

1 HOUSE BILL NO. 454

2 INTRODUCED BY BARDANOUE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE OUTDOOR
5 ADVERTISING ACT BY PROHIBITING CERTAIN OUTDOOR ADVERTISING
6 DIRECTED AT AND VISIBLE FROM AN INTERSTATE OR PRIMARY
7 HIGHWAY, BUT MORE THAN SIX HUNDRED SIXTY FEET THEREFROM; BY
8 ADDING A DEFINITION OF "URBAN AREA"; BY LIMITING THE
9 DEFINITION OF "UNZONED COMMERCIAL OR INDUSTRIAL AREA" TO A
10 DEPTH OF SIX HUNDRED SIXTY FEET; BY PROVIDING FOR
11 PERMITTING, REGULATION AND ACQUISITION OF OUTDOOR
12 ADVERTISING LEGALLY IN EXISTENCE BEFORE THE EFFECTIVE DATE
13 HEREOF, BUT NOT CONFORMING TO THE STANDARDS HEREIN
14 ESTABLISHED; AMENDING SECTIONS 32-4716, 32-4717, 32-4719,
15 32-4720, 32-4722, AND 32-4723, R.C.M. 1947; AND PROVIDING AN
16 IMMEDIATE EFFECTIVE DATE."
17

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 Section 1. Section 32-4716, R.C.M. 1947, is amended to
20 read as follows:

21 "32-4716. Definition of terms. As used in this act:

22 (a) "Interstate system" means that portion of the national
23 system of interstate and defense highways located within
24 this state, as officially designated, or as may hereafter be
25 so designated by the commission and approved by the

1 secretary pursuant to the provisions of Title 23, United
2 States Code, "Highways."

3 (b) "Primary system" means that portion of connected
4 main highways, as officially designated or as may hereafter
5 be so designated by the commission and approved by the
6 secretary pursuant to the provisions of Title 23, United
7 States Code, "Highways."

8 (c) "Outdoor advertising" means any outdoor sign,
9 display, light, device, figure, painting, drawing, message,
10 plaque, poster, billboard, or other structure which is
11 designed, intended or used to advertise or inform and which
12 is visible from any place on the main traveled way of the
13 interstate or primary systems.

14 (d) "Commission" means the state highway commission of
15 Montana.

16 (e) "Secretary" means the secretary of the United
17 States department of transportation.

18 (f) "Safety rest area" means an area or site
19 established and maintained within or adjacent to the right
20 of way by or under public supervision or control, for the
21 convenience of the traveling public.

22 (g) "Information center" means an area or site
23 established or maintained at safety rest areas for the
24 purpose of informing the public of places of interest within
25 the state and providing such other information as the

1 commission may consider desirable.

2 (h) "Visible" means capable of being seen, and legible,
3 without visual aid by a person of normal visual acuity.

4 (i) "Commercial or industrial zone" means an area which
5 is used or reserved for business, commerce, or trade
6 pursuant to comprehensive local zoning ordinances or
7 regulations, or enabling state legislation, or state
8 legislation itself, including highway service areas lawfully
9 zoned as highway service zones where the primary use of the
10 land is used or reserved for commercial and roadside
11 services, other than outdoor advertising, to serve the
12 traveling public. Areas temporarily zoned as commercial or
13 industrial by an interim regulation or map adopted as an
14 emergency measure pursuant to section 16-4711, R.C.M. 1947,
15 shall not be considered as covered by this definition.

16 (j) "Unzoned commercial or industrial area" means an
17 area not zoned by state or local law, regulation or
18 ordinance which is occupied by one or more industrial or
19 commercial activities, other than outdoor advertising, on
20 the lands along the highway for a distance of six hundred
21 (600) feet immediately adjacent to the activities, and those
22 lands directly opposite on the other side of the highway to
23 the extent of the same dimensions, and to a maximum depth of
24 six hundred sixty (660) feet when measured from the highway
25 right-of-way; provided, those lands on the opposite side of

1 the highway are not deemed scenic or having aesthetic value
2 as determined by the commission.

3 (k) "Commercial or industrial activities" means for
4 purposes of subsection (j) those activities generally
5 recognized as commercial or industrial by zoning authorities
6 in this state, except that none of the following activities
7 shall be considered commercial or industrial:

8 (i) Agricultural, forestry, grazing, farming and
9 related activities including wayside fresh produce stands.

10 (ii) Transient or temporary activities.

11 (iii) Activities not visible from the main traveled
12 way.

13 (iv) Activities conducted in a building principally
14 used as a residence.

15 (v) Railroad tracks and minor sidings.

16 (vi) Activities more than six hundred and sixty (660)
17 feet from the nearest edge of the right of way.

18 (l) "Maintain" means to allow to exist, subject to the
19 provisions of this act.

20 (m) "Maintenance" means to repair, refurbish, repaint
21 or otherwise keep an existing sign structure in a state
22 suitable for use.

23 (n) "Interchange" or "intersection" means those areas
24 and their approach where traffic is channeled off or onto an
25 interstate route including the de-acceleration lanes or

1 acceleration lanes from or to another federal, state,
2 county, city, or other route.

3 (o) "Urban areas" means an urbanized area or place as
4 designated by the United States bureau of the census having
5 a population of five thousand (5,000) or more and within
6 boundaries fixed by the department of highways, which said
7 boundaries shall, as a minimum, encompass the entire urban
8 place designated by said bureau of the census."

9 Section 2. Section 32-4717, R.C.M. 1947, is amended to
10 read as follows:

11 "32-4717. Outdoor advertising prohibited in proximity
12 to highway -- exceptions -- standards and permits. (a)
13 Outdoor advertising may not be erected or maintained which
14 is within six hundred and sixty (660) feet of the nearest
15 edge of the right of way and which is visible from any place
16 on the main traveled way, of an interstate or primary
17 system, except:

18 (i) Directional and other official signs and notices,
19 which signs and notices include, but are not limited to,
20 signs and notices pertaining to natural wonders, scenic and
21 historical attractions, as authorized or required by law.

22 (ii) Signs, displays and devices advertising the sale
23 or lease of property upon which they are located.

24 (iii) Signs, displays and devices advertising
25 activities conducted on the property upon which they are

1 located.

2 (iv) Signs, displays and devices located in areas which
3 are zoned industrial or commercial by a bona fide state,
4 county or local zoning authority.

5 (v) Signs, displays and devices located in unzoned
6 commercial or industrial areas, which areas shall be
7 determined from actual land uses and by agreement between
8 the department of highways and the secretary and defined by
9 rules adopted by the commission. The exception granted by
10 this subsection shall not apply to signs, displays and
11 devices located within an unzoned area in which the
12 commercial or industrial activity used in defining the area
13 has ceased for a period of nine (9) months.

14 (b) Outdoor advertising authorized under subsections
15 (i), (iv), and (v) of subsection (a) of this section shall
16 conform with standards contained in, and shall bear permits
17 required in, rules which are adopted by the commission and
18 this act.

19 (c) Outdoor advertising may not be erected or
20 maintained beyond six hundred sixty (660) feet of the
21 nearest edge of the right-of-way of an interstate or primary
22 highway outside of an urban area if such outdoor advertising
23 is or was erected with the purpose of its message being read
24 from such main traveled way and visible from such main
25 traveled way unless such outdoor advertising meets the

1 criteria of subsections (i), (ii) or (iii) of subsection (a)
 2 of this section. Should such outdoor advertising meet said
 3 criteria, it shall conform with standards contained in rules
 4 which are adopted by the commission and this act."

5 Section 3. Section 32-4719, R.C.M. 1947, is amended to
 6 read as follows:

7 "32-4719. Standards for permitted advertising. Except
 8 for outdoor advertising beyond six hundred sixty (660) feet
 9 of the nearest edge of the right-of-way of an interstate or
 10 primary highway outside of an urban area, Signs outdoor
 11 advertising permitted under section 32-4717 shall conform to
 12 the following requirements:

13 (a) Signs may not be erected or maintained which exceed
 14 one thousand two hundred (1,200) square feet in area
 15 including border and trim, but excluding base or apron,
 16 supports, and other structural members.

17 (b) Maximum length sixty (60) feet.

18 (c) Maximum height forty (40) feet, as measured from
 19 the ground or, if the sign is attached to a structure, as
 20 measured from the base of the sign itself.

21 (d) No more than two (2) facings visible and readable
 22 from the same direction on the main traveled way may be
 23 erected on any one (1) sign structure. Whenever two (2)
 24 facings are so positioned, neither shall exceed three
 25 hundred twenty-five (325) square feet.

