

Amendment No. 673

Senate Amendment to Assembly Bill No. 53

(BDR 35-482)

Proposed by: Senate Committee on Transportation**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

DLJ/MSM



Date: 5/23/2011

A.B. No. 53—Revises provisions governing informational signage and other programs to provide information concerning commercial attractions and services along highways. (BDR 35-482)



ASSEMBLY BILL NO. 53—COMMITTEE ON TRANSPORTATION

(ON BEHALF OF THE DEPARTMENT OF TRANSPORTATION)

PREFILED DECEMBER 15, 2010

Referred to Committee on Transportation

SUMMARY—Revises provisions governing informational signage and other programs to provide information concerning commercial attractions and services along highways. (BDR 35-482)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to transportation; requiring the Director of the Department of Transportation to charge fees based upon market value for authorizing the placement of trademarks or symbols identifying individual enterprises on certain signs and for providing information regarding attractions and services along highways of the State; authorizing the Director to recommend to the Board of Directors of the Department programs for providing information to the traveling public to be funded from money received from fees charged on those signs; exempting certain signs located in a redevelopment area from certain restrictions on the proximity of advertising to certain highways in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Transportation to adopt regulations to fix reasonable fees to recover the actual cost of administering a program for erecting certain signs on highways. Existing law provides that in certain larger counties, the Department is required to establish the fees based upon the market value as determined by the Department. **Section 3** of this bill instead requires the Department to fix the fees in all counties based upon market value as determined by the Department. Existing law provides that the fees collected by the Department are to be credited to the Account for Systems of Providing Information to the Traveling Public in the State Highway Fund. **Section 1** of this bill authorizes the Director to recommend to the Board of Directors of the Department programs to provide information to the traveling public to be paid from money available for that purpose from the Account.

Existing law provides that outdoor advertising shall not be maintained within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate or primary highway systems of this State. Exemptions are provided for: (1) certain directional, warning, landmark, informational and other official signs; (2) signs which advertise the sale or lease of the property on which they are located or advertise for a business or activities conducted on the property on which they are located; (3) signs

in zoned commercial or industrial areas; and (4) certain directional information signs in hardship areas which have been approved by the Secretary of Transportation pursuant to certain federal regulations. (NRS 410.320) Sections 10 and 13 of this bill provide an exemption from the 660-foot restriction for certain signs located in a redevelopment area.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 408 of NRS is hereby amended by adding thereto a new section to read as follows:

The Director may recommend to the Board, for its approval, programs to provide information to the traveling public to be paid from such money as is available for this purpose pursuant to NRS 408.567.

Sec. 2. NRS 408.551 is hereby amended to read as follows:

408.551 As used in NRS 408.551 to 408.567, inclusive, *and section 1 of this act*, “center” means a facility to provide information to members of the traveling public, concerning accommodations, food, fuel and recreation, through an attendant or some means of communication.

Sec. 3. NRS 408.557 is hereby amended to read as follows:

408.557 1. The Director shall adopt regulations:

(a) Governing the size, shape, lighting and other characteristics of a sign to be erected at ~~such~~ a location ~~as~~ *designated pursuant to NRS 408.553;*

(b) Authorizing the use of trademarks and symbols identifying an individual enterprise on a sign erected at the location;

(c) Fixing the qualifications of a person or governmental agency to operate a center and of an enterprise to be identified on a directional or informational sign;

(d) ~~Fixing reasonable fees to recover the actual administrative cost incurred by the Department for:~~

~~—(1) Authorizing the use of trademarks and symbols identifying an individual enterprise on a directional or informational sign; and~~

~~—(2) Providing information concerning commercial attractions and services.~~

~~—(e) Fixing reasonable fees, based upon the market value as determined by the Department, for:~~

(1) Authorizing the use of trademarks and symbols identifying an individual enterprise on a directional or informational sign ~~in an urban area of a county whose population is 100,000 or more;~~; and

(2) Providing information ~~in an urban area of a county whose population is 100,000 or more~~ concerning commercial attractions and services; and

~~—(f) (e) Otherwise necessary to carry out the provisions of NRS 408.551 to 408.567, inclusive~~ *and section 1 of this act.*

2. The regulations adopted by the Director pursuant to subsection 1 must be consistent with the provisions of 23 U.S.C. § 131.

Sec. 4. NRS 408.559 is hereby amended to read as follows:

408.559 The Department shall develop a plan, in cooperation with the Commission on Tourism, to carry out the provisions of NRS 408.551 to 408.567, inclusive ~~and~~ *and section 1 of this act.* The plan must take into consideration such factors as:

1. Economic development in this state.

2. Availability of money for the purposes of NRS 408.551 to 408.567, inclusive ~~and~~ *and section 1 of this act.*

3. Population in a particular area.

4. Proposed highway construction.

5. Need for information.

➤ The Department and the Commission shall review the plan at least once each year and revise it until the provisions of NRS 408.551 to 408.567, inclusive, *and section 1 of this act* have been uniformly put into effect throughout the State.

