

OUTDOOR UPDATE

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MISSOURI OUTDOOR ADVERTISING ASSOCIATION

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Outdoor advertising legislation filed in both Houses

Legislation long sought by Missouri's outdoor advertising industry has been filed in both the House and Senate. Senate Bill 120, sponsored by Transportation committee chairman Senator Bill Stouffer, and House Bill 228, sponsored by Representative Shane Scheoller, were filed within the last two weeks. The bills are identical and are expected to be assigned to the respective Transportation committees in both Houses. The primary purpose of the legislation is to allow MoDOT to relocate existing signs displaced by highway construction. Under current Missouri law, signs on property condemned by the state must be purchased for their fair market value. Senate Bill 120 and House Bill 228 would allow any sign which conforms to the federal /state agreement on controlling outdoor advertising to be moved onto adjoining property. When a sign is relocated, MoDOT would only pay compensation for the cost to move the sign. Relocation costs are generally about 20% of the signs value or less. MoDOT estimates that relocating just the signs that would be displaced by upgrades to I-44 and I-70 would save the state at least \$60 to \$65 million dollars in construction costs. Statewide, the savings to taxpayers would be substantially higher.

The bills would allow local governments to prohibit the relocation of these existing signs, but if they choose to do so, they must reimburse the cost to move the sign versus purchasing it. "It wouldn't be fair to give cities the right to force the purchase of existing signs at MoDOT's expense. It would seem like a no brainer that cities would want to cooperate to substantially reduce MoDOT's construction costs on projects in their jurisdiction. In fact, the Missouri Municipal League and several individual cities have for several years actually lobbied for the right to prohibit relocations and require Missouri's taxpayers to buy signs they wish to eliminate," said MOAA executive director Bill May. "It's frustrating to encounter this type of tunnel vision by governmental entities at any level. The ability to accomplish your goals using somebody else's money is obviously attractive to many city officials," said May.

This legislation is desperately needed by the outdoor industry primarily to address problems resulting from legislative changes to Missouri law adopted in 1999 and 2002. As a result of those changes, over 95% of existing billboards in Missouri are

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MOAA Legislative Reception

The Missouri Outdoor Advertising Association will hold its annual Legislative Reception for legislators and their staffs on April 7 from 7:45—10:00 a.m. in Hearing Room 2 in the Capitol basement. All members are encouraged to attend and enjoy the opportunity to meet and talk with your state legislators in a relaxed and informal setting. Immediately following the reception, MOAA's board of directors will hold a board of directors meeting at Bone's Café.

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currently classified as nonconforming. Under federal and state law, most signs in Missouri can't be substantially repaired, employ new technology or even utilize cutouts or extensions on a long term basis. "Since the new regulations were adopted, the number of off-premise signs in Missouri has already declined by more than 15% as the demand and need for outdoor advertising to promote Missouri's businesses has grown," said May. "Eventually this trend will impact business revenues and price the small businesses who primarily rely on outdoor advertising out of the market," added May.

House Bill 228 and Senate Bill 120 would reclassify many existing signs as "conforming out of standard" meaning they conformed to the regulations when they were built, but do not comply with the newer regulations. These signs comply with the federal/state agreement and could utilize new technology such as digital displays and more efficient LED lighting. "The State of Missouri and its businesses should have the opportunity to benefit from new digital technology," said Chris Kirn, a Lamar Advertising executive and the current vice president of the Missouri Outdoor Advertising Association. "Digital technology allows multiple advertisers to promote their businesses on one sign. They allow an advertiser to change his daily special or prices from his computer. Digital displays eliminate the cost of printing and installing vinyl wraps and they allow our industry to participate in programs such as "Amber Alerts". Allowing new technology on Missouri's signs benefits everyone in the state from the business community to the traveler. It's seldom a good idea to prohibit new technology in any industry," said Kirn.

