



## Asian American Hotel Owners Association

7000 PEACHTREE DUNWOODY ROAD, BUILDING 7

ATLANTA, GEORGIA 30328

(404) 816-5759 PHONE

(404) 816-6260 FAX

[WWW.AAHOA.COM](http://WWW.AAHOA.COM)

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### AAHOA'S Strong Opposition To The Significant Fee Increases For The Department Of Transportation (DOT) Logo Sign Program

Dear Governor Charlie Crist and the Honorable Members of the Florida Legislature,

On behalf of the more than 10,000 members of the Asian American Hotel Owners Association (AAHOA), including the 500 members who own thousands of hotels in the State of Florida, we are writing to address a serious concern that our members are facing as a result of the significant increase in fees from the Florida Department of Transportation (DOT) Logo Sign Program.

As you may be aware, AAHOA members own 22,000 hotels, which is forty percent (40%) of all hotels in this country. Our members create or support more than one million jobs. They pay billions in taxes. Yet, behind these statistics, **the lodging industry as a whole is in trouble.**

During these tough economical times, it is highly unfair for the DOT to significantly increase the permit fees for the Logo Sign Program for Florida hoteliers and small business owners -- especially since the DOT failed to follow the strict mandates set forth in Section 479.261(5) of the Florida Statutes (FS). As explained below, **we strongly urge the DOT to rewrite the Rules so they comply with the law**, and do not impose unfair burdens on hoteliers and businesses in Florida.

#### A. IN ADOPTING NEW RULES, THE DOT FAILED TO COMPLY WITH THREE (3) MANDATES THAT WERE PASSED BY THE FLORIDA LEGISLATURE

In April 2009, the Florida Legislature passed House Bill No. 5013, which was then approved by the Governor and filed in the Office of the Secretary of State on May 27, 2009. This applicable law is set forth in the provisions of Section 479.261(5), F.S. concerning the DOT Logo Sign Program, which mandates that the DOT shall do the following:

- Shall establish permit fees “**in an amount sufficient to offset the total cost**” of the program;
- Provide the program services “**in the most efficient and cost-effective manner**”; and
- Adopt “**reasonable rates** based on factors such as population, traffic volume, **market demand**, and costs for the annual permit fees.”

(See language of Section 479.261(5), F.S. attached as Exhibit “1”; emphasis added.)

#### THE DOT FAILED TO COMPLY WITH THE LAW IN ESTABLISHING PERMIT FEES:

In adopting its new Rule 14-85.010 for permit fees, the DOT failed to comply with the requirements of Section 479.261(5) F.S., and instead:

- The DOT violated the law by establishing permit fees that **far exceeded** the amount necessary to offset the cost of the program.
- The DOT violated the law by offering **inefficient and cost-prohibitive** program services;
- The DOT violated the law by adopting **highly unreasonable rates that were more than two hundred to four hundred percent (200%-400%) higher than in previous years**, without accounting for the decreased market demand during these challenging times.

Specifically, the designated formula for determining the permit fees for the Logo Sign Program includes an actual cost of \$1,000 for each Logo Sign, but then also **adds unwarranted fees and hidden taxes that range from \$1,000-3,800** based on the Annual Average Daily Traffic (AADT) patterns at local interchanges and the population of the area surrounding the interchange. While AAHOA **supports** the payment of permit fees in an amount of \$1,000 for each logo sign to offset the total cost of the program, we **strongly object** to the DOT's imposition of \$1,000-\$3,800 in additional

hidden fees, especially since the DOT failed to account for the decreased market demand for businesses in this down economy. (See full text of the Rule 14-85.010 attached as Exhibit "2," and the corresponding charts showing the groupings for both AADT and population.)

**THE FEES BASED ON THE AADT AND POPULATION FACTORS ARE EXCESSIVE AND NOT SUPPORTED BY SUFFICIENT DATA:** With respect to the high fees based on the AADT, the DOT explained that "actual" AADT data is collected from permanent continuous counters at only designated interchanges with automated telemetry recorders (ATR), and the data for all other interchanges is "estimated" using portable counters. Moreover, the DOT then adjusts this data based on factors such as axle corrections and the number of trucks that might pass through the interchange. This raises serious concerns about the reliability of the data, including the equipment used and the types of estimates that are generated.

There is also no guidance on how the "population of the area surrounding the interchange" is calculated, the source or year of the population data that is being used, and whether the same measure is used for all interchanges throughout the state.

