

**Senate Bill No. 499**

(By Senators Williams, Beach, Facemire,  
Kessler, Kirkendoll, Laird, Miller,  
Palumbo, Plymale, Prezioso,  
Romano, Snyder, Stollings and D. Hall)

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[Introduced February 16, 2015;  
referred to the Committee on Transportation and Infrastructure;  
and then to the Committee on Government Organization.]

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A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-29-1, §17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-29-6, §17-29-7, §17-29-8, §17-29-9, §17-29-10, §17-29-11, §17-29-12, §17-29-13 and §17-29-14, all relating to creating Tourist-Oriented Directional Signs Program; stating legislative purpose; setting forth application and eligibility requirements; establishing design and content guidelines; establishing sign location and placement criteria; establishing fee schedule; setting forth maintenance responsibility; permitting revocation of participation in program; exempting rulemaking from State Administrative Procedures Act; requiring rules be filed with Secretary of State; and defining terms.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §17-29-1, §17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-29-6, §17-29-7, §17-29-8, §17-29-9, §17-29-10, §17-29-11, §17-29-12, §17-29-13 and §17-29-14, all to read as

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follows:

**ARTICLE 29. TOURIST-ORIENTED DIRECTIONAL SIGNS PROGRAM.**

**§17-29-1. Short title.**

1           This article shall be known and may be cited as the Tourist-Oriented Directional Signs  
2 Program.

**§17-29-2. Legislative purpose.**

4           The purpose of the Tourist-Oriented Directional Signs Program is to establish criteria for  
5 participation in and administration of a program for the installation of tourist-oriented directional  
6 signs within the rights-of-way of state highways in rural areas of the State of West Virginia.  
7 Tourist-oriented directional signs are guide signs to be placed within the rights-of-way of state  
8 highways in rural areas of the state of West Virginia to display business identification and directional  
9 information for tourist-oriented businesses not located on a state highway that attract highway users  
10 from outside the immediate area of the business.

**§17-29-3. Definitions.**

12           The following words when used in this article have the meaning ascribed to them unless the  
13 context clearly indicates a different meaning:

14           "Commissioner" means the West Virginia Commissioner of Highways.

15           "Division" means the West Virginia Division of Highways.

16           "Eligibility distance" means the total roadway distance from the turn on a state highway  
17 where a tourist-oriented directional sign is located to the entry driveway of a tourist-oriented  
18 business and, if necessary, to break a tie between two otherwise eligible businesses, the eligibility

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1 distance shall also include the distance from the beginning of the entry driveway to the entry door  
2 of the business.

3 "Immediate area of the business" means the area within a twenty-mile radius of the business.

4 "Rural" means an area outside the limits of an incorporated municipality having a population  
5 of two thousand or more according to the most recent decennial census of the United States Bureau  
6 of Census.

7 "State highway" means a highway designated by the commissioner as part of the state  
8 highway system of the state of West Virginia.

9 "Tourist-oriented directional sign" means an official sign structure placed within the  
10 right-of-way of a state highway that contains one or more tourist-oriented directional sign panels.  
11 These signs shall be topped with tourist area designation panels at the request of the Division of  
12 Tourism.

13 "Tourist-oriented directional sign panel" means an individual sign panel on a tourist-oriented  
14 directional sign that identifies the name of a participating tourist-oriented business, the direction of  
15 turn to reach the business and the distance to the business from the turn off the state highway.

16 "Tourist-oriented business" means a private or public entity which offers lawful cultural,  
17 historical, recreational, agricultural, educational, entertainment or commercial activities, services or  
18 products to the general public; and the major portion of whose income or visitors are derived during  
19 its normal business season from highway users residing outside the immediate area of the business.

20 **§17-29-4. Tourist-Oriented Directional Signs Program authorization.**

21 (a) There is hereby created and established a tourist-oriented directional signs program.

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1 (b) Tourist-oriented directional signs are available to lawful cultural, historical, recreational,  
2 agricultural, educational or entertaining activities, state and national parks, and commercial activities  
3 that are unique and local in nature, and the major portion of whose income or visitors are derived  
4 during its normal business season from motorists not residing in the immediate area of the activity.

