.S.A. 68-2232, and amendments thereto.

(u) (x) “Secretary” means the secretary of transportation.

(y) “Vegetation control” means a program authorized hereunder, providing for the control of vegetation on state rights-of-way which shall be of benefit to the state as well as providing assistance to sign owners. Vegetation control is recognized as part of the maintenance of the state’s highway right-of-way as it relates to safety and other highway operations. The Secretary shall adopt policies and procedures for the creation of a vegetation control program within 12 months of the effective date of this act.

Sec. 2. K.S.A. 68-2233 is hereby amended to read as follows: 68-2233. After March 31, 1972, and subject to the provisions of K.S.A. 68-2237, and amendments thereto, no sign shall be erected or maintained in an adjacent area, except the following: (a) Directional and ~~other~~ official signs, including, but not limited to, signs pertaining to natural wonders ~~or~~ scenic or historical attractions, *churches or rural businesses*, which are required or authorized by law and which ~~comply with regulations which shall be promulgated by the secretary of transportation relative to their lighting, size, number, spacing and such other requirements as may be appropriate to implement the provisions of this act.~~ *Provided, That such regulations shall not be inconsistent with, nor more restrictive than, such national standards as may be promulgated from time to time by the secretary of the department of transportation of the United States, pursuant to subsection (c) of section 131 of title 23 of the United States code shall conform to rules and regulations promulgated by the secretary consistent with national policy, except that no such sign or notice shall be erected until an approved sign application and permit is obtained as provided for in K.S.A. 68-2236, and amendments thereto. Directional and official signs shall be required to obtain a license but such signs are exempt from payment of the fees required under subsection (c) of K.S.A. 68-2236, and amendments thereto;*

(b) signs advertising the sale or lease of property upon which they are located, ~~except that there shall not be more than one (1) such sign which is visible to traffic proceeding in any one direction on any one interstate or primary highway;~~

(c) *on-premise* signs advertising activities conducted on the property on which they are located, including, without limiting the generality of the foregoing, goods *grown, produced*, sold, stored, manufactured, processed or mined thereon; services rendered thereon; and entertainment provided thereon;

~~(d) Signs erected in business areas on or before March 31, 1972, and~~
~~(e) Signs which are to be erected in business areas and which will comply when erected with the provisions of K.S.A. 68-2234 nonconforming signs or advertising devices lawfully in existence on March 31, 1972, or deemed to be nonconforming, provided that no such sign shall be maintained without a license as provided for in K.S.A. 68-2236, and amendments thereto;~~

(e) *conforming signs or advertising devices erected in business areas and which comply with the provisions of K.S.A. 68-2234, and amendments thereto. No such sign or advertising device shall be erected until a permit is obtained as provided in K.S.A. 68-2236, and amendments thereto;*

(f) *conforming signs or advertising devices legally erected after March 31, 1972, which no longer comply with spacing, size or zoning requirements of K.S.A. 68-2234, and amendments thereto, because of a change in the law, provided that no such sign shall be maintained without a license as required by K.S.A. 68-2236, and amendments thereto. Such signs shall be considered legal conforming signs with grandfather status;*

(g) *in addition to the limitations contained in this section, in order to further the purposes to promote the reasonable, orderly and effective display of outdoor advertising devices along highways adjacent to scenic and historical areas, while protecting the public investment in these highways and promoting safety and recreational value of public travel and to preserve natural beauty, no advertising sign, except as permitted under subsections (a), (b) or (c) shall be erected adjacent to any highway which is either:*

- (1) *A scenic highway or scenic byway designated by the secretary;*
- (2) *within 1,000 feet of the boundary line of a Kansas state park, a national park, a state or national wildlife refuge;*
- (3) *within 500 feet of any of the following: Public park, garden, recreation area, forest preserve, church, school, any public museum or historical monument, any safety rest or recreation area which is publicly owned, controlled and maintained pursuant to 23 U.S.C. 319 or any sanitary or other facility for the accommodation of the motorist which is publicly owned, controlled and maintained pursuant to 23 U.S.C. 319; or*
- (4) *within 500 feet of any strip of land, an interest in which has been acquired by the state of Kansas for the restoration, preservation or enhancement of scenic beauty and which is publicly controlled and maintained pursuant to 23 U.S.C. 319.*

