

SECOND REGULAR SESSION  
[P E R F E C T E D]  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 1064**  
93RD GENERAL ASSEMBLY

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Reported from the Committee on Economic Development, Tourism and Local Government, March 9, 2006, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 1064, adopted April 4, 2006.

Taken up for Perfection April 4, 2006. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

5187S.04P

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**AN ACT**

To repeal sections 226.530 and 226.580, RSMo, and to enact in lieu thereof two new sections relating to outdoor advertising.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 226.530 and 226.580, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 226.530 and 226.580, to  
3 read as follows:

226.530. 1. The state highways and transportation commission [is  
2 required to] **shall** issue one-time permanent permits as provided in section  
3 226.550 for the erection and maintenance of outdoor advertising along [the  
4 interstate and primary highway systems and] **any interstate highways, the  
5 federal-aid primary system as it existed on June 1, 1991, or the national  
6 highway system as amended.**

7 **2. The commission is authorized to void any permit under any of  
8 the following conditions and no compensation shall be paid:**

9 **(1) When there has been any misrepresentation of a material fact  
10 by the applicant on a permit application and the sign is removed under  
11 section 226.580;**

12 **(2) When the commission determines that a change has been  
13 made to a conforming sign by the sign owner and the sign has been  
14 removed under section 226.580; or**

15 **(3) When the commission determines that a substantial change**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

16 **has been made to a nonconforming sign by the sign owner such that the**  
17 **sign's nonconforming status was terminated and the sign was removed**  
18 **under the commission's administrative rules for maintenance of**  
19 **nonconforming signs.**

20 **3. The commission is also authorized to void any permit when**  
21 **the commission determines that such permit has been erroneously**  
22 **issued by department of transportation staff in violation of any state**  
23 **law or administrative rule and the outdoor advertising shall be subject**  
24 **to removal and compensation shall be paid under section 226.570.**

25 **4. Subject to section 226.540, the commission is authorized to**  
26 **promulgate only those rules and regulations of minimal necessity and consistent**  
27 **with customary use to secure to this state any federal aid contingent upon**  
28 **compliance with federal laws, rules and regulations relating to outdoor**  
29 **advertising. No rule or portion of a rule promulgated under the authority of this**  
30 **section shall become effective unless it has been promulgated pursuant to the**  
31 **provisions of section 536.024, RSMo.**

226.580. 1. The following outdoor advertising within six hundred sixty  
2 feet of the right-of-way of interstate or primary highways is deemed unlawful and  
3 shall be subject to removal:

4 (1) Signs erected after March 30, 1972, contrary to the provisions of  
5 sections 226.500 to 226.600 and signs erected on or after January 1, 1968, but  
6 before March 30, 1972, contrary to the sizing, spacing, lighting, or location  
7 provisions of sections 226.500 to 226.600 as they appeared in the revised statutes  
8 of Missouri 1969; or

9 (2) Signs for which a permit is not obtained or a biennial inspection fee  
10 is more than twelve months past due; or

11 (3) Signs which are obsolete. Signs shall not be considered obsolete solely  
12 because they temporarily do not carry an advertising message; or

13 (4) Signs that are not in good repair; or

14 (5) Signs not securely affixed to a substantial structure; or

15 (6) Signs which attempt or appear to attempt to regulate, warn, or direct  
16 the movement of traffic or which interfere with, imitate, or resemble any official  
17 traffic sign, signal, or device; [or]

18 (7) Signs which are erected or maintained upon trees or painted or drawn  
19 upon rocks or other natural features; or

20 (8) Signs for which a permit was obtained based on a

21 **misrepresentation of a material fact.**

22           2. Signs erected after August 13, 1976, beyond six hundred sixty feet of  
23 the right-of-way outside of urban areas, visible from the main traveled way of the  
24 interstate or primary system and erected with the purpose of their message being  
25 read from such traveled way, except those signs described in subdivisions (1) and  
26 (2) of section 226.520 are deemed unlawful and shall be subject to removal.

