

AMENDED IN ASSEMBLY MARCH 19, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2566

Introduced by Assembly Member ~~Carter Hill~~

February 24, 2012

An act to amend Section ~~5093.50~~ of the ~~Public Resources Code~~, relating to ~~natural resources 5485~~ of, and to add Section 5272.5 to, the *Business and Professions Code*, relating to outdoor advertising.

LEGISLATIVE COUNSEL'S DIGEST

AB 2566, as amended, ~~Carter Hill~~. ~~Natural resources: wild and scenic rivers.~~ *Outdoor advertising: exemptions.*

Existing law, the Outdoor Advertising Act, regulates the placement of outdoor advertising displays along highways. Certain exemptions from the regulations of the act are provided, including exemptions for certain on-premises advertising displays that advertise the business conducted, services rendered, or goods produced or sold on the property where the displays are located.

This bill would provide an exemption from the regulations of the Outdoor Advertising Act for an advertising display located at Post Mile 31.51, 510 feet south of Magellan Road, on State Route 101, in the County of San Mateo, if certain conditions, including certain specified conditions relating to the size of the display, are satisfied.

Existing law requires the Department of Transportation to assess penalties for a violation of the Outdoor Advertising Act, as specified.

This bill would permit the department or the adjudicating authority to reduce the penalty upon a showing of good cause.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of San Mateo.

~~Existing law establishes that it is the policy of the state that certain rivers that possess extraordinary scenic, recreational, fishery, or wildlife values shall be preserved in their free-flowing state, together with their immediate environments, for the benefit and enjoyment of the people of the state.~~

~~This bill would add that these rivers should be preserved for the benefit and enjoyment of future generations to this policy.~~

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

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

- 1 SECTION 1. Section 5272.5 is added to the Business and
- 2 Professions Code, to read:
- 3 5272.5. None of the provisions of this chapter apply to an
- 4 advertising display located at Post Mile 31.51, 510 feet south of
- 5 Magellan Road, on State Route 101, in the County of San Mateo,
- 6 if all of the following conditions are met:
- 7 (a) Written evidence is provided to the department indicating
- 8 that both the owner or person in control or possession of the
- 9 property upon which the advertising display is to be located and
- 10 the city or county with land use jurisdiction over that property
- 11 have consented to the placing of the display.
- 12 (b) Placement of the display will not necessitate trimming,
- 13 pruning, topping, or removal of existing trees in order to make the
- 14 display visible or to improve its visibility, unless done as part of
- 15 the normal landscape maintenance activities that would be
- 16 undertaken without regard to the placement of the display.
- 17 (c) The display does not advertise products or services that are
- 18 directed at an adult population, including, but not limited to,
- 19 alcohol, tobacco, gambling, or sexually explicit material.
- 20 (d) The display does not cause a reduction in federal aid
- 21 highway funds, as provided in Section 131 of Title 23 of the United
- 22 States Code. If the display causes a reduction in federal aid
- 23 highway funds, the department shall revoke the permit granted
- 24 under this section.
- 25 (e) The display is not flashing, as defined in Section 5211, is
- 26 not a message center, as defined in Section 5216.4, and is not
- 27 bigger than 72 inches in length and 168 inches in height.
- 28 (f) The display contains the words “beach access.”

1 *SEC. 2. Section 5485 of the Business and Professions Code is*
2 *amended to read:*

3 5485. (a) (1) The annual permit fee for each advertising
4 display shall be set by the director.

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

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

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

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

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

30 (3) *Notwithstanding paragraph (2), a penalty assessed under*
31 *this subdivision may be reduced by the department upon a showing*
32 *of good cause presented to the department within 30 days of the*
33 *decision imposing the penalty, or by the authority before which*
34 *the matter is adjudicated.*

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

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

4 (e) Notwithstanding any other provision of law, if an action
5 results in the successful enforcement of this section, the department
6 may request the court to award the department its enforcement
7 costs, including, but not limited to, its reasonable attorneys' fees
8 for pursuing the action.

9 (f) It is the intent of the Legislature in enacting this section to
10 strengthen the ability of local governments to enforce zoning
11 ordinances governing advertising displays.

12 *SEC. 3. The Legislature finds and declares that a special law*
13 *is necessary and that a general law cannot be made applicable*
14 *within the meaning of Section 16 of Article IV of the California*
15 *Constitution because of the unique circumstances concerning the*
16 *location of the advertising that is the subject of this act and the*
17 *need for advertising in the County of San Mateo, it is necessary*
18 *that an exemption from the Outdoor Advertising Act be provided*
19 *for that advertising.*

20 ~~SECTION 1. Section 5093.50 of the Public Resources Code~~
21 ~~is amended to read:~~

22 ~~5093.50. It is the policy of the State of California that certain~~
23 ~~rivers that possess extraordinary scenic, recreational, fishery, or~~
24 ~~wildlife values shall be preserved in their free-flowing state,~~
25 ~~together with their immediate environments, for the benefit and~~
26 ~~enjoyment of the people of the state and future generations. The~~
27 ~~Legislature declares that such use of these rivers is the highest and~~
28 ~~most beneficial use and is a reasonable and beneficial use of water~~
29 ~~within the meaning of Section 2 of Article X of the California~~
30 ~~Constitution. It is the purpose of this chapter to create a California~~
31 ~~Wild and Scenic Rivers System to be administered in accordance~~
32 ~~with the provisions of this chapter.~~