Sec. 3. K.S.A. 68-2234 is hereby amended to read as follows: 68-2234. After March 31, 1972, and subject to ~~subsection (e)~~ *the provisions of K.S.A. 68-2233, and amendments thereto, and to subsection (f), signs which are to be erected in a business area shall comply with the following standards: (a) General. Signs shall not be erected or maintained which:*

- (1) *Imitate or resemble any official traffic sign, signal or device; or*
- (2) *are erected or maintained upon trees or painted or drawn upon rocks or other natural features.*

(b) *Configuration and size. (1) Signs shall not be erected with sign faces which exceed 30 feet in height, 60 feet in length or 1,200 900 square feet in area, per facing, including border, trim and embellishments, but not including base or apron, supports, and other structural members;*

- (2) *the maximum size limitations shall apply to each sign facing;*
- (3) *two signs sign displays not exceeding 600 450 square feet each may be erected in a facing, side by side or “double decked,” and double-faced, back-to-back or V-type signs shall be permitted and shall be treated as one structure with a maximum area of 1,200 900 square feet permitted for each side or facing. To be classified as “back-to-back” there must not*

be more than 15 feet between structures or faces, to allow for crossbracing;

(4) the area of any sign *structure* shall be measured by the smallest square, rectangle, circle or combination thereof which will encompass the area ~~affected~~ of the sign display or displays;

(5) the height of any portion of the sign structure, excluding cutouts or extensions, as measured vertically from the adjacent edge of the road grade of the main traveled way shall not exceed 50 feet;

(6) cutouts or extensions shall be permitted on legal conforming signs at a size not to exceed 30% of the size of the main display area, with a maximum extension of five feet along the top edge, two feet along the sides and 1½ feet along the bottom of the main display area. Cutouts or extensions shall not be permitted where the configuration and size requirements of this subsection will be exceeded.

(c) *Spacing.* (1) Signs shall conform to all applicable building codes and ordinances of the city, county or state, whichever is applicable by reason of the locations of the signs;

(2) signs shall not be erected or maintained in such a manner as to obscure or otherwise physically interfere with an official traffic sign, signal or device or to obstruct or physically interfere with a driver's view of approaching, merging or intersecting traffic;

~~(3) Signs visible from a primary highway shall not be erected within the limits of a city less than 100 feet, and outside the limits of a city less than 300 feet, of another sign on the same side of the highway.~~

~~(4) Signs visible from a freeway or interstate highway shall not be erected within 500 feet of another sign on the same side of the highway, and outside the limits of a city, no sign shall be located adjacent to or within 500 feet of an interchange, intersection at grade or a safety rest area, with such distance measured along the freeway or interstate highway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way. except for official and on-premise signs, as defined in 23 U.S.C. 131(c) and as provided for in K.S.A. 68-2233, and amendments thereto, any signs or sign structures visible from any primary highway without fully controlled access:~~

~~(A) Shall not be spaced less than 300 feet apart outside of incorporated cities;~~

~~(B) shall not be spaced less than 200 feet apart within incorporated cities;~~

~~(4) any signs or sign structures visible from any interstate highway or freeway with fully controlled access:~~

~~(A) Shall not be spaced less than 500 feet apart, except for official and on-premise signs, as defined in 23 U.S.C. 131(c), and as provided in K.S.A. 68-2233, and amendments thereto;~~

~~(B) outside the corporate limits of cities, shall not be located within 500 feet of an interchange, feeder, intersection at grade, safety rest area or information center regardless of whether the main traveled way is within or outside the city limits. The 500 feet spacing shall be measured from the point at which the pavement widens and the direction of measurement shall be along the edge of pavement away from the interchange, collector, intersection at grade, safety rest area or information center. In those interchanges where a quadrant does not have a ramp, the 500 feet for the quadrant at the edge of the intersection is located at the edge of the intersection;~~

(5) the minimum distance between two signs prescribed by paragraphs (3) and (4) of this subsection shall be measured along the nearest edge of the pavement between points directly opposite the signs along ~~each~~ the same side of the highway. Such minimum distance shall not apply to signs described by subsection (a), (b) or (c) of K.S.A. 68-2233, *and amendments thereto*, nor shall such signs be counted or be used in measuring distances for the purpose of determining compliance with the spacing requirements of this subsection;

(6) the minimum distances between two signs prescribed by paragraphs (3) and (4) of this subsection shall not apply where such signs are separated by a building, structure, roadway or other obstruction which prevents a view of both signs at the same time by traffic proceedings on any one highway; *and*

