

Testimony by  
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California State Assembly Committee on Judiciary  
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Mr. Chairman, my name is Kevin Fry. I am the president of Scenic America, a national nonprofit advocacy organization devoted to scenic conservation, the preservation of community character, and the fight against visual blight. For over 25 years, we have led a national effort to protect the visual character of America's communities and countryside, and, although we deal with many other issues, we are the acknowledged leaders of the movement for effective billboard control.

It is in that context that I come before you today to offer our unconditional support for AB109, which would impose a moratorium on new digital billboards throughout the state of California until January 1, 2012.

The issue of digital billboards is being debated in state legislatures and local governments in almost every corner of the country. Without doubt, the single most frequently discussed aspect of the digital billboard issue relates to highway safety. Many are asking if this new technology is a potential threat to our already distracted drivers. That is the critical question this legislation seeks to address.

Importantly, this bill presupposes no particular answer to that question. What it does say is let's take a time-out, collect solid scientific data, and then, when all the information is before us, make rational decisions about how to proceed.

Until now, decisions about digital billboard regulations have been based entirely on the interests of the outdoor advertising industry and nothing else. Existing policies are designed to maximize profits, not protect the public. This bill corrects that imbalance by requiring the state to wait for research to be completed so that the public interest – for the first time – can be factored into policy decisions. As is the case with other threats to public health and safety, the underlying principle should be: test first and then make policy.

Why is a moratorium important now? Anyone familiar with billboards knows the answer: billboards are essentially permanent fixtures along the roadways. They almost never come down, and any attempt to remove them or move them or alter their behavior triggers endless litigation and hugely expensive claims for compensation. Make no mistake, whatever decisions are made now about digital billboards will have effects for generations to come.

Proponents of digital billboards say we already know enough to know the signs pose no problems. They are right. We do know a lot. But their conclusion is wrong. In fact, it's precisely what we already know that makes this bill so important and why a moratorium is essential to protect California's families.

This is what we know:

- Digital billboards are, by definition, the brightest objects along the roadside, especially at night.
- They attract compulsory glances from drivers to a degree that is not the case with other kinds of signs.
- The constantly changing messages, which in California can be every four seconds, often cause people to linger on the sign to see what comes up next in the show.
- The federal government's "100-Car Naturalistic Driving Study" in 2006 indicated that anything that causes drivers to divert their attention away from the forward roadway for more than two seconds doubles the chances of crashes and near-crashes.
- 78 percent of all crashes and 65 percent of near crashes included driver inattention as a contributing factor. In metropolitan environments, 80 percent of crashes and 65 percent of near-crashes can be attributed to taking one's eyes off the road for up to three seconds.
- Digital billboards, because of their extraordinary brightness and constantly changing images, have a very strong potential to often distract drivers from the roadway for more than two seconds. That is, after all, what they are designed to do.
- Existing research strongly hints that digital billboards may be distracting to drivers, as does talking to anyone who drives past one along their local highways.

But is this enough to be the basis of policy? Perhaps for a common sense determination; but not for scientific certainty. Fair enough. So let's find out. Allow the current research being conducted by the Federal Highway Administration to be completed. Assess upcoming reports being issued under the auspices of the National Cooperative Highway Research Program. Examine other data from overseas. Look at the signs already up along California's roadways.

Scenic America believes that the best approach, both in terms of citizen safety and fiscal responsibility, is to wait for research to be completed before locking the state into decisions that will have ramifications for generations. AB109 does the only responsible and prudent thing. It calls time out and allows data to be generated and analyzed that will allow the state and its local governments to make decisions rooted firmly in the public interest and not merely in a desire to facilitate maximum profits for influential corporate interests.

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