

## OFFICE OF POLICY AND LEGAL ANALYSIS

Date: March 4, 2021  
 To: Transportation Committee  
 From: Sam Prawer, Legislative Analyst

<p><b>LD 395 – An Act To Remove the Authorization for Temporary Signs To Be Placed in the Public Right-of-way</b></p>	<p><b>LD 186 – An Act To Allow Signs in a Public Right-of-way To Be Removed by the Landowner</b></p>
<p><b>SUMMARY:</b>                  This bill removes the authorization for a person to place a temporary sign in the public right-of-way. It also removes the civil violation that currently applies to persons who take, deface or disturb such signs.</p>	<p><b>SUMMARY:</b>                  This bill provides that an owner of land adjacent to a public right-of-way within which a temporary sign has been placed does not commit a civil violation for taking, defacing or disturbing the temporary sign.</p>
<p><b>TESTIMONY:</b>  <b>Proponents:</b>  <i>Rep. Ordway</i></p> <p><b>Opponents:</b>  <i>Wild Blueberry Commission of Maine</i></p> <p><b>Neither for Nor Against:</b>  <i>MaineDOT</i></p>	<p><b>TESTIMONY:</b>  <b>Proponents:</b>  <i>Rep. Kinney</i></p> <p><b>Opponents:</b>  <i>Wild Blueberry Commission of Maine</i></p> <p><b>Neither for Nor Against:</b>  <i>MaineDOT</i></p>
<p><b>CURRENT STATUTE OR LAW:</b>                  Temporary signs may be placed within the public right-of-way without a license or permit for a maximum of 12 weeks per calendar year, except that a temporary sign may not be placed within the public right-of-way for more than 6 weeks from January 1st to June 30th or for more than 6 weeks from July 1st to December 31st. A temporary sign may not be placed within 30 feet of another temporary sign bearing the same or substantially the same message. A temporary sign may not exceed 4 feet by 8 feet in size. A sign under this paragraph must include or be marked with the name and address of the individual, entity or organization that placed the sign within the public right-of-way and the date the sign was erected within the public right-of-way. (<a href="#">23 MRS §1913-A, sub-§1, paragraph L</a>) (<i>highlighted language from LD 689, in 129th 2R</i>) (<i>this language would be repealed by LD 395</i>)</p> <p>“Temporary sign” means: A sign bearing a noncommercial message that has been placed within the public right-of-way for a limited period of time. (<a href="#">23 MRS §1903, sub-§15-A</a>)</p>	<p><b>CURRENT STATUTE OR LAW:</b>                  An owner of land adjacent to a public right-of-way within which a temporary sign has been placed is subject to a fine of up to \$250 for the unlawful removal defacement or disturbance of a temporary sign on the right-of-way adjacent to that person’s land. (<a href="#">23 MRS §1917-B</a>)</p>
<p><b>TECHNICAL ISSUES:</b>                  The definition of “temporary sign” is very broad, may want to amend language to clarify that signs explicitly allowed under §1913-A are still permissible.</p>	<p><b>TECHNICAL ISSUES:</b>                  Unclear how far from the person’s property an “owner of land adjacent to a public right-of-way within which a temporary sign has been placed” may go to remove a sign. Also, unclear if the sign that person removes must even be on the adjacent land.</p>
<p><b>LEGAL ISSUES:</b>                  Banning a category of signs raises issues relevant to the regulation of speech under the first amendment of the United States Constitution. (<i>additional notes</i>)</p>	<p><b>LEGAL ISSUES:</b>                  - Treating certain groups of people differently regarding the removal of signs in a public forum may also raise first amendment issues.</p>

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	<p>- This bill removes a civil violation for certain persons removing temporary signs. However, other types of violations related to property disturbance or vandalization may apply. <i>(additional notes)</i></p>
<p><b>NOTES:</b> Bill language would ban all temporary signs, which includes preventing any permits for being issued for such signs.</p>	<p><b>NOTES:</b> As drafted, LD 395 is not compatible with this bill, as it removes the violation provision this bill applies to.</p>
<p><b>FISCAL IMPACT:</b> Preliminary fiscal impact information not available at the time of writing.</p>	<p><b>FISCAL IMPACT:</b> Preliminary fiscal impact information not available at the time of writing.</p>

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## STATE OF MAINE REGULATION GENERALLY

Maine's laws related to the placement of signs are located within the **Maine Traveler Information Services Act, 23 MRSA, Chapter 21** ("the Act"). The act contains general prohibitions on the placement of signs on or visible from a public way (§1908), provisions regarding the removal of signs (§1917, §1917-B), provisions regarding whether signs require a permit (§1919, §1910, §1913), and establishes MaineDOT and MTA as the primary agencies responsible for administration of Maine's sign laws (§1925).

The owner of a sign in violation of the act shall remove the sign within 30 days of receipt of a notice to remove, sent by certified mail, return receipt requested, by the commissioner. (§1917, sub-§2) If the owner fails to remove the sign as required, the commissioner shall remove the sign at the expense of the owner without any further notice or proceeding and may recover the expense of this removal from the owner. (§1917, sub-§3)

The Act also contains a set of legislative findings in §1901 and lays out the policy and purposes in §1902.

## TEMPORARY SIGNS

Temporary signs may be placed within the public right-of-way without a license or permit for a maximum of 12 weeks per calendar year, except that a temporary sign may not be placed within the public right-of-way for more than 6 weeks from January 1st to June 30th or for more than 6 weeks from July 1st to December 31st. A temporary sign may not be placed within 30 feet of another temporary sign bearing the same or substantially the same message. A temporary sign may not exceed 4 feet by 8 feet in size. A sign under this paragraph must include or be marked with the name and address of the individual, entity or organization that placed the sign within the public right-of-way and the date the sign was erected within the public right-of-way. (§1913-A, sub-§1, paragraph L.)

Temporary sign is defined as "a sign bearing a noncommercial message that has been placed within the public right-of-way for a limited period of time." (23 MRSA §1903, sub-§15-A.)

A fine for violation may not be more than \$100 together with the cost of removal of the signs. (23 MRSA §1920)

Unless authorized by the Act, a person who takes, defaces or disturbs a sign placed within the public right-of-way in accordance with section 1913-A, subsection 1, paragraph L commits a civil violation for which a fine of up to \$250 may be adjudged. (§1917-B)

## ON PREMISES vs. PUBLIC WAY

Regulation of signs under the Act also distinguishes between signs placed in a public way and signs placed "on premises." For the purposes of the act "on premises" means a sign placed upon the real property upon which the business, facility or point of interest advertised by the sign is located, a licensed sign placed within the portion of the public right-of-way that abuts that real property, or a permitted approach sign. (§1903, sub-§8 and §1914)

An "on premises" sign does not require a permit but may advertise only the business, facility or point of interest at, or the sale, rent or lease of, the property upon which it is located. (§1903, sub-§8)

## LOCAL REGULATION

The Act allows for the enforcement of local any statute, regulation, ordinance, resolution or bylaw that is stricter than the requirements established under the Act. (§1922)

## **FEDERAL LAW**

Any regulation of signs in a public space raises issues regarding the prohibited regulation of speech under the first amendment of the United States Constitution.