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# Prop 250 - A Bad Deal for Indy



Both the proposed ordinance, and the path it has traveled thus far, are unacceptable

Prepared by the Steering Committee  
Coalition of Indianapolis  
Neighborhood Organizations



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## CONCLUSIONS

DMD is the appropriate place for any discussion of ordinance revision to take place.

DMD has revision of the Sign Ordinance "on deck" once Indy ReZone is completed.

State law grants the MDC the authority to initiate changes to the zoning ordinances - the City-County Council does not have that authority.

Indianapolis Neighborhoods respect the transparent, vigorous public process that DMD employs with its ordinance revisions.

Proposal 250 is so flawed it is not salvageable

The billboard industry wrote Prop 250 to maximize their profits from Indianapolis

Prop 250 exposes taxpayers to potential financial risk if it is enacted and the Courts overturn it

Prop 250 does not include best practices to minimize driver distraction and traffic safety impairment

Prop 250 does include every means available to maximize the ability of digital displays to grab and hold the attention of the driving public

Other Cities that went digital got far better swapout ratios than what the billboard companies wrote into Prop 250

## OUR REQUEST FOR ACTION ON PROP 250

We ask that Prop 250 either be tabled indefinitely, or voted down outright.

## PUBLIC PROCESS

While this section of our booklet will be relatively small, the issue of Public Process has raised the most passion in the community. There is universal disdain for the abject lack of public involvement until the eleventh hour that has been the path for Prop 250.

This process was initiated by the billboard industry, led by billboard lobbyists with no public input sought until there was an outcry. This is in stark contrast to the model set for public engagement used to create our current sign ordinance.

For 4 years, representatives of the billboard companies, talking behind closed doors, have been the only voices heard by Councillors. Their statements that digital billboards do not cause driver distraction, which are untrue, was the world view sold to many Councillors. Their assertions that they consulted the Neighborhoods and incorporated changes to accommodate the Neighborhoods' concerns, again untrue, was, until the eleventh hour, unchallenged.

To hear them talk, you would think the billboard companies were non-profits just out to fight crime and promote happiness - not multi-billion dollar profit centers looking to move to a new look that is ten times more profitable than what they have now. If they really cared about tattered and rusting billboards and the blight it suggests, they'd take care of their property.

The Public was locked out. The trained professionals in the Department of Metropolitan Development were not apprised of the proposed ordinance changes. No voices were allowed in that might challenge the truth of what was being said.

Only one side of the story was told. And that leads to bad decisions.

It is now the public's job, not to participate as stakeholders in crafting a new ordinance, but to unravel all the misinformation given to Councillors and try to supplant it with facts.

The residents of Indianapolis deserve nothing less than a transparent, vigorous public discussion of any matter as important to their quality of life as are digital billboards. It is not too late to put us on the right path by rejecting Prop 250 and letting DMD do its already planned Sign Ordinance revision, without that well being poisoned by a proposal that was written by the billboard industry to maximize their profitability in Indianapolis.

## DEFICIENCIES IN PROPOSED ORDINANCE

The proposed ordinance is so flawed, it is not salvageable.

## POTENTIAL FINANCIAL RISK TO TAXPAYERS

There are three ways that enactment of Prop 250 could cost taxpayers hundreds of millions of dollars.

- 1) there is a guaranteed number of conversions each year
- 2) only certain companies would be allowed to erect digital billboards
- 3) it relies on the 2007 rule by the Federal Highway Administration that says digital billboards are not intermittently lit

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## FUTURE COUNCIL OR MAYOR CHANGES WANTS TO REVERSE

In the future, aesthetic or safety concerns may prompt City officials to impose a ban on new conversions of static to digital faces. Because the wording of Prop 250 actually grants the right to a specified number of conversions until all static billboards are gone, the billboard companies would have ample financial reason to litigate any future attempt to end the conversions. The City taxpayers could be on the hook for the future value of promised conversions. There are over 1500 billboards in our City. Recently, [the State DOT of Minnesota paid Clear Channel \\$4.5 M to remove a digital billboard](#) - and Clear Channel even got to keep the billboard.

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## LAWSUIT BY LOCKED-OUT BILLBOARD COMPANY

Just like our proposed ordinance, Los Angeles passed an ordinance in 2006 which allowed only certain billboard companies to erect digital billboards, not every company. One of the excluded companies took the matter to Court, as one would expect. [In 2013 the California State Supreme Court refused to hear the case](#) and a lower court ruling that struck down the ordinance prevailed. Since the companies were granted valid permits to erect the billboards, it's a mess to sort out who needs to pay whom how much for the billboards that cannot be used.

