

**SENATE BILL No. 151**

By Committee on Ways and Means

2-8

1 AN ACT concerning the highway advertising control act; amending  
2 K.S.A. 2010 Supp. 68-2232, 68-2233 and 68-2234 and repealing the  
3 existing sections.  
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2010 Supp. 68-2232 is hereby amended to read as  
7 follows: 68-2232. As used in this act the following words and phrases  
8 shall have the meanings respectively ascribed to them herein: (a)  
9 "Adjacent area" "controlled area" means an area which is adjacent to the  
10 right-of-way on any interstate or primary highway and is visible from the  
11 main traveled way.

12 (b) "Business area" means any part of an adjacent area, except areas  
13 adjacent to scenic byways, designated by the secretary of transportation,  
14 which is:

15 (1) Zoned for industrial or commercial activities under the authority  
16 of any law or by a local zoning authority; or

17 (2) an unzoned commercial or industrial area as herein defined.

18 (c) "Center line of the highway" means a line equidistant from the  
19 edges of the median separating the main traveled ways on a divided  
20 highway, or the center line of the main traveled way on a nondivided  
21 highway.

22 (d) "Commercial or industrial activities" means, for the purpose of  
23 establishing unzoned commercial or industrial areas, those activities  
24 generally recognized as commercial or industrial by local zoning  
25 authorities in this state, but excludes the following activities:

26 (1) Outdoor advertising structures;

27 (2) agricultural, forestry, ranching, grazing, farming and related  
28 activities, including, but not limited to, wayside fresh produce stands;

29 (3) transient or temporary activities;

30 (4) activities not visible from the traffic lanes of the main traveled  
31 way;

32 (5) activities more than 660 feet from the nearest edge of a highway  
33 right-of-way;

34 (6) activities conducted in a building principally used as a residence;

35 (7) railroad tracks and minor sidings;

36 (8) on-premise or on-property signs as provided for in subsection (c)

1 of K.S.A. 68-2233, and amendments thereto, if the on-premise or on-  
2 property sign is the only part of the commercial or industrial activity that  
3 is visible from the main traveled way;

4 (9) any outdoor advertising activity or any other business or  
5 commercial activity carried on in connection with an outdoor advertising  
6 activity; and

7 (10) illegal junkyards as provided for in K.S.A. 68-2201 through 68-  
8 2215, and amendments thereto, and junkyards lawfully in existence  
9 pursuant to K.S.A. 68-2207, and amendments thereto.

10 (e) "Comprehensive zoning" means zoning by local zoning  
11 authorities of each parcel of land under the jurisdiction of the local zoning  
12 authority placed in a zoning classification pursuant to a comprehensive  
13 plan or reserved for future classification.

14 (f) "Department" means the Kansas department of transportation.

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

20 (h) "Freeway" means any primary highway which is a divided  
21 arterial highway with four or more lanes available for through traffic with  
22 full control of access and grade separation at intersections.

23 (i) "Highway" means a highway as defined by K.S.A. 8-1424, and  
24 amendments thereto. For the purpose of this act, a highway shall be  
25 considered a highway when the project for improvement and final  
26 alignment has been approved by the appropriate authorities.

27 (j) "Interstate highway" means any highway at any time officially  
28 designated as a part of the national system of interstate and defense  
29 highways by the secretary of transportation and approved by the  
30 appropriate authority of the federal government.

31 (k) "Local zoning authority" means an incorporated city or a county  
32 which is authorized by law to zone areas within its jurisdiction and which  
33 has an active zoning authority.

34 (l) "Main traveled way" means the traveled way of a highway on  
35 which through traffic is carried. On a divided highway, the traveled way  
36 of each of the separate roadways for traffic in opposite directions is a  
37 main traveled way, but such term does not include such facilities as  
38 frontage roads, turning roadways or parking areas.

39 (m) "Maintain" means to keep in a state of continuing existence. A  
40 sign must remain substantially the same as it was when permitted on the  
41 effective date of compliance with state law. Customary maintenance of a  
42 sign includes only change of message, replacing electrical wiring and  
43 bulbs, painting of the face and structure, clearing of vegetation on the

1 parcel the sign is located, reinforcing the structure and repairing the apron  
2 or catwalks or any addition or enhancements to safety equipment on  
3 structures including safety cables, railings and other modifications  
4 necessary to meet current safety standards. An increase in dimension, a  
5 change in dimension, any change in location, increase in height or the  
6 addition of lighting does not constitute customary maintenance.  
7 Additional maintenance activities, other than customary maintenance,  
8 require a new sign permit.

