RESTRICTIONS ON OUTDOOR ADVERTISING DEVICES IN RURAL KENTUCKY

(88 House Resolution 220)

Research Report No. 246

LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

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(88 House Resolution 220)

Prepared by:
Jerry Deaton

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FRANKFORT, KENTUCKY
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This report was prepared by the Legislative Research Commission and paid for from state funds.

FOREWORD

In response to House Resolution 220 of the 1988 General Assembly, this study examines the easing of restrictions on outdoor advertising devices located on interstate and federal aid primary highways in Kentucky.

There has been considerable interest in this topic, but until now no one document contained both background information on the laws, and up-to-date listings of state and federal regulations.

This study attempts to give some insight into the possibilities available to the General Assembly regarding outdoor advertising legislation for rural sections of interstates, while at the same time presenting a wide variety of information in one document.

Grateful acknowledgment is made of the cooperation of state and federal Transportation Department officials and employees, and other independent agencies and corporations who furnished information. Credit should be given to Adell Kemper for typing the manuscript for publication.

Vic Hellard, Jr.
Director

The Capitol
Frankfort
January 1990

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I.

INTRODUCTION

Since its inception in 1956, the interstate highway system has been the source of an on-going series of debates on the placement of outdoor advertising devices adjacent to its many miles of rural highway. According to former state Secretary of Transportation James Runke, "There doesn't seem to be any middle ground . . . . You're either one-hundred percent for it or one-hundred percent against it."[1] Kentucky has many miles of rural interstate within its boundaries, and the General Assembly has been confronted by this issue on several occasions, including the 1988 Regular Session. Numerous pieces of legislation were discussed; however, in the end, it was apparent that there existed no consensus on the issue. As a result, the General Assembly passed House Resolution 220, requesting the Legislative Research Commission to study the need for outdoor advertising as it relates to the promotion of tourism in rural areas of the Commonwealth.

This study attempts to discuss several key issues involved with outdoor advertising. Discussion of the first issue includes legislative history, both state and federal, including the 1958 Bonus Act and the 1965 Beautification Act, the initial federal legislation, and their effects on the path Kentucky has taken in billboard regulation. An analysis of the Cotton Amendment, which was attached to the 1958 Act, addresses the positive and negative aspects involved should Kentucky choose to adopt this provision.

Secondly, it is necessary to examine each side of the billboard issue. There are many valid arguments for and against easing restrictions on outdoor advertising on the interstates. Viewpoints of such groups as the Kentucky Planning Association, outdoor advertising companies, environmental organizations and local government officials are presented with the hope that a better understanding of all the issues involved may be attained.

Finally, this study discusses various issues which will have to be addressed should the General assembly decide to enact a less stringent billboard policy. Since such issues as repayment of Bonus and sign acquisition monies, additional responsibilities for the Kentucky Department of Transportation, restructuring of zoning laws, and the modification of the Logo Program will have a monetary impact upon the Commonwealth, they are included in the discussion of the larger issue of easing restrictions on outdoor advertising devices.

II.

LEGISLATIVE HISTORY

Kentucky's first billboard legislation was passed in 1960, in order to bring the state into compliance with the 1958 Bonus Act. This legislation gave the Commissioner of Highways the power to regulate advertising on interstate highways and set forth the principle standards which the state was to follow. The following, for example, is a list of devices that are not considered a violation of the federal policy: an advertising device erected on property for the purpose of indicating either the name and address of the owner of the property, the name or type of business conducted on the property; information required by law; a device which is not visible from any portion of the highway; a device indicating the sale or leasing of the property; a device which complies with the zoning ordinances of any county or city and which is located in a commercially or industrially developed area. Also, in accordance with federal standards, Kentucky has provided that no billboards be erected within 660 feet of the edge of the right-of-way or beyond the 660-foot mark on areas located outside of urban areas. All of Kentucky's statutes governing advertising devices on interstate and federal aid highways can be found in KRS 177.830 through KRS 177.890 (See Appendix A). These statutes are enhanced by a group of administrative regulations found in 603 KAR 3:010 and 603 KAR 3:020 (See Appendix A). Exceptions were made only for the previously mentioned allowable signs.

As we all know from traveling the interstates, numerous signs already exist on these highways. These signs fall into one of the following categories: legal signs, illegal signs, and non-conforming signs. Legal signs are those signs that conform to statutes and regulations governing them. Illegal signs are obviously signs that do not conform to state laws. Non-conforming signs are signs that were legal when they were erected, but due to changes in the law, no longer remain in compliance. They are allowed to remain until federal acquisition money has been made available to the state for their purchase. They cannot be repaired or receive anything other than routine maintenance for the remainder of their existence.

Any sign erected along an interstate highway is subject to a strict set of guidelines set forth by the Department of Transportation. For example, all signs must meet lighting, spacing and size requirements. The phrasing and construction of the sign are also regulated. Signs may not have a flashing light or be lit by a colored light; nor may they be erected so as to attract attention away from a traffic control device.

1988 Regular Session

Outdoor advertising received more attention from the General Assembly during the 1988 regular session than it had during any previous legislative session. Five bills, which included House Bill 691, House Bill 706, House Bill 824, House Bill 998, and Senate Bill 291, sought to change the current billboard policy. (See Appendix C.)

House Bill 706 was the only piece of legislation that received serious consideration. The bill initially sought to ease restrictions through the exemption of areas zoned for commercial or industrial use outside of urban areas. The House of Representatives passed

a committee substitute for House Bill 706 by a margin of 52-44. The Senate, however, submitted its own proposal in the form of a committee substitute, but chose not to vote on the measure. The House committee substitute for House Bill 706 was recommitted to the Senate Agriculture and Natural Resources Committee, where it remained until the end of the session.

1958 Bonus Act

The 1958 Federal Aid Highway Act was the first legislative attempt to set nationwide standards for controlling outdoor advertising. Many felt that since the federal government was paying ninety percent of the cost of highway construction, it would be reasonable to adopt uniform standards to preserve the landscape along these highways.[2] Therefore, as part of this act, which came to be known as the "Bonus Act", states could enter into a voluntary agreement with the federal government which would allow them to receive one-half of one percent of the total construction cost of an interstate if they agreed to adopt federal standards for billboard control.

The Bonus Act involved the control of outdoor advertising devices within 660 feet of the edge of the right-of-way. According to this act the only signs permitted within the controlled area were: directional signs; on premise signs describing the sale, lease of or activity conducted on the property; signs within 12 miles of the advertised activity and located in an industrial or commercial area; signs in the interest of travelers (limited to information about public places operated by federal, state or local governments; natural phenomena; historic sites; areas of natural or scenic beauty; outdoor recreations; camping sites; places for lodging or eating; and vehicle service repairs).

As of June 30, 1965, the last day for eligibility to enter the program, twenty-five states had agreed to participate. Georgia and North Dakota have since dropped out of the program and the following twenty-three states remain: California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, Kentucky, Maine, Maryland, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, West Virginia, and Wisconsin.[3]

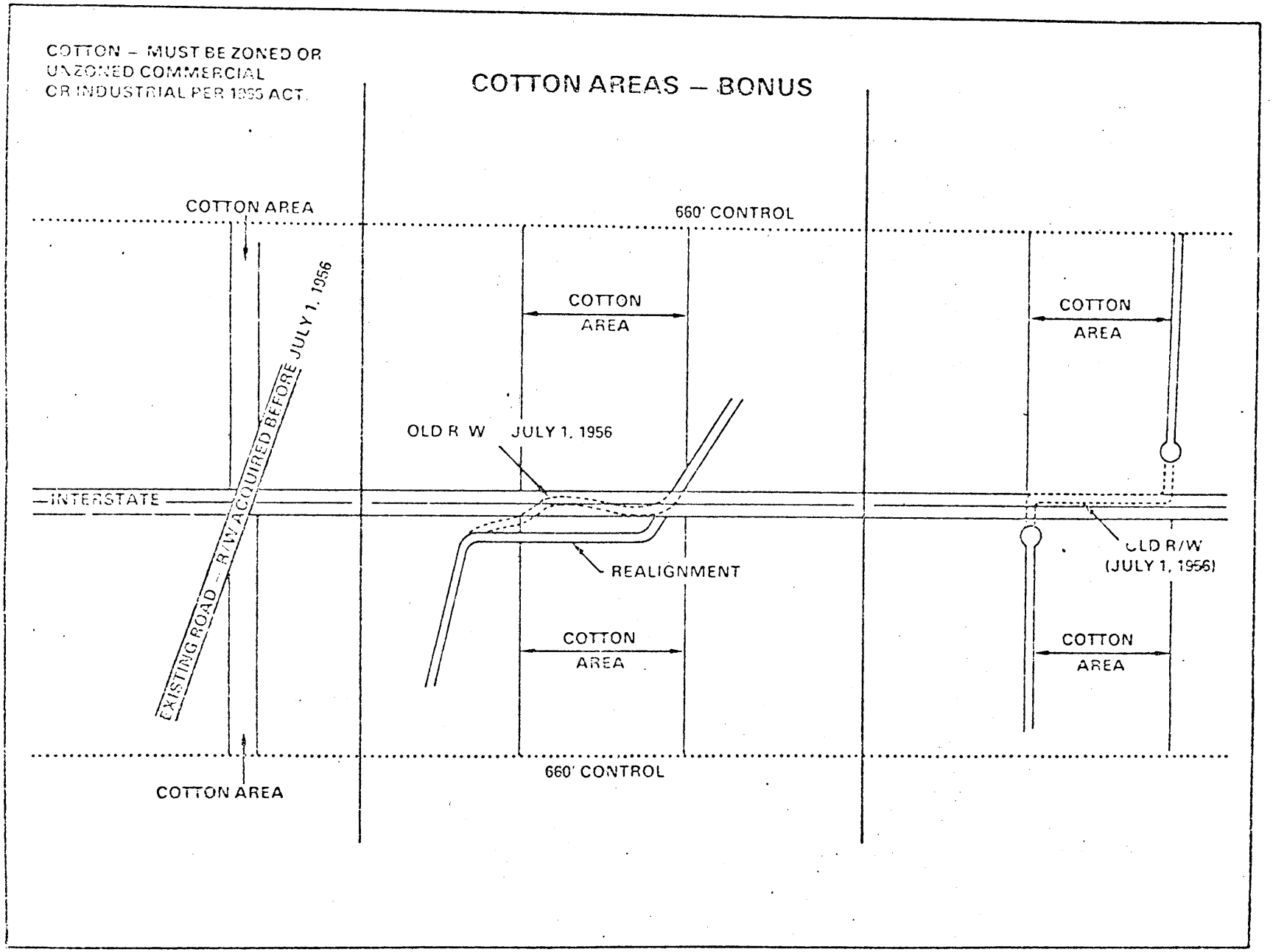
1965 Highway Beautification Act

In 1965 President Johnson signed into effect the "Highway Beautification Act", making billboard control mandatory for all states and adding federal aid primary highways to the list of highways to be controlled. Many experts, however, felt that the 1965 Act weakened the law to the extent that billboard control would become extremely difficult.[4] Pursuant to this Act, signs could now be permitted as follows: those located in commercial or industrial zones or areas as determined in the agreement between the United States Secretary of Transportation and each state; directional and official signs, subject to size, lighting and spacing requirements set by the U.S. Secretary of Transportation; and on-premise signs, which were not subject to any control. States under the bonus agreement could still be eligible for bonus payments as long as they met the requirements of the more stringent of the two acts. This Act also set forth a substantial penalty for states failing to adhere to control. Any state found in violation was subject to a ten percent reduction of its federal highway aid.

Billboard acquisition was also addressed. Payment of compensation was made mandatory for removal of all non-conforming signs. In addition, no signs could be removed until the federal share of compensation was made available. As of December 31, 1978, the combined effort of all the states had resulted in the removal of 91,875 non-conforming signs.[5] This task was accomplished with a total expense of $107.5 million. This left approximately 214,779 non-conforming signs in existence. A report submitted by the General Accounting Office estimated that it would require $823 million to remove the remaining signs. At the current appropriation level, it is estimated that it would take 110 years to complete the program.[6]

Cotton Amendment

The so-called "Cotton Amendment" to the 1958 Bonus Act created an exemption which, when adopted by a state, would allow billboards to be legally erected within 660 feet of the right-of-way of an interstate or primary highway, in areas in which right-of-way was purchased prior to July 1, 1956, and which have been zoned either commercial or industrial. The following diagram indicates how a "Cotton Area" is determined.


COTTON – MUST BE ZONED OR
UNZONED COMMERCIAL
OR INDUSTRIAL PER 1965 ACT.
COTTON AREAS – BONUS
COTTON AREA
660' CONTROL
EXISTING ROAD – R/W ACQUIRED BEFORE JULY 1, 1956
COTTON
AREA
OLD R W JULY 1, 1956
INTERSTATE
REALIGNMENT
OLD R/W
(JULY 1, 1956)
COTTON
AREA
COTTON
AREA
660' CONTROL
COTTON AREA

States seeking to receive bonus payments through in the 1958 Act would not only be eligible to qualify for bonus payments, they would also be able to allow erection of billboards within the 660-foot protected area on certain sections of their interstates, through adoption of this amendment. According to Federal Highway Administration records, the following Bonus States adopted the Cotton Amendment into their state laws: California, Colorado, Connecticut, Delaware, Maine, Nebraska, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, and West Virginia.

States which originally adopted the Cotton Amendment did so when the amendment was first approved and before any bonus payments were made; each state agreed to forfeit a portion of its bonus payments in order to allow signs to be erected. For example, if a portion of interstate overlapped a one-hundred-foot section of state right-of-way which was purchased prior to July 1, 1956, and was appropriately zoned, the state would not receive the one-half of one percent bonus payments for that one hundred foot section. (The 1965 Beautification Act added the requirement that Cotton Areas be within a zoned or unzoned commercial or industrial area.)

According to the terms of its agreement with the federal government (see Appendix A), Kentucky did recognize both the Kerr and Cotton Amendments. However, as allowed in Section 4 of the agreement, the state chose to adopt more stringent regulations for outdoor advertising than the federal restrictions. Thus, they chose not to "write into law" the terms of the Cotton or Kerr amendments.

Kentucky, in choosing not to adopt the provision of the Cotton Amendment, chose to participate fully in the Bonus Act and receive all of its share of bonus money. To date, Kentucky has received exactly $2,364,157.74 in bonus money, in the following allotments:

Interstate	Bonus Payment
I-24	$355,787.60
I-64	861,082.87
I-65	216,648.99
I-71	308,795.22
I-75	524,069.74
I-275	97,773.32
Total	$2,364,157.74

If Kentucky adopts the Cotton Amendment, it would be the first state to do so without having made an agreement with the federal government to withhold the appropriate amount of money. By so doing, Kentucky would have to refund a portion of the bonus money received in a proportion equal to the number of eligible Cotton Areas. For example, if on a ten mile section of interstate, one mile is designated as a Cotton Area, then one-half of one percent of the total cost of that one-mile section of interstate must be refunded

to the federal government. Though no funding exists for the Bonus program, the federal government currently owes Kentucky $3,260,175 in bonus payments. Adoption of the Cotton Amendment or other changes in billboard regulations would necessitate a reduction in any bonus payments paid to Kentucky in the future.

At this point no determination has been made on exactly how many miles of highway will be affected. However, the Kentucky Transportation Cabinet has determined that the following areas, providing they meet zoning requirements, could be eligible for signing under the Cotton Amendment:

I-24

McCracken	Lane Road Oaks Road
Marshall	KY 95 US 62 KY 282
Lyon	KY 453 US 62 & US 641, KY 293
Trigg	US 68 & KY 80
Caldwell	KY 139
Christian	US 41A

I-64

Franklin	US 60 Hanley Road KY 1659 KY 420 US 127 KY 1665 KY 151 KY 1472
Woodford	US 421 KY 341 Midway Road
Clark	KY 627 at Winchester KY 1958 at Winchester US 227 US 60 east of Mt. Zion
Carter	KY 1 US 60

Bath	KY 36 US 60 KY 211
Boyd	US 60 KY 966 US 23
Rowan	KY 32
Montgomery	KY 11 at Mt. Sterling US 60 at Mt. Sterling

I-65

Bullitt	KY 61 near Lebanon Junction KY 1113 KY 735 KY 480 KY 44 KY 61 in Shepherdsville KY North of Shepherdsville KY 245 KY 62 South of Bardstown Junction Harned Road
Hart	KY 218 US 31W KY 88
Larue	KY 224
Hardin	KY 84 KY 222 US 31W KY 1031 US 62 Western Kentucky Parkway KY 251 Poplar Flats Road
Simpson	US 31W KY 1640 KY 73 KY 100 KY 265 Salem Cross Road

Barren	KY 70 KY 255 US 31W KY 70-90
Warren	Green River Parkway KY 240 Richpond-Plano Road Rural Highway #1181 US 231 KY 872 KY 1288 KY 234 Porter Pike US 31W Connector Jackson Church Road Kelly Road Old Glasgow Road KY 1182 US 68 KY 101 Hildreth Shop Road Hays-Smiths Grove Cross Road KY 259

I-71

Henry	KY 153 KY 146 US 421
Oldham	KY 329 KY 146 KY 53
Boone	KY 1292
Carroll	Mill Creek Road KY 1112 KY 36 Ghent-Eagle Station Road KY 47
Gallatin	Tapering Point Road KY 562 Roberts Road Allphin Road Baker Road US 127

I-75

Grant	KY 330 Keefer Road Old KY 36 Barnea Pike Baton Rouge Road County Road Old Mt. Zion-Sherman Road Old KY 491
Madison	US 421 KY 52 KY 595 KY 169 US 227 US 25 KY 627 KY 21 KY 876
Scott	East Main Street of Georgetown US 25 KY 32 US 62 US 460 KY 620
Rockcastle	Hurricane School Road Rose Hill Road US 25 at Renfro US 25 at Burr Flat Gap Road Lambert Road
Laurel	US 25 KY 2041 KY 80 KY 192 KY 770 KY 909 KY 363 KY 490

Whitley	KY 1804
	KY 92
	KY 296
	US 25W at Goldbug
	US 25W south of Corbin
	KY 727
	KY 312

III.

PUBLIC INVOLVEMENT IN THE ISSUE

During the 1988 Regular Session, various groups testified either for or against proposed billboard legislation.

One such group was the Kentucky Chapter of the American Planning Association. This group was initially opposed to any changes whatsoever in state laws regulating billboards. The Association's views of billboard proposals expressed during the 1988 Regular Session can be summarized as follows:

- Cotton Areas: The issue of Cotton Areas was of great concern to the Planning Association. Their feeling was that a large number of Cotton Areas exist (300 in their estimation), and these areas would, in a worst case scenario, create a potential sign increase of 1,200 new structures along interstate and federal aid highways.