5 **§17-29-5. Compliance with other requirements.**

6 In all respects, the erection of tourist-oriented directional signs shall comply with:

7 (1) The manual and specifications for uniform system of traffic-control devices adopted by  
8 the commissioner pursuant to section one, article three, chapter seventeen-c of this code;

9 (2) Local zoning authorities; and

10 (3) Outdoor advertising laws and rules set forth in article twenty-two of this chapter.

11 **§17-29-6. Eligibility for participation in program.**

12 Participation in the tourist-oriented directional signs program is open to tourist-oriented  
13 businesses that are unique and local in nature and located in a rural area. More specifically, to be  
14 eligible for identification on a tourist-oriented directional sign panel, a tourist-oriented business shall  
15 have each of the following characteristics:

16 (1) It shall offer lawful cultural, historical, recreational, agricultural, educational,  
17 entertainment or commercial activities, services or products to the general public;

18 (2) It shall be unique and local in nature and not part of a chain of businesses having a  
19 common name under common ownership and management or under a franchise arrangement;

20 (3) It shall derive the major portion of its income or visitors, during its normal business  
21 season, from highway users residing outside the immediate area of the business;

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1 (4) It shall have a permanent location:

2 (A) In a rural area or within the limits of an incorporated municipality having a population  
3 of less than two thousand; and

4 (B) On a road within ten miles of the nearest intersection with a state highway where a  
5 tourist-oriented directional sign may be located; and

6 (5) It shall be open to the public on a regular schedule, at least five days per week and eight  
7 hours per day, holidays excepted, throughout the year. However, a tourist-oriented business open  
8 on a seasonal basis may be eligible for participation in the tourist-oriented directional sign program.

9 (6) A tourist-oriented business offering multiple activities, services or products to the public  
10 is not eligible for separate tourist-oriented directional sign panels for separate portions of the  
11 business but only as a single entity.

12 **§17-29-7. Design and content of signs.**

13 (a) Each tourist-oriented directional sign may have no more than four tourist-oriented  
14 directional sign panels.

15 (b) Each tourist-oriented directional sign panel shall be constructed as follows:

16 (1) It shall have a standard size of sixty inches wide by fifteen inches high;

17 (2) It shall have a white legend and border on a blue background; and

18 (3) It shall have a sign face fabricated from reflective sheeting applied to one-tenth inch flat  
19 sheet aluminum sign blank.

20 (c) The legend on each tourist-oriented directional sign panel shall be designed as follows:

21 (1) It shall have a message block forty-eight inches wide by fifteen inches high identifying

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1 the legal name or "doing business as" name of the eligible tourist-oriented business, which message  
2 shall be in upper case letters and may not exceed two lines nor more than fifteen characters per line,  
3 including all letters, symbols and spaces;

4 (2) It shall have a directional information block twelve inches wide by fifteen inches high  
5 with an arrow pointing in the direction of the turn and a number stating the distance (to the nearest  
6 tenth of a mile) to the identified business, which block shall appear on the left side of the panel for  
7 left-turn businesses and on the right side of the panel for right-turn businesses; and

8 (3) All letters and numerals in the legend shall be four inches in height.

9 (d) The content of the legend on each tourist-oriented directional sign panel shall be limited  
10 to the business identification and directional information described above in this section. The legend  
11 may not include any type of business logo or any form of promotional advertising.

12 **§17-29-8. Criteria for sign location and placement.**

13 (a) The location criteria for erecting tourism-oriented directional signs are as follows:

14 (1) The division shall erect tourist-oriented directional signs along state highways at  
15 intersections with roads where highway users turn to reach eligible tourist-oriented businesses that  
16 have qualified to participate in the tourist-oriented directional signs program.

17 (2) The division may not erect a new tourist-oriented directional sign on any state highway  
18 within the limits of an incorporated municipality having a population of two thousand or more  
19 according to the most recent decennial census of the United States Bureau of Census.  
20 Tourist-oriented directional signs may not be erected outside of such a municipality for a  
21 tourist-oriented business within the limits of such a municipality.