After the lower court ruled, Clear Channel threatened LA. The Los Angeles Times said of this episode,

The 2nd District Court of Appeal ordered a lower court to invalidate all digital conversions permitted under the agreement. But Sara Lee Keller, Clear Channel's lawyer, warned that if the council instructs the company to turn off the signs, "it would be exposed to liability to Clear Channel for the fair market value of such signs, which substantially exceeds \$100 million."

A month later, [digital faces all over LA went dark](#) under order of a Judge.

It is not wild speculation that Indianapolis would be in the same situation, should Prop 250 be enacted into law. If it took the same 7 years to overturn a Prop 250 inspired ordinance, the billboard companies would have to be compensated for 91 digital billboards. Even forgetting the future conversions disallowed, the 91 could cost the City over \$400 Million if the price Minnesota paid set the precedence.

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#### RESOLUTION OF SCENIC AMERICA LAWSUIT V FEDERAL HIGHWAY ADMINISTRATION

In [2013, Scenic America filed a lawsuit against the Federal Highway Administration](#) in an attempt to overturn FHWA's 2007 rule that has allowed digital billboards along non-scenic highways.

This past year, a Judge in the US District Court for the District of Columbia dismissed the lawsuit.

Scenic America has filed an appeal of that decision in federal court. An amicus brief has been filed in support of Scenic America's case by a group of four organizations - The American Planning Association, the Garden Club of America, the Sierra Club, and the International Dark-Sky Association.

Should the FHWA 2007 rule be overturned by the Courts, compensation would have to be paid for the removal of any digital billboards properly permitted prior to Court action. Should Prop 250 be enacted in Indianapolis, our taxpayers would be required to pay off the billboard companies.

## DRIVER DISTRACTION - TRAFFIC SAFETY ISSUES EMBEDDED IN PROP 250

The entire goal of a billboard is to get drivers to look. Digital billboards are particularly good at this, and thereby contribute to driver distraction. The ordinance changes offered in Prop 250 are not designed to minimize this distraction. At every opportunity, the billboard company authors chose regulations that maximize their ability to grab the attention of the motoring public. Prop 250 is not in the best interest of the safety of Indy's roads.

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### LOCATION

Digital billboards can be located in **curves**, where studies show driver distraction is greater.

The required **distance between signs** is too short at 500 feet separation, and would allow multiple, asynchronous message changes in a single line of sight

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### TRANSMISSION SPECIFICATIONS

**Transition time between ads** can be up to 1 second (if a proposed amendment is adopted). Anything more than an immediate transition time is less safe because people tend to glance at the sign longer, waiting to see what will pop up. Glances off the road and traffic in front of a driver for more than 2 seconds is considered by all to be dangerous driving. Of course, more traffic, worse weather conditions, and the like, can reduce the required reaction time below 2 seconds for a driver to be safe.

Whenever we bring transition time up to the billboard company representatives, they snap their fingers and say, "our ads change like that !" So, why do they insist on a non-zero transition time?

The **ad dwell time** minimum is only 8 seconds and no more than 10 seconds in Prop 250. Best practices would require a dwell time long enough so that a driver would only see one ad change during her approach to the billboard. There is a best practice formula that relates appropriate ad dwell time to the speed limit of the road and the distance that the sign is visible.

Most complaints about digital billboards are that they are **overly bright**, particularly at night. The best practice is to regulate the amount of emitted light. This [method will allow digital billboards to be tuned so that they are no brighter](#) than a flood lit static billboard. Prop 250, however, would regulate them by reflected light which is subject to fluctuation depending upon angle and distance. Nighttime glare from digital billboards is particularly important to older drivers whose eyes do not adjust as quickly back to darkness as younger eyes do. Also, given that Prop 250 would allow digital billboards to beam incessant 8 second ads into homes just 500 feet away, one would have hoped for a much better effort to modulate and regulate the onerous brightness in the dead of night.

## PARTICULARLY DANGEROUS TYPES OF AD

**Interactive** billboards are allowed under this proposal. Signs might suggest you text a code in order to qualify for a discount, or post a QR code for you to capture with your cell phone to get signed up for a contest. Other interactive digital signs already capture transmitted data from cars to flash personalized messages on the sign.

In 2011, David McAnally, WTHR reporter, [did a story on the QR codes](#) popping up on central Indiana digital billboards owned by Clear Channel. It took an station intern 19 seconds to scan the sign. Wrote MacAnally,

"Clear Channel owns the billboards, but couldn't be reached for comment. The company says it will give a response in the future."



From [Lamar's Indianapolis webpage](#) [emphasis added]



Stream tweets in real time directly to our Digital Billboards.

Combine Digital Out-of-Home and Social Media to extend the conversation where people are making buying decisions. We can stream content from Facebook, Twitter, Instagram, FourSquare and Google+ to our Digital Billboards. Don't worry about filters; our [Network Operating Center \(NOC\)](#) covers that for you.

