

By the Committee on Transportation; and Senator Evers

596-02583-11

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1 A bill to be entitled

2 An act relating to billboard regulations; amending s.
3 479.01, F.S.; revising definitions; amending s.
4 479.02, F.S.; removing certain rulemaking criteria;
5 amending s. 479.106, F.S.; revising requirements for
6 an application for a permit to remove, cut, or trim
7 trees or vegetation around a sign; requiring that the
8 application include a vegetation management plan, a
9 mitigation contribution to a trust fund, or a
10 combination of both; providing certain evaluation
11 criteria; providing criteria for the use of
12 herbicides; providing a time limit within which the
13 Department of Transportation must act; providing that
14 the permit is valid for 5 years; providing for an
15 extension of the permit; providing criteria for view
16 zones; requiring the department to provide notice to
17 the sign owner of beautification projects or
18 vegetation planting; amending s. 479.16, F.S.;
19 exempting certain larger signs from permit
20 requirements; exempting signs erected under the local
21 tourist-oriented commerce signs pilot program from
22 certain permit requirements; creating s. 479.263,
23 F.S.; creating the tourist-oriented commerce signs
24 pilot program; exempting commercial signs that meet
25 certain criteria from permit requirements; providing
26 an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Subsections (4) and (26) of section 479.01,
31 Florida Statutes, are amended to read:

32 479.01 Definitions.—As used in this chapter, the term:

33 (4) "Commercial or industrial zone" means a parcel of land
34 designated predominantly for commercial or industrial uses under
35 both the future land use map of the comprehensive plan and the
36 land use development regulations adopted pursuant to chapter
37 163. If a parcel is located in an area designated for multiple
38 uses on the future land use map of a comprehensive plan and the
39 zoning category of the land development regulations does not
40 clearly designate that parcel for a specific use, the area will
41 be considered an unzoned commercial or industrial area if it
42 meets the criteria of subsection (26).

43 (26) "Unzoned commercial or industrial area" means an area
44 ~~a parcel~~ of land designated by the future land use map of the
45 comprehensive plan for multiple uses that include commercial or
46 industrial uses but are not specifically designated for
47 commercial or industrial uses under the land development
48 regulations, in which three or more separate and distinct
49 conforming industrial or commercial activities are located.

50 (a) These activities must satisfy the following criteria:

51 1. At least one of the commercial or industrial activities
52 must be located on the same side of the highway and within 800
53 feet of the sign location;

54 2. The commercial or industrial activities must be within
55 660 feet from the nearest edge of the right-of-way; and

56 3. The commercial industrial activities must be within
57 1,600 feet of each other.

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59 Distances specified in this paragraph must be measured from the
60 nearest outer edge of the primary building or primary building
61 complex when the individual units of the complex are connected
62 by covered walkways.

63 (b) ~~Certain activities, including, but not limited to,~~ The
64 following are, ~~may not be so recognized as~~ commercial or
65 industrial activities:

66 1. Signs.

67 2. Agricultural, forestry, ranching, grazing, farming, and
68 related activities, including, but not limited to, wayside fresh
69 produce stands.

70 3. Transient or temporary activities.

71 4. Activities not visible from the main-traveled way.

72 5. Activities conducted more than 660 feet from the nearest
73 edge of the right-of-way.

74 6. Activities conducted in a building principally used as a
75 residence.

76 7. Railroad tracks and minor sidings.

77 8. Communication towers.

78 Section 2. Subsection (7) of section 479.02, Florida
79 Statutes, is amended to read:

80 479.02 Duties of the department.—It shall be the duty of
81 the department to:

82 (7) Adopt ~~such~~ rules as it deems necessary ~~or proper~~ for
83 the administration of this chapter, ~~including rules which~~
84 ~~identify activities that may not be recognized as industrial or~~
85 ~~commercial activities for purposes of determination of an area~~
86 ~~as an unzoned commercial or industrial area.~~

87 Section 3. Section 479.106, Florida Statutes, is amended to

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88 read:

89 479.106 Vegetation management.—

90 (1) The removal, cutting, or trimming of trees or
91 vegetation on public right-of-way to make visible or to ensure
92 future visibility of the facing of a proposed sign or previously
93 permitted sign shall be performed ~~only~~ with the written
94 permission of the department in accordance with the provisions
95 of this section.

96 (2) Any person desiring to engage in the removal, cutting,
97 or trimming of trees or vegetation for the purposes herein
98 described shall apply for an appropriate permit by ~~make~~ written
99 application to the department. The application for a permit may
100 ~~shall~~ include at the election of the applicant:

101 (a) A vegetation management plan consisting of a property
102 sketch indicating the on-site location of the vegetation or
103 individual trees to be removed, cut, or trimmed and describing
104 the existing conditions and proposed work to be accomplished.

105 (b) Mitigation contribution to the Federal Grants Trust
106 Fund pursuant to s. 589.277(2) using values of a wholesale plant
107 nursery registered with the Division of Plant Industry of the
108 Department of Agriculture and Consumer Services.

