



Testimony of the Outdoor Advertising Association of Ohio (OAAO)

Regarding HB 62

Presented by:

Kevin L. Futryk, Executive Director

Chairman Oelslager, Vice Chairman Scherer, Ranking Member Cera, and members of the House Finance Committee, my name is Kevin Futryk, I am with Government Advantage Group, and I appear before you today on behalf of our client, the Outdoor Advertising Association of Ohio (OAAO), for whom I also serve as the Executive Director. I am here today to discuss some concerns that the Outdoor Advertising Association of Ohio (OAAO) has with Sections 163.31 and 5516.05 of HB 62. Although I will go into greater detail shortly, we believe the few word changes that are being proposed by ODOT in both sections have a significant impact on our industry. Normally, such changes would have been discussed with our association in advance so any concerns could be addressed, something unfortunately that has not happened here, and something we're not sure there's time to do because of the abbreviated schedule the transportation budget is under. We are therefore respectfully requesting these two provisions be removed from HB 62 to give us time to discuss them further with ODOT.

The OAAO is the trade association representing 21 outdoor advertising companies (i.e., billboard companies) across the state. Our members include large national companies, as well as a number of independent, family run companies. Our membership also includes vendors who supply the steel structures, sign faces, energy efficient lighting, advertising copy, and digital billboards our members utilize. We are an \$85 million industry that provides advertising opportunities for numerous small businesses and attractions across the state, as well as national chains, and various charitable organizations. The State of Ohio, through various Public Service Campaigns, has benefited from our members providing billboards free of charge.

On October 22, 1965 the Highway Beautification Act was signed into law by President Lyndon B. Johnson. It controlled billboards on interstate and federal-aid primary highways by limiting billboards to commercial and industrial areas and by requiring states to set size, lighting and spacing standards and requiring just compensation for removal of lawfully erected signs.

The HBA also authorized the federal government to enter into "agreements" with individual states where the states would adopt standards and regulations to maintain "effective control" of outdoor advertising within their boundaries. Ohio entered into their agreement in 1968, and then adopted regulations in 1972. Since that time, outdoor advertising in Ohio has been regulated by ODOT's Division of Advertising Device Control. ADC is funded through biennial permit fees billboard companies pay depending on the type and size of billboards within their inventory. There are also provisions for permit fees for new billboards erected, modifications of existing billboards, and vegetation maintenance around displays. These fees generate about \$1.1 million each biennium that support the staff and operations of ADC.

In my 18 years representing the OAAO, we have always advocated for a strong program in Ohio, which our members feel benefit the industry by discouraging illegal advertising devices, requiring sign owners to maintain their structures in good condition, and adopt the latest trends in ad copy design, energy efficient lighting, and digital technology.

Again, I appear before you today to discuss two specific sections of HB 62 that are of great concern to our members, specifically Section 163.31, particularly lines 60-62, and Section 5516.05, particularly lines 1110 – 1111. As I noted earlier, these sections have not been discussed with the OAAO by ODOT prior to HB 62's introduction. Please allow me to elaborate on our concerns.

ORC 163.31 deals with several definitional items that are part of Ohio's efforts to adopt "effective control standards" under our State-Federal Agreement. In Section (D), the term "Maintain" is defined as:

"to preserve, keep in repair, continue, allow to exist, or restore if destroyed by *an act of God* (emphasis added) or vandalism".

This provision was adopted in 1981 to deal with "non-conforming" signs, essentially signs that existed prior to 1965 (grandfathered signs) that are damaged or destroyed by an "act of God" such as tornadoes, wind storms, or lightening strikes. While this provision is used infrequently, as you can imagine in open rural areas, farm fields, and high wind areas up north and along the lake, damage occurs to sign faces more frequently. That being said, in 2012, Central Ohio experienced a "high wind shear event", described as wind bursts in excess of 80 mph, which twisted a metal pole structures sign face on SR 315 across from Riverside Hospital, twisting the sign head and damaging it beyond repair. The act of God provision allowed the sign company to replace this structure and continue providing advertising to the hospital across the roadway.

We understand this provision, and several others in Ohio's regulations (e.g. signage at sports stadiums – OAC 5501:2-2-10) has been cited for many years in FHWA Audits of Ohio's program as being "non-conforming" to federal regulations. However, in all of these years ODOT has never pursued removing this provision because it allows legally permitted signs, in good condition, to be repaired or restored because of these "acts of God". Furthermore, we believe that the intent of the original HBA language was to prevent abandoned or signs in serious states of disrepair from being resurrected because they fell over due to lack of maintenance. It is our opinion that Ohio's present statute is consistent with the spirit, intent, and letter of the HBA.

Our second issue is with 5516.05. We are not sure what ODOT is attempting to accomplish with the change in 5516.05. Under current law, ODOT's jurisdiction over outdoor advertising is limited to those routes they control that lay within the Federal Aid Primary (FAP) or National Highway System (NHS). Signs along roadways not included in the FAP or NHS are controlled by local sign codes and/or zoning restrictions.

Ohio also maintains Scenic Byways that are designated as such by the Director after review and approval by the Scenic Byways Advisory Committee. Here too, ODOT only maintains control over those Scenic Byways that reside on FAP or NHS routes. In total, there are 27 Scenic Byways in Ohio, of which almost 1,600 miles of **are not** on FAP/NHS routes. We're not sure if the intent of this language change is to give more control to the Director to regulate billboards along these routes, but there currently exists a process for an application, review by the SBAC, review by ADC, and approval by the Director for billboards looking to locate along Scenic Byways. Additionally, our displays are only allowed in zoned and un-zoned commercial and industrial areas along Scenic Byways under existing regulations. Currently there are many billboards along Ohio's Scenic Byways, most of which have been there for decades, and are

used to advertise local businesses, attractions, and events on or near the Scenic Byway. Again, billboards are a vital part of the travel, tourism, and promotion of businesses and activities in the areas where they are located. It is not clear to us what the intent of this revision in 5516.05 is, nor how it impacts outdoor advertising along these Scenic Byways.

Mr. Chairman and members of the committee, it is for these reasons that we are respectfully requesting that these two provisions be removed from HB 62 to give our association time to sit down and discuss these issues further with ODOT. Again, our goal is to have a strong and robust program in Ohio, something that as recent as 10 years ago was held up as a model program for other states. We understand ODOT's concern relative to the federal audit, but it seems unfair to single out only one provision they cited Ohio as deficient on, a provision that is important to Ohio's advertising industry, and has been a part of our regulations for 38 years. We ask that both of these provisions be removed until we have the opportunity to discuss both in further detail with the department. We understand too that ODOT is concerned that the FHWA may "sanction" ODOT 10% of their federal funds for "non-compliance", but we're only aware of 1 state in recent times that received such a letter from the FHWA, but their non-compliance was for something much more egregious than an act of God provision.

Mr. Chairman and members of the committee, Thank you for the opportunity to present testimony before you today, and I am happy to answer any questions you may have.