## Mobile Integration



Under Armour connected mobile with Digital Out-of-Home to promote Stephen Curry's 2014 NBA All Star appearance and the launch of the Under Armour Anatomix Spawn shoe.

Complement and increase the impact of your mobile ad campaign with Digital Out-of-Home. Using geo-fencing capabilities, we can serve mobile ads to your target audience when they're in proximity to a billboard, event venue, retail location, etc. When people aren't looking at their mobile device, outdoor media reinforces your message and connects audiences with brands.

You don't think a billboard that sends a message to your cell phone when you drive by is going to cause distracted driving? What about when you can see your tweet go up on one live?

Whatever one thinks of interactive ads, they most certainly should be subject to regulation and not just be available without discussion.

**Personal data capture technology** is already being used by billboard companies in order to tailor messages to those passing by. Your cell phone and your car itself emits signals that can be utilized by these techno boards. It is a technology in its infancy and there will be no recourse for future regulation of information gathering by these devices because it is allowed in Prop 250.



[This Ad Age article describes the Mini campaign this way:](#)

"As they pass digital screens along one of London's main roads, Mini drivers find simple, fun content aimed directly at them. Messages such as "Hey Cream Mini, what's your secret?" and "Hello blue Mini driver" flash up on giant screens, thanks to software that recognizes the Minis as they drive by."

"At gas stations along the way, Mini drivers are offered treats -- bacon sandwiches or smoothies in the morning and a tank of fuel or bunch of flowers on the journey home.

**Drivers can also choose to have their photo taken and displayed with a bespoke message as they approach the digital poster sites.** The push is part of Mini's "Not Normal" campaign, which celebrates the individuality of Mini drivers." [emphasis added]

**Sequential ads** like the old Burma Shave signs are allowed under this proposal. These are particularly dangerous to the driving public because they hold one's attention longer in hopes to see the next frame.

## LACK OF APPROPRIATE REGULATION BY PROP 250

### SWAPOUT LOOPHOLES

**Illegally erected billboards** could be taken down as a swap for digital ones. There are billboards in the City for which there are either no permits or the sign is oriented to the wrong street. Under Prop 250, a billboard company could get swapout credit for removing one of these non-permitted billboards. That is unfair.

By deliberately **eliminating the requirement to obtain an Improvement Location Permit** or a Sign Permit, the billboard company authors are seeking to grandfather digital billboards into very old separation standards. If an ILP were required, then any location that does not meet all the current distance requirements (such as 1500 feet between signs) could not be used for a new digital face. The billboard companies, however, wrote the proposed ordinance so they would get to use existing poles that are only 500 feet apart. If someone supports Prop 250 as a way to reduce the overall number of billboards in Marion County, they would want to require that an ILP and a Sign Permit be obtained prior to any conversion of a static face to a digital one.

A **digital sign face** can be removed from one location and used to convert a static sign face elsewhere - there is no requirement that this new location have an existing sign in place on the date of a revised billboard ordinance enactment.

A **digital display may be erected prior to the removal of the swapped static face**. The only requirement is the submission of a letter, within 60 days of the digital display going live, stating the swapped face came down. There is no requirement that a Code Inspector verify the removal.

If approved a proposed amendment would clarify the point that **all faces of the swapped billboard need not be removed as part of the swapout**. It is clear that one face can be swapped and the other retained, resulting in fewer locations freed of billboards than would result from a requirement that, if one face of a static billboard is swapped, all faces are swapped and the pole is removed.

An amendment to be considered would attempt to ban a location vacated in a swap from hosting a billboard in the future. Nothing, however, would ban a **billboard permit** from being **issued for a parcel next door** or across the street of a vacated parcel.

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## ONEROUS IMPACT ON NEARBY PROPERTY

Prop 250 would allow **sound**. Unregulated volume. Unregulated pitch. Imagine living 500 feet from an huge, ever changing TV - now add SOUND.

There are **no limits on the number of faces a single pole** could have. There are digital signs in Mooresville with 4 faces at busy intersections, so this option is a real possibility.

The **buffer for residential districts and historic districts** is exceedingly small. Even Electronic Variable Message Signs, which are far smaller, must be 600 feet from a protected district. We should not allow the far larger digital display to be as close as 500 feet. This will immediately impact property values and even hamper the ability of historic areas that lack IHPC designation from flourishing.

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## PUBLIC SERVICE ? OR PROFIT CENTER ?

The billboard representatives go on a lot about the **public service ads** they run. However, none are required to be run except out of the goodness of their "hearts". Even the sex offender photos displayed recently on the State Fair Grounds digital billboard had to be [paid for to the tune of \\$10,000](#). Even though they'd like to take credit as though it were free, it was not.

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## NO PROVISION FOR THE FUTURE

**Any future technology that is invented** and could fit on the face of a digital billboard may be implemented without public or Council review. This is simply a crazy giveaway to the industry. No review of future technology? We should never dare to speak for those in the future who will grapple with technologies we cannot imagine.

