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STATE REPRESENTATIVE • 27TH ASSEMBLY DISTRICT

AB 595: relating to the removal of nonconforming outdoor advertising signs along highways.
Written Testimony Submitted by State Representative Tyler Vorpagel
Assembly Committee on Transportation
December 5, 2017

Thank you, Chairman Ripp and members of the Transportation Committee for hearing Assembly Bill 595 today. AB 595 is a fix that dates back to 1972 when the State implemented the Federal Highway Beautification Act (HBA). The HBA and Federal Highway Administration (FHWA) provided guidelines to the States on controlling outdoor advertising but let the states develop their own criteria and definitions regarding nonconforming signs. Over the years FHWA has issued guidelines to states regarding what is and isn't allowed under HBA but Wisconsin has never acted to change Statutes to reflect these guidelines. State statutes and rules don't include definitions which has made the law vague and open to miscommunication.

Currently there are many legally constructed billboards that go into nonconforming status every year. These signs becoming nonconforming because of a change made by the Federal, State or local government, not because of changes made by the sign owner. . Under both Federal and State law there are limits on repairs that can be made to a nonconforming sign, if these are exceeded than the sign becomes illegal and DOT can remove the sign without paying just compensation. **Interesting fact is that almost half of all billboards in Wisconsin are deemed nonconforming by WisDOT, which means that repairs are very limited on these signs.**

AB 595 would clarify for both DOT and the sign owners what types or repairs can and cannot be done. This would allow sign owners to make repairs without fear that DOT will decide that the repairs they have made are illegal and will cause removal of their sign. The bill also adds language to allow sign owners 60 days to "cure" a change to a sign that the DOT has deemed illegal so that it can return to its nonconforming status rather than be torn down immediately. This legislation would help avoid litigation saving both DOT and sign owners money by clearly defining the repairs in statute.

Thank you for your time today, I am happy to answer any questions at this time.



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To: The Assembly Committee on Transportation
From: Sen. Dan Feyen
Re: Assembly Bill 595

Mr. Chairman, members of the committee, thank you for holding this hearing today.

Assembly Bill 595 seeks to address the issue of outdoor advertising signs, more commonly referred to as billboards, becoming “nonconforming”, meaning that they no longer meet the legal parameters governing these signs. There is one critical distinction to make regarding these signs: they have become non-conforming because of a change by the state or federal DOT, not due to the sign’s owner’s actions. The owners of these signs did nothing to change the status of the sign.

Every year, many lawfully constructed billboards become nonconforming. Currently, almost half of all billboards in Wisconsin are deemed nonconforming by the DOT. As an example, a sign could become non-conforming if it was previously 660 feet from the highway but a lane expansion project shortened the distance between the sign and the highway. The owner has done nothing, but their property is now deemed illegal and their business is at risk of losing an income-producing asset.

Under state law, there are limits on the extent of repairs that can be made to a nonconforming sign. If the sign owner exceeds those limits, the sign becomes illegal and the DOT can remove the sign without paying just compensation to the sign owner. The potential loss of property without compensation is a huge concern to sign owners. Almost half of all billboards in Wisconsin are deemed nonconforming by Wisconsin DOT which means that repairs are limited on all of these signs.

This bill is a common-sense statutory change to ensure Wisconsinites who have made a business of outdoor advertising are not arbitrarily losing their businesses’ assets through no fault of their own. It would improve the regulation of outdoor advertising signs in the following ways:

1. Indicates to both DOT and sign owners that nonconforming signs are not subject to removal for changing the advertising message and performing customary maintenance
2. Defines customary maintenance
3. Provides economic certainty to sign owners so that they can make repairs to their signs without fear that DOT will determine that the repair work is illegal and remove the sign without compensating them
4. Avoids litigation, saving both the State of Wisconsin and sign owners money
5. Increases sign repairs, which would improve the condition of existing signs and enhance the experience of the advertising viewers

Thank you for your time today. I welcome any questions you may have.



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DATE: December 5, 2017

TO: Members of Assembly Transportation Committee
Representative Keith Ripp, Chairman

FROM: Kathi Kilgore, Executive Director and Lobbyist

RE: **AB 595 and SB 495 Relating to the Repair and Maintenance of Nonconforming Signs**

