HLS 19RS-654 ORIGINAL

2019 Regular Session

1

HOUSE CONCURRENT RESOLUTION NO. 4

BY REPRESENTATIVE MCFARLAND

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TRANSPORTATION DEPT: Amends the Department of Transportation and Development administrative rules relative to outdoor advertising

A CONCURRENT RESOLUTION

## 2 To amend the Department of Transportation and Development rules LAC 70:III.127, 3 132(C), 134, and 149 and to enact LAC 70:III.126, 132(D), and 137(A)(9), which 4 provides for requirements for control of outdoor advertising; to modify the 5 requirements of off-premise changeable message signs; to change the spacing requirement of outdoor advertising signs; to provide for a moratorium on the 6 7 issuance of permits for off-premise advertising billboards; to modify the 8 requirements of nonconforming signs; to provide for permit fees for outdoor 9 advertising; to direct the office of the state register to print the amendments in the 10 Louisiana Administrative Code; and to provide for related matters; and. 11 WHEREAS, in 1965, the Federal Highway Beautification Act was enacted to 12 empower states to regulate billboards for the purpose of promoting public safety and 13 preserving the natural and scenic beauty of the nation's system of highways; and 14 WHEREAS, in 1966, Constitutional Ancillary Article VI, Section 19.3 was adopted 15 for the purpose of empowering the Department of Highways to promote the safety and 16 recreational value of public travel and restore, preserve, and enhance the scenic beauty and 17 points of interest in areas traversed by state highways, granting the Department of Highways 18 the authority to control the erection and maintenance of outdoor advertising signs along state 19 highways; and

1	WHEREAS, in 1966, the Louisiana Legislature, in response to the Highway
2	Beautification Act of 1965, P.L. 89-285, enacted provisions for control of outdoor
3	advertising within 660 feet of the right-of-way to ensure the state would not lose ten percent
4	of federal-aid highway funding; and
5	WHEREAS, by enactment of R.S. 48:461 et seq., the Louisiana Legislature
6	authorized the Department of Transportation and Development to promulgate rules and
7	regulations governing the issuance of permits for outdoor advertising consistent with the
8	Highway Beautification Act and consistent with protection of the safety and welfare of the
9	traveling public; and
10	WHEREAS, distracted driving is defined as any activity that could divert a person's
11	attention away from the primary task of driving, specifying that the three types of
12	distractions are visual, manual, and cognitive; and
13	WHEREAS, the Louisiana Highway Safety Commission data for 2018 demonstrates
14	that most wrecks caused by distracted driving are because of "distractions outside of the
15	vehicle" equating to 7,000 wrecks in 2018; and
16	WHEREAS, data from the Louisiana Highway Safety Commission and the
17	Department of Transportation and Development show a strong, positive correlation between
18	the volume of "wrecks caused by distractions outside the vehicle" and parishes with high
19	volume of permitted off-premise outdoor advertising signs; and
20	WHEREAS, the Louisiana State Police, Louisiana Highway Safety Commission, and
21	Louisiana Department of Transportation and Development are partners in a statewide
22	campaign entitled "Destination Zero Deaths" to pursue policies that "eliminate traffic related
23	deaths and serious injuries" on state highways.
24	WHEREAS, existing Department of Transportation and Development regulations
25	restricting outdoor advertising should be modified to better promote safety and preserve the
26	natural beauty of Louisiana; and
27	WHEREAS, R.S. 49:969 provides that "the legislature, by Concurrent Resolution,
28	may suspend, amend, or repeal any rule or regulation or body of rules or regulations adopted
29	by a state department, agency, board, or commission".

1	THEREFORE, BE IT RESOLVED by the Legislature of Louisiana that LAC
2	70:III.127, 132(C), 134, and 149 are hereby amended and LAC 70:III.126, 132(D), and
3	137(A)(9) are hereby enacted to read as follows:
4	§126. Suspension of permits
5	There is hereby placed a moratorium on the issuance of all new permits for
6	off-premise controlled outdoor advertising. A permit shall not be renewed if it
7	expires or if the annual renewal fee is not received by the department by July 1st.
8	Except for the movement of a sign to comply with Section 134.C.1, no request or
9	petition for a reset shall be granted by the department.
10	§127. Definitions
11	* * *
12	Commercial Advertising Sign—any off-premise display advertising a
13	business that owns or operates a facility within a three-mile radius of the display and
14	meets the structures and grounds criteria provided in Section 136.B.3.
15	* * *
16	§132. Off-Premise Changeable Message Signs
17	* * *
18	C. No existing off-premise outdoor advertising structure shall be retrofitted
19	or converted to an off-premise changeable message sign.
20	$\underbrace{\text{CD}}$ . This rule is not applicable to on-premise outdoor advertising signs.
21	* * *
22	§134. Spacing of Signs
23	A. Interstate, Federal-Aid Primary Highways, and National Highway System
24	signs shall be located in such a way as to meet the requirements of commercial
25	advertising signs.
26	AB. Interstate, Federal-Aid Primary Highways and National Highway
27	System signs may not be located in such a manner as to obscure or otherwise
28	physically interfere with the effectiveness of an official traffic sign, signal or device,

