



# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 1405

H.P. 1033

House of Representatives, April 5, 2011

### An Act To Amend the Laws Restricting Advertising on Public Ways

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Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative KESCHL of Belgrade.  
Cosponsored by Senator SHERMAN of Aroostook, Senator SAVIELLO of Franklin and  
Representatives: CHIPMAN of Portland, CLARK of Easton, FITTS of Pittsfield, HAMPER of  
Oxford, MAKER of Calais, McKANE of Newcastle, PICCHIOTTI of Fairfield, SARTY of  
Denmark.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 23 MRSA §1901, sub-§2**, as repealed and replaced by PL 1981, c. 318,  
3 §1, is amended to read:

4 **2. Information discrimination.** Very few convenient means exist in the State to  
5 provide information on available public accommodations, commercial services for the  
6 traveling public and other lawful businesses and points of scenic, historic, cultural,  
7 educational and religious interest. Provision of those facilities can be a major factor in  
8 encouraging the development of the tourist industry in Maine. Signs are recognized as a  
9 key component in providing valuable information to the motoring public regarding the  
10 availability of basic services, including rest facilities and health services and historic and  
11 scenic sites to enhance the interest of and educate visitors about the full spectrum of  
12 reasons to visit and to live in this State.

13 **Sec. 2. 23 MRSA §1901, sub-§4**, as repealed and replaced by PL 1981, c. 318,  
14 §1, is amended to read:

15 **4. Preservation of scenic resources.** The scattering of outdoor advertising not  
16 located on the site of the business throughout the State is detrimental to the preservation  
17 of those scenic resources, and so to the economic base of the State, ~~and is also not an~~  
18 ~~effective method of providing information to tourists about available facilities.~~

19 **Sec. 3. 23 MRSA §1901, sub-§5**, as repealed and replaced by PL 1981, c. 318,  
20 §1, is repealed.

21 **Sec. 4. 23 MRSA §1902, sub-§3**, as repealed and replaced by PL 1981, c. 318,  
22 §1, is amended to read:

23 **3. Control outdoor advertising.** Prohibit and control the indiscriminate use of  
24 outdoor advertising not located on the site of the business; and

25 **Sec. 5. 23 MRSA §1903, sub-§3**, as repealed and replaced by PL 1981, c. 318,  
26 §1, is amended to read:

27 **3. Interstate system or interstate highway.** "Interstate system" or "interstate  
28 highway" means any state highway ~~which that~~ is or ~~does become~~ becomes part of the  
29 national system of interstate or defense highways, as described in the United States Code,  
30 Title 23, section 103(d) and amendments thereto or replacements thereof. "Interstate  
31 system" or "interstate highway" includes ramps and interchange areas.

32 **Sec. 6. 23 MRSA §1903, sub-§8**, as repealed and replaced by PL 1981, c. 318,  
33 §1, is amended to read:

34 **8. On-premises sign.** ~~"On-premise~~ On-premises sign" means a sign ~~which that~~ is  
35 erected and maintained according to the standards set forth in section 1914 upon the same  
36 real property that the business, facility or point of interest is located or an approach sign  
37 as permitted by section 1914, subsection 10. ~~The signs shall~~ sign may only advertise the

1 business, facility or point of interest conducted thereon or the sale, rent or lease of the  
2 property upon which it is located.

3 **Sec. 7. 23 MRSA §1903, sub-§8-A** is enacted to read:

4 **8-A. Outdoor area.** "Outdoor area" means an area in which the majority of  
5 activities are conducted outdoors, including a recreational area such as a golf course or  
6 ski area, a scenic area such as a park or overlook, a farm or an orchard.

7 **Sec. 8. 23 MRSA §1903, sub-§9-A** is enacted to read:

8 **9-A. Point of interest.** "Point of interest" means, without limitation, an outdoor area  
9 or other place of historical, cultural, educational or religious interest, whether publicly or  
10 privately owned.

11 **Sec. 9. 23 MRSA §1903, sub-§10-C** is enacted to read:

12 **10-C. Principle structure.** "Principle structure" means a regularly used building  
13 where the advertised business or activity is carried on or practiced or a parking lot,  
14 storage or processing area or other structure that is essential and customary to the conduct  
15 of the advertised business or activity.

