

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature Second Regular Session - 2012

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 583

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO HIGHWAYS AND BRIDGES; AMENDING SECTION 40-102, IDAHO CODE, TO
PROVIDE FOR A DEFINITION OF "ACCESS EASEMENT"; AND DECLARING AN EMER-
GENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 40-102, Idaho Code, be, and the same is hereby
amended to read as follows:

40-102. DEFINITIONS -- A.

(1) (a) "Access easement" also commonly and sometimes legally referred
to as a "deeded access" means a property right running with the land and
appurtenant thereto for purposes of vehicular ingress and egress at a
designated location from private property to the public highway or pub-
lic right-of-way created by a written document, contract or deed by ex-
ception between the state or any political subdivision of the state of
Idaho and the landowner. If the easement does not specify the type of
use which may be made of the easement, for example, farm access, heavy
industrial, etc., the easement is not limited to any type(s) of access.

(b) If the governmental entity with jurisdiction over the road that the
property has a "deeded access" to denies the property owner the right
to use the easement, the denial shall constitute a taking of the access
right for which just compensation shall be owed.

(2) "Activities, commercial or industrial." (See "Unzoned commercial
or industrial areas," section 40-122, Idaho Code)

(23) "Advertising business, outdoor." (See "Outdoor advertising busi-
ness," section 40-116, Idaho Code)

(34) "Advertising display" means advertising structures and signs.

(45) "Advertising structure(s)" or "structure(s)" or "sign(s)" means
any thing designed, intended or used to advertise or inform. "Advertising
structure" or "sign" 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, informational or directional signs regarding tele-
phone service, emergency telephone signs, buried or underground cable
markers and above cable closures.

(d) An official or public structure erected near a city or county,
and within its territorial or zoning jurisdiction, which contains the
name of the city or county, provided the same is maintained wholly at
public expense. Where a city has been bypassed, but remains within
five (5) miles of an interstate highway or primary freeway, the Idaho
transportation board, in its discretion, may grant the city the right

1 to erect and maintain a billboard displaying the name of the city at a
 2 location not to exceed one (1) mile from an interchange primarily serv-
 3 ing that city. Billboards erected must be at locations consistent with
 4 department regulations and safety standards.

5 (~~56~~) "Agency," as applied to highway relocation assistance as provided
 6 by chapter 20, title 40, Idaho Code, means any subdivision or entity of state
 7 or local government in the state of Idaho authorized by law to engage in any
 8 highway program or perform any highway project in which the acquisition of
 9 real property may result in the displacement of any person.

10 (~~67~~) "Alternate technical concept (ATC)" means an alternative to the
 11 base technical concept that promotes innovation and is equal or better in
 12 quality or effect, as determined by the department in its sole discretion.

13 (~~78~~) "Areas, commercial or industrial, unzoned." (See "Unzoned commer-
 14 cial or industrial areas," section 40-122, Idaho Code)

15 (~~89~~) "Areas, urban." (See "Urban areas," section 40-122, Idaho Code)

16 (~~910~~) "Automobile graveyard" means any establishment or place of busi-
 17 ness which is maintained, used, or operated, for storing, keeping, buying,
 18 or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor
 19 vehicle parts.

20 (~~101~~) "Average annual net earnings," for the purposes of section
 21 40-2004, Idaho Code, means one-half (1/2) of any net earnings of the business
 22 or farm operations, before federal, state and local income taxes, during
 23 the two (2) taxable years immediately preceding the taxable year in which
 24 the business or farm operation moves from the real property acquired for
 25 the project, or during any other period as the agency determines to be more
 26 equitable for establishing the earnings, and includes any compensation paid
 27 by the business or farm operation to the owner, his spouse, or his dependents
 28 during the two (2) year period, or any other period as determined by the
 29 agency.

30 SECTION 2. An emergency existing therefor, which emergency is hereby
 31 declared to exist, this act shall be in full force and effect on and after its
 32 passage and approval.