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CHAPTER 249

ROADS AND HIGHWAYS

ROADSIDE ADVERTISING

(Senate Bill No. 140. By Senators Gill, Hobbs, Stockton, Williams, Romer, Scott, Shoemaker, Kelley, Hewett, Lucas, Brown, and Mapelli; also Representatives Fentress, Foster, Friedman, Hogan, DeMoulin, Morris, and Farley.)

AN ACT

AMENDING ARTICLE 5 OF CHAPTER 120, COLORADO REVISED STATUTES 1963, RELATING TO ROADSIDE ADVERTISING.

Be It Enacted by the General Assembly of the State of Colorado:

Section 1. Article 5 of chapter 120, Colorado Revised Statutes 1963, is hereby **REPEALED AND RE-ENACTED, WITH AMENDMENTS**, to read:

120-5-1.—**Short title.**—This article shall be known and may be cited as the "Outdoor Advertising Act".

120-5-2.—**Definitions.**—(1) As used in this article:

(2) "Advertising device" includes any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or any other contrivance designed, intended, or used to advertise or to give information in the nature of advertising or any part thereof, and having the capacity of being visible from the travel way of any state highway, except any advertising device on a vehicle using the highway.

(3) "Visible" means capable of being seen, whether or not legible, without visual aid by a person of normal acuity.

(4) "Interstate system" means the system of highways as defined in section 120-13-1 (2).

(5) "Erect" means to construct or allow to be constructed.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(6) "Maintain" means to preserve, keep in repair, continue, replace, or allow to be constructed.

(7) "National policy" means the provisions relating to control of advertising, signs, displays, and devices adjacent to the interstate system contained in Title 23 United States Code 131, and the national standards promulgated pursuant to such provisions.

(8) "Highway" means any road on the state highway system, as defined in section 120-13-1.

(9) "Municipality" means any incorporated city or town.

(10) "Person" means any individual, corporation, partnership, association, or organized group of persons, whether incorporated or not.

(11) "Scenic area" means any area or public park which is in fact of particular scenic beauty or historical significance designated by the state highway commission and includes all land within six hundred and sixty feet of the edge of the right-of-way along any such portion of highway.

(12) "Freeway" means any limited access, divided highway with four or more lanes.

(13) "Business of outdoor advertising" means selling of or being the lessor of any advertisement as defined herein.

120-5-3.—Enforcement of provisions by department.

—It shall be the function and duty of the department of highways through its state highway engineer to administer and enforce the provisions of this article. Said state highway engineer, in the performance of his duties hereunder, may assign to subordinate officers or other employees in his department such duties as he may prescribe.

120-5-4.—Territory applicable — department powers — restriction of advertising.—(1)

The territory under the jurisdiction of the department for the purpose of this article shall include the six hundred sixty feet of land beyond the edge of right-of-way on either side of the highways of this state, excepting all highways inside the corporate limits of any municipality and excepting all highways in unincorporated territory which is regulated as to roadside advertising by a zoning regulation adopted prior to the effective date of this article or territory which is declared to be urban in character by the board of county commissioners of the county in which the territory is

located, other than those portions of the interstate system controlled under this section. The department and all employees under its direction, in the performance of their functions and duties under the provisions of this article, may enter into and upon any land upon which advertising structures are standing or advertisements are displayed, for all purposes required by this article.

(2) (a) No advertising device shall be erected or maintained, except as provided in section 120-5-6 (5), within six hundred and sixty feet of the edge of the right-of-way of a highway on the interstate system, except the following:

(b) Signs advertising the sale or lease of the property upon which they are located. Not more than one such sign may be visible to traffic proceeding in any one direction on any one freeway.

(c) Advertising devices promoting the business or profession conducted on the property on which the advertisement is located or advertising devices promoting goods or services produced or sold on such property. Not more than one such sign, visible to traffic proceeding in any one direction on any one freeway, may be permitted more than fifty feet from the advertised activity.