27           3. If a sign is deemed to be unlawful for any of the reasons set out in  
28 subsections 1 to 7 of this section, the state highways and transportation  
29 commission shall give notice either by certified mail or by personal service to the  
30 owner or occupant of the land on which advertising believed to be unlawful is  
31 located and the owner of the outdoor advertising structure. Such notice shall  
32 specify the basis for the alleged unlawfulness, shall specify the remedial action  
33 which is required to correct the unlawfulness and shall advise that a failure to  
34 take the remedial action within sixty days will result in the sign being  
35 removed. Within sixty days after receipt of the notice as to him, the owner of the  
36 land or of the structure may remove the sign or may take the remedial action  
37 specified or may file an action for administrative review pursuant to the  
38 provisions of sections 536.067 to 536.090, RSMo, to review the action of the state  
39 highways and transportation commission, or he may proceed under the provisions  
40 of section 536.150, RSMo, as if the act of the highways and transportation  
41 commission was one not subject to administrative review. Notwithstanding any  
42 other provisions of sections 226.500 to 226.600, no outdoor advertising structure  
43 erected prior to August 28, 1992, defined as a "structure lawfully in existence" or  
44 "lawfully existing", by subdivision (1), (2) or (3) of subsection 3 of section 226.550,  
45 shall be removed for failure to have a permit until a notice, as provided in this  
46 section, has been issued which shall specify failure to obtain a permit or pay a  
47 biennial inspection fee as the basis for alleged unlawfulness, and shall advise  
48 that failure to take the remedial action of applying for a permit or paying the  
49 inspection fee within sixty days will result in the sign being removed. Signs for  
50 which biennial inspection fees are delinquent shall not be removed unless the fees  
51 are more than twelve months past due and actual notice of the delinquency has  
52 been provided to the sign owner. Upon application made within the sixty-day  
53 period as provided in this section, and accompanied by the fee prescribed by  
54 section 226.550, together with any inspection fees that would have been payable  
55 if a permit had been timely issued, the state highways and transportation  
56 commission shall issue a one-time permanent permit for such sign. Such signs

57 with respect to which permits are so issued are hereby determined by the state  
58 of Missouri to have been lawfully erected within the meaning of "lawfully erected"  
59 as that term is used in Title 23, United States Code, Section 131(g), as amended,  
60 and shall only be removed upon payment of just compensation, except that the  
61 issuance of permits shall not entitle the owners of such signs to compensation for  
62 their removal if it is finally determined that such signs are not "lawfully erected"  
63 as that term is used in Section 131(g) of Title 23 of the United States Code.

64 4. If actual notice as provided in this section is given and neither the  
65 remedial action specified is taken nor an action for review is filed, or if an action  
66 for review is filed and is finally adjudicated in favor of the state highways and  
67 transportation commission, the state highways and transportation commission  
68 shall have authority to immediately remove the unlawful outdoor  
69 advertising. The owner of the structure shall be liable for the costs of such  
70 removal. The commission shall incur no liability for causing this removal, except  
71 for damage caused by negligence of the commission, its agents or employees.

72 5. If notice as provided in this section is given and an action for review  
73 is filed under the provisions of section 536.150, RSMo, or if administrative review  
74 pursuant to the provisions of sections 536.067 to 536.090, RSMo, is filed and the  
75 state highways and transportation commission enters its final decision and order  
76 to remove the outdoor advertising structure, the advertising message contained  
77 on the structure shall be removed or concealed by the owner of the structure, at  
78 the owner's expense, until the action for judicial review is finally adjudicated. If  
79 the owner of the structure refuses or fails to remove or conceal the advertising  
80 message, the commission may remove or conceal the advertising message and the  
81 owner of the structure shall be liable for the costs of such removal or  
82 concealment. The commission shall incur no liability for causing the removal or  
83 concealment of the advertising message while an action for review is pending,  
84 except if the owner finally prevails in its action for judicial review, the  
85 commission will compensate the owner at the rate the owner is actually receiving  
86 income from the advertiser pursuant to written lease from the time the message  
87 is removed until the judicial review is final.

88 6. Any signs advertising tourist-oriented type business will be the last to  
89 be removed.

90 7. Any signs prohibited by section 226.527 which were lawfully erected  
91 prior to August 13, 1976, shall be removed pursuant to section 226.570.

92 8. The [transportation department] **state highways and**

93 **transportation commission** shall reimburse to the lawful owners of any said  
94 nonconforming signs that are now in existence as defined in sections 226.540,  
95 226.550, 226.580 and 226.585, said compensation calculated and/or based on a  
96 fair market value and not mere replacement cost.

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Unofficial

Bill

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