

SESSION OF 2006

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 253**

As Amended by House Committee of the Whole

**Brief\***

Sub. for SB 253 pertains to the Highway Advertising Control Act and to the restriction of the location of sexually-oriented signs.

**Highway Advertizing Control Act**

This part of the bill would revamp the old law and update various provision of the Act. The principal provisions of the bill would impose various fees on sign owners by:

- Requiring sign owners to pay an application fee ranging from \$5 to \$250;
- Requiring sign owners to pay a fee per sign structure of \$20 for a sign up to 32 square feet; \$75 for a sign 33 square feet to 300 square feet and \$150 for signs 301 square feet or larger.
- Phasing in these new fees over a two year period; and
- Providing that sign owners in the Kansas Department of Transportation's inventory prior to December 31, 2006 pay 50 percent of the new fee in 2007, and the remaining 50 percent of the fee in 2008 and provide that thereafter the full rate go in effect.

Other provisions would:

- Allow for automatic changeable facing signs as allowed in other states;
- Clarify the definition of an "unzoned commercial or industrial area";
- Provide sign owners the right to appeal agency decisions when

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

they believed they are aggrieved;

- Require the Secretary of Transportation to adopt rules and regulations or internal policies the Secretary would deem necessary to regulate the use of new technology in outdoor advertising; and
- Require the Secretary to compile and maintain a current listing of all signs that are available to promote tourism or economic development.

### **Restriction of the Location of Sexually Oriented Signs**

This part of the bill would regulate signage for sexually-oriented businesses and adult cabarets. The bill defines the terms adult cabaret, nudity, state of nudity, semi-nudity, sexually-oriented business, sexually-oriented materials, and sign or outdoor advertising. Specifically, the bill would:

- Prohibit signs or outdoor advertising for adult cabaret or sexually-oriented businesses from being located within one mile of any state highway;
- Provide that if the business is located within one mile of a state highway, the business could display a maximum of two exterior signs, one identifying the business and the other stating that the business is off limits to minors;
- Stipulate that the identification sign could be no larger than 40 square feet in size and could include only the name, street address, telephone number, and operating hours of the business;
- Provide that if a non-conforming sign exists on the effective date of the act, it would be allowed to continue in existence until July 1, 2009;
- Provide that any owner of a business whose signs are regulated—and who violates the provisions of the bill would be guilty of a class C misdemeanor, and each week that the owner remained in violation would be a separate offense;
- Provide that the provisions of the bill are intended to mitigate adverse secondary effects of sexually-oriented businesses, improve traffic safety, limit harm to minors, and reduce

prostitution, crime, juvenile delinquency, deterioration in property values, and lethargy in neighborhood improvement project efforts; and

- Authorize the Attorney General to represent the state in all actions and proceedings that arise from passage of this bill, and provide that all costs of defending or prosecuting these actions and proceedings would be paid for from the State General Fund.

## **Background**

The Chief Counsel from the Kansas Department of Transportation explained the major provisions of the original and substitute bill, noting that the agency had worked with sign-owners and other interest parties to craft an acceptable bill. She suggested a substitute bill to accommodate the concerns of sign-owners and the League of Kansas Municipalities and some Committee members' suggestions.

The Senate Committee of the Whole amended the provisions of SB 519 into this bill. SB 519 would restrict the location of sexually-oriented signs.

The original fiscal note prepared by the Director of the Budget indicates that the Kansas Department of Transportation estimates the bill would generate an additional \$125,150 in revenue from the sale of renewal permits in FY 2006. KDOT also estimates that after June 30, 2007, when all permits issued would be subject to the full fee, \$245,000 would be generated by the proposed fee structure. The agency indicates that the bill would not have a fiscal effect on expenditures, as the agency is already required to monitor outdoor advertizing along state highways.

The fiscal note prepared on SB 519 would have no direct fiscal effect on the state budget. It could, however, have the effect of reducing revenues for adult cabaret and sexually oriented businesses, since not allowing these businesses to post explicit advertising on state highways could reduce the number of customers. This decrease in business revenues could, in turn, lower state tax revenues. Any fiscal effect that might result from passage of this bill would be separate from any amounts included in *The FY 2007 Governor's Budget Report*.