9 (n) "Primary highway" means any highway, other than an interstate  
10 highway, that was part of the federal-aid primary system in existence on  
11 June 1, 1991, and any highway which is not on such system but which is  
12 on the national highway system.

13 (o) "Safety rest area" means an area or site established and  
14 maintained within or adjacent to the highway right-of-way, which area is  
15 under public supervision or control and for the convenience of the  
16 traveling public.

17 (p) "Sign" or "outdoor advertising device" means any outdoor sign  
18 structure, display, light, device, notice, bulletin, figure, painting, drawing,  
19 message, placard, poster, billboard, vehicle or other thing which is  
20 designed, intended or used to advertise or inform, any part of the  
21 advertising or informative contents which is visible from any place on the  
22 main traveled way or any portion of an interstate or primary highway.

23 (q) "Sign facing" means and includes a sign display or displays at  
24 the same location and facing the same direction.

25 (r) "Sign display" means a single panel or part of the sign, including  
26 trim and background, which contains a message or messages.

27 (s) "Sign structure" means and includes all components of the sign,  
28 which may include poles, bracings, lateral supports, vehicles, displays  
29 and other materials of every kind and nature used to support a facing or  
30 facings on which advertising is placed.

31 (t) "Traveled way" means the portion of a roadway for the  
32 movement of vehicles, exclusive of shoulders and auxiliary lanes.

33 (u) "Unzoned commercial or industrial area" means an area which is  
34 not zoned by state or local law, regulation or ordinance, which is within  
35 660 feet of the nearest edge of the right-of-way of the controlled area, and  
36 on which there is located one or more permanent structures devoted to a  
37 commercial or industrial activity or on which a commercial or industrial  
38 activity is actually conducted, whether or not a permanent structure is  
39 located thereon, which meets all the requirements specified in subsection  
40 (h) of K.S.A. 68-2234, and amendments thereto.

41 (v) "Visible" means capable of being seen without visual aid by a  
42 person of normal visual acuity.

43 (w) "Zoned commercial or industrial areas" means those areas which

1 are comprehensively zoned for business, industry, commerce or trade  
2 pursuant to a state or local zoning ordinance or resolution or an area  
3 which is zoned for business, industry, commerce or trade pursuant to a  
4 state or local zoning ordinance or regulation. Local zoning action must be  
5 taken pursuant to the state's zoning enabling statute or constitutional  
6 authority in accordance therewith. *Zoning or zoning change created or*  
7 *adopted after June 30, 2006*, which is not part of comprehensive zoning  
8 or which is created *after June 30, 2006*, primarily to permit advertising  
9 devices or structures shall not be recognized as valid zoning for purposes  
10 of the Kansas highway advertising control act and the rules and  
11 regulations promulgated thereunder, unless there actually exists a  
12 commercial or industrial activity as defined under subsection (d) of  
13 K.S.A. 68-2232, and amendments thereto.

14 (x) "Secretary" means the secretary of transportation.

15 (y) "Vegetation control" means a program authorized hereunder,  
16 providing for the control of vegetation on state rights-of-way which shall  
17 be of benefit to the state as well as providing assistance to sign owners.  
18 Vegetation control is recognized as part of the maintenance of the state's  
19 highway right-of-way as it relates to safety and other highway operations.  
20 The secretary shall adopt policies and procedures for the creation of a  
21 vegetation control program within 12 months of the effective date of this  
22 act.

23 Sec. 2. K.S.A. 2010 Supp. 68-2233 is hereby amended to read as  
24 follows: 68-2233. After March 31, 1972, and subject to the provisions of  
25 K.S.A. 68-2237, and amendments thereto, no sign shall be erected or  
26 maintained in an adjacent area, except the following: (a) Directional and  
27 official signs, including, but not limited to, signs pertaining to natural  
28 wonders, scenic or historical attractions, churches or rural businesses,  
29 which are required or authorized by law and which shall conform to rules  
30 and regulations promulgated by the secretary consistent with national  
31 policy, except that no such sign or notice shall be erected until an  
32 approved sign application and permit is obtained as provided for in  
33 K.S.A. 68-2236, and amendments thereto. Directional and official signs  
34 shall be required to obtain a license but such signs are exempt from  
35 payment of the fees required under subsection (c) of K.S.A. 68-2236, and  
36 amendments thereto;

