

STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. Box 778
DOVER, DELAWARE 19903

THOMAS R. CARPER
GOVERNOR

August 14, 2000

Ms. Susan Helm
Executive Vice-President
New Castle County Board of Realtors
3615 Miller Road
Wilmington, DE 19802

Dear Ms. Helm:

Enclosed is a package of materials regarding the Delaware sign laws. This package includes a copy of the Enforcement and Compliance Guidelines for the Clear Zone Safety Law, as well as a copy of the law itself. I want to make sure your members were aware of this law, and the steps the Department will take to deal with non-conformance. We ask that you share this information with your members.

Based on the Department's experience, it appears that dozens (if not more) of real estate agents and brokers may not have realized that artificial obstructions, including, for example, new development or "For Sale" signs, cannot be legally permitted in the State's rights-of-way. Two separate state laws prohibit obstructions of this type in these locations. Each law has a different enforcement scheme relating to the removal of such signs.

What the Law Says

The Clear Zone Safety Law, 17 Del. C. Sections 525 and 526, permits the immediate removal of artificial obstructions, such as signs that are in the right-of-way and within the "clear zone", i.e., a defined distance from the pavement edge. In addition, signs or other artificial obstructions that are in the median strips and/or channelization islands are also subject to immediate removal. The Department removes these obstructions, and then notifies the owners to retrieve them from the Department's maintenance facilities where they are stored.

The Clear Zone Safety Law does not apply to State rights-of-way within municipal boundaries. However, the counties and the cities may have sign ordinances that govern in certain circumstances.



The Clear Zone Safety Law protects the traveling public, as well as citizens attempting to place signs or other artificial obstructions in the State's right-of-way. For example, your members' agents and brokers may not realize the danger they cause to themselves and others when they put real estate signs in these locations. These safety risks are why the law permits immediate removal.

A second law, 17 Del. C. Chapter 11, regulates outdoor advertising and also prohibits such signs from being placed on the right-of-way, even if they are placed outside the "clear zone" as defined by 17 Del. C. Section 525. The Department can remove these signs, but only after first giving the sign owners a 30-day notice to take them off the right-of-way.

How We Will Enforce the Law

As you know, compliance with the law often requires more resources than agencies are able to devote to enforcement. Competing resource demands on the Department also affect our ability to meet this area of responsibility. Therefore, the Department has decided to focus our enforcement on those locations with the most need and opportunity for enhancing and ensuring safe travel.

My staff will first enforce the Clear Zone Safety Law as to signs placed in the median strips and channelization islands. They will then focus their effort on clear zone violations along the roadsides and shoulders of the primary roads and highways. Clear zone violations within residential subdivisions will only be undertaken on a complaint basis.

Enforcement beyond the clear zone will be undertaken as competing resource demands permit.

In all cases, enforcement will be uniformly applied to these areas.

I urge you to take the necessary steps to make sure that your members' marketing signs are in legally appropriate locations. The enclosed drawing illustrates locations where signs will be removed based on the Clear Zone Safety Law.

Sincerely,

Anne P. Canby

Anne P. Canby
Secretary

APC/FS:pwg
Enclosure

ENFORCEMENT LIMITS GUIDELINES CLEAR ZONE SAFETY LAW 17 DEL. CODE SECTION 525, 526, & 527

- BASIC RULES FOR THE CLEAR ZONE SAFETY LAW**
1. IMMEDIATE ENFORCEMENT IS ONLY WITHIN THE RIGHT-OF-WAY. DO NOT REMOVE MATERIALS OFF NON-STATE PROPERTY.
 2. THIS LAW DOES NOT APPLY WITHIN CITY/TOWN LIMITS.
 3. DON'T GUESS ABOUT DISTANCES. MEASURE THEM.
 4. UTILITY POLES ARE USUALLY WITHIN A FOOT OF THE RIGHT-OF-WAY EDGE.
 5. TAKE PICTURES OF SIGN, BOX, ETC. PRIOR TO REMOVAL, TO SHOW WHERE IT WAS IN THE CLEAR ZONE.
 6. NEWSPAPER DELIVERY TUBES ARE CONSIDERED MAILBOXES, AND ARE SUBJECT TO THE SAME RULES.
 7. REAL ESTATE VENDING BOXES, AND NEWSPAPER VENDING MACHINES, ARE AMONG THE MATERIALS SUBJECT TO ENFORCEMENT.
 8. REAL ESTATE SALE SIGNS, POLITICAL CAMPAIGN SIGNS, AND OTHER NON-OFFICIAL SIGNS ARE MATERIALS SUBJECT TO ENFORCEMENT.
 9. ROTARY LIONS, KIWANIS AND OTHER ATTRACTIONS SIGNS ARE NOW RESTRICTED. CHECK WITH LEGAL FOR DETAILS.
 10. LOCATIONS FOR DECORATIVE SUBDIVISION ENTRANCE SIGNS ARE CONTROLLED BY SUBDIVISION SECTION.
 11. LANDSCAPE SPONSOR SIGNS REMAIN PERMITTED, IF DELDOT-APPROVED.