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1 (3) In addition, the division may not erect a new tourist-oriented directional sign, or renew  
2 an existing tourist-oriented directional sign, on any state highway within any incorporated  
3 municipality without the prior written consent of the municipal government. This written consent  
4 must be obtained by the tourist-oriented business seeking to qualify for participation in the  
5 tourist-oriented directional signs program or by a tourist-oriented business seeking to renew  
6 participation in the tourist-oriented directional signs program.

7 (4) At intersections where tourist-oriented directional signs may be erected, the division shall  
8 erect tourist-oriented directional signs for each direction of travel along the state highway.  
9 Generally, the division shall erect a separate tourist-oriented directional sign for each direction of  
10 turn in each direction of travel, unless the division decides to erect only one tourist-oriented  
11 directional sign in each direction of travel as provided in subdivision (5), subsection (b) of this  
12 section.

13 (5) Tourist-oriented directional signs should be located at least two hundred feet in advance  
14 of the intersection and they should be spaced at least two hundred feet from another tourist-oriented  
15 directional sign or any other traffic control sign.

16 (6) The location of other traffic control devices, including regulatory, warning and guide  
17 signs, shall take precedence over the location of tourist-oriented directional signs.

18 (b) The criteria for installing and placing tourist-oriented directional sign panels are as  
19 follows:

20 (1) No more than four tourist-oriented directional sign panels may be installed on any one  
21 tourist-oriented directional sign.

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1 (2) Subject to space limitations, the division shall install one tourist-oriented directional sign  
2 panel for a qualified tourist-oriented business on a tourist-oriented directional sign in each direction  
3 of travel at the intersection that provides the shortest eligibility distance to that business.

4 (3) In the division's discretion, a second set of tourist-oriented directional sign panels may  
5 be installed for a qualified tourist-oriented business at an additional intersection on a second state  
6 highway, but only if the second set of tourist-oriented directional sign panels does not prevent  
7 another qualified tourist-oriented business from obtaining a first set of tourist-oriented directional  
8 sign panels at that intersection.

9 (4) Tourist-oriented directional sign panels for qualified tourist-oriented businesses shall be  
10 grouped by direction of turn. The placement of tourist-oriented directional sign panels on  
11 tourist-oriented directional signs shall be as follows, except as provided in subdivision (5) of this  
12 subsection:

13 (A) All qualified tourist-oriented businesses that can be reached by turning left shall be  
14 placed on the tourist-oriented directional sign farthest from the intersection in each direction of  
15 travel.

16 (B) All qualified tourist-oriented businesses that can be reached by turning right shall be  
17 placed on the tourist-oriented directional sign nearest to the intersection in each direction of travel.

18 (C) On each tourist-oriented directional sign, the tourist-oriented directional sign panels for  
19 each qualified tourist-oriented business shall be placed in order of eligibility distance, with the  
20 business having the shortest eligibility distance at the top and the business with the greatest  
21 eligibility distance at the bottom.

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1 (5) If there are not more than four tourist-oriented directional sign panels to be installed for  
2 each direction of travel at an intersection, the division may choose to erect only one tourist-oriented  
3 directional sign for each direction of travel. In such case, the tourist-oriented directional sign panels  
4 for qualified tourist-oriented businesses that can be reached by turning left shall be installed at the  
5 top of the tourist-oriented directional sign, in order of eligibility distance from shortest to greatest,  
6 and the tourist-oriented directional sign panels for businesses that can be reached by turning right  
7 shall be installed below, in order of eligibility distance from shortest to greatest.

8 **§17-29-9. Application for participation in program.**

9 (a) To qualify for participation in the tourist-oriented directional signs program, an eligible  
10 tourist-oriented business must complete an application, including business identification and  
11 directional information, on a form provided by the commissioner.

12 (b) The business shall provide to the commissioner an affidavit or such other evidence as the  
13 commissioner may reasonably request to demonstrate that the major portion of the business's income  
14 or visitors are derived during its normal business season from highway users residing outside the  
15 immediate area of the business.

16 (c) The business shall obtain and submit to the commissioner all required written approvals  
17 from local governments for erecting tourist-oriented directional signs within an incorporated  
18 municipality.