- Illegal signs: The Planning Association was also highly concerned with the large number of illegal billboards that exist in Kentucky (approximately 1,200). A March 24, 1988, *Courier Journal* article quotes Mr. Bob Johnson, of the Federal Highway administration, as saying that Kentucky may be in danger of having a ten percent penalty evoked on its federal highway aid, since it has allowed too many illegal signs to remain.

  The Planning Association suggested that if billboard legislation is approved, a compromise should be included which requires removal of two illegal signs for every new sign erected.

- Local zoning regulations: The planning association also felt that local zoning regulations should not be overruled by a less stringent state regulation.

Environmental groups have also taken an active interest in the billboard issue, lobbying hard against any easing of restrictions on these devices. Their argument has always been an aesthetic one; some have gone so far as to dub billboards "litter on a stick."

Environmentalists contend that billboards are usually large colorful structures which are placed away from the highway, often in scenic areas, and therefore detracting from the natural beauty of the area. In their opinion, these structures do not attract tourists to Kentucky. In fact, they claim that billboards are so unsightly that tourists would be less interested in Kentucky if more billboards were allowed.

The issue of whether billboards detract from an area's natural beauty has proven to be a matter of individual opinion. However, as environmental groups are quick to point out, an obvious blow is being dealt to the landscape through the illegal removal of trees and shrubs so that billboards may more easily be seen. In Florida, for example, by 1979, over 400 cases in which vegetation has been illegally removed had been reported. Often

the trees and shrubs were cut down, but sometimes concentrated amounts of herbicides were used to kill the plants, which then had to be removed by state highway crews.[7]

Many groups, on the other hand, are in favor of easing restrictions on billboards. Proponents have argued that billboards will increase dollars in the state's third largest industry, tourism. The outdoor advertising industry has long been a proponent of easing advertising restrictions along the interstate. Their argument is that adequate advertising has been proven to draw highway travellers into the local community and has thus served as a boost to the local economy.

In support of their argument, sign companies have submitted letters from satisfied customers, stating a growth in business and offering thanks for the invaluable service these signs have provided them. Examples of these letters, as submitted by the Naegele sign company in Louisville, Kentucky, can be found in Appendix D.

The sign industry is not the only group in favor of increasing billboard numbers. Some local government officials report that corporate executives who would like to locate in their area are often concerned about the ability to advertise on the interstates. The larger companies or businesses are interested in being near the interstate and consider advertising on these highways to be a major consideration in choosing a new location. The local officials feel that the restrictions on Kentucky's interstates have caused a number of businesses to lose interest in their area and locate out-of-state.

Another significant claim is that Kentucky could be a major industrial hub due to its central location in the eastern United States. However, without the advantages of outdoor advertising, it is argued that companies would not be interested in locating in Kentucky.

IV.

CONSIDERATION FOR STATE INVOLVEMENT

If the General Assembly chooses to enact billboard legislation, a number of issues should be addressed.

Implementation Through Administrative Regulations

There is a possibility that statutory changes do not have to be made and that the Cotton Amendment can be implemented through administrative regulation. The agreement found in Appendix B contains language that allows Kentucky to adopt both the Cotton and Kerr amendments if it so desires. This simply means that Kentucky already recognizes both amendments. Also, in KRS 177.865 the following language exists: "(2) Adoption of this section and KRS 177.860 shall in no way preclude or prevent the erection of highway advertising on exempted right of ways provided in Public Law 85-381." House Bill 824 (1988 Regular Session) . . . was based on this idea and sought to mandate that the Transportation Cabinet adopt administrative regulations which would allow for the erection of advertising devices on exempted rights-of-way.

Loopholes Created by Vague or Inadequate Definitions

In the past, state and local zoning bodies have at times misused their zoning powers in order to allow signs to be erected. For example, South Dakota zoned all land within 660 feet of an interstate or primary highway up to fifteen miles from municipal limits as commercial.[8] The Federal Highway Commission ruled that zoning created to permit outdoor advertising is not recognized as legal zoning. South Dakota challenged this position in the courts when the Secretary of Transportation decided to evoke the ten percent penalty rule. The penalty was subsequently upheld by the courts, and South Dakota took measures to improve its zoning problem during the next legislative sessions.

Abuse has also occurred when a state uses a vague definition of "unzoned commercial or industrial area". KRS 177.830 gives the following definition for this term: "an area which is not zoned by state or local law, regulation or ordinance and on which either a commercial or industrial activity is conducted or a permanent structure therefor is located together with the area extending along the highway for such distances as may be determined by regulation promulgated by the Secretary of Transportation. Each side of the highway will be considered separately in applying this definition — all measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall be along or parallel the edge of the pavement of the highway."

A definition of this nature could be taken to permit the erection of signs in areas where only a small business, such as a lawn mower repair shop in a residential garage, may exist.

In order to avoid this situation, the definition could be rephrased to require the

presence of two or more commercial or industrial enterprises, visible from the highway. Another possibility is found in the following Illinois statutes:

121 § 503.10 Commercial or industrial activities defined.

§ 3.10. "Commercial or industrial activities" means those activities located within 660 feet of the nearest edge of the right-of-way generally recognized as commercial or industrial by zoning authorities in this State, but does not include the following:

(a) Agricultural, forestry, ranging, grazing and farming activities, including wayside fresh produce stands and grain storage bins;

(b) Railroad tracks and minor sidings;

(c) Transient or temporary activities not involving permanent buildings or structures;

(d) Outdoor advertising structures;

(e) Activities not visible from a main-traveled way;

(f) Activities conducted in a building principally used as a residence.

121 § 503.11. Unzoned commercial or industrial areas defined

§ 3.11. "Unzoned commercial or industrial area" means any area adjacent to the right-of-way of a primary highway not zoned by any county or municipality and which lies within 600 feet of any commercial or industrial activity. All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall be along or parallel to the edge or pavement of the highway. On primary highways other than expressways where there is an unzoned commercial or industrial area on one side of the road in accordance with the preceding, the unzoned commercial or industrial area shall also include those lands directly opposite on the other side of the highway to the extent of the same dimensions except where such lands are publicly owned or controlled for scenic or recreational purposes.

Repayment of Bonus Money and Sign Acquisition Money

Upon enactment of "Cotton legislation" or other legislation exempting previously restricted areas, the Kentucky Transportation Cabinet would have to begin the process of determining how much of the $2.36 million in bonus money must be repaid to the federal government. This determination is based upon the one-half of one percent of total cost of construction mentioned earlier. Also, an agreement would have to be reached between the Transportation Cabinet and the federal government as to how much of the future bonus payments should be withheld. Currently the state is due to receive $3,260,175 in bonus payments.

The Cabinet would also be responsible for determining how much of the $4,719,551

in sign acquisition money which was paid to the state for the removal of nonconforming signs must be repaid. This, according to Cabinet officials, will be a lengthy and difficult process and no exact refund figures can be obtained until the procedure is actually completed.

Modification of Logo Program.

Kentucky Administrative Regulation 603 KAR 4:035 allows businesses providing motorist services, such as gas, food, lodging and camping, the opportunity to purchase an advertising spot on standardized green signs erected near exit ramps on the interstates. (See Appendix A.) Businesses located nearest the interstate are given first priority and many use their private logo to inform motorists of their location.

Federal regulations do not allow non-motorist-related industries or businesses to advertise their goods or services on such signs. There is, however, the possibility that historical landmarks or geological points of interests could be added to the list of advertising signs erected under the logo program, providing an additional contribution to tourism. The Kentucky Transportation Cabinet is currently studying a proposal of this nature, and is working with the federal Department of Transportation on the process. Their findings, however, have not yet been released.

This study has attempted to bring together the legislative history of billboard control on interstates through discussion of the 1958 Bonus Act, the 1965 Beautification Act and an amendment to the 1958 Act known as the Cotton Amendment. With a knowledge of previous legislation and other information contained within regarding public interests and values the 1990 General Assembly will be in a position to better understand economic and environmental issues should it decide to enact further billboard legislation.

FOOTNOTES

1. Courier, Journal, 11-24-83, *Backlash causes state to drop billboard plan*, Alan Judd.

2. Floyd, Charles F., Shedd, Peter J., Highway Beautification: The Environmental Movements Greatest Failure. Westview pg. 65

3. U.S. Department of Transportation, Highway Beautification Program Digest, April 30, 1979. pg. 1

4. Floyd, Charles F., Requiem for the Highway Beautification Act. Journal of the American Planning Association. pg 441

5. U.S. Department of Transportation, Highway Beautification Program Digest, April 30, 1979. pg. 22

6. Floyd/Shedd, Highway Beautification; The Environmental Movements Greatest Failure. pg. 123

7. Ibid. pg. 128.

8. Floyd, Charles F., Requirem for the Highway Beautification Act. J.A.P.A. pg 442 & 443

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2. Floyd, Charles F., Shedd, Peter J., Highway Beautification: The Environmental Movements Greatest Failure. Westview
3. Floyd, Charles F., Requiem for the Highway Beautification Act. JOurnal of American Planning Association.
4. U.S. Department of Transportation, Highway Beautification Program Digest, April 30, 1979.

APPENDIX A

Appendix A

177.830 Definitions for KRS 177.830 to 177.890.

As used in KRS 177.830 to 177.890, unless the context requires otherwise:

(1) "Limited-access highway" means a road or highway or bridge constructed pursuant to the provisions of KRS 177.220 through 177.310;

(2) "Interstate highway" means any highway, road, street, access facility, bridge or overpass which is designated as a portion of the national system of interstate and defense highways as may be established by law, or as may be so designated by the transportation cabinet in the joint construction of the system by the transportation cabinet and the United States department of transportation, bureau of public roads;

(3) "Federal-aid primary highway" means any highway, road, street, appurtenant facility, bridge or overpass which is designated as a portion of the federal-aid primary highway system as may be established by law or as may be so designated by the transportation cabinet and the United States department of transportation;

(4) "Turnpike" means any road or highway or appurtenant facility constructed pursuant to the provisions of KRS 177.390 through 177.570, or pursuant to the provisions of any other definition of "turnpike" in the Kentucky Revised Statutes, or any other highway, road, parkway, bridge or street upon which a toll or fee is charged for the use of motor vehicular traffic;

(5) "Advertising device" means any billboard, sign, notice, poster, display or other device intended to attract the attention of operators of motor vehicles on the highways, and shall include a structure erected or used in connection with the display of any device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state or other public agency having jurisdiction;

(6) "Highway or highways" as used in KRS 177.830 to 177.890 means limited access highway, interstate highway, federal-aid primary highway, or turnpike as defined in KRS 177.830 to 177.890;

(7) "Commercial or industrial zone" adjacent to a federal-aid primary highway means an area zoned to permit business, commerce or trade pursuant to lawful ordinance or regulation;

(8) "Unzoned commercial or industrial area" adjacent to a federal-aid primary highway means an area which is not zoned by state or local law, regulation or ordinance and on which either a commercial or industrial activity is conducted or a permanent structure therefor is located together with the area extending along the highway for such distances as may be determined by regulation promulgated by the secretary of transportation. Each side of the highway will be considered separately in applying this definition — all measurements shall be from the outer edges of the regularly used buildings,

parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall be along or parallel the edge of the pavement of the highway;

(9) "Commercial or industrial activities" for purposes of unzoned industrial and commercial areas means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

(a) Outdoor advertising structures;

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

(c) Activities normally or regularly in operation less than three (3) months of the year;

(d) Transient or temporary activities;

(e) Activities not visible from the main traveled way;

(f) Activities more than 300 feet from the nearest edge of the right of way;

(g) Activities conducted in a building principally used as a residence;

(h) Railroad tracks and minor sidings.

(10) "Urban areas" means those areas which the secretary of transportation, in the exercise of his sound discretion and upon consideration being given to the population within boundaries of an area and to the traveling public, determines by official order to be urban; provided, however, that any such determination or designation of the secretary shall not, in any way, be at variance with the federal law or regulation thereunder or jeopardize the allotment or qualification for federal-aid funds of the Commonwealth of Kentucky.

177.841 Billboard advertising prohibited — Exceptions.

(1) Except as otherwise provided in KRS 177.830 to 177.890, the erection or maintenance of any advertising device upon or within 660 feet of the right of way of any interstate highway or federal-aid primary highway is prohibited.

(2) The erection or maintenance of any advertising device located outside of an urban area and beyond 660 feet of the right of way which is legible and/or identifiable from the main traveled way of any interstate highway or federal-aid primary highway is prohibited with the exception of:

(a) Directional and official signs and notices;

(b) Signs advertising the sale or lease of property upon which they are located; or

(c) Signs advertising activities conducted on the property on which they are located.

177.850 Purpose of KRS 177.830 to 177.890.

The general purposes of KRS 177.830 to 177.890 and its specific objectives and standards are:

(1) To provide for maximum visibility along interstate highways, limited-access highways, federal-aid primary highways, turnpikes, and connecting roads or highways;

(2) To prevent unreasonable distraction of operators of motor vehicles;

(3) To prevent confusion with regard to traffic lights, signs or signals or otherwise interfere with the effectiveness of traffic regulations;

(4) To preserve and enhance the natural scenic beauty or the aesthetic features of the aforementioned interstate highways, limited-access highways, federal-aid primary highways, turnpikes, and adjacent areas;

(5) To promote maximum safety, comfort and well-being of the users of said highways.

177.860 Standards for billboard advertising.

The commissioner of highways shall prescribe by regulations reasonable standards for the advertising devices hereinafter enumerated, designed to protect the safety of and to guide the users of the highways and otherwise to achieve the objectives set forth in KRS 177.850, and the erection and maintenance of any of the following advertising devices, if they comply with such regulations, shall not be deemed a violation of KRS 177.830 to 177.890:

(1) An advertising device which is to be erected or maintained on property for the purpose of setting forth or indicating:

(a) The name and address of the owner, lessee or occupant of such property; or

(b) The name or type of business or profession conducted on such property; or

(c) Information required or authorized by law to be posted or displayed thereon.

(2) An advertising device which is not visible from any traveled portion of the highway;

(3) An advertising device indicating the sale or leasing of the property upon which it is placed;

(4) Advertising devices which otherwise comply with the applicable zoning ordinances and regulations of any county or city, and which are to be located in a commercially or industrially developed area, in which the commissioner of highways determines, in exercise of his sound discretion, that the location of such advertising devices is compatible with the safety and convenience of the traveling public;

(5) Advertising devices within highway rights-of-way to provide directional information for business establishments offering goods and services in the interest of the traveling public.

177.863 Highway advertising devices, what prohibited — Spacing — Size — Illumination.

Within any commercial or industrial zone or unzoned commercial or industrial area adjacent to a federal-aid primary highway, advertising devices shall be subject to the following standards:

(1) Prohibited advertising devices:

(a) Advertising devices that are not clean and in good repair.

(b) Advertising devices that are not securely affixed to a substantial structure.

(c) Advertising devices which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device.

(d) Advertising devices which obstruct the view of official signs, or approaching and merging traffic.

(e) Advertising devices on trees, or painted upon natural features.

(f) Advertising devices exceeding 1,250 square feet on each face including border and trim, but excluding supports.

(g) Advertising devices advertising an activity that is illegal under state or federal law.

(h) Obsolete advertising devices.

(2) Spacing of advertising devices:

(a) No advertising device structure designed to be primarily viewed from a non-limited access federal-aid primary highway shall be erected within 300 feet of any other such advertising device structure on the same side of the highway, unless separated by a building, natural obstruction or roadway. Provided, however, That in an incorporated municipality such required distance shall be reduced to 100 feet.

(b) Double-faced — V-type and/or back-to-back advertising device structures shall be one advertising device for spacing purposes.

(c) The minimum distance between advertising devices shall be measured along the nearest edge of the pavement between points directly opposite the advertising devices.

(d) Advertising devices advertising the sale or lease of the property on which they are located, or advertising the activity conducted thereon, are permitted, and shall not cause any other advertising device to be in violation of this chapter; notwithstanding any contrary provision.

(3) Size of advertising devices:

(a) The maximum area for any advertising device shall be 1,250 square feet, including border and trim but excluding supports.

(b) An advertising device structure may contain one (1) or two (2) advertisements per facing, not to exceed the maximum area.

(c) Double faced structures will be permitted with the maximum area being allowed for each facing.

(4) Lighting of advertising devices:

Advertising devices may be illuminated, subject to the following restrictions:

(a) Advertising devices which contain, include or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.

(b) Advertising devices which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled way of the highway which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

(c) No advertising device shall be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device or signal.

177.865 Regulations governing advertisement of goods and services.

(1) The commissioner of highways shall prescribe by regulation a state signing policy on installation of advertising services defined in KRS 177.860(5). This policy shall restrict the use of said signs to limited access highways of four (4) lanes or more, conform to the federal highway administration's standards for specific information signs and shall, as a minimum, include criteria for:

(a) Distances to eligible services;

(b) Selection of eligible businesses;

(c) Use of business signs and legends conforming to federal highway administration size provisions at intersections on expressways;

(d) Removing or covering business signs during off seasons for businesses operated on a seasonal basis;

(e) Defining the circumstances in which specific information signs may be used outside rural areas; and

(f) Determining the costs to businesses for initial installation, annual maintenance, and removal of business signs.

(2) Adoption of this section and KRS 177.860 shall in no way preclude or prevent the erection of highway advertising on exempted right of way as provided in Public Law 85-381.

177.867 Acquisition of billboards by state — Compensation.

(1) The secretary of the department of transportation is authorized to acquire by purchase, gift, or condemnation pursuant to the Eminent Domain Act of Kentucky and shall pay just compensation upon the removal of the following advertising devices:

(a) Those lawfully in existence on October 22, 1965;

(b) Those lawfully on any highway designated a part of the interstate or federal-aid primary system on or after October 22, 1965, and before January 1, 1968;

(c) Those lawfully erected on or after January 1, 1968; and

(d) Those lawfully in existence on January 1, 1976.

(2) Compensation shall be paid for the following:

(a) The taking from the owner of any such advertising device of all right, title, leasehold, and interest in such advertising device; and

(b) The taking from the owner of the real property on which the advertising device is located, of the right to erect and maintain such advertising devices thereon.

177.870 Violations declared a public nuisance.

Any advertising device erected, maintained, replaced, relocated, repaired or restored in violation of KRS 177.830 to 177.890 is hereby declared to be, and is, a public nuisance and such device may without notice be abated and removed by any officer or employe of the state bureau of highways or upon request of the commissioner by any peace officer.

603 KAR 3:010. Advertising devices on interstates.

RELATES TO: KRS 177.830 to 177.890
PURSUANT TO: KRS 174.080, 177.830 to 177.890
NECESSITY AND FUNCTION: KRS 177.830 to 177.890 authorizes the Department of Highways to establish regulations for the control of advertising devices on interstate highways.

Section 1. (1) Except as provided for in this regulation, no person shall erect or maintain any advertising device within any protected area if such device is legible or identifiable from the main traveled way of any interstate highway.

(2) The erection or maintenance of any advertising device located outside of "urban areas" and beyond 660 feet of the right of way which is legible and/or identifiable from the main traveled way of any interstate highway is prohibited with the exception of:

(a) Directional and official signs and notices;

(b) Signs advertising the sale or lease of property upon which they are located; or

(c) Signs advertising activities conducted on the property on which they are located.