1	or obstruct or physically interfere with the driver's view of approaching, merging or
2	intersecting traffic.
3	BC. Interstate Highways and Freeways on the Federal-Aid Primary System
4	and National Highway System (Control of Access Routes)
5	1. No two structures shall be spaced less than $\frac{1000}{2000}$ feet apart.
6	2. Outside of incorporated villages, towns and cities, no structure may be
7	located adjacent to or within 500 feet of an interchange, intersection at grade, or
8	safety rest area.
9	ED. Freeways on the Federal-Aid Primary System or National Highway
10	System (Control of Access Routes)
11	1. Outside of incorporated villages, towns and cities, no two structures shall
12	be spaced less than 500 feet apart.
13	2. Outside of incorporated villages, towns and cities, no structure may be
14	located adjacent to or within 500 feet of an interchange, intersection, intersection at
15	grade or safety rest area.
16	ĐE. Non-Freeway Federal-Aid Primary highways or National Highway
17	System
18	1. Outside of incorporated villages, towns and cities, no two structures shall
19	be spaced less than 300 feet apart.
20	2. Within incorporated villages, towns and cities, no two structures shall be
21	less than 100 feet apart.
22	$\overline{EF}$ . The above provisions applying to the spacing between structures do not
23	apply to structures separated by buildings or other obstructions in such a manner that
24	only one sign facing located within the above spacing distance is visible from the
25	highway at any one time. This exception does not apply to vegetation nor does it
26	apply to Subsection A of this Section.
27	FG. Official and "on-premise" signs, as defined in §139, and structures that
28	are not lawfully maintained shall not be counted nor shall measurements be made
29	from them for purposes of determining compliance with spacing requirements.

1	* * *
2	§137. Nonconforming Signs
3	A.
4	* * *
5	9. Beginning July 1, 2020, an off-premise outdoor advertising display shall
6	be considered nonconforming if advertisements appear on more than one single side
7	of the structure and the single side of the structure containing the advertisement is
8	not facing the main-traveled way.
9	* * *
10	§149. Permit Fee
11	A. The following permit fee schedule is applicable to new and replacement
12	outdoor advertising signs beginning on the effective date of this rule change:
13	a. one to 100 square feet—\$75150 annual permit fee (per sign face) for a 12
14	month period until installation. Annual renewal fee after erection is \$7.50 (per sign
15	<del>face);</del> .
16	b. 101 to 300 square feet—\$\frac{125}{250} \text{ annual permit fee} (per sign face) for a
17	12 month period until installation. Annual renewal fee after erection is 12.50 (per
18	sign face);.
19	c. 301 square feet and up—\$\frac{250}{500} annual permit fee (per sign face) for a
20	12 month period until installation. Annual renewal fee after erection is \$25 (per sign
21	<del>face)</del> .
22	B. Annual Renewal Permit Fees Due Dates and Extensions
23	1. Annual renewal permit fees are due by July 1 of each year. The
24	department shall provide notice of the amount due for each permit no later than April
25	30 of each year.
26	2. A permit shall expire and the sign structure will become illegal if the
27	annual renewal permit fees are not paid by July 311 of each year. This applies to all
28	permits, including but not limited to legal, nonconforming and grandfathered signs.

1 3. No extensions Extensions may be granted for 30 days provided that a 2 request is made prior to July 1. 3 4 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the 5 office of the state register. 6 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the 7 secretary of the Department of Transportation and Development. 8 BE IT FURTHER RESOLVED that the office of the state register is hereby directed 9 to have the amendments to LAC 70:III.127, 132(C), 134, and 149 and the enactment of LAC 10 70:III.126, 132(D), and 137(A)(9) printed and incorporated into the Louisiana 11 Administrative Code.