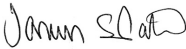


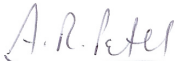

**THE DOT FAILED TO PROPERLY ACCOUNT FOR A DECREASED MARKET DEMAND:** Notwithstanding the Legislature's direction to consider the market demand, the DOT never considered, for example, the substantial decrease in the public's demand for hotel rooms when it adopted its Rules. With the nation's economy in a recession, there are fewer discretionary dollars in the pockets of consumers. Corporations are also cutting back on business travel and expenses. This directly impacts business and leisure travel. Smith Travel Research (STR) Global, one of the foremost sources of data on hotel performance trends, reported that for the week ending October 10, 2009, **the U.S. hotel market experienced the largest one-year drop in over 75 years.**




Moreover, in establishing the permit fees, the DOT failed to recognize that a great majority of the daily traffic is made up of local citizens who have no need to stay in a lodging facility. Thus, AAHOA submits that the current Rules should be revised and a new fee structure implemented which complies with Section 479.261(5), F.S.

**B. MOST OF THOSE IMPACTED BY THIS CHANGE IN THE FEES WERE UNAWARE OF THESE PROPOSALS BECAUSE THE DOT DID NOT PROVIDE FAIR NOTICE**

On July 17, 2009, the DOT issued a Notice of Development of Rulemaking for, among others, Rule 14-85.010. In the Notice, however, the DOT stated: "THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE." On September 14 2009, the DOT issued a Notice of Proposed Rule, with the language of Rule 14-85.010, on its website. It stated that a hearing would be conducted on September 30, 2009. Since no one was aware of the Notice, we have been informed that no one attended the hearing. The DOT subsequently adopted the Rules with no input from the business community.

This process is clearly unfair for implementing such significant Rules that will have a severe impact on business owners across the State. AAHOA strongly urges the DOT to develop a new set of Rules that complies with the mandates of Section 479.261(5), F.S. that was passed by the Florida Legislature and approved by the Governor. We also request that you provide a reasonable opportunity for those impacted by the Rules to be heard. Thank you.

				
Tarun S. Patel Chairman, 2009	ChandraKant Patel Vice Chairman	Hemant Patel Treasurer (FLA)	Alkesh Patel Secretary	Fred Schwartz President

		
Kirit Patidar Florida Regional Director	M.P. Rama Chairman, 2005 (FLA)	Nash Patel Chairman, 2004 (FLA)

## EXHIBIT “1”

### Section 479.261(5), F.S.

“(5) At a minimum, permit fees for businesses that participate in the program **must be established in an amount sufficient to offset the total cost to the department for the program**, including contract costs. The department **shall provide the services in the most efficient and cost effective manner** through department staff or by contracting for some or all of the services. The department **shall adopt rules that set reasonable rates** based upon factors such as population, traffic volume, **market demand**, and costs for annual permit fees. However, annual permit fees for signs inside an urban area, as defined in s.334.03(32), may not exceed \$5,000 and annual permit fees for signs outside an urban area, as defined in s.334.03(32), may not exceed \$2,500.” (Emphasis added.)

## EXHIBIT “2”

### Rule 14-85.010 Permits

“(2) Permit Fees. Effective January 1, 2010, permit fees shall be in accordance with the provisions of Section 479.261(5), F.S. Annual fees for participation in the Logo Sign Program are computed based upon the Annual Average Daily Traffic (AADT) at each interchange, the population of the area surrounding the interchange, market conditions, and the costs of the program. The following charts show the groupings for both AADT and population:

<b>AADT Grouping</b>		
>	<=	Group
0	30,000	0
30,000	75,000	1
75,000	175,000	2
175,000		3
<b>Population Grouping</b>		
>	<=	Group
0	5,000	1
5,000	50,000	2
50,000	200,000	3
200,000	500,000	4
500,000		5

The following chart shows the weighed values assigned to each factor:

<b>Fee Formula Factors</b>	
AADT	600
Population	400
Cost	1000

The fee for each interchange is computed as follows:

$(\text{AADT Group} \times \text{AADT Factor}) + (\text{Population Group} \times \text{Population Factor}) + \text{Cost Factor}$

EXAMPLE: For an interchange with an AADT of 60,000 and a population of 75,000, the fee is computed as follows:

AADT = 1

Population Group = 3

$(1 \times 600) + (3 \times 400) + 1000 = \$2,800 \dots$

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