Section 2. Definitions. The following terms when used in this regulation shall have the following meanings:

(1) "Advertising device" means any billboard, sign, notice, poster, display, or other device intended to attract the attention of operators of motor vehicles on the highway, and shall include a structure erected or used in connection with the display of any such device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state or other public agency having jurisdiction.

(2) "Billboard" advertising devices are those devices that contain a message relating to an activity or product that is foreign to the site on which the device and message is located or is an advertising device erected by a company or individual for the purpose of selling advertising messages for profit.

(3) "On-premise" advertising devices are those devices that contain a message relating to an activity or the sale of a product on the property on which they are located.

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

(5) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any way bring into being or establish.

(6) "Legible" means capable of being read without visual aid by a person of normal visual acuity, or capable of conveying an advertising message to a person of normal visual acuity.

(7) "Main traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of a separated roadway for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

(8) "Protected areas" means all areas within the boundaries of this Commonwealth which are adjacent to and within 660 feet of the edge of the right-of-way of all interstate highways within the Commonwealth. Where these highways terminate at a state boundary which is not perpendicular or normal to the center line of the highway, "protected areas" also means all areas inside the boundaries of the Commonwealth which are within 660 feet of the edge of the right-of-way of an interstate highway in an adjoining state.

(9) "Identifiable" means capable of being related to a particular product, service, business or other activity even though there is no written message to aid in establishing such relationship.

(10) "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(11) "Turning roadway" means a connecting roadway for traffic turning between two (2) intersecting legs of an interchange.

(12) "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(13) "Permitted" as used in this regulation means to exist only by permit from the Transportation Cabinet, Department of Highways.

(14) "Allowed" as used in this regulation means to exist without a permit from the Transportation Cabinet, Department of Highways.

(15) "Commercial or industrial area" means:

(a) The land use for the area as of September 21, 1959, was clearly established by state law as industrial or commercial and is zoned commercial or industrial at the time of the application, or

(b) The land use for such area was within an incorporated municipality as such boundaries existed on September 21, 1959, and is zoned for commercial or industrial use.

(16) "Commercial or industrial activities" means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

(a) Outdoor advertising structures.

(b) Hospitals, nursing homes, cemeteries, funeral homes, etc. Professional office buildings and roadside markets not open over three (3) months a yea

(c) Agricultural, forestry, ranching, grazing, farming and related activities.

(d) Activities conducted in a building principally used as a residence.

(e) Railroad tracks and minor sidings.

(f) The sale or leasing of property.

(17) "Urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one (1) state, that part of the urbanized areas in each such state or an urban place as designated by the Bureau of the Census having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible state and local officials in cooperation with each other, subject to approval by the Secretary of the United States Department of Transportation. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census. Such urban areas shall be designated by official order of the Kentucky Secretary of Transportation.

(18) "Routine maintenance" means that maintenance is limited to replacement of nuts and bolts, nailing, riveting or welding, cleaning and painting, or manipulating to level or plumb the device but not to the extent of adding guys or struts for the stabilization of the sign or structure or substantially changing the sign. Replacement of new or additional panels or facing shall not constitute routine maintenance. The routine changing of messages is considered to be routine maintenance. Routine maintenance includes laminating or preparing panels in a plant or factory for the changing of messages.

(19) "Activity boundary line" means regularly used buildings, parking lots, storage and process areas which are an integral part of and contiguous to the activity.

(20) "Abandoned or discontinued" means that for a period of one (1) year or more that the sign:

(a) Has not displayed any advertising matter; or

(b) Has displayed obsolete advertising matter; or

(c) Has needed substantial repairs.

(21) "Nonconforming sign" means a sign which was lawfully erected but does not comply with the provisions of state law or regulations passed at a later date or later fails to comply with state law or regulations due to changed conditions, such as but not limited to, zoning change, highway relocation or reclassification, size, spacing or distance restrictions. Performance of other than routine maintenance shall cause a nonconforming sign to lose its status and to become an illegal sign.

(22) "Destroyed" means that the sign has sustained damage by any means in excess of sixty (60) percent of the structure and facing or sixty (60) percent of the replacement value of such sign.

Section 3. General Provisions. (1) Erection or existence of the following advertising devices may not be permitted or allowed in protected areas:

(a) Advertising devices advertising an activity that is illegal under state or federal law.

(b) Obsolete advertising devices.

(c) Advertising devices that are not clean and in good repair.

(d) Advertising devices that are not securely affixed to a substantial structure.

(e) Advertising devices illuminated by other than white lights.

(f) Advertising devices which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device.

(g) Advertising devices which prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

(h) Signs which contain, include, or are illuminated by any flashing, intermittent or moving lights, except those giving public service information of time, date, temperature or weather and limited to one (1) cycle of four (4) displays. They may contain no other message. The maximum time limit for the completion of the four (4) display cycle shall be five (5) seconds. Signs which have a continuous revolving or running message shall be limited to the same restrictions as to message content, limited to one (1) cycle and limited to a maximum of five (5) seconds for the completion of the one (1) cycle.

(i) Advertising devices which use lighting in any way unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of a highway or unless it is of such low intensity or brilliance as not 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.

(j) Advertising devices which move or have any animated or moving parts.

(k) Advertising devices erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(l) Advertising devices exceeding 1,250 square feet in area, including border and trim, but excluding supports.

(m) Advertising devices closer than fifty (50) feet to the edge of the main traveled way of any interstate highway.

(2) An advertising device which is not visible from the main traveled way of the highway may be allowed in protected areas.

(3) Any advertising device which is legible from the main traveled way of any interstate highway must have an approved permit from the Transportation Cabinet, Department of Highways, to be a legal advertising device.

(4) If the advertising device is legible from more than one (1) highway on which control is exercised, the appropriate criteria applies to all of these highways. (See also: 603 KAR 3:020.)

(5) A nonconforming sign may continue to exist until just compensation has been paid to the owner, only so long as it is:

(a) Not destroyed, abandoned or discontinued; and

(b) Subjected to only routine maintenance; and

(c) A sign conforming to local zoning or sign or building restrictions.

Section 4. Measurements of Distance. (1) In determining protected areas, distances from the edge of a right-of-way shall be measured horizontally along a line at the same elevation and at a right angle to the center line of a highway for a distance of 660 feet.

(2) In measuring distances for determination of spacing for advertising devices, two (2) lines shall be drawn perpendicular to the center line of the main traveled way, so as to cause the two (2) lines to embrace the greatest longitude along the center line of said highway.

(3) V-shaped or back-to-back type billboard advertising devices shall have no greater distance than fifteen (15) feet apart at the nearest point and must be connected by bracing or maintenance walkway.

(4) The spacing for billboard advertising device structures as described in Section 5(4) of this regulation, shall be measured from the nearest point of each structure to the other.

Section 5. "Billboard" Advertising Device Provisions. (1) "Billboard" advertising devices may be constructed and maintained in protected areas which are zoned commercial or industrial as defined in Section 2(15) of this regulation, and comply with the provisions of this regulation for this type advertising device and other applicable state, county or city zoning ordinances or regulations. Limited to a maximum of 1,250 square feet subject to other provisions of this regulation.

(2) V-shaped or back-to-back "billboard" advertising devices will be considered as one (1) advertising device structure and must meet specifications as described in Section 4(3) of this regulation.

(3) "Billboard" advertising devices may contain two (2) messages per facing not to exceed the maximum sized area as set forth in Section 3(1) of this regulation.

(4) No "billboard" advertising device structure shall be erected within 500 feet of any other such advertising device structure on the same side of the highway, unless

separated by a building, natural obstruction or roadway in such manner that only one (1) sign located within the required spacing distance is visible from the highway at any one time. (See Measurement of spacing, Section 4(4) of this regulation.) This spacing shall not apply to on-premise advertising devices nor will on-premise advertising devices affect the spacing of other advertising structures. Billboard structures in legal existence on the effective date of this amendment which are less than 500 feet from any other such advertising device structure on the same side of the highway, may continue to remain in place until they are destroyed, abandoned or discontinued as defined in this regulation, as long as only routine maintenance as described in Section 2(18) of this regulation, is performed on them.

(5) "Billboard" advertising devices that were legally erected may remain in place if they meet all criteria except spacing. Only routine maintenance may be performed on the sign and its structure until such time as proper spacing as described in this regulation is attained.

(6) Spacing rights will be issued on a "first come, first served" basis. Proof of lease of a site must accompany the application. Updating of proof of lease and application will be required annually until a sign has been erected.

Section 6. "On-premise" Advertising Devices. (1) "On-premise" advertising devices may have a maximum of 1,250 square feet in area if they qualify as commercial or industrial activities as set forth in Section 2(16) of this regulation, and are on or within fifty (50) feet of the advertised activity and are within the property boundary lines of such activity.

(2) To qualify as an "on-premise" advertising device, the device must be within the property boundary lines of the advertised activity.

(3) No "on-premise" advertising device may exceed twenty (20) feet in length, width or height or 150 square feet in area including border and trim but excluding supports, if it is farther than fifty (50) feet from the activity boundary lines (not the property boundary lines).

(4) No "on-premise" advertising device advertising a commercial or industrial activity as set forth in Section 2(16) of this regulation, shall be located more than 400 feet, measured within the property boundary, from the advertised activity. In using a corridor to reach the location of the device, the corridor must be no less than 100 feet in width and must be an integral part of the property on which the advertised activity is located. No other activity which is in any manner foreign to the advertised activity may be located on or have use of said corridor between the advertised activity and the location of the device. No activity incidental to the primary activity advertised will be considered in taking measurements.

(5) Only one (1) "on-premise" advertising device which is listed as an exception in Section 2(16) of this regulation, may be located in such a manner that it is legible from the main traveled way.

(6) Only one (1) of the the following "on-premise" advertising devices may be located in such a manner that it is legible from the main traveled way.

(a) The setting forth or indicating the name and address of the owner, lessee or occupant of the property on which the advertising device is located; or

(b) The name or type of business or profession conducted on the property on which the advertising device is located; or

(c) Information required or authorized by law to be posted or displayed on such property; or

(d) The sale or leasing of the property upon which the advertising device is located.

1. Advertising devices which are for the purpose of sale or leasing of property by a real estate company or individual will be limited to a six (6) month permit. After the six (6) months, the real estate name must be removed and the message advertising the sale or lease of the property along with the telephone number of the real estate company is all that may remain. This will be a condition of the permit.

2. If the property is for sale by the owner and the owner is other than a real estate company, the message stating the leasing or sale of the property may list the name of the owner (letters of owners' name may be no larger than one-half (1/2) the size of the letters in the basic message), and the telephone number and will not be restricted to the six (6) month permit.

(e) Advertising customarily used at similar places of business that are not legible from the main traveled way of the highway; or

(f) The advertisement or control of an activity or sale of products on the property where the advertising device is located.

(7) No advertising device referred to in subsections (5) and (6) of this section may exceed twenty (20) feet in length, width or height or 150 square feet in area including border and trim but excluding supports. Nor will these advertising devices be subject to restrictions as set forth in subsection (4) of this section.

(8) Brand name, "on-premise" advertising devices may advertise only the activities conducted upon the property on which they are located with exceptions as to type as follows:

(a) "Ford," "Chevrolet," "Pontiac," etc.

(b) "A & P," "Kroger," etc.

(c) "Kentucky Fried Chicken," "Bob Evans Restaurants," "Stuckeys," etc.

(9) Brand names such as the following may not be advertised because they are incidental to the primary activity:

(a) "Auto Light," "Delco," etc.

(b) "8 O'Clock Coffee," "Armour Meats," "Clabber Girl Baking Powder," etc.

(c) "Coca-Cola," "Pepsi," "Winstons," etc.

(10) Application for advertising device permits for on-premise signs must give a detailed description of the exact wording of the message to be conveyed on the advertising device. This information may be furnished by either a photograph or a drawing, and may be changed only upon the approval of the Department of Highways or a new application submitted by the permit holder which shows the proposed change in the message.

(11) An exception to subsection (10) of this section is that a marquee type on-premise advertising device, such as a typical theater or cinema advertising device, may change messages without a new application. This message change may be from one (1) legitimate on-premise activity to another. (HIWA-AD-3; 1 Ky.R. 810; eff. 5-14-75; Am. 3 Ky.R. 390; 585; eff. 2-2-77; 4 Ky.R. 439; eff. 7-5-78; 5 Ky.R. 248; eff. 11-1-78.)

603 KAR 3:020. Advertising devices on federal aid primary system.

RELATES TO: KRS 177.830 to 177.890
PURSUANT TO: KRS 174.080, 177.830 to 177.890
NECESSITY AND FUNCTION: KRS 177.830 to 177.890 authorizes the Department of Highways to establish regulations for the control of advertising devices on the Federal Aid Primary System.

Section 1. (1) Except as provided in this regulation no person shall erect or maintain any advertising device within any protected area if such device is legible or identifiable from the main traveled way of any federal aid primary highway.

(2) The erection or maintenance of any advertising device located outside of urban areas and beyond 660 feet of the right-of-way which is legible and/or identifiable from the main traveled way of any federal aid primary highway is prohibited with the exception of:

(a) Directional and official signs and notices;

(b) Signs advertising the sale or lease of property upon which they are located; or

(c) Signs advertising activities conducted on the property on which they are located.

Section 2. Definitions. (1) "Advertising device" means any billboard, sign, notice, poster, display, or other device intended to attract the attention of operators of motor vehicles on the highway, and shall include a structure erected or used in connection with the display of any such device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state or other public agency having jurisdiction.

(2) "Billboard" advertising devices are those devices that contain a message relating to an activity or product that is foreign to the site on which the device and message is located or is an advertising device erected by a company or individual for the purpose of selling advertising messages for profit.

(3) "On-premise" advertising devices are those devices that contain a message relating to an activity or the sale of a product on the property on which they are located.

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

(5) "Erect" means to construct, build, raise, assemble, place, affix, create, paint, draw or in any way bring into being or establish.

(6) "Legible" means capable of being read without visual aid by a person of normal visual acuity, or capable of conveying an advertising message to a person of normal visual acuity.

(7) "Main traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of a separated roadway for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways, or parking area.

(8) "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(9) "Protected areas" means all areas within the boundaries of this Commonwealth which are adjacent to and within 660 feet of the edge of the right-of-way of all federal aid primary highways within the Commonwealth. Where these highways terminate at a state boundary which is not perpendicular or normal to the center line of the highway, "protected areas" means all areas inside the boundaries of the Commonwealth which are within 660 feet of the edge of the right-of-way of a federal aid primary highway in an adjoining state.

(10) "Federal aid primary highway" means any highway, road, street, appurtenant facility, bridge or overpass including a turnpike or limited access highway which is designated a portion of the federal aid primary highway system as may be established by law or as may be so designated by the Department of Highways and the United States Department of Transportation.

(11) "Identifiable" means capable of being related to a particular product, service, business or other activity even though there is no written message to aid in establishing such relationship.

(12) "Turning roadway" means a connecting roadway for traffic turning between two (2) intersecting legs of an interchange.

(13) "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(14) "Permitted" as used in this regulation means to exist only by permit from the Transportation Cabinet, Department of Highways.

(15) "Allowed" as used in this regulation means to exist without a permit from the Transportation Cabinet, Department of Highways.

(16) "Commercial or industrial zone" means an area zoned for business, commerce or trade pursuant to state or local law, regulation or ordinance. To be zoned commercial or industrial, the entire city or county must be "comprehensively zoned."

(17) "Comprehensively zoned" means that each parcel of land under the jurisdiction of the zoning authority has been placed in some zoning classification.

(18) "Unzoned commercial or industrial area" means an area which is not zoned by state or local law, regulation or ordinance and on which a commercial or industrial activity is located, together with an area extending along the highway for a distance of 700 feet on each side of the activity boundary line and on the same side of the road. Each side of the highway where a commercial or industrial activity is located will be considered separately in applying this definition. All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or process areas of the activities and not, from the property boundary lines.

(19) "Commercial or industrial activities" means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

(a) Outdoor advertising structures.

(b) Hospitals, nursing homes, cemeteries, funeral homes, etc; professional office buildings; and roadside markets not open over three (3) months a year.

(c) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.

(d) Activities normally or regularly in operation less than three (3) months a year.

(e) Transient or temporary activities.

(f) Activities not visible from the main traveled way.

(g) Activities more than 300 feet from the nearest edge of the right-of-way.

(h) Activities conducted in a building principally used as a residence.

(i) Railroad tracks and minor sidings.

(j) The sale or leasing of property.

(20) "Urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one (1) state, that part of the urbanized areas in each such state or an urban place as designated by the Bureau of the Census having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible state and local officials in cooperation with each other, subject to approval by the Secretary of the United States Department of Transportation. Such boundaries shall as a minimum encompass the entire urban place designated by the Bureau of the Census. Such urban areas shall be designated by official order of the Kentucky Secretary of Transportation.

(21) "Routine maintenance" means that maintenance is limited to replacement of nuts and bolts, nailing, riveting or welding, cleaning and painting, or manipulating to level or plumb the device but not to the extent of adding guys or struts for the stabilization of the sign or structure or substantially changing the sign. Replacement of new or additional panels or facing shall not constitute routine maintenance. The routine changing of messages is considered to be routine maintenance. Routine maintenance includes laminating or preparing panels in a plant or factory for the changing of messages.

(22) "Activity boundary line" means regularly used buildings, parking lots, storage and process areas which are an integral part of and contiguous to the activity.

(23) "Abandoned or discontinued" means that for a period of one (1) year or more that the sign:

(a) Has not displayed any advertising matter; or

(b) Has displayed obsolete advertising matter; or

(c) Has needed substantial repairs.

(24) "Nonconforming sign" means a sign which was lawfully erected but does not comply with the provisions of state law or regulations passed at a later date or later fails to comply with state law or regulations due to changed conditions such as but not limited to, zoning change, highway relocation or reclassification, size, spacing or distance restrictions. Performance of other than routine maintenance shall cause a nonconforming sign to lose its status and to become an illegal sign.

(25) "Destroyed" means that the sign has sustained damage by any means in excess of sixty (60) percent of the structure and facing or sixty (60) percent of the replacement value of such sign.

(26) "Church and civic club off-premise sign" means any nationally, regionally or locally known religious, or nonprofit organization advertising device.

(27) "Public service sign" means a sign erected or located on a school bus shelter.

(28) "Public service message" means a message pertaining to an activity or service which is performed for the benefit of the public and not for profit or gain of a particular person, firm or corporation. This definition applies to signs on school bus shelters only.

Section 3. General Provisions. (1) Erection or existence of the following advertising devices may not be permitted or allowed in protected areas:

(a) Advertising devices advertising an activity that is illegal under state or federal law.

(b) Obsolete advertising devices.

(c) Advertising devices that are not clean and in good repair.

