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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2071

Session of  
1997

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INTRODUCED BY BATTISTO, DALLY, TIGUE, MANDERINO, LUCYK, EVANS,  
M. COHEN, LAUGHLIN, MELIO, MUNDY, HENNESSEY, YOUNGBLOOD AND  
TRELLO, DECEMBER 16, 1997

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REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, DECEMBER 16, 1997

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AN ACT

1 Authorizing countywide regulation of off-premises signs and  
2 providing enforcement and penalties for violations.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the County Off-  
7 Premises Sign Regulation Act.

8 Section 2. Definitions.

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

12 "County." Any county of the second class through eighth  
13 class, including home rule counties.

14 "Governing body." The council in cities of the second class  
15 A and third class, boroughs and incorporated towns; the board of  
16 commissioners in counties; the board of commissioners in  
17 townships of the first class; the board of supervisors in

1 townships of the second class; or the legislative policy-making  
2 body in home rule counties or municipalities.

3 "Municipality." A city of the second class A or third class,  
4 borough, incorporated town, township of the first or second  
5 class, including those with home rule charters, and any similar  
6 general purpose unit of government hereinafter created by the  
7 General Assembly.

8 "Off-premises sign." Any outdoor sign, display, light,  
9 figure, painting, drawing, message, plaque, poster, billboard or  
10 other thing which is designed, intended or used to advertise and  
11 inform and which is not located on the premises owned or leased  
12 by the person whose business is being advertised.

### 13 Section 3. Authorization.

14 Subject to requirements of this act and notwithstanding the  
15 provision of any other law, the governing body of any county of  
16 the second class through eighth class, including home rule  
17 counties, shall have the power and may by ordinance provide for  
18 uniform, countywide regulation of off-premises signs in all  
19 municipalities within the county in accordance with this act.

### 20 Section 4. Prerequisites.

21 (a) Referendum.--Within two years of the effective date of  
22 this act or within any succeeding two-year period, the governing  
23 bodies of municipalities within a county may vote on a  
24 resolution proposing that the county adopt an ordinance for the  
25 uniform, countywide regulation of off-premises signs. If during  
26 any such two-year period the governing bodies of municipalities  
27 representing 25% or more of the population of a county, as  
28 determined by the most recent decennial census of the United  
29 States Bureau of the Census, approve the county off-premises  
30 sign resolution and submit it to the county, the governing body

1 of the county shall direct the county board of elections to  
2 place a referendum question on the ballot for the next primary,  
3 municipal or general election occurring more than 90 days after  
4 the county received notice that the requisite number of  
5 municipalities had approved the resolution. The question shall  
6 be in the following form:

7       Do you favor the uniform, countywide regulation of  
8       off-premises signs to be implemented by an ordinance  
9       adopted by the county which would supersede all  
10      inconsistent municipal regulation of off-premises  
11      signs?

12 If a majority of those voting in the county vote "yes" and  
13 approve the referendum question, the governing body of the  
14 county shall, within 180 days of the referendum, adopt a  
15 uniform, countywide off-premises sign ordinance. If a majority  
16 of those voting in the county vote "no" and reject the  
17 referendum question, the procedure set forth in this act for  
18 submitting the question to the voters may not be again employed  
19 for a period of three years from the rejection of the referendum  
20 question by a majority of those voting in the county.

21       (b) County planning agency.--

22       (1) After an approval of the referendum question by a  
23 majority of those voting in the county and prior to adoption  
24 of the off-premises sign ordinance by the county, the  
25 governing body of the county shall direct the county planning  
26 agency in conjunction with representatives of the  
27 municipalities within the county to prepare a proposed  
28 ordinance.

29       (2) The county planning agency shall invite each  
30 municipality in the county to appoint an individual to serve

1 on a municipal representative selection committee which  
2 shall, from among its membership, select up to four municipal  
3 representatives to work with the county planning agency in  
4 preparing the proposed countywide off-premises sign  
5 ordinance.

