

By the Committee on Community Affairs; and Senators  
Haridopolos, Crist and King

578-1790-06

1                                   A bill to be entitled

2           An act relating to outdoor advertising;

3           amending s. 479.106, F.S.; revising provisions

4           relating to the proximity of vegetation and

5           beautification projects to outdoor advertising

6           signs; specifying distances that constitute a

7           view zone on interstates, expressways,

8           federal-aid primary highways, and the State

9           Highway System for outdoor advertising signs;

10          authorizing the Department of Transportation

11          and owners of outdoor advertising signs to

12          enter into agreements identifying view zone

13          locations; requiring governmental entities and

14          other violators to pay for lost revenues or

15          sign market values for violation of view zone

16          requirements; providing for notice and a period

17          for curing violations; providing an exemption

18          from certain Department of Transportation

19          permit requirements; providing immunity from

20          legal liability for entities that provide

21          design services; amending s. 479.25, F.S.;

22          allowing permitted, conforming, lawfully

23          erected outdoor advertising signs to be

24          increased in height if visibility is blocked

25          due to construction of specified

26          noise-attenuation barriers; requiring that sign

27          reconstruction meet the requirements of the

28          Florida Building Code; providing alternative

29          actions that a local government or local

30          jurisdiction may take if an increase in the

31          height of a sign would violate an ordinance or

1 land development regulation; providing that the  
2 section does not apply to existing settlement  
3 agreements between a local government and a  
4 sign owner; providing an effective date.  
5

6 Be It Enacted by the Legislature of the State of Florida:  
7

8 Section 1. Subsection (6) of section 479.106, Florida  
9 Statutes, is amended to read:

10 479.106 Vegetation management.--

11 (6) Beautification projects, trees, or other  
12 vegetation shall not be planted or located in the view zone of  
13 ~~an area which will screen from view~~ legally erected and  
14 permitted outdoor advertising signs ~~that which~~ have been  
15 permitted prior to the date of the beautification project or  
16 other planting, where such planting will, at the time of  
17 planting or after future growth, screen such sign from view.  
18 View zones are established along the public rights-of-way of  
19 interstates, expressways, federal-aid primary highways, and  
20 the State Highway System in the state, excluding privately  
21 owned property, as follows: a view zone of 350 linear feet for  
22 posted speed limits of 35 m.p.h. or less; and a view zone of  
23 500 linear feet for posted speed limits of over 35 m.p.h. The  
24 established view zone shall be within the first 1,000 feet  
25 measured along the edge of the pavement in the direction of  
26 approaching traffic from a point on the edge of the pavement  
27 perpendicular to the edge of the sign facing nearest the  
28 highway and shall be continuous unless interrupted by existing  
29 naturally occurring vegetation. The department and the sign  
30 owner may enter into an agreement identifying the specific  
31 location of the view zone for each sign facing. In the absence

1 of such agreement, the established view zone shall be measured  
2 from the sign along the edge of the pavement in the direction  
3 of approaching traffic as provided in this section. Any  
4 governmental entity or other party violating this subsection  
5 shall pay to the sign owner a penalty equal to the lesser of  
6 the revenue from the sign lost during the time of the  
7 screening or the fair market value of the sign. However, the  
8 governmental entity or other party allegedly violating this  
9 subsection must be provided 90 days' written notice by the  
10 sign owner of such alleged violation, and a penalty may not be  
11 assessed if the alleged violation is cured by the governmental  
12 entity or other party within the 90-day period. Any  
13 modifications or removal of material within a beautification  
14 project or other planting by the governmental entity or other  
15 party to cure an alleged violation does not require the  
16 issuance of a permit from the Department of Transportation if  
17 not less than 48 hours' notice of the modification or removal  
18 of the material is provided to the department. A natural  
19 person, private corporation, or private partnership licensed  
20 under part II of chapter 481 which provides design services  
21 for beautification or other projects is not subject to a  
22 penalty under this subsection if the initial project design  
23 meets the requirements of this subsection.

