

Sign Control News

Newsletter of the Center for Sign Control • A project of the Coalition for Scenic Beauty

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SENATOR GORTON INTRODUCES TOUGH BILLBOARD CONTROL MEASURE

"Billboards are a blight on the nation's highways," said Senator Slade Gorton (R-WA) in introducing new federal billboard control legislation. "In the words of columnist William F. Buckley, billboards are an act of aggression against the American landscape."

Calling the 1965 Highway Beautification Act (HBA) a law "riddled with loopholes" that "prevents our states and local communities from enforcing their own standards of scenic beauty," Senator Gorton has introduced the Highway Beautification Act of 1985. The measure is cosponsored by other well-known senators including Mark Hatfield (R-OR), Dan Evans (R-WA), Patrick Moynihan (D-NY), Pete Wilson (R-CA), John Chafee (R-RI) and Spark Matsunaga (D-HI).

"We want to protect the enormous investment the taxpayers have made in the federal highways . . ." said Gorton. The current highway beautification program, he said, is "worse than irresponsible" because the \$200 million already spent on sign control and removal has resulted in little esthetic improvement.

The Gorton measure would achieve several objectives. Among them:

- A repeal of the HBA's requirement that the federal government pay cash compensation for the removal of nonconforming billboards now standing. State and local laws regarding compensation would apply.

- The removal of all billboards erected in unzoned commercial and industrial areas after a 5-year grace period. Currently, the HBA allows the erection of new signs in these areas.
- An improvement in Federal Highway Administration enforcement of the HBA through the preparation of an annual report on state compliance with the law.
- An improvement in FHWA efforts to promote standardized state sign systems that identify roadside businesses as an alternative to billboards. Several states like Vermont and Maine already use such signs.

The bill also attacks the destruction of trees and vegetation on the public right-of-way for the purpose of making billboards more viewable. Any state which allowed such cutting to occur would be considered out of compliance with the HBA and hence subject to the law's penalty provisions by which the Secretary of Transportation could withhold up to 10% of the state's share of federal highway construction money. Many states now allow the destruction of public property by billboard companies thanks to an FHWA policy which leaves tree cutting decisions up to each state.

The Gorton bill is clearly a major reform initiative, designed to reverse failures of the 1965 act and eliminate the \$1 billion lien billboard companies have on the federal and state treasuries. The measure has been referred to the Senate Committee on Environment and Public Works for further consideration. As yet, no companion bill has been introduced in the House. Readers may obtain a copy of the Gorton bill, S. 1494, by contacting Ms. Sara Schreiner, Office of Senator Slade Gorton, 513 Hart Senate Office Building, Washington, D.C., 20510 (Phone: (202) 224-2621).

Editor's Note: Readers should contact their senators urging support for the Gorton measure or on billboard control issues generally. To do that simply write Senator _____, U.S. Senate, Washington, D.C. 20510. Since the first point of consideration of the Gorton bill is the Senate Environment and Public Works Committee, the names of the committee members are listed here:

Republicans

Robert T. Stafford (VT), Chairman
 John H. Chafee (RI)
 Alan K. Simpson (WY)
 James Abdnor (SD)
 Steven D. Symms (ID)
 Gordon J. Humphrey (NH)
 Pete V. Domenici (NM)
 David Durenberger (MN)

Democrats

Lloyd Bentsen (TX)
 Quentin N. Burdick (ND)
 Gary Hart (CO)
 Daniel Patrick Moynihan (NY)
 George J. Mitchell (ME)
 Max Baucus (MT)
 Frank R. Lautenberg (NJ)

1965 HIGHWAY BEAUTIFICATION
 ACT BLASTED IN SENATE HEARINGS

Federal Highway Administration (FHWA) Chief Ray Barnhart told the Senate Transportation Subcommittee July 31 that "the Highway Beautification Act is an

unworkable law." Barnhart was one of several witnesses who came before the subcommittee this summer and spoke of the Highway Beautification Act's failings.

