

Enrolled
Senate Bill 639

Sponsored by COMMITTEE ON BUSINESS, TRANSPORTATION AND ECONOMIC DEVELOPMENT (at the request of Clear Channel Outdoor Advertising)

CHAPTER

AN ACT

Relating to outdoor advertising signs; creating new provisions; amending ORS 377.710, 377.720, 377.750 and 377.767; and prescribing an effective date.

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

SECTION 1. 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) "Digital billboard" means an outdoor advertising sign that is static and changes messages by any electronic process or remote control, provided that the change from one message to another message is no more frequent than once every eight seconds and the actual change process is accomplished in two seconds or less.

[(6)] (7) "Director" means the Director of Transportation.

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

[(8)] (9) "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)] (10) "Erect" means to construct, build, assemble, place, affix, attach, create, paint, draw or in any way bring into being or establish.

[(10)] (11) "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)] (12) "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)] (13) "Governmental unit" means the federal government, the state, or a city, county or other political subdivision or an agency thereof.

[(13)] (14) "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)] (15) "Logo" means a symbol or design used by a business as a means of identification of its products or services.

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

[(16)] (17) "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)] (18) “Main traveled way” means the through traffic lanes, exclusive of frontage roads, auxiliary lanes and ramps.

[(18)] (19) “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)] (20) “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)] (21) “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)] (22) “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)] (23) “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)] (24) “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)] (25) “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)] (26) “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.

[(26)] (27) “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)] (28) “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.

[(28)] (29) “Secondary highway” means any state highway other than an interstate highway or primary highway.

[(29)(a)] (30)(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.

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

[(31)] (32) “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.

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

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

[(34)] (35) "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.

[(35)] (36) "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.

[(36)] (37) "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.

[(37)] (38) "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.

[(38)] (39) "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.

[(39)] (40) "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.

[(40)] (41) "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 2. ORS 377.720 is amended to read:

377.720. A sign may not be erected or maintained if it:

(1) Interferes with, imitates or resembles any traffic control sign or device, or attempts or appears to attempt to direct the movement of traffic.

(2) Prevents the driver of a motor vehicle from having a clear and unobstructed view of traffic control signs or devices or approaching or merging traffic.

(3) Contains, includes or is illuminated by any flashing, intermittent, revolving, rotating or moving light or moves or has any animated or moving parts. This subsection does not apply to:

(a) A traffic control sign or device.

(b) Signs or portions thereof with lights that may be changed at intermittent intervals by electronic process or remote control that are not outdoor advertising signs.

(c) A tri-vision sign, except that a tri-vision sign may not be illuminated by any flashing, intermittent, revolving, rotating or moving lights.

(d) A digital billboard, only if the digital billboard:

(A) Is not illuminated by a flashing light or a light that varies in intensity;

(B) Has a display surface that does not create the appearance of movement;

(C) Does not operate at an intensity level of more than 0.3 foot-candles over ambient light as measured at a distance of:

(i) 150 feet, if the display surface is 12 feet by 25 feet;

(ii) 200 feet, if the display surface is 10.5 feet by 36 feet; or

(iii) 250 feet, if the display surface is 14 feet by 48 feet;

(D) Is equipped with a light sensor that automatically adjusts the intensity of the billboard according to the amount of ambient light;

(E) Is designed to either freeze the display in one static position, display a full black screen or turn off in the event of a malfunction;

(F) If available where the digital billboard is located, uses renewable energy resources to power the digital billboard, including but not limited to the following:

(i) Wind energy;

(ii) Solar photovoltaic and solar thermal energy;

(iii) Wave, tidal and ocean thermal energy;

(iv) Geothermal energy; and

(v) The purchase of carbon credits; and

(G) If wind energy is used, as specified in subparagraph (F)(i) of this paragraph, uses moving parts for the purpose of generating the wind energy to power the billboard.

(4) Has any lighting, unless such lighting is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of a state highway, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of a motor vehicle or otherwise to interfere with the operation thereof.

(5) Is located upon a tree, or painted or drawn upon a rock or other natural feature.

(6) Advertises activities that are illegal under any state or federal law applicable at the location of the sign or of the activities.

(7) Is not maintained in a neat, clean and attractive condition and in good repair.

(8) Is not able to withstand a wind pressure of 20 pounds per square foot of exposed surface.

(9) Is on a vehicle or trailer that is located on public or private property. This subsection does not apply to a vehicle or trailer used for transportation by the owner or person in control of the property.

SECTION 3. ORS 377.750 is amended to read:

377.750. (1) For the purpose of applying the spacing provided by subsection (2) of this section:

(a) Distances shall be measured lineally along the highway and parallel to the center line of the highway.

(b) A back-to-back sign, **digital billboard**, double-faced sign, V-type sign or tri-vision sign shall be considered one sign.

(c) Distance from an interchange shall be measured from a point departing from or entering onto the main traveled way.