37 (b) signs advertising the sale or lease of property upon which they  
38 are located;

39 (c) on-premise signs advertising activities conducted on the property  
40 on which they are located, including, without limiting the generality of  
41 the foregoing, goods grown, produced, sold, stored, manufactured,  
42 processed or mined thereon; services rendered thereon; and entertainment  
43 provided thereon;

1 (d) nonconforming signs or advertising devices lawfully in existence  
2 on March 31, 1972, or deemed to be nonconforming, provided that no  
3 such sign shall be maintained without a license as provided for in K.S.A.  
4 68-2236, and amendments thereto;

5 (e) conforming signs or advertising devices erected in business areas  
6 and which comply with the provisions of K.S.A. 68-2234, and  
7 amendments thereto. No such sign or advertising device shall be erected  
8 until a permit is obtained as provided in K.S.A. 68-2236, and  
9 amendments thereto;

10 (f) conforming signs or advertising devices legally erected after  
11 March 31, 1972, which no longer comply with spacing, size or zoning  
12 requirements of K.S.A. 68-2234, and amendments thereto, because of a  
13 change in the law, provided that no such sign shall be maintained without  
14 a license as required by K.S.A. 68-2236, and amendments thereto. Such  
15 signs *or any authorized under zoning or zoning land use change created*  
16 *or adopted before June 30, 2006*, shall be considered legal conforming  
17 signs *or zoning* with grandfather status;

18 (g) in addition to the limitations contained in this section, in order to  
19 further the purposes to promote the reasonable, orderly and effective  
20 display of outdoor advertising devices along highways adjacent to scenic  
21 and historical areas, while protecting the public investment in these  
22 highways and promoting safety and recreational value of public travel  
23 and to preserve natural beauty, no advertising sign, except as permitted  
24 under subsections (a), (b) or (c) shall be erected adjacent to any highway  
25 which is either:

26 (1) A scenic highway or scenic byway designated by the secretary;

27 (2) within 1,000 feet of the boundary line of a Kansas state park, a  
28 national park, a state or national wildlife refuge;

29 (3) within 500 feet of any of the following: Public park, garden,  
30 recreation area, forest preserve, church, school, any public museum or  
31 historical monument, any safety rest or recreation area which is publicly  
32 owned, controlled and maintained pursuant to 23 U.S.C. § 319 or any  
33 sanitary or other facility for the accommodation of the motorist which is  
34 publicly owned, controlled and maintained pursuant to 23 U.S.C. § 319;  
35 or

36 (4) within 500 feet of any strip of land, an interest in which has been  
37 acquired by the state of Kansas for the restoration, preservation or  
38 enhancement of scenic beauty and which is publicly controlled and  
39 maintained pursuant to 23 U.S.C. § 319.

40 Sec. 3. K.S.A. 2010 Supp. 68-2234 is hereby amended to read as  
41 follows: 68-2234. After March 31, 1972, and subject to the provisions of  
42 K.S.A. 68-2233, and amendments thereto, and to subsection (f), signs  
43 which are to be erected in a business area shall comply with the following

