

No. 1983-79

AN ACT

SB 603

Relating to the control of vegetation within the right-of-way of highways; providing for applications, inspections and permits; and fixing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Highway Vegetation Control Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Department.” The Department of Transportation.

“Obstruction of view.” When the intent of the advertising is not discernible for a total of five seconds in the viewing zone.

“Off-premises outdoor advertising device.” An outdoor advertising device as defined by, and for which a permit has been issued, pursuant to the act of December 15, 1971 (P.L.596, No.160), known as the Outdoor Advertising Control Act of 1971, or for which a permit has been issued pursuant to any local ordinance and which advertises activities not conducted on the property on which it is located.

“On-premises outdoor advertising device.” An outdoor advertising device which advertises activities conducted on the property on which it is located.

“Outdoor advertising device” or “device.” Both on-premises outdoor advertising devices and off-premises outdoor advertising devices.

“Screening” or “screened.” The obstruction of view of a device as viewed from the center of the lane of traffic of the highway and from a height of no more than 60 inches above the highway surface.

“Vegetation.” All woody and herbaceous plants growing within the legal right-of-way as described in section 410 of the act of June 1, 1945 (P.L.1242, No.428), known as the State Highway Law.

“Viewing zone.” That distance measured along the center of the lane of traffic of a highway which a vehicle will travel at the posted speed limit.

Section 3. Application; permit.

(a) Contents.—The owner of any device along an interstate or Federal aid primary highway which is screened by vegetation may make application to the department for a permit to take remedial action as provided in this act. Such application shall contain the following information:

- (1) the name, address and telephone number of the applicant;

(2) the location of the device, including the route number of the highway, side of the road and distance and direction of the nearest identifying landmark;

(3) the advertising displayed on the device;

(4) the kind, size and location of vegetation for which remedial action is requested;

(5) the type of remedial action requested; and

(6) the permit number, if any, if the device is an off-premises outdoor advertising device.

(b) Form.—The department may by regulation adopt and promulgate a form for the application to take remedial action; provided, however, if no such form has been adopted and promulgated on or before the effective date of this act, any application to take remedial action shall be complete if it contains the information set forth in subsection (a).

(c) Fee.—The department may charge a permit fee of \$90 for each application. The owner may make application to take remedial action with respect to more than one device and the department may inspect all devices, pursuant to section 4, at the same time.

Section 4. Action by department.

(a) Inspection.—The department shall inspect the device and surrounding vegetation to determine whether or not to grant the permit. The applicant shall be advised by the department when such inspection shall occur so that the applicant, if the applicant so desires, may be present during such inspection.

(b) Notice of action taken.—Within 30 days of the filing of the application, it shall either be approved or disapproved. If the application is approved, the permit immediately shall be issued. If the application is disapproved, the department shall provide to the applicant an explanation setting forth the reasons for the disapproval and the manner in which the application may be corrected or modified or both in order to obtain the permit. If the application is disapproved and if the applicant determines that said application may not be corrected or modified based on the reasons set forth by the department, the applicant may appeal to the Commonwealth Court within 30 days of such disapproval. If the application is for more than one device, the department may approve or disapprove it in whole or in part and this section shall apply to those devices for which the application is, respectively, approved or disapproved.

(c) Automatic approval.—If the application neither is approved nor disapproved within 30 days of the filing thereof, the application shall be deemed to be approved and the permit shall be deemed to have been granted immediately.

(d) Life of permit.—The permit issued or deemed to be issued shall be valid for a period of 120 days from the date the application is approved or deemed to have been approved.

Section 5. Bonds.

The department may require an applicant to whom a permit has been issued to post a blanket bond covering all work to be done pursuant to all

permits issued to an applicant, to insure and protect the Commonwealth against loss or damage to trees or vegetation for which remedial action has not been approved or deemed to be approved and occasioned by pruning, trimming, relocation or removal of trees or vegetation and to require the applicant to indemnify the department for the replacement cost of any such trees or vegetation so damaged or destroyed. The amount of the bond shall be determined by the department and shall bear a reasonable relation to the nature of the work being done by the applicant.

Section 6. Remedial action.

(a) Permissible action.—If the application is approved or deemed to be approved and the permit has been granted or deemed to have been granted, the permit may authorize all or any of the following action:

(1) The applicant may raise or lower or adjust the device to reduce the conflict with the vegetation so as to eliminate, as nearly as possible, the screening.

(2) The applicant may prune or trim the vegetation to reduce or eliminate the screening.

(3) The applicant may prune, trim, relocate or remove individual plants in the vegetation to reduce or eliminate the screening.

(b) Safety.—Any activity by an approved applicant shall not create an abnormal safety hazard or interfere with the flow of traffic.

Section 7. Relief from liability for damages.

Where persons are working under a permit granted pursuant to this act, the Commonwealth shall not be liable for any damages to persons or property resulting therefrom.

Section 8. Rules and regulations.

The department shall promulgate rules and regulations necessary to implement and to carry out the provisions of this act.

Section 9. Application of act.

This act shall only apply to outdoor advertising devices lawfully erected.

Section 10. Exclusion from act.

This act shall not apply to the Pennsylvania Turnpike and any roads operated by or under the control of the Pennsylvania Turnpike Commission.

Section 11. Unlawful acts; penalties.

(a) Permit necessary.—It shall be unlawful for any owner of a device to prune, trim, relocate or remove any vegetation so as to reduce or eliminate screening, unless exempted from or permitted by section 410 of the act of June 1, 1945 (P.L.1242, No.428), known as the State Highway Law, or unless such owner has been granted a permit pursuant to this act.

(b) Screening prohibited.—Neither the department, nor anyone acting pursuant to orders from the department, shall plant vegetation otherwise permitted by section 410 of the State Highway Law, so as to result in screening of any device lawfully erected prior to such planting.

(c) Fine.—Violation of this act or of a permit issued under this act shall be a summary offense punishable by a fine of \$100 to \$300 plus the value of any vegetation destroyed or the cost of restoration at the option of the department.

Section 12. Limitation.

No provision of this act is intended to conflict with the intent of the Federal act of October 22, 1965 (Public Law 89-285), known as the Highway Beautification Act of 1965, or with normal conservation practices.

Section 13. Effective date.

(a) Except as provided in subsection (b), this act shall take effect in 120 days.

(b) Section 8 of this act shall take effect immediately.

APPROVED—The 20th day of December, A. D. 1983.

DICK THORNBURGH