1 (e) Double-faced, back-to-back and V-type signs shall
 2 be considered as a single sign or structure.

3 (f) Where two (2) or more faces, back to back, are
 4 supported by separate structures each shall be considered a
 5 single sign.

6 (g) No two (2) signs shall be spaced less than five
 7 hundred (500) feet apart adjacent to an interstate highway,
 8 or limited-access primary highway except that signs may be
 9 erected closer than five hundred (500) feet if they are
 10 separated by buildings or other obstructions in such a
 11 manner that only one (1) sign facing located within the
 12 above spacing distance is visible from the highway at any
 13 one (1) time.

14 (h) Signs may not be located within five hundred (500)
 15 feet of any of the following which are adjacent to the
 16 highway, unless the signs are in an incorporated area:

17 (i) Public parks.

18 (ii) Public forests.

19 (iii) Public playgrounds.

20 (iv) Scenic areas designated as such by the state
 21 highway department or other state agency having and
 22 exercising this authority.

23 (v) Cemeteries.

24 (i) A sign may not be located on an interstate highway
 25 or freeway within five hundred (500) feet of an interchange,

1 or intersection at grade, or rest area. The five hundred
 2 (500) feet is to be measured along the interstate or freeway
 3 from the beginning or ending of the pavement widening at the
 4 exit from or entrance to the main traveled way.

5 (j) Signs may be illuminated, subject to the following
 6 restrictions:

7 (i) Signs which contain, include, or are illuminated by
 8 a flashing, intermittent, or moving light or lights are
 9 prohibited, except those giving public service information
 10 such as time, date, temperature, weather or similar
 11 information.

12 (ii) Signs which are not effectively shielded as to
 13 prevent beams or rays of light from being directed at a
 14 portion of the traveled ways of the interstate or federal
 15 aid primary highway or which are of such intensity or
 16 brilliance as to cause glare or to impair the vision of the
 17 driver of any motor vehicle, or which otherwise interfere
 18 with a driver's operation of a motor vehicle are prohibited.

19 (iii) A sign may not be so illuminated that it
 20 interferes with the effectiveness of, or obscures an
 21 official traffic sign, device, or signal.

22 (k) The location of sign structures situated on the
 23 primary highways between streets, roads or highways entering
 24 or intersecting the main traveled way shall conform to the
 25 following minimum spacing criteria:

1 (i) Where the distance between centerlines of
 2 intersecting streets or highways is less than one thousand
 3 (1,000) feet, a minimum spacing between structures of one
 4 hundred fifty (150) feet may be permitted between the
 5 intersecting streets or highways.

6 (ii) Where the distance between centerlines of
 7 intersecting streets or highways is one thousand (1,000)
 8 feet or more, minimum spacing between sign structures shall
 9 be three hundred (300) feet."

10 Section 4. Section 32-4720, R.C.M. 1947, is amended to
 11 read as follows:

12 "32-4720. Permits required -- identification tags --
 13 pre-existing structures. (1) A sign authorized by
 14 subsections (i), (iv), and (v) of subsection (a) of section
 15 32-4717 may not be constructed or maintained without a
 16 permit. Applications for permits shall be made to the
 17 department on forms furnished by it. The department shall
 18 require reasonable information to be furnished, including a
 19 statement that the owner or occupant of the land has
 20 consented to the erection or maintenance of the sign on the
 21 land. A permit must be obtained for each sign and the
 22 application for the permit must be accompanied by an initial
 23 fee of six dollars (\$6).

24 (2) Permits shall be issued for three (3) years,
 25 assigned a permit number, and renewed every three (3) years

1 thereafter upon payment of three dollars (\$3) without the
 2 filing of a new application. All fees received shall be paid
 3 into the state highway account in the earmarked revenue
 4 fund.

5 (3) The department shall issue with each new permit a
 6 permanent identification tag not larger than six (6) square
 7 inches which shall be affixed to the sign in a position
 8 readily visible from the highway.

9 (4) Notwithstanding the foregoing provisions of this
 10 section, the department shall issue permits and
 11 identification tags, upon application and payment of the
 12 requisite fee for a structure lawfully in existence on June
 13 23, 1971, and the permits shall thereafter be renewed for a
 14 period of time as is prescribed in this section, unless the
 15 structure is removed for improper maintenance.

16 (5) Notwithstanding the foregoing provisions of this
 17 section, the department shall issue permits and
 18 identification tags, upon application and payment of the
 19 requisite fee for outdoor advertising lawfully in existence
 20 on the day prior to the effective date of this act and made
 21 nonconforming by virtue of subsection (c) of section
 22 32-4717, and the permits shall thereafter be renewed for a
 23 period of time as is prescribed in this section, unless the
 24 structure is removed for improper maintenance."

25 Section 5. Section 32-4722, R.C.M. 1947, is amended to

1 read as follows:

2 "32-4722. Advertising deemed unlawful -- notice to
 3 remove -- hearing -- appeal to district court. (1) The
 4 following outdoor advertising is unlawful:

5 (a) When erected after June 24, 1971, contrary to this
 6 act, or erected after the effective date of this act beyond
 7 six hundred sixty (660) feet of the nearest edge of the
 8 right-of-way of an interstate or primary highway outside of
 9 an urban area with the purpose of its message being read
 10 from such main traveled way and visible from such main
 11 traveled way, unless such outdoor advertising meets the
 12 criteria of subsections (i), (ii) or (iii) of subsection (a)
 13 of section 32-4717; or

14 (b) When a permit is not obtained as prescribed in this
 15 act; or

16 (c) When a permittee fails to comply with a notice of
 17 violation as provided in section 32-4721.

18 (2) The department shall give notice in writing, either
 19 by certified mail or by personal service, to the owner or
 20 occupant of the land on which advertising believed to be
 21 unlawful is located and to the owner of the outdoor
 22 advertising structure, if the latter is known, or if
 23 unknown, by posting notice in a conspicuous place on the
 24 structure, of its intention to remove the unlawful
 25 advertising. Within forty-five (45) days after the notice,

1 the owner of the land or of the structure may make a written
2 request for a hearing before the commission to show cause
3 why the structure should not be removed.

4 (3) If a hearing before the commission is not
5 requested, or if there is no appeal taken from the
6 commission's decision at the hearing, or if the commission's
7 decision is affirmed on appeal, the department shall
8 immediately remove, or cause to be removed, the unlawful
9 outdoor advertising. The owner of the structure and the
10 owner or occupant of the land are jointly and severally
11 liable for the costs of the removal. The department may
12 enter upon lands bearing outdoor advertising and make
13 examination of such advertising. The department may, upon
14 final determination by the commission that an item of
15 outdoor advertising is unlawful, enter upon lands bearing
16 such advertising and remove the unlawful advertising. The
17 department incurs no liability for the entry or entries
18 except for injuries resulting from negligence, wantonness or
19 malice."

20 Section 6. Section 32-4723, R.C.M. 1947, is amended to
21 read as follows:

22 "32-4723. Acquisition of outdoor advertising rights --
23 compensation. (a) The department may acquire by gift,
24 purchase, agreement, exchange or eminent domain, existing
25 outdoor advertising and property rights pertaining to the

1 advertising which were lawfully in existence on June 24,
2 1971, and which by virtue of ~~this act~~ section 32-4717(a) are
3 nonconforming. The department may likewise acquire by gift,
4 purchase, agreement, exchange or eminent domain existing
5 outdoor advertising and property rights pertaining to the
6 advertising which were lawfully in existence on the day
7 prior to the effective date of this act and made
8 nonconforming by virtue of section 2 of this act. Eminent
9 domain shall be exercised in accordance with the laws of the
10 state.

11 (b) Just compensation shall be paid for outdoor
12 advertising and property rights pertaining to the
13 advertising acquired through the process of eminent domain.
14 The department may remove outdoor advertising found in
15 violation of sections 32-4721 or 32-4722 without payment of
16 compensation.

17 (c) Despite a contrary provision in this act, a sign
18 may not be required to be removed without just compensation,
19 unless found to be in violation of sections 32-4721 or
20 32-4722. Except as provided in sections 32-4721 and 32-4722,
21 a sign may not be required to be removed unless at the time
22 of removal or discontinuance there are sufficient funds,
23 from whatever source, appropriated and immediately available
24 to pay the just compensation required under this section,
25 and unless at that time the federal funds required to be

1 contributed under section 131 (g) of Title 23, United States
2 Code, with respect to the outdoor advertising being removed,
3 have been apportioned and are immediately available to this
4 state."

