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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.)*

CHAPTER 2. Advertisers [5200 - 5486] (*Chapter 2 repealed and added by Stats. 1970, Ch. 991.)*

ARTICLE 1. General Provisions [5200 - 5231] (*Article 1 added by Stats. 1970, Ch. 991.)*

5200. This chapter of the Business and Professions Code constitutes the chapter on advertisers. It may be cited as the Outdoor Advertising Act.

(*Repealed and added by Stats. 1970, Ch. 991.*)

5201. Unless the context otherwise requires, the general provisions set forth in this article govern the construction of this chapter.

(*Repealed and added by Stats. 1970, Ch. 991.*)

5202. "Advertising display" refers to advertising structures and to signs.

(*Repealed and added by Stats. 1970, Ch. 991.*)

5203. "Advertising structure" means a structure of any kind or character erected, used, or maintained for outdoor advertising purposes, upon which any poster, bill, printing, painting or other advertisement of any kind whatsoever may be placed, including statuary, for advertising purposes.

"Advertising structure" does not include:

- (a) Official notices issued by any court or public body or officer;
- (b) Notices posted by any public officer in performance of a public duty or by any person in giving legal notice;
- (c) Directional, warning or information structures required by or authorized by law or by federal, state or county authority.
- (d) A structure erected near a city or county boundary, which contains the name of such city or county and the names of, or any other information regarding, civic, fraternal or religious organizations located therein.

(*Amended by Stats. 1993, Ch. 991, Sec. 1. Effective January 1, 1994.*)

5204. "Bonus segment" means any segment of an interstate highway which was covered by the Federal Aid Highway Act of 1958 and the Collier-Z'berg Act, namely, any such segment which is constructed upon right-of-way, the entire width of which was acquired subsequent to July 1, 1956.

(*Repealed and added by Stats. 1970, Ch. 991.*)

5205. "Business area" means an area within 1,000 feet, measured in each direction, from the nearest edge of a commercial or industrial building or activity and which is zoned under authority of state law primarily to permit industrial or commercial activities or an unzoned commercial or industrial area.

(*Repealed and added by Stats. 1970, Ch. 991.*)

5206. "Centerline of the highway" means a line equidistant from the edges of the median separating the main traveled way of a divided highway, or the centerline of the main traveled way of a nondivided highway.

(*Repealed and added by Stats. 1970, Ch. 991.*)

5208. "Collier-Z'berg Act" refers to Chapter 128, Statutes of 1964 (First Extraordinary Session).

(Repealed and added by Stats. 1970, Ch. 991.)

5208.6. "Department" means the Department of Transportation.

(Added by Stats. 1992, Ch. 649, Sec. 1. Effective January 1, 1993.)

5209. "Director" refers to the Director of Transportation of the State of California.

(Amended by Stats. 1977, Ch. 579.)

5210. "Federal Aid Highway Act of 1958" refers to Section 131 of Title 23 of the United States Code, as in effect before October 22, 1965.

(Repealed and added by Stats. 1970, Ch. 991.)

5211. "Flashing" is a light or message that changes more than once every four seconds.

(Added by Stats. 2000, Ch. 787, Sec. 1. Effective January 1, 2001.)

5212. "Freeway," for the purposes of this chapter only, means a divided arterial highway for through traffic with full control of access and with grade separations at intersections.

(Repealed and added by Stats. 1970, Ch. 991.)

5213. "Highway" includes roads, streets, boulevards, lanes, courts, places, commons, trails, ways or other rights-of-way or easements used for or laid out and intended for the public passage of vehicles or of vehicles and persons.

(Repealed and added by Stats. 1970, Ch. 991.)

5214. "Highway Beautification Act of 1965" refers to Section 131 of Title 23 of the United States Code, as in effect October 22, 1965.

(Repealed and added by Stats. 1970, Ch. 991.)

5215. "Interstate highway" means any highway at any time officially designated as a part of the national system of interstate and defense highways by the director and approved by appropriate authority of the federal government.

(Repealed and added by Stats. 1970, Ch. 991.)

5216. (a) "Landscaped freeway" means a section or sections of a freeway that is now, or hereafter may be, improved by the planting at least on one side or on the median of the freeway right-of-way of lawns, trees, shrubs, flowers, or other ornamental vegetation requiring reasonable maintenance.

