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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 1718** Session of  
1971

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INTRODUCED BY MESSRS. RITTER, BONETTO, WESTERBERG, ZORD,  
HUTCHINSON, FRANK AND KELLY, NOVEMBER 23, 1971

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
DECEMBER 7, 1971

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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

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

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

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

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

18 (3) "Information center" shall mean an area or site  
19 established for the purpose of informing the public of places of  
20 interest within the Commonwealth and providing such other  
21 information as the secretary may consider desirable.

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

28 (5) "Outdoor advertising device" shall mean any outdoor  
29 sign, display, device, figure, painting, drawing, message,  
30 plaque, poster, billboard or other thing which is designed,

1 intended or used to advertise or inform.

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

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

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

19 (9) "Unzoned commercial or industrial area" shall mean an  
20 area which is not zoned by State or local law, regulation or  
21 ordinance, and on which there is located one or more commercial  
22 or industrial activities and the area along the highway  
23 extending outward eight hundred feet from and beyond the edge of  
24 such activity. Unzoned commercial and industrial areas shall not  
25 include land on the opposite side of the highway from said  
26 activities except that on noncontrolled access highways the  
27 unzoned commercial or industrial area may be located on the  
28 opposite side of the highway from the commercial or industrial  
29 activity, if in the opinion of the secretary, the topographical  
30 conditions on the same side of the highway as the activity are

1 such that it is not reasonably usable, and provided that the  
2 land on the opposite side of the highway has not been designated  
3 scenic by the department. All measurements shall be from the  
4 outer edges of the regularly used buildings, parking lots,  
5 storage or processing areas of the commercial or industrial  
6 activities, not from the property lines of the activities, and  
7 shall be along or parallel to the edge of the pavement of the  
8 highway.

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

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

16 (12) "COMMERCIAL OR INDUSTRIAL ACTIVITIES" SHALL MEAN THOSE <—  
17 ACTIVITIES GENERALLY RECOGNIZED AS COMMERCIAL OR INDUSTRIAL BY  
18 ZONING LAW IN THE COMMONWEALTH, EXCEPT THAT NONE OF THE  
19 FOLLOWING ACTIVITIES SHALL BE CONSIDERED COMMERCIAL OR  
20 INDUSTRIAL:

21 (I) OUTDOOR ADVERTISING SIGNS.

22 (II) AGRICULTURAL, FORESTRY, GRAZING, FARMING, AND RELATED  
23 ACTIVITIES, INCLUDING, BUT NOT LIMITED TO, WAYSIDE FRESH PRODUCE  
24 STANDS.

25 (III) ACTIVITIES NOT VISIBLE FROM THE MAIN-TRAVELED WAY.

26 (IV) ACTIVITIES CONDUCTED IN A BUILDING PRINCIPALLY USED AS  
27 A RESIDENCE.

28 (V) RAILROAD TRACKS AND MINOR SIDINGS.

29 Section 4. Control of Outdoor Advertising.--To effectively  
30 control outdoor advertising, while recognizing it to be a

1 legitimate commercial use of property and an integral part of  
2 the business and marketing function, no outdoor advertising  
3 device shall be erected or maintained within six hundred sixty  
4 feet of the nearest edge of the right-of-way if any part of the  
5 advertising or informative contents is visible from the main-  
6 traveled way of an interstate or primary highway, except:

7 (1) Directional and other official signs and notices which  
8 are required or authorized by law and which shall conform to the  
9 national standards promulgated by the Secretary of  
10 Transportation of the United States pursuant to section 131 of  
11 Title 23, United States Code.

12 (2) Outdoor advertising devices advertising the sale or  
13 lease of the real property upon which they are located or  
14 advertising residential development on primary systems only  
15 including directions thereto, for a period not to exceed one  
16 year.

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

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

23 (5) Outdoor advertising devices in areas zoned commercial or  
24 industrial along the interstate system and lying within the  
25 boundaries of any incorporated municipality as such boundaries  
26 existed on September 21, 1959, and devices located in any other  
27 area which, as of September 21, 1959, was clearly established by  
28 law as industrial or commercial.

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

1 (7) Outdoor advertising devices in the specific interest of  
2 the traveling public which are authorized to be erected or  
3 maintained by the secretary and which are designated to give  
4 information in the interest of the traveling public.

5 (8) Any other outdoor advertising devices permitted or  
6 authorized along the interstate system by the official agreement  
7 executed June 23, 1961, between the Commonwealth and the Federal  
8 Government; provided such outdoor advertising devices do not  
9 violate the provisions of Title 23, U.S. Code, "Highways."

10 Section 5. Control Criteria for Size, Spacing and  
11 Lighting.--(a) In order to promote the reasonable, orderly and  
12 effective display of outdoor advertising while remaining  
13 consistent with the purposes of this act and with customary use  
14 in this Commonwealth, the secretary shall strictly adhere to the  
15 criteria prescribed by this section in promulgating regulations  
16 to effectively control those signs, displays and devices  
17 provided for under clauses (4) through (6) of section 4 of this  
18 act and erected subsequent to the effective date of this act.