Laws will continue to evolve to reflect the latest **traffic safety research**. There is no provision in Prop 250 to accommodate a restriction in the future to make our roads safer. With all of the flexibility Prop 250 grants the billboard companies, the taxpayers could easily be on the hook to pay the billboard companies compensation for any digital billboard that was removed due to a new safety requirement. This is unwise.

There are also no provisions for how to **reset this static to digital conversion** should the Courts overturn this proposed ordinance. The taxpayers would have to pay the billboard companies. A little foresight would protect taxpayers from this possibility.

## TAXES ON BILLBOARDS

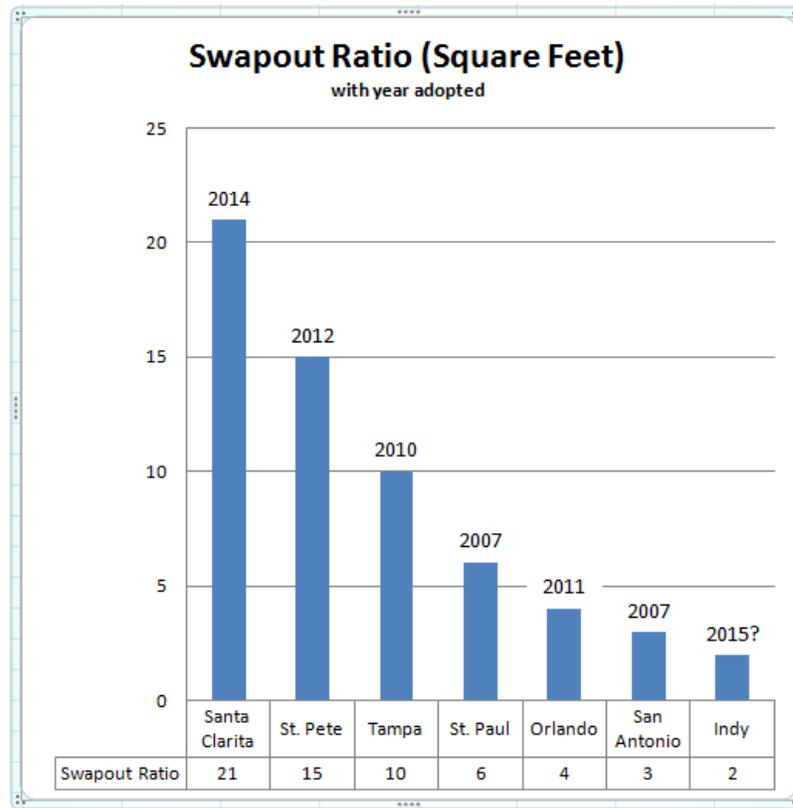
While condemnation of a billboard would require compensation based upon it being 'real property', it is taxed as 'personal property' in Marion County. The billboard companies do not get the bill, however. The landowner is responsible for paying these taxes.

According to Marion County Assessor, Joe O'Connor, his office does not add the value of a billboard to the assessed value of this personal property unless the landowner informs his office of its existence and its value.

As of this writing, the Assessor's Office is reviewing their database to determine how many billboards are currently reported as personal property for tax purposes in Marion County.

Of course, business personal property taxes are being considered by the Legislature for phasing out or elimination from Indiana's tax code.

## SWAPOUT RATIOS - OTHER CITIES



Square foot to square foot, the swapout ratios that other cities have put into their ordinances are much better than what Prop 250 would settle for. From the chart above you will notice that the trend is for a higher swapout ratio the more recently a City decided to go digital.

Santa Clarita, CA, City Council did pass the ordinance last March, anticipating roughly \$500,000 in revenue per year on top of the high swapout ratio. The citizens overturned the ordinance in a public referendum in November.

The San Antonio, TX, ordinance was a pilot program. After a year, the trial was ended and a ban put in place. Only 13 digital billboards got erected during the trial.

### OFFERED BUT NOT ACCEPTED

In 2009, [the Los Angeles Times reported](#) that Lamar offered to swap 4000 of its static billboards for 400 new static and 50 digital ones. That is a swapout ratio OFFERED by Lamar, of 71 to 1.

Three weeks later, instead of accepting Lamar's offer, the [LA City Council voted](#) to pass a permanent ban on new digital billboards, extending an often renewed temporary ban.

