

AMENDED IN SENATE DECEMBER 15, 2009

SENATE BILL

No. 690

Introduced by Senator Leno

February 27, 2009

An act to amend Sections 5216.1 and 5412 of the Business and Professions Code, relating to outdoor advertising.

LEGISLATIVE COUNSEL'S DIGEST

SB 690, as amended, Leno. Outdoor advertising.

The Outdoor Advertising Act regulates placement of advertising displays adjacent to and within specified distances of highways that are part of the national system of interstate and defense highways and federal-aid highways. The act provides that lawfully erected advertising displays include displays that were erected in compliance with state laws and local ordinances in effect at the time of their erection or displays that were subsequently brought into full compliance with state laws and local ordinances. The act provides that an advertising display whose use is modified after erection in a manner that causes it to become illegal is not a lawfully erected display. The act establishes a rebuttable presumption that an advertising display is lawfully erected if it has been in existence for a period of 5 years or longer without the owner having received written notice during that period from a governmental entity indicating that the display was not lawfully erected. The act requires compensation to be paid to the owner of a lawfully erected advertising display if the display is compelled to be removed or its customary maintenance or use is limited, except as specified. ~~A violation of the act is a crime.~~

This bill would *additionally* provide that an advertising display whose height, orientation, or size is modified after erection in a manner that

causes it to become illegal is not a lawfully erected display. The bill would *provide that a lawfully erected advertising display includes displays that were subsequently brought into, and maintained in, full compliance with state laws, local ordinances, and building permits. The bill would delete the provisions enabling an advertising display to be deemed lawfully erected if it is subsequently brought into full compliance with state laws and local ordinances and the provisions establishing the rebuttable presumption regarding an advertising display in existence for a period of 5 years or longer. The bill would instead establish a rebuttable presumption that an advertising display is lawfully erected if it was in existence prior to January 1, 1984.* The bill would also authorize advertising displays that are subsequently altered in violation of the terms of a building permit to be removed without compensation.

~~Because a violation of the bill's provisions with regard to outdoor advertising displays would be a crime, this bill would impose a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5216.1 of the Business and Professions
2 Code is amended to read:
3 5216.1. "Lawfully erected" means, in reference to advertising
4 displays, advertising displays that were erected in compliance with
5 state laws and local ordinances in effect at the time of their erection
6 *or that were subsequently brought into, and maintained in, full*
7 *compliance with state laws, local ordinances, and building permits,*
8 except that the term does not apply to any advertising display
9 whose use, height, orientation, or size is modified after erection
10 in a manner that causes it to become illegal. *There shall be a*
11 *rebuttable presumption pursuant to Section 606 of the Evidence*
12 *Code that an advertising display is lawfully erected if it was in*
13 *existence prior to January 1, 1984.*

SEC. 2. Section 5412 of the Business and Professions Code is amended to read:

5412. Notwithstanding any other provision of this chapter, no advertising display that was lawfully erected anywhere within this state shall be compelled to be removed, nor shall its customary maintenance or use be limited, whether or not the removal or limitation is pursuant to or because of this chapter or any other law, ordinance, or regulation of any governmental entity, without payment of compensation, as defined in the Eminent Domain Law (Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure), except as provided in Sections 5412.1, 5412.2, and 5412.3. The compensation shall be paid to the owner or owners of the advertising display and the owner or owners of the land upon which the display is located. This section shall not apply to an advertising display that was subsequently altered in violation of the terms of the building permit.

This section applies to all displays that were lawfully erected in compliance with state laws and local ordinances in effect when the displays were erected if the displays were in existence on November 6, 1978, or lawfully erected after November 6, 1978, regardless of whether the displays have become nonconforming or have been provided an amortization period. This section does not apply to on-premise displays as specified in Section 5272 or to displays ~~which~~ *that* are relocated by mutual agreement between the display owner and the local entity.

“Relocation,” as used in this section, includes removal of a display and construction of a new display to substitute for the display removed.

It is a policy of this state to encourage local entities and display owners to enter into relocation agreements which allow local entities to continue development in a planned manner without expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication. Cities, counties, cities and counties, and all other local entities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city, county, city and county, or other local entity, and to adopt ordinances or resolutions providing for relocation of displays.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

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