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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 846

Session of  
1981

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INTRODUCED BY DAVIES, KOLTER, SWEET, VAN HORNE, COLAFELLA,  
J. L. WRIGHT, BURNS, PETERSON, PISTELLA, OLIVER, PRATT AND  
TADDONIO, MARCH 11, 1981

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REFERRED TO COMMITTEE ON TRANSPORTATION, MARCH 11, 1981

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AN ACT

1 Relating to the control of vegetation within the right-of-way of  
2 highways; providing for applications, inspections and  
3 permits; and fixing penalties.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the "Highway  
8 Vegetation Control Act."

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have, unless the context clearly indicates otherwise, the  
12 meanings given to them in this section:

13 "Department." The Department of Transportation of the  
14 Commonwealth of Pennsylvania.

15 "Obstruction of view." When the intent of the advertising is  
16 not discernible for a total of five seconds in the viewing zone.

17 "Off-premises outdoor advertising device." An "outdoor  
18 advertising device" as defined by, and for which a permit has

1 been issued pursuant to, the act of December 15, 1971 (P.L.596,  
2 No.160), known as the "Outdoor Advertising Control Act of 1971,"  
3 or for which a permit has been issued pursuant to any local  
4 ordinance, and which advertises activities not conducted on the  
5 property on which it is located.

6 "On-premises outdoor advertising device." An "outdoor  
7 advertising device" which advertises activities conducted on the  
8 property on which it is located.

9 "Outdoor advertising device" or "device." Both on-premises  
10 outdoor advertising devices and off-premises outdoor advertising  
11 devices.

12 "Screening" or "screened." The obstruction of view of a  
13 device as viewed from the center of the lane of traffic of the  
14 highway and from a height of no more than 60 inches above the  
15 highway surface.

16 "Vegetation." All woody and herbaceous plants.

17 "Viewing zone." That distance measured along the center of  
18 the lane of traffic of a highway which a vehicle will travel at  
19 the posted speed limit.

20 Section 3. Application; permit.

21 (a) The owner of any device which is screened by vegetation  
22 may make application to the department for a permit to take  
23 remedial action as provided in this act. Such application shall  
24 contain the following information:

25 (1) the name, address and telephone number of the  
26 applicant;

27 (2) the location of the device, including the route  
28 number of the highway, side of the road and distance and  
29 direction of the nearest identifying landmark;

30 (3) the advertising displayed on the device;

1           (4) the kind, size and location of vegetation for which  
2 remedial action is requested;

3           (5) the type of remedial action requested; and

4           (6) the permit number, if any, if the device is an off-  
5 premises outdoor advertising device.

6       (b) The department may by regulation adopt and promulgate a  
7 form for the application to take remedial action; provided,  
8 however, if no such form has been adopted and promulgated on or  
9 before the effective date of this act, any application to take  
10 remedial action shall be complete if it contains the information  
11 set forth in subsection (a).

12       (c) The department may charge a permit fee of \$10 for each  
13 application.

14 Section 4. Action by department.

15       (a) Within ten days of the filing of the application, the  
16 department shall inspect the device and surrounding vegetation  
17 to determine whether or not to grant the permit. The applicant  
18 shall be advised by the department when such inspection shall  
19 occur so that the applicant, if it so desires, may be present  
20 during such inspection.

21       (b) Within 30 days of the filing of the application, it  
22 shall either be approved or disapproved. If the application is  
23 approved, the permit immediately shall be issued. If the  
24 application is disapproved, the department shall provide to the  
25 applicant an explanation setting forth the reasons for the  
26 disapproval and the manner in which the application may be  
27 corrected or modified or both in order to obtain the permit. If  
28 the application is disapproved and if the applicant determines  
29 that said application may not be corrected or modified based on  
30 the reasons set forth by the department, the applicant may

1 appeal to Commonwealth Court within 30 days of such disapproval.

2 (c) If the application neither is approved nor disapproved  
3 within 30 days of the filing thereof, the application shall be  
4 deemed to be approved and the permit shall be deemed to have  
5 been granted immediately.

6 (d) The permit issued or deemed to be issued shall be valid  
7 for a period of one year from the date the application is  
8 approved or deemed to have been approved.

9 Section 5. Bonds.

10 The department may require an applicant to whom a permit has  
11 been issued to post a blanket bond covering all work to be done  
12 pursuant to all permits issued to an applicant, to insure and  
13 protect the Commonwealth against loss or damage to trees or  
14 vegetation for which remedial action has not been approved or  
15 deemed to be approved and occasioned by pruning, trimming,  
16 relocation or removal of trees or vegetation and to require the  
17 applicant to indemnify the department for the replacement cost  
18 of any such trees or vegetation so damaged or destroyed. The  
19 amount of the bond shall be determined by the department and  
20 shall bear a reasonable relation to the nature of the work being  
21 done by the applicant.

22 Section 6. Remedial action.

23 If the application is approved or deemed to be approved and  
24 the permit has been granted or deemed to have been granted, the  
25 applicant may take all or any of the following action:

26 (1) The applicant may raise or lower or adjust the  
27 device to reduce the conflict with the vegetation so as to  
28 eliminate, as nearly as possible, the screening.

29 (2) The applicant may prune or trim the vegetation to  
30 reduce or eliminate the screening.

1           (3) The applicant may prune, trim, relocate or remove  
2       individual plants in the vegetation to reduce or eliminate  
3       the screening.

4   Section 7. Rules and regulations.

5       The department shall have the authority and its duty shall be  
6   to promulgate rules and regulations to establish standards and  
7   limitations on the nature and extent of any pruning or trimming  
8   to be performed to eliminate screening or as respects the  
9   relocation or removal of any vegetation.

10   Section 8. Application of act.

11       This act shall only apply to outdoor advertising devices  
12   lawfully erected.

13   Section 9. Unlawful acts; penalties.

14       (a) It shall be unlawful for any owner of a device to prune,  
15   trim, relocate or remove any vegetation so as to reduce or  
16   eliminate screening, unless such owner has been granted a permit  
17   pursuant to this act. Violation of this section shall be a  
18   violation of section 410 of the act of June 1, 1945 (P.L.1242,  
19   No.428), known as the "State Highway Law."

20       (b) Neither the department, nor anyone acting pursuant to  
21   orders from the department, shall plant vegetation otherwise  
22   permitted by section 410 of the "State Highway Law" so as to  
23   result in screening of any device lawfully erected prior to such  
24   planting.

25   Section 10. Effective date.

26       This act shall take effect in 60 days.