## DIGITAL BILLBOARD ORDINANCES IN OTHER CITIES

### SANTA CLARITA, CA 2014

	<b>Santa Clarita</b>	<b>Indy</b>
Swapout Ratio (sq. ft.)	21 : 1	2 : 1
Maximum Number	3	75 over the first 3 years >500 if all static boards are swapped or converted as allowed by Prop 250
Additional Finances	\$400,000 - \$600,000 per year	None required
References:		
<a href="#">Santa Clarita Council approves swap</a> <a href="#">Referendum overturns Council action</a>		

In March of 2014, the Santa Clarita City Council approved a deal to swap out 118 static billboard faces on 62 structures for 6 digital faces on 3 structures on city land, along with roughly \$500,000 per year revenue expected from the billboards. A signature drive by the residents got the issue put on the November ballot as a public question. The referendum passed and overturned the actions of the City Council.

## ST. PETERSBURG, FL 2012

	<b>St. Petersburg</b>	<b>Indy</b>
Swapout Ratio (sq. ft.)	14.8 : 1	2 : 1
Maximum Number	6	75 over the first 3 years >500 if all static boards are swapped or converted as allowed by Prop 250
Digital Billboard Spacing	Min 2500 feet No more than one visible on any stretch of road	Min 500 feet
Ad Dwell Time	10 seconds	8 seconds
Transition Time Between Ads	0 seconds	1 seconds
Sequential Ads (ala Burma Shave)	Not allowed	Allowed
Regulation of Light Levels	Emitted light superior for replicating flood-lit billboard brightness	Reflected light
Order of Removal & Conversion	Removal completed before digital permit issued	Removal after digital conversion permit issued okay
Removal of Structures	Required for any swapped face	Not required
Re-permitting of Swapped Locations	Not allowed If overturned in Court, re-permitting follows time formula	Allowed
Duration of Digital Option	20 years all digital faces must be converted to traditional faces	Forever
Free City Ads	City is entitled to 1 free ad slot per rotation during 12 separate 10-day periods per year	None required

	<b>St. Petersburg</b>	<b>Indy</b>
Future Changes to Law	If law changes for safety reasons, digital billboards will not be grandfathered	City would have to pay for removal
Legal Challenges to Law	If Court strikes law, only some of swapped billboards can be re-erected. If Court acts within 5 years - half can come back. If Court acts within 5-10 years - one quarter can come back. If Court acts after 10 years - none may come back.	City might have to pay for digital removal and swapped signs could all come back.
Penalties	\$1000 per day for 1st Violation \$2500 per day for 2nd \$5000 per day for 3rd	\$50 for 1st Violation \$100 for 2nd
References:  <a href="#">St. Pete City Council notes on the lease agreement</a> <a href="#">Powerpoint presentation to City Council by St. Pete Planners</a> <a href="#">Council action detailed on Scenic St. Pete</a>		

## ORLANDO, FL 2011

	<b>Orlando</b>	<b>Indy</b>
Swapout Ratio (sq. ft.)	4 : 1	2 : 1
Digital Billboard Spacing	Min 1500 feet	Min 500 feet
Allowed Structures	Monopoles Only Only 1 digital face per structure facing same direction	Not regulated
Order of Removal & Conversion	Removal completed before digital permit issued	Removal after digital conversion permit issued okay
References: <a href="#">Orlando Municipal Code</a>		

## TAMPA, FL 2010

	<b>Tampa</b>	<b>Indy</b>
Swapout Ratio (sq. ft.)	10 : 1	2 : 1
Maximum Number	Max 10 per billboard company	Max 18 per billboard company in 1st 3 years (plus 2 per year thereafter)
Digital Billboard Spacing	Min 2500 feet	Min 500 feet
Ad Dwell Time	10 - 15 seconds, depending upon location	8 seconds
References: <a href="#">Tampa Municipal Code</a>		

## ST. PAUL, MN 2007

	St. Paul	Indy
Swapout Ratio (sq. ft.)	6 : 1 for illuminated signs 8 : 1 for non-illuminated	2 : 1
Digital Billboard Spacing	Min 1 mile	Min 500 feet
Permissible Locations	Along certain freeways	Anywhere except IHPC designated Historic Districts
Distance from Residential District	1000 feet	500 feet
Ad Dwell Time	12 seconds	8 seconds
Transition Time Between Ads	0 seconds	1 seconds
Order of Removal & Conversion	Removal completed before digital permit issued	Removal after digital conversion permit issued okay
Removal of Structures	Required for any swapped face	Not required
Copy Size	All alpha-numeric copy must be at least 15 inches high	Not regulated
References: <a href="#">St. Paul Municipal Code</a>		

The ordinance includes this statement of purpose:

*Intent and purpose.* Studies show that there is a correlation between driver distraction and accidents. Signs with dynamic displays can be a cause of driver distraction. Along highways, signs with dynamic displays tend to distract drivers if they are waiting to see the next change, especially if it is a continuation of the message or if the transition uses special effects. Signs with lettering that is too small to read at a glance also cause driver distraction; whereas, typical time and temperature signs, which can be read at a glance, are not a significant distraction. This section allows for the conversion of illuminated billboards to billboards with dynamic displays subject to standards that maintain highway safety.