5 Section 7. This act is effective on passage and
6 approval.

-End-

Approved by Committee
on Highways & Transportation

1 HOUSE BILL NO. 454
2 INTRODUCED BY BARDANOUE
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE OUTDOOR
5 ADVERTISING ACT BY PROHIBITING CERTAIN OUTDOOR ADVERTISING
6 DIRECTED AT AND VISIBLE FROM AN INTERSTATE OR PRIMARY
7 HIGHWAY, BUT MORE THAN SIX HUNDRED SIXTY FEET THEREFROM; BY
8 ADDING A DEFINITION OF "URBAN AREA"; BY LIMITING THE
9 DEFINITION OF "UNZONED COMMERCIAL OR INDUSTRIAL AREA" TO A
10 DEPTH OF SIX HUNDRED SIXTY FEET; BY PROVIDING FOR
11 PERMITTING, REGULATION AND ACQUISITION OF OUTDOOR
12 ADVERTISING LEGALLY IN EXISTENCE BEFORE THE EFFECTIVE DATE
13 HEREOF, BUT NOT CONFORMING TO THE STANDARDS HEREIN
14 ESTABLISHED; AMENDING SECTIONS 32-4716, 32-4717, 32-4719,
15 32-4720, 32-4722, AND 32-4723, R.C.M. 1947; AND PROVIDING AN
16 IMMEDIATE EFFECTIVE DATE."
17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
19 Section 1. Section 32-4716, R.C.M. 1947, is amended to
20 read as follows:
21 "32-4716. Definition of terms. As used in this act:
22 (a) "Interstate system" means that portion of the national
23 system of interstate and defense highways located within
24 this state, as officially designated, or as may hereafter be
25 so designated by the commission and approved by the

1 secretary pursuant to the provisions of Title 23, United
2 States Code, "Highways."
3 (b) "Primary system" means that portion of connected
4 main highways, as officially designated or as may hereafter
5 be so designated by the commission and approved by the
6 secretary pursuant to the provisions of Title 23, United
7 States Code, "Highways."
8 (c) "Outdoor advertising" means any outdoor sign,
9 display, light, device, figure, painting, drawing, message,
10 plaque, poster, billboard, or other structure which is
11 designed, intended or used to advertise or inform and which
12 is visible from any place on the main traveled way of the
13 interstate or primary systems.
14 (d) "Commission" means the state highway commission of
15 Montana.
16 (e) "Secretary" means the secretary of the United
17 States department of transportation.
18 (f) "Safety rest area" means an area or site
19 established and maintained within or adjacent to the right
20 of way by or under public supervision or control, for the
21 convenience of the traveling public.
22 (g) "Information center" means an area or site
23 established or maintained at safety rest areas for the
24 purpose of informing the public of places of interest within
25 the state and providing such other information as the

1 commission may consider desirable.

2 (h) "Visible" means capable of being seen, and legible,
3 without visual aid by a person of normal visual acuity.

4 (i) "Commercial or industrial zone" means an area which
5 is used or reserved for business, commerce, or trade
6 pursuant to comprehensive local zoning ordinances or
7 regulations, or enabling state legislation, or state
8 legislation itself, including highway service areas lawfully
9 zoned as highway service zones where the primary use of the
10 land is used or reserved for commercial and roadside
11 services, other than outdoor advertising, to serve the
12 traveling public. Areas temporarily zoned as commercial or
13 industrial by an interim regulation or map adopted as an
14 emergency measure pursuant to section 16-4711, R.C.M. 1947,
15 shall not be considered as covered by this definition.

16 (j) "Unzoned commercial or industrial area" means an
17 area not zoned by state or local law, regulation or
18 ordinance which is occupied by one or more industrial or
19 commercial activities, other than outdoor advertising, on
20 the lands along the highway for a distance of six hundred
21 (600) feet immediately adjacent to the activities, and those
22 lands directly opposite on the other side of the highway to
23 the extent of the same dimensions, and to a maximum depth of
24 six hundred sixty (660) feet when measured from the highway
25 right-of-way; provided, those lands on the opposite side of

1 the highway are not deemed scenic or having aesthetic value
2 as determined by the commission.

3 (k) "Commercial or industrial activities" means for
4 purposes of subsection (j) those activities generally
5 recognized as commercial or industrial by zoning authorities
6 in this state, except that none of the following activities
7 shall be considered commercial or industrial:

8 (i) Agricultural, forestry, grazing, farming and
9 related activities including wayside fresh produce stands.

10 (ii) Transient or temporary activities.

11 (iii) Activities not visible from the main traveled
12 way.

13 (iv) Activities conducted in a building principally
14 used as a residence.

15 (v) Railroad tracks and minor sidings.

16 (vi) Activities more than six hundred and sixty (660)
17 feet from the nearest edge of the right of way.

18 (l) "Maintain" means to allow to exist, subject to the
19 provisions of this act.

20 (m) "Maintenance" means to repair, refurbish, repaint
21 or otherwise keep an existing sign structure in a state
22 suitable for use.

23 (n) "Interchange" or "intersection" means those areas
24 and their approach where traffic is channeled off or onto an
25 interstate route including the de-acceleration lanes or

1 acceleration lanes from or to another federal, state,
2 county, city, or other route.

3 (o) "Urban areas" means an urbanized area or place as
4 designated by the United States bureau of the census having
5 a population of five thousand (5,000) or more and within
6 boundaries fixed by the department of highways, which said
7 boundaries shall, as a minimum, encompass the entire urban
8 place designated by said bureau of the census."

9 Section 2. Section 32-4717, R.C.M. 1947, is amended to
10 read as follows:

11 "32-4717. Outdoor advertising prohibited in proximity
12 to highway -- exceptions -- standards and permits. (a)
13 Outdoor advertising may not be erected or maintained which
14 is within six hundred and sixty (660) feet of the nearest
15 edge of the right of way and which is visible from any place
16 on the main traveled way, of an interstate or primary
17 system, except:

18 (i) Directional and other official signs and notices,
19 which signs and notices include, but are not limited to,
20 signs and notices pertaining to natural wonders, scenic and
21 historical attractions, as authorized or required by law.

22 (ii) Signs, displays and devices advertising the sale
23 or lease of property upon which they are located.

24 (iii) Signs, displays and devices advertising
25 activities conducted on the property upon which they are

1 located.

2 (iv) Signs, displays and devices located in areas which
3 are zoned industrial or commercial by a bona fide state,
4 county or local zoning authority.

5 (v) Signs, displays and devices located in unzoned
6 commercial or industrial areas, which areas shall be
7 determined from actual land uses and by agreement between
8 the department of highways and the secretary and defined by
9 rules adopted by the commission. The exception granted by
10 this subsection shall not apply to signs, displays and
11 devices located within an unzoned area in which the
12 commercial or industrial activity used in defining the area
13 has ceased for a period of nine (9) months.

14 (b) Outdoor advertising authorized under subsections
15 (i), (iv), and (v) of subsection (a) of this section shall
16 conform with standards contained in, and shall bear permits
17 required in, rules which are adopted by the commission and
18 this act.

19 (c) Outdoor advertising may not be erected or
20 maintained beyond six hundred sixty (660) feet of the
21 nearest edge of the right-of-way of an interstate or primary
22 highway outside of an urban area if such outdoor advertising
23 is or was erected with the purpose of its message being read
24 from such main traveled way and visible from such main
25 traveled way unless such outdoor advertising meets the

1 criteria of subsections (i), (ii) or (iii) of subsection (a)
 2 of this section. Should such outdoor advertising meet said
 3 criteria, it shall conform with standards contained in rules
 4 which are adopted by the commission and this act."

5 Section 3. Section 32-4719, R.C.M. 1947, is amended to
 6 read as follows:

7 "32-4719. Standards for permitted advertising. Except
 8 for outdoor advertising beyond six hundred sixty (660) feet
 9 of the nearest edge of the right-of-way of an interstate or
 10 primary highway outside of an urban area, Signs outdoor
 11 advertising permitted under section 32-4717 shall conform to
 12 the following requirements:

13 (a) Signs may not be erected or maintained which exceed
 14 one thousand two hundred (1,200) square feet in area
 15 including border and trim, but excluding base or apron,
 16 supports, and other structural members.

17 (b) Maximum length sixty (60) feet.