19 (b) In zoned commercial or industrial areas, the secretary  
20 may certify to the Secretary of Transportation of the United  
21 States as notice of effective control, that there has been  
22 established within such areas regulations which are enforced  
23 with respect to the size, lighting and spacing of outdoor  
24 advertising devices. In such areas, the size, lighting and  
25 spacing requirements set forth below shall not apply. For the  
26 purposes of this subsection, requirements as to the number or  
27 total size of signs, displays or devices permitted on a single  
28 plot or parcel of land will be considered to be a spacing  
29 requirement.

30 (c) In all other zoned and unzoned commercial or industrial

1 areas, the criteria set forth below shall apply:

2 (1) Size of signs:

3 (i) The maximum area for any one sign shall be twelve  
4 hundred square feet with a maximum height of thirty feet and  
5 maximum length of sixty feet, inclusive of any border and trim  
6 but excluding the base or apron, supports and other structural  
7 members.

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

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

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

15 (2) Spacing of signs:

16 (i) Along the interstate system and limited access highways  
17 on the primary system, no two sign structures shall be spaced  
18 less than five hundred feet apart; and outside the boundaries of  
19 cities of all classes and boroughs, no structure may be erected  
20 adjacent to or within five hundred feet of an interchange or  
21 safety rest area, measured along the interstate or limited  
22 access primary from the beginning or ending of pavement widening  
23 at the exit from or entrance to the main-traveled way.

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

28 (iii) These spacing provisions shall not apply to sign  
29 structures separated by a building or other obstruction in such  
30 a manner that only one sign facing located within these spacing

1 distances is visible from the highway at any one time.

2 (iv) Official and "on premise" signs, as defined in section  
3 131 (c) of Title 23, United States Code, shall not be counted  
4 nor shall measurements be made from them for purposes of  
5 determining spacing requirements.

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

9 (3) Lighting of Signs:

10 (i) No sign will be permitted which is not effectively  
11 shielded so as to prevent beams or rays of light from being  
12 directed at any portion of the traveled ways of the interstate  
13 or primary systems or which is of such intensity or brilliance  
14 as to cause glare or to impair the vision of the driver of any  
15 vehicle, or which interferes with any driver's operation of a  
16 motor vehicle.

17 (ii) No sign shall be so illuminated that it interferes with  
18 the effectiveness of or obscures an official traffic sign,  
19 device or signal.

20 (iii) Lighting of all signs shall be subject to all other  
21 provisions relating to lighting of signs along highways under  
22 the jurisdiction of the department.

23 (iv) Signs which contain, include, or are illuminated by any  
24 flashing, intermittent, or moving light or lights are  
25 prohibited, except those giving public service information such  
26 as time, date, temperature, weather, or similar information.

27 (d) The Commonwealth and local political subdivisions shall  
28 have full authority under their own zoning laws to zone areas  
29 for commercial or industrial purposes and the action of the  
30 Commonwealth and local political subdivisions in this regard



1 will be accepted for the purposes of this act. At any time, that  
2 a political subdivision adopts regulations which include the  
3 size, spacing and lighting of outdoor advertising devices the  
4 secretary may so certify to the Secretary of Transportation of  
5 the United States and control of outdoor advertising in  
6 commercial or industrial areas will transfer to subsection (b)  
7 under this section 5.

8 Section 6. Rules and Regulations.--The secretary is  
9 authorized to promulgate rules and regulations governing outdoor  
10 advertising devices and such rules and regulations shall contain  
11 the criteria set forth under section 5 of this act and shall  
12 contain the permit provisions set forth under section 7 of this  
13 act. Regulations relating to outdoor advertising devices  
14 permitted under clauses (1) through (3) of section 4 shall be no  
15 more restrictive than the national standards pertaining to such  
16 outdoor advertising devices.

17 Section 7. Permits.--An annual permit shall be required for  
18 each outdoor advertising device regulated by this act and  
19 located outside the limits of those incorporated municipalities  
20 that have legally established and operating procedures for  
21 issuing permits for such outdoor advertising devices which have  
22 been certified by the secretary as conforming to the provisions  
23 of subsection (d) of section 5 of this act. The fee for each  
24 such permit shall be five dollars (\$5) if the sign area does not  
25 exceed three hundred square feet; ten dollars (\$10) if the sign  
26 area exceeds three hundred square feet but does not exceed six  
27 hundred square feet; and fifteen dollars (\$15) if the sign area  
28 exceeds six hundred square feet. A tag indicating that a permit  
29 has been duly issued shall be affixed to the device or structure  
30 by the department. PERMITS SHALL BE ISSUED FOR THOSE DEVICES

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1 ERECTED WITHIN SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ACT  
2 UNDER A LEASE DATED PRIOR TO THE EFFECTIVE DATE OF THIS ACT AND  
3 FILED WITH THE DEPARTMENT AND RECORDED IN THE RECORDER'S OFFICE  
4 OF THE COUNTY IN WHICH THE DEVICE WOULD BE LOCATED WITHIN THIRTY  
5 DAYS FOLLOWING THE EFFECTIVE DATE OF THIS ACT IF THE OUTDOOR  
6 ADVERTISING DEVICE IS OTHERWISE IN COMPLIANCE WITH THIS ACT.