## SAN ANTONIO, TX 2007

In 2007, San Antonio instituted a trial for digital billboards. In 2008, it was decided not to extend the pilot program and a billboard ban was instituted.

	<b>San Antonio</b>	<b>Indy</b>
Swapout Ratio (sq. ft.)	3 : 1	2 : 1
Maximum Number	15	>500
Digital Billboard Spacing	Min 2000 feet No more than one visible on any stretch of road	Min 500 feet
Ad Dwell Time	10 seconds	8 seconds
Regulation of Light Levels	Emitted light superior for replicating flood-lit billboard brightness	Reflected light
Order of Removal & Conversion	Removal completed before digital permit issued	Removal after digital conversion permit issued okay
Free City Ads	City may use its police powers to require emergency information be displayed	None required
References: <a href="#">San Antonio government website</a>		

## DIGITAL BILLBOARDS AND TRAFFIC SAFETY

The best studies and the easiest to understand, are those where traffic accidents and driver distraction can be assessed with and without billboards.

Opportunities for these studies are quite rare, but have happened. Each time the conclusion has been that the presence of billboards correlates with increased traffic accidents.

### EFFECT OF BILLBOARD REMOVAL ON ACCIDENTS ALONG TEL AVIV'S AYALON HIGHWAY

Gitelman, V., Zaidel, D., & Doveh, E. (2012) "[Influence of Billboards on Driving Behavior and Road Safety](#)", Presented at: Fifth International Conference on Traffic and Transportation Psychology. Groningen, The Netherlands: University of Groningen.

Israel's Supreme Court decision to cover or remove all billboards for one year along one of Tel Aviv's busiest highways, allowed researchers the rare opportunity to study the effect of billboards before (2006 and 2007) and after removal or being covered up ("treatment") (2008). They found that total crashes as well as injuries due to crashes were reduced by a statistically significant degree along the road segments once billboards were removed or covered. Crashes and near crashed dropped by a third while injuries and fatalities dropped from a two year average of 47 to 17.



Results: All Crashes before and after sign removal

Year	Total Crashes	
	Control sites	Treatment sites
2006	849	106
2007	857	95
2008	825	65



Results: Injury Crashes before and after sign removal

Year	Injury/Fatal Crashes	
	Control sites	Treatment sites
2006	240	40
2007	262	55
2008	255	17



## MICHIGAN

A study conducted by the [Michigan DOT](#) demonstrated a statistically significant rise in accidents within 0.25 miles of digital billboards, even while the average accident rate on their highways fell between 2004 and 2012 –representing the years before and after installation of electronic billboards. The deviation is an 18% increase in accidents in the area of a digital billboard over the expected number of accidents determined from pre-digital accident data.

Other informative studies include:

## GLANCE DURATION AND DRIVER SAFETY

[The Impact of Driver Inattention on Near-Crash/Crash Risk: An Analysis Using the 100-Car Naturalistic Driving Study Data](#), S.G. Klauer, T.A. Dingus, V.L. Neale, J.D. Sudweeks, D.J. Ramsey, Virginia Tech Transportation Institute, April 2006.

This is a landmark study that measured driver distraction and correlated it with the risk of crashes and near-crashes.

Some of their findings:

The analyses presented in this report are able to establish direct relationships between driving behavior and crash and near-crash involvement.

The results indicated that driving while drowsy results in a four- to six-times higher near-crash/crash risk relative to alert drivers.

Drivers engaging in visually and/or manually complex tasks have a three-times higher near-crash/ crash risk than drivers who are attentive.

There are specific environmental conditions in which engaging in secondary tasks or driving while drowsy is more dangerous, including intersections, wet roadways, and areas of high traffic density.

Short, brief glances away from the forward roadway for the purpose of scanning the driving environment are safe and actually decrease near-crash/crash risk.

Even in the cases of secondary task engagement, if the task is simple and requires a single short glance, the risk is elevated only slightly, if at all.

*However, glances totaling more than 2 seconds for any purpose increase near-crash/crash risk by at least two times that of normal, baseline driving. [emphasis added]*

## EFFECT ON DRIVER DISTRACTION DURING SWEDEN'S TEST PERIOD FOR DIGITAL BILLBOARDS

In 2009, Sweden temporarily allowed digital billboards along its freeways, in order for any effects to be studied. In 2012, Dukic, et. al., published "[Effects of electronic billboards on driver distraction](#)" in the journal, Traffic Injury Prevention. This and other documentation of more frequent and prolonged driver distraction due to digital billboards, led the Swedish government banned them in 2013.

