- - -

3

 HOUSE BILL NO. 454

 2
 INTRODUCED BY BARDANOUVE

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

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:

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."

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 of15 Montana.

16 (e) "Secretary" means the secretary of the United17 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.

(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
 -2- HB 454

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 pursuant to comprehensive local zoning ordinances or 6 or enabling state legislation, or state 7 regulations. legislation itself, including highway service areas lawfully 8 zoned as highway service zones where the primary use of the 9 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 industrial by an interim regulation or map adopted as an 13 emergency measure pursuant to section 16-4711, R.C.M. 1947, 14 shall not be considered as covered by this definition. 15

16 (i) "Unzoned commercial or industrial area" means an area not zoned by state or local law, regulation or 17 ordinance which is occupied by one or more industrial or 18 commercial activities. other than outdoor advertising, on 19 20 the lands along the highway for a distance of six hundred (600) feet immediately adjacent to the activities, and those 21 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 -3-HB 454

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

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

(i) Agricultural, forestry, grazing, farming and 8 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 (1) "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 -4-

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 designated by the United States bureau of the census having 4 a population of five thousand (5,000) or more and within 5 boundaries fixed by the department of highways, which said 6 boundaries shall, as a minimum, encompass the entire urban 7 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 to highway -- exceptions -- standards and permits. (a) 12 Outdoor advertising may not be erected or maintained which 13 is within six hundred and sixty (660) feet of the nearest 14 edge of the right of way and which is visible from any place 15 on the main traveled way, of an interstate or primary 16 17 system, except:

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

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 activities conducted on the property upon which they are 25 -5-HB 454 1 located.

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

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 this subsection shall not apply to signs, displays and 90 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

-6-

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.

criteria of subsections (i), (ii) or (iii) of subsection (a)

1

.

(e) Double-faced, back-to-back and V-type signs shall
 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.

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

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.

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

-8-

-7-

HB 454

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

5 (j) Signs may be illuminated, subject to the following6 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.

(ii) Signs which are not effectively shielded as to 12 13 prevent beams or rays of light from being directed at a 14 portion of the traveled ways of the interstate or federal aid primary highway or which are of such intensity or 15 brilliance as to cause glare or to impair the vision of the 16 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 official traffic sign, device, or signal. 21

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

-9-

HB 454

(i) Where the distance between centerlines of
 intersecting streets or highways is less than one thousand
 (1,000) feet, a minimum spacing between structures of one
 hundred fifty (150) feet may be permitted between the
 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 -pre-existing structures. (1) A sign authorized by 13 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 statement that the owner or occupant of the land has 19 consented to the erection or maintenance of the sign on the 20 land. A permit must be obtained for each sign and the 21 application for the permit must be accompanied by an initial 22 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

-10-

HB 0454/01

thereafter upon payment of three dollars (\$3) without the
 filing of a new application. All fees received shall be paid
 into the state highway account in the earmarked revenue
 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 section, 10 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 identification tags, upon application and payment of the 18 19 requisite fee for outdoor advertising lawfully in existence 20 on the day prior to the effective date of this act and made nonconforming by virtue of subsection (c) of section 21 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." Section 5. Section 32-4722, R.C.M. 1947, is amended to 25

-11- HB 454

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 from such main traveled way and visible from such main 10 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,

-12-

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

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

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

*32-4723. Acquisition of outdoor advertising rights -compensation. (a) The department may acquire by gift,
purchase, agreement, exchange or eminent domain, existing
outdoor advertising and property rights pertaining to the
-13- HB 454

advertising which were lawfully in existence on June 24. 1 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 nonconforming by virtue of section 2 of this act. 8 Eminent 9 domain shall be exercised in accordance with the laws of the state. 10

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

17 (c) Despite a contrary provision in this act, a sign may not be required to be removed without just compensation, 18 unless found to be in violation of sections 32-4721 or 19 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 of removal or discontinuance there are sufficient funds, 22 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 -14-HE 454

