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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 Advertisers [5200 - 5486] (*Chapter 2 repealed and added by Stats. 1970, Ch. 991.*)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 8. Landscaped Freeways [5440 - 5443.5] (*Article 8 added by Stats. 1970, Ch. 991.*)

5440. (a) Except as otherwise provided in this article, no advertising display may be placed or maintained on property adjacent to a 1,000-foot or greater section of a freeway that has been landscaped with at least an average width of 20 feet of landscaping or that includes trees, on department-owned property at the same or elevated grade of the main-traveled way if the advertising display is designed to be viewed primarily by persons traveling on the main-traveled way of the landscaped freeway.

(b) The department shall determine the average width by dividing the square footage of a landscaped area by its length.

(c) (1) All existing classifications shall remain in effect until the department receives a request for a new classification review in accordance with applicable regulations.

(2) The department may charge a fee in an amount not to exceed the reasonable costs incurred by the department in conducting a classification review and not to exceed five hundred dollars (\$500).

(d) For purposes of this section, "average width of 20 feet" means that over any 1,000-foot section freeway there averages at least 20 feet of total property contiguous to all sides of the main traveled way between the outer edge of the shoulders and the freeway right-of-way boundaries, including median plantings, that otherwise meets the definition of a landscaped freeway in Section 5216.

(Amended by Stats. 2018, Ch. 926, Sec. 2. (AB 3168) Effective January 1, 2019.)

5440.1. Except as provided in Section 5442.5, no advertising display may be placed or maintained along any highway or segment of any interstate highway or primary highway that before, on, or after the effective date of Section 131(s) of Title 23 of the United States Code is an officially designated scenic highway or scenic byway.

(Added by Stats. 1993, Ch. 991, Sec. 9. Effective January 1, 1994.)

5441. Any advertising display which is now, or hereafter becomes, in violation of Section 5440 shall be subject to removal three years from the date the freeway has been declared a landscaped freeway by the director or the director's designee and the character of the freeway has been changed from a freeway to a landscaped freeway.

(Amended by Stats. 1983, Ch. 653, Sec. 21.)

5442. Section 5440 does not apply to any advertising structure or sign if the advertising display is used exclusively for any of the following purposes:

(a) To advertise the sale or lease of the property upon which the advertising display is placed.

(b) To designate the name of the owner or occupant of the premises upon which the advertising display is placed, or to identify the premises.

(c) To advertise goods manufactured or produced, or services rendered, on the property upon which the advertising display is placed.

(Amended by Stats. 1993, Ch. 991, Sec. 10. Effective January 1, 1994.)

5442.5. Section 5440.1 does not apply to any advertising display if the advertising display is used exclusively for any of the following purposes:

(a) Directional and official signs and notices, including, but not be limited to, signs and notices pertaining to natural wonders or scenic and historical attractions that are otherwise required or authorized by law and conform to regulations adopted by the department.

(b) Signs, displays, and devices advertising the sale or lease of real property upon which they are located.

(c) Signs, displays, and devices, including, but not limited to, those that may be changed at reasonable intervals by electronic process or by remote control, advertising activities conducted on the property on which they are located.

(d) Signs lawfully in existence on October 22, 1965, as determined by the department to be landmark signs, including signs on farm structures or natural surfaces, or of historic or artistic significance the preservation of which, in the opinion of the department, would be consistent with the purposes of this section, as determined by regulations adopted by the department.

(e) Signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the interstate system or the primary system. For the purpose of this subdivision, the term "free coffee" means, coffee for which a donation may be made, but is not required.

(Added by Stats. 1993, Ch. 991, Sec. 11. Effective January 1, 1994.)

5442.7. (a) Section 5440 does not apply to any freestanding identifying structure that is used exclusively to identify development projects, business centers, or associations located within the jurisdiction of, and sponsored by, the City of Richmond to support economic development activities.

(b) A structure erected pursuant to subdivision (a) shall conform to all of the following conditions:

(1) Not more than one identifying structure may be used by the City of Richmond and only if approved by that city by ordinance or resolution after a duly noticed public hearing regarding the structure.