(d) Advertising devices which are located along those portions of the interstate system opened to traffic as a part of the interstate system prior to July 1, 1965, and constructed upon right-of-way acquired in part or entirely prior to July 1, 1956.

(e) Advertising devices which are located in commercial or industrial zones within the boundaries of incorporated municipalities as such boundaries existed on September 21, 1959, wherein the property adjacent to the interstate highway is subject to municipal regulation or control, and which has specifically been declared by the governing body of such municipality to be exempt from the provisions of this article.

(f) Advertising devices which advertise activities conducted within twelve air miles of such devices, or that advertise eating, lodging, vehicle service, tourist attractions or other matters in the specific interest of the traveling public, except that such signs shall be limited by the present national policy.

(3) The department of highways shall promulgate and enforce regulations necessary to qualify the state for payments made available by Congress to those states that meet federal standards of roadside advertising con-

trol along the interstate highways, provided that such regulations shall be consistent with this act.

(4) The department of highways, by and through its chief engineer, may enter into agreements with the secretary of commerce of the United States to carry out the "national policy" concerning outdoor advertising adjacent to the interstate system and to accept any allotment of funds by the United States, or any department or agency thereof, appropriated in furtherance of federal-aid highway legislation.

120-5-5.—Licenses.—(1) On or after July 1, 1965, no person shall engage or continue in the business of outdoor advertising in this state without first obtaining a license therefor from the department. The license fee shall be payable annually in advance, in an amount in accordance with the following schedule:

The fee shall be two dollars for each sign for which a permit is issued.

Such license shall expire on June thirtieth of each year and the license fee shall not be prorated for a part of a year. Application for such license shall be made upon forms provided by the department and shall state the name and address of the applicant and of the officers and directors of a corporate applicant. Such application shall also state the approximate number of outdoor signs erected and maintained or to be erected and maintained by it, and such other information as will enable the department to administer this act. Such application shall be verified under oath of the applicant or its officer or agent.

(2) There is hereby created the roadside advertising fund in the department of highways, in which fund all license fees collected under this act shall be deposited. The monies in the roadside advertising fund are funds appropriated and shall be budgeted and expended by the department to carry out its duties under this act.

(3) Applications for renewal of a license shall be filed with the department on or prior to June first preceding the expiration date. Each application for renewal of a license shall be made on forms to be furnished by the department, shall contain such information as the department may require for the administration of this article, and shall be verified under oath of the applicant or its officer or agent.

(4) No license to engage or to continue in the business of outdoor advertising shall be granted to any person until such person files with the department a bond

payable to the state of Colorado and with a surety approved by the attorney general, in accordance with the following schedule :

1 through 50 signs	\$2,000.00
51 or more signs	2,500.00

Such bonds shall be conditioned upon the licensee observing and fulfilling all applicable provisions of this article, and upon default thereof the department may enforce the collection of such bond in any court of competent jurisdiction. The bond shall remain in full force and effect so long as any obligation of such licensee to the state shall remain unsatisfied.

(5) A person erecting signs advertising his own business, products, or profession shall not be considered engaged in the business of outdoor advertising and shall not be required to obtain a license or to post a bond.

(6) After thirty days' notice in writing to the licensee, the department after a hearing as provided in section 3-16-4, C.R.S. 1963, may revoke any license granted in which it shall find that any information required to be given in the application for such license is knowingly false or misleading or that the licensee has violated any of the provisions of this article, unless such licensee shall, before the expiration of such thirty days, correct such false or misleading information and comply with the provisions of this article.

(7) Any person aggrieved by any action in refusing to grant or in revoking a license may, within thirty days from the date of such denial or revocation, appeal the decision of the department to a court of competent jurisdiction, pursuant to section 3-16-5, C.R.S. 1963.

120-5-6.—Permits.—(1) No person, whether engaged in the business of outdoor advertising or not, unless otherwise provided in this article, shall post, display, erect, use, or maintain any advertisement or advertising structure along any portion of the interstate system regulated by section 120-5-4 (2), or along any other state highway outside of a municipality, without first obtaining a permit therefor from the department and paying the permit fee as herein provided. A permit shall be issued upon compliance with all provisions herein required.