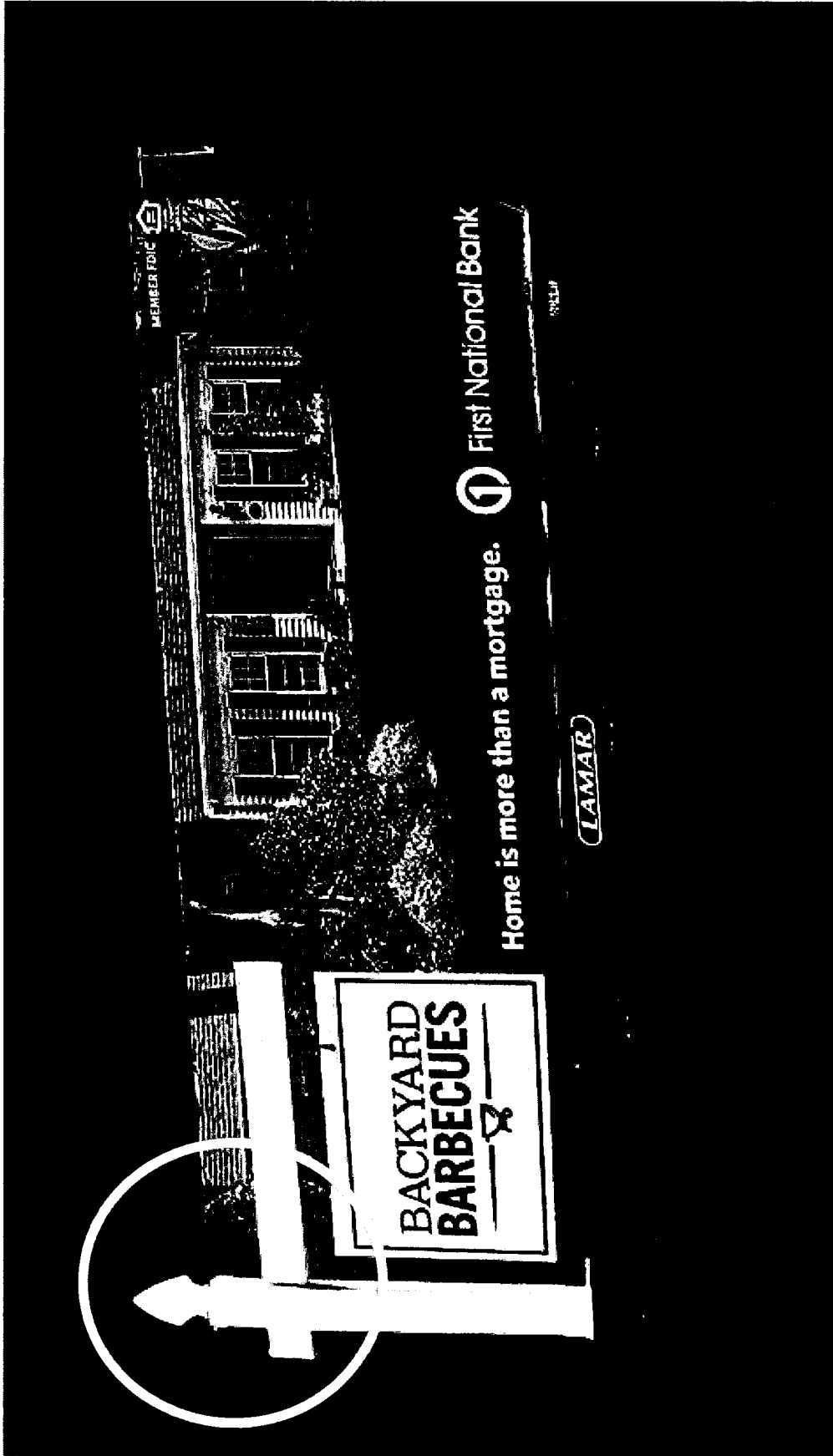
This issue is extremely important to Outdoor Advertising Association of Wisconsin (OAAW) because:

1. More than half of all billboards in Wisconsin are nonconforming, not because of a change made by the sign owner, but changes made by the State or local government.
2. These nonconforming signs are not all old, wooden structures. Fewer than 2% of all the billboards in Wisconsin along Wisconsin highways today existed when the Federal Highway Beautification Act (HBA) was implemented in 1972.
3. Changes to nonconforming signs can result in the Department of Transportation (DOT) determining that the sign is illegal and, therefore, must be removed without compensation.
4. The current statutes relating to nonconforming signs have not been changed since 1972 and, because they are so vague, DOT and sign companies end up litigating what can be done to a nonconforming sign.

AB 595 and SB 495 would address the repair and maintenance of outdoor advertising signs as follows:

1. For the first time, define terms used in the HBA and the Federal Highway Administration (FHWA) Guidelines to the States. The definition for "customary maintenance" will clarify what repairs can and cannot be made to a nonconforming sign. The definition of "substantial change" will clarify when a sign has been changed significantly enough that it becomes illegal and must be removed without compensation.
2. Clarify when a nonconforming sign is "destroyed" and, therefore, is illegal and must be removed without compensation. The definition of "destroyed" in the legislation comes from guidelines provided by the FHWA in 2009. The definition of "destroyed" is based on a percentage of damage to a sign structure's uprights.
3. Clarify that extensions can be temporarily added to a nonconforming sign as a copy change and the extension is not a substantial change if it meets certain size and timeframe requirements. The language in the bill is based on an existing Missouri law that has been in effect since 2009.
4. Add a definition of "substantially the same" which has been widely disputed in litigation between the DOT and sign owners for decades.
5. Maintain current law regarding signs damaged or destroyed by criminal or tortious acts. This language is recommended by FHWA and currently exists in administrative rule.
6. Add language to allow sign owners 60 days to "cure" a change to a nonconforming sign that the DOT maintains is illegal.
7. Require the DOT to notify sign owners when a sign's status has been changed to nonconforming.