(2) Placement of the structure shall not require the immediate trimming, pruning, topping, or removal of existing trees to provide visibility to the structure, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the structure.

(3) The structure shall be generic only and shall not identify any specific business.

(4) No public funds may be expended to pay for the costs of the structure.

(5) The structure shall not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code.

(Added by Stats. 1995, Ch. 644, Sec. 1. Effective January 1, 1996.)

5442.8. Section 5440 does not apply to any advertising structure or sign if the advertising display is used exclusively to identify development projects, business centers, or associations located within the jurisdiction of, or sponsored by, the City of Costa Mesa to support economic development activities, if all of the following conditions are met:

(a) No other display is used by the city pursuant to this section.

(b) The governing body of the city has authorized placement of the display by an ordinance or resolution adopted following a duly noticed public hearing regarding the display.

(c) Placement of the display will not necessitate the immediate trimming, pruning, topping, or removal of existing trees in order to make the display visible or to improve its visibility, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the display.

(d) The display does not cause a reduction in federal aid highway funds, as provided in Section 131 of Title 23 of the United States Code.

(Added by Stats. 1996, Ch. 117, Sec. 2. Effective January 1, 1997.)

5442.9. (a) Notwithstanding Section 5440, a city described in subdivision (b) may erect a nonconforming display if all of the following apply:

(1) The display is placed on property that the city has owned since before January 1, 1995.

(2) Not more than one additional display is added to the number of signs within the city that do not conform to this article as of January 1, 2000.

(3) The display is located within the boundaries of the city.

(4) Placement or maintenance of the display does not require the immediate trimming, pruning, topping, or removal of existing trees to provide visibility to the display, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement or maintenance of the display.

(5) No public funds are required to be expended to pay for the costs of the display.

(6) The display does not impose additional liability on the Department of Transportation.

(7) The display does not cause a reduction in federal aid highway funds, as provided in Section 131 of Title 23 of the United States Code.

(8) All proceeds received by a participating city by allowing the erection of the nonconforming display are expended by the city solely for parks and programs for at-risk youth.

(9) The display does not advertise products or services which are directed at an adult population, including, but not limited to, alcohol, tobacco, and gambling activities.

(b) For purposes of this section, city is any city that meets all of the following conditions:

(1) The city's population is 17,000 persons or less.

(2) The city's annual budget is less than eight million dollars (\$8,000,000).

(3) The city's geographical area is less than 1.7 square miles.

(4) The city is located in an urbanized county containing a population of 6,000,000 or more persons.

(Added by Stats. 1999, Ch. 280, Sec. 3. Effective January 1, 2000.)

5442.10. (a) Notwithstanding any other provision of this chapter, Section 5440 does not apply to any advertising display if all of the following conditions are met:

(1) Not more than five advertising displays, whose placement or maintenance is otherwise prohibited under this chapter, shall be erected and only if approved by the Oakland-Alameda County Coliseum Authority.

(2) All five advertising displays shall meet the 1,200 square foot size restriction set forth in subdivision (a) of Section 5408. However, subject to subdivision (b), three of the advertising displays may be vertically oriented so long as those displays do not exceed 60 feet in height and 25 feet in length, including border and trim and excluding base or apron supports, and other structural members.

(3) The display area of each advertising display is measured by the smallest square, rectangle, circle, or combination that will encompass the display area. For purposes of this section, embellishments and secondary signs located in the border or trim around a display area advertising the name of the coliseum complex or the identities of athletic teams who are licensees or lessees of all or portions of the Oakland-Alameda County Coliseum Complex shall not cause the border or trim areas to be included in a display face for measurement purposes. In the case of an LED display advertising on-premises activities at the Oakland-Alameda County Coliseum Complex, or off-premises, noncommercial community activities, the LED portion of the display face shall not be included for measurement purposes.

(4) Placement or maintenance of each advertising display does not require the immediate trimming, pruning, topping, or removal of trees located on a state highway right-of-way to provide visibility to the advertising display, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the display.

(5) No advertising display shall advertise products or services that are directed at an adult population, including, but not limited to, alcohol, tobacco, gambling, or sexually explicit material.