109 (c) A combination of both a vegetation management plan and
110 mitigation contribution ~~the applicant's plan for the removal,~~
111 ~~cutting, or trimming and for the management of any vegetation~~
112 ~~planted as part of a mitigation plan.~~

113 (3) In evaluating a vegetation management plan or
114 mitigation contribution, the department ~~As a condition of any~~
115 ~~removal of trees or vegetation, and where the department deems~~
116 ~~appropriate as a condition of any cutting or trimming, the~~

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117 ~~department may require a vegetation management plan, approved by~~
118 ~~the department, which considers conservation and mitigation, or~~
119 ~~contribution to a plan of mitigation, for the replacement of~~
120 ~~such vegetation. Each plan or contribution shall reasonably~~
121 evaluate the application as it relates relate to the vegetation
122 being affected by the application, taking into consideration the
123 condition of such vegetation, and, where appropriate, may
124 approve shall include plantings that which will allow reasonable
125 visibility of sign facings while screening sign structural
126 supports. Only herbicides approved by the Department of
127 Agriculture and Consumer Services may be used in the removal of
128 vegetation. The department shall act on the application for
129 approval of vegetation management plans, or approval of
130 mitigation contribution, within 30 days after receipt of such
131 application. A permit issued in response to such application is
132 valid for 5 years, may be renewed for an additional 5 years by
133 payment of the applicable application fee, and is binding upon
134 the department. The department may establish special mitigation
135 programs for the beautification and aesthetic improvement of
136 designated areas and permit individual applicants to contribute
137 to such programs as a part or in lieu of other mitigation
138 requirements.

139 (4) The department may establish an application fee not to
140 exceed \$25 for each individual application to defer the costs of
141 processing such application and a fee not to exceed \$200 to
142 defer the costs of processing an application for multiple sites.

143 (5) The department may only grant a permit pursuant to s.
144 479.07 for a new sign which requires the removal, cutting, or
145 trimming of existing trees or vegetation on public right-of-way

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146 for the sign face to be visible from the highway when the sign
147 owner has removed one ~~at least two~~ nonconforming sign ~~signs~~ of
148 approximate comparable size and surrendered the permits for the
149 nonconforming signs to the department for cancellation. For
150 signs originally permitted after July 1, 1996, no permit for the
151 removal, cutting, or trimming of trees or vegetation shall be
152 granted where such trees or vegetation are part of a
153 beautification project implemented prior to the date of the
154 original sign permit application, when the beautification
155 project is specifically identified in the department's
156 construction plans, permitted landscape projects, or agreements.

157 (6) As a minimum, view zones are established along the
158 public rights-of-way of interstate highways, expressways,
159 federal-aid primary highways, and the State Highway System in
160 the state, excluding privately or other publicly owned property,
161 as follows:

162 1. A view zone of 350 feet for posted speed limits of 35
163 miles per hour or less.

164 2. A view zone of 500 feet for posted speed limits of more
165 than 35 miles per hour.

166
167 The established view zone shall be within the first 1,000 feet
168 measured along the edge of the pavement in the direction of
169 approaching traffic from a point on the edge of the pavement
170 perpendicular to the edge of the sign facing nearest the highway
171 and shall be continuous unless interrupted by vegetation having
172 established historical significance, protected by state law, or
173 having a circumference measured at 4 and 1/2 feet above grade,
174 equal to or greater than 70 percent of the circumference of the

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175 Florida Champion of the same species as listed in the Florida
176 Register of Big Trees of the Florida Native Plant Society. The
177 sign owner may designate the specific location of the view zone
178 for each sign facing. In the absence of such designation, the
179 established view zone shall be measured from the sign along the
180 edge of the pavement in the direction of approaching traffic as
181 provided in this subsection.

182 (7)(6) Beautification projects, trees, or other vegetation
183 shall not be planted or located in the view zone of legally
184 erected and permitted outdoor advertising signs which have been
185 permitted prior to the date of the beautification project or
186 other planting, where such planting will, at the time of
187 planting or after future growth, screen such sign from view. The
188 department shall provide written notice to the owner not less
189 than 90 days before commencing a beautification project or other
190 vegetation planting that may affect a sign, allowing such owner
191 not less than 60 days to designate the specific location of the
192 view zone of such affected sign. A sign owner is not required to
193 prepare a vegetation management plan or secure a vegetation
194 management permit for the implementation of beautification
195 projects.