These changes would reduce the administrative burden for the DOT and would clarify what repairs can be made to signs assuring that the signs along our highways are in good repair. The members of the OAAW urge you to recommend passage of AB 595 and SB 495. Thank you for your time today and your consideration.



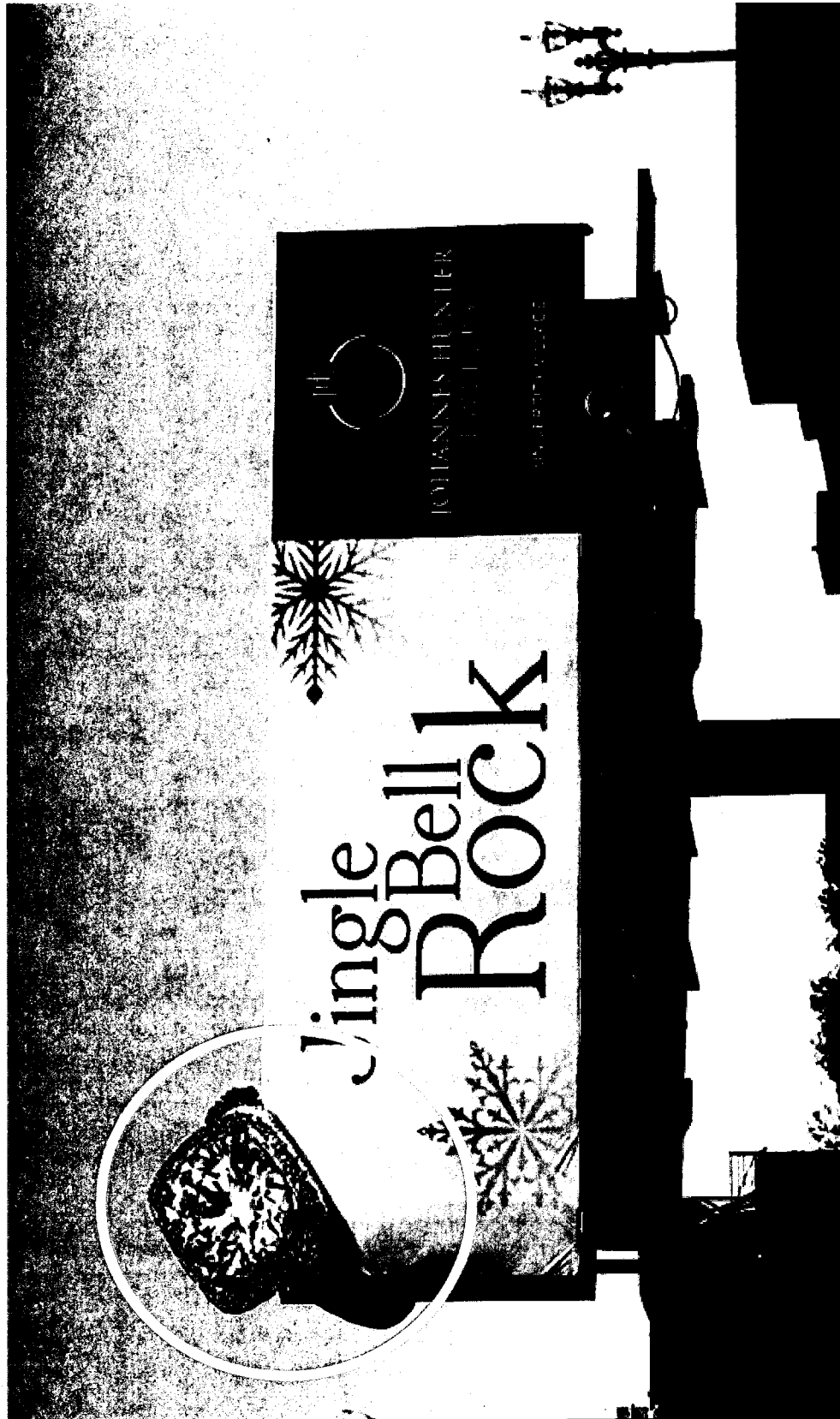
Extensions or Bump Outs



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