18 (c) Maximum height forty (40) feet, as measured from
 19 the ground or, if the sign is attached to a structure, as
 20 measured from the base of the sign itself.

21 (d) No more than two (2) facings visible and readable
 22 from the same direction on the main traveled way may be
 23 erected on any one (1) sign structure. Whenever two (2)
 24 facings are so positioned, neither shall exceed three
 25 hundred twenty-five (325) square feet.

1 (e) Double-faced, back-to-back and V-type signs shall
 2 be considered as a single sign or structure.

3 (f) Where two (2) or more faces, back to back, are
 4 supported by separate structures each shall be considered a
 5 single sign.

6 (g) No two (2) signs shall be spaced less than five
 7 hundred (500) feet apart adjacent to an interstate highway,
 8 or limited-access primary highway except that signs may be
 9 erected closer than five hundred (500) feet if they are
 10 separated by buildings or other obstructions in such a
 11 manner that only one (1) sign facing located within the
 12 above spacing distance is visible from the highway at any
 13 one (1) time.

14 (h) Signs may not be located within five hundred (500)
 15 feet of any of the following which are adjacent to the
 16 highway, unless the signs are in an incorporated area:

17 (i) Public parks.

18 (ii) Public forests.

19 (iii) Public playgrounds.

20 (iv) Scenic areas designated as such by the state
 21 highway department or other state agency having and
 22 exercising this authority.

23 (v) Cemeteries.

24 (i) A sign may not be located on an interstate highway
 25 or freeway within five hundred (500) feet of an interchange,

1 or intersection at grade, or rest area. The five hundred
2 (500) feet is to be measured along the interstate or freeway
3 from the beginning or ending of the pavement widening at the
4 exit from or entrance to the main traveled way.

5 (j) Signs may be illuminated, subject to the following
6 restrictions:

7 (i) Signs which contain, include, or are illuminated by
8 a flashing, intermittent, or moving light or lights are
9 prohibited, except those giving public service information
10 such as time, date, temperature, weather or similar
11 information.

12 (ii) Signs which are not effectively shielded as to
13 prevent beams or rays of light from being directed at a
14 portion of the traveled ways of the interstate or federal
15 aid primary highway or which are of such intensity or
16 brilliance as to cause glare or to impair the vision of the
17 driver of any motor vehicle, or which otherwise interfere
18 with a driver's operation of a motor vehicle are prohibited.

19 (iii) A sign may not be so illuminated that it
20 interferes with the effectiveness of, or obscures an
21 official traffic sign, device, or signal.

22 (k) The location of sign structures situated on the
23 primary highways between streets, roads or highways entering
24 or intersecting the main traveled way shall conform to the
25 following minimum spacing criteria:

1 (i) Where the distance between centerlines of
2 intersecting streets or highways is less than one thousand
3 (1,000) feet, a minimum spacing between structures of one
4 hundred fifty (150) feet may be permitted between the
5 intersecting streets or highways.

6 (ii) Where the distance between centerlines of
7 intersecting streets or highways is one thousand (1,000)
8 feet or more, minimum spacing between sign structures shall
9 be three hundred (300) feet."

10 Section 4. Section 32-4720, R.C.M. 1947, is amended to
11 read as follows:

12 "32-4720. Permits required -- identification tags --
13 pre-existing structures. (1) A sign authorized by
14 subsections (i), (iv), and (v) of subsection (a) of section
15 32-4717 may not be constructed or maintained without a
16 permit. Applications for permits shall be made to the
17 department on forms furnished by it. The department shall
18 require reasonable information to be furnished, including a
19 statement that the owner or occupant of the land has
20 consented to the erection or maintenance of the sign on the
21 land. A permit must be obtained for each sign and the
22 application for the permit must be accompanied by an initial
23 fee of six dollars (\$6).

24 (2) Permits shall be issued for three (3) years,
25 assigned a permit number, and renewed every three (3) years

1 thereafter upon payment of three dollars (\$3) without the
 2 filing of a new application. All fees received shall be paid
 3 into the state highway account in the earmarked revenue
 4 fund.

5 (3) The department shall issue with each new permit a
 6 permanent identification tag not larger than six (6) square
 7 inches which shall be affixed to the sign in a position
 8 readily visible from the highway.

9 (4) Notwithstanding the foregoing provisions of this
 10 section, the department shall issue permits and
 11 identification tags, upon application and payment of the
 12 requisite fee for a structure lawfully in existence on June
 13 23, 1971, and the permits shall thereafter be renewed for a
 14 period of time as is prescribed in this section, unless the
 15 structure is removed for improper maintenance.

16 (5) Notwithstanding the foregoing provisions of this
 17 section, the department shall issue permits and
 18 identification tags, upon application and payment of the
 19 requisite fee for outdoor advertising lawfully in existence
 20 on the day prior to the effective date of this act and made
 21 nonconforming by virtue of subsection (c) of section
 22 32-4717, and the permits shall thereafter be renewed for a
 23 period of time as is prescribed in this section, unless the
 24 structure is removed for improper maintenance."

25 Section 5. Section 32-4722, R.C.M. 1947, is amended to

1 read as follows:

2 *32-4722. Advertising deemed unlawful -- notice to
 3 remove -- hearing -- appeal to district court. (1) The
 4 following outdoor advertising is unlawful:

5 (a) When erected after June 24, 1971, contrary to this
 6 act, or erected after the effective date of this act beyond
 7 six hundred sixty (660) feet of the nearest edge of the
 8 right-of-way of an interstate or primary highway outside of
 9 an urban area with the purpose of its message being read
 10 from such main traveled way and visible from such main
 11 traveled way, unless such outdoor advertising meets the
 12 criteria of subsections (i), (ii) or (iii) of subsection (a)
 13 of section 32-4717; or

14 (b) When a permit is not obtained as prescribed in this
 15 act; or

16 (c) When a permittee fails to comply with a notice of
 17 violation as provided in section 32-4721.

18 (2) The department shall give notice in writing, either
 19 by certified mail or by personal service, to the owner or
 20 occupant of the land on which advertising believed to be
 21 unlawful is located and to the owner of the outdoor
 22 advertising structure, if the latter is known, or if
 23 unknown, by posting notice in a conspicuous place on the
 24 structure, of its intention to remove the unlawful
 25 advertising. Within forty-five (45) days after the notice,

1 the owner of the land or of the structure may make a written
2 request for a hearing before the commission to show cause
3 why the structure should not be removed.

4 (3) If a hearing before the commission is not
5 requested, or if there is no appeal taken from the
6 commission's decision at the hearing, or if the commission's
7 decision is affirmed on appeal, the department shall
8 immediately remove, or cause to be removed, the unlawful
9 outdoor advertising. The owner of the structure and the
10 owner or occupant of the land are jointly and severally
11 liable for the costs of the removal. The department may
12 enter upon lands bearing outdoor advertising and make
13 examination of such advertising. The department may, upon
14 final determination by the commission that an item of
15 outdoor advertising is unlawful, enter upon lands bearing
16 such advertising and remove the unlawful advertising. The
17 department incurs no liability for the entry or entries
18 except for injuries resulting from negligence, wantonness or
19 malice."

20 Section 6. Section 32-4723, R.C.M. 1947, is amended to
21 read as follows:

22 "32-4723. Acquisition of outdoor advertising rights --
23 compensation. (a) The department may acquire by gift,
24 purchase, agreement, exchange or eminent domain, existing
25 outdoor advertising and property rights pertaining to the

1 advertising which were lawfully in existence on June 24,
2 1971, and which by virtue of ~~this act~~ section 32-4717(a) are
3 nonconforming. The department may likewise acquire by gift,
4 purchase, agreement, exchange or eminent domain existing
5 outdoor advertising and property rights pertaining to the
6 advertising which were lawfully in existence on the day
7 prior to the effective date of this act and made
8 nonconforming by virtue of section 2 of this act. Eminent
9 domain shall be exercised in accordance with the laws of the
10 state.

11 (b) Just compensation shall be paid for outdoor
12 advertising and property rights pertaining to the
13 advertising acquired through the process of eminent domain.
14 The department may remove outdoor advertising found in
15 violation of sections 32-4721 or 32-4722 without payment of
16 compensation.

17 (c) Despite a contrary provision in this act, a sign
18 may not be required to be removed without just compensation,
19 unless found to be in violation of sections 32-4721 or
20 32-4722. Except as provided in sections 32-4721 and 32-4722,
21 a sign may not be required to be removed unless at the time
22 of removal or discontinuance there are sufficient funds,
23 from whatever source, appropriated and immediately available
24 to pay the just compensation required under this section,
25 and unless at that time the federal funds required to be

HB 0454/01

1 contributed under section 131 (g) of Title 23, United States
2 Code, with respect to the outdoor advertising being removed,
3 have been apportioned and are immediately available to this
4 state."