- 1 standards: (a) *General*. Signs shall not be erected or maintained which:
- 2 (1) Imitate or resemble any official traffic sign, signal or device; or
- 3 (2) are erected or maintained upon trees or painted or drawn upon
- 4 rocks or other natural features.
- 5 (b) *Configuration and size*. (1) Signs shall not be erected with sign
- 6 faces which exceed 30 feet in height, 60 feet in length or 900 square feet
- 7 in area, per facing, including border, trim and embellishments, but not
- 8 including base or apron, supports, and other structural members;
- 9 (2) the maximum size limitations shall apply to each sign facing;
- 10 (3) two sign displays not exceeding 450 square feet each may be
- 11 erected in a facing, side by side or "double decked," and double-faced,
- 12 back-to-back or V-type signs shall be permitted and shall be treated as
- 13 one structure with a maximum area of 900 square feet permitted for each
- 14 side or facing. To be classified as "back-to-back" there must not be more
- 15 than 15 feet between structures or faces, to allow for crossbracing;
- 16 (4) the area of any sign structure shall be measured by the smallest
- 17 square, rectangle, circle or combination thereof which will encompass the
- 18 area of the sign display or displays;
- 19 (5) the height of any portion of the sign structure, excluding cutouts
- 20 or extensions, as measured vertically from the adjacent edge of the road
- 21 grade of the main traveled way shall not exceed 50 feet;
- 22 (6) cutouts or extensions shall be permitted on legal conforming
- 23 signs at a size not to exceed 30% of the size of the main display area,
- 24 with a maximum extension of five feet along the top edge, two feet along
- 25 the sides and 1 1/2 feet along the bottom of the main display area. Cutouts
- 26 or extensions shall not be permitted where the configuration and size
- 27 requirements of this subsection will be exceeded.
- 28 (c) *Spacing*. (1) Signs shall conform to all applicable building codes
- 29 and ordinances of the city, county or state, whichever is applicable by
- 30 reason of the locations of the signs;
- 31 (2) signs shall not be erected or maintained in such a manner as to
- 32 obscure or otherwise physically interfere with an official traffic sign,
- 33 signal or device or to obstruct or physically interfere with a driver's view
- 34 of approaching, merging or intersecting traffic;
- 35 (3) except for official and on-premise signs, as defined in 23 U.S.C.
- 36 § 131(c) and as provided for in K.S.A. 68-2233, and amendments thereto,
- 37 any signs or sign structures visible from any primary highway without
- 38 fully controlled access:
- 39 (A) Shall not be spaced less than 300 feet apart outside of
- 40 incorporated cities;
- 41 (B) shall not be spaced less than 200 feet apart within incorporated
- 42 cities;
- 43 (4) any signs or sign structures visible from any interstate highway

1 or freeway with fully controlled access:

2 (A) Shall not be spaced less than 500 feet apart, except for official  
3 and on-premise signs, as defined in 23 U.S.C. § 131(c), and as provided  
4 in K.S.A. 68-2233, and amendments thereto;

5 (B) outside the corporate limits of cities, shall not be located within  
6 500 feet of an interchange, feeder, intersection at grade, safety rest area or  
7 information center regardless of whether the main traveled way is within  
8 or outside the city limits. The 500 feet spacing shall be measured from the  
9 point at which the pavement widens and the direction of measurement  
10 shall be along the edge of pavement away from the interchange, collector,  
11 intersection at grade, safety rest area or information center. In those  
12 interchanges where a quadrant does not have a ramp, the 500 feet for the  
13 quadrant at the edge of the intersection is located at the edge of the  
14 intersection;

15 (5) the minimum distance between two signs prescribed by  
16 paragraphs (3) and (4) of this subsection shall be measured along the  
17 nearest edge of the pavement between points directly opposite the signs  
18 along the same side of the highway. Such minimum distance shall not  
19 apply to signs described by subsection (a), (b) or (c) of K.S.A. 68-2233,  
20 and amendments thereto, nor shall such signs be counted or be used in  
21 measuring distances for the purpose of determining compliance with the  
22 spacing requirements of this subsection;

23 (6) the minimum distances between two signs prescribed by  
24 paragraphs (3) and (4) of this subsection shall not apply where such signs  
25 are separated by a building, structure, roadway or other obstruction which  
26 prevents a view of both signs at the same time by traffic proceedings on  
27 any one highway; and

28 (7) nothing in this subsection shall be construed as preventing the  
29 erection of double-faced, back-to-back or V-type signs with a maximum  
30 of two sign displays per sign facing, as permitted by subsection (b).  
31 Nothing in this subsection shall prevent the owner of a single face sign to  
32 change the position of the sign face to a different or opposite direction of  
33 traffic flow so long as an additional face or additional square feet are not  
34 added to the sign structure. No such change may be affected until  
35 approval is granted by the department.

36 (d) *Lighting.* (1) Signs shall not be erected which contain, include or  
37 are illuminated by any flashing, intermittent, revolving or moving light,  
38 except those giving public service information such as, but not limited to,  
39 time, date, temperature, weather or news; steadily burning lights in  
40 configuration of letters or pictures are not prohibited;

41 (2) signs shall not be erected or maintained which are not effectively  
42 shielded so as to prevent beams or rays of light from being directed at any  
43 portion of the traveled way of any interstate or primary highway and are

1 of such intensity or brilliance as to cause glare or to impair the vision of  
2 the driver of any motor vehicle or to otherwise interfere with any driver's  
3 operation of a motor vehicle; and

4 (3) signs shall not be erected or maintained which are so illuminated  
5 that they obscure any official traffic sign, device or signal, or imitate or  
6 may be confused with any official traffic sign, device or signal.

