

SENATE BILL 3612

By Watson

AN ACT to amend Tennessee Code Annotated, Title 54,
relative to roadside memorials.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 54, is amended by adding Sections 2 through 8 as a new chapter thereto.

SECTION 2. For the purposes of this act, unless the context otherwise requires:

(1) "Permanent memorial marker" means items such as plaques and stone that are typically self-supported, are intended to last many years and require a significant installation and mounting process;

(2) "Roadside memorial marker" means any of the various kinds of tributes, typically ornamental, placed alongside the roadway to memorialize people who have died as a result of vehicular accidents; and

(3) "Temporary memorial marker" means decorations, flags, flowers (cut and artificial) and other lightweight objects or ornamentation commonly used at funerals or at gravesides as a tribute to the dead.

SECTION 3. Roadside memorial markers placed within the rights-of-way of the state's roads and highways by family members or friends for the sole purpose of memorializing persons who have died as a result of vehicle related accidents shall comply with the following:

(1) Temporary memorial markers may be placed near the location of a fatal vehicular accident if:

(A) Before placing a temporary memorial marker, the person must contact the nearest department of transportation office. The family member or friend of the deceased shall provide information concerning the intended placement and construction of the temporary memorial marker so that appropriate guidance may

be provided. The department of transportation shall record the family member or friend's name, address and phone number for future contact.

(B) Temporary memorial markers must not exceed surface dimensions of four feet (4') in length by four feet (4') in width, and should be self-supporting.

Any structural or support members of the memorial are limited to a diameter no greater than three inches (3") if wooden or one-quarter inch (1/4") if metal.

(2) A permit shall be obtained from the department for all permanent memorial markers.

SECTION 4. All roadside memorial markers must:

(1) Be within the highway right-of-way, as far from the travel lanes as reasonably possible and not on private property nor in front of or alongside of private property or residences unless express permission is obtained from the property owner;

(2) Be clear of ditches, culvert pipes, bridges and other highway features that require access for maintenance;

(3) Be behind the guardrail, if one is present, except that temporary memorial markers may be tied to a guardrail post with lightweight string, wire or tape and must be easily removable for maintenance purposes;

(4) Not be placed in the highway median, on any bridge, nor attached to trees, fences, signs, signals, utility poles or other such structures; and

(5) Not be a hazard to the motoring public in any way including, but not limited to, restricting driver's sight, having any light reflecting materials or be illuminated by any means, or by interfering with or obscuring any traffic control device.

SECTION 5. Persons placing roadside memorial markers are responsible for doing so by acting in a safe manner including parking completely clear of travel lanes. The department may require a memorial be placed nearby the accident location, rather than at the accident

location itself, in order to avoid endangering the persons placing or maintaining the memorial and to avoid endangering the motoring public.

SECTION 6. The commissioner of transportation has the authority to direct or cause the removal of any roadside memorial marker, without notice, within a state highway right-of-way upon determining that such memorial does not comply with the provisions of this act, the removal is necessary for construction, maintenance or safety, the memorial falls into a state of disrepair, or other such reason. The family or friend of the deceased placing the memorial marker shall be notified if it is removed by the department pursuant to this section.

SECTION 7. A temporary memorial marker shall be removed without notice to the family after it has been placed or erected for one (1) year.

SECTION 8. The department of transportation is authorized to promulgate rules and regulations pursuant to title 4, chapter 5, to implement the provisions of this act.

SECTION 9. This act shall take effect July 1, 2008, the public welfare requiring it.