(d) Advertising devices that are not securely affixed to a substantial structure.

(e) Advertising devices which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device.

(f) Advertising devices which prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

(g) Signs which contain, include, or are illuminated by any flashing, intermittent or moving lights, except those giving public service information of time, date, temperature or weather and limited to one (1) cycle of four (4) displays. They may contain no other message. The maximum time limit for the completion of the four (4) display cycle shall be five (5) seconds.

(h) Advertising devices which use lighting in any way unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of a highway, or unless it is of such low intensity or brilliance as not 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.

(i) Advertising devices which move or have any animated or moving parts, unless they are "on-premise" advertising devices and are located in commercially or industrially zoned areas.

(j) Advertising devices erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(k) Advertising devices erected upon or overhanging the right-of-way.

(2) An advertising device which is not visible from the main traveled way of the highway may be allowed in protected areas.

(3) If the advertising device is legible from more than one (1) highway on which control is exercised, the appropriate criteria applies to all of these highways. (See also: 603 KAR 3:010.)

(4) No advertising device may be erected or maintained within the state right-of-way except directional or other official signs or signals erected by the state or other public agency having jurisdiction.

(5) Directional and other official signs, including signs placed by the department, signs denoting the location of underground utilities (limited to two (2) square feet), signs erected by federal, state and local governments to delineate boundaries of reservations, parks or districts (limited to 150 square feet), and signs such as "posted," "no fishing," "no hunting," etc. placed by property owners to discourage trespassing (limited to two (2) square feet) may be permitted or allowed subject to other provisions in these regulations.

(6) No on-premise advertising device, in zoned or unzoned commercial or industrial areas, will affect spacing for billboard advertising devices.

(7) A permit will be required from the Transportation Cabinet, Department of Highways, for any billboard advertising device. On-premise advertising devices will be allowed and controlled by surveillance.

(8) A nonconforming sign may continue to exist until just compensation has been paid to the owner, only so long as it is:

(a) Not destroyed, abandoned or discontinued; and

(b) Subjected to only routine maintenance; and

(c) A sign conforming to local zoning or sign or building restrictions.

Section 4. Measurements of Distance. (1) In determining protected areas, distances from the edge of a right-of-way shall be measured horizontally along a line at the same elevation and at a right angle to the center line of a highway for a distance of 660 feet.

(2) In measuring distances for determination of spacing for billboard advertising devices, two (2) lines shall be drawn perpendicular to the center line of the main traveled way, so as to cause the two (2) lines to embrace the greatest longitude along the center line of said highway.

(3) V-shaped or back-to-back type billboard advertising devices shall have no greater distance than fifteen (15) feet apart at the nearest point and must be connected by bracing or maintenance walkway.

(4) The spacing for billboard advertising devices as described in Section 5(12) and (13) of this regulation, shall be measured from the nearest point between each device.

(5) In measuring distances for the determination of an unzoned commercial or industrial area, two (2) lines shall be drawn perpendicular to the center line of the main traveled way to encompass the greatest longitudinal distance along the center line of the highway. All areas within the confines of these lines shall be considered a part of the unzoned commercial or industrial area. Measurements for these areas shall begin at the outside edge of the activity boundary lines and shall be measured 700 feet in each direction.

Section 5. "Billboard" Advertising Device Provisions. (1) "Billboard" advertising devices may be constructed and maintained in protected areas which are zoned or unzoned commercial or industrial as defined in Section 2(16) and (18) of this regulation, and comply

with the provisions of this regulation for this type advertising device and other applicable state, county or city zoning ordinances or regulations and shall be limited to a maximum of 1,250 square feet subject to other provisions of this regulation.

(2) V-shaped or back-to-back "billboard" advertising devices will be considered as one (1) advertising device structure and must meet specifications as described in Section 4(3) of this regulation.

(3) "Billboard" advertising devices may contain two (2) messages per facing not to exceed the maximum sized area as set forth in Section 5(1) of this regulation.

(4) V-shaped or back-to-back structures will be allowed the maximum 1,250 square feet per facing.

(5) "Billboard" advertising devices that were legally erected may remain in place if they meet all criteria except spacing. Only routine maintenance may be performed on the sign and its structure until such time as proper spacing as described in this regulation is attained.

(6) Spacing rights will be issued on a "first come, first served" basis. Proof of lease of a site must accompany the application. Updating of proof of lease and application will be required annually until a sign has been erected.

(7) Billboard advertising devices may be permitted in zoned or unzoned commercial or industrial areas subject to other provisions of this regulation.

(8) Billboard advertising devices constructed in unzoned commercial and industrial areas will be permitted to exist as long as there is a commercial or industrial operated business. Upon the termination or abandonment of a business or industry for which the unzoned commercial or industrial area was created, the billboard advertising devices may remain in existence for one (1) year.

(9) No billboard advertising device may be illuminated by other than white lights.

(10) Any billboard advertising device which is legible or identifiable from the main traveled way must have an approved permit from the Transportation Cabinet, Department of Highways.

(11) No unzoned commercial or industrial area may be created when a commercial or industrial activity is more than 300 feet from the right-of-way.

(12) Spacing for billboard advertising device structures in unzoned commercial or industrial areas as described in Section 4(4) and (5) of this regulation, will be 300 feet measured from the nearest point between each advertising device, unless separated by a building, roadway, or natural obstruction, in such a manner that only one (1) sign located within the required spacing is visible from the highway at any time. This spacing will be reduced to 100 feet within incorporated municipalities which do not have comprehensive zoning.

(13) Spacing for billboard advertising device structures in any comprehensively zoned commercial or industrial area will be 100 feet, unless separated by a building, roadway, or natural obstruction, in such a manner that only one (1) sign located within the required spacing is visible from the highway at any time.

Section 6. "On-premise" Advertising Devices. (1) "On-premise" advertising devices may have a maximum of 1,250 square feet in area if they qualify as commercial or industrial activities as set forth in Section 2(19) of this regulation and are on or within fifty (50) feet of the advertised activity and are within the property boundary lines of such activity.

(2) Only one (1) "on-premise" advertising device advertising a commercial or industrial activity as described in Section 2(19) of this regulation, may be located at a distance greater than fifty (50) feet from the activity boundary line. This advertising device will be limited in size as set forth in subsection (4) of this section. All other advertising devices must be within fifty (50) feet of the advertised activity.

(3) To qualify as an "on-premise" advertising device, the device must be within the property boundary lines of the advertised activity.

(4) No "on-premise" advertising device may exceed twenty (20) feet in length, width or height or 150 square feet in area including border and trim, but excluding supports, if it is farther than fifty (50) feet from the activity boundary lines (not the property boundary lines).

(5) Only one (1) "on-premise" advertising device which is listed as an exception in Section 2(19) of this regulation, may be located in such a manner that it is legible or identifiable from the main traveled way.

(6) Only one (1) of the following "on-premise" advertising devices may be located in such a manner that it is legible or identifiable from the main traveled way.

(a) The setting forth or indicating the name and address of the owner, lessee or occupant of the property on which the advertising device is located; or

(b) The name or type of business or profession conducted on the property on which the advertising device is located; or

(c) Information required or authorized by law to be posted or displayed on such property; or

(d) The sale or leasing of the property upon which the advertising device is located.

1. Advertising devices which are for the purpose of sale or leasing of property by a real estate company or agency will be limited to a six (6) month permit. After the six (6) months, the real estate company or agency name must be removed and the message advertising the sale or lease of the property along with the telephone number of the real estate company or agency is all that may remain. This will be a condition of the permit.

2. If the property is for sale by the owner and the owner is other than a real estate company or agency, the message stating the leasing or sale of the property may list the name of the owner (letters of owners' name may be no larger than one-half (1/2) the size of the letters in the basic message), and the telephone number and will not be restricted to the six (6) month permit.

(e) Advertising customarily used at similar places of business that are not legible or identifiable from the main traveled way of the highway; or

(f) The advertisement or control of an activity or sale of products on the property where the advertising device is located.

(7) No advertising device referred to in subsections (5) and (6) of this section may exceed twenty (20) feet in length, width or height or 150 square feet in area including border and trim but excluding supports.

(8) Each business is permitted as many signs, stating only the name of the business, as they desire. In the absence of such signs, the owner may have one (1) sign giving the name of the business and a particular brand name product. The sign may not contain more than two-thirds (2/3) of the size for the brand name.

(9) The fact that a particular product is sold at a business will not be construed to mean that this is an activity.

(10) Brand name. "On-premise" advertising devices may advertise only the activities conducted upon the property on which they are located with exceptions as to type as follows:

(a) "Ford," "Chevrolet," "Pontiac," etc.

(b) "A & P," "Kroger," etc.

(c) "Kentucky Fried Chicken," "Bob Evans Restaurants," "Stuckeys," etc.

(d) Signs noting credit card acceptance or trading stamps may be allowed subject to a maximum size of eight (8) square feet.

(11) Brand names such as the following may not be advertised because they are incidental to the primary activity:

(a) "Auto-Lite," "Delco," etc.

(b) "8 0'Clock Coffee," "Armour meats," "Clabber Girl Baking Powder," etc.

(c) "Coca-Cola," "Pepsi," "Winstons," etc.

Section 7. "Grandfather Restrictions"; On-premise Advertising Devices in Incorporated Municipalities and Urban Areas. Grandfather restrictions as described in this section shall apply to the following advertising devices only:

(1) Only one (1) "on-premise" advertising device will be "permitted" to overhang the state right-of-way, advertising any one (1) business. This refers to only those advertising devices in existence at the time of the adoption of this regulation and where there is not space off the right-of-way to accommodate an advertising device.

(2) Any new building or structure which comes into being after the adoption of this regulation, which abuts or is upon the state right-of-way, in which a business or activity is to be located, and such business or activity requires an advertising device, such new device must meet the conditions set forth in subsection (4) of this section in addition to other provisions of this section and other sections of this regulation.

(3) Only "routine maintenance" as described in this regulation will be "permitted" on any "on-premise" advertising device under grandfather restrictions in this section.

(4) Any time an existing "permitted" advertising device is replaced, it must comply with the following criteria: No advertising device or portion of an advertising device may be erected that extends more than two (2) feet beyond the face of the building, if the building is abutting or within the state right-of-way. This condition does not apply to advertising devices when the building or structure has a setback of more than two (2) feet from the state right-of-way. Any building with a setback from the right-of-way must reduce the overhang of the advertising device by the number of inches of the setback. No advertising device may be erected which has a base or any part of a base on the state right-of-way.

(5) Any advertising device with a base or any portion of a base which is located on the state right-of-way must be relocated off the right-of-way where there is sufficient space. If space is not available to relocate the existing advertising device off the right-of-way, relocation of the device must comply with restrictions as contained in subsection (4) of this section.

(a) Where there is space off the right-of-way to relocate an existing advertising device, the owner shall be notified and be allowed a reasonable amount of time to accomplish the relocation.

(b) In no instance shall the time allowed to relocate an advertising device, whose base is on the state right-of-way, exceed a five (5) year period. No permit shall be issued for this type advertising device.

(6) Any "on-premise" advertising device "permitted" under grandfather restrictions, or any new advertising device, which is "permitted" to be erected under the provisions of subsection (4) of this section, must have an approved permit from the Transportation Cabinet, Department of Highways, to be a legal advertising device.

(7) No advertising device will be "permitted" under this section which interferes with any official sign, signal, or device.

(8) Any advertising device "permitted" under this section must meet the requirements for an "on-premise" advertising device as set forth in this regulation.

Section 8. "Church and Civic Club Off-premise Signs" Provisions. (1) Signs which qualify as "church and civic club signs" as described in Section 2(26) of this regulation and which do not exceed the maximum size of eight (8) square feet including border and trim but excluding supports and which have spacing of 100 feet from any other church or civic club advertising device structure, which measurement is described in Sections 4(2) and (5) of this regulation shall be permitted.

(2) Only one (1) structure shall be permitted at any one (1) location.

(3) "Church and civic club signs" may contain the following message only:

(a) Name and address;

(b) Location and time of meetings, and a directional arrow;

(c) Special events such as vacation bible school, revival, etc., may be permitted. These temporary messages shall be in lieu of the original or a part of the original message and shall not exceed the maximum of eight (8) square feet.

(4) In the event two (2) organizations desire to erect one (1) structure for their signs, a "Welcome to (city or county)", may be placed at the top of the structure. No slogan, flamboyant design or special message shall be permitted in the "Welcome to" part of the sign.

(5) Maximum size for sign structures as described in subsection (4) of this section will be twenty (20) square feet, including border and trim excluding supports.

(6) Only one (1) advertising device structure which advertises a particular church or civic club, may be erected facing any one (1) direction in advance of the advertised activity on any one (1) road.

(7) No advertising device structure described in this section shall be permitted on the state rights-of-way.

(8) Church and civic club sign structures will not affect spacing for "billboard" advertising structures.

(9) Church and civic club sign structures must have a permit from the Transportation Cabinet, Department of Highways, to be a legal advertising device.

Section 9. "Public Service Signs." "Public service signs" may be "permitted" if they conform to the following provisions:

(1) "Public service signs" may be permitted on school bus shelters only.

(2) Maximum size for a "public service sign" shall be thirty-two (32) square feet including border and trim.

(3) Must contain a public service message which occupies not less than fifty (50) per cent of the area of the sign.

(4) May identify the donor, sponsor or contributor of the shelter.

(5) Contains no other message.

(6) Has obtained an encroachment permit from the Department of Highways prior to the existence of the sign if it is to be located on the state right-of-way.

(7) Has been authorized or approved in writing by the city or county having jurisdiction if it is to be located off the state right-of-way.

(8) Does not create a sight distance or safety hazard.

(9) Only one (1) sign on each shelter shall face in any one (1) direction. (HIWA-AD-FAP-1; 1 Ky.R. 812; eff. 5-14-75; Am. 3 Ky.R. 393; 588; eff. 2-2-77; 4 Ky.R. 127; eff. 11-2-77; 4 Ky.R. 442; eff. 7-5-78.)

603 KAR 4:025. Advertising devices; just compensation.

RELATES TO: KRS 177.867
PURSUANT TO: KRS 174.080, 177.860
NECESSITY AND FUNCTION: KRS 177.860 authorizes the Commissioner of Highways to prescribe regulations relating to advertising devices. This regulation implements the part of the advertising device law which requires just compensation for certain such advertising devices.

Section 1. The following terms, when used in the regulation, shall have the following meanings:

(1) "Advertising device" means as defined in KRS 177.830.

(2) "Nonconforming advertising device" means an advertising device which was lawfully erected but does not comply with the provisions of state law or regulations passed at a later date or later fails to comply with state law or regulation due to changed conditions, such as but not limited to, zoning change, highway relocation or reclassification, size, spacing or distance restrictions.

(3) "Interstate highway" means as defined in KRS 177.830.

(4) "Federal-aid primary highway" means as defined in KRS 177.830.

(5) "Abandoned or discontinued" means that for a period of one (1) year or more that the advertising device:

(a) Has not displayed any advertising matter; or

(b) Has displayed obsolete advertising matter; or

(c) Has needed substantial repairs.

(6) "Destroyed" means that the advertising device has sustained damage by any means in excess of sixty (60) percent of the structure and facing or sixty (60) percent of the replacement value of such advertising device.

(7) "Routine maintenance" means that maintenance is limited to replacement of nuts and bolts, nailing, riveting, or welding, cleaning and painting or manipulating to level or plumb the device but not to the extent of adding guys or struts for the stabilization of the advertising device or structure or substantially changing the advertising device. Replacement of new or additional panels or facing shall not constitute routine maintenance. The routine changing of messages is considered to be routine maintenance. Routine maintenance includes laminating or preparing panels in a plant or factory for the changing of messages.

Section 2. The Commissioner, Department of Highways, shall pay just compensation upon the removal of the following nonconforming advertising devices adjacent to an interstate highway or a federal-aid primary highway:

(1) Those lawfully in existence on October 22, 1965;

(2) Those lawfully on any highway designated a part of the interstate or federal-aid primary system on or after October 22, 1965, and before January 1, 1968;

(3) Those lawfully erected on or after January 1, 1968; and

(4) Those lawfully in existence on January 1, 1976.

Section 3. Just compensation shall be paid for the following:

(1) The taking from the owner of any such advertising device of all right, title, leasehold, and interest in such advertising device; and

(2) The taking from the owner of the real property on which the advertising device is located, of the right to erect and maintain such advertising devices thereon.

Section 4. A nonconforming advertising device will no longer qualify for just compensation if:

(1) It is destroyed, abandoned or discontinued; or

(2) It is subjected to more than routine maintenance.

Section 5. Payment of just compensation shall be determined by the use of fixed rate schedules which are developed for the particular type of advertising device or interest held by the property owner and which are approved by and filed with Federal Highway Administration. Such schedules shall be on file in the Division of Right of Way, Department of Highways. When an advertising device owner or a site owner does not accept the amount computed under such fixed rate schedules, an appraisal shall be utilized. (3 Ky.R. 622; eff. 4-6-77.)

APPENDIX B

Appendix B

AGREEMENT
FOR CARRYING OUT THE NATIONAL POLICY RELATIVE
TO ADVERTISING ADJACENT TO THE NATIONAL
SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

In order to promote the safety, convenience and enjoyment of public travel and the free flow of interstate commerce, and to protect the public investment in the National System of Interstate and Defense Highways (hereinafter referred to as the "Interstate System"), the Secretary of Commerce, acting by and through the Federal Highway Administrator (hereinafter referred to as the "Administrator"), and the Department of Highways of the Commonwealth of Kentucky (hereinafter referred to as the "State") do hereby agree as follows:

1. Definitions. (a) The term "Act" means section 131 of title 23, United State Code, as amended by section 106 of the Federal-Aid Highway Act of 1959 (73 State. 612).

(b) The term "national standards" means the National Standards for Regulation by States of Outdoor Advertising Signs, Displays and Devices Adjacent to the National System of Interstate and Defense Highways promulgated by the Secretary of Commerce pursuant to the Act, and in effect on the date of this agreement. Said national standards, as they were published in the Federal Register on November 13, 1958, (23 F.R. 8793) and amendments published in the Federal Register on January 12, 19690 (25 F.R. 218) and March 26, 1960 (25 F.R. 2575) are hereby incorporated herein by reference.

(c) Unless the context requires otherwise, the terms used herein shall be the same meaning as in the Act and the national standards.

2. Scope of Agreement. Except as otherwise expressly set forth herein, this Agreement shall apply to areas adjacent to all portions of Interstate System highways within the State that are constructed upon any part of a right of way, the entire width of which has been acquired subsequent to July 1, 1956. The said areas (hereinafter designated "Adjacent Areas") are those within 660 feet of the edge of the right of way of Interstate System highways, determined in accordance with the national standards.

There shall be excluded from application of the said national standards any segments of the Interstate System which traverse commercial or industrial zones within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or which traverse other areas where the land use, as of September 21, 1959, was clearly established by State law as industrial or commercial.

