

**Enrolled**  
**Senate Bill 689**

Sponsored by Senator METSGER, Representative READ; Senator MORRISETTE, Representative WINGARD (at the request of Sign Task Force)

CHAPTER .....

AN ACT

Relating to highways; creating new provisions; amending ORS 366.157, 377.710, 377.725, 377.765, 377.767, 377.768, 377.780 and 377.992; and repealing ORS 377.766.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** Sections 2 to 4 of this 2009 Act are added to and made a part of ORS 377.700 to 377.840.

**SECTION 2.** (1) The Department of Transportation shall administer an incentive program to encourage voluntary removal of outdoor advertising signs from particularly scenic areas of scenic byways.

(2) An owner of an outdoor advertising sign that is visible from a scenic byway may apply to the department for participation in the incentive program. The sign and permit must meet the requirements of ORS 377.700 to 377.840 to qualify for relocation. A sign that is a non-conforming sign for a defect that cannot be remedied upon reconstruction at the same location does not qualify for the incentive program.

(3) If the department determines that the sign is in a particularly scenic area of a scenic byway, the department shall notify the owner that the sign qualifies for the incentive program. If the owner chooses to remove the sign, the owner shall notify the department of the date by which the owner will remove the sign. The removal date must be not later than 90 days after the department's notification.

(4) The department shall issue two relocation credits to the owner in exchange for the removal of a qualified sign. If the owner also submits an application for relocation of the sign and permit under ORS 377.767, the department may issue the relocation permit and one relocation credit. Any relocation credit or relocation permit issued under the incentive program is subject to all the requirements of ORS 377.700 to 377.840.

(5) The department shall adopt rules to establish standards to determine whether a sign is in a location that is particularly scenic such that it qualifies for the incentive program.

**SECTION 3.** The Department of Transportation shall issue a relocation credit upon the owner's request if a sign is removed, the owner has lost the lease for that sign site and the sign and permit meet the requirements of ORS 377.700 to 377.840.

**SECTION 4.** The owner of a relocation credit may combine relocation credits for outdoor advertising signs that have 249 square feet or less of display surface on one side to form a single relocation credit. After the relocation credits are combined, the Department of Transportation shall cancel the smaller relocation credits used to create the combined relo-

**ocation credit. The first time an owner uses a combined relocation credit, the combined relocation credit is not restricted by the provisions of ORS 377.767 (4).**

**SECTION 5.** ORS 377.710 is amended to read:

377.710. As used in ORS 377.700 to 377.840 unless the context otherwise requires:

(1) "Back-to-back sign" means a sign with multiple display surfaces mounted on a single structure with display surfaces visible to traffic from opposite directions of travel.

(2) "Commercial or industrial zone" means an area, adjacent to a state highway, that is zoned for commercial or industrial use by or under state statute or local ordinance.

(3) "Council" means the Travel Information Council created by ORS 377.835.

(4) "Cutout" means every type of display in the form of letters, figures, characters or other representations in cutout or irregular form attached to and superimposed upon a sign.

(5) "Department" means the Department of Transportation.

(6) "Director" means the Director of Transportation.

(7) "Display surface" means the area of a sign available for the purpose of displaying a message.

(8) "Double-faced sign" means a sign with multiple display surfaces with two or more separate and different messages visible to traffic from one direction of travel.

(9) "Erect" means to construct, build, assemble, place, affix, attach, create, paint, draw or in any way bring into being or establish.

(10) "Federal-aid primary system" or "primary highway" means the federal-aid primary system in existence on June 1, 1991, and any highway that is on the National Highway System.

(11) "Freeway" means a divided arterial highway with four or more lanes available for through traffic with full control of access and grade separation at intersections.

(12) "Governmental unit" means the federal government, the state, or a city, county or other political subdivision or an agency thereof.

(13) "Interstate highway" or "interstate system" means every state highway that is a part of the National System of Interstate and Defense Highways established pursuant to section 103(c), title 23, United States Code.

(14) "Logo" means a symbol or design used by a business as a means of identification of its products or services.