The Study's authors summarized their findings this way:

The electronic billboards attracted significantly more visual attention than the other traffic signs included in the study. **Dwell times were longer, the visual time sharing intensity was higher, very long single glances were more frequent, and the number of fixations were greater for the electronic billboards.** [emphasis added] Although whether the electronic billboards constitute a traffic safety hazard cannot be answered conclusively based on the present data, these findings do validate existing concerns about the relationship between electronic billboards and higher crash risks.

## EFFECT OF BILLBOARDS ON HOUSE VALUES

Philadelphia Urban Planner, Jonathan Snyder published his findings on the impact of billboards on home prices in his City. The 2011 study, "[Beyond Aesthetics: How Billboards Affect Economic Prosperity](#)", found a statistically significant drop in home value due to the proximity of a billboard. He found that a home within 500 feet of a billboard had a value \$30,825 lower than a similar home farther away, and a drop of \$947 for each additional billboard within a census tract.

## STUDIES THE BILLBOARD INDUSTRY WOULD LIKE YOU TO BELIEVE

### TANTALA ET.AL. 2007

[“A Study of the Relationship between Digital Billboards and Traffic Safety in Cuyahoga County, Ohio,”](#) by: Albert Martin Tantala, Sr., and Michael Walter Tantala, Tantala Associates, Submitted to: The Foundation for Outdoor Advertising Research and Education, July 7, 2007”

This study is one of three touted by the billboard industry as confirming their statement that digital billboards do not distract drivers and therefore do not impact traffic safety. This study was paid for by the billboard industry and published in one of their magazines.

The study has been highly criticized by experts in the field, including highly respected researcher Jerry Wachtel, President of The Veridian Group, who consults State DOTs and FHWA on traffic safety issues. Wachtel wrote a critique of this and the study we mention below, for the Maryland State Highway Administration; "[A Critical, Comprehensive Review of Two Studies Recently Released by the Outdoor Advertising Association of America](#)", 2007.

According to Wachtel, the paper's authors Tantala and Walter, excluded crashes involving deer, driving under the influence, adverse weather, speeding and senior related, as well as any happening near interchanges. Driver distraction surely cannot be assessed only in situations which do not call for additional driver attention. These are but two of the deficiencies in the analyses conducted in this supposedly 'ground breaking study'.

### LEE ET.AL. 2007

“Driving [Performance and Digital Billboards: Final Report,](#)” by: Suzanne E. Lee, Melinda J. McElheny and Ronald Gibbons, Virginia Tech Transportation Institute Center for Automotive Safety Research, Prepared for: Foundation for Outdoor Advertising Research and Education, March 22, 2007.”

Once again, a study paid for by the billboard industry purports to show that drivers are not distracted by digital billboards along the highway. This one is particularly onerous, because the authors actually ignore data they gathered that demonstrates exactly the opposite. [A close look at their data shows significant increases](#) in glances beyond 1.6 s, the length of time now correlated with dangerous driving distraction.

## Summary of Unanalyzed VA-Tech Data

	Glances > 1.6s	Glances > 2.0s	Glances > 3.0s
Baseline (No billboard)	6%	2%	0%
Conventional (Traditional billboard)	9%	5%	0%
Comparison (Digital on premise)	21%	10%	2%
Digital billboard	13%	7%	3%

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The data ignored by the authors clearly show a considerable increase in the percentage of long duration off-road glances caused by digital signs. Instead of demonstrating no driver distraction, the authors' own data shows that digital billboards nearly tripled the percentage of dangerously long glances over baseline.

Here is how U.S. District Court Judge Leonard Wexler commented on the study author's testimony in the case [\*Nichols Media Group vs. The Towns of Babylon and Islip\*](#):

*When considering the testimony of Dr. Lee, the court holds that the Lee Study is so infected by industry bias as to lack credibility and reliability.* [emphasis added] This conclusion is supported not only by industry involvement in the design and execution of the study but also by the lack of peer review and the fact that there is no other scientific study with the same or similar conclusions regarding driver distraction. For these reasons, the court rejects Dr. Lee's conclusions regarding traffic safety.

In his report to the Maryland State Highway Administration, Wachtel concludes with this comment under "Implications for Policy":

Because of the public relations campaign with which the OAAA [Outdoor Advertising Association of America] released and publicized these two studies [Tantala et.al. and Lee et.al], they have received wide press coverage in print, online, and in the broadcast media. Without exception, this coverage has presented uncritical acceptance of these two reports as presented, with no scrutiny of their scientific or technical soundness. As a result, numerous States and local government agencies have begun to modify their codes and ordinances that address the use of digital billboards along the roadside. *Having completed this peer review, it is our opinion that acceptance of these reports as valid is inappropriate and unsupported by scientific data, and that ordinance or code changes based on their findings is ill advised.* [emphasis added]

## 2013 FEDERAL HIGHWAY ADMINISTRATION PUBLISHED STUDY

The Federal Highway Administration contracted for a research project to study distracted driving related to digital and static billboards using two cities, Reading, PA, and Richmond, VA, as testing grounds. The study was supposed to be released in 2009, [but was held up for years, apparently because of scathing reviews by experts hired by FHWA to review the paper](#).