Barnhart would only talk about the Act after being questioned by Senator Quentin Burdick (D-ND). The Senator asked Barnhart if FHWA would favor the repeal of the 1978 Amendments to the Highway Beautification Act. These amendments forbid the removal of any non-conforming sign along federal aid roads under federal, state or local laws unless cash compensation is paid. Barnhart admitted that these amendments were under a great deal of debate at FHWA, but said that no formal position has been taken.

Barnhart also challenged claims that FHWA is not enforcing the Highway Beautification Act. "The allegations that we're ignoring the problem are totally unfounded. Last year, 18,000 illegal billboards were taken down. The problem is that 18,000 more were put up."

Barnhart's prepared testimony focused on such items as the lack of money for road and bridge repairs. Commenting on the need for Congress to appropriate more money to carry out the 1978 Amendments, the FHWA Administrator said, "How can we justify putting money into a program like this [the Highway Beautification Act] when we need money for projects that affect life and limb?"

Municipalities Want Relief from Federal Sign Control Restrictions. A landscape architect from Orlando, FL, and the Mayor of Downers Grove, IL, asked the Transportation Subcommittee to repeal sections of the Highway Beautification Act which restrict local governments' power to control billboards.

Glen Herbert from Orlando said that although 60% of the city's billboards are non-conforming, "the federal government is preventing us from causing their removal" [using amortization]. The city doesn't have the funds to pay sign owners cash compensation.

"You're telling us," said Herbert, "that in spite of the fact that these [billboard] companies are abusive and operate to the detriment of the local community, reaping windfall profits, that they must be compensated with taxpayers money if we want to regulate them. And then you fail to appropriate the money to fulfill this obligation. Somehow, this hardly seems fair."

Mayor Betty Cheever of Downers Grove complained that the Act was being used by the billboard industry to bully its way into small towns. "Municipalities in Illinois are being bombarded with litigation challenging the constitutionality of local regulation of billboard advertising. Those which have not yet been sued are receiving numerous requests for new billboards to be erected in their communities."

Mayor Cheever said that the Illinois outdoor advertising control law has been written and interpreted in such a way that "municipalities and counties are pre-empted from imposing stricter regulations within their boundaries than those imposed by state law."

The mayor suggested that the Highway Beautification Act include some language making it clear that counties and municipalities are entitled and

welcomed to create zoning classifications and regulations which restrict, or even prohibit billboards.

Coalition Testifies. Dr. Charles Floyd, President of the Coalition for Scenic Beauty, and Mr. Carroll Shaddock of Houston's Billboards Limited testified before the Senate Transportation Subcommittee on July 11 concerning the need for reforms in the Highway Beautification Act.

Shaddock said he came to Washington to deliver one message: no more new billboards! "The just compensation issue has confused the situation," Shaddock told the Senators. "It has caused us to overlook the construction of a forest of new billboards. The problem we face today," he said, "is the erection of thousands of so-called new conforming signs."

"When you're going in full forward gear, before shifting into reverse, you have to stop the car," Shaddock continued. "Billboard proliferation has not stopped." Shaddock supports a national moratorium on the construction of more billboards along federal highways as the number one sign control priority.

Dr. Floyd of the Coalition is a familiar face in the Senate subcommittee, having testified before on billboard control problems. Floyd said in earlier years' testimony that it would be difficult to imagine how the Highway Beautification Act could be made more ineffective. This time, he repeated that statement and added after a pause, "I am afraid I did not have a vivid enough imagination." Dr. Floyd then handed pictures to the Senators, demonstrating what new abuses the sign industry is committing, including tree cutting, phony zoning, and the erection of monstrous monopolies.

The industry seemed to just sit back and take it all in. No billboard company representatives testified. Rather, they sat in the back of the room, taking notes.

TOBACCO AND ALCOHOL INDUSTRIES TOP BILLBOARD USERS

Advertisers spent 8.6% more on outdoor advertising in 1984 than they did in 1983, according to figures compiled by Leading National Advertisers. Advertising Age (9/26/85) reports that in 1984, advertisers spent \$597 million on billboard advertising, \$47 million more than in 1983. However, this amounts to only 1.3% of the total spent on all forms of advertising.