(15) "Logo sign" means a sign located on highway right of way on which logos for gas, food, lodging and camping are mounted.

(16) "Maintain" includes painting, changing messages on display surfaces, adding or removing a cutout or display surface of the same dimensions, replacing lights or the catwalk, making routine repairs necessary to keep the sign in a neat, clean, attractive and safe condition, and allowing the sign to exist.

(17) "Main traveled way" means the through traffic lanes, exclusive of frontage roads, auxiliary lanes and ramps.

(18) "Motorist informational sign" means a sign erected in a safety rest area, scenic overlook or sign plaza and maintained under the authority of ORS 377.700 to 377.840 to inform the traveling public about public accommodations, services for the traveling public and points of scenic, historic, cultural, scientific, outdoor recreational and educational interest.

(19) "Nonconforming sign" means a sign that complied with ORS 377.700 to 377.840 when erected, but no longer complies with ORS 377.700 to 377.840 because of a later change in the law or in the conditions outside of the owner's control. An unlawfully located or maintained sign is not a nonconforming sign.

(20) "Outdoor advertising sign" means:

(a) A sign that is not at the location of a business or an activity open to the public, as defined by the department by rule; or

(b) A sign for which compensation or anything of value as defined by the department by rule is given or received for the display of the sign or for the right to place the sign on another's property.

(21) "Protected area" means an area located within 660 feet of the edge of the right of way of any portion of an interstate highway constructed upon any part of right of way, the entire width

of which was acquired by the State of Oregon subsequent to July 1, 1956, and which portion or segment does not traverse:

(a) A commercial or industrial zone within the boundaries of a city, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the interstate highway is subject to municipal regulation or control; or

(b) Other areas where land use, as of September 21, 1959, is established as industrial or commercial pursuant to state law.

(22) "Reconstruct" means replacing a sign totally or partially destroyed, changing its overall height or performing any work, except maintenance work, that alters or changes a sign that lawfully exists under ORS 377.700 to 377.840.

(23) "Relocate" includes, but is not limited to removing a sign from one site and erecting a new sign upon another site as a substitute therefor.

**(24) "Relocation credit" means a credit for future relocation of a permitted outdoor advertising sign issued in lieu of a relocation permit under ORS 377.767.**

**(25) "Relocation permit" means a permit to relocate a sign under ORS 377.767, whether issued in a lieu of a current sign permit or a relocation credit.**

[24] (26) "Rest area" means an area established and maintained within or adjacent to a state highway right of way by or under public supervision or control for the convenience of the traveling public, and includes safety rest areas, scenic overlooks or similar roadside areas.

**(27) "Scenic byway" means a state highway or portion of a state highway designated as part of the scenic byway system by the Oregon Transportation Commission or Federal Highway Administration of the United States Department of Transportation.**

[25] (28) "Secondary highway" means any state highway other than an interstate highway or primary highway.

[26](a) (29)(a) "Sign" means any sign, display, message, emblem, device, figure, painting, drawing, placard, poster, billboard or other thing that is designed, used or intended for advertising purposes or to inform or attract the attention of the public.

(b) "Sign" includes the sign structure, display surface and all other component parts of a sign.

(c) When dimensions of a sign are specified, "sign" includes panels and frames and both sides of a sign of specified dimensions or area.

[27] (30) "Sign area" means the overall dimensions of all panels capable of displaying messages on a sign structure.

[28] (31) "Sign plaza" means a structure erected and maintained by or for the department or the Travel Information Council, adjacent to or in close proximity to a state highway, for the display of motorist information.

[29] (32) "Sign rules for protected areas" means rules adopted by the department applicable to signs displayed within protected areas.

[30] (33) "Sign structure" or "structure" means the supports, uprights, braces, poles, pylons, foundation elements, framework and display surfaces of a sign.

[31] (34) "State highway," "highway" or "state highway system" means the entire width between the boundary lines of the right of way of every state highway, as defined by ORS 366.005, and the interstate system and the federal-aid primary system.

[32] (35) "Tourist oriented directional sign" means a sign erected on state highway right of way to provide business identification and directional information for services and activities of interest to tourists.

