

OUTDOOR UPDATE

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MISSOURI OUTDOOR ADVERTISING ASSOCIATION

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2010 legislative session set to kick off January 6th

With the new legislative session scheduled to begin on January 6th, several bills relating to or affecting outdoor advertising have been pre-filed in the Missouri House and Senate.

SENATE BILL 704

Sponsored by Senator Griesheimer and supported by Senator Stouffer, this bill is intended to address three current outdoor advertising issues. It would allow MoDOT to relocate existing signs that comply with the federal/state agreement when they are displaced by highway construction. For signs which are relocated, MoDOT would only pay the actual cost of relocation rather than the full market value of the sign. Though a fiscal note on this provision has not yet been issued, MOAA estimates the fiscal impact will be in excess of \$100 million dollars in reduced construction costs. Local zoning authorities could prohibit the relocation if it would violate local zoning ordinances, but if they opt to do so, the local zoning authority would be responsible for paying the additional cost for MoDOT to condemn and remove the sign.

Senate Bill 704 would also reclassify many existing signs from nonconforming under state regulations to "conforming out of standard". As a result of regulatory changes adopted by the legislature in 1999 and 2002, at least 95% of existing signs are currently classified as "nonconforming". The adoption of this legislation would allow the addition of new technology such as more efficient lighting, electronic gas price signs and digital displays to many existing signs. As the law currently exists, new technology is prohibited on almost all existing signs in Missouri.

"As the number of existing signs in Missouri continues to decline due to tighter regulations, development and severe weather, new technology becomes even more essential to allow the outdoor industry to meet the needs and demands of the business community with fewer signs," said MOAA executive director Bill May. "Several years ago, the Federal Highway Administration issued rules allowing digital signs adjacent to primary and interstate highways, however, that rule does not apply to signs classified as "nonconforming". Unfortunately, rules changes have made almost all of Missouri's existing signs "nonconforming". This rules change would allow signs which were legally built and complied with all of the rules prior to the changes to be considered as "conforming out of standard" rather than "nonconforming".

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MOAA Legislative Reception

The Missouri Outdoor Advertising Association will hold its annual Legislative Reception for legislators and their staffs on January 19th from 7:45—10:00 a.m. in Hearing Room 7 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.

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“The current prohibition on new technology was an unanticipated side effect to the outdoor industry’s agreement to reduce the size of signs and increase the spacing required between them,” said May.

Senate Bill 704 also attempts to address a decision in the Western District Court of Appeals last fall holding that under the current statutory language, local zoning authorities can totally prohibit outdoor advertising even in commercial and industrial areas adjacent to primary and interstate highways. For more than 40 years, Missouri statutes at section 226.540 RSMo allowed local governments to adopt more restrictive regulations than state law provided the local regulations were reasonable, allowed for customary usage and did not constitute a prohibition on outdoor advertising. In 1996, the Eastern District Court of Appeals issued a ruling in *Outcom v. City of Lake St. Louis* holding that local regulations could not be more restrictive than the state statutes. In response, the Missouri Outdoor Advertising Association and the Missouri Municipal League agreed to language codified at section 71.288 RSMo, which specifically gives cities the right to adopt size, lighting and spacing regulations that are more restrictive than the state regulations. The outdoor industry relied on the current language in section 226.540 to provide a limit on the new authority granted to local zoning authorities. The Western District Court of Appeals decision in *Ad Trend v. City of Platte City* disregarded the language in 226.540 and held that section 71.288 allows a total local prohibition. Senate Bill 704 clarifies that while local regulations may be more restrictive than state law, they must be reasonable, allow for customary usage and cannot be a total prohibition. “The new language in section 226.540 will spell out what we thought we were agreeing to with the adoption of section 71.288 in 1999,” said May. “The Missouri outdoor industry supports and desperately needs the relief provided by Senate Bill 704,” said Bob Fessler, MOAA’s current president and the general manager of Lamar Advertising in Kansas City.

Representative Bob Dixon, chairman of the House Transportation committee has agreed to file an identical bill in the House. Several other members including Representative Tim Meadows, (D) Imperial, Missouri, will co-sponsor the House bill. No bill number for the House bill was available at press time. These bills are likely to be assigned to the respective transportation committees in both houses.

SENATE BILL 678

This legislation, filed by Democratic Senator Joan Bray, would totally ban new outdoor advertising technology such as tri-vision, digital or other changeable copy signs including gas price signs. The Missouri Outdoor Advertising Association and its members are opposed to Senate Bill 678. “Digital signs offer the advertiser and highway traveler distinct advantages over conventional outdoor advertising displays. It’s like comparing a model T to a modern sports car. They will both meet the need they were designed for, but the digital displays are much more efficient and versatile than a static display,” said May. “Digital signs have the ability to do double duty for things like Amber Alerts and natural disaster warnings. They allow a restaurant to advertise a daily special, retailers can advertise sales, motels and gas stations can post prices that can be changed electronically every day if necessary. They also allow multiple advertisers to promote their business on the same sign. Considering that the number of existing signs is declining in Missouri and will continue to do so under the tighter regulations adopted in 2002, digital signs allow the outdoor industry to meet increasing demand with fewer signs,” said Bob Fessler whose company currently owns and operates thirteen digital signs in the Kansas City area and two more in St. Joseph. “I can’t imagine why anyone would want to prohibit better, more efficient technology in any industry,” added Fessler.

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HOUSE BILLS 1273 AND 1292

These bills, filed by Representative Holsman, establishes the Night Sky Protection Act, which would prohibit outdoor lights over vast areas of Missouri including military training areas, parks, rivers and recreation areas. Presumably, this would include street lights, lighted signs, digital signs and parking lot lighting. The MOAA has taken a position in opposition to this legislation which would render billboards useless at night and cause serious safety and crime concerns. MOAA believes these serious problems more than outweigh the relatively minor advantage of being able to see more stars in developed areas.

“This legislation is a classic example of government over regulation. Will we have state inspectors going around with light meters issuing citations? Will we need a state light permit to install security lighting on our hotel parking lots? Will I need a state permit to put up Christmas lights or would they be banned under this proposed legislation?” said Tony Mariani, MOAA vice president who also serves as vice president of Drury Displays, Inc. and Drury Development Corp. “It certainly seems to disregard my responsibility as a property owner to provide for the reasonable security of my patrons.”

Fairway Outdoor-Magic Media merge

On October 15th, the merger between Fairway Outdoor (a subsidiary of Morris Communication Company LLC) and Magic Media Inc. was successfully completed. The newly formed company (Fairway Magic Outdoor LLC) is one of the largest privately owned outdoor advertising companies in the U.S. with over 19,500 billboard and poster displays in 22 states. Fairway Magic Outdoor will be led by Mark Moyer, the current CEO of Fairway Outdoor, who has held this position since 2000. Mr. Moyer is also the Chairman of the OAAA and is a Director of the Traffic Audit Bureau of America.

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