3. State's Obligation. The State hereby agrees that, in accordance with the terms of this Agreement, it will control or cause to be controlled the erection and maintenance of outdoor advertising signs, displays and devices in Adjacent Areas within such State consistent with the Act and the national standards, and in accordance with the plan for controlling areas adjacent to Interstate Highways presented by the State.

4. Exceeding of Standards. Nothing contained herein shall prohibit the State from exercising control of outdoor advertising signs to a greater degree than that required or contemplated by the national standards and the Act.

5. Plan for Controlling Areas Adjacent to Interstate Highways. State has presented a "Plan for Controlling Areas Adjacent to Interstate Highways" dated June 1, 1961. The State shall promptly submit to the Administrator additions to or amendments of the Plan when the selection, designation, or modification of Interstate highway routes or other reasons make such action necessary or desirable. The State may from time to time submit to the Administrator any proposals for amendment of the Plan. If approved by the Administrator, such additions or amendments shall become a part of the plan.

6. Increase of Share. The Federal share payable on account of any project on the Interstate System provided for by funds authorized under section 108 of the Federal-Aid Highway Act of 1956, as amended, to which the Act, the national policy, and this Agreement apply, shall be increased by one-half of one per centrum of the total cost thereof, if and when funds are appropriated and made available for such purposes. However, no additional cost that may be incurred in carrying out this Agreement, no cost incurred in connection with any segment of highway excluded from the application of the national standards, and no cost of any project not payable from funds authorized by section 108 of the Federal-Aid Highway Act of 1956, as amended, shall be included in such total for purposes of determining the amount of such increase.

7. The Obligation of the Federal Government. Notwithstanding any other provision of this Agreement, the United States shall not be required to make any payments hereunder unless and until Federal funds are duly appropriated in amounts sufficient to enable the Administrator to make payments as provided in this Agreement.

8. Payment Upon Evidence of Compliance. Payment of the one-half of one percent increase in the Federal share will be made by the Administrator from funds appropriated and available for such purpose with respect to any project upon the submission by the State to the Administrator of a satisfactory showing that the State has fulfilled its obligations under this Agreement in connection with such project, that such project is completed, and that State is continuing to carry out its obligations hereunder with reference to all other highways on the Interstate system to which this agreement applies.

Advertising signs, displays or devices shall be removed, or caused to be removed, by State as follows:

(a) No outdoor advertising sign, display or device which was erected after March 1, 1960 and which is inconsistent with the Act or National Standards shall be allowed to remain after July 1, 1961 in areas adjacent to any segment of the Interstate System which has been completed to the geometric and design standards adopted for that System.

(b) No outdoor advertising sign, display or device erected prior to March 1, 1960 which is inconsistent with the Act or National Standards shall be allowed to remain after March 1, 1965 in areas adjacent to any segment of the Interstate System which has been completed with the national standards.

9. *Failure to Perform Obligations* If, after receiving payment of any portion of the aforementioned increase of one-half of one percent in the Federal share of the cost of any project, the State should fail to perform its obligations or continue the same under this Agreement in connection with any project, the State hereby agrees that, if, without good cause shown to the satisfaction of the Administrator, it fails to perform such obligations within 30 days after the date of mailing by the Administrator of written notice thereof, it will return to the Federal Government all payments heretofore made under this Agreement. In the event the State does not return all of such payments within a reasonable time, State hereby authorizes the Administrator to withhold from the State an amount equal to such payments out of any Federal-aid highway funds then due or that may thereafter become due to the State.

Notwithstanding any other provision in this section, if the State fails to perform any obligation of the Agreement and such failure is caused by a declaration of a court of competent jurisdiction or by a ruling of the Attorney General of said State that said State is without legal authority to perform said obligation under this contract, then the State will not be required to return to the Federal Government payments heretofore made under this Agreement until sixty days have elapsed after the adjournment of the State legislative session next following such declaration or ruling.

10. Repayment Necessitated by Change in Zoning Within Incorporated Municipalities. If, after receiving payment of any portion of the aforementioned increase of one-half of one percent, which payment is due to the control of advertising by State in an area within the limits of an incorporated municipality as those limits existed on September 21, 1959, the status of any portion of said area is changed to a commercial or industrial zone, the national policy on advertising control shall no longer apply to the area of portion of area the status of which is changed, the State hereby agrees that it will repay so much of any bonus payment made on account of the area to which the national policy no longer applies. In lieu of repayment, State hereby authorizes the Administrator to withhold from the State any amount equal to such payment out of any Federal-aid highway funds then due or that may thereafter become due to the State.

In Witness Whereof the State has caused this Agreement to be duly executed in its behalf, and the Administrator has likewise caused the same to be duly executed in his behalf, as of the dates of June 12, 1961 and June 9, 1961.

APPENDIX C

Appendix C

IN HOUSE

REGULAR SESSION 1988

HOUSE RESOLUTION NO. 220

WEDNESDAY, MARCH 30, 1988

Representative Rex Smith and J. R. Gray introduced the following resolution which was ordered to be printed.

A RESOLUTION requesting the Legislative Research Commission to study the need for outdoor advertising as it relates to the promotion of tourism in rural areas of the Commonwealth.

WHEREAS, no less than five pieces of legislation were introduced by members of the 1988 General Assembly relating to the relaxation of outdoor advertising requirements within the Commonwealth of Kentucky; and

WHEREAS, in the discussion of this legislation, several interested parties testified that increased advertising along Kentucky highways could increase business for industries related to tourism, which are located along these highways; and

WHEREAS, since outdoor advertising legislation failed during this session, the interim period would provide a perfect opportunity for a legislative committee to review Kentucky's current policy on highway advertising, as well as provide an opportunity to visit other states to determine their policies and problems; and

WHEREAS, based on the interest of many Kentucky business people, members of the General Assembly and state and local tourism officials, outdoor advertising is an issue which will be faced again in the 1990 General Assembly Session;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

1 Section 1. That the Legislative Research Commission
2 direct an interim joint committee to study the need for
3 outdoor advertising to promote tourism in the rural areas
4 of the Commonwealth and that such a study include the use
5 of cotton areas in Kentucky.
6 Section 2. That a copy of this resolution be sent to
7 each member of the Legislative Research Commission and the
8 Director of the Legislative Research Commission.

IN HOUSE

REGULAR SESSION 1988

HOUSE BILL NO. 691

WEDNESDAY, FEBRUARY 17, 1988

Representative Ray Preston introduced the following bill which was ordered to be printed.

AN ACT relating to outdoor advertising.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 Section 1. KRS 177.860 is amended to read as follows:
2 The commissioner of highways shall prescribe by
3 regulations reasonable standards for the advertising
4 devices hereinafter enumerated, designed to protect the
5 safety of and to guide the users of the highways and
6 otherwise to achieve the objectives set forth in KRS
7 177.850, and the erection and maintenance of any of the
8 following advertising devices, if they comply with such
9 regulations, shall not be deemed a violation of KRS
10 177.830 to 177.890:
11 (1) An advertising device which is to be erected or
12 maintained on property for the purpose of setting forth or
13 indicating:
14 (a) The name and address of the owner, lessee or
15 occupant of such property; or
16 (b) The name or type of business or profession
17 conducted on such property; or
18 (c) Information required or authorized by law to be
19 posted or displayed thereon.
20 (2) An advertising device which is not visible from
21 any traveled portion of the highway;

1 (3) An advertising device indicating the sale or
2 leasing of the property upon which it is placed;
3 (4) Advertising devices which otherwise comply with
4 the applicable zoning ordinances and regulations of any
5 county or city, and which are to be located in a
6 commercially or industrially developed area, in which the
7 commissioner of highways determines, in exercise of his
8 sound discretion, that the location of such advertising
9 devices is compatible with the safety and convenience of
10 the traveling public;
11 (5) Advertising devices within highway rights-of-way
12 to provide directional information for business
13 establishments offering goods and services in the interest
14 of the traveling public.
15 (6) A method to license all signs erected along the
16 state-maintained highway system pursuant to KRS 177.830 to
17 177.890. Each application for placement of an advertising
18 device shall be accompanied by an annual fee of one
19 hundred dollars ($100) for a sign four (4) feet by eight
20 (8) feet or less in size and an annual fee of two hundred
21 dollars ($200) if said sign is greater than four (4) feet
22 by eight (8) feet.
23 Section 2. KRS 177.865 is amended to read as follows:
24 (1) The commissioner of highways shall prescribe by
25 regulation a state signing policy on installation of
26 advertising services defined in KRS 177.860(5). This

1 policy shall restrict the use of said signs to limited
2 access highways of four (4) lanes or more, conform to the
3 federal highway administration's standards for specific
4 information signs and shall, as a minimum, include
5 criteria for:
6 (a) Distances to eligible services;
7 (b) Selection of eligible businesses;
8 (c) Use of business signs and legends conforming to
9 federal highway administration size provisions at
10 intersections on expressways;
11 (d) Removing or covering business signs during off
12 seasons for businesses operated on a seasonal basis; and
13 (e) Defining the circumstances in which specific
14 information signs may be used outside rural areas[~~/ and~~
15 ~~(f) Determining the costs to businesses for initial~~
16 ~~installation, annual maintenance, and removal of business~~
17 ~~signs~~].
18 (2) Adoption of this section and KRS 177.860 shall
19 in no way preclude or prevent the erection of highway
20 advertising on exempted right of way as provided in Public
21 Law 85-381.

GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

REGULAR SESSION 1988

SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 706

THURSDAY, MARCH 24, 1988

Committee on Agriculture and Natural Resources reported the following bill which was ordered to be printed.

AN ACT relating to outdoor advertising.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS
2 CREATED TO READ AS FOLLOWS:
3 It is declared to be the intent of the general
4 assembly that Kentucky adopt the exemption of the 1958
5 federal highway bonus act, Public Law 85-381, known as the
6 Cotton Amendment, to promote tourism and to attract
7 motorists to designated tourist attractions in Kentucky.
8 SECTION 2. A NEW SECTION OF KRS CHAPTER 177 IS
9 CREATED TO READ AS FOLLOWS:
10 Advertising devices promoting tourist related
11 businesses which comply with regulations promulgated by
12 the commissioner of highways that are located beyond three
13 hundred thirty (330) feet but within six hundred sixty
14 (660) feet of the right of way of an interstate highway in
15 zoned or unzoned commercial or industrial areas, which
16 provide information relative to tourism activities within
17 areas owned or operated by federal, state or local
18 government or other site specific businesses and other
19 recreational activities established to promote tourism
20 within the Commonwealth as defined by the commissioner of
21 highways shall not constitute a violation of any other

1 statute relating to outdoor advertising. The commissioner
2 of highways shall prescribe by regulation the number of
3 exempted areas eligible for outdoor advertising under this
4 Act. In promulgating these regulations, the commissioner
5 shall seek the recommendations of the tourism cabinet and
6 shall include the following criteria among factors taken
7 into consideration:
8 (a) Distance between areas exempted pursuant to this
9 Act;
10 (b) Location of exempted areas to promote tourist
11 related businesses and convenient access to state and
12 national parks;
13 (c) Spacing of advertising devices within each
14 exempted area;
15 (d) Preservation of scenic beauty; and
16 (e) Impact of the number of exempted areas upon
17 federal bonus payments made to the Commonwealth.
18 SECTION 3. A NEW SECTION OF KRS CHAPTER 177 IS
19 CREATED TO READ AS FOLLOWS:
20 The commissioner of highways shall have complete
21 discretion in the promulgation of regulations and the
22 issuance of permits under this Act and shall consider the
23 impact on federal highway funding with regard to all
24 regulations and permits.
25 SECTION 4. A NEW SECTION OF KRS CHAPTER 177 IS
26 CREATED TO READ AS FOLLOWS:

1 The commissioner of highways may promulgate
2 administrative regulations relating to an annual permit
3 fee up to three hundred dollars ($300) for each outdoor
4 advertising device permitted in Kentucky. The authority to
5 prescribe permit fees shall not apply to allowed
6 on-premise signs.

IN HOUSE

REGULAR SESSION 1988

HOUSE BILL NO. 706

THURSDAY, FEBRUARY 18, 1988

Representative J. R. Gray introduced the following bill which was ordered to be printed.

AN ACT relating to outdoor advertising.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 Section 1. KRS 177.830 is amended to read as follows:
2 As used in KRS 177.830 to 177.890, unless the context
3 requires otherwise:
4 (1) "Limited-access highway" means a road or highway
5 or bridge constructed pursuant to the provisions of KRS
6 177.220 through 177.310;
7 (2) "Interstate highway" means any highway, road,
8 street, access facility, bridge or overpass which is
9 designated as a portion of the national system of
10 interstate and defense highways as may be established by
11 law, or as may be so designated by the department of
12 transportation in the joint construction of the system by
13 the department of transportation and the United States
14 department of transportation, bureau of public roads;
15 (3) "Federal-aid primary highway" means any highway,
16 road, street, appurtenant facility, bridge or overpass
17 which is designated as a portion of the federal-aid
18 primary highway system as may be established by law or as
19 may be so designated by the department of transportation
20 and the United States department of transportation;
21 (4) "Turnpike" means any road or highway or

1 appurtenant facility constructed pursuant to the
2 provisions of KRS 177.390 through 177.570, or pursuant to
3 the provisions of any other definition of "turnpike" in
4 the Kentucky Revised Statutes, or any other highway, road,
5 parkway, bridge or street upon which a toll or fee is
6 charged for the use of motor vehicular traffic;
7 (5) "Advertising device" means any billboard, sign,
8 notice, poster, display or other device intended to
9 attract the attention of operators of motor vehicles on
10 the highways, and shall include a structure erected or
11 used in connection with the display of any device and all
12 lighting or other attachments used in connection
13 therewith. However, it does not include directional or
14 other official signs or signals erected by the state or
15 other public agency having jurisdiction;
16 (6) "Highway or highways" as used in KRS 177.830 to
17 177.890 means limited access highway, interstate highway,
18 federal-aid primary highway, or turnpike as defined in KRS
19 177.830 to 177.890;
20 (7) "Commercial or industrial zone" adjacent to a
21 federal-aid primary highway means an area zoned to permit
22 business, commerce or trade pursuant to lawful ordinance
23 or regulation;
24 (8) "Unzoned commercial or industrial area" adjacent
25 to <u>an interstate or</u> [a] federal-aid primary highway
26 means an area which is not zoned by state or local law,

1 regulation or ordinance and on which either a commercial
2 or industrial activity is conducted or a permanent
3 structure therefor is located together with the area
4 extending along the highway for such distances as may be
5 determined by regulation promulgated by the secretary of
6 transportation. Each side of the highway will be
7 considered separately in applying this definition -- all
8 measurements shall be from the outer edges of the
9 regularly used buildings, parking lots, storage or
10 processing areas of the activities, not from the property
11 lines of the activities, and shall be along or parallel
12 the edge of the pavement of the highway;
13 (9) "Commercial or industrial activities" for
14 purposes of unzoned industrial and commercial areas means
15 those activities generally recognized as commercial or
16 industrial by zoning authorities in this state, except
17 that none of the following activities shall be considered
18 commercial or industrial:
19 (a) Outdoor advertising structures;
20 (b) Agricultural, forestry, ranching, grazing,
21 farming, and related activities, including, but not
22 limited to, wayside fresh produce stands;
23 (c) Activities normally or regularly in operation
24 less than three (3) months of the year;
25 (d) Transient or temporary activities;
26 (e) Activities not visible from the main traveled

1 way;

2 (f) Activities more than three hundred (300) feet
3 from the nearest edge of the right of way;

4 (g) Activities conducted in a building principally
5 used as a residence;

6 (h) Railroad tracks and minor sidings.

7 (10) "Urban areas" means those areas which the
8 secretary of transportation, in the exercise of his sound
9 discretion and upon consideration being given to the
10 population within boundaries of an area and to the
11 traveling public, determines by official order to be
12 urban; provided, however, that any such determination or
13 designation of the secretary shall not, in any way, be at
14 variance with the federal law or regulation thereunder of
15 jeopardize the allotment or qualification for federal-aid
16 funds of the Commonwealth of Kentucky.

17 Section 2. KRS 177.841 is amended to read as follows:

18 (1) Except as otherwise provided in KRS 177.830 to
19 177.890, the erection or maintenance of any advertising
20 device upon or within six hundred sixty (660) feet of the
21 right of way of any interstate highway or federal-aid
22 primary highway is prohibited.

23 (2) The erection or maintenance of any advertising
24 device located outside of an urban area and beyond six
25 hundred sixty (660) feet of the right of way which is
26 legible [~~and~~/] or identifiable from the main traveled

1 way of any interstate highway or federal-aid primary
2 highway is prohibited with the exception of:
3 (a) Directional and official signs and notices;
4 (b) Signs advertising the sale or lease of property
5 upon which they are located; or
6 (c) Signs advertising activities conducted on the
7 property on which they are located.
8 Section 3. KRS 177.860 is amended to read as follows:
9 The commissioner of highways shall prescribe by
10 regulations reasonable standards for the advertising
11 devices hereinafter enumerated, designed to protect the
12 safety of and to guide the users of the highways and
13 otherwise to achieve the objectives set forth in KRS
14 177.850, and the erection and maintenance of any of the
15 following advertising devices, if they comply with such
16 regulations, shall not be deemed a violation of KRS
17 177.830 to 177.890:
18 (1) An advertising device which is to be erected or
19 maintained on property for the purpose of setting forth or
20 indicating:
21 (a) The name and address of the owner, lessee or
22 occupant of such property; or
23 (b) The name or type of business or profession
24 conducted on such property; or
25 (c) Information required or authorized by law to be
26 posted or displayed thereon.

1 (2) An advertising device which is not visible from
2 any traveled portion of the highway;
3 (3) An advertising device indicating the sale or
4 leasing of the property upon which it is placed;
5 (4) Advertising devices which otherwise comply with
6 the applicable zoning ordinances and regulations of any
7 county or city, and which are to be located in a
8 commercially or industrially developed area, in which the
9 commissioner of highways determines, in exercise of his
10 sound discretion, that the location of such advertising
11 devices is compatible with the safety and convenience of
12 the traveling public;
13 (5) Advertising devices within highway rights-of-way
14 to provide directional information for business
15 establishments offering goods and services in the interest
16 of the traveling public.
17 (6) Advertising devices located within six hundred
18 sixty (660) feet of the right of way of an interstate
19 highway and inside official urban area or city limit
20 boundary lines in zoned or unzoned commercial or
21 industrial areas.
22 (7) Advertising devices located outside urban area
23 or city limit boundary lines within six hundred sixty
24 (660) feet of the right of way of an interstate highway
25 are prohibited with the exception of devices located in
26 areas which were zoned commercial or industrial as of

1 September 21, 1959.

2 Section 4. KRS 177.865 is amended to read as follows:

3 [(1)] The commissioner of highways shall prescribe
4 by regulation a state signing policy on installation of
5 advertising services defined in KRS 177.860(5). This
6 policy shall restrict the use of said signs to limited
7 access highways of four (4) lanes or more, conform to the
8 federal highway administration's standards for specific
9 information signs and shall, as a minimum, include
10 criteria for:

11 (1)[(a)] Distances to eligible services;

12 (2)[(b)] Selection of eligible businesses;

13 (3)[(c)] Use of business signs and legends
14 conforming to federal highway administration size
15 provisions at intersections on expressways;

16 (4)[(d)] Removing or covering business signs
17 during off seasons for businesses operated on a seasonal
18 basis;

19 (5)[(e)] Defining the circumstances in which
20 specific information signs may be used outside rural
21 areas; and

22 (6)[(f)] Determining the costs to businesses for
23 initial installation, annual maintenance, and removal of
24 business signs.