7 Section 8. Agreement with Federal Government or Agencies.--

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

23 Section 9. Compensation for Removal of Outdoor Advertising  
24 Devices.--(a) Just compensation shall be paid upon the removal  
25 of any outdoor advertising device (1) lawfully in existence on  
26 the effective date of this act; (2) lawfully on any highway made  
27 a part of the interstate or primary system on or after the  
28 effective date of this act; or (3) otherwise lawfully erected on  
29 or after the effective date of this act.

30 (b) Just compensation shall consist of payment for (1) the

1 taking from the owner of an outdoor advertising device of all  
2 right, title, leasehold and interest in such outdoor advertising  
3 device, and (2) the taking from the owner of the real property  
4 on which an outdoor advertising device is located of the right  
5 to erect and maintain such outdoor advertising device.

6 (c) The department shall require removal of all  
7 nonconforming outdoor advertising devices lawfully on any  
8 highway made a part of the interstate or primary system on or  
9 after the effective date of this act no later than the end of  
10 the sixth year after the said highway is made a part of the  
11 interstate or primary system.

12 (d) Notwithstanding the provisions of subsections (b) and  
13 (c) of this section, the periods specified therein within which  
14 the department shall require removal of all nonconforming  
15 outdoor advertising devices may be extended, if necessary, until  
16 such time as Federal funds are available to reimburse the  
17 Commonwealth for the Federal share of the costs of removal of  
18 those signs for which Federal contribution is provided in  
19 section 131 of Title 23 of the United States Code.

20 Section 10. Removal of Prohibited Advertising Devices.--In  
21 addition to the penalties prescribed in this act, the secretary  
22 may institute any appropriate action or proceeding after thirty  
23 days' written notice of a violation to the person or persons  
24 maintaining or allowing to be maintained such device, to  
25 prevent, restrain, correct or abate a violation or to cause the  
26 removal of any advertising device erected or maintained in  
27 violation of the provisions of this act, or the secretary may  
28 have any such device corrected or removed by his employees. In  
29 the event of such removal, the person or persons responsible for  
30 the erection or maintenance of such device and the person or

1 persons allowing such device to be maintained shall be liable to  
2 the department for the cost of removal or correction of such  
3 device. Neither the secretary nor any other employe acting at  
4 his discretion shall be liable in any criminal or civil action  
5 for damages for any action authorized by this act.

6 Section 11. Penalties for Violation.--Any person who shall  
7 erect or cause or allow to be erected or maintained any  
8 advertising device in violation of this act, shall, upon summary  
9 conviction thereof, be sentenced to pay a fine of five hundred  
10 dollars (\$500) to be paid into the Highway Beautification Fund,  
11 and in default of the payment thereof, shall undergo  
12 imprisonment for thirty days. Each day a device is maintained in  
13 violation of this act after conviction shall constitute a  
14 separate offense.

15 Section 12. Highway Beautification Fund.--(a) All receipts  
16 received pursuant to this act, together with all Federal funds  
17 received by the Commonwealth to accomplish the control of  
18 outdoor advertising pursuant to section 131, United States Code,  
19 "Highways," shall be paid into and credited to the Highway  
20 Beautification Fund. All costs incurred by the secretary  
21 pursuant to this act shall be paid from the Highway  
22 Beautification Fund, and as much moneys as the secretary shall  
23 deem necessary are specifically appropriated from such fund to  
24 the Department of Transportation.

25 (b) In addition to the moneys to be received under  
26 subsection (a) of this section, such moneys as may be necessary  
27 shall be appropriated from time to time by the General Assembly  
28 from the General Fund to the Highway Beautification Fund for the  
29 purpose of carrying out the provisions of this act.

30 Section 13. Interpretation.--Nothing in this act shall be

1 construed to abrogate or affect the provisions of any lawful  
2 ordinance, regulation, or resolution which are more restrictive  
3 than the provisions of this act.

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

16 Section 15. Repeals.--(a) The act of April 28, 1961  
17 (P.L.101), entitled "An act prohibiting the erection and  
18 maintenance of certain advertising devices along highways on the  
19 National System of Interstate and Defense Highways; providing  
20 for the acquisition of such devices and property use in  
21 connection with such devices by the Secretary of Highways; and  
22 providing penalties for violations," is hereby repealed.

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

25 Section 16. Effective Date.--This act shall take effect  
26 immediately.