(7) nothing in this subsection shall be construed as preventing the erection of double-faced, back-to-back or V-type signs with a maximum

of two signs per sign displays per sign facing, as permitted by subsection (b). *Nothing in this subsection shall prevent the owner of a single face sign to change the position of the sign face to a different or opposite direction of traffic flow so long as an additional face or additional square feet are not added to the sign structure. No such change may be affected until approval is granted by the department.*

(d) *Lighting.* (1) Signs shall not be erected which contain, include or are illuminated by any flashing, intermittent, revolving or moving light, except those giving public service information such as, but not limited to, time, date, temperature, weather or news; steadily burning lights in configuration of letters or pictures are not prohibited;

(2) signs shall not be erected or maintained which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of any interstate or primary highway and are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle or to otherwise interfere with any driver's operation of a motor vehicle; and

(3) signs shall not be erected or maintained which are so illuminated that they obscure any official traffic sign, device or signal, or imitate or may be confused with any official traffic sign, device or signal.

(e) *Automatic changeable facing signs.* (1) *Automatic changeable facing signs shall be permitted within adjacent or controlled areas under the following conditions:*

(A) *The sign does not contain or display flashing, intermittent or moving lights, including animated or scrolling advertising;*

(B) *the changeable facing remains in a fixed position for at least eight seconds;*

(C) *if a message is changed electronically, it must be accomplished within an interval of two seconds or less;*

(D) *the sign is not placed within 1,000 feet of another automatic changeable facing sign on the same side of the highway, with the distance being measured along the nearest edge of the pavement and between points directly opposite the signs along each side of the highway;*

(E) *if the sign is a legal conforming structure it may be modified to an automatic changeable facing sign upon compliance with these standards and approval by the department. A nonconforming structure shall not be modified to create an automatic changeable facing sign;*

(F) *if the sign contains a default design that will freeze the sign in one position if a malfunction occurs; and*

(G) *if the sign application meets all other permitting requirements.*

(2) *The outdoor advertising license shall be revoked for failure to comply with any provision in this subsection.*

~~(f)~~ (f) *Application to local zoning authorities.* Nothing in article 22 of chapter 68 of Kansas Statutes Annotated, and amendments thereto, shall be construed as prohibiting a local zoning authority from controlling the erection, maintenance, size, spacing and lighting of signs in all areas within its jurisdiction by adopting standards which may be consistent with, or more or less restrictive than the highway advertising control act of 1972, and any acts amendatory thereof or supplemental, and amendments thereto, except that along interstate highways, the size and spacing requirements of subsections (b) and (c) of K.S.A. 68-2234, and amendments thereto, shall be met. The standards adopted by a local zoning authority shall include the regulation of size, of lighting and of spacing of all such signs and shall restrict the erection of new signs, other than signs described by subsections (a), (b) and (c) of K.S.A. 68-2233, and amendments thereto, to zoned commercial or industrial areas.

(g) *Prohibition against zoning to permit outdoor advertising.* *Zoning which is not part of comprehensive zoning and is created primarily to permit outdoor advertising structures, is not recognized as zoning for purposes of this act.*

(h) *Unzoned commercial or industrial area qualifications for signs.*

(1) *To qualify an area as unzoned commercial or industrial for the purpose of outdoor advertising control, one commercial or industrial activity shall meet all of the following criteria prior to submitting an outdoor advertising permit application:*

(A) *The activity shall maintain all necessary business licenses as may be required by applicable state, county or local law or ordinances;*

(B) *the property used for the activity shall be listed for ad valorem taxes with the county and municipal taxing authorities as required by law;*

(C) *the activity shall be served by utilities, power, telephone, water and sewer or septic and well;*

(D) *the activity shall have direct or indirect vehicular access;*

(E) *the activity must be visible from, and located within 660 feet of the nearest edge of the right-of-way of the controlled route;*

(F) *the commercial or industrial activity must be in operation for a period of 12 months prior to the date of submitting an application for an outdoor advertising permit and license;*

(G) *the activity shall be in operation for at least nine months per year; and*

(H) *the owner or employee shall be present at the site for 20 hours per week;*

(2) *the unzoned area shall include areas on both sides of any two-lane highway, but shall be limited to land on the same side as the commercial or industrial activity on any highway with four or more traffic lanes. All measurements shall begin from the outer edges of regularly used buildings, parking lots, storage or processing areas of the commercial or industrial activity, not from the property line of the activity and shall be along the nearest edge of the main traveled way of the controlled route. The proposed sign location must be within 600 feet of the commercial or industrial activity.*