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

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

-End-

-15-

Approved by Committee on Highways & Transportation

1 HOUSE BILL NO. 454 INTRODUCED BY BARDANOUVE 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE OUTDOOR 4 ADVERTISING ACT BY PROHIBITING CERTAIN OUTDOOR ADVERTISING 5 DIRECTED AT AND VISIBLE FROM AN INTERSTATE OR PRIMARY 6 7 HIGHWAY, BUT MORE THAN SIX HUNDRED SIXTY FEET THEREFROM; BY 8 ADDING A DEFINITION OF "URBAN AREA"; BY LIMITING THE DEFINITION OF "UNZONED COMMERCIAL OR INDUSTRIAL AREA" TO A 9 10 DEPTH OF SIX HUNDRED SIXTY FEET; BY PROVIDING FOR 11 PERMITTING. REGULATION AND ACQUISITION OF OUTDOOR ADVERTISING LEGALLY IN EXISTENCE BEFORE THE EFFECTIVE DATE 12 BUT NOT CONFORMING TO THE STANDARDS HEREIN 13 HEREOF, 14 ESTABLISHED; AMENDING SECTIONS 32-4716, 32-4717, 32-4719, 32-4720. 32-4722, AND 32-4723, R.C.M. 1947; AND PROVIDING AN 15 IMMEDIATE EFFECTIVE DATE." 16

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:

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

SECOND READING

secretary pursuant to the provisions of Title 23, United
 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 United17 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 -2- HB 454

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

(j) "Unzoned commercial or industrial area" means an 16 area not zoned by state or local law, regulation or 17 18 ordinance which is occupied by one or more industrial or 19 commercial activities, other than outdoor advertising, on the lands along the highway for a distance of six hundred 20 (600) feet immediately adjacent to the activities, and those 21 lands directly opposite on the other side of the highway to 22 23 the extent of the same dimensions, and to a maximum depth of 24 six hundred sixty (660) feet when measured from the highway right-of-way: provided, those lands on the opposite side of 25 -3-HB 454

the highway are not deemed scenic or having aesthetic value
 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 principally14 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 (1) "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
 -4- HB 454

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 boundaries fixed by the department of highways, which said 6 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) Outdoor advertising may not be erected or maintained which 13 14 is within six hundred and sixty (660) feet of the nearest edge of the right of way and which is visible from any place 15 16 on the main traveled way, of an interstate or primary system, except: 17

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

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

(iii) displays and devices advertising 24 Signs. activities conducted on the property upon which they are 25 -5нв 454

located. F

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

5 (v) Signs, displays and devices located in unzoned commercial or industrial areas, which areas shall be б determined from actual land uses and by agreement between 7 8 the department of highways and the secretary and defined by rules adopted by the commission. The exception granted by 9 90 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 has ceased for a period of nine (9) months. 13 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 -6-

HB 454

HB 0454/01

HB 454

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 which are adopted by the commission and this act." 4 5 Section 3. Section 32-4719, R.C.M. 1947, is amended to read as follows: б "32-4719. Standards for permitted advertising. Except 7 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, Gigns 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.

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

-7-

(e) Double-faced, back-to-back and V-type signs shall
 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 manner that only one (1) sign facing located within the 11 above spacing distance is visible from the highway at any 12 one (1) time. 13

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 highway25 or freeway within five hundred (500) feet of an interchange,

-8-

НВ 454

or intersection at grade, or rest area. The five hundred
 (500) feet is to be measured along the interstate or freeway
 from the beginning or ending of the pavement widening at the
 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.

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

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

-9- HB 454

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 subsections (i), (iv), and (v) of subsection (a) of section 14 15 32-4717 may not be constructed or maintained without a permit. Applications for permits shall be made to the 16 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 application for the permit must be accompanied by an initial 22 fee of six dollars (\$6). 23

24 (2) Permits shall be issued for three (3) years,
 25 assigned a permit number, and renewed every three (3) years
 -10- HB 454

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 б 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 23, 1971, and the permits shall thereafter be renewed for a 13 14 period of time as is prescribed in this section, unless the 15 structure is removed for improper maintenance.