7 (e) *Automatic changeable facing signs.* (1) Automatic changeable  
8 facing signs shall be permitted within adjacent or controlled areas under  
9 the following conditions:

10 (A) The sign does not contain or display flashing, intermittent or  
11 moving lights, including animated or scrolling advertising;

12 (B) the changeable facing remains in a fixed position for at least  
13 eight seconds;

14 (C) if a message is changed electronically, it must be accomplished  
15 within an interval of two seconds or less;

16 (D) the sign is not placed within 1,000 feet of another automatic  
17 changeable facing sign on the same side of the highway, with the distance  
18 being measured along the nearest edge of the pavement and between  
19 points directly opposite the signs along each side of the highway;

20 (E) if the sign is a legal conforming structure it may be modified to  
21 an automatic changeable facing sign upon compliance with these  
22 standards and approval by the department. A nonconforming structure  
23 shall not be modified to create an automatic changeable facing sign;

24 (F) if the sign contains a default design that will freeze the sign in  
25 one position if a malfunction occurs; and

26 (G) if the sign application meets all other permitting requirements.

27 (2) The outdoor advertising license shall be revoked for failure to  
28 comply with any provision in this subsection.

29 (f) *Application to local zoning authorities.* Nothing in article 22 of  
30 chapter 68 of Kansas Statutes Annotated, and amendments thereto, shall  
31 be construed as prohibiting a local zoning authority from controlling the  
32 erection, maintenance, size, spacing and lighting of signs in all areas  
33 within its jurisdiction by adopting standards which may be consistent  
34 with, or more or less restrictive than the highway advertising control act,  
35 and amendments thereto, except that along interstate highways, the size  
36 and spacing requirements of subsections (b) and (c) of K.S.A. 68-2234,  
37 and amendments thereto, shall be met. The standards adopted by a local  
38 zoning authority shall include the regulation of size, of lighting and of  
39 spacing of all such signs and shall restrict the erection of new signs, other  
40 than signs described by subsections (a), (b) and (c) of K.S.A. 68-2233,  
41 and amendments thereto, to zoned commercial or industrial areas.

42 (g) *Prohibition against zoning to permit outdoor advertising.* Zoning  
43 action after June 30, 2006, which is not part of comprehensive zoning



1 and is created primarily to permit outdoor advertising structures, is not  
2 recognized as zoning for purposes of this act.

3 (h) *Unzoned commercial or industrial area qualifications for signs.*

4 (1) To qualify an area as unzoned commercial or industrial for the  
5 purpose of outdoor advertising control, one commercial or industrial  
6 activity shall meet all of the following criteria prior to submitting an  
7 outdoor advertising permit application:

8 (A) The activity shall maintain all necessary business licenses as  
9 may be required by applicable state, county or local law or ordinances;

10 (B) the property used for the activity shall be listed for ad valorem  
11 taxes with the county and municipal taxing authorities as required by law;

12 (C) the activity shall be served by utilities, power, telephone, water  
13 and sewer or septic and well;

14 (D) the activity shall have direct or indirect vehicular access;

15 (E) the activity must be visible from, and located within 660 feet of  
16 the nearest edge of the right-of-way of the controlled route;

17 (F) the commercial or industrial activity must be in operation for a  
18 period of 12 months prior to the date of submitting an application for an  
19 outdoor advertising permit and license;

20 (G) the activity shall be in operation for at least nine months per  
21 year; and

22 (H) the owner or employee shall be present at the site for 20 hours  
23 per week;

24 (2) the unzoned area shall include areas on both sides of any two-  
25 lane highway, but shall be limited to land on the same side as the  
26 commercial or industrial activity on any highway with four or more  
27 traffic lanes. All measurements shall begin from the outer edges of  
28 regularly used buildings, parking lots, storage or processing areas of the  
29 commercial or industrial activity, not from the property line of the activity  
30 and shall be along the nearest edge of the main traveled way of the  
31 controlled route. The proposed sign location must be within 600 feet of  
32 the commercial or industrial activity.

33 Sec. 4. K.S.A. 2010 Supp. 68-2232, 68-2233 and 68-2234 are  
34 hereby repealed.

35 Sec. 5. This act shall take effect and be in force from and after its  
36 publication in the statute book.

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