(b) Planting for the purpose of soil erosion control; traffic safety requirements, including light screening; reduction of fire hazards; covering soundwalls or fences; or traffic noise abatement shall not change the character of a freeway to a landscaped freeway.

(c) Notwithstanding subdivision (a), if an agreement to relocate advertising displays from within one area of a city or county to an area adjacent to a freeway right-of-way has been entered into between a city or county and the owner of an advertising display, then a "landscaped freeway" shall not include the median of a freeway right-of-way.

(Amended by Stats. 2018, Ch. 926, Sec. 1. (AB 3168) Effective January 1, 2019.)

5216.1. "Lawfully erected" means, in reference to advertising displays, advertising displays which were erected in compliance with state laws and local ordinances in effect at the time of their erection or which were subsequently brought into full compliance with state laws and local ordinances, except that the term does not apply to any advertising display whose use is modified after erection in a manner which causes it to become illegal. There shall be a rebuttable presumption pursuant to Section 606 of the Evidence Code that an advertising display is lawfully erected if it has been in existence for a period of five years or longer without the owner having received written notice during that period from a governmental entity stating that the display was not lawfully erected.

(Added by Stats. 1983, Ch. 653, Sec. 2.)

5216.3. "Main-traveled way" is the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. Main-traveled way does not include facilities such as frontage roads, ramps, auxiliary lanes, parking areas, or shoulders.

(Added by renumbering Section 5216.2 by Stats. 2000, Ch. 787, Sec. 2. Effective January 1, 2001.)

5216.4. "Message center" is an advertising display where the message is changed more than once every two minutes, but no more than once every four seconds.

(Added by Stats. 2000, Ch. 787, Sec. 5. Effective January 1, 2001.)

5216.5. "Nonconforming advertising display" is an advertising display that was lawfully placed, but that does not conform to the provisions of this chapter, or the administrative regulations adopted pursuant to this chapter, that were enacted subsequent to the date of placing.

(Added by renumbering Section 5216.3 by Stats. 2000, Ch. 787, Sec. 3. Effective January 1, 2001.)

5216.6. (a) "Officially designated scenic highway or scenic byway" is any state highway that has been officially designated and maintained as a state scenic highway pursuant to Sections 260, 261, 262, and 262.5 of the Streets and Highways Code or that has been officially designated a scenic byway as referred to in Section 131(s) of Title 23 of the United States Code.

(b) "Officially designated scenic highway or scenic byway" does not include routes listed as part of the State Scenic Highway system, Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, unless those routes, or segments of those routes, have been designated as officially designated state scenic highways.

(Amended by Stats. 2008, Ch. 179, Sec. 11. Effective January 1, 2009.)

5218. "Penalty segment" means any segment of a highway located in this state which was not covered by the Federal Aid Highway Act of 1958 and the Collier-Z'berg Act but which is covered by the Highway Beautification Act of 1965, namely, any segment of an interstate highway which is constructed upon right-of-way, any part of the width of which was acquired prior to July 1, 1956, and any segment of a primary highway.

(Repealed and added by Stats. 1970, Ch. 991.)

5219. "Person" includes natural person, firm, cooperative, partnership, association, limited liability company, and corporation.

(Amended by Stats. 1994, Ch. 1010, Sec. 9. Effective January 1, 1995.)

5220. "Primary highway" means any highway, other than an interstate highway, designated as a part of the federal-aid primary system in existence on June 1, 1991, and any highway that is not in that system but which is in the National Highway System.

(Amended by Stats. 1993, Ch. 1292, Sec. 1. Effective January 1, 1994.)

5221. "Sign" refers to any card, cloth, paper, metal, painted or wooden sign of any character placed for outdoor advertising purposes on or to the ground or any tree, wall, bush, rock, fence, building, structure or thing, either privately or publicly owned, other than an advertising structure.

"Sign" does not include any of the following:

- (a) Official notices issued by any court or public body or officer.
- (b) Notices posted by any public officer in performance of a public duty or by any person in giving any legal notice.
- (c) Directional warning or information signs or structures required by or authorized by law or by federal, state or county authority.
- (d) A sign erected near a city or county boundary that contains the name of that city or county and the names of, or any other information regarding, civic, fraternal, or religious organizations located within that city or county.