(2) (a) Application for a permit shall be on a form provided by the department, which application shall be signed by the applicant or his duly authorized officer or agent, and shall show :

(b) The name and address of the applicant ;

(c) The type and location of the advertisement or advertising structure, the dimensions of the surface area thereof, and such other pertinent information as the department may prescribe;

(d) An agreement by the applicant to erect and maintain the advertising structure and the advertisement displayed thereon in a safe, sound, and good condition;

(e) A certificate from the building inspector, or official having a similar function, of the county, as the case may be, that the sign, advertising structure, or other object to be used for outdoor advertising, complies with all zoning, building, and other regulations applicable thereto. If no applicable regulations are in effect, such certificate shall not be required.

(f) The written consent of the owner or the duly authorized agent of the owner of the property upon which the advertisement or advertising structure is to be erected, used, maintained, posted, or displayed, for the erection and maintenance of such advertising structure, and for the entry upon such property by the state highway engineer or any employee of the department for all purposes required by this article.

(3) A permit shall be required for each advertising structure or location; provided, that such structure or location shall not be permitted to contain more than two signs per facing or exceed sixty lineal feet in length.

(4) Each application shall be accompanied by a permit fee of five dollars per advertising structure. And thereafter each structure shall be subject to an annual inspection by the department, for which a fee of two dollars and fifty cents will be charged.

(5) Any advertising device in existence on July 1, 1965, and prohibited by sections 120-5-4 or 120-5-7 (3) may continue to be maintained for three years or for the duration of any contract or lease applying to that device and in effect as of July 1, 1965, except that no such device may continue to be maintained for longer than four years.

(6) The holder of a permit shall, during the term thereof, have the right to change the advertising copy, ornamentation, or trim on the structure or sign for which it was issued without payment of any additional fee.

(7) After thirty days' notice in writing to the permittee, the department, after a hearing pursuant to section 3-16-4, C.R.S. 1963, may revoke any permit granted in which it finds that any information required to be

given in the application is knowingly false or misleading, or that the permittee has violated any provision of this article, unless such permittee shall, before the expiration of such thirty days, correct such false or misleading information or comply with the provisions of this article.

(8) Any person aggrieved by any action in refusing to grant or in revoking a permit may, within thirty days from the date of notice of refusal or revocation, appeal from the decision of the department to a court of competent jurisdiction pursuant to section 3-16-5, C.R.S. 1963. The filing of an appeal shall stay the effect of the permit revocation pending the appeal.

120-5-7.—General regulations.—(1) (a) No permit shall be issued for the erection, use, or maintenance of any advertising device prohibited by section 120-5-4 (2). No permit shall be issued for the erection, use, or maintenance of any advertising structure which would be:

(b) At a point where it would encroach upon the right-of-way of a public highway;

(c) Along a highway within five hundred feet of the center point of an intersection of such highway at grade with another highway or with a railroad in such manner as materially to obstruct or reduce the existing view of traffic on the other highway or railroad trains approaching the intersection and within five hundred feet of such center point;

(d) Along a highway at any point where it would reduce the existing view of traffic in either direction or of traffic control or directional signs to less than five hundred feet;

(e) Along a highway in a designated scenic area;

(f) Used or intended to be used for more than two advertisements facing in the same direction.

(2) No permit shall be issued unless the name of the person owning, leasing, or controlling any advertising structure or other object, for which a permit has been issued, and the identifying permit number assigned by the department shall be placed in a conspicuous position on each advertising structure or other object used or maintained for outdoor advertising purposes.