(5) Notwithstanding the foregoing provisions of this 16 17 section, the department shall issue permits and 18 identification tags, upon application and payment of the requisite fee for outdoor advertising lawfully in existence 19 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 -11-HB 454 read as follows:

23

24

25

1 2 *32-4722. Advertising deemed unlawful -- notice to remove -- hearing -- appeal to district court. (1) The 3 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 an urban area with the purpose of its message being read 9 from such main traveled way and visible from such main 10 traveled way, unless such outdoor advertising meets the 11 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. (2) The department shall give notice in writing, either 18 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

unknown, by posting notice in a conspicuous place on the

structure, of its intention to remove the unlawful

advertising. Within forty-five (45) days after the notice,

-12-

HB 0454/01

нв 454

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

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

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

32-4723. Acquisition of outdoor advertising rights - compensation. (a) The department may acquire by gift,
 purchase, agreement, exchange or eminent domain, existing
 outdoor advertising and property rights pertaining to the
 -13- HB 454

1 advertising which were lawfully in existence on June 24, 1971, and which by virtue of this-act section 32-4717(a) are 2 nonconforming. The department may likewise acquire by gift, ٦ purchase, agreement, exchange or eminent domain existing 4 outdoor advertising and property rights pertaining to the 5 6 advertising which were lawfully in existence on the day 7 prior to the effective date of this act and made nonconforming by virtue of section 2 of this act. 8 Eminent domain shall be exercised in accordance with the laws of the 9 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 32-4722. Except as provided in sections 32-4721 and 32-4722, 20 a sign may not be required to be removed unless at the time 21 of removal or discontinuance there are sufficient funds, 22 from whatever source, appropriated and immediately available 23 24 to pay the just compensation required under this section. 25 and unless at that time the federal funds required to be -14-HB 454

contributed under section 131 (g) of Title 23, United States
 Code, with respect to the outdoor advertising being removed,
 have been apportioned and are immediately available to this
 state."
 Section 7. This act is effective on passage and

6 approval.

-End-

.

s

HB 0454/01

1 HOUSE BILL NO. 454 2 INTRODUCED BY BARDANOUVE 3 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE OUTDOOR 4 ADVERTISING ACT BY PROHIBITING CERTAIN OUTDOOR ADVERTISING 5 6 DIRECTED AT AND VISIBLE FROM AN INTERSTATE OR PRIMARY HIGHWAY. BUT MORE THAN SIX HUNDRED SIXTY FEET THEREFROM: BY 7 ADDING A DEFINITION OF "URBAN AREA"; BY LIMITING THE 8 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 HEREOF, BUT NOT CONFORMING TO THE STANDARDS HEREIN 13 14 ESTABLISHED; AMENDING SECTIONS 32-4716, 32-4717, 32-4719, 32-4720, 32-4722, AND 32-4723, R.C.M. 1947; AND PROVIDING AN 15 IMMEDIATE EFFECTIVE DATE." 16 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:

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."

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 plague, 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 of15 Montana.

16 (e) "Secretary" means the secretary of the United17 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
 -2- HB 454

HB 0454/01

THIRD READING

.