Sec. 5. NRS 408.567 is hereby amended to read as follows:

408.567 1. Money received by the Department from:

(a) Fees for:

(1) Authorizing the use of trademarks and symbols identifying an individual enterprise on a directional or informational sign; and

(2) Providing information concerning commercial attractions and services;

(b) Participants in a telephone system established to reserve accommodations for travelers; and

(c) Appropriations made by the Legislature for the purposes of NRS 408.551 to 408.567, inclusive, *and section 1 of this act*,

➤ must be deposited with the State Treasurer for credit to the Account for Systems of Providing Information to the Traveling Public in the State Highway Fund, which is hereby created.

2. Money in the Account must only be used to carry out the provisions of NRS 408.551 to 408.567, inclusive ~~H~~, *and section 1 of this act*.

Sec. 6. Chapter 410 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 to 10, inclusive, of this act.

Sec. 7. "Agency" has the meaning ascribed to it in NRS 279.386.

Sec. 8. "Redevelopment area" has the meaning ascribed to it in NRS 279.410.

Sec. 9. "Redevelopment project" has the meaning ascribed to it in NRS 279.412.

Sec. 10. 1. An application for a permit for a sign, display or device to be erected or maintained in a redevelopment area pursuant to subsection 7 of NRS 410.320 must be submitted to the Department, on a form provided by the Department, by the agency undertaking the redevelopment project. The application must include, without limitation:

(a) Certification by the agency that the sign, display or device meets the requirements of subsection 4 of NRS 410.320; and

(b) A finding by the agency that the sign, display or device will not result in a concentration of outdoor advertising that would have a negative impact on the safety or aesthetic quality of the redevelopment area.

2. The Department shall issue a permit upon receipt of an application that meets the requirements of subsection 1 unless the Department determines that the sign, display or device does not conform to the national standards adopted by the Secretary of Transportation pursuant to 23 U.S.C. § 131.

3. A permit issued pursuant to this section is valid for 10 years or until the completion of the redevelopment project, whichever occurs earlier. The Department may, for good cause shown by the agency that obtained the permit, allow for an extension of a permit beyond a 10-year period, provided that the redevelopment project has not been completed.

4. Upon expiration of a permit, the Department shall personally serve or send by registered or certified mail notice to the landowner and the owner of the sign, display or device that the sign, display or device must be removed within 30 days thereafter, unless the sign, display or device is otherwise exempt pursuant to subsections 1 to 6, inclusive, of NRS 410.320.

5. If a person fails to remove a sign, display or device pursuant to subsection 4, the Department may:

(a) Impose an administrative fine of \$10,000 plus \$100 per day for each day after the receipt of notice that the sign, display or device has not been removed;

(b) Impose an additional civil penalty equal to any gross revenue earned by the person from the sign, display or device during the period that:

(1) Begins on the date of receipt of the notice to remove the sign, display or device; and

(2) Ends on the date on which the sign, display or device is removed; and

(c) Charge the person any costs incurred by the Department in removing the sign, display or device.

Sec. 11. NRS 410.220 is hereby amended to read as follows:

410.220 1. The Legislature hereby finds and declares that:

(a) The erection and maintenance of outdoor advertising signs, displays and devices, in areas adjacent to the rights-of-way of the interstate highway system and the primary highway system within this state, is a legitimate commercial use of private property adjacent to roads and highways and that regulation and control or removal of such outdoor advertising is necessary to the system of state highways declared essential by NRS 408.100.

(b) The erection and maintenance of such advertising in such locations must be regulated:

(1) To prevent unreasonable distraction of operators of motor vehicles, confusion with regard to traffic lights, signs or signals and other interference with the effectiveness of traffic regulations;

(2) To promote the safety, convenience and enjoyment of travel on the state highways in this state;

(3) To attract tourists and promote the prosperity, economic well-being and general welfare of the State;

(4) For the protection of the public investment in the state highways; and

(5) To preserve and enhance the natural scenic beauty and aesthetic features of the highways and adjacent areas.

(c) All outdoor advertising which does not conform to the requirements of NRS 410.220 to 410.410, inclusive, and sections 7 to 10, inclusive, of this act is contrary to the public safety, health and general welfare of the people of this state.

(d) The removal of signs adjacent to the rights-of-way of the interstate or primary highway system within this state which provide directional information about goods and services in the interest of the traveling public and which:

(1) Were erected in conformance with the laws of the State of Nevada and subsequently became nonconforming under the requirements of 23 U.S.C. § 131; and

(2) Were in existence on May 6, 1976,
↳ could create substantial economic hardships in defined hardship areas within the State of Nevada.

2. It is the intent of the Legislature in NRS 410.220 to 410.410, inclusive, and sections 7 to 10, inclusive, of this act to provide a statutory basis for regulation of outdoor advertising consistent with the public policy declared by the Congress of the United States in areas adjacent to the interstate and primary highway systems.

Sec. 12. NRS 410.230 is hereby amended to read as follows:

410.230 As used in NRS 410.220 to 410.410, inclusive, and sections 7 to 10, inclusive, of this act, the words and terms defined in NRS 410.250 to 410.310, inclusive, and sections 7, 8 and 9 of this act have the meanings ascribed to them in those sections, unless a different meaning clearly appears in the context.