25 [(2) Adoption of this section and KRS 177.860 shall
26 in no way preclude or prevent the erection of highway

1 advertising on exempted right of way as provided in
2 Public Law 85-381.]

88 RS BR 2336

IN HOUSE

REGULAR SESSION 1988

HOUSE BILL NO. 824

FRIDAY, FEBRUARY 26, 1988

Representatives Rex Smith, Freed Curd, and Dick Castleman introduced the following bill which was ordered to be printed.

AN ACT relating to highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 Section 1. KRS 177.865 is amended to read as follows:
2 (1) The commissioner of highways shall prescribe by
3 regulation a state signing policy on installation of
4 advertising services defined in KRS 177.860(5). This
5 policy shall restrict the use of said signs to limited
6 access highways of four (4) lanes or more, conform to the
7 federal highway administration's standards for specific
8 information signs and shall, as a minimum, include
9 criteria for:
10 (a) Distances to eligible services;
11 (b) Selection of eligible businesses;
12 (c) Use of business signs and legends conforming to
13 federal highway administration size provisions at
14 intersections on expressways;
15 (d) Removing or covering business signs during off
16 seasons for businesses operated on a seasonal basis;
17 (e) Defining the circumstances in which specific
18 information signs may be used outside rural areas; and
19 (f) Determining the costs to businesses for initial
20 installation, annual maintenance, and removal of business
21 signs.

1 (2) The transportation cabinet shall prescribe
2 administrative regulations which shall allow for the
3 erection of advertising on exempted rights-of-way as
4 provided in Public Law 85-381.
5 (3) Adoption of subsection (1) of this section and
6 KRS 177.860 shall in no way preclude or prevent the
7 erection of highway advertising on exempted right of way
8 as provided in Public Law 85-381.

IN HOUSE

REGULAR SESSION 1988

HOUSE BILL NO. 998

WEDNESDAY, MARCH 2, 1988

Representative Rex Smith introduced the following bill which was ordered to be printed.

AN ACT relating to outdoor advertising.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS
2 CREATED TO READ AS FOllOWS:
3 The control of signs in areas adjacent to the
4 highways of this state is declared to be necessary to
5 protect the public investment in the state highways; to
6 attract visitors to this state by conserving the natural
7 beauty of the state; to preserve and promote the
8 recreational value of public travel; to assure that
9 information in the specific interest of the traveling
10 public is presented safely and aesthetically; to enhance
11 the economic well-being of the state by promoting
12 tourist-oriented businesses, such as public
13 accommodations, vehicle services, attractions,
14 campgrounds, parks and recreational areas; and to promote
15 points of scenic historic, cultural, and educational
16 interest.
17 Section 2. KRS 177.830 is amended to read as follows:
18 As used in the provisions of this Act, unless the
19 context requires otherwise;
20 (1) "Business of outdoor advertising" means the
21 business of constructing, erecting, operating, using,

1 maintaining, leasing, or selling outdoor advertising
2 structures, outdoor advertising signs, or outdoor
3 advertisements.
4 (2) "Cabinet" means the transportation cabinet.
5 (3) "Commercial or industrial zone" means an area
6 within six hundred sixty (660) feet of the nearest edge of
7 the right-of-way of the interstate or federal-aid primary
8 system zoned for commercial or industrial use under
9 authority of state law.
10 (4) "Erect" means to construct, build, raise,
11 assembly, place, affix, attach, create, paint, draw, or in
12 any other way bring into being or establish; but it does
13 not include any of the foregoing activities when performed
14 as an incident to the change of advertising message or
15 customary maintenance or repair of a sign.
16 (5) "Federal-aid" primary highway system" means the
17 existing, unbuilt, or unopened system of highways or
18 portions thereof designated as the federal-aid primary
19 highway system by the cabinet.
20 (6) "Highway" means any road, street, or other way
21 open or intended to be opened to the public for travel by
22 motor vehicles.
23 (7) "Interstate highway system" means the existing,
24 unbuilt, or unopened system of highways or portions
25 thereof designated as the national system of interstate
26 and defense highways by the cabinet.

1 (8) "Main-traveled way" means the traveled way of a
2 highway on which through traffic is carried. In the case
3 of a divided highway, the traveled way of each of the
4 separate roadways for traffic in opposite directions is a
5 main-traveled way. It does not include such facilities as
6 frontage roads, turning roadways, or parking areas.
7 (9) "Maintain" means to allow to exist.
8 (10) "Motorist services directional signs" means
9 signs providing directional information about goods and
10 services in the interest of the traveling public where
11 such signs were lawfully erected and in existence on or
12 before May 6, 1976, and continue to provide directional
13 information to goods and services in a defined area.
14 (11) "New highway" means the construction of any
15 road, paved or unpaved, where no road previously existed
16 or the act of paving any previously unpaved road.
17 (12) "Nonconforming sign" means a sign which was
18 lawfully erected but which does not comply with the land
19 use, setback, size, spacing, and lighting provisions of
20 state or local law, rule, regulation, or ordinance passed
21 at a later date or a sign which was lawfully erected but
22 which later fails to comply with state or local law, rule,
23 regulation, or ordinance due to changed conditions.
24 (13) "Premises" means an area of land occupied by
25 the buildings or other physical uses which are an integral
26 part of the activity conducted upon the land and such open

1 spaces as are arranged and designed to be used in
2 conjunction with that activity.
3 (14) "Sign" means any combination of structure and
4 message in the form of an outdoor sign, display, device,
5 figure, painting, drawing, message, placard, poster,
6 billboard, advertising structure, advertisement, logo,
7 symbol, or other form, whether placed individually or on a
8 V-type, back-to-back, or side to side display designed,
9 intended, or used to advertise or inform, any part of the
10 advertising message or informative contents of which is
11 visible from any place on the main-traveled way. The term
12 does not include an official traffic control sign,
13 official marker, or specific information panel erected,
14 caused to be erected, or approved by the cabinet.
15 (15) "Sign direction" means that direction from
16 which the message or informative contents are most visible
17 to oncoming traffic on the main-traveled way.
18 (16) "Sign face" means the part of the sign,
19 including trim and background, which contains the message
20 or informative contents.
21 (17) "Sign facing" includes all sign faces displayed
22 at the same location and facing the same direction.
23 (18) "Sign structure" means all the interrelated
24 parts and material, such as beams, poles, and stringers,
25 which are constructed for the purpose of supporting or
26 displaying a message or informative contents.

1 (19) "State Highway System" means the existing,
2 unbuilt, or unopened system of highways or portions
3 thereof designated as the state highway system by the
4 cabinet.
5 (20) "Unzoned commercial or industrial area" means
6 an area which is not zoned by state or local law,
7 regulation or ordinance and on which a commerc.al or
8 industrial activity is located, together with an area
9 extending along the highway for a distance of seven
10 hundred (700) feet on each side of the activity boundary
11 line and on the same side of the road. Each side of the
12 highway where a commercial or industrial activity is
13 located shall be considered separately in applying this
14 definition. All measurements shall be from the outer
15 edges of the regularly used buildings, parking lots,
16 storage or process areas of the activities and not, from
17 the property boundary lines. Certain activities,
18 including, but not limited to, the following, may not be
19 so recognized:
20 (a) Signs.
21 (b) Agricultural, forestry, ranching, grazing,
22 farming, and related activities, including, but not
23 limited to, wayside fresh produce stands.
24 (c) Transient or temporary activities.
25 (d) Activities not visible from the main-traveled
26 way.

(e) Activities conducted more than six hundred sixty (660) feet from the nearest edge of the right-of-way.

(f) Activities conducted in a building principally used as a residence.

(g) Railroad tracks and minor sidings.

(21) "Urban area" means a geographical region comprising as a minimum the United States bureau of census boundary of an urban place with a population of five thousand (5,000) or more persons, expanded to include adjacent areas as provided for by the regulations of the federal highway administration.

(22) "Visible commercial or industrial activity" means a commercial or industrial activity that is capable of being seen without visual aid by a person of normal visual acuity from the main-traveled way and that is generally recognizable as commercial or industrial.

(23) "Visible sign" means that the advertising message or informative contents of a sign, whether or not legible, is capable of being seen without visual aid by a person of normal visual acuity.

[As used in KRS 177.830 to 177.890, unless the context requires otherwise,

(1) "Limited-access highway" means a road or highway or bridge constructed pursuant to the provisions of KRS 177.220 through 177.310,

(2) "Interstate highway" means any highway, road,

1 street, access facility, bridge or overpass which is
2 designated as a portion of the national system of
3 interstate and defense highways as may be established by
4 law, or as may be so designated by the department of
5 transportation in the joint construction of the system by
6 the department of transportation and the United States
7 department of transportation, bureau of public roads.
8 (3) "Federal-aid primary highway" means any highway,
9 road, street, appurtenant facility, bridge or overpass
10 which is designated as a portion of the federal-aid
11 primary highway system as may be established by law or as
12 may be so designated by the department of transportation
13 and the United States department of transportation.
14 (4) "Turnpike" means any road or highway or
15 appurtenant facility constructed pursuant to the
16 provisions of KRS 177.390 through 177.570, or pursuant to
17 the provisions of any other definition of "turnpike" in
18 the Kentucky Revised Statutes, or any other highway, road,
19 parkway, bridge or street upon which a toll or fee is
20 charged for the use of motor vehicular traffic.
21 (5) "Advertising device" means any billboard, sign,
22 notice, poster, display or other device intended to
23 attract the attention of operators of motor vehicles on
24 the highways, and shall include a structure erected or
25 used in connection with the display of any device and all
26 lighting or other attachments used in connection

1 therewith. However, it does not include directional or
2 other official signs or signals erected by the state or
3 other public agency having jurisdiction.
4 (6) "Highway or highways" as used in KRS 177.830 to
5 177.890 means limited access highway, interstate highway,
6 federal-aid primary highway, or turnpike as defined in KRS
7 177.830 to 177.890.
8 (7) "Commercial or industrial zone" adjacent to a
9 federal-aid primary highway means an area zoned to permit
10 business, commerce or trade pursuant to lawful ordinance
11 or regulation.
12 (8) "Unzoned commercial or industrial area" adjacent
13 to a federal-aid primary highway means an area which is
14 not zoned by state or local law, regulation or ordinance
15 and on which either a commercial or industrial activity is
16 conducted or a permanent structure therefor is located
17 together with the area extending along the highway for
18 such distances as may be determined by regulation
19 promulgated by the secretary of transportation. Each side
20 of the highway will be considered separately in applying
21 this definition -- all measurements shall be from the
22 outer edges of the regularly used buildings, parking lots,
23 storage or processing areas of the activities, not from
24 the property lines of the activities, and shall be along
25 or parallel the edge of the pavement of the highway.
26 (9) "Commercial or industrial activities" for

purposes of unzoned industrial and commercial areas means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

(a) Outdoor advertising structures;

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

(c) Activities normally or regularly in operation less than three (3) months of the year;

(d) Transient or temporary activities;

(e) Activities not visible from the main traveled way;

(f) Activities more than 300 feet from the nearest edge of the right of way;

(g) Activities conducted in a building principally used as a residence;

(h) Railroad tracks and minor sidings;

(10) "Urban areas" means those areas which the secretary of transportation, in the exercise of his sound discretion and upon consideration being given to the population within boundaries of an area and to the traveling public, determines by official order to be urban; provided, however, that any such determination or designation of the secretary shall not, in any way, be at

1 variance with the federal law or regulation thereunder of
2 jeopardize the allotment or qualification for federal-aid
3 funds of the Commonwealth of Kentucky/]
4 Section 3. KRS 177.841 is amended to read as follows:
5 It shall be the duty of the cabinet to:
6 (1) Administer and enforce the provisions of this
7 chapter and the agreement between the state and the United
8 States department of transportation relating to the size,
9 lighting, and spacing of signs in accordance with title I
10 of the Highway Beautification Act of 1965 and Title 23,
11 United States Code, and federal regulations in effect as
12 of the effective date of this Act;
13 (2) Regulate size, height, lighting, and spacing of
14 signs permitted in zoned and unzoned commercial areas and
15 zoned and unzoned industrial areas on the interstate
16 highway system and the federal-aid primary highway system;
17 (3) Determine unzoned commercial areas and unzoned
18 industrial areas; and
19 (4) Implement a specific information panel program
20 on the interstate highway system and the federal-aid
21 primary highway system to promote tourist-oriented
22 businesses by providing directional information safely and
23 aesthetically.
24 [(1) Except as otherwise provided in KRS 177.830 to
25 177.890, the erection or maintenance of any advertising
26 device upon or within 660 feet of the right of way of any

1 interstate highway or federal-aid primary highway is
2 prohibited.
3 (2) The erection or maintenance of any advertising
4 device located outside of an urban area and beyond 660
5 feet of the right of way which is legible and/or
6 identifiable from the main traveled way of any interstate
7 highway or federal-aid primary highway is prohibited with
8 the exception of:
9 (a) Directional and official signs and notices;
10 (b) Signs advertising the sale or lease of property
11 upon which they are located; or
12 (c) Signs advertising activities conducted on the
13 property on which they are located.]
14 Section 4. KRS 177.850 is amended to read as follows:
15 The territory under the jurisdiction of the cabinet
16 for the purpose of this chapter shall include all the
17 state. Employes, agents, or independent contractors
18 working for the cabinet, in the performance of their
19 functions and duties under the provisions of this chapter,
20 may enter into and upon any land upon which a sign is
21 displayed, is proposed to be erected, or is being erected
22 and make such inspections, surveys, and removals as may be
23 relevant.
24 [The general purposes of KRS 177.830 to 177.890 and
25 its specific objectives and standards are:
26 (1) To provide for maximum visibility along

1 interstate highways, limited-access highways, federal-aid
2 primary highways, turnpikes, and connecting roads or
3 highways,
4 (2) To prevent unreasonable distraction of operators
5 of motor vehicles,
6 (3) To prevent confusion with regard to traffic
7 lights, signs or signals or otherwise interfere with the
8 effectiveness of traffic regulations,
9 (4) To preserve and enhance the natural scenic
10 beauty or the aesthetic features of the aforementioned
11 interstate highways, limited-access highways, federal-aid
12 primary highways, turnpikes, and adjacent areas,
13 (5) To promote maximum safety, comfort and
14 well-being of the users of said highways,]
15 Section 5. KRS 177.860 is amended to read as follows:
16 No person shall engage in the business of outdoor
17 advertising in this state outside an incorporated area
18 without first obtaining a license therefor from the
19 cabinet. Such license shall be renewed annually. The fee
20 for such license, and for each annual renewal shall be
21 three hundred dollars ($300). License renewal fees shall
22 be payable as provided for in KRS 177.870(5).
23 [The commissioner of highways shall prescribe by
24 regulations reasonable standards for the advertising
25 devices hereinafter enumerated, designed to protect the
26 safety of and to guide the users of the highways and

1 otherwise to achieve the objectives set forth in KRS
2 177.830, and the erection and maintenance of any of the
3 following advertising devices, if they comply with such
4 regulations, shall not be deemed a violation of KRS
5 177.830 to 177.890.
6 (1) An advertising device which is to be erected or
7 maintained on property for the purpose of setting forth or
8 indicating:
9 (a) The name and address of the owner, lessee or
10 occupant of such property, or
11 (b) The name or type of business or profession
12 conducted on such property, or
13 (c) Information required or authorized by law to be
14 posted or displayed thereon;
15 (2) An advertising device which is not visible from
16 any traveled portion of the highway;
17 (3) An advertising device indicating the sale or
18 leasing of the property upon which it is placed;
19 (4) Advertising devices which otherwise comply with
20 the applicable zoning ordinances and regulations of any
21 county or city, and which are to be located in a
22 commercially or industrially developed area, in which the
23 commissioner of highways determines, in exercise of his
24 sound discretion, that the location of such advertising
25 devices is compatible with the safety and convenience of
26 the traveling public;

1 [(5) Advertising devices within highway rights-of-way
2 to provide directional information for business
3 establishments offering goods and services in the interest
4 of the traveling public.]
5 Section 6. KRS 177.863 is amended to read as follows:
6 (1) The cabinet has authority to deny or revoke any
7 license requested or granted under this chapter in any
8 case in which it determines that the application for the
9 license contains knowingly false or misleading information
10 or that the licensee has violated any of the provisions of
11 this chapter, unless such licensee, within thirty (30)
12 days after the receipt of notice by the cabinet, corrects
13 such false or misleading information or complies with the
14 provisions of this chapter. Any person aggrieved by any
15 action of the cabinet denying or revoking a license under
16 this chapter may, within thirty (30) days from the receipt
17 of the notice, apply to the cabinet for an administrative
18 hearing.
19 (2) Any person aggrieved by the decision of the
20 hearing in denying or revoking a license under this
21 chapter may within thirty (30) days from the receipt of
22 the notice, appeal the decision to the Franklin circuit
23 court.
24 [Within any commercial or industrial zone or unzoned
25 commercial or industrial area adjacent to a federal-aid
26 primary highway, advertising devices shall be subject to

the following standards:

(1) Prohibited advertising devices:

(a) Advertising devices that are not clean and in good repair;

(b) Advertising devices that are not securely affixed to a substantial structure;

(c) Advertising devices which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device;

(d) Advertising devices which obstruct the view of official signs, or approaching and merging traffic;

(e) Advertising devices on trees, or painted upon natural features;

(f) Advertising devices exceeding 1,250 square feet on each face including border and trim, but excluding supports;

(g) Advertising devices advertising an activity that is illegal under state or federal law;

(h) Obsolete advertising devices;

(2) Spacing of advertising devices:

(a) No advertising device structure designed to be primarily viewed from a non-limited access federal-aid primary highway shall be erected within 300 feet of any other such advertising device structure on the same side of the highway, unless separated by a building, natural

obstruction or roadway. Provided, however, That in an incorporated municipality such required distance shall be reduced to 100 feet.

(b) Double-faced -- V-type and/or back-to-back advertising device structures shall be one advertising device for spacing purposes.

(c) The minimum distance between advertising devices shall be measured along the nearest edge of the pavement between points directly opposite the advertising devices.

(d) Advertising devices advertising the sale or lease of the property on which they are located, or advertising the activity conducted thereon, are permitted, and shall not cause any other advertising device to be in violation of this chapter, notwithstanding any contrary provision.

