

*The**National Coalition News*

Published by the National Coalition to Preserve Scenic Beauty

Vol. 1, No. 3

August 1981

FHWA NATIONAL ADVISORY COMMITTEE RECALLED FOR FINAL MEETING

Thanks to the efforts of interested members of Congress and members of FHWA's National Advisory Committee on Outdoor Advertising and Motorist Information, the Committee was recalled for one final meeting on June 18-19. At an earlier meeting the 24-member committee had divided itself into two sub-committees, one to investigate legislative revisions to improve the Beautification Act and the other to suggest administrative changes. The Legislative sub-committee was composed mainly of beautification advocates, while the Administrative sub-committee was made up in most part of outdoor advertising industry representatives and those sympathetic to their philosophy.

On the first day of the meeting, three members of the Legislative sub-committee were absent because of previous commitments. Their absence contributed, in part to the passage of almost all the resolutions submitted by the Administrative sub-committee, with the exception of one requiring FHWA personnel to emphasize the positive achievements of the '65 Act when asked about its progress.

Legislative sub-committee resolutions calling for Federal deregulation of the sign control program in cities and urban counties and a reduction of sign control on Federal-aid primary highways to 25% of those highways (the portion designated as "scenic" by the individual states) won approval by a slim margin. The defeat of other Legislative sub-committee proposals to eliminate phony zoning, control illegal cutting of vegetation on the right-of-way, and deal with other short-comings in the Act, including the burden of compensation sharply reduced the impact of winning the deregulation resolutions.

Pro-beautification advocates realized that the industry could not be persuaded to compromise on any point--including the policing of its own "cutting mavericks." And that the entire Committee would conclude its meeting and recommend that the Act continue just as it is--with all its loopholes. A consensus of Legislative sub-committee members revealed that rather than permit the Act to continue as it now functions, they would chose to introduce a resolution discussed at the Advisory Committee's first meeting in May of 1980: to either close the loopholes in the '65 Act and fund it properly or repeal it and return responsibility to the states. The resolution was introduced on the morning of the second day of the Committee's meeting and passed by a vote of 13-11.

STAFFORD INTRODUCES BILL TO RETURN SIGN CONTROL TO STATES

On July 30, U.S. Senator Robert T. Stafford (R-VT) introduced a bill (S. 1548) to repeal the '65 Highway Beautification Act and return the program to the States. The Senator, a long-time supporter of sign control and a staunch advocate of beautification, contends that the '65 law has had little effect in States not committed to protecting scenic beauty and has hindered States that do want to control or remove signs. The law, originally designed to protect scenic areas from excess signing and "to protect the public's interest in its highways" changed course over the years. A 1978 amendment provided "windfall" cash compensation to the billboard industry for signs removed from Federal highways for reasons other than the '65 Act, intruding into the traditional state and local roles of zoning and enforcement. Senator Stafford says, "The Beautification Act has become a protection for billboards rather than a cause for their removal."

(Editor's Note: Although 100,000 nonconforming signs have been removed, 200,000 still remain. Their removal over a 20-year period with a 13% inflation rate is estimated to be somewhere between \$1.5 and \$2.5 billion. Phony zoning has permitted the erection of many new signs, and the 1978 amendments have added a whole new category of signs eligible for compensation. Neither the Carter nor Reagan Administrations have requested that Congress provide funding for the program nor is the present Administration likely to.)

Other groups agree with Senator Stafford's plan to save federal dollars and turn the program back to the states. At hearings held by the Senate Environment and Public Works Committee last year, the only witnesses in favor of continuing the Federal program were from the billboard industry. In evaluating the effectiveness of the Act, the FHWA National Advisory Committee on Outdoor Advertising and Motorist Information in a 13-11 vote supported the concept of repeal if the Act was not funded and enforced. Hearings on the "Billboard Deregulation Act of 1981" are set for mid September before the Senate Committee on Environment and Public Works. For more information call Jean Schrag at 202-224-7863 or the National Coalition office at (215) 565-9131.

