

AMENDED IN ASSEMBLY JULY 22, 2002

AMENDED IN SENATE MAY 20, 2002

AMENDED IN SENATE MAY 6, 2002

AMENDED IN SENATE APRIL 18, 2002

SENATE BILL

No. 1480

Introduced by Senator Speier

February 19, 2002

An act to amend Sections 5216 and 5354 of, to add Section 5408.3 to, and to repeal and add Section 5485 of, the Business and Professions Code, relating to outdoor advertising.

LEGISLATIVE COUNSEL'S DIGEST

SB 1480, as amended, Speier. Outdoor advertising.

The Outdoor Advertising Act regulates the placement of advertising displays adjacent to and within specified distances of highways that are part of the national system of interstate and defense highways and federal-aid highways. The act defines relevant terms.

This bill would revise certain definitions of the act.

Existing law provides that the annual permit fee for each advertising sign or structure is \$20.

This bill would instead require the Director of Transportation of the State of California to set the annual permit fee, and would prohibit the fee from exceeding the department's reasonable costs, including indirect costs, for providing services and enforcing regulations for which the fee is charged, ~~but in no event~~. *The bill would prohibit the fee from exceeding \$100, as adjusted.*

Existing law provides that the permit fee for each advertising sign or structure that an applicant has placed or maintained without a valid, unrevoked, and unexpired permit is \$95.

This bill would instead authorize penalties in the amount of \$100 for an advertising display placed or maintained without a valid permit in a location that conforms to applicable provisions, and in the amount of \$10,000 plus \$100 per each day a display is placed or maintained after receiving notice if the advertising display is placed or maintained in a location that does not conform to applicable provisions and is not removed within 30 days of written notice from the department or the city or county with land use jurisdiction over the property on which the display is located.

Existing law requires that an applicant for a permit offer evidence that the owner or other person in control or possession of the property upon which the location is situated has consented to the placing of the advertising display.

This bill would *require evidence of consent to be in writing and would also require an applicant to offer* written evidence that the city or county with land use jurisdiction over the property has consented to the placing of the advertising display.

This *bill would require the department, at the request of the city or county with land use jurisdiction over the property, to reserve a location for an applicant for a limited time in advance of receiving evidence of written consent. The bill would also* authorize a city or county with land use jurisdiction over *the* property to adopt an ordinance that establishes standards for the spacing and sizes of advertising displays that are more restrictive than those imposed by the state.

A violation of the Outdoor Advertising Act is a misdemeanor. Because this bill would change the scope of a crime by changing the definition of a landscaped freeway, it would change the definition of a crime and would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



The people of the State of California do enact as follows:

1 SECTION 1. Section 5216 of the Business and Professions
2 Code is amended to read:

3 5216. (a) “Landscaped freeway” means a section or sections
4 of a freeway that is now, or hereafter may be, improved by the
5 planting at least on one side or on the median of the freeway
6 right-of-way of lawns, trees, shrubs, flowers, or other ornamental
7 vegetation requiring reasonable maintenance.

8 (b) Planting for the purpose of soil erosion control, traffic
9 safety requirements, including light screening, reduction of fire
10 hazards, or traffic noise abatement, shall not change the character
11 of a freeway to a landscaped freeway.

12 (c) Notwithstanding subdivision (a), if an agreement to
13 relocate advertising displays from within one area of a city or
14 county to an area adjacent to a freeway right-of-way has been
15 entered into between a city or county and the owner of an
16 advertising display, then a “landscaped freeway” shall not include
17 the median of a freeway right-of-way.

18 SEC. 2. Section 5354 of the Business and Professions Code
19 is amended to read:

20 5354. (a) The applicant for any permit shall offer written
21 evidence that both the owner or other person in control or
22 possession of the property upon which the location is situated and
23 the city or the county with land use jurisdiction over the property
24 upon which the location is situated have consented to the placing
25 of the advertising display.

26 (b) *At the written request of the city or county with land use*
27 *jurisdiction over the property upon which a location is situated, the*
28 *department shall reserve the location and not issue a permit for*
29 *that location to any applicant, other than the one specified in the*
30 *request, in advance of receiving written evidence as provided in*
31 *subdivision (a) and for a period of time not to exceed 90 days from*
32 *the date the department received the request.*

33 SEC. 3. Section 5408.3 is added to the Business and
34 Professions Code, to read:

35 5408.3. Notwithstanding Section 5408, a city or a county with
36 land use jurisdiction over the property may adopt an ordinance that
37 establishes standards for the spacing and sizes of advertising
38 displays that are more restrictive than those imposed by the state.



1 SEC. 4. Section 5485 of the Business and Professions Code
2 is repealed.

3 SEC. 5. Section 5485 is added to the Business and Professions
4 Code, to read:

5 5485. (a) (1) The annual permit fee for each advertising
6 display shall be set by the director.

7 (2) The fee shall not exceed the amount reasonably necessary
8 to recover the cost of providing the service or enforcing the
9 regulations for which the fee is charged, but in no event shall the
10 fee exceed one hundred dollars (\$100). This maximum fee shall be
11 increased in the 2007–08 fiscal year and in the 2012–13 fiscal year
12 by an amount equal to the increase in the California Consumer
13 Price Index.

14 (3) The fee may reflect the department’s average cost,
15 including the indirect costs, of providing the service or enforcing
16 the regulations.

17 (b) If a display is placed or maintained without a valid,
18 unrevoked, and unexpired permit, the following penalties shall be
19 assessed:

20 (1) If the advertising display is placed or maintained in a
21 location that conforms to the provisions of this chapter, a penalty
22 of one hundred dollars (\$100) shall be assessed.

23 (2) If the advertising display is placed or maintained in a
24 location that does not conform to the provisions of this chapter or
25 local ordinances, and is not removed within thirty days of written
26 notice from the department or the city or the county with land use
27 jurisdiction over the property upon which the advertising display
28 is located, a penalty of ten thousand dollars (\$10,000) plus one
29 hundred dollars (\$100) for each day the advertising display is
30 placed or maintained after the department sends written notice
31 shall be assessed.

32 (c) In addition to the penalties set forth in subdivision (b), the
33 gross revenues from the unauthorized advertising display that are
34 received by, or owed to, the applicant and a person working in
35 concert with the applicant shall be disgorged.

36 (d) The department or a city or a county within the location
37 upon which the advertising is located may enforce the provisions
38 of this section.

39 (e) Notwithstanding any other provision of law, if an action
40 results in the successful enforcement of this section, the



1 department may request the court to award the department its
2 enforcement costs, including, but not limited to, its reasonable
3 attorneys' fees for pursuing the action.

4 (f) It is the intent of the Legislature in enacting this section, to
5 strengthen the ability of local governments to enforce zoning
6 ordinances governing advertising displays.

7 SEC. 6. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