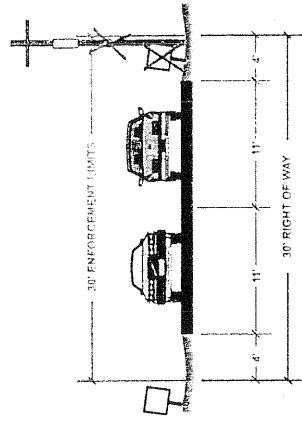
IF YOU HAVE QUESTIONS ABOUT

RIGHT-OF-WAY WIDTH IN RESIDENTIAL SUBDIVISIONS
CONTACT SUBDIVISION/UTILITIES SECTION
(302) 760-2266

RIGHT OF WAY WIDTH ON ALL OTHER STATE ROADS
CONTACT DESIGN SUPPORT
(302) 760-2251

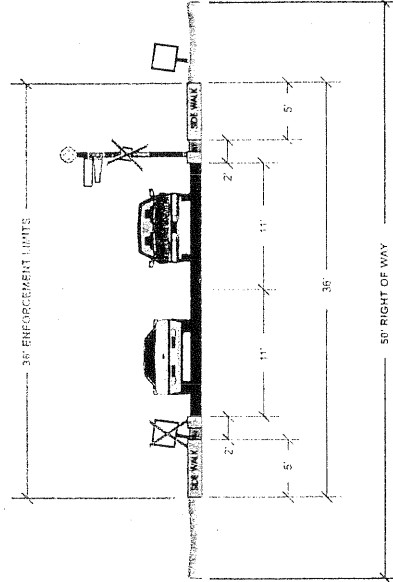
LOCATIONS FOR TOWN/CITY LIMITS
CONTACT MAPPING
(302) 760-2455

CONFIRM THESE LIMITS WITH TOWN/CITY
LEGAL ISSUES REFER TO
CONTACT LEGAL OFFICE
(302) 760-2020



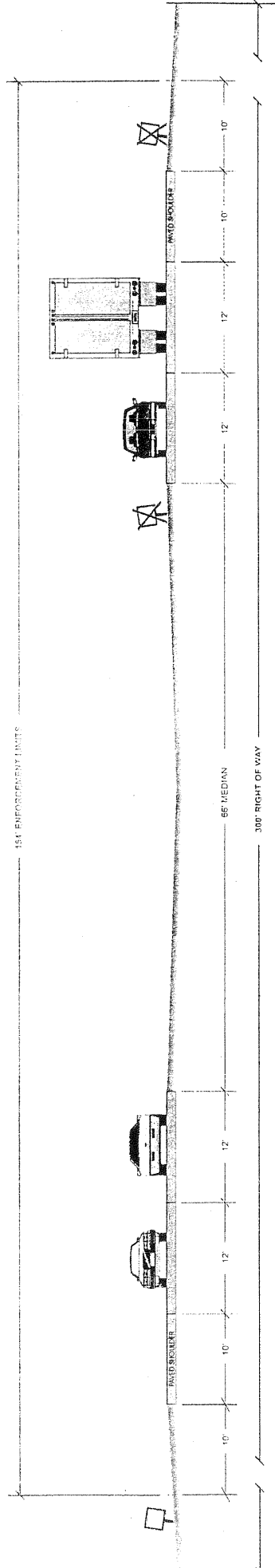
TYPICAL 3 DIGIT COUNTY ROAD

EXAMPLE: 5500 IN SUSSEX COUNTY NEAR SEAFORD
ENFORCEMENT AREA IS 10 FEET FROM PAVEMENT EDGE OR RIGHT OF WAY LIMITS, WHICHEVER IS CLOSER



TYPICAL SUBDIVISION

EXAMPLE: VAREN DRIVE IN BRENNANS ESTATES
NEW CASTLE COUNTY
ENFORCEMENT AREA IS 7 FEET FROM PAVEMENT EDGE OR OUTER EDGE OF SIDEWALK, WHICHEVER IS CLOSER



TYPICAL DIVIDED HIGHWAY

EXAMPLE: SR1 MILFORD BYPASS
REAR VIEW ENFORCEMENT AREA IS 10 FEET FROM EDGE OF PAVEMENT AND ALL MEDIAN STRIPS AND CHANNELIZATION ISLANDS

THE CLEAR ZONE SAFETY LAW
Enforcement & Compliance Guidelines

*Frederick H. Schranck
Deputy Attorney General
March 2000*

The Clear Zone Safety Law

Enforcement and Compliance Guidelines

On Saturday, June 27, 1998, the Governor signed into law House Substitute No. 1 for House Bill No. 234 (71 Del.Laws, Ch. 318). This law made changes in the state's sign statutes to comply with Rappa v. New Castle County, a Third Circuit decision. This Court decision previously declared unconstitutional the State laws controlling signs in most of the State's highway system. The law restored the State's ability to control the rights-of-way for which DelDOT is responsible, and re-affirmed the State's interest in providing a safer environment for those using the right-of-way for transportation purposes. It did this by amending portions of Chapter 11, and by adding provisions in Chapter 5 of Title 17, which deals with maintenance and management of the highway system.