÷

-

1	commission may consider desirable.	1	the highway are not deemed scenic or having aesthetic value
2	(h) "Visible" means capable of being seen, and legible,	2	as determined by the commission.
3	without visual aid by a person of normal visual acuity.	3	(k) "Commercial or industrial activities" means for
4	(i) "Commercial or industrial zone" means an area which	4	purposes of subsection (j) those activities generally
5	is used or reserved for business, commerce, or trade	5	recognized as commercial or industrial by zoning authorities
6	pursuant to comprehensive local zoning ordinances or	6	in this state, except that none of the following activities
7	regulations, or enabling state legislation, or state	7	shall be considered commercial or industrial:
3	legislation itself, including highway service areas lawfully	8	(i) Agricultural, forestry, grazing, farming and
9	zoned as highway service zones where the primary use of the	9	related activities including wayside fresh produce stands.
10	land is used or reserved for commercial and roadside	10	(ii) Transient or temporary activities.
11	services, other than outdoor advertising, to serve the	11	(iii) Activities not visible from the main traveled
12	traveling public. Areas temporarily zoned as commercial or	12	way.
13	industrial by an interim regulation or map adopted as an	13	(iv) Activities conducted in a building principally
14	emergency measure pursuant to section 16-4711, R.C.M. 1947,	14	used as a residence.
15	shall not be considered as covered by this definition.	15	(v) Railroad tracks and minor sidings.
16	(j) "Unzoned commercial or industrial area" means an	16	(vi) Activities more than six hundred and sixty (660)
17	area not zoned by state or local law, regulation or	17	feet from the nearest edge of the right of way.
18	ordinance which is occupied by one or more industrial or	18	(1) "Maintain" means to allow to exist, subject to the
19	commercial activities, other than outdoor advertising, on	19	provisions of this act.
20	the lands along the highway for a distance of six hundred	20	(m) "Maintenance" means to repair, refurbish, repaint
21	(600) feet immediately adjacent to the activities, and those	21	or otherwise keep an existing sign structure in a state
22	lands directly opposite on the other side of the highway to	22	suitable for use.
23	the extent of the same dimensions, and to a maximum depth of	23	(n) "Interchange" or "intersection" means those areas
24	six hundred sixty (560) feet when measured from the highway	24	and their approach where traffic is channeled off or onto an
25	right-of-way; provided, those lands on the opposite side of	25	interstate route including the de-acceleration lanes or
	-3 HB 454		-4- HB 454
•			

.

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

۱.

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

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

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

(i) Directional and other official signs and notices, 13 which signs and notices include, but are not limited to, 19 signs and notices pertaining to natural wonders, scenic and 20 historical attractions, as authorized or required by law. 21

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

displays and devices advertising 24 (iii) Signs, 25 activities conducted on the property upon which they are -5-HB 454

located. 1

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

(v) Signs, displays and devices located in unzoned 5 commercial or industrial areas, which areas shall be 6 determined from actual land uses and by agreement between 7 the department of highways and the secretary and defined by 8 q rules adopted by the commission. The exception granted by 90 this subsection shall not apply to signs, displays and 11 devices located within an unzoned area in which the commercial or industrial activity used in defining the area 12 has ceased for a period of nine (9) months. 13

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

19 (c) Outdoor advertising may not be erected or maintained beyond six hundred sixty (660) feet of the 20 21 nearest edge of the right-of-way of an interstate or primary highway outside of an urban area if such outdoor advertising 22

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 -6-

HB 0454/01

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.

criteria of subsections (i), (ii) or (iii) of subsection (a)

1

(e) Double-faced, back-to-back and V-type signs shall
 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.

(q) No two (2) signs shall be spaced less than five 6 hundred (500) feet apart adjacent to an interstate highway, 7 or limited-access primary highway except that signs may be 8. 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 highway25 or freeway within five hundred (500) feet of an interchange,

-8-

-7-

HB 454

HB 0454/01

or intersection at grade, or rest area. The five hundred
 (500) feet is to be measured along the interstate or freeway
 from the beginning or ending of the pavement widening at the
 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.

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

-9-

HB 454

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 subsections (i), (iv), and (v) of subsection (a) of section 14 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 consented to the erection or maintenance of the sign on the 20 land. A permit must be obtained for each sign and the 21 22 application for the permit must be accompanied by an initial fee of six dollars (\$6). 23

24 (2) Permits shall be issued for three (3) years,
 25 assigned a permit number, and renewed every three (3) years
 -10- HB 454

thereafter upon payment of three dollars (\$3) without the
 filing of a new application. All fees received shall be paid
 into the state highway account in the earmarked revenue
 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 the department shall issue permits 10 section. and 11 identification tags, upon application and payment of the requisite fee for a structure lawfully in existence on June 12 33 23, 1971, and the permits shall thereafter be renewed for a 14 period of time as is prescribed in this section, unless the structure is removed for improper maintenance. 15

(5) Notwithstanding the foregoing provisions of this 16 17 section, the department shall issue permits and identification tags, upon application and payment of the 18 19 requisite fee for outdoor advertising lawfully in existence 20 on the day prior to the effective date of this act and made nonconforming by virtue of subsection (c) of section 21 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 -11- HB 454 read as follows:

