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SENATE COMMITTEE REPORT

FURTHER:

DATE TURNED INTO OFFICE Feb. 19, 1987

Mr. President:

TRANSPORTATION Committee considered SB 4

relating to outdoor advertising.

and recommended:

replace with _____ CS FOR _____) same title
 or adopt _____ CS FOR _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Tim Kelly
Mike Wood
John Corbett
Fahnestock

Lord James P. Pass
Chairman signature and recommendation

Committee Backup Attached

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: February 2, 1987

Bill Version: Senate Bill No. 4
Publish Date: _____

Revision Date: _____
Title: An Act relating to outdoor advertising
Sponsor: Fahrenkamp
Requestor: Abood

Agency Affected: DOT&PF
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL		-0-	-0-	-0-	-0-	-0-
REVENUE		-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS :

There is no fiscal impact to the Department. Revenues received from franchise should offset departmental expenditures.

Prepared by: Milton H. Lentz
Division: Engineering & Operations Standards

Phone: 465-2985
Date: 2/3/87

Approved by Commissioner: Robert A. ...
Agency: Transportation and Public Facilities

Date: _____

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

SB 4 An Act relating to outdoor advertising by Senator
Fahrenkamp

Background

Commercial advertising is commonly found on the sides of buses and on bus shelters and bus benches along bus routes within municipal right of ways. Typically, an advertising firm will supply the benches and shelters at no cost to the municipality in return for the privilege of placing them at bus stops and along bus routes and selling advertising space on them. In this manner a public need and convenience is fulfilled at no cost to government.

However, under existing state law, DOT/PF cannot allow such transit related advertisement to be placed near state right of ways along interstate, primary, and secondary highways. There are strict state and federal restrictions on advertising along roadways, dating back to the federal Beautification Act and the Federal Aid Highway Act. The Federal Highway Administration is responsible for enforcing the laws and regulations pertaining to outdoor advertising. The Highway Administration has approved bench and shelter advertising along federal aid highways in those states that authorize it. FHWA recognized that this form of advertising is an attractive fiscal proposition for local governments and in the interest of promoting mass transit as a way of making it more convenient and thus more appealing.

Purpose

SB 4 amends AS 19.25.105 LIMITATIONS ON OUTDOOR ADVERTISING to include a new exception to allow advertising along state right-of-ways on bus benches and bus shelters. Current law does not make an exception for this form of advertising.

Sectional Analysis

Section 19.25.105 LIMITATIONS ON OUTDOOR ADVERTISING Subsection (a)(5) is added to allow "advertising on bus benches or bus shelters if the state determines that the advertising conforms to state and federal standards for interstate and highway systems." Standards will be set by DOT/PF to insure conformity with federal requirements so no federal funding would be in jeopardy.

Provided by Senator Fahrenkamp's office



Dept. of Transportation & Public Facilities

Position Paper

BILL NO: Senate Bill No. 4

APPROVED: 
Rocky Gutierrez

TITLE: An Act relating to outdoor advertising

DATE: Commissioner
February 3, 1987

The intent of Senate Bill No. 4 under paragraph (3) would allow advertising on bus benches or bus shelters if the State determines that advertising would not impair or inhibit the free flow of traffic.

The language of Senate Bill No. 4, however, excludes the words...and visible from the main-traveled way...from Sec. 19.25.105(a) which are present in the existing statutes and a part of the federal regulations. Federal laws 23 U.S.C. 101(a) (the urban area definition) and 23 U.S.C. 131 (the Act) and Federal Regulation 23 CFR Subpart G, which provide distance requirements affecting commercial signs are very explicit. In summary, such signs are currently controlled within 660 feet of the highway right of way designated urban areas. Outside of urban areas, signs are controlled to limits of visibility.

Paragraph (3)(b) implies that outdoor advertising may not be erected or maintained beyond 660 feet of the nearest edge of the right of way of an interstate, primary or secondary highway if the outdoor advertising impairs or inhibits the free flow of traffic. This language does not conform to the federal regulations and may jeopardize federal-aid funding.

Although the Federal Highway Administration has changed its position on outdoor advertising to allow advertising on transit-related facilities, we must bear in mind that this change in State statutes would require specific requirements for the control of such advertising to meet federal requirements.

The Department does not object to transit-related outdoor advertising providing it furnishes a public service. It is, however, the Department's position that additional consideration should be given to the language used in establishing distance requirements for the control of outdoor advertising or signs.

Back-up

SB 4 An Act relating to outdoor advertising by Senator Fahrenkamp

Background

Commercial advertising is commonly found on the sides of buses and on bus shelters and bus benches along bus routes within municipal right of ways. Typically, an advertising firm will supply the benches and shelters at no cost to the municipality in return for the privilege of placing them at bus stops and along bus routes and selling advertising space on them. In this manner a public need and convenience is fulfilled at no cost to government.