5 Section 7. This act is effective on passage and
6 approval.

-End-

1 HOUSE BILL NO. 454

2 INTRODUCED BY BARDANOUVE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE OUTDOOR
5 ADVERTISING ACT BY PROHIBITING CERTAIN OUTDOOR ADVERTISING
6 DIRECTED AT AND VISIBLE FROM AN INTERSTATE OR PRIMARY
7 HIGHWAY, BUT MORE THAN SIX HUNDRED SIXTY FEET THEREFROM; BY
8 ADDING A DEFINITION OF "URBAN AREA"; BY LIMITING THE
9 DEFINITION OF "UNZONED COMMERCIAL OR INDUSTRIAL AREA" TO A
10 DEPTH OF SIX HUNDRED SIXTY FEET; BY PROVIDING FOR
11 PERMITTING, REGULATION AND ACQUISITION OF OUTDOOR
12 ADVERTISING LEGALLY IN EXISTENCE BEFORE THE EFFECTIVE DATE
13 HEREOF, BUT NOT CONFORMING TO THE STANDARDS HEREIN
14 ESTABLISHED; AMENDING SECTIONS 32-4716, 32-4717, 32-4719,
15 32-4720, 32-4722, AND 32-4723, R.C.M. 1947; AND PROVIDING AN
16 IMMEDIATE EFFECTIVE DATE."
17

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 Section 1. Section 32-4716, R.C.M. 1947, is amended to
20 read as follows:

21 "32-4716. Definition of terms. As used in this act:

22 (a) "Interstate system" means that portion of the national
23 system of interstate and defense highways located within
24 this state, as officially designated, or as may hereafter be
25 so designated by the commission and approved by the

1 secretary pursuant to the provisions of Title 23, United
2 States Code, "Highways."

3 (b) "Primary system" means that portion of connected
4 main highways, as officially designated or as may hereafter
5 be so designated by the commission and approved by the
6 secretary pursuant to the provisions of Title 23, United
7 States Code, "Highways."

8 (c) "Outdoor advertising" means any outdoor sign,
9 display, light, device, figure, painting, drawing, message,
10 plaque, poster, billboard, or other structure which is
11 designed, intended or used to advertise or inform and which
12 is visible from any place on the main traveled way of the
13 interstate or primary systems.

14 (d) "Commission" means the state highway commission of
15 Montana.

16 (e) "Secretary" means the secretary of the United
17 States department of transportation.

18 (f) "Safety rest area" means an area or site
19 established and maintained within or adjacent to the right
20 of way by or under public supervision or control, for the
21 convenience of the traveling public.

22 (g) "Information center" means an area or site
23 established or maintained at safety rest areas for the
24 purpose of informing the public of places of interest within
25 the state and providing such other information as the

1 commission may consider desirable.

2 (h) "Visible" means capable of being seen, and legible,
3 without visual aid by a person of normal visual acuity.

4 (i) "Commercial or industrial zone" means an area which
5 is used or reserved for business, commerce, or trade
6 pursuant to comprehensive local zoning ordinances or
7 regulations, or enabling state legislation, or state
8 legislation itself, including highway service areas lawfully
9 zoned as highway service zones where the primary use of the
10 land is used or reserved for commercial and roadside
11 services, other than outdoor advertising, to serve the
12 traveling public. Areas temporarily zoned as commercial or
13 industrial by an interim regulation or map adopted as an
14 emergency measure pursuant to section 16-4711, R.C.M. 1947,
15 shall not be considered as covered by this definition.

16 (j) "Unzoned commercial or industrial area" means an
17 area not zoned by state or local law, regulation or
18 ordinance which is occupied by one or more industrial or
19 commercial activities, other than outdoor advertising, on
20 the lands along the highway for a distance of six hundred
21 (600) feet immediately adjacent to the activities, and those
22 lands directly opposite on the other side of the highway to
23 the extent of the same dimensions, and to a maximum depth of
24 six hundred sixty (660) feet when measured from the highway
25 right-of-way; provided, those lands on the opposite side of

1 the highway are not deemed scenic or having aesthetic value
2 as determined by the commission.

3 (k) "Commercial or industrial activities" means for
4 purposes of subsection (j) those activities generally
5 recognized as commercial or industrial by zoning authorities
6 in this state, except that none of the following activities
7 shall be considered commercial or industrial:

8 (i) Agricultural, forestry, grazing, farming and
9 related activities including wayside fresh produce stands.

10 (ii) Transient or temporary activities.

11 (iii) Activities not visible from the main traveled
12 way.

13 (iv) Activities conducted in a building principally
14 used as a residence.

15 (v) Railroad tracks and minor sidings.

16 (vi) Activities more than six hundred and sixty (660)
17 feet from the nearest edge of the right of way.

18 (l) "Maintain" means to allow to exist, subject to the
19 provisions of this act.

20 (m) "Maintenance" means to repair, refurbish, repaint
21 or otherwise keep an existing sign structure in a state
22 suitable for use.

23 (n) "Interchange" or "intersection" means those areas
24 and their approach where traffic is channeled off or onto an
25 interstate route including the de-acceleration lanes or

1 acceleration lanes from or to another federal, state,
 2 county, city, or other route.

3 (o) "Urban areas" means an urbanized area or place as
 4 designated by the United States bureau of the census having
 5 a population of five thousand (5,000) or more and within
 6 boundaries fixed by the department of highways, which said
 7 boundaries shall, as a minimum, encompass the entire urban
 8 place designated by said bureau of the census."

9 Section 2. Section 32-4717, R.C.M. 1947, is amended to
 10 read as follows:

11 "32-4717. Outdoor advertising prohibited in proximity
 12 to highway -- exceptions -- standards and permits. (a)
 13 Outdoor advertising may not be erected or maintained which
 14 is within six hundred and sixty (660) feet of the nearest
 15 edge of the right of way and which is visible from any place
 16 on the main traveled way, of an interstate or primary
 17 system, except:

18 (i) Directional and other official signs and notices,
 19 which signs and notices include, but are not limited to,
 20 signs and notices pertaining to natural wonders, scenic and
 21 historical attractions, as authorized or required by law.

22 (ii) Signs, displays and devices advertising the sale
 23 or lease of property upon which they are located.

24 (iii) Signs, displays and devices advertising
 25 activities conducted on the property upon which they are

1 located.

2 (iv) Signs, displays and devices located in areas which
 3 are zoned industrial or commercial by a bona fide state,
 4 county or local zoning authority.

5 (v) Signs, displays and devices located in unzoned
 6 commercial or industrial areas, which areas shall be
 7 determined from actual land uses and by agreement between
 8 the department of highways and the secretary and defined by
 9 rules adopted by the commission. The exception granted by
 10 this subsection shall not apply to signs, displays and
 11 devices located within an unzoned area in which the
 12 commercial or industrial activity used in defining the area
 13 has ceased for a period of nine (9) months.

14 (b) Outdoor advertising authorized under subsections
 15 (i), (iv), and (v) of subsection (a) of this section shall
 16 conform with standards contained in, and shall bear permits
 17 required in, rules which are adopted by the commission and
 18 this act.

19 (c) Outdoor advertising may not be erected or
 20 maintained beyond six hundred sixty (660) feet of the
 21 nearest edge of the right-of-way of an interstate or primary
 22 highway outside of an urban area if such outdoor advertising
 23 is or was erected with the purpose of its message being read
 24 from such main traveled way and visible from such main
 25 traveled way unless such outdoor advertising meets the

1 criteria of subsections (i), (ii) or (iii) of subsection (a)
 2 of this section. Should such outdoor advertising meet said
 3 criteria, it shall conform with standards contained in rules
 4 which are adopted by the commission and this act."

5 Section 3. Section 32-4719, R.C.M. 1947, is amended to
 6 read as follows:

7 "32-4719. Standards for permitted advertising. Except
 8 for outdoor advertising beyond six hundred sixty (660) feet
 9 of the nearest edge of the right-of-way of an interstate or
 10 primary highway outside of an urban area, signs outdoor
 11 advertising permitted under section 32-4717 shall conform to
 12 the following requirements:

13 (a) Signs may not be erected or maintained which exceed
 14 one thousand two hundred (1,200) square feet in area
 15 including border and trim, but excluding base or apron,
 16 supports, and other structural members.