16 **Sec. 10. 23 MRSA §1903, sub-§16**, as repealed and replaced by PL 1981, c. 318,  
17 §1, is amended to read:

18 **16. Traffic control sign or device.** "Traffic control sign or device" means an  
19 official route marker, warning sign, sign directing traffic to or from a community, bridge,  
20 ferry ~~or~~, airport, or public facility, as defined in Title 27, section 452, subsection 5, or  
21 sign regulating traffic, which has been erected by officers having jurisdiction over the  
22 public way and these signs ~~shall be~~ are exempt from the requirements of this chapter.

23 **Sec. 11. 23 MRSA §1913-A, sub-§1, ¶H**, as amended by PL 1999, c. 152, Pt. G,  
24 §2, is further amended to read:

25 H. Signs bearing political messages relating to an election, primary or referendum,  
26 ~~provided~~ except that these signs may not be placed within the right-of-way prior to 6  
27 weeks before the election, primary or referendum to which they relate and must be  
28 removed by the candidate or political committee not later than one week thereafter;  
29 ~~and~~

30 **Sec. 12. 23 MRSA §1913-A, sub-§1, ¶I**, as enacted by PL 1999, c. 152, Pt. G,  
31 §3, is amended to read:

32 I. Adopt-A-Highway Program signs allowed under section 1117-; and

33 **Sec. 13. 23 MRSA §1913-A, sub-§1, ¶J**, is enacted to read:

34 J. Signs erected by a real estate brokerage agency to advertise the sale of real estate.

35 **Sec. 14. 23 MRSA §1914, sub-§3**, as repealed and replaced by PL 1981, c. 318,  
36 §4, is repealed and the following enacted in its place:

1           **3. Location.** On-premises signs must be located within 2,500 feet of a principle  
2 structure or within 2,500 feet of the point of interest.

3 For purposes of determining distance under this subsection:

4           A. If the advertised business or activity is a commercial or industrial activity, the  
5 measurement must be from a principle structure; and

6           B. If the advertised business or activity is a point of interest, the measurement must  
7 be from a principle structure unless the point of interest is an outdoor area, in which  
8 case the measurement must be from the geographical boundary of that outdoor area.

9           **Sec. 15. 23 MRSA §1914, sub-§4,** as repealed and replaced by PL 1981, c. 318,  
10 §4, is amended to read:

11           **4. Location; relation to public way.** ~~No on-premise signs may be~~ An on-premises  
12 sign is not permitted:

13           A. Within 33 feet of the center line of any public way if the highway is less than 66  
14 feet in width;

15           B. Within 20 feet from the outside edge of the paved portion of any public way with  
16 more than 2 travel lanes and a total paved portion in excess of 24 feet in width unless  
17 the sign is erected using breakaway mounting devices approved by the Department of  
18 Transportation. For purposes of this paragraph, a turning lane in an area with a  
19 posted speed limit of 35 miles per hour or less is not considered a travel lane; or

20           C. Within the full width of the right-of-way of any public way.

21 Paragraphs A and B ~~shall~~ do not apply to signs erected before September 1, 1957.

22           **Sec. 16. 23 MRSA §1914, sub-§5,** as repealed and replaced by PL 1981, c. 318,  
23 §4, is repealed and the following enacted in its place:

24           **5. Interstate highways.** On-premises signs adjacent to the interstate system are  
25 controlled by this subsection.

26           A. Not more than one on-premises sign visible from the interstate system advertising  
27 the sale or lease of a property is permitted on land adjacent to any portion of the  
28 interstate system.

29           B. Not more than one on-premises sign visible from any portion of the interstate  
30 system is permitted at a distance of more than 50 feet from a principle structure.

31           C. The advertising display of an on-premises sign located within 600 feet of the  
32 interstate system and more than 50 feet from a principle structure may not exceed 20  
33 feet in length or width or 150 square feet in area, including border and trim, but  
34 excluding supports.

35           D. Notwithstanding paragraph C, the commissioner shall authorize placement of  
36 larger signs that advertise facilities for food, fuel or lodging as follows.

1                   (1) A sign may be placed in a travel plaza as long as the sign is no more than 100  
2                   feet in height, the display area does not exceed 400 square feet and the  
3                   dimensions of the advertisement do not exceed 35 feet in length or width.

4                   (2) A sign may be placed on property abutting the interstate system if that sign is  
5                   set back from the interstate system between 100 feet and 250 feet and the sign is  
6                   no more than 50 feet in height, the display area does not exceed 200 square feet  
7                   and the dimensions of the advertisement do not exceed 25 feet in length or width.