Using a question and answer format, this memorandum outlines the provisions of the law and explains how the Department will enforce its provisions. It also gives guidance on how to avoid the immediate removal of signs and/or other non-official materials placed in the State's rights-of way.

Pass on State Route 1, the right-of-way extends for many feet beyond the clear zone.

For the interior streets in residential subdivisions, the clear zone is not as wide. It starts at the pavement edge and extends out for 7 feet perpendicular to the pavement edge, or the sidewalk edge further from the street, whichever is closer.

The pavement edge may be the outside edge of a paved shoulder. The pavement edge starts at the outer edge of the concrete or asphalt on which vehicles can travel. If the shoulder is not paved, the shoulder is within the clear zone. Curbing, if any, is also within the clear zone.

All median strips and concrete/grass channel islands are in the clear zone. In addition, the clear zone includes the total area within median strips between travel lanes, and all channelization islands.

The law does not apply within city/town limits. In order to eliminate enforcement conflicts, the law does not apply within the limits of any town or city. The city/town ordinances may affect sign placements, however, and you should check with those officials if you have any questions about signs within their boundaries.

3. How will the law be enforced?

The Department of Transportation will enforce the clear zone safety law.

Prior to removal of signs or other non-official materials in the clear zone, the Department will confirm that the materials are within the clear zone limits. Measurements will be taken, and a picture will also be taken. The Department will also attempt to determine the owner or other person responsible for the materials. The materials will then be removed. The Department will then notify the owner/person responsible and advise them in writing where they can pick up the material. Materials removed by the Department and not recovered by the owner/person responsible within 30 days of the notification will be disposed.

4. What if the signs or news boxes are in the right-of-way, but not in the clear zone?

The State's sign law, Chapter 11, prohibits almost all non-official signs or other materials from being in the right-of-way. However, that law also requires that the Department must first give a 30-day notice prior to removal. Therefore, as a practical matter, if a sign is placed in the right-of-way, but outside the clear zone, it can remain for a temporary period before there is a risk of removal.

For example, there will be no immediate removal of a real estate "For Sale" sign placed in the right-of-way, but on the homeowner's side of the sidewalk. On the other hand, a "For Sale" sign placed in a grass strip between the street and the sidewalk will be subject to immediate removal.

5. What about mail boxes or newspaper delivery tubes?

Mailboxes and individual delivery tubes are controlled by the Department's Subdivision and Entrance Regulations. As long as these items are placed in compliance with those regulations, they can remain in the clear zone.

6. What about school bus waiting shelters, or DART transit shelters?

School bus waiting shelters are not affected by the law. In addition, signs placed on a DART bus shelter pursuant to a Department-approved contract are not affected by the law.

7. How can we tell where the right-of-way limits are?

A typical rule of thumb is to look for utility poles along the roads. These poles are usually placed within a foot of the outside edge of the state rights-of-way. Most State roads have at least a 50-foot right-of-way, and the pavement is usually centered within the right-of-way. You should check with DeIDOT if there is any question about a particular right-of-way.

8. Who do we call if we have questions?

City/Town limits. If you have a question about where city or town limits are, you can call DeIDOT Mapping (302) 760-2455. You should also confirm this information with the particular city or town.

Right-of-Way limits in subdivisions. If you have a question about the right-of-way limits within residential subdivisions, you can call the Subdivision/Utility Section at (302) 760-2266.

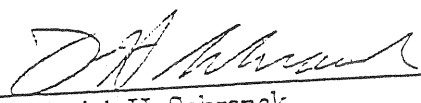
Right-of-Way limits on all other state roads. If you have a question about the right-of-way limits on all other state roads, you can call the Design Support Section at (302) 760-2251.

Legal questions. If you have legal questions, you can contact the Deputy Attorney General assigned to DeIDOT, at (302) 760-2020. You may be referred back to your own legal counsel, because the Department of Justice can only give legal advice to its clients. On the other hand, the Deputy Attorney General will be available to discuss the law with you or your attorneys.

9. Is there a poster or other graphical guide to the law?

DeIDOT has a poster available, which shows how the law will be enforced. It shows how three typical situations are addressed; repeats most of the guidelines discussed in this document; and lists phone numbers for assistance. If you want copies of the poster, please call (302) 760-2020.

Date: 3/29/00

By: 
Frederick H. Schranck
Deputy Attorney General