Sec. 4. K.S.A. 68-2235 is hereby amended to read as follows: 68-2235. The secretary of transportation is hereby authorized to enter into an agreement with the secretary of the department of transportation of the United States government for the purpose of ~~implementing the provisions of this act, but such agreement shall not be inconsistent with the provisions of this act, the provisions of the federal highway beautification act of 1965, and any amendments thereto, or with customary uses and zoning principles and standards which hold and govern in this state controlling outdoor advertising in areas adjacent to the interstate and federal-aid primary highway systems or the national highway system in accordance with 23 U.S.C. 131 (b), 23 U.S.C. 104 and 23 C.F.R. part 750.~~

Sec. 5. K.S.A. 68-2236 is hereby amended to read as follows: 68-2236. (a) ~~From and after March 31, 1972, no person shall own or maintain outdoor advertising, except signs described in subsections (b) and (c) of K.S.A. 68-2233, without having a license to do so, which license shall be issued by the secretary of transportation. *Provided*, That any nonprofit religious, civic or educational organization which only erects signs advertising the existence of and meeting dates and locations of such organization shall be exempt from such licensing requirements. Application for such license shall be made to the secretary of transportation on forms furnished by the secretary and shall contain such information as the secretary shall reasonably require. Each application and each renewal of the license shall be accompanied by a fee of ten dollars (\$10) for each county in which the proposed licensee operates, but not to exceed two hundred fifty dollars (\$250). Such licenses shall be valid for a period of one (1) year from the date they are issued and shall be renewed annually upon payment of the prescribed fee. The secretary of transportation shall promulgate reasonable rules and regulations relating to performance bond or liability insurance, or both, to be required as a condition of obtaining and holding a license.~~

~~—(b) From and after March 31, 1972, no sign, other than signs described in subsection (b) and (c) of K.S.A. 68-2233, may be erected or maintained in an unzoned commercial or industrial area located outside the corporate limits of any city without first obtaining a permit therefor from the secretary of transportation, or in such an area within the corporate limits of a city without first obtaining a permit therefor from the authority designated by the governing body of such city. An application for a permit shall be on a uniform form provided by the secretary and made available to counties and cities, and shall contain such information as the secretary may reasonably require. Within ten (10) days after receipt of an application containing all required information in due form and appropriately executed, and upon payment of a fee of five dollars (\$5) for each such sign, the secretary or the city authority, as the case may be, shall issue a permit to the applicant for the erection or maintenance of~~

~~the sign, if such sign is consistent with the provisions of this act. *Provided*, That the payment of such fee shall not be required for any signs advertising the existence of and meeting dates and locations of any nonprofit religious, civic or educational organization. Such permit shall be transferable and shall be valid for as long as the sign or any replacement of it exists, if the sign is not changed as to size or lighting. A copy of each application to and permit issued by the city authority shall be filed with the secretary of transportation by the city authority. Unless otherwise provided in this section, no person, firm or corporation shall construct, erect, operate, use or maintain any advertising signs, displays or devices in this state without first obtaining a sign permit and a sign license from the department. Sign permits shall not be issued until a sign permit application has been submitted to and approved by the department. Signs measuring eight square feet or less with a message advertising the existence, meeting dates and location of nonprofit, religious, civic or educational organizations shall not be required to obtain a sign permit or a license. Signs as described in subsections (b) and (c) of K.S.A. 68-2233, and amendments thereto, shall not be required to obtain a sign permit or a license.~~

(b) *Sign permit application.* From and after June 30, 2006, no signs, displays or devices except as described in subsection (a) shall be erected without first applying for a sign permit from the department. Sign applications shall be submitted on forms provided by the department. Incomplete applications shall be denied. A nonrefundable processing fee of \$250 shall be submitted with each permit application for new directional and official signs as identified in subsection (a) of K.S.A. 68-2233, and amendments thereto, whether or not they advertise nonprofit organizations or businesses. A nonrefundable processing fee of \$250 shall be submitted with each permit application for new conforming signs identified in subsection (e) of K.S.A. 68-2233, and amendments thereto. The department shall approve the sign permit application within 60 days after receiving the application from the applicant only if the application for the new sign permit complies with the provisions of this act. Upon the approval of a sign permit application, the applicant will be granted a sign permit and a sign license as described in subsection (c) and shall erect the sign described in the application within 180 days from the date of the granting of the sign permit. Failure to obtain a permit and erect the sign described in the application within 180 days of the date of the granting of the permit, shall render the permit and license null and void. Extensions may be granted by the department if they are requested by the applicant in writing prior to the 180 day deadline. All signs, displays or devices erected during the 180 day period and any extensions granted shall comply with all information submitted in the sign permit application. Providing false information on the sign application shall be sufficient grounds to deny or revoke the application or permit.