[33] (36) "Traffic control sign or device" means an official route marker, guide sign, warning sign, or sign directing or regulating traffic, which has been erected by or under the order of the department.

[34] (37) "Travel plaza" means any staffed facility erected under the authority of the Travel Information Council to serve motorists by providing brochures, displays, signs and other visitor information and located in close proximity to a highway.

[(35)] (38) "Tri-vision sign" means a sign that contains display surfaces composed of a series of three-sided rotating slats arranged side by side, either horizontally or vertically, that are rotated by an electromechanical process and capable of displaying a total of three separate and distinct messages, one message at a time, provided that the rotation from one message to another message is no more frequent than every eight seconds and the actual rotation process is accomplished in four seconds or less.

[(36)] (39) "V-type sign" means two signs erected independently of each other with multiple display surfaces having single or multiple messages visible to traffic from opposite directions, with an interior angle between the two signs of not more than 120 degrees and the signs separated by not more than 10 feet at the nearest point.

[(37)] (40) "Visible" means capable of being seen without visual aid by a person of normal visual acuity, whether or not legible from the main traveled way of any state highway.

**SECTION 6.** ORS 377.725 is amended to read:

377.725. (1) A person may not erect, control, relocate or reconstruct an outdoor advertising sign unless the Department of Transportation has issued a permit for the erection, control, relocation or reconstruction of the sign.

(2) A person who applies for a permit to the Director of Transportation shall complete forms furnished by the director. The permit application shall include a precise description of the outdoor advertising sign and such other information as the director considers necessary or desirable to determine compliance with ORS 377.700 to 377.840. The director shall issue a permit for an outdoor advertising sign that complies with ORS 377.700 to 377.840. A valid permit may be transferred to another person upon written notice to the director.

(3) A permit may not be issued for an outdoor advertising sign located adjacent to an interstate highway or freeway unless the director determines that access to the sign from the interstate highway or freeway can be obtained without violating the access control line of the interstate highway or freeway.

(4) A permit shall be renewed annually on the first day of January. Application for renewal of a permit shall be filed prior to expiration of the term of the permit. If application for renewal of a permit is filed within 30 days after the expiration of the term, the permit shall be granted if any additional fee specified by the department in rules adopted under ORS 377.729 is paid at the time the application is filed. Any permit not renewed in accordance with this section shall be canceled.

(5) Permit fees for purposes of this section are as established by the department by rule under ORS 377.729.

(6) A permit shall be issued for one year. The applicable fee shall accompany the permit application. A fee may not be prorated for a fraction of a year or be refunded if the outdoor advertising sign is removed.

(7) The display surface of an outdoor advertising sign may be changed or cutouts may be attached or removed within the sign area without obtaining a permit. However, a permit shall be obtained if the outdoor advertising sign is reconstructed.

(8) A reconstruction permit may be issued for the addition of another display surface on the opposite side of an existing, conforming sign under permit, that is no larger than the existing display surface.

(9) The director shall require removal of a sign or shall cancel a permit and require removal of an outdoor advertising sign as provided by ORS 377.775 if the director finds a sign has been erected, maintained or serviced from the highway right of way at any portion of the right of way where the department has acquired rights of access to the highway or rights of access have not accrued to the abutting property. If there is no permit for the outdoor advertising sign, then the director shall require removal of the outdoor advertising sign. In addition, the department may recover from the owner of the sign or outdoor advertising sign or from the person erecting, maintaining or servicing the sign or outdoor advertising sign, the amount of damage to landscaping, sod, fencing, ditches or other highway appurtenances resulting from such acts. If a permit is canceled under this subsection, an outdoor advertising sign may not be relocated under ORS 377.767.

(10)(a) The director may cancel a permit, unless a corrected application is filed or the outdoor advertising sign is brought into compliance within 30 days after written notice thereof is mailed to the permittee, if the director finds:

(A) The applicant has knowingly supplied materially false or misleading information in the application for a permit or renewal thereof; or

(B) The sign covered by the permit violates ORS 377.700 to 377.840.