6 (3) The county planning agency in conjunction with the  
7 municipal representatives shall review the ordinances or  
8 parts thereof which municipalities within the county have  
9 adopted to regulate off-premises signs and shall hold at  
10 least one public hearing pursuant to public notice to seek  
11 municipal and other public input on the content of the  
12 countywide off-premises sign ordinance.

13 (4) The county planning agency shall provide written  
14 notice, by United States mail, to all municipalities within  
15 the county of the date, place and time of each public  
16 hearing. Any municipality desiring to do so shall be given  
17 the opportunity to testify at a public hearing held in  
18 accordance with this subsection.

19 (5) The planning agency and municipal representatives  
20 shall present to the governing body of the county the  
21 proposed ordinance, together with recommendations and  
22 explanatory materials.

23 (6) The procedure set forth in this section shall be a  
24 condition precedent to the validity of a countywide off-  
25 premises sign ordinance adopted pursuant to this act.

26 Section 5. Permits for off-premises signs.

27 (a) Permits required.--It shall be unlawful to erect,  
28 construct, add to or modify an off-premises sign without having  
29 first obtained a permit to do so.

30 (b) Applications for permits.--An ordinance adopted in

1 accordance with this act shall provide that the application for  
2 a permit for an off-premises sign be made to the county unless  
3 the municipality in which the off-premises sign is proposed to  
4 be erected, constructed, reconstructed, altered or converted has  
5 a code enforcement or other officer designated to enforce the  
6 ordinance, in which case application for an off-premises sign  
7 permit is to be made to the municipality. A municipality which  
8 designates a code enforcement officer or other person to enforce  
9 an ordinance adopted in accordance with this act and which,  
10 therefore, is to receive application for an off-premises sign  
11 permit within its jurisdiction shall notify the county of its  
12 election and the name of the individual in the municipality to  
13 whom an application for an off-premises sign permit may be  
14 submitted.

15 (c) Fees.--

16 (1) Each application for a permit for an off-premises  
17 sign shall be accompanied by a fee and by such drawings,  
18 specifications and descriptions as may be established and  
19 required by the ordinance.

20 (2) In cases where application for a permit is made to a  
21 municipality, the application fee shall be retained by the  
22 municipality; in cases where application for a permit is made  
23 to the county, the application fee shall be retained by the  
24 county.

25 (d) Notice of permit issued.--Notice of issuance of a permit  
26 by a county in accordance with this section shall be given by  
27 the county to the municipality in which the off-premises sign is  
28 located and notice of the issuance of a permit by a municipality  
29 in accordance with this section shall be given by the  
30 municipality to the county.

1 (e) Appeals.--An ordinance adopted in accordance with this  
2 act shall provide both for the appeal to the governing body of  
3 the county from a determination regarding a permit application  
4 made by a designated county or municipal officer and for the  
5 appeal to the court of common pleas from a decision by the  
6 governing body of the county.

7 Section 6. Municipal ordinances.

8 Nothing in this act shall be construed to invalidate,  
9 supersede, repeal or preempt any ordinance or part thereof of  
10 any municipality insofar as it is consistent with and at least  
11 as restrictive as the uniform countywide off-premises sign  
12 ordinance adopted in accordance with this act. Municipalities  
13 shall retain the right to regulate off-premises signs to the  
14 extent that they are not specifically regulated by a uniform  
15 countywide off-premises sign ordinance adopted in accordance  
16 with this act.

17 Section 7. Enforcement notice.

18 The county or any municipality which believes that a  
19 violation of a county off-premises sign ordinance has occurred  
20 within its boundaries shall initiate enforcement proceedings by  
21 sending an enforcement notice as provided in this section. The  
22 enforcement notice shall be sent to the owner of record of the  
23 parcel on which the violation has occurred, to any person who  
24 has filed a written request to receive enforcement notices  
25 regarding that parcel and to any other person requested in  
26 writing by the owner of record. An enforcement notice shall  
27 state at least the following:

28 (1) The name of the owner of record and any other person  
29 against whom the municipality intends to take action.

30 (2) The location of the property in violation.

1           (3) The specific violation with a description of the  
2 requirements which have not been met, citing in each instance  
3 the applicable provisions of the ordinance.