(3) (a) No advertising device on any highway which is a part of the interstate system or on any freeway as herein defined shall be erected so that the minimum distance between it and any existing advertising device

on the same side of the highway shall be less than one thousand feet; provided, that if any person owning property adjacent to a highway right-of-way having a contiguous frontage on said highway right-of-way of less than one thousand feet is prevented from erecting or maintaining any sign or advertising device on said property by the provisions of this subsection, then, notwithstanding the provisions set forth above, said person shall be entitled to erect or maintain one sign or advertising device facing each direction, which shall contain not more than one-third of a square foot of display area for each lineal foot of said contiguous highway frontage, if said sign or advertising device otherwise conforms to the provisions of this act.

(b) No advertising device on any other highway shall be erected so that the minimum distance between it and any existing advertising device on the same side of the highway shall be less than six hundred and sixty feet, and no more than seven such advertising devices shall be allowed per mile; provided, that if any person owning property adjacent to a highway right-of-way having a contiguous frontage on said highway right-of-way of less than six hundred and sixty feet is prevented from erecting or maintaining any sign or advertising device on said property by the provisions of this subsection, then, notwithstanding the provisions set forth above, said person shall be entitled to erect or maintain one sign or advertising device facing each direction, which shall contain not more than one-third of a square foot of display area for each lineal foot of said contiguous highway frontage, if said sign or advertising device otherwise conforms to the provisions of this act.

(4) No permit shall be issued for any advertisement or advertising structure or device which simulates any official, directional, or warning sign erected or maintained by the United States, the state of Colorado, or by any county or municipality, or which involves lights simulating or resembling traffic signals or traffic control signs.

(5) No sign or advertisement shall be nailed, tacked, posted, or attached in any manner on trees, perennial plants, rocks, or other natural objects, or on fences or fence posts, or poles maintained by public utilities.

(6) If any advertising device violates any provision of this article or any sign is or shall become decayed, insecure, or in danger of falling or otherwise is unsafe or unsightly by reason of lack of maintenance or repair or from any other cause, the department shall notify in writ-

ing and by registered mail the person obtaining the permit for such advertising device, the advertiser, and the surety whose name appears on the bond, and such permittee shall secure, repair, or remove such device within thirty days after receipt of such notice. Upon failure of the permittee to secure, repair, or remove such device within thirty days, the department shall remove or cause to be removed such device at the expense of such person or of his or its bondsmen or security.

(7) A permit issued under any of the foregoing provisions shall not be transferable to another location, and it shall be in full force and effect from the date of issue unless cancelled by the holder or until revoked pursuant to section 120-5-6 (7).

(8) (a) No permit shall be required for the erection, use, or maintenance of any advertisement used solely for any of the following purposes:

(b) To advertise exclusively for sale or rent the property upon which such sign or other device is located.

(c) For legal advertisements required by any law to be posted or displayed; or for any cautionary, informative, or directory sign, signal, or device erected by the United States, the state of Colorado, or any county, or municipality, exclusively in the interest of public safety, convenience, or health, or for any sign or device erected pursuant to the provisions of any contract to which the state of Colorado, or any county, or municipality shall be a party.

(d) For any private residential directional sign.

(e) To advertise the business or profession conducted on the property on which the advertisement is located, or to advertise the goods or services produced or sold on such property.

(f) Any sign or advertising device permitted by this section shall not be subject to the spacing regulations provided in section 120-5-7 (3) (a) and (3) (b).

(9) Educational, veterans', religious, charitable, or civic organizations, not operated for profit, shall obtain a permit in accordance with the provisions of this article for each sign or other advertising structure maintained or erected; but no permit fee or license shall be required.

120-5-8.—Local control of outdoor advertising devices.—Nothing in this article shall be construed to limit control of advertising devices by any municipality or county within its boundaries.

120-5-9.—**Enforcement and penalty.**—(1) The erection, use, or maintenance of any advertisement or advertising structure in violation of any provision of this article is hereby declared to be illegal and, in addition to other remedies provided by law, the department is authorized to institute appropriate action or proceeding to prevent or remove such violation in any court of competent jurisdiction.

(2) Any person who violates any provisions of this article is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars for each offense.

Section 2.—Effective date.—This act shall take effect on July 1, 1965.

Section 3.—Safety clause.—The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 17, 1965.