17 (b) Maximum length sixty (60) feet.

18 (c) Maximum height forty (40) feet, as measured from
 19 the ground or, if the sign is attached to a structure, as
 20 measured from the base of the sign itself.

21 (d) No more than two (2) facings visible and readable
 22 from the same direction on the main traveled way may be
 23 erected on any one (1) sign structure. Whenever two (2)
 24 facings are so positioned, neither shall exceed three
 25 hundred twenty-five (325) square feet.

1 (e) Double-faced, back-to-back and V-type signs shall
 2 be considered as a single sign or structure.

3 (f) Where two (2) or more faces, back to back, are
 4 supported by separate structures each shall be considered a
 5 single sign.

6 (g) No two (2) signs shall be spaced less than five
 7 hundred (500) feet apart adjacent to an interstate highway,
 8 or limited-access primary highway except that signs may be
 9 erected closer than five hundred (500) feet if they are
 10 separated by buildings or other obstructions in such a
 11 manner that only one (1) sign facing located within the
 12 above spacing distance is visible from the highway at any
 13 one (1) time.

14 (h) Signs may not be located within five hundred (500)
 15 feet of any of the following which are adjacent to the
 16 highway, unless the signs are in an incorporated area:

17 (i) Public parks.

18 (ii) Public forests.

19 (iii) Public playgrounds.

20 (iv) Scenic areas designated as such by the state
 21 highway department or other state agency having and
 22 exercising this authority.

23 (v) Cemeteries.

24 (i) A sign may not be located on an interstate highway
 25 or freeway within five hundred (500) feet of an interchange,

1 or intersection at grade, or rest area. The five hundred
 2 (500) feet is to be measured along the interstate or freeway
 3 from the beginning or ending of the pavement widening at the
 4 exit from or entrance to the main traveled way.

5 (j) Signs may be illuminated, subject to the following
 6 restrictions:

7 (i) Signs which contain, include, or are illuminated by
 8 a flashing, intermittent, or moving light or lights are
 9 prohibited, except those giving public service information
 10 such as time, date, temperature, weather or similar
 11 information.

12 (ii) Signs which are not effectively shielded as to
 13 prevent beams or rays of light from being directed at a
 14 portion of the traveled ways of the interstate or federal
 15 aid primary highway or which are of such intensity or
 16 brilliance as to cause glare or to impair the vision of the
 17 driver of any motor vehicle, or which otherwise interfere
 18 with a driver's operation of a motor vehicle are prohibited.

19 (iii) A sign may not be so illuminated that it
 20 interferes with the effectiveness of, or obscures an
 21 official traffic sign, device, or signal.

22 (k) The location of sign structures situated on the
 23 primary highways between streets, roads or highways entering
 24 or intersecting the main traveled way shall conform to the
 25 following minimum spacing criteria:

1 (i) Where the distance between centerlines of
 2 intersecting streets or highways is less than one thousand
 3 (1,000) feet, a minimum spacing between structures of one
 4 hundred fifty (150) feet may be permitted between the
 5 intersecting streets or highways.

6 (ii) Where the distance between centerlines of
 7 intersecting streets or highways is one thousand (1,000)
 8 feet or more, minimum spacing between sign structures shall
 9 be three hundred (300) feet."

10 Section 4. Section 32-4720, R.C.M. 1947, is amended to
 11 read as follows:

12 "32-4720. Permits required -- identification tags --
 13 pre-existing structures. (1) A sign authorized by
 14 subsections (i), (iv), and (v) of subsection (a) of section
 15 32-4717 may not be constructed or maintained without a
 16 permit. Applications for permits shall be made to the
 17 department on forms furnished by it. The department shall
 18 require reasonable information to be furnished, including a
 19 statement that the owner or occupant of the land has
 20 consented to the erection or maintenance of the sign on the
 21 land. A permit must be obtained for each sign and the
 22 application for the permit must be accompanied by an initial
 23 fee of six dollars (\$6).

24 (2) Permits shall be issued for three (3) years,
 25 assigned a permit number, and renewed every three (3) years

1 thereafter upon payment of three dollars (\$3) without the
2 filing of a new application. All fees received shall be paid
3 into the state highway account in the earmarked revenue
4 fund.

5 (3) The department shall issue with each new permit a
6 permanent identification tag not larger than six (6) square
7 inches which shall be affixed to the sign in a position
8 readily visible from the highway.

9 (4) Notwithstanding the foregoing provisions of this
10 section, the department shall issue permits and
11 identification tags, upon application and payment of the
12 requisite fee for a structure lawfully in existence on June
13 23, 1971, and the permits shall thereafter be renewed for a
14 period of time as is prescribed in this section, unless the
15 structure is removed for improper maintenance.

16 (5) Notwithstanding the foregoing provisions of this
17 section, the department shall issue permits and
18 identification tags, upon application and payment of the
19 requisite fee for outdoor advertising lawfully in existence
20 on the day prior to the effective date of this act and made
21 nonconforming by virtue of subsection (c) of section
22 32-4717, and the permits shall thereafter be renewed for a
23 period of time as is prescribed in this section, unless the
24 structure is removed for improper maintenance."

25 Section 5. Section 32-4722, R.C.M. 1947, is amended to

1 read as follows:

2 "32-4722. Advertising deemed unlawful -- notice to
3 remove -- hearing -- appeal to district court. (1) The
4 following outdoor advertising is unlawful:

5 (a) When erected after June 24, 1971, contrary to this
6 act, or erected after the effective date of this act beyond
7 six hundred sixty (660) feet of the nearest edge of the
8 right-of-way of an interstate or primary highway outside of
9 an urban area with the purpose of its message being read
10 from such main traveled way and visible from such main
11 traveled way, unless such outdoor advertising meets the
12 criteria of subsections (i), (ii) or (iii) of subsection (a)
13 of section 32-4717; or

14 (b) When a permit is not obtained as prescribed in this
15 act; or

16 (c) When a permittee fails to comply with a notice of
17 violation as provided in section 32-4721.

18 (2) The department shall give notice in writing, either
19 by certified mail or by personal service, to the owner or
20 occupant of the land on which advertising believed to be
21 unlawful is located and to the owner of the outdoor
22 advertising structure, if the latter is known, or if
23 unknown, by posting notice in a conspicuous place on the
24 structure, of its intention to remove the unlawful
25 advertising. Within forty-five (45) days after the notice,

1 the owner of the land or of the structure may make a written
2 request for a hearing before the commission to show cause
3 why the structure should not be removed.

4 (3) If a hearing before the commission is not
5 requested, or if there is no appeal taken from the
6 commission's decision at the hearing, or if the commission's
7 decision is affirmed on appeal, the department shall
8 immediately remove, or cause to be removed, the unlawful
9 outdoor advertising. The owner of the structure and the
10 owner or occupant of the land are jointly and severally
11 liable for the costs of the removal. The department may
12 enter upon lands bearing outdoor advertising and make
13 examination of such advertising. The department may, upon
14 final determination by the commission that an item of
15 outdoor advertising is unlawful, enter upon lands bearing
16 such advertising and remove the unlawful advertising. The
17 department incurs no liability for the entry or entries
18 except for injuries resulting from negligence, wantonness or
19 malice."

20 Section 6. Section 32-4723, R.C.M. 1947, is amended to
21 read as follows:

22 *32-4723. Acquisition of outdoor advertising rights --
23 compensation. (a) The department may acquire by gift,
24 purchase, agreement, exchange or eminent domain, existing
25 outdoor advertising and property rights pertaining to the

1 advertising which were lawfully in existence on June 24,
2 1971, and which by virtue of ~~this act~~ section 32-4717(a) are
3 nonconforming. The department may likewise acquire by gift,
4 purchase, agreement, exchange or eminent domain existing
5 outdoor advertising and property rights pertaining to the
6 advertising which were lawfully in existence on the day
7 prior to the effective date of this act and made
8 nonconforming by virtue of section 2 of this act. Eminent
9 domain shall be exercised in accordance with the laws of the
10 state.

11 (b) Just compensation shall be paid for outdoor
12 advertising and property rights pertaining to the
13 advertising acquired through the process of eminent domain.
14 The department may remove outdoor advertising found in
15 violation of sections 32-4721 or 32-4722 without payment of
16 compensation.