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,
	-12- HB 45

the owner of the land or of the structure may make a written
 request for a hearing before the commission to show cause
 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 decision is affirmed on appeal, the department shall 7 immediately remove, or cause to be removed, the unlawful 8 outdoor advertising. The owner of the structure and the 9 owner or occupant of the land are jointly and severally 10 11 liable for the costs of the removal. The department may 12 enter upon lands bearing outdoor advertising and make examination of such advertising. The department may, upon 13 14 final determination by the commission that an item of outdoor advertising is unlawful, enter upon lands bearing 15 16 such advertising and remove the unlawful advertising. The 17 department incurs no liability for the entry or entries except for injuries resulting from negligence, wantonness or 18 19 malice."

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

*32-4723. Acquisition of outdoor advertising rights - compensation. (a) The department may acquire by gift,
 purchase, agreement, exchange or eminent domain, existing
 outdoor advertising and property rights pertaining to the
 -13- HB 454

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. purchase, agreement, exchange or eminent domain existing Δ 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 domain shall be exercised in accordance with the laws of the 9 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 may not be required to be removed without just compensation, 18 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 of removal or discontinuance there are sufficient funds, 22 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 -14-HB 454

HB 454

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

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

-End-

۲. ۴

HOUSE BILL NO. 454 1 TNTRODUCED BY BARDANOUVE 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE OUTDOOR d. ADVERTISING ACT BY PROHIBITING CERTAIN OUTDOOR ADVERTISING ĩ DIRECTED AT AND VISIBLE FROM AN INTERSTATE OR PRIMARY 6 HIGHWAY, BUT MORE THAN SIX HUNDRED SIXTY FEET THEREFROM; BY 7 ADDING A DEFINITION OF "URBAN AREA"; BY LIMITING THE 8 DEFINITION OF "UNZONED COMMERCIAL OR INDUSTRIAL AREA" TO A 9 DEPTH OF SIX HUNDRED SIXTY FEET; BY PROVIDING FOR 10 REGULATION AND ACQUISITION OF OUTDOOR 11 PERMITTING, ADVERTISING LEGALLY IN EXISTENCE BEFORE THE EFFECTIVE DATE 12 HEREOF, BUT NOT CONFORMING TO THE STANDARDS HEREIN 13 ESTABLISHED; AMENDING SECTIONS 32-4716, 32-4717, 32-4719, 14 32-4720, 32-4722, AND 32-4723, R.C.M. 1947; AND PROVIDING AN 15 IMMEDIATE EFFECTIVE DATE." 16

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 23 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

REFERENCE BILL

secretary pursuant to the provisions of Title 23, United
 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 United17 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
-2- HB 454

4 (i) "Commercial or industrial zone" means an area which 4 5 is used or reserved for business, commerce, or trade 5 6 pursuant to comprehensive local zoning ordinances or 6 7 regulations, or enabling state legislation, or state 7 8 legislation itself, including highway service areas lawfully 8 9 zoned as highway service zones where the primary use of the 9 10 land is used or reserved for commercial and roadside 10 services, other than outdoor advertising, to serve the 11 11 traveling public. Areas temporarily zoned as commercial or 12 12 industrial by an interim regulation or map adopted as an 13 13 emergency measure pursuant to section 16-4711, R.C.M. 1947, 14 14 15 shall not be considered as covered by this definition. 15 (i) "Unzoned commercial or industrial area" means an 16 16 17 17 area not zoned by state or local law, regulation or 18 18 ordinance which is occupied by one or more industrial or 19 commercial activities, other than outdoor advertising, on 19 20 the lands along the highway for a distance of six hundred 20 21 (600) feet immediately adjacent to the activities, and those 21 lands directly opposite on the other side of the highway to 22 22 the extent of the same dimensions, and to a maximum depth of 23 23 six hundred sixty (660) feet when measured from the highway 24 24 right-of-way; provided, those lands on the opposite side of 25 25 -3-HB 454

(h) "Visible" means capable of being seen, and legible,

without visual aid by a person of normal visual acuity.