(c) *Sign permits; sign license.* (1) From and after June 30, 2006, no sign, display or advertising device except signs advertising nonprofit organizations or nonprofit businesses as described in subsection (a) shall be erected without first obtaining a sign permit from the department. No sign permit shall be issued without an approved current sign permit application as described in subsection (b);

(2) a sign license shall be issued along with a sign permit and such license shall be valid for a period of two years from the date it was issued unless revoked for noncompliance with this act. Before the expiration of a sign license, the sign owner shall be required to renew the license. Biennial license renewal fees for a sign structure shall be determined by the size of the advertising per sign structure. Biennial license renewal fees for sign structures are as follows:

<i>Fee</i>	<i>Per sign structure</i>
\$20	0 square feet to 32 square feet
\$75	33 square feet to 300 square feet
\$150	301 square feet or more

License fees will be phased in over a two-year time period for signs listed in the department's sign inventory database as of December 31, 2006. Owners of signs so identified shall be required to pay 50% of their total fees on or before their anniversary date in 2007 and 50% in 2008. Sign owners shall be required to pay the full fee in 2009 and thereafter.

Sign owners who erect signs after December 31, 2006, shall be required to pay the entire fees as described in this section;

(3) each license shall be transferable and shall be valid for a period of two years from the last day of the month the license was first granted as long as the sign is maintained and if the sign is not changed as to location, size or lighting. Within 60 days prior to the expiration date of the license, the department will provide the sign owner with a license renewal form for each sign requiring a license. Sign owners shall be required to complete the renewal form and submit the renewal fee as required in this section. A late fee of \$50 shall be assessed for each sign renewal license form received 30 days after the expiration of the license. Where applicable, any advertising sign display or device not having a current permit and a current license on file shall be in violation of this act and shall be subject to removal with the cost assessed to the sign owner after the sign owner has been given 30 days notice;

(4) if outdoor advertising is under construction and the department determines that a permit and license has not been issued for the advertising sign display or device, the department may require that all work on the advertising display or device cease until the owner of the outdoor advertising obtains a sign permit and a license.

(d) Existing signs; unlisted signs; license; fees. (1) On or before December 31, 2007, sign owners with existing signs that have been assigned a sign identification number as part of the department's sign inventory database as of June 30, 2006, will be issued a sign license for each sign. The department will issue a license for each sign currently in its inventory and for each other sign submitted by a sign owner on or before December 31, 2006, providing that the sign complies with this act. Sign owners shall be required to submit documentation for all signs not currently listed in the department's sign inventory database as of June 30, 2006. Sign owners will not be assessed a processing fee for signs which are listed in the department's sign inventory database as of June 30, 2006, nor will they be assessed a processing fee for signs submitted to the department on or before December 31, 2006. Any sign discovered after December 31, 2006, and not listed in the department's sign inventory database shall be considered unauthorized and illegal and shall be removed at the expense of the sign owner;

(2) within 30 days prior to the stated anniversary date, the department will provide sign owners with a license renewal form for each licensed sign. Sign owners shall be required to complete the renewal form for each sign as required in subsection (c). The department will renew the license for each existing sign upon receipt of the completed renewal form and the required fees on or before the stated anniversary date. A license shall be valid for two years from the stated anniversary date. A late fee shall be assessed for each license renewal form received after the stated anniversary date. Where applicable, any existing sign not having a current license, as identified in the department's sign database, shall be in violation of this act and shall be subject to removal with the costs assessed to the sign owner after the sign owner has been given a 30-day notice.

(e) From and after March 31, 1972, all signs, or the structures on which they are displayed, shall have stated thereon the name of the owner thereof.

(f) The secretary shall remit all moneys received by or for the secretary under the provisions of this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund.