Not surprisingly, the tobacco industry spent the most, followed by the beer, wine and liquor industry. These two industries accounted for 44% of the billboard industry's advertising income.

As a whole, tobacco advertising for 1985 brought in \$184,019,000 or 30% of all outdoor advertising revenues. Alcohol advertising was second with \$86,804,000 or 14% of revenues. Travel, hotels and resorts brought the billboard industry \$43,615,000 or only 7% of outdoor revenues. Other industries with

notable billboard spending include business and consumer services at 6%, automotive and accessories at 5.8%, publishing and media at 4.6%, retail at 4% and entertainment and amusements at 5.5%.

R.J. Reynolds, a tobacco company, topped the list with an outdoor budget of \$86,955,000. Philip Morris came in second with \$54,951,000. The top ten billboard users were all tobacco and alcohol firms. They spent \$235,492,000 or 39% of all billboard revenues.

Every major tobacco company cut spending on outdoor advertising in 1984. The difference was made up by increased spending for beer advertising, says Advertising Age. Every alcohol beverage firm in the top 25 increased its outdoor spending. The most remarkable increase came from the Stroh Brewery Company, which increased outdoor spending 144.1% from 1983.

The 985 figures show a drop in the tendency of the tobacco industry to buy more and more billboard space each year vis-a-vis other billboard users. In 1983, 34% of billboard revenues came from the tobacco industry versus 30% in 1984. However, it appears that tobacco advertising is in for a comeback this year (see related story).

The 1984 figures indicate that cigarettes and alcohol continue to be the lifeblood of the billboard industry, with other businesses trailing far behind.

Editors Note: The billboard industry constantly cites the importance of billboard advertising to travel-related roadside businesses. This argument nicely obscures the fact that the overwhelming majority of billboards sell products not roadside services.

TOBACCO COMPANIES

SPENDING MORE ON BILLBOARDS

Cigarette advertising declined in magazines and newspapers for the first quarter of this year but jumped a significant 30.3% in outdoor advertising, according to Advertising Age (7/22/85). In the face of flat sales and the specter of a long-term decline in cigarette smoking, companies have decreased their advertising budgets and shifted many of their dollars to the great outdoors.

Lorillard Corp. is leading the way, with its billboard budget almost equalling its print advertising budget. Much of its increase is due to its promotion of its Newport brand.

The two industry giants, Philip Morris and R.J. Reynolds, are maintaining previous media-budget levels and employing only subtle shifts in media strategy. Smaller companies however, including Lorillard, have made more noticeable shifts into outdoor as most of their brands decline and cost-efficiency becomes important.

Dan Peterson, director of R.J. Reynolds in-house media unit, told Advertising Age that billboards are the most limiting of advertising media available to

cigarette companies, mainly because the inventory of outdoor boards is fixed or even declining in areas where local governments are prohibiting new installations. The increased spending by the tobacco industry in the beginning of 1985 seems to reverse last year's spending decrease in outdoor advertising. This year may show the billboard industry relying even more on advertising from cigarettes.

**SOUTH CAROLINA CALLED
WORST BILLBOARD VIOLATOR**

The Sierra Club Legal Defense Fund has picked South Carolina as the worst violator in enforcing the Highway Beautification Act. Rick Middleton, senior attorney for the Sierra Club Legal Defense Fund, said, "South Carolina seems to be violating every conceivable law in every conceivable way." The Sierra Club in a court suit is asking the federal government to withhold 10% of the state's highway funds until alleged violations are corrected. A U.S. Appeals Court in May relegated the case to a district court, where the case may come to trial this fall. Since being picked as the worst billboard violator, numerous South Carolina communities have moved to enact tougher sign control laws. These include Charleston (see related story), Greenville, Columbia and Conway.