U.S. SUPREME COURT DECIDES SAN DIEGO BILLBOARD CASE: Lawyers are only Winners!

One of the last decisions to be announced by the U.S. Supreme Court before recessing its present session was Metromedia, Inc. v. City of San Diego. Now that the decision is out, it is clear why it took so long; there was very little the justices could agree on. The real winners, therefore, are the lawyers, who will be arguing for some time over the meaning of the decision.

The original ordinance prohibited all billboards except for some types of noncommercial ads. If billboards are a form of communication as Metromedia, Inc. argued, they should be protected under the First Amendment guaranteeing freedom of speech.

The nine Supreme Court Justices filed five opinions in this case. Six Justices called the ordinance unconstitutional--but for different reasons. Their opinions noted insufficient justification and non-uniform application of the billboard ban. Chief Justice Burger and Justices Rehnquist and Stevens called San Diego's objective of protecting its aesthetic values legitimate. They felt a local community should be allowed to select its own means to achieve this goal and that the exceptions permitting some non-commercial messages protected the right of freedom of speech.

The Court specifically noted that its opinion holds that "the First Amendment interests in commercial speech are not sufficient to prevent the city from prohibiting off-site commercial advertisements..." In his dissenting opinion, Justice Rehnquist called the Court's treatment of the subject "a genuine misfortune," since it provides no definitive principles for city planning commissions to use.

Thus the case is remanded back to the California Supreme Court and reverses that court's previous decision. San Diego must now figure out a way to draft a new ordinance that does not impair freedom of noncommercial speech and still protects the right of its citizens to an aesthetic environment, a real challenge!

MAINE REVISES AND REENACTS BILLBOARD CONTROL LAW

Legislation to correct the constitutional issues dealing with political and ideological billboards was passed by Maine Legislature and signed into Law by Governor Brennan in June. The new legislation was enacted in response to a 1980 Federal Circuit Court of Appeals ruling in December of 1980 which declared the original Maine law unconstitutional because it restricted freedom of speech (in the form of political and ideological signs.) Under its original 1977 billboard law, Maine removed some 3750 billboards. Tourist information was provided by Uniform Official Business Directional Signs and will be provided in the future by four experimental sign plazas operating in busy tourist areas.

FEDERAL BEVERAGE CONTAINER BILLS INTRODUCED

Officially titled the Beverage Container Reuse and Recycling Act, two identical bills were introduced in March in the U.S. Senate (S.709) and the U.S. House of Representatives (H.R. 2498). Senator Mark Hatfield of Oregon is the prime sponsor of S. 709, which is essentially the same as other bills introduced by Sen. Hatfield in the past to deal with deposit containers. One important new provision is that retailers are to receive, in addition to the 5¢ refund, a 2¢ per container handling charge for each container they return to a distributor. Rep. Jim Jeffords of Vermont is the prime sponsor of H.R. 2498. At present six states have programs banning no-deposit beverage containers, and 30 more including Massachusetts and Rhode Island will be considering "bottle bills" this year.

THE NATIONAL COALITION TO PRESERVE SCENIC BEAUTY NEEDS YOUR FINANCIAL SUPPORT as well as your letter-writing skills, your eyes and your ears. If you hear anything about illegal cutting of vegetation on the right-of-way, attempts to control outdoor advertising or attempts to circumvent that control, container deposit law efforts or other information related to our goals, NOTIFY US AT ONCE. With your help we can leave a heritage of beauty for future generations. Without your help there can be no unified effort to protect scenic beauty. The choice is yours.

(Detach Here)

Mail to:

NATIONAL COALITION TO
PRESERVE SCENIC BEAUTY
44 East Front St.
Media, PA 19063

DUES

Individual	\$ 25
Student	\$ 10
Local Organizations	\$ 50 - \$100
State Organizations	\$150 - \$200
National Organizations	\$250

Name _____ Organization _____

Address _____ City, State and Zip _____

Tel. No. _____ Amount Enclosed \$ _____
(area code)