19 (d) The business shall, as part of its application, agree to hold the state of West Virginia, the  
20 division and its officers, employees, representatives, contractors and agents harmless for any loss of  
21 business that may be caused by any damage to or removal of a tourist-oriented directional sign or

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1 tourist-oriented directional sign panel as a result of highway construction, highway maintenance or  
2 any other reason.

3 (e) The business shall tender the payment of all fees as required in section eleven of this  
4 article.

5 **§17-29-10. Additional consideration for participation.**

6 (a) The division's approval of a tourist-oriented business's application for participation in the  
7 tourist-oriented directional signs program is subject to the availability of space as follows:

8 (1) The commissioner may approve the application only if there is space available to install  
9 tourist-oriented directional sign panels for the business as provided in section eight of this article.

10 (2) When more than one eligible tourist-oriented business applies for participation in the  
11 tourist-oriented directional signs program at an intersection where there is not sufficient space to  
12 install tourist-oriented directional sign panels for more than one business, the division shall award  
13 installation:

14 (A) To the business from which the commissioner first received a qualified application; or

15 (B) If the commissioner received more than one qualified application on the same date, the  
16 commissioner shall award installation to the business with the greatest eligibility distance.

17 (3) The division shall refund payment of the initial permit fee, but not the application fee, as  
18 established in section eleven of this article, to a tourist-oriented business whose application for  
19 participation in the tourist-oriented directional signs program has been denied based on insufficient  
20 space in accordance with subdivision (2) of this subsection.

21 (4) Where, because of insufficient space, the commissioner has denied an eligible

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1 tourist-oriented business's application for a tourist-oriented directional sign panel at the intersection,  
2 the commissioner may approve an application by that business for a tourist-oriented directional sign  
3 panel at another intersection having a greater eligibility distance where space is available if, in the  
4 judgment of the commissioner, the sign would provide suitable directional information to highway  
5 users.

6 (b) A tourist-oriented business that is open to the public only on a seasonal basis rather than  
7 year-round may qualify for participation in the tourist-oriented directional signs program subject to  
8 the following additional considerations:

9 (1) In its application to the commissioner, the business must provide a schedule of its regular  
10 seasonal dates of operation when it is open to the public; and

11 (2) The business shall pay an additional seasonal business fee each year, as provided in  
12 section eleven of this article, for the placement and removal of a "Closed" placard over the  
13 directional information portion of the tourist-oriented directional sign panel, or for the temporary  
14 removal and storage and reinstallation of the tourist-oriented directional sign panel, during the  
15 seasons of the year when the business is closed to the public. This additional fee shall be payable  
16 to the division with the business's initial application for participation in the tourist-oriented  
17 directional signs program and with each annual renewal of participation.

18 (c) *Annual renewal of participation.* --

19 (1) After the commissioner has approved an application to participate in the Tourist-Oriented  
20 Directional Signs Program, the qualifying tourist-oriented business may continue to participate in  
21 the program on a renewable annual basis thereafter so long as the business remains in compliance

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1 with this article and pays all applicable fees in accordance with section eleven of this article.

2 (2) The annual term shall begin on the date the division installs the business's tourist-oriented  
3 directional sign panels on a state highway and expires on the anniversary of that date each year  
4 thereafter unless timely renewed by payment of all applicable renewal fees.

5 (3) The applicable annual renewal fees are due thirty days prior to the expiration of the annual  
6 term.

7 (d) The division may inspect a tourist-oriented business at any time after the business has  
8 made application for participation in the Tourist-Oriented Directional Signs Program to assure that  
9 the business meets all eligibility requirements or other requirements to qualify for continuing  
10 participation in the program.

11 **§17-29-11. Fees.**

12 (a) To cover the cost of erecting signs and administering the Tourist-Oriented Directional  
13 Signs Program, each participating tourist-oriented business shall pay the division the following fees:

14 (1) Application Fee, \$25;

15 (2) Initial Permit Fee (per tourist-oriented directional sign panel), \$150; and

16 (3) Annual Renewal Fee (per tourist-oriented directional sign panel), \$25.

17 (b) In addition, a participating tourist-oriented business shall pay the division the following  
18 fees as applicable to that particular business:

19 (1) Seasonal business fee (annually per tourist-oriented directional sign panel), \$25; and

20 (2) Replacement fee (per tourist-oriented directional sign panel replaced or changed), \$150.