Even billboard company officials admitted South Carolina had a problem. For example, Jim Creel of Creel Outdoor Advertising told the Florence Morning News (6/12/85) that there are "pockets of problems" in the state concerning billboards but contended that the large companies obey the laws.

NAEGELE OUTDOOR GUILTY OF FRAUD

NaegELE Outdoor Advertising Company has been ordered by a federal judge in North Carolina to pay \$25,000 in fines after pleading guilty to 25 counts of mail fraud according to The Raleigh Times (7/17/85). The fine was the maximum amount NaegELE could be assessed under the law. The FBI uncovered a double billing scheme where NaegELE was observed billing two customers for the same billboard space between February 1, 1981 and March 15, 1983.

NaegELE manager Richard Marlowe also has been charged with three misdemeanor counts of making false statements on employees' earning forms.

Advertising Age (8/5/85) reports that court papers filed by the FBI say that NaegELE oversold its market to certain national clients and posted ads of local advertisers for up to 60 days while national advertisers continued to pay for the boards as well. In issuing the ruling, U.S. District Judge Richard C. Erwin said, "People complain that the government is always on their backs. This is a good example of why the government should be on the backs of people." (Raleigh Times, 7/17/85).

The Raleigh Times, in an editorial (7/27/85) reacted to the company's

actions, saying "The case gives citizens of Raleigh and Greensboro--and other cities where Naegele is a corporate citizen--deeper insight into the nature of Naegele. Those committed to preserving the aesthetic beauties of their cities against the ugly invasion of huge billboards need to know they aren't jousting against Mr. Nice Guy himself."

**ANTI-BILLBOARD GROUP
FORMED IN NORTH CAROLINA**

A group of concerned residents in western North Carolina have formed a bi-state organization, the Carolina Coalition for Scenic Beauty, to combat sign proliferation in the Carolinas. At its first meeting in Hendersonville, close to 300 people joined the organization. For membership information, write to: P.O. Box 1433, Hendersonville, NC 28793.

**GANNETT LAUNCHES NETWORK
TO INCREASE BILLBOARD REVENUES**

In an attempt to dramatically increase outdoor advertising revenues, Gannett Outdoor has launched "Outdoor Network USA," which will enable advertisers to buy nearly 40% of all outdoor advertising space nationwide with a single phone call, says Advertising Age (7/29/85). Gannett hopes that the network will increase the industry's share of the advertising dollar from the current 1.3% to 2%.

Until now, advertisers have had to deal with many companies in different areas of the country to have an effective national billboard advertising campaign. This new network will enable advertisers to simultaneously enter into contracts with up to 20 outdoor companies.

Independent outdoor service firms are upset about this new scheme by Gannett, the number one billboard company. Advertising Age (8/26/85) quotes Asch Advertising President Richard Asch, speaking for his company as well as Out-Of-Home Media Services and Outdoor Services, as saying "We are 100% against Gannett issuing contracts. It's not in the best interests of the client, and it's not in the long-term interests of the entire outdoor industry. It's a short term move, helping them to pull in more contracts from competitors."

The major companies that are part of the network are: Ackerly, Creative Displays, Creel, Donrey, Gannett, Holland, Lamar, Matthew, Naegele, Norton, Ohio Outdoor, Outdoor West, Penn, Reagan, Rollins, Schloss, Springfield, Turner, Whiteco, and Whitmier & Ferris. Foster & Kleiser is not a member.

**CHARLESTON PASSES
RESTRICTIVE SIGN ORDINANCE**

After more than three years of discussion, Charleston's City Council approved a sign control ordinance that will banish billboards to heavily

Industrialized areas, severely restrict the use of portable signs, and tone down the size and number of on-premise signs, according to the Charleston Evening Post (9/11/85). The ordinance also sets an amortization period of up to 15 years for all non-conforming signs. City planning officials say more than 50% of the city's signs may not conform with the new ordinance.

The ordinance is a welcome relief to Charleston's West Ashley area, where signs along its commercial thoroughfares have made it look like the yellow pages in a telephone directory, says City Councilman Edward Cochran. Under the law, the use of portable signs is limited to businesses without a free-standing sign, and only for periods of 30 days, twice a year.