(6) Each advertising display shall be located on the Oakland-Alameda County Coliseum Complex property and shall comply with the spacing requirements set forth in subdivision (d) of Section 5408, as implemented by department regulation.

(7) If any advertising display erected pursuant to this section is removed for purposes of a transportation project undertaken by the department, the display owner is entitled to relocate that display within the Oakland-Alameda County Coliseum Complex property, and is not entitled to monetary compensation for the removal or relocation even if relocation is not possible.

(8) The display shall not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code.

(b) For the specific purpose of this section and in accordance with the Memorandum for Record with the Federal Highway Administration dated January 17, 2001, upon the written request of the Oakland-Alameda County Coliseum Authority on behalf of its licensee or contractor seeking to erect one or more of the three advertising displays allowed by paragraph (2) of subdivision (a) consisting of a size not to exceed 60 feet in height and 25 feet in length, the department shall promptly request Federal Highway Administration approval of that change in orientation to ensure that the advertising displays will not cause a reduction in federal aid highway funds. Upon receipt of the approval from the Federal Highway Administration, the advertising display or displays may be erected.

(c) For the purposes of this section, the Oakland-Alameda County Coliseum Complex is the real property and improvements located at 7000 Coliseum Way, City of Oakland, and more particularly described in Parcel Map 7000, filed August 1, 1996, Map Book 223, Page 84, Alameda County Records, Assessor's Parcel Nos. 041-3901-008 and 041-3901-009.

(Added by Stats. 2001, Ch. 54, Sec. 2. Effective July 11, 2001.)

5442.11. Notwithstanding any other provision of this chapter, Section 5440 does not apply to any advertising display in the Mid-City Recovery Redevelopment Project Area within the City of Los Angeles if all of the following conditions are met:

(a) Not more than four advertising displays, whose placement or maintenance is otherwise prohibited under this chapter, may be erected if approved by the Community Redevelopment Agency of the City of Los Angeles as part of an owner-participation agreement or disposition and development agreement.

(b) All four advertising displays meet the requirements set forth in Section 5405 and 5408.

(c) Placement or maintenance of each advertising display does not require the immediate trimming, pruning, topping, or removal of trees located on a state highway right-of-way to provide visibility to the advertising display, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the display.

(d) No advertising display shall advertise products or services that are directed at an adult population, including, but not limited to, alcohol, tobacco, gambling, or sexually explicit material.

(e) If any advertising display erected pursuant to this section is removed for purposes of a transportation project undertaken by the department, the display owner is entitled to relocate that display and is not entitled to monetary compensation for the removal or relocation.

(f) The advertising display shall not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code.

(Added by Stats. 2001, Ch. 825, Sec. 2. Effective January 1, 2002.)

5442.13. (a) Notwithstanding any other provision of this chapter, Section 5440 shall not prohibit an advertising display in the City of Los Angeles by a not-for-profit educational academy that is exempt from taxation pursuant to Section 501(c)(3) of Title 26 of the United States Code, if all of the following conditions are met:

(1) The exception provided by this section is limited to only one advertising display.

(2) The site of the academy is located immediately adjacent to State Highway Routes 10 and 110 in the City of Los Angeles.

(3) The academy's curriculum focuses on providing arts and entertainment business education.

(4) The advertising display is constructed on the roof of the academy's facility.

(5) The advertising display meets the requirements set forth in Sections 5405 and 5408.

(6) Placement or maintenance of the advertising display does not require the immediate trimming, pruning, topping, or removal of trees located on a state highway right-of-way to provide visibility to the advertising display, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the display.

(7) Revenues accruing to the academy from the advertising display are used exclusively for the acquisition, operation, and improvement of the academy.

(b) An advertising display erected pursuant to this section shall not advertise products or services that are directed at an adult population, including, but not limited to, alcohol, tobacco, gambling, or sexually explicit material.

(c) If an advertising display erected pursuant to this section is removed for purposes of a transportation project undertaken by the department, the display owner shall be entitled to relocate that advertising display with no compensation for the removal or relocation, and the relocation shall be limited to a site on the property of the academy specified in subdivision (a).