The legislation also addresses another issue seen as a significant problem for Missouri's outdoor advertising industry. In *State ex rel. Ad Trend v. Platte City*, 272 S.W. 3d 201 (Mo App., 2008), the Missouri Court of Appeals issued a ruling holding that the current statutory language allows cities to adopt any regulations regarding outdoor advertising they wish up to and including a total prohibition. For more than twenty years, the outdoor industry and most cities were under the assumption cities could be more restrictive than the state regulation, but that local regulations had to meet the requirements of Section 226.540(7). This section required that local regulations for outdoor advertising adjacent to major highways had to be reasonable, comply with the intent of the statute and allow for customary industry usage. The court in the Ad Trend decision went so far as to say that cities could limit billboards to the size of a postage stamp under current law.

Senate Bill 120 and House Bill 228 include language intended to clarify that while local governments may adopt regulations on outdoor advertising that are more restrictive than the state, local regulations must be reasonable, allow for customary usage and cannot be a total prohibition. Despite the fact that these three requirements have been in the statutes since at least 1972, the Municipal League is opposing this language as an unreasonable impediment on local control. "I'm sure many city officials view the Constitution the same way," said May. "It doesn't mean some restriction on their authority over free speech and property rights isn't necessary. The fact that several cities have already adopted total prohibitions on outdoor advertising is a pretty good indication some reasonable restraints by the legislature is needed."

Senate Bill 120 is scheduled for a hearing in the Senate Transportation committee on February 2nd. This marks the fourth time the committee has heard a similar bill. Each of the last three years the legislation has been filibustered on the Senate floor by ex-Senator Joan Bray. With her departure from the Senate, the outdoor industry is optimistic this legislation will finally be adopted by the legislature.

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MISSOURI OUTDOOR ADVERTISING ASSOCIATION

2011 MISSOURI OUTDOOR ADVERTISING ASSOCIATION
ASSOCIATE MEMBERSHIP APPLICATION

Name of Company _____

Address _____

City _____ State _____ Zip _____

Phone (____) _____ Fax (____) _____ E-mail _____

Company Contact:

Name _____ Position _____

Nature of business/product _____

Membership dues must accompany application. Make \$200.00 check payable to:

MISSOURI OUTDOOR ADVERTISING ASSOCIATION
1910 E. BURNTWOOD STREET
SPRINGFIELD, MO 65803

2011 MISSOURI OUTDOOR ADVERTISING ASSOCIATION
GRASS ROOTS MEMBERSHIP APPLICATION

I, _____ want to be a Grass Roots Associate member of MOAA and would like to be kept informed and have enclosed \$10.00 for this year's dues to help cover expenses. My mailing address is:

I am a friend, employee, property owner or business person. (Circle one)

Membership dues must accompany application. Make \$10.00 check payable to:

MISSOURI OUTDOOR ADVERTISING ASSOCIATION
1910 E. BURNTWOOD STREET
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Highway Commission votes to eliminate outdoor advertising deed restrictions

During its monthly meeting in January, the Missouri Highway Commission voted to eliminate a long standing policy that required a deed restriction prohibiting outdoor advertising on excess right-of-way or other MoDOT property sold by the state. Many times the parcels being sold are too small for any other kind of commercial development but a billboard. Outdoor companies had no interest in purchasing excess right-of-way if they could not utilize it for sign structures. The deed restriction requirement was adopted in the late 1960's when MoDOT officials were concerned that the Federal Highway Beautification Act might require the state to purchase and remove existing signs. Subsequent amendments to the federal law now specify that the FHWA may not adopt such a requirement unless they provide the funds required to purchase the signs to the state. This change should result in some additional revenue to MoDOT from the sale of parcels of land that were of no interest to other developers. MoDOT maintains a Web site listing parcels of MoDOT property for sale at <http://modot.mo.gov/realtyforsale/index.htm>. They are listed by district and county. MoDOT's excess property manager is Greg Wood. MOAA members may contact him directly at (573) 751-7716 or at gregory.wood@modot.mo.gov to discuss any properties in which you might have an interest in purchasing.

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