1

2

З

commission may consider desirable.

the highway are not deemed scenic or having aesthetic value
 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.

) (ii) Transient or temporary activities.

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

13 (iv) Activities conducted in a building principally14 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 (1) "Maintain" means to allow to exist, subject to the19 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
 -4- IB 454

acceleration lanes from or to another federal, state,
 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 9 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:

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

22 (ii) Signs, displays and devices advertising the sale23 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 -5- HB 454 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.

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

(b) Outdoor advertising authorized under subsections
(i), (iv), and (v) of subsection (a) of this section shall
conform with standards contained in, and shall bear permits
required in, rules which are adopted by the commission and
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 -6-HB 454

1 criteria of subsections (i), (ii) or (iii) of subsection (a) of this section. Should such outdoor advertising meet said 2 З criteria, it shall conform with standards contained in rules which are adopted by the commission and this act." 4 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 advertising permitted under section 32-4717 shall conform to 11 12 the following requirements: 13 (a) Signs may not be erected or maintained which exceed 14 thousand two hundred (1,200) square feet in area one 15 including border and trim, but excluding base or apron, supports, and other structural members. 16 17 (b) Maximum length sixty (60) feet. (c) Maximum height forty (40) feet, as measured from 18 19 the ground or, if the sign is attached to a structure, as measured from the base of the sign itself. 20 (d) No more than two (2) facings visible and readable 21 from the same direction on the main traveled way may be 22 erected on any one (1) sign structure. Whenever two (2) 23 facings are so positioned, neither shall exceed three 24 hundred twenty-five (325) square feet. 25

-7-

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 supported by separate structures each shall be considered a 4 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 erected closer than five hundred (500) feet if they are 9 separated by buildings or other obstructions in such a 10 manner that only one (1) sign facing located within the 11 above spacing distance is visible from the highway at any 12 one (1) time. 13

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

17 (i) Public parks.

(ii) Public forests. 18

(iii) Public playgrounds. 19

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

23 (v) Cemeteries.

(i) A sign may not be located on an interstate highway 24

or freeway within five hundred (500) feet of an interchange, 25 -8-

HB 0454/02

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

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

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

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

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

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

-9-

HB 454

(i) Where the distance between centerlines 1 of intersecting streets or highways is less than one thousand 2 (1.000) feet, a minimum spacing between structures of one 3 hundred fifty (150) feet may be permitted between the 4 5 intersecting streets or highways.

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

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

"32-4720. Permits required -- identification tags --12 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 -10-

HB 454

thereafter upon payment of three dollars (\$3) without the
 filing of a new application. All fees received shall be paid
 into the state highway account in the earmarked revenue
 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 section, the department shall issue permits and 17 identification tags, upon application and payment of the 18 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 32-4717, and the permits shall thereafter be renewed for a 22 period of time as is prescribed in this section, unless the 23 structure is removed for improper maintenance." 24 Section 5. Section 32-4722, R.C.M. 1947, is amended to 25

-11-

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 б 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 criteria of subsections (i). (ii) or (iii) of subsection (a) 12 13 of section 32-4717; or 14 (b) When a permit is not obtained as prescribed in this 15 act; or (c) When a permittee fails to comply with a notice of 16 violation as provided in section 32-4721. 17 (2) The department shall give notice in writing, either 18 by certified mail or by personal service, to the owner or 19 occupant of the land on which advertising believed to be 20 unlawful is located and to the owner of the outwoor 21 advertising structure, if the latter is known, or if 22 unknown, by posting notice in a conspicuous place on the 23 24 structure, of its intention to remove the unlawful

25 advertising. Within forty-five (45) days after the notice,

-12-

HB 0454/02

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

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

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

"32-4723. Acquisition of outdoor advertising rights - compensation. (a) The department may acquire by gift,
 purchase, agreement, exchange or eminent domain, existing
 outdoor advertising and property rights pertaining to the
 -13- HB 454

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, purchase, agreement, exchange or eminent domain existing 4 outdoor advertising and property rights pertaining to the 5 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 -14-HB 454

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

5 Section 7. This act is effective on passage and6 approval.

-End-