

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 846

Session of
1981

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

AS REPORTED FROM COMMITTEE ON TRANSPORTATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 6, 1981

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

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

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

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

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

17 "Vegetation." All woody and herbaceous plants.

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

21 Section 3. Application; permit.

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

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

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

- 1 (3) the advertising displayed on the device;
- 2 (4) the kind, size and location of vegetation for which
- 3 remedial action is requested;
- 4 (5) the type of remedial action requested; and
- 5 (6) the permit number, if any, if the device is an off-
- 6 premises outdoor advertising device.

7 (b) The department may by regulation adopt and promulgate a

8 form for the application to take remedial action; provided,

9 however, if no such form has been adopted and promulgated on or

10 before the effective date of this act, any application to take

11 remedial action shall be complete if it contains the information

12 set forth in subsection (a).

13 (c) The department may charge a permit fee of ~~\$10~~ \$30 for

14 each application. <—

15 Section 4. Action by department.

16 (a) Within ten days of the filing of the application, the

17 department shall inspect the device and surrounding vegetation

18 to determine whether or not to grant the permit. The applicant

19 shall be advised by the department when such inspection shall

20 occur so that the applicant, if it so desires, may be present

21 during such inspection.

22 (b) Within 30 days of the filing of the application, it

23 shall either be approved or disapproved. If the application is

24 approved, the permit immediately shall be issued. If the

25 application is disapproved, the department shall provide to the

26 applicant an explanation setting forth the reasons for the

27 disapproval and the manner in which the application may be

28 corrected or modified or both in order to obtain the permit. If

29 the application is disapproved and if the applicant determines

30 that said application may not be corrected or modified based on

1 the reasons set forth by the department, the applicant may
2 appeal to Commonwealth Court within 30 days of such disapproval.

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

7 (d) The permit issued or deemed to be issued shall be valid
8 for a period of ~~one year~~ 120 DAYS from the date the application
9 is approved or deemed to have been approved. <—

10 Section 5. Bonds.

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

23 Section 6. Remedial action.

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

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

30 (2) The applicant may prune or trim the vegetation to

1 reduce or eliminate the screening.

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

5 SECTION 7. RELIEF FROM LIABILITY FOR DAMAGES. <—

6 WHERE PERSONS ARE WORKING ON A RIGHT-OF-WAY UNDER A PERMIT
7 GRANTED PURSUANT TO THIS ACT, THE COMMONWEALTH SHALL NOT BE
8 LIABLE FOR ANY DAMAGES TO SUCH PERSONS OR THEIR PROPERTY
9 RESULTING THEREFROM.

10 Section 7 8. Rules and regulations. <—

11 The department shall have the authority and its duty shall be
12 to promulgate rules and regulations to establish standards and
13 limitations on the nature and extent of any pruning or trimming
14 to be performed to eliminate screening or as respects the
15 relocation or removal of any vegetation.

16 Section 8 9. Application of act. <—

17 This act shall only apply to outdoor advertising devices
18 lawfully erected.

19 Section 9 10. Unlawful acts; penalties. <—

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

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

1 Section ~~10~~ 11. Effective date.

<—

2 This act shall take effect in 60 days.