Sec. 13. NRS 410.320 is hereby amended to read as follows:

410.320 Outdoor advertising shall not be erected or maintained within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way

of the interstate or primary highway systems in this state, and, outside urban areas outdoor advertising shall not be erected or maintained beyond 660 feet from the nearest edge of the right-of-way of the interstate and primary highway systems which is visible and placed with the purpose of having its message read from the main-traveled way of the interstate and primary highway systems in this state, except the following:

1. Directional, warning, landmark, informational and other official signs and notices, including but not limited to signs and notices pertaining to natural wonders, scenic and historic attractions. Only signs which are required or authorized by law or by federal, state or county authority, and which conform to national standards promulgated by the Secretary of Transportation pursuant to 23 U.S.C. § 131, are permitted.

2. Signs, displays and devices which advertise the sale or lease of the property upon which they are located.

3. Signs, displays and devices which advertise the activities conducted or services rendered or the goods produced or sold upon the property upon which the advertising sign, display or device is erected.

4. Signs, displays and devices located in zoned commercial or industrial areas, when located within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate and primary highway systems within this state.

5. Signs, displays and devices located in an unzoned commercial or industrial area as defined in NRS 410.300, when located within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate and primary highway systems within this state.

6. Nonconforming signs in defined hardship areas which provide directional information about goods and services in the interest of the traveling public and are approved by the Secretary of Transportation pursuant to 23 U.S.C. § 131(o).

7. Signs, displays and devices which:

(a) Are located within a redevelopment area;

(b) Advertise businesses or activities within the redevelopment area as part of the redevelopment project; and

(c) Have been:

(1) Approved by the agency undertaking the redevelopment project; and

(2) Issued a permit by the Department pursuant to an application submitted pursuant to section 10 of this act by the agency undertaking the redevelopment project.

Sec. 14. NRS 410.340 is hereby amended to read as follows:

410.340 1. Any outdoor advertising sign, display or device located within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate or primary highway systems in this state, and, in the case of any outdoor advertising sign, display or device located beyond 660 feet from the nearest edge of the right-of-way for interstate and primary highway systems, which is located outside of urban areas and placed with the purpose of having its message read from the main-traveled way of the interstate and primary highway systems, which was lawfully in existence and maintained on October 22, 1965, and which is not within one of the exceptions set forth in NRS 410.320, shall be removed no later than July 1, 1973, or 3 years from the date funds are available for such removal, except as provided in subsection 3.

2. ~~Any~~ Except as otherwise provided in section 10 of this act, any other outdoor advertising sign, display or device located within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of any highway of the interstate or primary system, and, in the case of any outdoor advertising sign,

display or device located beyond 660 feet from the nearest edge of the right-of-way for interstate and primary highway systems, which is located outside of urban areas and placed with the purpose of having its message read from the main-traveled way of the interstate and primary highway systems, and which is not within one of the exceptions set forth in NRS 410.320, shall be removed not later than the end of the fifth year after it becomes nonconforming.

3. Any outdoor advertising sign, display or device located within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate or primary highway system, and, in the case of any outdoor advertising sign, display or device located beyond 660 feet from the nearest edge of the right-of-way for interstate and primary highway systems, which is located outside of urban areas and placed with the purpose of having its message read from the main-traveled way of the interstate and primary highway systems, and which is lawfully maintained on or after February 20, 1972, but which subsequently becomes nonconforming with the provisions of NRS 410.220 to 410.410, inclusive, by reason of amendment of such provisions or change in regulations or agreements prescribed or entered into as authorized by NRS 410.220 to 410.410, inclusive, may be maintained until the end of the fifth year after it becomes nonconforming.

4. No compensation shall be paid upon removal of any outdoor advertising sign, display or device erected after February 20, 1972, which as a result thereof become nonconforming. However, such outdoor advertising sign, display or device shall be removed only when all other outdoor advertising signs, displays or devices existing on February 20, 1972, have been removed.

Sec. 15. NRS 410.360 is hereby amended to read as follows:

410.360 1. Any outdoor advertising sign, display or device erected after February 20, 1972, which violates the provisions of NRS 410.220 to 410.410, inclusive, is hereby declared to be a public nuisance and the Director shall remove any such sign, display or device which is not removed before the expiration of 30 days after notice of the violation and demand for removal have been served personally or by registered or certified mail upon the landowner and the owner of the sign or their agents. Removal by the Department of the sign, display or device on the failure of the owners to comply with the notice and demand gives the Department a right of action to recover the expense of the removal, cost and expenses of suit.

2. ~~Any~~ **Except as otherwise provided in section 10 of this act, any** person who erects or causes to be erected an outdoor advertising sign, display or device which violates the provisions of NRS 410.220 to 410.410, inclusive, shall pay to the Department:

- (a) For the first violation, a fine of \$50;
- (b) For the second violation, a fine of \$250;
- (c) For the third or subsequent violation, a fine of \$500 per violation; and
- (d) The reasonable costs of collection.

~~Sec. 6.~~ **Sec. 16.** This act becomes effective on July 1, 2011.