196 ~~(a) View zones are established along the public rights-of-~~
197 ~~way of interstate highways, expressways, federal aid primary~~
198 ~~highways, and the State Highway System in the state, excluding~~
199 ~~privately or other publicly owned property, as follows:~~

200 ~~1. A view zone of 350 feet for posted speed limits of 35~~
201 ~~miles per hour or less.~~

202 ~~2. A view zone of 500 feet for posted speed limits of over~~
203 ~~35 miles per hour.~~

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204 ~~(b) The established view zone shall be within the first~~
205 ~~1,000 feet measured along the edge of the pavement in the~~
206 ~~direction of approaching traffic from a point on the edge of the~~
207 ~~pavement perpendicular to the edge of the sign facing nearest~~
208 ~~the highway and shall be continuous unless interrupted by~~
209 ~~existing, naturally occurring vegetation. The department and the~~
210 ~~sign owner may enter into an agreement identifying the specific~~
211 ~~location of the view zone for each sign facing. In the absence~~
212 ~~of such agreement, the established view zone shall be measured~~
213 ~~from the sign along the edge of the pavement in the direction of~~
214 ~~approaching traffic as provided in this subsection.~~

215 (a)~~(e)~~ If a sign owner alleges any governmental entity or
216 other party has violated this subsection, the sign owner must
217 provide 90 days' written notice to the governmental entity or
218 other party allegedly violating this subsection. If the alleged
219 violation is not cured by the governmental entity or other party
220 within the 90-day period, the sign owner may file a claim in the
221 circuit court where the sign is located. A copy of such
222 complaint shall be served contemporaneously upon the
223 governmental entity or other party. If the circuit court
224 determines a violation of this subsection has occurred, the
225 court shall award a claim for compensation equal to the lesser
226 of the revenue from the sign lost during the time of screening
227 or the fair market value of the sign, and the governmental
228 entity or other party shall pay the award of compensation
229 subject to available appeal. Any modification or removal of
230 material within a beautification project or other planting by
231 the governmental entity or other party to cure an alleged
232 violation shall not require the issuance of a permit from the

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233 Department of Transportation provided not less than 48 hours'
234 notice is provided to the department of the modification or
235 removal of the material. A natural person, private corporation,
236 or private partnership licensed under part II of chapter 481
237 providing design services for beautification or other projects
238 shall not be subject to a claim of compensation under this
239 section when the initial project design meets the requirements
240 of this section.

241 (b)~~(d)~~ This subsection shall not apply to the provisions of
242 any existing written agreement executed before July 1, 2006,
243 between any local government and the owner of an outdoor
244 advertising sign.

245 (8)~~(7)~~ Any person engaging in removal, cutting, or trimming
246 of trees or vegetation in violation of this section or
247 benefiting from such actions shall be subject to an
248 administrative penalty of up to \$1,000 and required to mitigate
249 for the unauthorized removal, cutting, or trimming in such
250 manner and in such amount as may be required under the rules of
251 the department.

252 (9)~~(8)~~ The intent of this section is to create partnering
253 relationships which will have the effect of improving the
254 appearance of Florida's highways and creating a net increase in
255 the vegetative habitat along the roads. Department rules shall
256 encourage the use of plants which are low maintenance and native
257 to the general region in which they are planted.

258 Section 4. Subsection (15) of section 479.16, Florida
259 Statutes, is amended, and subsection (16) is added to that
260 section, to read:

261 479.16 Signs for which permits are not required.—The

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262 following signs are exempt from the requirement that a permit
263 for a sign be obtained under the provisions of this chapter but
264 are required to comply with the provisions of s. 479.11(4)-(8):

265 (15) Signs not in excess of 32 ~~46~~ square feet placed at a
266 road junction with the State Highway System denoting only the
267 distance or direction of a residence or farm operation, or, in a
268 rural area where a hardship is created because a small business
269 is not visible from the road junction with the State Highway
270 System, one sign not in excess of 32 ~~46~~ square feet, denoting
271 only the name of the business and the distance and direction to
272 the business. The small-business-sign provision of this
273 subsection does not apply to charter counties and may not be
274 implemented if the Federal Government notifies the department
275 that implementation will adversely affect the allocation of
276 federal funds to the department.

277 (16) Signs erected under the local tourist-oriented
278 commerce signs pilot program pursuant to s. 479.263.

279 Section 5. Section 479.263, Florida Statutes, is created to
280 read:

281 479.263 Tourist-oriented commerce signs pilot program.—The
282 local tourist-oriented commerce signs pilot program is created
283 in rural areas of critical economic concern as defined by s.
284 288.0656(2) (d) and (e). Signs erected under this program do not
285 require a permit under this chapter.

286 (1) A local tourist-oriented business that is a small
287 business as defined in s. 288.703 may erect a sign that meets
288 the following criteria:

289 (a) The signs are not more than 32 square feet in size or
290 more than 4 feet in height.

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291 (b) The signs are located only in rural areas along
292 highways that are not limited access highways.

293 (c) The signs are located within 2 miles of the business
294 location and not less than 500 feet apart.

295 (d) The advertising copy on the signs consists only of the
296 name of the business or the principle or accessory merchandise
297 or services sold or furnished on the premises of the business.

298 (2) A business placing such signs under this section:

299 (a) Must be a minimum of 4 miles from any other business
300 placing signs under this program.

301 (b) May not participate in the logo sign program.

302 Section 6. This act shall take effect July 1, 2011.