

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Promote Small Businesses by Enhancing the Use of On-premises Signs**

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

**Sec. 1. 23 MRSA §1901, sub-§2**, as repealed and replaced by PL 1981, c. 318, §1, is amended to read:

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

**Sec. 2. 23 MRSA §1901, sub-§4**, as repealed and replaced by PL 1981, c. 318, §1, is amended to read:

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

**Sec. 3. 23 MRSA §1901, sub-§5**, as repealed and replaced by PL 1981, c. 318, §1, is repealed.

**Sec. 4. 23 MRSA §1902, sub-§3**, as repealed and replaced by PL 1981, c. 318, §1, is amended to read:

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

**Sec. 5. 23 MRSA §1903, sub-§3**, as repealed and replaced by PL 1981, c. 318, §1, is amended to read:

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

**Sec. 6. 23 MRSA §1903, sub-§8-A** is enacted to read:

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

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

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

**Sec. 8. 23 MRSA §1903, sub-§10-C** is enacted to read:

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

**Sec. 9. 23 MRSA §1903, sub-§16**, as repealed and replaced by PL 1981, c. 318, §1, is amended to read:

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

**Sec. 10. 23 MRSA §1914, sub-§3**, as repealed and replaced by PL 1981, c. 318, §4 and amended by PL 2011, c. 115, §4, is repealed and the following enacted in its place:

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

For purposes of determining distance under this subsection:

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

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

**Sec. 11. 23 MRSA §1914, sub-§4, ¶B**, as amended by PL 2011, c. 115, §2, is further amended to read:

B. Except as provided in subsection 4-A, within Within 20 feet from the outside edge of the paved portion of any public way with more than 2 travel lanes and a total paved portion in excess of 24 feet in width unless the sign is erected using breakaway mounting devices approved by the Federal Highway Administration. For purposes of this paragraph, a turning lane in an area with a posted speed limit of 35 miles per hour or less is not considered a travel lane; and

**Sec. 12. 23 MRSA §1914, sub-§4-A**, as enacted by PL 2011, c. 115, §3, is repealed.

**Sec. 13. 23 MRSA §1914, sub-§8**, as repealed and replaced by PL 1981, c. 318, §4 and amended by PL 2011, c. 115, §4, is further amended to read:

**8. Height.** The maximum height of an on-premises sign shall be 25~~sign is 35~~ feet above the ground level of land upon which it is located or, if the sign is affixed to or is part of a building, the maximum is 10 feet above the roof of the building.

**Sec. 14. 23 MRSA §1914, sub-§10**, as repealed and replaced by PL 1981, c. 318, §4, is repealed and the following enacted in its place:

**10. Approach signs.** A business or a point of interest, when the business's or point of interest's principal structure is located on a public or private way more than 1,000 feet from the nearest intersection with a public way or is not visible to traffic from the nearest public way, may erect no more than 3 approach signs, each with a total surface area not to exceed 100 square feet per side. These signs must be located:

- A. On a lot of record, as that term is defined in subsection 11-A, paragraph A, subparagraph (3), that is contiguous with property of the business or point of interest;
- B. Outside the public right-of-way limits; and
- C. Within 300 feet of the intersection with the other public way.

For purposes of determining compliance with this subsection, distances must be determined as provided in subsection 3.

**Sec. 15. 23 MRSA §1914, sub-§11-A**, as amended by PL 2007, c. 124, §§1 and 2 and PL 2011, c. 115, §4, is further amended to read:

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

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

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

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

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

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

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

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

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

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

(2) Must change as rapidly as technologically practicable, with no phasing, rolling, scrolling, flashing or blending, unless the municipality in which the sign is located adopts an ordinance to the contrary and notifies the Department of Transportation in writing of that ordinance. If a municipal ordinance is adopted, the municipality is responsible for the administration of that ordinance. Notwithstanding this subparagraph, a municipality may not adopt an ordinance that allows the sign to flash or display continuous streaming of information or video animation; and

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

~~C. The display may comprise no more than 50% of the surface area of a changeable sign.~~

~~D. No more than one changeable sign with 2 sides is allowed per public way abutting the lot of record.~~

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

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

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

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

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

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

## SUMMARY

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

1. It recognizes the value and the role of signs for disseminating information to the motoring public.
2. It provides definitions of "point of interest," "outdoor area" and "principal structure" for purposes of determining distance for placement of on-premises signs.
3. It increases the distance that a sign may be erected from a principal structure of a business or point of interest from 1,000 feet to 1,500 feet.
4. It allows on-premises signs to be placed within 20 feet of the edge of the paved portion of certain public ways with more than 2 travel lanes only if the signs are erected using approved breakaway mounting devices.
5. It repeals the authority of the Commissioner of Transportation to waive the prohibition on the placement of certain on-premises signs within 20 feet of the edge of the paved portion of certain public ways.
6. It increases from 2 to 3 the number of approach signs a business or point of interest may have on its lot of record if that business or point of interest is not visible from or is located more than 1,000 feet from a public way intersection and expands the limit of the total surface area to 100 square feet per side.

7. It allows changeable signs to change once per minute; current law limits the change to once every 20 minutes. It also removes the restriction on the percentage of a changeable sign that may be used for display.

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

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

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

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