During the three years of debate on the more restrictive ordinance, it has been steadfastly opposed both by the city's sign companies and by national advertising companies who do business in Charleston.

SAN JOSE PASSES BILLBOARD BAN

The city of San Jose, California, has joined the growing list of cities which have banned new billboards. The San Jose ordinance bans all new billboards and reduces the number already in existence throughout the city. Officials in San Jose see the ban as a way to reduce visual blight in the city. City Planner Bill Thomas said, "Billboards not only detract from the architecture of adjacent buildings, but also in many cases just dwarf the building and the on-site advertising."

PRIVATE INDUSTRY FOOTS THE BILL FOR PA LOGO SIGNS

Pennsylvania has joined the ranks of states implementing logo sign programs. Unlike many states though, Pennsylvania is financing the program through a private association, the Pennsylvania Travel Council, says the D.W.Bois Courier-Express (7/31/85). No tax money is being spent on the signs.

The Travel Council was hired to administer the Logo Sign Program by the Pennsylvania Logo Signing Trust, a non-profit corporation formed to direct the program and handle fiscal responsibilities. The Pennsylvania Department of Transportation serves as advisor to assure that all state and federal regulations are met.

McDonalds Corp. provided an initial start-up loan for the program. Companies will have to pay an average \$6,000 for two corporate logos—one in each direction—at each exit, and up to \$20 annually for maintenance.

The first signs are already in place and space has already been sold on many others that will be erected shortly.

Editor's Note: Logo signs provide the same information as billboards, without polluting the landscape and at much lower cost to the businesses which

use them. In fact, the logo sign program has been a boon to small businesses in states that ban billboards like Maine and Vermont.

SIGN ASSOCIATION HELPS LOCAL COMPANIES THWART SIGN CONTROL EFFORTS

If a municipality needs help drafting a sign control ordinance or fighting a billboard company, it can turn to the Coalition for Scenic Beauty and other regional billboard control groups. But, who helps sign companies defeat efforts to clean up visual pollution?

The National Electric Sign Association has begun a counseling service to fight community attempts to regulate or eliminate on- and off-premise signs. In a report for Signs of the Times (Aug. '85), the Association says that it has initiated a program of providing direct and personal consulting and counseling for members who need advice and information concerning sign codes and zoning.

The service has been in operation for over six months and already the Association is calling it a success. It claims that it has helped local sign owners organize material and local resources to enable them to be appointed to sign ordinance committees. They claim that these appointments have allowed sign owners to conduct fruitful dialogues with planners and elected officials and to prevent the enactment of overly restrictive ordinances.

The Association appears to be pulling on its armor in reaction to gains by billboard control groups.

Editor's Note: The Supreme Court in two separate decisions (Metromedia v. San Diego, 453 U.S. 490 (1981) and City of L.A. v. Taxpayers for Vincent, 52 U.S.L.W. 4594 (May 1984) has upheld the right of municipalities to control or ban billboards. Often, however, local communities are unaware of the power they have to regulate signs and are easily swayed or intimidated by sign industry threats to file lawsuits challenging city sign ordinances. Any municipality drafting a new sign ordinance should check with the Coalition for technical advice and for the names of legal experts who can help in drafting sound laws that will hold up in court.

MYRTLE BEACH SIGN LAW UPHELD

A circuit judge has ruled the Myrtle Beach sign ordinance constitutional, which means the days of rooftop signs, flashing lights and enormous signs in the city are probably over. Now that the ordinance stands, city officials estimate that as many as 400 signs are in violation and will have to be modified or removed. (Sun News, 8/23/85)

FEDERAL OFFICIALS JOINS BILLBOARD INDUSTRY

The coordinator of the federal Highway Beautification Program for the

Department of Transportation in Washington, D.C., Myron Laible, announced in August that he will be leaving the Department of Transportation to take up a position with the leading billboard lobby, the Outdoor Advertising Association of America, also located in Washington. After announcing his decision, Laible's superiors relieved him of all decision-making responsibilities in the Highway Beauty Program. He will work in the Department's Right of Way Division on other matters until he joins the billboard industry in November.

