
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1718 Session of
1971

INTRODUCED BY MESSRS. RITTER, BONETTO, WESTERBERG, ZORD,
HUTCHINSON, FRANK AND KELLY, NOVEMBER 30, 1971

REFERRED TO COMMITTEE ON TRANSPORTATION, DECEMBER 1, 1971

AN ACT

1 Providing for the control and regulation of outdoor advertising
2 adjacent to the interstate and primary highway systems within
3 this Commonwealth; providing for administration by the
4 Department of Transportation to comply with Federal
5 requirements as a condition to the receipt of highway funds;
6 fixing penalties and making appropriations.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short Title.--This act may be cited as the
10 "Outdoor Advertising Control Act of 1971."

11 Section 2. Purposes of Act.--The people of this Commonwealth
12 would suffer economically if the Commonwealth failed to
13 participate fully in the allocation and apportionment of
14 Federal-aid highway funds since a reduction in such funds would
15 necessitate increased taxation to support and maintain the
16 Commonwealth's road program and system. Therefore, for the
17 purpose of assuring the reasonable, orderly and effective
18 display of outdoor advertising while remaining consistent with
19 the national policy to protect the public investment in the
20 interstate and primary systems; to promote the welfare,

1 convenience and recreational value of public travel; and to
2 preserve natural beauty, it is hereby declared to be in the
3 public interest to control the erection and maintenance of
4 outdoor advertising devices in areas adjacent to the interstate
5 and primary systems within this Commonwealth.

6 Section 3. Definitions.--As used in this act:

7 (1) "Department" shall mean the Department of Transportation
8 of the Commonwealth of Pennsylvania and "secretary" shall mean
9 the Secretary of Transportation of the Commonwealth of
10 Pennsylvania.

11 (2) "Erect" means to construct, build, assemble, place,
12 affix, attach, create, paint, draw, or in any other way bring
13 into being or establish, but it shall not include any of the
14 foregoing activities when performed as an incident to the change
15 of advertising message or customary maintenance and repair of a
16 sign or sign structure.

17 (3) "Incorporated municipality" shall mean a city of any
18 class, borough, town or township of any class, or any civil
19 subdivision empowered to enact zoning legislation.

20 (4) "Information center" shall mean an area or site
21 established at a safety rest area for the purpose of informing
22 the public of places of interest within the Commonwealth and
23 providing such other information as the secretary may consider
24 desirable.

25 (5) "Interstate system" shall mean that portion of the
26 national system of interstate and defense highways located
27 within this Commonwealth, as officially designated, or as may
28 hereafter be so designated, by the secretary and approved by the
29 United States Secretary of Transportation, pursuant to the
30 provisions of Title 23, United States Code, "Highways."

1 (6) "Outdoor advertising device" shall mean any outdoor
2 sign, display, device, figure, painting, drawing, message,
3 plaque, poster, billboard or other thing which is designed,
4 intended or used to advertise or inform, if any part of the
5 advertising or informative contents is visible from any place on
6 the main traveled way of the interstate or primary system.

7 (7) "Primary system" shall mean that portion of connected
8 main highways located within this Commonwealth which now or
9 hereafter may be designated officially by the secretary and
10 approved by the Secretary of Transportation of the United States
11 pursuant to Title 23, United States Code, "Highways."

12 (8) "Safety rest area" shall mean an area or site
13 established and maintained within or adjacent to the highway
14 right-of-way by or under public supervision or control, for the
15 convenience of the traveling public.

16 (9) "Traveled way" shall mean the portion of a roadway for
17 the movement of vehicles, exclusive of shoulders. The term
18 "main-traveled way" means the traveled way of a highway on which
19 through traffic is carried. In the case of a divided highway,
20 the traveled way of each of the separated roadways for traffic
21 in opposite directions is a main-traveled way. The term does not
22 include such facilities as frontage roads, turning roadways, or
23 parking areas.

24 (10) "Unzoned commercial or industrial area" shall mean an
25 area which is not zoned by State or local law, regulation or
26 ordinance, and on which there is located one or more permanent
27 structures devoted to a commercial or industrial activity,
28 exclusive of outdoor advertising devices and wayside produce
29 stands, or on which a commercial or industrial activity is
30 actually conducted, whether or not a permanent structure is

1 located thereon, and the area along the highway extending
2 outward nine hundred feet from and beyond the edge of such
3 activity on both sides of the highway. Provided however, the
4 unzoned area shall not include land on the opposite side of an
5 interstate or dual-laned limited access primary highway from the
6 commercial or industrial activity establishing the unzoned
7 commercial or industrial area or land on the opposite side of
8 other Federal-aid primary highways which land is deemed
9 particularly scenic by the secretary.