## **DIGEST**

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HCR 4 Original

2019 Regular Session

McFarland

<u>Proposed LAC</u> 70:III.126 places a moratorium on the issuance of all new permits for off-premise controlled outdoor advertising and prohibits the renewal of a permit if the permit expires or if the annual renewal fee is not received by the department by Jul. 1<sup>st</sup>. Further provides that no request or petition for reset will be granted by the department except for the movement of a sign to comply with <u>present LAC</u>.

<u>Present LAC</u> 70:III.127 provides for definitions relative to regulations for control of outdoor advertising.

<u>Proposed LAC</u> 70:III.127 adds the definition of "commercial advertising sign" and defines it as any off-premise display advertising a business that owns or operates a facility within a 3 mile radius of the display and meets the structures and grounds criteria provided in present LAC.

<u>Present LAC</u> 70:III.132 provides for the definition of and qualifying criteria for off-premise changeable message signs.

<u>Proposed LAC</u> 70:III.132 retains present LAC and specifies that no existing off-premise outdoor advertising structure may be retrofitted or converted to an off-premise changeable sign.

<u>Present LAC</u> 70:III.134 in pertinent part, specifies that no two structures can be spaced less than 1000 feet apart on the interstate highways and freeways on the federal-aid primary system and national highway system.

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<u>Proposed LAC</u> 70:III.134 increases the space permitted between two structures on the interstate highways and freeways on the federal-aid primary system and national highway system <u>from</u> 1000 feet <u>to</u> 2000 feet and otherwise retains <u>present LAC</u>.

<u>Present LAC</u> 70:III.134 specifies that the provisions applying to the spacing between structures do not apply to structures separated by buildings or other obstructions in such a manner that only one sign facing located within the permitted spacing distance is visible from the highway at any one time and specifies that the exception does not apply to vegetation.

<u>Proposed LAC</u> 70:III.134 retains <u>present LAC</u> and adds that the exception does not apply to <u>proposed LAC</u>, which requires interstate, federal-aid primary highways, and national highway system signs be located to meet the requirements of commercial advertising.

<u>Present LAC</u> 70:III.137 provides the conditions and requirements that apply to continue and maintain a nonconforming sign.

<u>Proposed LAC</u> 70:III.137 retains <u>present LAC</u> and adds that an off-premise outdoor advertising display will be considered nonconforming if advertisements appear on more than one single side of the structure and the single side of the structure with the advertisement is not facing the main-traveled way.

<u>Present LAC</u> 70:III.149 provides that the following fee schedule is applicable to outdoor advertising signs, beginning on the effective date of the rule change:

- 1 to 100 square feet \$75 per sign face for a 12 month period until installation. Annual renewal fee after erection is \$7.50 per sign face.
- (2) 101-300 square feet \$125 per sign face for a 12 month period until installation. Annual renewal fee after erection is \$12.50 per sign face.
- (3) 301 square feet and up \$250 per sign face for a 12 month period until installation. Annual renewal fee after erection is \$25 per sign face.

<u>Proposed LAC</u> 70:III.149 removes the 12 month period prior to installation and the annual renewal fee after erection and provides for an annual permit fee applicable to outdoor advertising signs, beginning on the effective date of the rule change, as follows:

- (1) 1 to 100 square feet <u>from</u> \$75 <u>to</u> \$150.
- (2) 101-300 square feet <u>from</u> \$125 <u>to</u> \$250.
- (3) 301 square feet and up from \$250 to \$500.

<u>Present LAC</u> 70:III.149 provides for annual renewal due dates and extensions and requires that the department provide notice of the amount due for each permit no later than Apr. 30th of each year.

<u>Proposed LAC</u> 70:III.149 changes annual renewal due dates and extensions to annual permit fees due dates and extensions and deletes the provision requiring the department to provide notice of the amount due for each permit no later than Apr. 30th of each year.

<u>Present LAC</u> 70:III.149 specifies that a permit will expire and the sign structure will become illegal if the annual renewal fees are not paid by Jul. 31st of each year. Provides that extensions may be granted for 30 days provided that a request is made prior to Jul. 1st.

<u>Proposed LAC</u> 70:III.149 provides that a permit will expire and the sign structure will become illegal if the annual permit fees are not paid by Jul. 1st of each year. Specifies that no extensions will be granted.

Requires that a copy of this Resolution be transmitted to the office of the state register and the secretary of the Dept. of Transportation and Development.

Directs the office of the state register to print and incorporate the amendments to LAC 70:III.127, 132(C), 134, and 149 and the enactment of LAC 70:III.126, 132(D), and 137(A)(9) into the La. Administrative Code.

(Amends LAC 70:III.127, 132(C), 134, and 149; Adds LAC 70:III.126, 132(D), and 137(A)(9))