8                   (3) A sign may be placed on property abutting the interstate system if that sign is  
9                   set back from the interstate system more than 250 feet but no more than 400 feet  
10                  and the sign is no more than 75 feet in height, the display area does not exceed  
11                  300 square feet and the dimensions of the advertisement do not exceed 30 feet in  
12                  length or width.

13                  (4) A sign may be placed on property abutting the interstate system if that sign is  
14                  set back from the interstate system more than 400 feet but no more than 600 feet  
15                  and the sign is no more than 100 feet in height, the display area does not exceed  
16                  400 square feet and the dimensions of the advertisement do not exceed 35 feet in  
17                  length or width.

18                  E. Any on-premises sign located more than 50 feet from a principle structure that  
19                  displays a trade name that refers to or identifies a service rendered or product sold  
20                  must display the name of the advertised business, facility or point of interest as  
21                  conspicuously as that trade name.

22                  For purposes of determining compliance with this subsection, distances must be measured  
23                  in the same manner as in subsection 3. The commissioner shall adopt routine technical  
24                  rules, as defined in Title 5, chapter 375, subchapter 2-A, to implement this subsection.

25                  **Sec. 17. 23 MRSA §1914, sub-§8**, as repealed and replaced by PL 1981, c. 318,  
26                  §4, is amended to read:

27                  **8. Height.** The maximum height of ~~on-premise signs shall be 25~~ an on-premises sign  
28                  except on land adjacent to the interstate system is 35 feet above the ground level of land  
29                  upon which it is located or if the sign is affixed to or is part of a building, the maximum is  
30                  10 feet above the roof of the building. The maximum height of a sign approved by the  
31                  commissioner as described in subsection 5, paragraph D on property that abuts or is  
32                  within the interstate system is 100 feet above the land upon which the sign is located.

33                  **Sec. 18. 23 MRSA §1914, sub-§10**, as repealed and replaced by PL 1981, c. 318,  
34                  §4, is amended to read:

35                  **10. Approach signs.** Any A business or facility whose principal building, or a point  
36                  of interest, ~~which~~ when the business's or point of interest's principle structure is located  
37                  on a public or private way more than 1,000 feet from the nearest intersection with a  
38                  public way, or is not visible to traffic from the nearest public way, may erect no more  
39                  than ~~2~~ 3 approach signs, each with a total surface area not to exceed 100 square feet per  
40                  sign side. These signs ~~are to~~ must be located on a lot of record, as that term is defined in  
41                  subsection 11-A, paragraph A, subparagraph (3), that is contiguous with property of the  
42                  place of business or point of interest outside the public right-of-way limits within 300 feet

1 of the ~~junction of the public and private ways~~ intersection with the other public way. For  
2 purposes of determining compliance with this subsection, distances must be measured in  
3 the same manner as in subsection 3.

4 **Sec. 19. 23 MRSA §1914, sub-§11-A**, as amended by PL 2007, c. 124, §§1 and  
5 2, is further amended to read:

6 **11-A. Changeable signs.** Notwithstanding subsection 6, paragraphs C and E,  
7 changeable signs are not prohibited as long as the sign complies with all the terms of this  
8 subsection. The Department of Transportation shall administer the provisions of this  
9 subsection.

10 A. As used in this subsection, unless the context otherwise indicates, the following  
11 terms have the following meanings.

12 (1) "Changeable sign" means an ~~on-premise~~ on-premises sign created, designed,  
13 manufactured or modified in such a way that its message may be electronically,  
14 digitally or mechanically altered by the complete substitution or replacement of  
15 one display by another on each side.

16 (2) "Display" means that portion of the surface area of a changeable sign that is  
17 or is designed to be or is capable of being periodically altered for the purpose of  
18 conveying a message.

19 (3) "Lot of record" means a lot for which the deed was legally recorded, or that  
20 was created by a plan legally recorded, in the registry of deeds for the county  
21 where the lot is located. Contiguous lots of record in the same ownership are  
22 considered one lot.

23 (4) "Message" means a communication conveyed by means of a visual display of  
24 text, a graphic element or pictorial or photographic image.

25 (5) "Sign assembly" means the display, border, trim and all supporting apparatus,  
26 including posts, columns, pedestals and foundation.

27 (6) "Time and temperature sign" means a changeable sign that electronically or  
28 mechanically displays only the time ~~and~~, temperature or date by the complete  
29 substitution or replacement of a display showing the time with a display showing  
30 the temperature or the date.