10 (11) "Visible" shall mean capable of being seen (whether or
11 not legible) without visual aid by a person of normal visual
12 acuity.

13 (12) "Zoned commercial or industrial area" shall mean an
14 area which is zoned to permit business, industry, commerce,
15 trade or other business of any type or category pursuant to a
16 State, or local zoning law, ordinance or regulation.

17 Section 4. Control of Outdoor Advertising.--To effectively
18 control outdoor advertising, while recognizing it to be a
19 legitimate commercial use of property and an integral part of
20 the business and marketing function, no outdoor advertising
21 device shall be erected or maintained within six hundred sixty
22 feet of the nearest edge of the right-of-way and visible from
23 the main traveled way of an interstate or primary highway,
24 except:

25 (1) Directional and other official signs and notices which
26 are required or authorized by law and which shall conform to the
27 national standards promulgated by the Secretary of
28 Transportation of the United States pursuant to section 131 of
29 Title 23, United States Code.

30 (2) Outdoor advertising devices advertising the sale or

1 lease of the real property upon which they are located or
2 advertising residential development on primary systems only
3 including directions thereto, for a period not to exceed three
4 years.

5 (3) Outdoor advertising devices advertising activities
6 conducted on the property on which they are located.

7 (4) Outdoor advertising devices in zoned or unzoned
8 commercial or industrial areas along those portions of the
9 interstate system constructed on right-of-way, any part of the
10 width of which was acquired on or before July 1, 1956.

11 (5) Outdoor advertising devices in areas zoned commercial or
12 industrial along the interstate system and lying within the
13 boundaries of any incorporated municipality as such boundaries
14 existed on September 21, 1959, and devices located in any other
15 area which, as of September 21, 1959, was clearly established by
16 law as industrial or commercial.

17 (6) Outdoor advertising devices in zoned or unzoned
18 commercial or industrial areas along the primary system.

19 (7) Any other outdoor advertising devices permitted or
20 authorized along the interstate system by the official agreement
21 executed June 23, 1961, between the Commonwealth and the Federal
22 Government.

23 Section 5. Control Criteria for Size, Spacing and
24 Lighting.--(a) In order to promote the reasonable, orderly and
25 effective display of outdoor advertising while remaining
26 consistent with the purposes of this act and with customary use
27 in this Commonwealth, the secretary shall strictly adhere to the
28 criteria prescribed by this section in promulgating regulations
29 to effectively control those signs, displays and devices
30 provided for under clauses (4) through (6) of section 4 of this

1 act and erected subsequent to the effective date of this act.

2 (b) In zoned commercial or industrial areas, the secretary
3 shall certify to the Secretary of Transportation of the United
4 States as notice of effective control, that there has been
5 established within such areas regulations which are enforced
6 with respect to the size, lighting and spacing of outdoor
7 advertising devices. In such areas, the size, lighting and
8 spacing requirements set forth below shall not apply. For the
9 purposes of this subsection, requirements as to the number or
10 total size of signs, displays or devices permitted on a single
11 plot or parcel of land will be considered to be a spacing
12 requirement.

13 (c) In all other zoned and unzoned commercial or industrial
14 areas, the criteria set forth below shall apply:

15 (1) Size of signs:

16 (i) The maximum area for any one sign shall be 1,200 square
17 feet with a maximum height of 30 feet and maximum length of 60
18 feet, inclusive of any border and trim but excluding the base or
19 apron, supports and other structural members.

20 (ii) The area shall be measured by the smallest square,
21 rectangle, triangle, circle or combination thereof which will
22 encompass the entire sign.

23 (iii) A sign structure may contain one or two signs per
24 facing and may be placed double-faced, back to back or V-type.

25 (iv) Signs which exceed six hundred square feet in area may
26 not be double-faced (abutting and facing the same direction).

27 (2) Spacing of signs:

28 (i) Along the interstate system and limited access highways
29 on the primary system, no two sign structures shall be spaced
30 less than five hundred feet apart; and outside the boundaries of

1 cities of all classes and boroughs, no structure may be erected
2 within five hundred feet of an interchange, measured along the
3 interstate or limited access primary from the beginning or
4 ending of pavement widening at the exit from or entrance to the
5 main traveled way.