(b) If a permit is canceled under this subsection, an outdoor advertising sign may not be relocated under ORS 377.767, and the holder of the permit is not entitled to a relocation credit [as defined in ORS 377.766].

(11) The director shall cancel a permit immediately upon failure of a permittee to erect or maintain the outdoor advertising sign as described by the permit application and to attach a permit plate to the sign 180 days after the date of issuance of the permit.

(12) The director shall assign a permit plate with an identification number to the permit issued for an outdoor advertising sign. The permittee shall attach the permit plate to the outdoor advertising sign so the plate is visible from the adjacent state highway. The absence of a permit plate or failure to renew the permit annually is prima facie evidence that the outdoor advertising sign does not comply with ORS 377.700 to 377.840.

(13) Except as otherwise provided in ORS 377.712, 377.753 and 377.765, no permits shall be issued for the erection of any new outdoor advertising sign after May 30, 2007.

(14) The director may establish more than one class or type of outdoor advertising sign permit as necessary or desirable to carry out ORS 377.700 to 377.840.

(15) Any hearing under this section shall be conducted as a contested case hearing under ORS chapter 183.

**SECTION 7.** ORS 377.765 is amended to read:

377.765. (1) Outdoor advertising signs in existence on May 30, 2007, and lawfully located within commercial or industrial zones in existence on May 30, 2007, and outdoor advertising signs visible from a road or street that is designated as a state highway after May 30, 2007, and lawfully located within a commercial or industrial zone at the time the road or street is designated as a state highway, may remain. Subject to the provisions of ORS 377.700 to 377.840, such signs may be maintained, reconstructed and relocated. However, such signs may not be relocated unless a relocation permit has been issued pursuant to ORS 377.767. A permit may not be issued to relocate an outdoor advertising sign that was not lawfully in existence on May 30, 2007, except that outdoor advertising signs that are visible from a road or street that is designated as a state highway after May 30, 2007, and that are lawfully located within a commercial or industrial zone at the time the road or street is designated as a state highway, may be relocated within the same section of highway.

(2) All outdoor advertising signs that are lawfully located outside of a commercial or industrial zone and visible from an interstate highway or a primary highway shall be removed upon payment of just compensation as provided by ORS 377.780.

(3) Upon payment of just compensation, the Department of Transportation may remove any lawful outdoor advertising sign located in a scenic area designated pursuant to ORS 377.505 to 377.540.

*[(4) Where an outdoor advertising sign was reconstructed under a waiver, upon payment of just compensation for that portion of the value that is not covered by the waiver, the department may remove the outdoor advertising sign.]*

*[(5)]* (4) Outdoor advertising signs in existence on May 30, 2007, that are lawfully located outside of a commercial or industrial zone in existence on July 1, 1971, and visible from a secondary highway and not within a scenic area existing on July 1, 1971, or thereafter designated a scenic area may be removed only upon payment of just compensation as provided in ORS 377.780. Upon payment of just compensation, the department may remove the outdoor advertising sign. It may not be reconstructed or replaced if destroyed by natural causes and may not be relocated.

*[(6) Subject to subsection (2) of this section, the department may remove without payment of just compensation every outdoor advertising sign erected since October 22, 1965, pursuant to a waiver, ad-*

*adjacent to an interstate highway or a primary highway and outside of a commercial or industrial zone, unless an owner of such a sign or signs, within 10 days after April 18, 1973, enters into an agreement transferring title to the signs to the state. Such an agreement may provide for the leasing back of such signs and for a scheduled removal which shall be not later than December 31, 1975.]*

[(7)] (5) If a secondary highway existing on July 2, 1971, is subsequently designated as an interstate or primary highway, upon payment of just compensation, the department may remove outdoor advertising signs not conforming to the provisions of ORS 377.700 to 377.840.

[(8)] (6) If any other highway is designated as an interstate or primary highway, upon payment of just compensation, the department may remove a nonconforming outdoor advertising sign lawful before such designation but nonconforming thereafter.

[(9)] (7) Upon the construction or designation of a secondary highway, after July 2, 1971, an outdoor advertising sign lawfully in existence and not regulated under ORS 377.700 to 377.840 prior to such construction or designation is subject to subsection [(5)] (4) of this section.