24 Section 2. Section 479.25, Florida Statutes, is  
25 amended to read:

26 479.25 Application of chapter.--

27 (1) The owner of a lawfully erected sign that is  
28 governed by and conforms to state and federal requirements for  
29 land use, size, height, and spacing may increase the height  
30 above ground level of such sign ~~This chapter does not prevent~~  
31 ~~a governmental entity from entering into an agreement allowing~~

1 ~~the height above ground level of a lawfully erected sign to be~~  
2 ~~increased~~ at its permitted location if a noise-attenuation  
3 barrier, ~~visibility screen, or other highway improvement~~ is  
4 permitted by or erected by any governmental entity in such a  
5 way as to screen or block visibility of the sign. ~~However, if~~  
6 ~~a nonconforming sign is located on the federal aid primary~~  
7 ~~highway system, as such system existed on June 1, 1991, or on~~  
8 ~~any highway that was not a part of such system as of that date~~  
9 ~~but that is or becomes after June 1, 1991, a part of the~~  
10 ~~National Highway System, the agreement must be approved by the~~  
11 ~~Federal Highway Administration.~~ Any increase in height  
12 permitted under this section may only be the increase in  
13 height which is required to achieve the same degree of  
14 visibility from the right-of-way which the sign had prior to  
15 the construction of the noise-attenuation barrier,  
16 notwithstanding the restrictions contained in s. 479.07(9)(b).  
17 A sign reconstructed under this section shall comply with the  
18 building standards and wind load requirements set forth in the  
19 Florida Building Code.

20 (2) If an increase in the height of a sign as  
21 permitted under this section will violate a provision of an  
22 ordinance or land development regulation of a local government  
23 or local jurisdiction, the provisions of such an ordinance or  
24 regulation notwithstanding, the local government or local  
25 jurisdiction shall choose by resolution to:

26 (a) Issue a permit by variance or otherwise for the  
27 reconstruction of a sign under this section;

28 (b) Allow the relocation of a sign, or the  
29 construction of another sign, at an alternative location if  
30 the sign owner agrees to relocate the sign or construct  
31 another sign;

1           (c) Refuse to issue the required permits for  
2 reconstruction of a sign under this section and pay to the  
3 owner of the sign the fair market value of the sign and its  
4 associated interest in the real property; or

5           (d) Notify the department that application of this  
6 section will violate a provision of an ordinance or land  
7 development regulation of the local government or local  
8 jurisdiction and that the local government or local  
9 jurisdiction prohibits the installation of the  
10 noise-attenuation barrier to the extent that the barrier  
11 screens or blocks visibility of the sign, whereupon the  
12 department may not permit or erect the noise-attenuation  
13 barrier to the extent that the barrier screens or blocks  
14 visibility of the sign ~~visibility screen, or other highway~~  
15 ~~improvement.~~

16           (3) This section does not apply to the provisions of  
17 an existing settlement agreement between a local government  
18 and the owner of an outdoor advertising sign if the agreement  
19 was executed before the effective date of this act.

20           Section 3. This act shall take effect upon becoming a  
21 law.

1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                                   COMMITTEE SUBSTITUTE FOR  
3   Senate Bill 566

4 The committee substitute (CS) establishes view zones on the  
5 public rights-of-way for interstates, expressways,  
6 federal-aid primary highways, and the State Highway System,  
7 excluding privately owned property. It reduces the view zone  
8 to 350 linear feet where the speed limit is 35 m.p.h. or less  
9 and keeps the view zone at 500 linear feet where the speed  
10 limit is over 35 m.p.h. This CS provides a 90-day window,  
11 after receiving written notice from the sign owner, for the  
12 governmental entity or other party to cure the alleged  
13 violation in order to avoid a penalty. A governmental entity  
14 or other party is exempt from permit requirements of the  
15 Florida Department of Transportation (FDOT) for modifying or  
16 removing material from a beautification project or other  
17 planting to cure an alleged violation if the department  
18 receives not less than 48 hours' notice.

19 Under this CS, if the increase in the height of a sign to  
20 achieve the same visibility before the construction of a  
21 noise-attenuation barrier violates a local ordinance or land  
22 development regulation, a local government is required to:

- 23       o    Issue a variance or other approval for  
24            reconstruction of the sign;
- 25       o    Allow the relocation of a sign or construction at an  
26            alternative location with the sign owner's consent;
- 27       o    Deny the permit and pay the sign owner fair market  
28            value for the sign and its associated interest in  
29            real property; or
- 30       o    Notify FDOT of the conflict with local regulations  
31            and then FDOT may not permit or erect the barrier so  
            that it screens or blocks visibility of the sign.

32 In addition, this CS exempts existing settlement agreements  
33 between a local government and a sign owner from the  
34 provisions of this bill addressing a sign that has lower  
35 visibility because of a noise attention barrier.