6 (ii) Along nonlimited access highways on the primary system,
7 no two structures shall be spaced less than three hundred feet
8 apart if outside cities of all classes and boroughs, nor less
9 than one hundred feet apart if within such cities and boroughs.

10 (iii) These spacing provisions shall not apply to sign
11 structures separated by a building or other obstruction in such
12 a manner that only one sign facing located within these spacing
13 distances is visible from the highway at any one time.

14 (iv) Official and "on premise" signs, as defined in section
15 131 (c) of Title 23, United States Code, shall not be counted
16 nor shall measurements be made from them for purposes of
17 determining spacing requirements.

18 (v) The distance between sign structures shall be measured
19 along the nearest edge of the pavement between points directly
20 opposite the signs along the same side of the traveled way.

21 (3) Lighting of Signs:

22 (i) No sign will be permitted which is not effectively
23 shielded so as to prevent beams or rays of light from being
24 directed at any portion of the traveled ways of the interstate
25 or primary systems or which is of such intensity or brilliance
26 as to cause glare or to impair the vision of the driver of any
27 vehicle, or which interferes with any driver's operation of a
28 motor vehicle.

29 (ii) No sign shall be so illuminated that it interferes with
30 the effectiveness of or obscures an official traffic sign,

1 device or signal.

2 (iii) Lighting of all signs shall be subject to all other
3 provisions relating to lighting of signs along highways under
4 the jurisdiction of the department.

5 (d) The Commonwealth and local political subdivisions shall
6 have full authority under their own zoning laws to zone areas
7 for commercial or industrial purposes and the action of the
8 Commonwealth and local political subdivisions in this regard
9 will be accepted for the purposes of this act. At any time, that
10 a political subdivision adopts regulations which include the
11 size, spacing and lighting of outdoor advertising devices the
12 secretary shall so certify to the Secretary of Transportation of
13 the United States and control of outdoor advertising in
14 commercial or industrial areas will transfer to subsection (b)
15 under this section 5.

16 Section 6. Rules and Regulations.--The secretary is
17 authorized to promulgate rules and regulations governing outdoor
18 advertising devices other than those permitted by clauses (1)
19 through (3) under section 4 of this act, and such rules and
20 regulations shall contain the criteria set forth under section 5
21 of this act and shall contain the permit provisions set forth
22 under section 7 of this act.

23 Section 7. Permits.--An annual permit shall be required for
24 each outdoor advertising device regulated by this act and
25 located outside the limits of those incorporated municipalities
26 that have legally established and operating procedures for
27 issuing permits for such outdoor advertising devices. The fee
28 for each such permit shall be five dollars if the sign area does
29 not exceed three hundred square feet; ten dollars if the sign
30 area exceeds three hundred square feet but does not exceed six

1 hundred square feet; and fifteen dollars if the sign area
2 exceeds six hundred square feet. A tag indicating that a permit
3 has been duly issued shall be affixed to the device or structure
4 by the department. Permits shall be issued for those devices
5 erected within six months after the effective date of this act
6 under a lease dated prior to the effective date of this act and
7 filed with the department and recorded in the recorder's office
8 of the county in which the device would be located within thirty
9 days following the effective date of this act.

10 Section 8. Agreement with Federal Government or Agencies.--
11 The secretary shall enter into an agreement with the Secretary
12 of Transportation of the United States, consistent with the
13 provisions of this act and to the minimal degree necessary to
14 preserve the Commonwealth's entitlement to its full share of
15 Federal road funds, and may take action in the name of the
16 Commonwealth to comply with the terms of such agreement. In the
17 event said Secretary of Transportation of the United States or
18 his agent fails to agree, the disagreement shall be resolved
19 with the Attorney General of this Commonwealth participating,
20 and taking such appeals provided for in subsection (1) of
21 section 131 of Title 23, United States Code, as amended, as he
22 deems advisable. The agreement entered into on October 7, 1968,
23 by the then Secretary of Highways with the Federal Highway
24 Administrator, has not been authorized by the General Assembly
25 and is hereby abrogated.

26 Section 9. Compensation for Removal of Outdoor Advertising
27 Devices.--(a) Just compensation shall be paid upon the removal
28 of any outdoor advertising device (1) lawfully in existence on
29 the effective date of this act; (2) lawfully on any highway made
30 a part of the interstate or primary system on or after the

1 effective date of this act; or (3) otherwise lawfully erected on
2 or after the effective date of this act.