Finally, in December, 2013, FHWA took a very unusual step and published three things - the paper before being reviewed by the experts (which they dubbed "[Draft](#)" and dated March, 2011), the [experts' comments](#) on the "Draft" paper, and paper after the reviews (which they dubbed "[Peer reviewed report](#)" and dated September 2012).

Both versions of the paper, "CEVMS and Driver Visual Behavior Study" concluded that digital billboards do not cause prolonged gazes or driver distraction from the road.

These conclusions are often cited by the billboard industry as proving their claim that digital billboards do not contribute to driver distraction and therefore do not cause safety issues on the roadways.

The experts' comments published by FHWA cast serious doubt on the validity of the data in the "Draft" version.

As [Fairwarning.org, which obtained](#) the comments through a freedom of information request in 2012 put it:

In the FHWA study, recorded glances were so brief that none came close to 2 seconds or even 1.6 seconds. Only about 1 percent were above three-quarters of a second.

In fact, the average was slightly below one-tenth of a second -- a number both expert reviewers considered almost impossible.

"The reported glances to billboards here are on the order of 10-times shorter than values reported elsewhere," one reviewer wrote. "The pattern of results certainly raises questions over the quality and legitimacy of the underlying data."

**The other said, "The data reported as average glance durations are not plausible."**  
[emphasis added]

Those are very strong statements by reviewers.

Doubts continue to mount in the scientific community that conducts research into driver distraction and traffic safety. Just [this month, Jerry Wachtel](#), published his own review of these papers, and had 14 experts in the field review and weigh in on his analysis.

The most troubling parts of the critique are the changes the authors made to the "Draft" version that appear in the "Peer reviewed report" without explanation. As an example, FHWA personnel familiar with the study who spoke at conferences prior to the study's release stated that data was collected for 40-50 billboards. The Draft version analyzed data from only 30, and the Peer Reviewed Report only 16. No explanation has been offered for why data was thrown out each step of the way.

Non-standard methodology was employed for this study for brightness of the digital displays as well as the portion of the billboard approach distance used for data collection, among other things. The equipment seemed to have issues as well, causing the researcher to request the test drivers stop by the side of the road so the researcher could attend to the equipment.

Scientists are waiting for explanations of these things from FHWA and also for the location of the roads used in the study, because the data is only useful if it can be replicated.

## INDIANAPOLIS NEIGHBORHOOD ORGANIZATIONS AND OTHER GROUPS OPPOSED TO PROP 250

Acton Community Council

The American Institute of Architects, Indiana Chapter

Arsenal Heights Civic League

Butler Tarkington Neighborhood Association

Chatham Arch Neighborhood Association

Community Alliance of the Far Eastside

Community Heights Neighborhood Organization

Cottage Home Neighborhood Association

Crooked Creek Community Council

Decatur Township Civic Council

Eagle Creek Woods I Homeowners' Association

Eastgate Neighborhood Association, Inc.

East 10th Street Civic Association

Emerson Heights Community Organization

Englewood Community Development Corporation

Fairfields-Sylvan Neighborhood Association

Far Eastside Neighborhood Association

Fletcher Place Neighborhood Association

Firehouse Square Association

Franklin Township Civic League

Greater Allisonville Community Council

Greater Troy Neighborhood Association  
Herron Morton Place Association  
Historic Irvington Community Council  
Historic Meridian Park  
Historic Urban Neighborhoods of Indianapolis  
Holy Cross Neighborhood Association  
Indiana Landmarks  
Irvington Development Organization  
Lockerbie Square Peoples Club  
Lowell Civic League  
Keystone Millersville Association, Inc.  
Keystone-Monon Neighborhood Partnership  
Marion County Alliance of Neighborhood Associations  
Meridian-Kessler Neighborhood Association  
Meridian Kessler Neighbors Helping Neighbors  
Midtown Indianapolis, Inc.  
Millersville at Fall Creek Valley, Inc.  
Near East Area Renewal  
Near East Side Community Organization  
New Beth-El Homeowners Association  
Nora Northside Community Council  
Old Speedway City Neighborhood Association  
Old Northside/ Tinker Street  
Pike Township Residents Association  
South Wayne Neighborhood Organization  
St. Joseph Neighborhood Association

Sunshine Gardens Neighborhood Association

The Heartland Group, Hoosier Chapter, Sierra Club

The Old Northside, Inc.

Town of Cumberland

Warren Township Development Association

Watson Park Neighborhood Association

Westchester Association

West Indianapolis Development Corporation

Windsor Park Neighborhood Association

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