[(10)] *Any outdoor advertising sign lawfully in existence outside of a city on July 2, 1971, beyond 660 feet from the nearest edge of the right of way of an interstate or primary highway and designed to be viewed primarily from such highway shall be removed by July 1, 1976, without compensation.]*

**SECTION 8.** ORS 377.767 is amended to read:

377.767. A permit or a relocation credit [as defined in ORS 377.766] shall be issued for the relocation of a permitted outdoor advertising sign lawfully located within a commercial or industrial zone in existence on May 30, 2007, if the site lease for the sign is terminated for any reason. The existing outdoor advertising sign may be relocated within any commercial or industrial zone if the new sign and the new site comply with ORS 377.700 to 377.840, and upon the following conditions:

(1) The outdoor advertising sign that is relocated may not have a sign size larger than that specified in the permit for the sign located on the site on which the lease was terminated. However, an outdoor advertising sign with 250 square feet or more of display surface on one side may be increased to the maximum size allowed by ORS 377.700 to 377.840 if the relocated sign is not visible from Interstate Highway 5, Interstate Highway 205, or Interstate Highway 84. A single-faced sign may be relocated as a back-to-back sign.

(2) The site for the relocated sign is not within the distances set forth below, on the same side of the highway, from a site from which an outdoor advertising sign was purchased pursuant to the provisions of ORS 377.700 to 377.840.

---

<u>Types of Highway</u>	<u>Distance in Either Direction from Site</u>
Interstate	2,000 feet
Freeway	1,000 feet
Other State Highway	500 feet

---

(3)[(a)] If an outdoor advertising sign is relocated within a commercial or industrial zone that first came into existence after January 1, 1973, the site shall be within 750 feet of a developed commercial or industrial area, as measured parallel to the centerline of the highway.

[(b)] For purposes of this subsection, “developed commercial or industrial area” includes only the land occupied by a building, parking lot, storage area or processing area of a commercial or industrial use and on the same side of the highway.

(4) A permit may not be issued to relocate an outdoor advertising sign more than 100 miles from the existing site of the sign as of May 30, 2007, as measured along public streets, roads or highways between that site and the proposed new site. For relocation credits that exist as of May 30, 2007, a permit may not be issued to relocate an outdoor advertising sign more than 100 miles from the existing site of the sign as of September 1, 1977, as measured along public streets, roads or highways between that site and **the** proposed new site.

(5) Outdoor advertising signs may not be relocated to a **scenic byway** [*state highway or portion of a state highway designated as part of the scenic byway system by the Oregon Transportation Commission*]. If a portion of a highway is no longer designated as a scenic byway, as provided by state and federal law, an outdoor advertising sign may be relocated to that portion subject to ORS 377.700 to 377.840 and 377.992 and any other limitations provided by law.

(6) If the outdoor advertising sign being relocated is relocated as a tri-vision sign, the applicant shall obtain three equivalent permits or relocation credits and the sign must meet all requirements of this section.

(7) If the outdoor advertising sign being relocated is relocated as a back-to-back tri-vision sign or V-type tri-vision sign, the applicant shall obtain six equivalent permits and the sign must meet all requirements of this section.

**SECTION 9.** ORS 377.768 is amended to read:

377.768. Notwithstanding ORS 377.700 to 377.840:

(1) Issuance of a permit under ORS 377.767 to relocate an outdoor advertising sign for which a permit has been issued under ORS 377.725 does not cancel the original permit issued under ORS 377.725 except as provided in this section. The applicant for the permit to relocate shall surrender the original permit to the Director of Transportation upon issuance of the permit to relocate. Upon completion of the relocation of the outdoor advertising sign, including the removal of the sign structure from the original site, the person holding the permit for relocation of the sign shall immediately notify the director in writing.

(2) The director shall retain any permit surrendered under subsection (1) of this section. If the director:

(a) Is notified that the relocation of the outdoor advertising sign is completed within 180 days after the issuance of the permit for relocation, the director shall cancel the original permit.