(3) Size of advertising devices.

(a) The maximum area for any advertising device shall be 1,250 square feet, including border and trim but excluding supports.

(b) An advertising device structure may contain one (1) or two (2) advertisements per facing, not to exceed the maximum area.

(c) Double faced structures will be permitted with the maximum area being allowed for each facing.

(4) Lighting of advertising devices.

Advertising devices may be illuminated, subject to

1 the following restrictions/

2 (a) Advertising devices which contain/ include or
3 are illuminated by any flashing/ intermittent/ or moving
4 light or lights are prohibited/ except those giving public
5 service information such as time/ date/ temperature/
6 weather/ or similar information/

7 (b) Advertising devices which are not effectively
8 shielded as to prevent beams or rays of light from being
9 directed at any portion of the traveled way of the highway
10 which are of such intensity or brilliance as to cause
11 glare or to impair the vision of the driver of any motor
12 vehicle/ or which otherwise interfere with any driver/s
13 operation of a motor vehicle are prohibited/

14 (c) No advertising device shall be so illuminated
15 that it interferes with the effectiveness of or obscures
16 an official traffic sign/ device or signal/]

17 Section 7. KRS 177.865 is amended to read as follows:

18 (1) Except as provided in Section 16 of this Act, a
19 person may not erect, operate, use, or maintain, or cause
20 to be erected, operated, used, or maintained, any sign on
21 the state highway system outside an incorporated area or
22 on any portion of the interstate or federal-aid primary
23 highway system without first obtaining a permit for the
24 sign from the cabinet and paying the annual fee as
25 provided in this section.

26 (2) A person may not apply for a permit unless he

1 has first obtained the written permission of the owner or
2 other person in lawful possession or control of the site
3 designated as the location of the sign in the application
4 for the permit.
5 (3) (a) An application for a sign permit shall be
6 made on a form prescribed by the cabinet, and a separate
7 application must be submitted for each permit requested. A
8 permit is required for each sign facing.
9 (b) As part of the application, the applicant or his
10 authorized representative shall certify in a notarized
11 signed statement that all information provided in the
12 application is true and correct and that, pursuant to
13 subsection (2) of this section, he has obtained the
14 written permission of the owner or other person in lawful
15 possession of the site designated as the location of the
16 sign in the permit application. Every permit application
17 shall be accompanied by the appropriate permit fee; a
18 signed statement by the owner or other person in lawful
19 control of the site on which the sign is located or will
20 be erected, authorizing the placement of the sign on that
21 site; and, where local governmental regulation of signs
22 exists, a statement from the appropriate local
23 governmental official indicating that the local government
24 will issue a permit to that applicant upon approval of the
25 state permit application by the cabinet.
26 (c) The annual permit fee for each sign facing shall

1 be thirty dollars ($30). A fee may not be prorated for a
2 period less than the remainder of the permit year to
3 accommodate short-term publicity features; however, a
4 first-year fee may be prorated by payment of an amount
5 equal to one-fourth of the annual fee for each remaining
6 whole quarter or partial quarter of the permit year which
7 ends on January 15. Applications received after September
8 30 must include fees for the last quarter of the current
9 year and fees for the succeeding year.
10 (4) An application for a permit shall be acted on by
11 the cabinet within thirty (30) days after receipt of the
12 application by the cabinet.
13 (5) (a) For each permit issued, the cabinet shall
14 furnish to the applicant a serially numbered permanent
15 metal permit tag. The permittee shall be responsible for
16 maintaining a valid permit tag on each permitted sign
17 facing at all times. The tag shall be securely attached to
18 the sign facing or, if there is no facing, on the pole
19 nearest the highway; and it shall be attached in such a
20 manner as to be plainly visible from the main-traveled
21 way. The permit shall be void unless the permit tag is
22 properly and permanently displayed at the permitted site
23 within thirty (30) days after the date of permit issuance.
24 If the permittee fails to erect a completed sign on the
25 permitted site within two hundred seventy (270) days after
26 the date on which the permit was issued, the permit will

1 be void, and the cabinet may not issue a new permit to
2 that permittee for the same location for two hundred
3 seventy (270) days after the date on which the permit
4 became void.
5 (b) If a permit tag is lost, stolen, or destroyed,
6 the permittee to whom the tag was issued shall apply to
7 the cabinet for a replacement tag. Upon receipt of the
8 application accompanied by a service fee of three dollars
9 ($3) the cabinet shall issue a replacement permit tag.
10 (6) A permit is valid only for the location
11 specified in the permit. Valid permits may be transferred
12 from one sign owner to another upon written acknowledgment
13 from the current permittee and submittal of a transfer fee
14 of five dollars ($5) for each permit to be transferred.
15 However, the maximum transfer fee for any multiple
16 transfer between two (2) outdoor advertisers in a single
17 transaction shall be one hundred dollars ($100).
18 (7) A permittee shall at all times maintain the
19 permission of the owner or other person in lawful control
20 of the sign site to have and maintain a sign at such site.
21 (8) (a) All licenses and permits expire annually on
22 January 15, and all license and permit renewal fees are
23 required to be submitted to the cabinet by no later than
24 January 15. On or before November 1 of each year, the
25 cabinet shall send to each permittee a notice of fees due
26 for all permits which were issued to him prior to

1 September 30. Such notice shall list the permits and the
2 permit fees due for each sign facing. The permittee shall,
3 no later than January 1 of each year, advise the cabinet
4 of any additions, deletions, or errors contained in the
5 notice. Permit tags which are not renewed shall be
6 returned to the cabinet for cancellation by January 15.
7 Permit tags which are not renewed or returned to the
8 cabinet shall be accounted for by the permittee in
9 writing, which writing shall be submitted with the renewal
10 fee payment.
11 (b) If a permittee has not submitted his fee payment
12 by January 15, the cabinet shall, no later than February
13 1, send notice of violation to the permittee, requiring
14 the payment of the permit fee within thirty (30) days
15 after the date of the notice and payment of a delinquency
16 fee equal to ten percent (10%) of the original amount due
17 or, in the alternative to these payments, requiring the
18 filing of a request for an administrative hearing to show
19 cause why his sign should not be subject to immediate
20 removal due to expiration of his license or permit. If the
21 permittee submits payment as required by the violation
22 notice, his license or permit shall be automatically
23 reinstated and such reinstatement shall be retroactive to
24 January 15. If the permittee does not respond to the
25 notice of violation within the thirty (30) day period, the
26 cabinet shall remove the sign without further notice and

1 without incurring any liability as a result of such
2 removal.
3 (9) (a) A permit shall not be granted for any sign
4 for which a permit had not been granted by the effective
5 date of this Act unless such sign is located at least:
6 1. One thousand (1,000) feet from any other
7 permitted sign on the same side of the highway, if on any
8 interstate highway.
9 2. One thousand (1,000) feet from any other
10 permitted sign on the same side of the highway, if on a
11 federal-aid primary highway.
12 (3) Five hundred (500) feet from any other permitted
13 sign on the same side of the highway, if on any interstate
14 highway outside of an incorporated area.
15 (4) Three hundred (300) feet from any other
16 permitted sign on the same side of the highway if on any
17 interstate of federal aid primary highway within an
18 incorporated area. The minimum spacing provided in this
19 paragraph does not preclude the permitting of V-type,
20 back-to-back, or side-to-side, signs at the permitted sign
21 site.
22 (b) A permit shall not be granted for a sign
23 pursuant to this chapter to locate such sign on any
24 portion of the interstate or federal-aid primary highway
25 system, which signs exceeds eight hundred (800) square
26 feet of sign facing, including border and trim and

1 excluding base or apron supports or other structural
2 members.
3 (c) Nothing in this subsection shall be construed so
4 as to cause a sign which is conforming on the effective
5 date of this Act to become nonconforming.
6 (10) Commercial or industrial zoning which is not
7 comprehensively enacted or which is enacted primarily to
8 permit signs shall not be recognized as commercial or
9 industrial zoning for purposes of this provision, and
10 permits shall not be issued for signs in such areas. The
11 cabinet shall adopt rules within one hundred eighty (180)
12 days after this Act takes effect which shall provide
13 criteria to determine whether such zoning is
14 comprehensively enacted or enacted primarily to permit
15 signs.
16 [(1) The commissioner of highways shall prescribe
17 by regulation a state signing policy on installation of
18 advertising services defined in KRS 177.860(5). This
19 policy shall restrict the use of said signs to limited
20 access highways of four (4) lanes or more, conform to the
21 federal highway administration's standards for specific
22 information signs and shall, as a minimum, include
23 criteria for:
24 (a) Distances to eligible services;
25 (b) Selection of eligible businesses;
26 (c) Use of business signs and legends conforming to

1 federal highway administration size provisions at
2 intersections on expressways/
3 (d) Removing or covering business signs during off
4 seasons for businesses operated on a seasonal basis/
5 (e) Defining the circumstances in which specific
6 information signs may be used outside rural areas/ and
7 (f) Determining the costs to businesses for initial
8 installation/ annual maintenance/ and removal of business
9 signs/
10 (2) Adoption of this section and KRS 177.860 shall
11 in no way preclude or prevent the erection of highway
12 advertising on exempted right of way as provided in Public
13 Law 85-381/]
14 Section 8. KRS 177.867 is amended to read as follows:
15 The cabinet shall have the authority to deny or
16 revoke any permit requested or granted under this chapter
17 in any case in which it determines that the application
18 for the permit contains knowingly false or misleading
19 information or that the permittee has violated any of the
20 provisions of this chapter, unless such permittee, within
21 thirty (30) days after the receipt of notice by the
22 cabinet, corrects such false or misleading information and
23 complies with the provisions of this chapter. Any person
24 aggrieved by any action of the cabinet in denying or
25 revoking a permit under this chapter may, within thirty
26 (30) days after receipt of the notice, apply to the

1 cabinet for an administrative hearing. Any person
2 aggrieved by any decision resulting from the hearing by
3 the cabinet may appeal the decision within thirty (30)
4 days to the Franklin circuit court.
5 [(1) The secretary of the department of
6 transportation is authorized to acquire by purchase, gift,
7 or condemnation pursuant to the Eminent Domain Act of
8 Kentucky and shall pay just compensation upon the removal
9 of the following advertising devices:
10 (a) Those lawfully in existence on October 22, 1965;
11 (b) Those lawfully on any highway designated a part
12 of the interstate or federal-aid primary system on or
13 after October 22, 1965, and before January 1, 1968;
14 (c) Those lawfully erected on or after January 1,
15 1968, and
16 (d) Those lawfully in existence on January 1, 1976.
17 (2) Compensation shall be paid for the following:
18 (a) The taking from the owner of any such
19 advertising device of all right, title, leasehold, and
20 interest in such advertising device; and
21 (b) The taking from the owner of the real property
22 on which the advertising device is located, of the right
23 to erect and maintain such advertising devices thereon.]
24 Section 9. KRS 177.870 is amended to read as follows:
25 (1) Any sign which is located adjacent to the
26 right-of-way of any highway on the state highway system

1 outside an incorporated area or adjacent to the
2 right-of-way on any portion of the interstate or
3 federal-aid primary highway system, which sign was
4 erected, operated, or maintained without the permit
5 required by KRS 177.865(1) having been issued by the
6 cabinet, is declared to be a public nuisance and a private
7 nuisance and shall be removed as provided in this section.
8 (a) Upon a determination by the cabinet that a sign
9 is in violation of KRS 177.865, the cabinet shall
10 prominently post on the sign face a notice stating that
11 the sign is illegal and must be removed within thirty (30)
12 days after the date on which the notice was posted.
13 However, if the sign bears the name of the licensee or the
14 name and address of the nonlicensed sign owner, the
15 cabinet shall, concurrently with and in addition to
16 posting the notice on the sign, provide a written notice
17 to the owner, stating that the sign is illegal and shall
18 be permanently removed within the thirty (30) day period
19 specified on the posted notice. The written notice shall
20 further state that the sign owner has a right to request a
21 hearing, which request shall be filed with the cabinet
22 within thirty (30) days after the date of the written
23 notice. However, the filing of a request for a hearing
24 shall not stay the removal of the sign.
25 (b) If, pursuant to the notice provided, the sign is
26 not removed by the sign owner within the prescribed

1 period, the cabinet shall immediately remove the sign
2 without further notice; and, for that purpose, the
3 employes, agents, or independent contractors of the
4 cabinet may enter upon private property without incurring
5 any liability for so entering.
6 (c) For purposes of this subsection, a notice to the
7 sign owner, when required, constitutes sufficient notice;
8 and notice shall not be required to be provided to the
9 lessee, advertiser, or the owner of the real property on
10 which the sign is located.
11 (d) If, after a hearing, it is determined that a
12 sign has been wrongfully or erroneously removed pursuant
13 to this subsection, the cabinet, at the sign owner's
14 discretion, shall either pay just compensation to the
15 owner of the sign or reerect the sign in kind at the
16 expense of the cabinet.
17 (2) (a) If a sign is under construction and the
18 cabinet determines that a permit has not been issued for
19 the sign as required under the provisions of this chapter,
20 the cabinet is authorized to require that all work on the
21 sign cease until the sign owner shows that the sign does
22 not violate the provisions of this chapter. The order to
23 cease work shall be prominently posted on the sign
24 structure, and no further notice is required to be given.
25 The failure of a sign owner or his agents to immediately
26 comply with the order shall subject the sign to prompt

1 removal by the cabinet.

2 (b) For the purposes of this subsection only, a sign
3 is under construction when it is in any phase of initial
4 construction prior to the attachment and display of the
5 advertising message in final position for viewing by the
6 traveling public. A sign that is undergoing routine
7 maintenance or change of the advertising message only is
8 not considered to be under construction for the purposes
9 of this subsection.

10 (3) The cost of removing a sign, whether by the
11 cabinet or an independent contractor, shall be assessed
12 against the owner of the sign by the cabinet.

13 [Any advertising device erected, maintained,
14 replaced, relocated, repaired or restored in violation of
15 KRS 177.830 to 177.890 is hereby declared to be, and is, a
16 public nuisance and such device may without notice be
17 abated and removed by any officer or employe of the state
18 bureau of highways or upon request of the commissioner by
19 any peace officer.]

20 Section 10. KRS 177.880 is amended to read as
21 follows:

22 (1) Any sign located on the right of way of a
23 highway on the state highway system or on any portion of
24 the interstate or federal-aid primary system which is in
25 violation of Section 11 of this Act may be removed by the
26 cabinet as provided in this section. However, a permittee

1 of a sign which is located on the right-of-way in
2 violation of Section 11 of this Act and for which sign a
3 permit has been issued under the provisions of this
4 chapter shall be given notice in accordance with KRS
5 177.863. Upon a determination by the cabinet that a sign
6 is in violation of KRS 177.863, the cabinet shall
7 prominently post on the sign face a notice stating that
8 the sign is illegal and must be permanently removed from
9 the right-of-way within ten (10) working days after the
10 posting of the notice. However, if the sign bears the name
11 of the licensee or the name and address of the nonlicensed
12 sign owner, the cabinet shall, concurrently with and in
13 addition to posting the notice on the sign, provide
14 written notice to the owner, stating that the sign is
15 illegal and must be permanently removed from the
16 right-of-way within the ten (10) day period specified on
17 the posted notice and that the owner has a right to
18 request a hearing, which request shall be filed with the
19 cabinet within thirty (30) days after the date of the
20 notice. However, the request for a hearing shall not stay
21 the removal of the sign. If, pursuant to the notice
22 provided, the sign is not removed from the right-of-way by
23 the owner within the prescribed period, then the cabinet
24 shall immediately remove the sign without further notice.
25 (2) Notwithstanding the provisions of subsection (1)
26 of this section, the cabinet is authorized to remove,

1 without notice, any sign on the right-of-way which it
2 determines to be a safety hazard to the traveling public.
3 (3) If a sign that has been noticed pursuant to this
4 section is returned to the right-of-way, the cabinet shall
5 immediately remove the sign without further notice.
6 (4) If after a hearing, it is determined that a sign
7 has been wrongfully or erroneously removed pursuant to
8 this section, the cabinet, at the sign owner's discretion,
9 shall either pay just compensation to the owner of the
10 sign or reerect the sign in kind at the same location at
11 the expense of the cabinet.
12 (5) The cost of removing a sign, whether by the
13 cabinet or an independent contractor, shall be assessed by
14 the cabinet against the owner of the sign. Furthermore,
15 the cabinet shall assess a fine of seventy-five dollars
16 ($75) against the sign owner for any sign which violates
17 the requirements of this section. [Nothing in KRS 177.830
18 to 177.890 shall be construed to abrogate or affect the
19 provisions of any municipal ordinance, regulation or
20 resolution which is more restrictive concerning
21 advertising devices than the provisions of KRS 177.830 to
22 177.890 or of the regulations adopted hereunder, provided
23 that no city, county or urban-county government and no
24 commission, agency or department of any of the foregoing,
25 or any person acting under authority directly or
26 indirectly conferred by any municipal ordinance,

1 ~~regulation or resolution shall have any authority to~~
2 ~~require any sign or other advertising device which is~~
3 ~~within its jurisdiction, which was lawfully erected or~~
4 ~~installed and which is maintained in good repair to be~~
5 ~~removed without payment of just compensation as provided~~
6 ~~under KRS 177.867(2).~~]
7 SECTION 11. A NEW SECTION OF KRS CHAPTER 177 IS
8 CREATED TO READ AS FOLLOWS:
9 No sign shall be erected, used, operated, or
10 maintained:
11 (1) Within six hundred sixty (660) feet of the
12 nearest edge of the right-of-way of any portion of the
13 interstate highway system or the federal-aid primary
14 highway system, except as provided in Sections 12 and 16
15 of this Act.
16 (2) Beyond six hundred sixty (660) feet of the
17 nearest edge of the right-of-way of any portion of the
18 interstate highway system or the federal-aid primary
19 highway system outside an urban area, which sign is
20 erected for the purpose of its message being read from the
21 main-traveled way of such system, except as provided in
22 Section 12 of this Act.
23 (3) Within one hundred (100) feet of any church,
24 school, cemetery, public park, public reservation, public
25 playground, or state or national forest, when such
26 facility is located outside of an incorporated area,

1 except as provided in Section 16 of this Act.
2 (4) Which displays intermittent lights not embodied
3 in the sign, or any rotating or flashing light within one
4 hundred (100) feet of the outside boundary of the
5 right-of-way of any highway on the state highway system,
6 interstate highway system, or federal-aid primary highway
7 system.
8 (5) Which uses the word "stop" or "danger," or
9 presents or implies the need or requirement of stopping or
10 the existence of danger, or which is a copy or imitation
11 of official signs, and which is adjacent to the
12 right-of-way of any highway on the state highway system,
13 interstate highway system, or federal-aid primary highway
14 system.
15 (6) In any manner that may prevent persons using the
16 highway from obtaining an unobstructed view of approaching
17 vehicles and which is adjacent to the right-of-way of any
18 highway on the state highway system, interstate highway
19 system, or federal-aid primary highway system.
20 (7) Which is located upon the right-of-way of any
21 highway on the state highway system, interstate highway
22 system, or federal-aid primary highway system.
23 (8) Which is nailed, fastened, or affixed to any
24 tree or is erected or maintained in an unsafe, insecure,
25 or unsightly condition and which is adjacent to the
26 right-of-way of any highway on the state highway system

1 outside of an incorporated area or on any portion of the
2 interstate highway system or the federal-aid primary
3 highway system.
4 (9) Which is on a new highway outside an urban area
5 and otherwise would have been subject to the permit
6 requirements of this chapter.
7 SECTION 12. A NEW SECTION OF KRS CHAPTER 177 IS
8 CREATED TO READ AS FOLLOWS:
9 Only the following signs shall be allowed within
10 controlled portions of the interstate highway system and
11 the federal-aid primary highway system as set forth in
12 Section 11 (1) and (2) of this Act;
13 (1) Directional or other official signs and notices
14 which conform to 23 C.F.R. subsections 750.151-750.155.
15 (2) Signs within two (2) miles of any interchange
16 which is not at grade on a rural section federal-aid
17 primary route or toll road shall be spaced not closer than
18 one thousand (1,000) feet apart. Unzoned areas which are
19 further than the two (2) mile limit from interchanges on
20 rural sections of the interstate, federal-aid primary
21 shall not be permitted to have or toll roads shall not be
22 permitted to have signs spaced closer than two thousand
23 five hundred (2,500) feet unless said areas are zoned
24 commercial or industrial, in which case the one thousand
25 (1,000) feet spacing provision shall apply.
26 (3) Signs for which permits are not required under

1 Section 16 of this Act.

2 SECTION 13. A NEW SECTION OF KRS CHAPTER 177 IS
3 CREATED TO READ AS FOLLOWS:

4 The cabinet shall retain ten percent (10%) of all
5 money received by the cabinet pursuant to this Act for use
6 in administration of these provisions including the
7 removal of signs pursuant to Section 18 of this Act. The
8 balance of these receipts shall be forwarded to the
9 commerce cabinet and used solely for the development of
10 tourism within the Commonwealth.