17 (c) Despite a contrary provision in this act, a sign
18 may not be required to be removed without just compensation,
19 unless found to be in violation of sections 32-4721 or
20 32-4722. Except as provided in sections 32-4721 and 32-4722,
21 a sign may not be required to be removed unless at the time
22 of removal or discontinuance there are sufficient funds,
23 from whatever source, appropriated and immediately available
24 to pay the just compensation required under this section,
25 and unless at that time the federal funds required to be

1 contributed under section 131 (g) of Title 23, United States
2 Code, with respect to the outdoor advertising being removed,
3 have been apportioned and are immediately available to this
4 state."

5 Section 7. This act is effective on passage and
6 approval.

-End-

HOUSE BILL NO. 454

INTRODUCED BY BARDANOUVE

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE OUTDOOR ADVERTISING ACT BY PROHIBITING CERTAIN OUTDOOR ADVERTISING DIRECTED AT AND VISIBLE FROM AN INTERSTATE OR PRIMARY HIGHWAY, BUT MORE THAN SIX HUNDRED SIXTY FEET THEREFROM; BY ADDING A DEFINITION OF "URBAN AREA"; BY LIMITING THE DEFINITION OF "UNZONED COMMERCIAL OR INDUSTRIAL AREA" TO A DEPTH OF SIX HUNDRED SIXTY FEET; BY PROVIDING FOR PERMITTING, REGULATION AND ACQUISITION OF OUTDOOR ADVERTISING LEGALLY IN EXISTENCE BEFORE THE EFFECTIVE DATE HEREOF, BUT NOT CONFORMING TO THE STANDARDS HEREIN ESTABLISHED; AMENDING SECTIONS 32-4716, 32-4717, 32-4719, 32-4720, 32-4722, AND 32-4723, R.C.M. 1947; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 32-4716, R.C.M. 1947, is amended to read as follows:

*32-4716. Definition of terms. As used in this act:

(a) "Interstate system" means that portion of the national system of interstate and defense highways located within this state, as officially designated, or as may hereafter be so designated by the commission and approved by the

secretary pursuant to the provisions of Title 23, United States Code, "Highways."

(b) "Primary system" means that portion of connected main highways, as officially designated or as may hereafter be so designated by the commission and approved by the secretary pursuant to the provisions of Title 23, United States Code, "Highways."

(c) "Outdoor advertising" means any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or other structure which is designed, intended or used to advertise or inform and which is visible from any place on the main traveled way of the interstate or primary systems.

(d) "Commission" means the state highway commission of Montana.

(e) "Secretary" means the secretary of the United States department of transportation.

(f) "Safety rest area" means an area or site established and maintained within or adjacent to the right of way by or under public supervision or control, for the convenience of the traveling public.

(g) "Information center" means an area or site established or maintained at safety rest areas for the purpose of informing the public of places of interest within the state and providing such other information as the

1 commission may consider desirable.

2 (h) "Visible" means capable of being seen, and legible,
3 without visual aid by a person of normal visual acuity.

4 (i) "Commercial or industrial zone" means an area which
5 is used or reserved for business, commerce, or trade
6 pursuant to comprehensive local zoning ordinances or
7 regulations, or enabling state legislation, or state
8 legislation itself, including highway service areas lawfully
9 zoned as highway service zones where the primary use of the
10 land is used or reserved for commercial and roadside
11 services, other than outdoor advertising, to serve the
12 traveling public. Areas temporarily zoned as commercial or
13 industrial by an interim regulation or map adopted as an
14 emergency measure pursuant to section 16-4711, R.C.M. 1947,
15 shall not be considered as covered by this definition.

16 (j) "Unzoned commercial or industrial area" means an
17 area not zoned by state or local law, regulation or
18 ordinance which is occupied by one or more industrial or
19 commercial activities, other than outdoor advertising, on
20 the lands along the highway for a distance of six hundred
21 (600) feet immediately adjacent to the activities, and those
22 lands directly opposite on the other side of the highway to
23 the extent of the same dimensions, and to a maximum depth of
24 six hundred sixty (660) feet when measured from the highway
25 right-of-way; provided, those lands on the opposite side of

1 the highway are not deemed scenic or having aesthetic value
2 as determined by the commission.

3 (k) "Commercial or industrial activities" means for
4 purposes of subsection (j) those activities generally
5 recognized as commercial or industrial by zoning authorities
6 in this state, except that none of the following activities
7 shall be considered commercial or industrial:

8 (i) Agricultural, forestry, grazing, farming and
9 related activities including wayside fresh produce stands.

10 (ii) Transient or temporary activities.

11 (iii) Activities not visible from the main traveled
12 way.

13 (iv) Activities conducted in a building principally
14 used as a residence.

15 (v) Railroad tracks and minor sidings.

16 (vi) Activities more than six hundred and sixty (660)
17 feet from the nearest edge of the right of way.

18 (l) "Maintain" means to allow to exist, subject to the
19 provisions of this act.

20 (m) "Maintenance" means to repair, refurbish, repaint
21 or otherwise keep an existing sign structure in a state
22 suitable for use.

23 (n) "Interchange" or "intersection" means those areas
24 and their approach where traffic is channeled off or onto an
25 interstate route including the de-acceleration lanes or

1 acceleration lanes from or to another federal, state,
2 county, city, or other route.

3 (o) "Urban areas" means an urbanized area or place as
4 designated by the United States bureau of the census having
5 a population of five thousand (5,000) or more and within
6 boundaries fixed by the department of highways, which said
7 boundaries shall, as a minimum, encompass the entire urban
8 place designated by said bureau of the census."

9 Section 2. Section 32-4717, R.C.M. 1947, is amended to
10 read as follows:

11 "32-4717. Outdoor advertising prohibited in proximity
12 to highway -- exceptions -- standards and permits. (a)
13 Outdoor advertising may not be erected or maintained which
14 is within six hundred and sixty (660) feet of the nearest
15 edge of the right of way and which is visible from any place
16 on the main traveled way, of an interstate or primary
17 system, except:

18 (i) Directional and other official signs and notices,
19 which signs and notices include, but are not limited to,
20 signs and notices pertaining to natural wonders, scenic and
21 historical attractions, as authorized or required by law.

22 (ii) Signs, displays and devices advertising the sale
23 or lease of property upon which they are located.

24 (iii) Signs, displays and devices advertising
25 activities conducted on the property upon which they are

1 located.

2 (iv) Signs, displays and devices located in areas which
3 are zoned industrial or commercial by a bona fide state,
4 county or local zoning authority.

5 (v) Signs, displays and devices located in unzoned
6 commercial or industrial areas, which areas shall be
7 determined from actual land uses and by agreement between
8 the department of highways and the secretary and defined by
9 rules adopted by the commission. The exception granted by
10 this subsection shall not apply to signs, displays and
11 devices located within an unzoned area in which the
12 commercial or industrial activity used in defining the area
13 has ceased for a period of nine (9) months.

14 (b) Outdoor advertising authorized under subsections
15 (i), (iv), and (v) of subsection (a) of this section shall
16 conform with standards contained in, and shall bear permits
17 required in, rules which are adopted by the commission and
18 this act.

19 (c) Outdoor advertising may not be erected or
20 maintained beyond six hundred sixty (660) feet of the
21 nearest edge of the right-of-way of an interstate or primary
22 highway outside of an urban area if such outdoor advertising
23 is or was erected with the purpose of its message being read
24 from such main traveled way and visible from such main
25 traveled way unless such outdoor advertising meets the

1 criteria of subsections (i), (ii) or (iii) of subsection (a)
2 of this section. Should such outdoor advertising meet said
3 criteria, it shall conform with standards contained in rules
4 which are adopted by the commission and this act."

5 Section 3. Section 32-4719, R.C.M. 1947, is amended to
6 read as follows:

7 "32-4719. Standards for permitted advertising. Except
8 for outdoor advertising beyond six hundred sixty (660) feet
9 of the nearest edge of the right-of-way of an interstate or
10 primary highway outside of an urban area, Signs outdoor
11 advertising permitted under section 32-4717 shall conform to
12 the following requirements:

13 (a) Signs may not be erected or maintained which exceed
14 one thousand two hundred (1,200) square feet in area
15 including border and trim, but excluding base or apron,
16 supports, and other structural members.

17 (b) Maximum length sixty (60) feet.

18 (c) Maximum height forty (40) feet, as measured from
19 the ground or, if the sign is attached to a structure, as
20 measured from the base of the sign itself.

