

# OUTDOOR UPDATE

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## Protecting your Right to advertise On Missouri's Highways

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## Missouri Highway Commission publishes final digital rules

The Missouri Highway Commission has at last adopted final rules for digital signs on Missouri's highways. The final rules were published February 15th and are now in the jurisdiction of the Joint Committee on Administrative Rules. This legislative committee reviews most administrative rules and may conduct hearings or reject rules adopted by state agencies.

The new rules require that digital signs change copy instantaneously and that copy must be displayed for at least ten seconds before it can change again. The new rules also limit the lighting level on off-premise digital signs to 300 candela per square meter. Prior to the adoption of this lighting standard, there were no limitations for brightness levels. Though there haven't been any real problems with brightness for off-premise digitals, the outdoor industry generally supported adopting a limit that could be enforced if there was a problem in the future.

"The complaints regarding brightness were generated by on-premise displays," said Bill May, executive director of the Missouri Outdoor Advertising Association. "Unfortunately, these regulations don't apply to on-premise digitals which are not regulated by MoDOT," he added.

The existing MoDOT regulations that had been in effect for over a decade required that a digital sign remain static for at least eight seconds before changing. The Federal Highway Administration recommends an eight second static time, but has held that any time from four to ten seconds is acceptable.

The new regulations are a result of language in H.B. 1402 which authorized the installation of more digital signs, but also required the Commission to review its regulations for digital signs. H.B. 1402 was passed in the 2012 legislative session and signed by the governor in May of that year. Prior to recommending regulations to the Commission, MoDOT consulted with the Federal Highway Administration and other states to determine what the FHWA recommended and what other states had adopted. The Highway Commission required MoDOT to hire a national safety research firm to conduct a safety study. Their report also looked at federal recommendations and other state regulations as well as numerous safety studies that have proven digital signs have no impact on highway safety if they are properly regulated. Since that time, the Federal Highway Administration has released its own extensive study reconfirming earlier research.

"The outdoor industry is really frustrated that the Highway Commission has taken almost two years to finally adopt new rules. One of the purposes of H.B. 1402 was to allow the wider use of new technology. So far, we haven't received that benefit. Millions of dollars in digital displays have been sitting in warehouses for more than a year. The rules adopted by the Commission are almost identical to what MoDOT's experts recommended well over a year ago," said May.

Despite the increase in static time which will reduce the revenue generated by a digital sign, the membership of the Missouri Outdoor Advertising Association has voted not to oppose the rules adopted by the Commission.

"There is really no justification for increasing static time from a traffic safety standpoint,"

(Continued on page 2)

(Continued from page 1)

said Bob Fessler, a regional vice president with Lamar Advertising. “Despite that fact, we are urging JCAR not to oppose the new rules. In the event the Highway Commission had to go back and review these rules again, it would likely be another year before we could get permits to install digital displays on existing signs,” explained Fessler.

The Missouri Outdoor Advertising Association estimates it costs the outdoor industry several hundred thousand dollars a month in additional revenue every month the adoption of rules is delayed. The Association and its lobbyist have contacted JCAR members to ask them not to hold up approval of the Commission rules. It will be at least May or June before MoDOT will issue permits to allow digital displays on conforming out of standard signs.

## **Highway Commission amends Scenic Byway rules**

The Missouri Highway Commission is amending the rules for the state Scenic Byways program. For many years, the rules have required sponsors to file an application with the Scenic Byways Advisory Committee. The application must include a corridor management plan and support from local governments. That process will remain in effect. The primary change in the proposed rules is the makeup of the Advisory Committee. Traditionally, the committee has consisted of the Missouri Outdoor Advertising Association, Scenic Missouri and various state agencies such as the Department of Natural Resources and Department of Conservation. The rules changes would eliminate those state agencies and replace them with the Missouri Chamber of Commerce and the Missouri Retailers Association. The Missouri Outdoor Advertising Association supports these changes and has always felt the business community should be represented on the Advisory committee. Many times it is business groups filing applications to establish Scenic Byways.

Because the primary effect of a scenic designation is to prohibit billboards, the MOAA has always taken an active interest in these programs advocated by anti-billboard groups as a means to prohibit outdoor advertising on highways where state law would allow them. Despite that fact, the outdoor industry has supported scenic designations for highways that are indeed scenic or special in some other manner. Missouri statutes requires the Highway Commission to segment out those sections of scenic highways that are industrial or commercial in nature.

“The intent of the statute was to allow billboards in areas where there were industrial parks or significant business activity on an otherwise scenic route. The Missouri outdoor industry is concerned about this whole program because when the Commission designated the remaining portions of Route 66 as a scenic byway, they did not segment out areas of that highway that went through cities or major business areas. As a result, the businesses along that route cannot utilize outdoor advertising to reach the travelers the special designation is designed to attract,” said MOAA executive director Bill May. “It is frustrating when a state agency exercises statutory authority granted by the legislature, but fails to recognize or honor limitations placed on that authority by the same statutory language. We are concerned this program, chaired by Scenic Missouri’s executive director, will simply become a means for this anti-billboard group to ban billboards where they are appropriate and needed. There would be few highways designated scenic byways which would not go through industrial or commercial areas at some point,” added May.