4           (4) The date before which the steps for compliance must  
5 be commenced and the date before which the steps must be  
6 completed.

7           (5) That the recipient of the notice has the right to  
8 appeal to the court of common pleas within a prescribed  
9 period of time in accordance with procedures set forth in the  
10 ordinance.

11           (6) That failure to comply with the notice within the  
12 time specified, unless extended by appeal to the court of  
13 common pleas, constitutes a violation, with possible  
14 sanctions clearly described.

15 Section 8. Causes of action.

16 In case any off-premises sign is or is proposed to be  
17 erected, constructed, reconstructed, altered, converted,  
18 maintained or used in violation of any ordinance enacted under  
19 this act, the county or the municipality where the sign is or is  
20 proposed to be located, or any aggrieved owner or tenant of real  
21 property who shows that his property or person will be  
22 substantially affected by the alleged violation, in addition to  
23 other remedies, may institute any appropriate action or  
24 proceeding to prevent, restrain, correct or abate any violation  
25 of the county off-premises sign ordinance.

26 Section 9. Enforcement; penalty; etc.

27           (a) Enforcing officials.--A countywide off-premises sign  
28 ordinance may be enforced by a person or persons designated by  
29 the county and by a municipal code enforcement officer or other  
30 person designated by the municipality.

1 (b) Limitation.--Whenever a violation of an ordinance  
2 adopted in accordance with this act occurs in a municipality  
3 which has in effect a municipal ordinance that is consistent  
4 with and at least as restrictive as the county ordinance  
5 regulating off-premises signs, the enforcement officer may cite  
6 the violation under either the municipal ordinance or the county  
7 ordinance. Under no circumstances shall any person be cited for  
8 violations of both the county ordinance and the municipal  
9 ordinance for the same violation.

10 (c) Penalty.--A person, partnership or corporation who or  
11 which has violated or permitted the violation of the provisions  
12 of any ordinance enacted under this act shall, upon being found  
13 liable therefor in a civil enforcement proceeding commenced by  
14 or on behalf of a county, pay a judgment of not more than \$500  
15 plus all court costs, including reasonable attorney fees  
16 incurred by a county or municipality as a result thereof. No  
17 judgment shall commence or be imposed, levied or payable until  
18 the date of the determination of a violation by the district  
19 justice. If the defendant neither pays nor timely appeals the  
20 judgment, the county or municipality may enforce the judgment  
21 pursuant to the applicable rules of civil procedure. Each day  
22 that a violation continues shall constitute a separate violation  
23 unless the district justice determining that there has been a  
24 violation further determines that there was a good faith basis  
25 for the person, partnership or corporation violating the  
26 ordinance to have believed that there was no such violation, in  
27 which event there shall be deemed to have been only one such  
28 violation until the fifth day following the date of the  
29 determination of a violation by the district justice and  
30 thereafter each day that a violation continues shall constitute



1 a separate violation. All judgments collected for the violation  
2 of a county off-premises sign ordinance shall be paid as  
3 follows: one-half to the county whose ordinance has been  
4 violated and one-half to the municipality in which the violation  
5 took place. All costs and reasonable attorney fees collected for  
6 the violation of county off-premises sign ordinances shall be  
7 paid to the county, except that costs and reasonable attorney  
8 fees shall be paid to the municipality in which the violation  
9 occurred, if enforcement is pursued by a municipal code  
10 enforcement or other municipal officer on behalf of the county.

11 (d) Tolling fine.--The court of common pleas, upon petition,  
12 may grant an order of stay, upon cause shown, tolling the per  
13 diem fine pending a final adjudication of the violation and  
14 judgment.

15 (e) Municipal enforcement.--Nothing contained in this  
16 section shall be construed or interpreted as preventing a  
17 municipal code enforcement officer or other municipal officer  
18 from commencing an action for enforcement of a county off-  
19 premises sign ordinance pursuant to this section.

20 (f) Initial jurisdiction.--District justices shall have  
21 initial jurisdiction over proceedings brought under this  
22 section.

23 Section 10. Effective date.

24 This act shall take effect in 60 days.