(b) Cancels the permit for relocation because the relocation of the outdoor advertising sign is not completed within 180 days as required under ORS 377.725, the director shall reinstate the original permit for the sign to the person whose permit for relocation of the sign is canceled.

(3) A permit that is reinstated under subsection (2) of this section remains valid and retains all rights under ORS 377.725 of a permit that has not been surrendered under this section.

[*(4) Relocation credits as defined in ORS 377.766 issued prior to May 30, 2007, and not yet used as of May 30, 2007, are valid subject to ORS 377.767.*]

**SECTION 10.** ORS 377.780 is amended to read:

377.780. (1) Where the Department of Transportation elects to remove and pay for a sign visible from secondary highways pursuant to ORS 377.765 [(5)] (4), upon removal, the department shall pay just compensation.

(2) For the purposes of ORS 377.700 to 377.840, the department may acquire by purchase, agreement, donation or exercise of the power of eminent domain land or an interest in land or a sign. The department shall pay just compensation for:

(a) The taking from the owner of such lawfully located sign all right, title, leasehold and interest in such sign; and

(b) The taking from the owner of the real property on which the sign is located the right to place such sign thereon.

(3) When the department is required under ORS 377.700 to 377.840 to make payment therefor to remove a sign, the payment shall be for the value of the items specified by subsection (2) of this section, as determined by the department. In determining value, the department shall use the accepted appraisal method customarily used in such cases or the method prescribed by federal regulations, if any, applicable to such appraisals or payments, whichever results in the lowest valuation. However, in any case, the department shall so appraise such signs or rights taken by whatever method may be required to avoid imposition of a reduction in the amount of federal highway funds the state otherwise would be eligible to receive.

**SECTION 11.** ORS 377.992 is amended to read:

377.992. (1)(a) A person who violates any provision of ORS 377.510 (1) or 377.700 to 377.840 or any regulation of the Travel Information Council adopted pursuant thereto is subject to a civil penalty of up to [\$100] **\$1,000** per day for each day of violation, **or the amount of gross revenues earned for the sign during the period of time the violation continues, whichever is greater.** [Except as otherwise provided in paragraph (b) of this subsection, the maximum penalty under this subsection for a violation is \$3,000 per sign.]

[*(b) A person who violates ORS 377.725 is subject to a civil penalty of up to \$100 per day for each day of violation, up to a maximum amount established by the Department of Transportation by rule.*]

[*(c) Civil penalties under this subsection shall be imposed in the manner provided by ORS 183.745.*]

**(b) The department shall adopt rules to develop a decision matrix to be used in determining the amount of the civil penalty imposed under this subsection. The matrix must take into account the nature of the violation committed, the number of violations committed and any other factors the department determines necessary.**

(2) Violation of the conditions and provisions of a permit procured under ORS 377.050 by any person having procured the permit is punishable, upon conviction, by a [*fine*] **civil penalty** of not more than \$100[, *or imprisonment in the county jail for not more than 30 days or both*].

(3) Violation of ORS 377.030 to 377.050, 377.510 (2), 377.620 (2) or 377.635 is punishable, upon conviction, by a [*fine*] **civil penalty** of not more than \$100[, *or imprisonment in the county jail for not more than 30 days, or both*].

**(4) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745.**

**SECTION 12.** ORS 366.157 is amended to read:

366.157. The Department of Transportation shall administer a program for the [*employment*] **involvement** of youth in the prevention and cleanup of litter and vandalism.

**SECTION 13. ORS 377.766 is repealed.**

**SECTION 14. The amendments to ORS 377.992 by section 11 of this 2009 Act apply to violations occurring on or after the effective date of this 2009 Act.**

Passed by Senate April 29, 2009

Received by Governor:

Repassed by Senate June 2, 2009

.....M.,....., 2009

Approved:

.....  
Secretary of Senate

.....M.,....., 2009

.....  
President of Senate

.....  
Governor

Passed by House May 29, 2009

Filed in Office of Secretary of State:

.....  
Speaker of House

.....M.,....., 2009

.....  
Secretary of State