(Amended by Stats. 1998, Ch. 300, Sec. 1. Effective January 1, 1999.)

5222. "660 feet from the edge of the right-of-way" means 660 feet measured from the edge of the right-of-way horizontally along a line normal or perpendicular to the centerline of the highway.

(Added by Stats. 1970, Ch. 991.)

5222.1. "State highway system" means the state highway system as described in Section 300 of the Streets and Highways Code.

(Added by Stats. 1993, Ch. 991, Sec. 6. Effective January 1, 1994.)

5223. "Unzoned commercial or industrial area" means an area not zoned under authority of state law in which the land use is characteristic of that generally permitted only in areas which are actually zoned commercial or industrial under authority of state law, embracing all of the land on which one or more commercial or industrial activities are conducted, including all land within 1,000 feet, measured in each direction, from the nearest edge of the commercial or industrial building or activity on such land. As used in this

section, "commercial or industrial activities" does not include the outdoor advertising business or the business of wayside fresh product vending.

(Added by Stats. 1970, Ch. 991.)

5224. "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(Added by Stats. 1970, Ch. 991.)

5225. The verb, "to place" and any of its variants, as applied to advertising displays, includes the maintaining and the erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving or otherwise fastening, affixing or making visible any advertising display on or to the ground or any tree, bush, rock, fence, post, wall, building, structure or thing. It does not include any of the foregoing activities when performed incident to the change of an advertising message or customary maintenance of the advertising display.

(Repealed and added by Stats. 1970, Ch. 991.)

5226. The regulation of advertising displays adjacent to any interstate highway or primary highway as provided in Section 5405 is hereby declared to be necessary to promote the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in such highways, to preserve the scenic beauty of lands bordering on such highways, and to insure that information in the specific interest of the traveling public is presented safely and effectively, recognizing that a reasonable freedom to advertise is necessary to attain such objectives. The Legislature finds:

(a) Outdoor advertising is a legitimate commercial use of property adjacent to roads and highways.

(b) Outdoor advertising is an integral part of the business and marketing function, and an established segment of the national economy, and should be allowed to exist in business areas, subject to reasonable controls in the public interest.

(Repealed and added by Stats. 1970, Ch. 991.)

5227. It is the intention of the Legislature to occupy the whole field of regulation by the provisions of this chapter except that nothing in this chapter prohibits enforcement of any or all of its provisions by persons designated so to act by appropriate ordinances duly adopted by any county of this state nor does anything prohibit the passage by any county of reasonable land use or zoning regulations affecting the placing of advertising displays in accordance with the provisions of the Planning Law, Chapter 1 (commencing with Section 65000) of Title 7 of the Government Code, relating to zoning, or, with reference to signs or structures pertaining to the business conducted or services rendered or goods produced or sold upon the property upon which such advertising signs or structures are placed, ordinances subjecting such signs or structures to building requirements.

(Repealed and added by Stats. 1970, Ch. 991.)

5228. It is declared to be the intent of the Legislature in enacting the provisions of this chapter regulating advertising displays adjacent to highways included in the national system of interstate and defense highways or the federal-aid primary highway system to establish minimum standards with respect thereto.

(Added by Stats. 1970, Ch. 991.)

5229. The provisions of this chapter shall not be construed to permit a person to place or maintain in existence on or adjacent to any street, road or highway, including any interstate or state highway, any outdoor advertising prohibited by law or by any ordinance of any city, county or city and county.

(Repealed and added by Stats. 1970, Ch. 991.)

5230. The governing body of any city, county, or city and county may enact ordinances, including, but not limited to, land use or zoning ordinances, imposing restrictions on advertising displays adjacent to any street, road, or highway equal to or greater than those imposed by this chapter, if Section 5412 is complied with. No city, county, or city and county may allow an advertising display to be placed or maintained in violation of this chapter.

(Amended by Stats. 1983, Ch. 653, Sec. 5.)

5231. The governing body of any city or city and county may enact ordinances requiring licenses or permits, or both, in addition to those imposed by this chapter, for the placing of advertising displays in view of any highway, including a highway included in the national system of interstate and defense highways or the federal-aid primary highway system, within its boundaries.

(Amended by Stats. 1983, Ch. 653, Sec. 6.)