31 B. The display on each side of a changeable sign:

32 (1) May be changed no more than once ~~every 20 minutes~~ per minute, unless the  
33 municipality in which the sign is located adopts an ordinance to the contrary and  
34 notifies the Department of Transportation in writing of that ordinance. If a  
35 municipal ordinance is adopted, the municipality is responsible for the  
36 administration of that ordinance;

37 (2) Must change as rapidly as technologically practicable, with no phasing,  
38 rolling, scrolling, flashing or blending, unless the municipality in which the sign  
39 is located adopts an ordinance to the contrary and notifies the Department of  
40 Transportation in writing of that ordinance. If a municipal ordinance is adopted,  
41 the municipality is responsible for the administration of that ordinance.

1 Notwithstanding this subparagraph, a municipality may not adopt an ordinance  
2 that allows the sign to flash or display continuous streaming of information or  
3 video animation; and

4 (3) May consist of alphabetic or numeric text on a plain or colored background  
5 and may include graphic, pictorial or photographic images ~~unless the~~  
6 ~~municipality in which the sign is located adopts an ordinance to the contrary and~~  
7 ~~notifies the Department of Transportation in writing of that ordinance. If a~~  
8 ~~municipal ordinance is adopted, the municipality is responsible for the~~  
9 ~~administration of that ordinance.~~

10 C. The display ~~may comprise no more than 50% of the surface~~ area of a changeable  
11 sign may not exceed 80% of the total advertising area of the entire sign structure;  
12 20% of the total advertising area of a sign structure must remain static.

13 D. No more than one changeable sign with 2 sides is allowed per street abutting the  
14 lot of record.

15 ~~E. Changeable signs may not be located so that the message is readable from a~~  
16 ~~controlled access highway or ramp.~~

17 F. The highest point of the display of a changeable sign on a freestanding sign  
18 structure may not exceed a height of ~~25~~ 35 feet above either the centerline of the  
19 nearest public way or actual ground level adjacent to the sign, whichever is lower.

20 G. Changeable message board signs existing in accordance with the requirements of  
21 former subsection 11 continue to exist if the signs:

22 (1) Are reasonably incapable of being modified or reprogrammed to comply with  
23 this section as amended; and

24 (2) Are not replaced, substantially rebuilt, reconstructed or repaired beyond  
25 routine maintenance.

26 ~~H. The size, intensity of illumination and acceptable rate of change between the time~~  
27 ~~display, the date display and the temperature display of a time and temperature sign~~  
28 ~~must comply with rules, policies or guidelines adopted by the Department of~~  
29 ~~Transportation. Rules adopted pursuant to this section are routine technical rules as~~  
30 ~~defined in Title 5, chapter 375, subchapter 2 A. Time and temperature signs erected~~  
31 ~~prior to September 29, 1995 need not comply with those rules, policies or guidelines~~  
32 may not occur more often than once every 2 seconds.

### 33 SUMMARY

34 This bill amends the use of on-premises signs in the following ways.

35 1. It increases the distance that a sign may be erected from a principle structure of a  
36 business or point of interest from 1,000 feet to 2,500 feet.

37 2. It provides definitions of "point of interest," "outdoor area" and "principle  
38 structure" for purposes of determining distance for placement of on-premises signs.

1           3. It allows on-premises signs to be placed within 20 feet of the edge of certain  
2 public ways with more than 2 travel lanes if the signs are erected using approved  
3 breakaway mounting devices.

4           4. It requires the Commissioner of Transportation to manage the permitting process  
5 and to authorize the placement of signs adjacent to interstate highways larger and taller  
6 than allowed under current law.

7           5. It increases from 2 to 3 the number of approach signs a business or point of  
8 interest may have if that business or point of interest is not visible from or is located more  
9 than 1,000 feet from a public way intersection and permits those approach signs to be  
10 2-sided.

11          6. It allows changeable signs to change once per minute; current law limits the  
12 change to once every 20 minutes.

13          7. It allows a business or point of interest to have one changeable sign per public  
14 way that the business or point of interest abuts.

15          8. It allows time and temperature signs to also display the date and permits those  
16 signs to change as frequently as once every 2 seconds.

17          9. It allows for changeable signs to be erected adjacent to and for viewing from the  
18 interstate highway system.

19          10. It increases the maximum height of a freestanding sign structure statewide from  
20 25 feet to 35 feet above grade.

21          11. It recognizes the value and the role of signs for disseminating information to the  
22 motoring public.

23          12. It allows for placement of signs by real estate brokerage agencies for the sale of  
24 real estate.