3 (b) Just compensation shall consist of payment for (1) the
4 taking from the owner of an outdoor advertising device of all
5 right, title, leasehold and interest in such outdoor advertising
6 device, and (2) the taking from the owner of the real property
7 on which an outdoor advertising device is located of the right
8 to erect and maintain such outdoor advertising device.

9 (c) Notwithstanding the provisions of subsections (a) and
10 (b) above, no rights in and to property shall be acquired with
11 respect to any outdoor advertising device except to the extent
12 that Federal funds authorized to be appropriated pursuant to the
13 Federal "Highway Beautification Act of 1965," as amended, to
14 reimburse the Commonwealth for seventy-five per cent of the cost
15 thereof, are in fact appropriated and available to the
16 Commonwealth for that purpose; nor shall such rights in and to
17 property for such purpose be acquired until such time as the
18 United States Congress shall have received and acted upon the
19 report of the Commission on Highway Beautification as mandated
20 by Federal Public Law 91-605, enacted December 31, 1970.

21 Section 11. Highway Beautification Fund.--(a) All receipts
22 received pursuant to this act, together with all Federal funds
23 received by the Commonwealth to accomplish the control of
24 outdoor advertising pursuant to section 131, United States Code,
25 "Highways," shall be paid into and credited to the Highway
26 Beautification Fund. All costs incurred by the secretary
27 pursuant to this act shall be paid from the Highway
28 Beautification Fund, and as much moneys as the secretary shall
29 deem necessary are specifically appropriated from such fund to
30 the Department of Transportation.

1 (b) In addition to the moneys to be received under
2 subsection (a) of this section, such moneys as may be necessary
3 shall be appropriated from time to time by the General Assembly
4 from the General Fund to the Highway Beautification Fund for the
5 purpose of carrying out the provisions of this act.

6 Section 12. Removal of Prohibited Advertising Devices.--In
7 addition to the penalties prescribed in this act, the secretary
8 may institute any appropriate action or proceeding after thirty
9 days' written notice of a violation to the person or persons
10 maintaining or allowing to be maintained such device, to
11 prevent, restrain, correct or abate a violation or to cause the
12 removal of any advertising device erected or maintained in
13 violation of the provisions of this act, or the secretary may
14 have any such device corrected or removed by his employes. In
15 the event of such removal, the person or persons responsible for
16 the erection or maintenance of such device and the person or
17 persons allowing such device to be maintained shall be liable to
18 the department for the cost of removal or correction of such
19 device. Neither the secretary nor any other employe acting at
20 his discretion shall be liable in any criminal or civil action
21 for damages for any action authorized by this act.

22 Section 13. Penalties for Violation.--Any person who shall
23 erect or cause or allow to be erected or maintained any
24 advertising device in violation of this act, shall, upon summary
25 conviction thereof, be sentenced to pay a fine of five hundred
26 dollars (\$500) to be paid into the Highway Beautification Fund,
27 and in default of the payment thereof, shall undergo
28 imprisonment for thirty days. Each day a device is maintained in
29 violation of this act after conviction shall constitute a
30 separate offense.

1 Section 14. Interpretation.--Nothing in this act shall be
2 construed to abrogate or affect the provisions of any lawful
3 ordinance, regulation, or resolution which are more restrictive
4 than the provisions of this act.

5 Section 15. Severability.--The provisions of this act shall
6 be severable. If any provision of this act is found by a court
7 of record to be unconstitutional and void, the remaining
8 provisions of the act shall, nevertheless, remain valid, unless
9 the court finds the valid provisions of the act are so
10 essentially and inseparably connected with, and so depend upon,
11 the void provision that it cannot be presumed the General
12 Assembly would have enacted the remaining valid provisions
13 without the void one, or unless the court finds that the
14 remaining valid provisions, standing alone, are incomplete and
15 are incapable of being executed in accordance with the
16 legislative intent.

17 Section 16. Repeals.--(a) The act of April 28, 1961
18 (P.L.101), entitled "An act prohibiting the erection and
19 maintenance of certain advertising devices along highways on the
20 National System of Interstate and Defense Highways; providing
21 for the acquisition of such devices and property use in
22 connection with such devices by the Secretary of Highways; and
23 providing penalties for violations," is hereby repealed.

24 (b) All other acts and parts of acts are repealed in so far
25 as they are inconsistent herewith.

26 Section 17. Effective Date.--This act shall take effect
27 immediately.