21 (c) Fees may not be prorated based on the seasonal closing of any business.

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1 (d) Fees may not be reimbursed if a business closes during an annual term or if  
2 tourist-oriented directional sign panels are removed by the division based on a violation of this  
3 article.

4 **§17-29-12. Maintenance and financial responsibility.**

5 (a) The division shall install all tourist-oriented directional signs and tourist-oriented  
6 directional sign panels on state highway rights-of-way subject to the payment of all required fees by  
7 participating tourist-oriented businesses.

8 (b) Each participating tourist-oriented business shall be responsible for the cost of replacing  
9 tourist-oriented directional sign panels that have been damaged or destroyed by acts of vandalism,  
10 natural causes or accidents. When it is necessary to replace a sign, the division shall assess, and the  
11 participating tourist-oriented business shall pay, the required replacement fee as provided in section  
12 eleven of this article.

13 (c) The division has no liability for any loss of business that may result because a  
14 tourist-oriented directional sign panel is, for any reason, temporarily absent from a tourist-oriented  
15 directional sign on a state highway.

16 **§17-29-13. Revocation of participation in program.**

17 (a) The commissioner may revoke the privilege of participation in the tourist-oriented  
18 directional signs program if it finds that any participating tourist-oriented business:

19 (1) Has made a false, deceptive or fraudulent statement in its application or in any other  
20 information submitted to the commissioner;

21 (2) Engages in any deceptive or fraudulent business practice;

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1           (3) Fails to pay any required fee on a timely basis;

2           (4) No longer meets the eligibility requirements set forth in this article;

3           (5) Ceases to operate as a business on a continuing basis in accordance with the schedule  
4 submitted to the commissioner in its application; or

5           (6) Alters or modifies any tourist-oriented directional sign or tourist-oriented directional sign  
6 panel erected or installed by the division.

7           (b) The procedures for revocation are as follows:

8           (1) Prior to revoking the privilege of participating in the tourist-oriented directional signs  
9 program, the commissioner shall notify the tourist-oriented business in writing of the grounds for  
10 the proposed revocation. The notice shall be sent by certified and regular mail. Notices sent by  
11 regular mail shall be presumed to have been received by the business within three business days after  
12 mailing.

13           (2) Within fifteen days after receipt of the notice to correct the condition cited as the ground  
14 for the proposed revocation, the business shall either:

15           (A) Correct the condition cited as ground for the proposed revocation, and provide sufficient  
16 written proof thereof to the satisfaction of the commissioner; or

17           (B) If the business denies the cited ground for the proposed revocation, the business shall  
18 deliver a written response to the commissioner stating in detail the basis for the denial and requesting  
19 a hearing before the commissioner or the commissioner's designee.

20           (3) If the business fails to correct the cited ground(s) for revocation or fails to respond within  
21 fifteen days, the commissioner shall send the business a written notice of revocation and remove all

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1 tourist-oriented directional sign panels for that business from the state highway rights-of-way.

2 (4) If the business requests a hearing, an informal hearing shall be held before the  
3 commissioner or the commissioner's designee to consider the matter. The decision of the  
4 commissioner or the commissioner's designee shall be made in writing to the business and is final.

5 **§17-29-14. Rulemaking; exemption.**

6 The commissioner may promulgate rules to implement the application approval process and  
7 to describe the criteria and procedures it has established in connection therewith. These rules are not  
8 subject to the provisions of chapter twenty-nine-a of this code, but shall be filed with the Secretary  
9 of State.

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(NOTE: The purpose of this bill is to create the Tourist-Oriented Directional Signs Program. The bill states the legislative purpose. The bill sets forth the application and eligibility requirements for the program. The bill establishes the design and content guidelines and sign location and placement criteria. The bill also establishes a fee schedule and sets forth maintenance responsibility. The bill permits revocation of participation in the program. Further, the bill authorizes rule making to be exempt from the state Administrative Procedures Act, but shall be filed with the Secretary of State. The bill additionally defines terms.

This article is new; therefore, strike-throughs and underscoring have been omitted.)