Laible gave Sign Control News no specific reason for the move.

**BILL TO EXEMPT FARMERS
SIGNS FROM BEAUTY ACT INTRODUCED**

At the national level, Congressmen Charles Pashayan (R-CA) and William M. Thomas (R-CA) have introduced H.R. 3117 which proposes to amend the Highway Beautification Act to exempt farmers around the country from the ban on outdoor advertising along federal primary and interstate roads.

The House bill would add farmer signs as a type of sign exempted from control under the Highway Beautification Act. Such signs would have to advertise "the direct sale by the farmers of their farm produce. . . ." The bill would permit signs up to 150 square feet in size along interstate and federal primary roads. By including the farmer sign exemption in the Highway Beautification Act, states could not prohibit or restrict these types of signs. H.R. 3117 is currently pending before the House Committee on Public Works and Transportation. You should write your congressmen and urge them to oppose this.

NEWS AROUND THE COUNTRY

California. The bill that would have permitted unregulated tree cutting and vegetation removal on landscaped freeways and relocation of non-conforming signs on those freeways was withdrawn by its author, Assemblyman Louis Papan. Credit for discouraging further consideration of AB1279 goes to various billboard control groups in the state, planning associations and, most significantly, the opposition of the state's Transportation Department.

Illinois. Once again, the Illinois House has tabled a pair of bills intended to place some controls on billboards in Illinois. Erection of monopoles has accelerated especially in suburban Chicago in recent years. The bills would have given municipalities the right to limit the height and size of billboards erected in their communities. (Chicago Tribune, 6/19/85)

New York. The Buffalo City Council passed a resolution stating that city-owned land no longer will be leased to billboard companies once current agreements expire. At the moment, only Whitmier and Ferris has such an agreement with the city. Once the agreement ends, all billboards must be removed from city property. (Buffalo News, 7/24/85)

Pennsylvania. The Wilkes-Barre City Council is in the process of considering an ordinance that would regulate the placement of billboard benches on city property along city streets. Up to now, there has been no regulation of the benches, which are built and maintained by outdoor advertising companies. With companies wanting to erect more benches, members of the City Council feel the local government should have a say as to where they are placed. The city currently collects no fee for the benches and some are placed in areas that are impractical for people to sit but very practical for advertising purposes. (Sunday Independent, 9/8/85)

Tennessee. The Citizens Sign Committee recommended to the Knoxville City Council that a full-time sign inspector be hired to counter the lax enforcement of the city's sign control ordinance. It also recommended a \$50 permit construction fee and an annual renewal fee for all free standing signs. The City Council asked the committee to come back with proposed revisions for the sign ordinance itself. (Knoxville News-Sentinel, 8/14/85)

Nashville's City Council has tabled, and as a result, defeated a proposed 6 month moratorium on new billboard construction. The Council member who tabled the motion cited concerns that the moratorium was unconstitutional. Councilman Vic Lineweaver, author of the legislation, said "I have three legal opinions that say this bill is not unconstitutional or illegal. One is from the attorney general, one from the Metro Legal Department and one from our own Council Attorney Larry Snedeker saying the bill is totally legal." (Banner 7/3/85)

Sign Control News is published by the Center for Sign Control, a project of the Coalition for Scenic Beauty. The center provides research, information, and counsel to associate members interested in improving the quality of America's urban and rural environments through the control of signs and billboards. **Sign Control News** is available free to members of the Coalition for Scenic Beauty. Coalition membership fees are as follows: Individual memberships start at \$20; for clubs, associations, organizations, private businesses, or government agencies fees are \$50 for local organizations, \$100 for state or regional organizations, and \$150 for national organizations. To join, send check payable to the "Coalition for Scenic Beauty" to Coalition for Scenic Beauty, 44 East Front St., Media, PA 19063. Phone: (215) 565-9131.