Sec. 6. K.S.A. 68-2240 is hereby amended to read as follows: 68-2240. ~~From and after March 31, 1972, any outdoor advertising authorized under K.S.A. 68-2233 and 68-2234 which does not conform to the standards and requirements prescribed or authorized by this act, or does not comply with any authorized exceptions thereto, and any outdoor advertising prohibited by this act and not subject to compensation under other terms of this act, shall be subject to removal by the secretary of transportation. The secretary shall give notice by restricted mail to the owner of the sign, if known, or to the advertiser shown on the sign, ordering him or her to cause the outdoor advertising to comply with the provisions of this act or to remove the prohibited outdoor advertising. If the owner~~

of the sign is known and fails to act within ninety (90) days after mailing of the notice, the department of transportation shall remove the outdoor advertising at the expense of the owner of the sign, if known, and if not, at the expense of the advertiser shown on the sign. (a) Any advertising structure erected or maintained adjacent to the right-of-way of the interstate or primary highway system after the effective date of this act as determined by K.S.A. 68-2231 through 68-2244, and amendments thereto, in violation of the provisions of this section or rules and regulations adopted by the secretary, or maintained without a permit for construction and a current license shall be considered illegal and shall be subject to removal. The department or its agent shall give 60-days notice by certified mail to the owner of the illegal sign and the landowner, if different from the sign owner, except that the department shall give 10-days notice to the owner of unlawful portable outdoor advertising located on vehicles or stands to remove such advertising structure or make it comply with the provisions of this act. Such notice shall contain a statement that the sign owner has the right to appeal the removal of such sign in accordance with the Kansas administrative procedure act and may appeal that decision to the district court. If such owner is unknown or cannot be reasonably ascertained, the department shall conclude that the advertiser shown on the sign is the owner of the sign. Unless the sign owner appeals in accordance with the provisions of subsection (e), the department or its agents shall have the right to remove the illegal advertising structure, at the expense of the owner, if the owner fails to remove the advertising structure or to make it comply with the provisions of this act within the required period cited in this section. If no appeal by the sign owner has been filed, after giving a 10-day notice to the sign owner and landowner, the department or its agents may enter upon private property for the purpose of removing the illegal advertising structure prohibited by this act or by the rules and regulations adopted by the secretary without civil or criminal liability. The cost of removing the advertising structure, whether by the department or its agents, shall be assessed against the owner of the illegal structure.

(b) A sign owner is prohibited from repairing and erecting a legal, non-conforming sign which sustains damage in excess of 60% of its replacement cost. This prohibition includes signs which have been damaged or destroyed by natural causes. An exception is made for those signs which were destroyed by vandalism or other criminal or tortuous acts.

(c) A sign is considered a new sign and requires a new sign license if the sign is abandoned, left blank or remains dilapidated for a period of 12 months. Signs faces displaying public service announcements or displaying a "for rent" notice will not be considered abandoned.

(d) Any person, firm, corporation or association, placing, erecting or maintaining advertising structures, signs, displays or devices along the interstate system or primary system in violation of this act or rules and regulations adopted by the secretary shall not be recognized as advertisement for outdoor purposes and therefore constitutes a public nuisance subject to removal as provided by law.

(e) Right to Appeal. (1) Sign owners who are notified under subsection (a) to remove a sign determined to be in noncompliance of this act may appeal such order to the secretary of transportation. Hearings under this paragraph shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(2) Any party aggrieved by the order of the secretary may appeal such order to the district court in accordance with the provisions of the act for judicial review and civil enforcement of agency actions.

Sec. 7. K.S.A. 68-2243 is hereby amended to read as follows: 68-2243. ~~This act~~ The provisions of K.S.A. 68-2231 through 68-2244, and amendments thereto, and section 8, and amendments thereto, shall be known and may be cited as the "highway advertising control act of 1972."

New Sec. 8. The secretary of transportation is hereby authorized to adopt such rules, regulations or internal policies the secretary deems necessary for the purpose of carrying out the provisions of this act including the adoption of rules and regulations or internal policies regulating the use of new technology in outdoor advertising as allowed under federal regulations for federal-aid primary highways as of June 1, 1991, and all

highways designated as part of the national highway system by the national highway system designation act of 1995 and those highways subsequently designated.

New Sec. 9. (a) The secretary of transportation shall compile and maintain a current listing of all signs that are available for the purposes of increasing tourism or economic development. The listing shall contain a description of the program and the requirements for obtaining a sign under such program.

(b) The secretary of transportation shall publish the information required under subsection (a) at least annually.

Sec. 10. K.S.A. 68-2232, 68-2233, 68-2234, 68-2235, 68-2236, 68-2240 and 68-2243 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.