21 (d) No more than two (2) facings visible and readable
22 from the same direction on the main traveled way may be
23 erected on any one (1) sign structure. Whenever two (2)
24 facings are so positioned, neither shall exceed three
25 hundred twenty-five (325) square feet.

1 (e) Double-faced, back-to-back and V-type signs shall
2 be considered as a single sign or structure.

3 (f) Where two (2) or more faces, back to back, are
4 supported by separate structures each shall be considered a
5 single sign.

6 (g) No two (2) signs shall be spaced less than five
7 hundred (500) feet apart adjacent to an interstate highway,
8 or limited-access primary highway except that signs may be
9 erected closer than five hundred (500) feet if they are
10 separated by buildings or other obstructions in such a
11 manner that only one (1) sign facing located within the
12 above spacing distance is visible from the highway at any
13 one (1) time.

14 (h) Signs may not be located within five hundred (500)
15 feet of any of the following which are adjacent to the
16 highway, unless the signs are in an incorporated area:

17 (i) Public parks.

18 (ii) Public forests.

19 (iii) Public playgrounds.

20 (iv) Scenic areas designated as such by the state
21 highway department or other state agency having and
22 exercising this authority.

23 (v) Cemeteries.

24 (i) A sign may not be located on an interstate highway
25 or freeway within five hundred (500) feet of an interchange,

1 or intersection at grade, or rest area. The five hundred
2 (500) feet is to be measured along the interstate or freeway
3 from the beginning or ending of the pavement widening at the
4 exit from or entrance to the main traveled way.

5 (j) Signs may be illuminated, subject to the following
6 restrictions:

7 (i) Signs which contain, include, or are illuminated by
8 a flashing, intermittent, or moving light or lights are
9 prohibited, except those giving public service information
10 such as time, date, temperature, weather or similar
11 information.

12 (ii) Signs which are not effectively shielded as to
13 prevent beams or rays of light from being directed at a
14 portion of the traveled ways of the interstate or federal
15 aid primary highway or which are of such intensity or
16 brilliance as to cause glare or to impair the vision of the
17 driver of any motor vehicle, or which otherwise interfere
18 with a driver's operation of a motor vehicle are prohibited.

19 (iii) A sign may not be so illuminated that it
20 interferes with the effectiveness of, or obscures an
21 official traffic sign, device, or signal.

22 (k) The location of sign structures situated on the
23 primary highways between streets, roads or highways entering
24 or intersecting the main traveled way shall conform to the
25 following minimum spacing criteria:

1 (i) Where the distance between centerlines of
2 intersecting streets or highways is less than one thousand
3 (1,000) feet, a minimum spacing between structures of one
4 hundred fifty (150) feet may be permitted between the
5 intersecting streets or highways.

6 (ii) Where the distance between centerlines of
7 intersecting streets or highways is one thousand (1,000)
8 feet or more, minimum spacing between sign structures shall
9 be three hundred (300) feet."

10 Section 4. Section 32-4720, R.C.M. 1947, is amended to
11 read as follows:

12 "32-4720. Permits required -- identification tags --
13 pre-existing structures. (1) A sign authorized by
14 subsections (i), (iv), and (v) of subsection (a) of section
15 32-4717 may not be constructed or maintained without a
16 permit. Applications for permits shall be made to the
17 department on forms furnished by it. The department shall
18 require reasonable information to be furnished, including a
19 statement that the owner or occupant of the land has
20 consented to the erection or maintenance of the sign on the
21 land. A permit must be obtained for each sign and the
22 application for the permit must be accompanied by an initial
23 fee of six dollars (\$6).

24 (2) Permits shall be issued for three (3) years,
25 assigned a permit number, and renewed every three (3) years

1 thereafter upon payment of three dollars (\$3) without the
2 filing of a new application. All fees received shall be paid
3 into the state highway account in the earmarked revenue
4 fund.

5 (3) The department shall issue with each new permit a
6 permanent identification tag not larger than six (6) square
7 inches which shall be affixed to the sign in a position
8 readily visible from the highway.

9 (4) Notwithstanding the foregoing provisions of this
10 section, the department shall issue permits and
11 identification tags, upon application and payment of the
12 requisite fee for a structure lawfully in existence on June
13 23, 1971, and the permits shall thereafter be renewed for a
14 period of time as is prescribed in this section, unless the
15 structure is removed for improper maintenance.

16 (5) Notwithstanding the foregoing provisions of this
17 section, the department shall issue permits and
18 identification tags, upon application and payment of the
19 requisite fee for outdoor advertising lawfully in existence
20 on the day prior to the effective date of this act and made
21 nonconforming by virtue of subsection (c) of section
22 32-4717, and the permits shall thereafter be renewed for a
23 period of time as is prescribed in this section, unless the
24 structure is removed for improper maintenance."

25 Section 5. Section 32-4722, R.C.M. 1947, is amended to

1 read as follows:

2 "32-4722. Advertising deemed unlawful -- notice to
3 remove -- hearing -- appeal to district court. (1) The
4 following outdoor advertising is unlawful:

5 (a) When erected after June 24, 1971, contrary to this
6 act, or erected after the effective date of this act beyond
7 six hundred sixty (660) feet of the nearest edge of the
8 right-of-way of an interstate or primary highway outside of
9 an urban area with the purpose of its message being read
10 from such main traveled way and visible from such main
11 traveled way, unless such outdoor advertising meets the
12 criteria of subsections (i), (ii) or (iii) of subsection (a)
13 of section 32-4717; or

14 (b) When a permit is not obtained as prescribed in this
15 act; or

16 (c) When a permittee fails to comply with a notice of
17 violation as provided in section 32-4721.

18 (2) The department shall give notice in writing, either
19 by certified mail or by personal service, to the owner or
20 occupant of the land on which advertising believed to be
21 unlawful is located and to the owner of the outdoor
22 advertising structure, if the latter is known, or if
23 unknown, by posting notice in a conspicuous place on the
24 structure, of its intention to remove the unlawful
25 advertising. Within forty-five (45) days after the notice,

1 the owner of the land or of the structure may make a written
2 request for a hearing before the commission to show cause
3 why the structure should not be removed.

4 (3) If a hearing before the commission is not
5 requested, or if there is no appeal taken from the
6 commission's decision at the hearing, or if the commission's
7 decision is affirmed on appeal, the department shall
8 immediately remove, or cause to be removed, the unlawful
9 outdoor advertising. The owner of the structure and the
10 owner or occupant of the land are jointly and severally
11 liable for the costs of the removal. The department may
12 enter upon lands bearing outdoor advertising and make
13 examination of such advertising. The department may, upon
14 final determination by the commission that an item of
15 outdoor advertising is unlawful, enter upon lands bearing
16 such advertising and remove the unlawful advertising. The
17 department incurs no liability for the entry or entries
18 except for injuries resulting from negligence, wantonness or
19 malice."

20 Section 6. Section 32-4723, R.C.M. 1947, is amended to
21 read as follows:

22 "32-4723. Acquisition of outdoor advertising rights --
23 compensation. (a) The department may acquire by gift,
24 purchase, agreement, exchange or eminent domain, existing
25 outdoor advertising and property rights pertaining to the

1 advertising which were lawfully in existence on June 24,
2 1971, and which by virtue of this-act section 32-4717(a) are
3 nonconforming. The department may likewise acquire by gift,
4 purchase, agreement, exchange or eminent domain existing
5 outdoor advertising and property rights pertaining to the
6 advertising which were lawfully in existence on the day
7 prior to the effective date of this act and made
8 nonconforming by virtue of section 2 of this act. Eminent
9 domain shall be exercised in accordance with the laws of the
10 state.

11 (b) Just compensation shall be paid for outdoor
12 advertising and property rights pertaining to the
13 advertising acquired through the process of eminent domain.
14 The department may remove outdoor advertising found in
15 violation of sections 32-4721 or 32-4722 without payment of
16 compensation.

17 (c) Despite a contrary provision in this act, a sign
18 may not be required to be removed without just compensation,
19 unless found to be in violation of sections 32-4721 or
20 32-4722. Except as provided in sections 32-4721 and 32-4722,
21 a sign may not be required to be removed unless at the time
22 of removal or discontinuance there are sufficient funds,
23 from whatever source, appropriated and immediately available
24 to pay the just compensation required under this section,
25 and unless at that time the federal funds required to be

1 contributed under section 131 (g) of Title 23, United States
2 Code, with respect to the outdoor advertising being removed,
3 have been apportioned and are immediately available to this
4 state."

5 Section 7. This act is effective on passage and
6 approval.

-End-