11 SECTION 14. A NEW SECTION OF KRS CHAPTER 177 IS
12 CREATED TO READ AS FOLLOWS:

13 (1) No zoning board or commission or other public
14 officer or agency shall issue a permit to erect any sign
15 which is prohibited under the provisions of this chapter
16 or the rules of the cabinet, nor shall the cabinet issue a
17 permit for any sign which is prohibited by any other
18 public board, officer, or agency in the lawful exercise of
19 its powers.

20 (2) No municipality, county, local zoning authority,
21 or other political subdivision shall remove, or cause to
22 be removed, any lawful nonconforming sign along any
23 portion of the interstate or federal-aid primary highway
24 system without paying just compensation. This subsection
25 applies only to a lawful nonconforming sign the subject
26 matter of which relates to premises other than the

1 premises on which it is located or to merchandise,
2 services, activities, or entertainment not sold, produced,
3 manufactured, or furnished on the premises on which the
4 sign is located.
5 SECTION 15. A NEW SECTION OF KRS CHAPTER 177 IS
6 CREATED TO READ AS FOLLOWS:
7 The provisions of this chapter shall not be deemed to
8 supersede the rights and powers of counties and
9 municipalities to enact outdoor advertising or sign
10 ordinances.
11 SECTION 16. A NEW SECTION OF KRS CHAPTER 177 IS
12 CREATED TO READ AS FOLLOWS:
13 The following signs are exempt from the requirement
14 that a permit for a sign be obtained under the provisions
15 of this chapter, but are required to comply with the
16 provisions of Section 11(4) to (8).
17 (1) Signs erected on the premises of an
18 establishment, which signs consist primarily of the name
19 of the establishment, or which identify the principal or
20 accessory merchandise, services, activities, or
21 entertainment sold, produced, manufactured, or furnished
22 on the premises of the establishment and which meet the
23 minimum requirements of the state building code. If a sign
24 located on the premises of an establishment consists
25 principally of brand name or trade name advertising and
26 the merchandise or service is only incidental to the

1 principal activity, or if the owner of the establishment
2 receives rental income from the sign, then the sign is not
3 exempt under this subsection.
4 (2) Signs erected, used, or maintained on a farm by
5 the owner or lessee of such farm and relating solely to
6 farm produce, merchandise, service, or entertainment sold,
7 produced, manufactured, or furnished on such farm.
8 (3) Signs posted or displayed on real property by
9 the owner or by the authority of the owner, stating that
10 the real property is for sale or rent. However, if the
11 sign contains any message not pertaining to the sale or
12 rental of that real property, then it is not exempt under
13 this section.
14 (4) Official notices or advertisements posted or
15 displayed on private property by or under the direction of
16 any public or court officer in the performance of his
17 official or directed duties, or by trustees under deeds of
18 trust or deeds of assignment or other similar instruments.
19 (5) Danger or precautionary signs relating to the
20 premises on which they are located; forest fire warning
21 signs erected under the authority of the division of
22 forestry of the department of agriculture and consumer
23 services; and signs, notices, or symbols erected by the
24 United States government under the direction of the United
25 States forestry service.
26 (6) Notices of any railroad, bridge, ferry, or other

1 transportation or transmission company necessary for the
2 direction or safety of the public.
3 (7) Signs, notices, or symbols for the information
4 of aviators as to location, directions, and landings and
5 conditions affecting safety in aviation erected or
6 authorized by the cabinet.
7 (8) Signs or notices erected or maintained upon
8 property stating only the name of the owner, lessee, or
9 occupant of the premises and not exceeding eight (8)
10 square feet in area.
11 (9) Historical markers erected by duly constituted
12 and authorized public authorities.
13 (10) Official traffic control signs and markers
14 erected, caused to be erected, or approved by the cabinet.
15 (11) Signs erected upon property warning the public
16 against hunting and fishing or trespassing thereon.
17 (12) Signs not in excess of eight (8) square feet
18 that are owned by and relate to the facilities and
19 activities of churches, civic organizations, fraternal
20 organizations, charitable organizations, or units or
21 agencies of government.
22 (13) Signs placed on benches, transit shelters, and
23 waste receptacles placed by public transportation
24 providers or by local government. Signs so placed are also
25 exempt from the provisions of Section 11(4) and (8) of
26 this Act.

1 (14) Signs relating exclusively to political
2 campaigns.
3 SECTION 17. A NEW SECTION OF KRS CHAPTER 177 IS
4 CREATED TO READ AS FOLLOWS:
5 Any person who willfully or maliciously removes,
6 damages, destroys, tampers with, or alters in any way a
7 sign for which a permit has been issued under this chapter
8 is guilty of a Class B misdemeanor.
9 SECTION 18. A NEW SECTION OF KRS CHAPTER 177 IS
10 CREATED TO READ AS FOLLOWS:
11 (1) Just compensation shall be paid upon the removal
12 of a lawful nonconforming sign along any portion of the
13 interstate or federal-aid primary highway system. This
14 section does not apply to a sign which is illegal at the
15 time of its removal. A sign shall lose its nonconforming
16 status and become illegal at such time as it fails to be
17 permitted or maintained in accordance with all applicable
18 laws and administrative regulations other than the
19 provision which makes it nonconforming. A legal
20 nonconforming sign pursuant to this chapter or
21 administrative regulation shall not lose its nonconforming
22 status solely because it additionally becomes
23 nonconforming under an ordinance or regulation of a local
24 governmental entity passed at a later date. The cabinet
25 shall make every reasonable effort to negotiate the
26 purchase of the signs to avoid litigation and congestion

1 in the courts.
2 (2) (a) Consistent with an orderly and equitable
3 program, the cabinet shall identify and prioritize, by
4 January 1, 1990, specific geographic areas within which
5 nonconforming signs shall be removed on a voluntary basis
6 for the purpose of establishing and protecting scenic
7 areas along the interstate highway system and the
8 federal-aid primary highway system. The cabinet shall also
9 seek federal matching funds and match any such funds on a
10 twenty-five percent (25%) basis for the removal of
11 nonconforming signs on a route-by-route basis.
12 (b) The cabinet is not required to remove any sign
13 under this section if the federal share of the just
14 compensation to be paid upon removal of the sign is not
15 available to make such payment, unless an appropriation is
16 made by the general assembly to the cabinet for such
17 purpose.
18 (3) The cabinet may use the power of eminent domain
19 when necessary to carry out the provisions of this chapter.
20 SECTION 19. A NEW SECTION OF KRS CHAPTER 177 IS
21 CREATED TO READ AS FOLLOWS:
22 (1) The cabinet shall implement a specific
23 information panel program in the rights-of-way of the
24 interstate highway system and the federal-aid primary
25 highway system to present information in the specific
26 interest of the traveling public and to promote

1 tourist-oriented businesses. Signs erected pursuant to
2 this section along the interstate highway system and the
3 federal-aid primary highway system shall conform to
4 subsections 131 and 315 of Title 23, United State Code,
5 and related federal regulations. For the purposes of this
6 section, the cabinet may seek waivers from the United
7 States department of transportation to permit the signs
8 of any type of tourist-oriented business which may not be
9 specifically allowed under federal law and regulations.
10 (2) (a) The cabinet shall prescribe the criteria and
11 qualifications a business must satisfy to be permitted to
12 display a sign. Such criteria and qualifications may
13 include the type of business and the distance from an
14 intersection, as well as any other requirements necessary
15 to provide equitability, to conserve natural beauty, and
16 to assure that information is presented safely and
17 aesthetically. The cabinet may prescribe varying criteria
18 and qualifications to better suit the specific information
19 panels to the differing circumstances of particular
20 highways, localities, and intersections, as well as
21 determine not to permit specific information panels in
22 areas where the cabinet deems their placement would be
23 contrary to the overall purpose of this chapter as
24 provided for in Section 1 of this Act.
25 (b) To provide equitable opportunity for businesses
26 to display signs before the traveling public, any business

1 which displays a sign along the interstate or federal-aid
2 primary highway system, which sign is not permitted
3 pursuant to this section, shall not be permitted to
4 display a sign on any specific information panel.
5 (3) The cabinet shall develop a permitting process
6 which may include the submittal of an application by an
7 interested business. One (1) permit shall be required for
8 each sign, and it shall be renewed annually. The cabinet
9 shall charge an annual permit fee of no more than three
10 hundred dollars ($300). The cabinet shall charge fees
11 which are sufficient to cover the cost of carrying out the
12 requirements of this section.
13 (4) Each business which is granted a permit is
14 responsible for purchasing its sign and assuring that the
15 sign satisfies specifications prescribed by the cabinet. A
16 sign which does not satisfy the specifications prescribed
17 by the cabinet shall not be permitted on a specific
18 information panel.
19 (5) The cabinet may contract with private persons
20 for any activities other than administration and erection
21 of sign panels. The cost of contracting shall be paid out
22 of revenues from the permit fees specified in this section.
23 SECTION 20. KRS 177.890 is amended to read as
24 follows:
25 The commissioner of highways is hereby authorized to
26 enter into agreements with the United States secretary of

1 transportation for the purpose of carrying out the
2 provisions of this Act [the national policy of promoting
3 the safety, convenience and enjoyment of public travel and
4 the free flow of interstate commerce and the protection of
5 the public investment in the national system of interstate
6 and defense highways and federal-aid primary highways
7 within the Commonwealth].

IN SENATE

REGULAR SESSION 1988

SENATE BILL NO. 291

TUESDAY, FEBRUARY 23, 1988

Senator Virgil Pearman introduced the following bill which was ordered to be printed.

AN ACT relating to highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 Section 1. KRS 177.841 is amended to read as follows:
2 (1) Except as otherwise provided in KRS 177.830 to
3 177.890, the erection or maintenance of any advertising
4 device upon or within 660 feet of the right of way of any
5 interstate highway or federal-aid primary highway is
6 prohibited.
7 (2) Any person seeking to erect a billboard on a
8 rural section of an interstate and beyond six hundred and
9 sixty (660) feet from the right-of-way shall make
10 application to the transportation cabinet, and upon
11 payment of a license fee of two hundred dollars ($200) for
12 each billboard license, shall be issued a serial number
13 which shall be displayed upon no more than one (1)
14 billboard. This serial number shall be issued for the
15 purpose of identifying the owner of any billboard erected
16 according to this section.
17 (3) All license fees collected according to this
18 section shall be placed in the state road fund. [The
19 erection or maintenance of any advertising device located
20 outside of an urban area and beyond 660 feet of the right
21 of way which is legible and/or identifiable from the main

1 traveled way of any interstate highway or federal-aid
2 primary highway is prohibited with the exception of:
3 (a) Directional and official signs and notices;
4 (b) Signs advertising the sale or lease of property
5 upon which they are located; or
6 (c) Signs advertising activities conducted on the
7 property on which they are located.]

APPENDIX D

BUILDERS ASSOCIATION OF SOUTHERN INDIANA

July 11, 1989

Lynne Goetz
Account Executive
Naegele Outdoor Advertising, Inc.
1501 Lexington Rd.
Lou., KY 40206-1991

Dear Lynne:

Again, outdoor comes thru. We had a very successful Home Expo '89 thanks to our many outdoor boards stratigically placed in high traffic areas. We used only outdoor and newspaper and we're very happy with our results.

Please schedule the same number of boards for next year. The date and location will be announced in August.

Cordially,

William E. Dillman

William E. Dillman
Director of Promotions

HOME BUILDERS ASSOCIATION OF SOUTHERN INDIANA, INC.

623 W. HIGHWAY 131 • CLARKSVILLE, INDIANA 47130 • (812) 948-2415

Etown PET CENTER
#12 Houchens Plaza
ELIZABETHTOWN, KY. 42701
Phone: (502) 765-6649

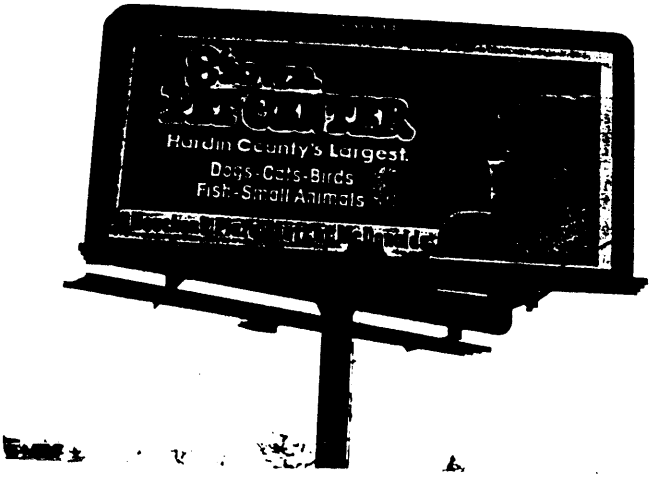
20 September 1989

I have been using outdoor advertising continuously for over one year. I am convinced that as a result of using Naegele outdoor advertising that my business has increased.

My business is located in a strip mall off the main traffic flow of our community. By using a poster along the main traffic flow, I havew pulled in customers that are new to the area. I have also had customers who have lived in this area for years, come into my store and say they never knew I was here.

Naegele outdoor advertising will continue to be part of my advertising budget for as long as I am in business.

Ron Marr
Owner
E-town pet Center



Motivational Enterprises, Inc.
Promotional Concepts - Products - Service

922 Franklin - P.O. Box 1149
Louisville, KY 40201
(502) 583-4121

October 3, 1988

Ms. Lynn Goetz
Naegele Outdoor Advertising, Inc.
P.O. Box 7607
Louisville, KY 40207-0744

Dear Ms. Goetz:

As you know, we consider outdoor, and in particular painted bulletins, for every media campaign we undertake for our stable of Clients. I wanted you to share the excitement we feel for the major showing that will start next month in Southern Indiana. This will constitute a majority of the advertiser's budget.

Sincerely,

Andrew S. Rust

Outdoor Advertising:

SILENT SERVANT OF PUBLIC SERVICE

September 1989

OUTDOOR ADVERTISING BRINGS ART IN THE OPEN

ALBUQUERQUE, NM: Each year, 100 striking examples of artwork created by Albuquerque schoolchildren are displayed on billboards throughout the city. "Art in the Open," a contest sponsored by Albuquerque Public Schools, Pony Panels Outdoor Advertising and local businesses, gives the students a greater appreciation of the power and joy of participating in the arts.

Each winning design is posted on a billboard located near the student's school. The billboards are donated by Pony Panels.

Janet Kahn, Albuquerque Public Schools community education specialist believes the program benefits the children as much as it promotes art.

"The student's involvement tremendously enhances their self-esteem," said Kahn. "It gives them an opportunity to express themselves to everyone and show people the depths of talent here. And it helps tie the community together."

Brian McCarty, President of Pony Panels, received this letter from one winner of "Art in the Open,"

Dear Pony Panels,
I would like to thank you for sponsoring my picture that was recently posted on one of your billboards. I think things like this give a lot of students inspiration to push harder with academics and with personal hobbies. It really felt good to know that something that I did will be left for the public to see. I deeply appreciate your sponsorship.
Thanks.
Sincerely, Derek Martinez

*The outdoor advertising industry donates approximately $141,000,000 in free advertising space annually to public service campaigns and community initiatives.

Outdoor Advertising Association of America

A Century of Service to Community and Country

Published by the OAAA, Washington, DC (202) 371-5566

October 4, 1988

Mr. Richard P. Rickert
Account Executive
Naegele Outdoor Advertising
1501 Lexington Road
Louisville, KY
40206

Dear Rich:

Our use of Outdoor advertising has taken the form of a permanent painted bulletin in New Albany, Indiana. An area which we feel we should have a higher share of the market.

We were sold on the idea of a special effect in the form of illuminated headlights to draw more attention to our message.

Our first campaign advertised Subaru's, to which we noticed a dramatic increase in sales out of New Albany, Indiana. Since the very begining, we have enjoyed both positive comment and leads from the Outdoor advertising.

We have just committed to our second year of Outdoor advertising.

Sincerely,

Don Hobden
Greentree Pontiac,
Subaru, GMC Truck

October 4, 1988

Mr. John Lepping
Account Executive
Naegele Outdoor Advertising
1501 Lexington Road
Louisville, KY
40206

Dear John:

Cross Motors has used Outdoor advertising regularly now since 1986. We started initially using two painted bulletins with dramatic special effects, extensions on the boards and headlights on the cars. The recognition and customer comments we received from these were tremendous.

From the success we had with painted bulletins we expanded our usage into a 12 month poster program concentrating on specific model cars which we needed increased awareness for. Specifically, the Renault Alliance. We determined that there was a substantial increase in name and product awareness for that brand and model car.

Our use of Outdoor advertising has continued to be an important part of our marketing strategy and will continue to be used in the future.

Sincerely,

Ken Woods

Ken Woods
General Sales Manager
Cross Motors