

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 603

Session of
1983

INTRODUCED BY KUSSE, LYNCH, WILT, MELLOW, ROMANELLI, SCANLON,
STOUT, HELFRICK, ANDREZESKI, FISHER AND PECORA, APRIL 7, 1983

SENATOR TILGHMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,
JULY 11, 1983

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 the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Department." The Department of Transportation.

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

16 "Off-premises outdoor advertising device." An outdoor
17 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) Contents.--The owner of any device which is screened by
22 vegetation may make application to the department for a permit
23 to take remedial action as provided in this act. Such
24 application shall 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) Form.--The department may by regulation adopt and
7 promulgate a form for the application to take remedial action;
8 provided, however, if no such form has been adopted and
9 promulgated on or before the effective date of this act, any
10 application to take remedial action shall be complete if it
11 contains the information set forth in subsection (a).

12 (c) Fee.--The department may charge a permit fee of ~~\$30~~ \$90 <—
13 for each application.

14 Section 4. Action by department.

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

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

1 days of such disapproval.

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

6 (d) Life of permit.--The permit issued or deemed to be
7 issued shall be valid for a period of 120 days from the date the
8 application is 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 (a) Permissible action.--If the application is approved or
24 deemed to be approved and the permit has been granted or deemed
25 to have been granted, the permit may authorize all or any of the
26 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 (b) Safety.--Any activity by an approved applicant shall not
6 create an abnormal safety hazard or interfere with the flow of
7 traffic.

8 Section 7. Relief from liability for damages.

9 Where persons are working under a permit granted pursuant to
10 this act, the Commonwealth shall not be liable for any damages
11 to persons or property resulting therefrom.

12 Section 8. Rules and regulations.

13 The department shall promulgate rules and regulations
14 necessary to implement and to carry out the provisions of this
15 act.

16 Section 9. Application of act.

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

19 Section 10. Unlawful acts; penalties.

20 (a) Permit necessary.--It shall be unlawful for any owner of
21 a device to prune, trim, relocate or remove any vegetation so as
22 to reduce or eliminate screening, unless such owner has been
23 granted a permit pursuant to this act.

24 (b) Screening prohibited.--Neither the department, nor
25 anyone acting pursuant to orders from the department, shall
26 plant vegetation otherwise permitted by section 410 of the act
27 of June 1, 1945 (P.L.1242, No.428), known as the State Highway
28 Law, so as to result in screening of any device lawfully erected
29 prior to such planting.

30 (c) Fine.--Violation of this act or of a permit issued under

1 this act shall be a summary offense punishable by a fine of \$100
2 to \$300 plus the value of any vegetation destroyed or the cost
3 of restoration at the option of the department.

4 Section 11. Limitation.

5 No provision of this act is intended to conflict with the
6 intent of the Federal act of October 22, 1965 (Public Law 89-
7 285), known as the Highway Beautification Act of 1965, or with
8 normal conservation practices.

9 Section 12. Effective date.

10 This act shall take effect in 60 days.