However, under existing state law, DOT/PF cannot allow such transit related advertisement to be placed within or near state right of ways along interstate, primary, and secondary highways. There are strict state and federal restrictions on advertising along roadways, dating back to the Federal Aid Highway Act and the federal Beautification Act. The Federal Highway Administration is responsible for enforcing the laws and regulations pertaining to outdoor advertising. The Administration has allowed other states to permit transit related advertising along federal aid highways. FHWA recognized that this form of advertising is an attractive fiscal proposition for local governments and in the interest of promoting mass transit as a way of making it more convenient and thus more appealing.

Purpose

SB 4 rewrites AS 19.25.105 LIMITATIONS ON OUTDOOR ADVERTISING to include a new exception to allow advertising in or along state right-of-ways on bus benches and bus shelters. Current law does not make an exception for this form of advertising. The proposed Section 105 also incorporates new language suggested by Legal Services to clarify existing statutes.

Sectional Analysis


Section 19.25.105 LIMITATIONS ON OUTDOOR ADVERTISING

(a) Notwithstanding the exceptions below in (a)(1) to (a)(3), outdoor advertising is prohibited within 660 feet of the right of way.

Existing law would allow ads within 660 feet that are not visible from the main highway, plus certain exceptions similar to ones maintained in this proposal. Under this new subsection (a), signs that are not visible from the main highway would be prohibited.

(a)(1) Combines previous subsections (a)(1), (a)(3), and (a)(4).

(a)(2) Changes "signs, displays and devices" to "signs".


- Sponsor's Back-up -

SB 4 continued

(a)(3) This is the new subsection that contains the crux of the bill's purpose. As long as advertising on bus benches or bus shelters would not "impair or inhibit" the free flow of traffic and conform to federal standards as would be required by subsection (c), they would be allowed in or along the right of ways of interstate, primary, or secondary highways.

(b) This subsection deals with signs beyond 660 feet of the nearest edge of a right-of-way. Previous law prohibited signs "with the purpose of their message being read from that travel way". The new subsection simply says "impairs or inhibits the free flow of traffic."

(c) This subsection requires that all advertising conform to federal standards. This requirement was found only in previous statute subsection (a)(1).

Provided by Senator Fahrenkamp's office



Fairbanks North Star Borough

Mayor: Juanita Helms

February 3, 1987

Senator Mitch Abood
Chairman
Senate State Affairs Committee
Room 423, Capitol Building
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Abood:

I support and urge the Alaska State Legislature to pass SB4, "An Act Relating to Outdoor Advertising".

A private enterprise is presently providing bus benches and bus shelters to the residents of the borough who use public transportation. This is a service used and appreciated by bus riders borough-wide. It is also a service that the borough government would not be able to provide.

I whole-heartedly support the concept of the public and private sectors collaborating to provide additional services to the public and additional opportunities for private enterprise to be successful. Passage of SB4 will allow this collaboration to continue.

Sincerely,

Juanita Helms
Borough Mayor

- Support Letter -

Legislative history reports. — For report on ch. 233, SLA 1968 (HCSCSSB 144 am FCC), see 1968 House Journal, p. 815.

40 C.J.S., Highways, §§ 217, 232. Billboards and other outdoor advertising signs as civil nuisance. 38 ALR3d 647.

Collateral references. — 40 Am. Jur. 2d, Highways, Streets and Bridges, §§ 273-336.

Sec. 19.25.090. Outdoor advertising prohibited. Except as provided in AS 19.25.105, all outdoor advertising is prohibited. (§ 3 ch 59 SLA 1949; am § 1 ch 86 SLA 1953; am § 2 ch 155 SLA 1970)

Sec. 19.25.100. Rural signs.

Repealed by § 14 ch 155 SLA 1970.

Editor's notes. — The repealed section derived from § 4, ch. 59, SLA 1949; § 1, ch. 86, SLA 1953; § 9, art. VII, title II, ch. 152, SLA 1957.

Sec. 19.25.105. Limitations of outdoor advertising signs, displays and devices. (a) No outdoor advertising may be erected or maintained within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate, primary, or secondary highways in this state except the following:

(1) directional and other official signs and notices which include, but are not limited to, signs and notices pertaining to natural wonders, scenic and historic attractions, which are required or authorized by law, and which shall conform to federal standards for interstate and primary systems;

(2) signs, displays and devices advertising the sale or lease of property upon which they are located or advertising activities conducted on the property;

(3) signs determined by the state, subject to concurrence of the United States Department of Transportation, to be landmark signs, including signs on farm structures, or natural surfaces, of historic or artistic significance, the preservation of which would be consistent with the provisions of this chapter;

(4) directional signs and notices pertaining to schools.

(b) Repealed by § 21 ch 94 SLA 1980.

(c) No outdoor advertising may be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of the main traveled way of the interstate primary or secondary highways in this state with the purpose of their message being read from that travel way except those outdoor advertising signs, displays or devices allowed under (a) of this section. (§ 3 ch 155 SLA 1970; am §§ 1, 2 ch 195 SLA 1975; am § 1 ch 30 SLA 1980; am § 21 ch 94 SLA 1980)

Effect of amendments. — The first 1980 amendment added paragraph (4) of subsection (a). The second 1980 amendment repealed subsection (b).