(2) Except as provided in subsection (3) of this section, minimum spacing between outdoor advertising signs shall be:

Type of highway where erected	Minimum space between signs on same side of highway (in feet)	Minimum space from interchange (in feet)
Interstate Highway		
Inside cities	500	None
Outside cities	2,000	500
Freeway		
Inside cities	500	None
Outside cities	1,000	500
Other state highway		
Inside cities	100	None
Outside cities	500	None

(3) A nonconforming outdoor advertising sign in existence on May 30, 2007, may continue to deviate from the spacing limitations established in this section until the sign is reconstructed or relocated, at which time the sign shall comply with the spacing limitations established in this section.

SECTION 4. ORS 377.767 is amended to read:

377.767. A permit or a relocation credit 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) 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. 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. 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 5. Sections 6 and 7 of this 2011 Act are added to and made a part of ORS 377.700 to 377.840.

SECTION 6. (1) As used in this section:

(a) "Bulletin" means an outdoor advertising sign with a display surface that is 14 feet by 48 feet.

(b) "Poster" means an outdoor advertising sign with a display surface that is 12 feet by 25 feet.

(2) If an outdoor advertising sign being relocated is relocated as a digital billboard or if an outdoor advertising sign being reconstructed is reconstructed as a digital billboard, an applicant for a permit under ORS 377.725 must exchange the following in order to receive one permit for a digital billboard:

(a) An applicant with 10 percent or less of the total number of relocation credits in existence on the date the Department of Transportation receives the application for a digital billboard permit shall either remove one existing outdoor advertising sign and retire the permit for that sign or retire one relocation credit. The permit or relocation credit retired must be for signs with a display surface of at least 250 square feet.

(b) An applicant with more than 10 percent of the total number of relocation credits in existence on the date the department receives an application for a digital billboard permit shall:

(A) For a digital billboard that is a bulletin:

(i) Remove two existing bulletins, retire the permits for those bulletins and retire three relocation credits;

(ii) Remove one existing bulletin and two existing posters, retire the permits for the bulletin and posters and retire three relocation credits; or

(iii) Remove four existing posters, retire the permits for those posters and retire three relocation credits.

(B) For a digital billboard that is a poster:

(i) Remove two existing posters, retire the permits for those posters and retire three relocation credits; or

(ii) Remove one existing bulletin, retire the permit for the bulletin and retire three relocation credits.

(3) The relocation credits retired under subsection (2)(b) of this section must be for signs with a display surface of at least 250 square feet.

(4) Notwithstanding ORS 377.759 and 377.762, an owner that removes an outdoor advertising sign under this section is not entitled to a relocation credit.

(5) When calculating the number of relocation credits an owner possesses, the department shall consider the total number of relocation credits owned by any corporate entity held in common ownership with the owner in order to determine how many outdoor advertising signs the owner must remove and how many relocation credits the owner must retire to receive a permit to erect a digital billboard.

(6) The department shall cancel the relocation credits and permits submitted under this section upon issuance of a permit to erect a digital billboard.

(7) Two permits for a digital billboard are required to erect a back-to-back or V-type digital billboard.

(8) The first time an owner uses a permit to erect a digital billboard, the permit is not restricted by the provisions of ORS 377.767 (4).

(9) The department shall issue one digital billboard relocation credit for each digital billboard that is removed. A digital billboard relocation credit may be used only to erect a digital billboard and may not be used to erect any other type of outdoor advertising sign.

(10) Except as provided in subsection (8) of this section, an outdoor advertising sign that is being relocated as a digital billboard must meet all requirements of ORS 377.767.

SECTION 7. (1) The Department of Transportation shall work together with the Travel Information Council, the Office of Emergency Management, the Department of State Police, the Secretary of State and owners of digital billboards to develop a public notification plan for the purpose of using digital billboards to display notifications to the traveling public related to civic activities and public safety. Public notifications include but are not limited to information about the Government Waste Hotline established under ORS 177.170, elections, voter registration, Amber Alerts and natural disasters and other emergencies.

(2) The Department of Transportation, in coordination with the Office of Emergency Management, the Department of State Police, the Secretary of State and owners of digital billboards, shall prepare a written public notification plan. In preparing the plan, the Department of Transportation shall address:

(a) The criteria to be applied in determining when it is appropriate to request that an owner of a digital billboard display a public notification.

(b) The procedures used to determine the expiration of a notification and to recall the request once the information is no longer needed.

SECTION 8. (1) The Travel Information Council shall study and make recommendations on the following:

(a) How to prioritize public notifications made under section 7 of this 2011 Act.

(b) How to encourage the display of public notifications on digital billboards.

(2) The council shall submit a report, and may include recommendations for legislation, to the interim committees of the Legislative Assembly related to transportation no later than September 1, 2012.

SECTION 9. Section 8 of this 2011 Act is repealed on January 2, 2013.

SECTION 10. This 2011 Act takes effect on the 91st day after the date on which the 2011 regular session of the Seventy-sixth Legislative Assembly adjourns sine die.

Passed by Senate March 3, 2011

Repassed by Senate June 15, 2011

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 8, 2011

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State