(d) An advertising display erected pursuant to this section shall not cause a reduction in federal aid highway funds, as provided in Section 131 of Title 23 of the United States Code.

(e) If the academy specified in subdivision (a) closes or otherwise ceases to operate, the advertising display permitted under this section shall no longer be authorized and shall be removed from the property of the academy.

(f) Notwithstanding Section 5412, if the property on which the academy specified in subdivision (a) is sold, the seller shall remove the billboard from the property without compensation before title to the property is transferred to the buyer.

(g) The academy specified in subdivision (a) shall prepare an audit of the revenues generated by the advertising display authorized under this section that includes, but is not limited to, the total revenues generated from the display, the amount of revenues received by the academy, and the expenditures and uses of the revenue. The audit shall be submitted to the Controller and the Legislature on or before January 1, 2007, and every four years thereafter.

(h) The academy specified in subdivision (a) shall comply with the provisions of the City of Los Angeles regulation designated as Section 12.21A 7 (I) of the Los Angeles Municipal Code. The requirements of this subdivision shall be waived if the City of Los Angeles fails to implement, comply with, and make a determination pursuant to the provisions of Section 12.21A7 (I) of the Los Angeles Municipal Code on or before January 1, 2005.

(Added by Stats. 2003, Ch. 725, Sec. 2. Effective January 1, 2004.)

5443. Nothing in this article prohibits any of the following:

(a) Any city, county, or city and county from designating the districts or zones in which advertising displays may be placed or prohibited as part of a city, county, or city and county land use or zoning ordinance.

(b) (1) Any local governmental entity from entering into a relocation agreement for any purpose, including, but not limited to, those purposes provided in Section 5412, or the department from allowing any lawfully erected display to be increased in height at its permitted location or to be relocated provided the height increase or relocation would not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code or an increase in the number of displays within the state that does not conform to this article. Any increase in height permitted under this subdivision shall not be more than that necessary to restore the visibility of the display to the main-traveled way. Relocated displays may be placed in the same or a different city, county, or city and county, and relocation agreements shall be entered into between the sign and permit owner and the local governmental entity. An advertising display relocated pursuant to this paragraph shall be deemed a placement requiring a new permit and shall comply with all of the provisions of Article 6 (commencing with Section 5350) and Article 7 (commencing with Section 5400). A relocated display shall not result in a net increase of the number of displays adjacent to landscaped freeway segments statewide.

(2) A relocated advertising display may be converted to or replaced with a message center pursuant to a relocation agreement for any purpose, including, but not limited to, the purposes provided pursuant to Section 5412. The department shall issue a permit, without any additional consideration, for any display that is being placed pursuant to a relocation agreement with another governmental entity if the relocated display conforms with the provisions of this section. An advertising display converted or replaced with a message center pursuant to this paragraph shall be deemed a placement requiring a new permit and shall comply with all the provisions of Article 6 (commencing with Section 5350) and Article 7 (commencing with Section 5400).

(Amended by Stats. 2023, Ch. 590, Sec. 1. (AB 1673) Effective January 1, 2024.)

5443.1. The department shall allow any lawfully erected display to be converted to or replaced with a message center at its permitted location provided the conversion or replacement would not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code or an increase in the number of displays within the state that does not conform to this article. An advertising display converted or replaced with a message center pursuant to this section shall be deemed a placement requiring a new permit and shall comply with all of the provisions of Article 6 (commencing with Section 5350) and Article 7 (commencing with Section 5400).

(Added by Stats. 2023, Ch. 590, Sec. 2. (AB 1673) Effective January 1, 2024.)

5443.5. Nothing in this article prohibits the Department of Transportation from allowing any legally permitted display situated on property being acquired for a public use to be relocated, subject to the approval of the public agency acquiring the property and the approval of the jurisdiction in which the display will be relocated, so long as the action of the department in allowing the relocation of the display would not cause a reduction in federal-aid highway funds, as provided in Section 131 of Title 23 of the United States Code, or an increase in the number of displays which do not conform to this article within the jurisdiction of a governmental entity.

(Amended by Stats. 1997, Ch. 473, Sec. 1. Effective January 1, 1998.)