

# The Highway Beautification ACT



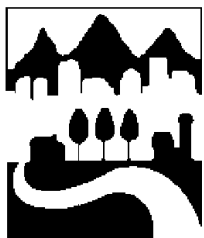
**A Broken Law**



Scenic America

# South Dakota

A nonprofit, membership organization, Scenic America is the only national group solely dedicated to preserving and enhancing the scenic character of America's communities and countryside. For more information or copies of this report, contact:



## SCENIC AMERICA

21 Dupont Circle, NW, Washington, DC 20036.

Or call us at (202) 833-4300, fax us (202) 833-4304,  
or e-mail us at [scenica@soho.ios.com](mailto:scenica@soho.ios.com)

# The Highway Beautification Act A Broken Law in South Dakota

In 1965, in an attempt to preserve the scenic beauty of America's highways, Congress passed the Highway Beautification Act (HBA), one of the first modern environmental laws. The Act was originally designed to prohibit construction of new billboards on scenic and rural federal-aid highways, and to require the removal of illegal billboards (those erected without proper permits). Billboards that do not meet the standards of the HBA are designated as nonconforming and marked for removal.

Thirty-two years after its passage, the Act has become little more than a billboard protection program. On average, new billboards are twice as big as they were in 1965, and there are fifty percent more of them than 30 years ago when Lady Bird Johnson championed highway beautification. Today there are an estimated 450,000 billboards on federal-aid highways, compared to the 330,000 billboards that first inspired the Act. Between 5,000 to 15,000 new billboards — 3 and 10 million square feet of new advertising space — are added to the nation's roadsides each year.

Rural and scenic areas are not protected from billboard blight by the HBA. Most states, including South Dakota, allow construction of new billboards in unzoned rural areas, in direct conflict with the original intent of the law. Twenty-four (24) states allow billboard operators to cut down trees on public rights of way to improve the view of private billboards. Nationwide, taxpayers provide a \$6-10 million subsidy to the billboard industry each year because fees for billboard permits do not cover the

full costs of controlling the industry.

What's more, the HBA actually protects billboards from community efforts to remove them. Until 1978, communities that decided to remove billboards could choose any constitutional means to do so, from up front cash payments to amortization, which allows billboard operators a grace period of five to eight years to recoup their investment and make a profit, at the end of which the billboards come down. In 1978, however, Congress derailed this process. It amended the HBA to require that communities pay cash compensation for removal of billboards on federal-aid highways — and shortly thereafter stopped providing money for billboard removal.

Nationwide there are 73,000 billboards that do not conform with HBA standards. In 1995, just 503 were removed.

The industry claims that billboards are necessary for travelers, yet logo signs along highways (Gas at this exit: ...), state tourist information programs (Country Inn 2 miles), and advancing technologies make this notion obsolete. Indeed, cigarette and alcohol advertising provides as much as one quarter of all billboard industry revenue, and six of the top eight billboard advertisers are tobacco or alcohol conglomerates. According to advertising industry sources, cigarette companies are pouring tens of millions more dollars into billboards. Why? Because billboards are a sure way to reach kids. After the Joe Camel cartoon was introduced, Camel's market share among underage smokers

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jumped from 0.5 percent to 32.8 percent.

Given this history, it is not surprising that the Highway Beautification Act is strongly *supported* by the billboard industry.

### Major Findings

*The Highway Beautification Act: A Broken Law*, is the first comprehensive analysis of state Department of Transportation records in more than a decade. In the study, Scenic America found that:

- There are 6,278 permitted billboard structures on federal-aid highways in South Dakota, placing South Dakota 14th out of all 50 states in total number of billboard structures. A billboard structure may carry one to four billboard faces, depending on state billboard permit requirements. Nationwide, the Congressional Research Service estimates that there are 450,000 billboards.
- Four states have no billboards at all: Alaska, Hawaii, Maine, and Vermont.
- There are 21.8 billboard structures in South Dakota for every ten miles of so-called federal-aid highways, placing South Dakota 2nd among all states in billboards per federal-aid highway mile. Federal-aid highways are those to which the standards of the Highway Beautification Act apply. They include all Interstates, federal-aid primary roads like U.S. Route 1, and all of the National Highway System. A person would see at least 109 billboard structures in an average hour long trip on a federal-aid highway in South Dakota.
- There are 2,833 “nonconforming” billboard structures in South Dakota, 9.8 for every ten federal-aid highway miles. A nonconforming billboard structure is one that does not meet the standards of the HBA. South Dakota ranks 11th in the nation for the number of nonconforming billboard structures, and 1st in terms of nonconforming billboard structures per federal-aid highway mile. Nationwide, only one-half of one percent of all nonconforming billboard structures are removed each year. Only 19 (0.7 percent) of all nonconforming billboards in South Dakota were removed in 1995.
- In South Dakota, 99 percent of billboard permits are routinely renewed, even as 45% percent of all billboards in the state violate HBA standards.
- Nationwide, billboard operators clear thousands of trees on public rights-of-way each year. This tree cutting is condoned in order to improve the view — not of the scenic beauty surrounding the highway, but the view of more billboards.
- Taxpayers subsidize billboard operators through insufficient fees that fail to cover the cost of controlling the industry. Taxpayers in South Dakota pay \$32,124 per year to cover regulatory costs that should be paid by the industry.
- State billboard record keeping is often incomplete or inaccurate. Arkansas, Indiana, New Jersey and New Mexico provided no information on the number of billboards in the state, and New York, Texas, Utah, and Wisconsin failed to provide information for at least one major metropolitan region in the state.

# Fixing The Highway Beautification Act

Congress will soon reauthorize the nation's transportation law, and will have a golden opportunity to improve the Highway Beautification Act. In order to protect the natural beauty of our country's highways, Congress must:

- Protect rural areas by prohibiting billboards in unzoned areas.

Loopholes in the law allow new billboards to be erected not only in these commercial and industrial regions, but in so-called “unzoned” areas — many of which are pristine rural communities. These loopholes must be closed.

- End subsidies to the billboard industry.

Congress must relieve taxpayers from subsidizing the billboard industry by collecting fees from billboard operators that adequately cover the costs of the highway beautification program, including the costs of removing billboards that no longer meet current standards.

- Protect public land and the environment by disallowing “vegetation control” to improve billboard visibility.

In many states, billboard operators legally clearcut trees and other vegetation on public land in order to improve the views to their billboards. This practice must be stopped.

- Restore local control over the billboard industry.

Current regulations — by mandating the form of the payment that must be made to remove nonconforming billboards — actually make it more difficult for communities to remove billboards from their roads and streets. Congress should not intrude on the rights of local government to choose any constitutional means to enforce local zoning laws.

- Conduct a national billboard inventory.

Lack of information makes it extremely difficult to enforce the standards of the HBA. Worse, the current state of ignorance creates ideal conditions for the proliferation of billboards many of which fail to meet the standards of the HBA.

# The Highway Beautification Act: A Broken Law South Dakota



## Billboard Blight Index: South Dakota

Billboards in Unzoned Areas: ✓  
 Renewal Percentage: 99%  
 Annual Billboard Subsidy: \$ 32,124



## South Dakota 14th in the Nation for Number of Billboard Structures on Federal-Aid Highways.

Billboard Structures in South Dakota‡: 6,278  
 Conforming Billboard Structures: 3,348  
 Billboard Structures that violate HBA standards: 2,833  
 Billboards erected without a permit: 97



## South Dakota

**2nd in the Nation for Number of Billboard  
Structures per Federal-Aid Highway mile.**

Total Federal-Aid Highway miles: 2,878  
 Number of Billboard Structures per 10  
miles of Federal-Aid Highway: 21.8



Federal Aid Highways are those to which the standards of the HBA apply. They include all interstates, federal-aid primary roads like U.S. Route 1, and all of the National Highway System.

‡ Figures represent the total number of illegal billboards plus permits for non-conforming and conforming billboard structures as reported by state departments of transportation. States allow from one to four billboard faces per permitted structure.

## Many Billboards in South Dakota Violate the Standards of the HBA.

|                                                                               |       | Rank |
|-------------------------------------------------------------------------------|-------|------|
| Billboard Structures on Federal-Aid Highways that violate the HBA:            | 2,833 | 11th |
| Percent that violate HBA standards:                                           | 45%   | 9th  |
| Billboard structures that violate HBA standards per 10 miles of Fed Aid Hwy:  | 9.8   | 1st  |
| Number of billboard structures removed in FY 1995 that violate HBA standards: | 19    |      |



Source: Scenic America. Compiled from Survey of State Departments of Transportation 1997.