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HOUSE BILL 645*
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Short Title: Revisions to Outdoor Advertising Laws.

(Public)

Sponsors:

Referred to:

April 10, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE THE OUTDOOR ADVERTISING LAWS.

3 The General Assembly of North Carolina enacts:

4 SECTION 2. G.S. 136-128 reads as rewritten:

5 "§ 136-128. Definitions.

6 As used in this Article:

7 (1) Area zoned commercial or industrial. – An area which is zoned for business,
8 industry, commerce, or trade pursuant to a State law or local zoning ordinance
9 or regulation, regardless of how labeled, where uses associated with business,
10 industry, commerce, or trade are permitted. This term does not include
11 "zoning designed primarily for the purpose of permitting outdoor advertising
12 signs," as that term is defined in G.S. 136-133.5(e).

13 (1a) Customary use. – Compliance with the specific outdoor advertising standards
14 for size, lighting, and spacing in areas zoned commercial or industrial under
15 authority of State law or in unzoned commercial or industrial areas, as the
16 standards and areas are described and defined in the agreement dated January
17 7, 1972, as amended, and entered into between the State and the United States
18 Department of Transportation under G.S. 136-138 to implement the
19 provisions of the federal Highway Beautification Act of 1965.

20 ~~(1)(b)~~ "Erect" means to Erect or erection. – To construct, build, raise, assemble,
21 place, affix, attach, create, paint, draw, or in any other way bring into being or
22 establish. This term does not include the repair or reconstruction of outdoor
23 advertising, as authorized under G.S. 136-131.2, or the relocation of an
24 outdoor advertising sign as authorized under applicable State law.

25 ~~(1a)(1c)~~ "Illegal sign" means one Illegal sign. – A sign which was erected and/or
26 maintained in violation of State law.

27 ~~(1b)(1d)~~ "Information center" means an Information center. – An area or site
28 established and maintained at safety rest areas for the purpose of informing
29 the public of places of interest within the State and providing such other
30 information as the Department of Transportation may consider desirable.

31 (2) "Interstate system" means that Interstate system. – The portion of the National
32 System of Interstate and Defense Highways located within the State, as
33 officially designated, or as may hereafter be so designated, by the Department



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1 of Transportation, or other appropriate authorities and are also so designated
2 by interstate numbers. As to highways under construction so designated as
3 interstate highways pursuant to the above procedures, the highway shall be a
4 part of the interstate system for the purposes of this Article on the date the
5 location of the highway has been approved finally by the appropriate federal
6 authorities.

7 (2a) Main-traveled way or traveled way. – Part of a highway on which through
8 traffic is carried, exclusive of paved shoulders. In the case of a divided
9 highway, the traveled way of each of the separated roadways for traffic in
10 opposite directions is a traveled way. It does not include frontage roads,
11 turning roadways, or parking areas.

12 (2a)(2b) ~~"Nonconforming sign" shall mean a Nonconforming sign.~~ – A sign which
13 was lawfully erected but which does not comply with the provisions of ~~State~~
14 ~~law~~ customary use or ~~State~~ rules adopted and regulations passed by the
15 Department of Transportation at a later date ~~or which in accordance with this~~
16 Article, or which, due to changed conditions, later fails to comply with State
17 ~~law~~ customary use or ~~State~~ rules adopted or regulations ~~due to changed~~
18 conditions. Illegally erected or maintained passed by the Department of
19 Transportation in accordance with this Article. Illegal signs are not
20 nonconforming signs.

21 (2c) On-premise or on-property sign. – A sign which advertises the sale or lease of
22 property upon which it is located or which advertises an activity conducted or
23 product for sale on the property upon which it is located. An on-premise sign
24 may not be converted to a permitted outdoor advertising sign unless it meets
25 all rules in effect at the time of the conversion request. An on-premise sign
26 must be located on property contiguous to the property on which the activity
27 is located. Tracts not considered to be contiguous include:

28 a. Tracts of land separated by a federal, State, city, or public access
29 maintained road.

30 b. Tracts of land not under common ownership.

31 c. Tracts of land held in different estates or interests.

32 (3) ~~"Outdoor advertising" means any Outdoor advertising.~~ – Any outdoor sign,
33 display, light, device, figure, painting, drawing, message, plaque, poster,
34 billboard, or any other thing which is designed, intended or used to advertise
35 or inform, any part of the advertising or information contents of which is
36 visible from any place on the main-traveled way of the interstate or primary
37 system, whether the same be permanent or portable installation.

38 (4) Primary system. – The federal-aid primary system in existence on June 1,
39 1991, and any highway which is not on that system but which is on the
40 National Highway System. As to highways under construction so designated
41 as primary highways pursuant to the above procedures, the highway shall be
42 a part of the primary system for purposes of this Article on the date the
43 location of the highway has been approved finally by the appropriate federal
44 or State authorities.

45 (5) ~~"Safety rest area" means an Safety rest area.~~ – An area or site established and
46 maintained within or adjacent to the highway right-of-way by or under public
47 supervision or control, for the convenience of the traveling public.

48 (5a) Sign location or site. – The location or site of an outdoor advertising sign
49 measured to the closest 1/100 of a mile, in conformance with the Department
50 of Transportation methods of measurement for all State roads.

- 1 (6) "State law" means a State constitutional provision or statute, or an ordinance,
2 rule or regulation enacted or adopted by a State agency or political subdivision
3 of a State pursuant to a State Constitution or statute.
- 4 (7) ~~"Unzoned area" shall mean an~~ Unzoned commercial or industrial area. – An
5 area where there is no zoning in ~~effect~~ effect that is within 660 feet of the
6 nearest edge of the right-of-way of the interstate or primary system, in which
7 there is at least one commercial or industrial activity that meets the criteria set
8 forth in G.S. 136-130.1.
- 9 (8) ~~"Urban area" shall mean an~~ Urban area. – An area within the boundaries or
10 limits of any incorporated municipality having a population of five thousand
11 or more as determined by the latest available federal census.
- 12 (9) ~~"Visible" means capable~~ Visible. – Capable of being seen (whether or not
13 legible) without visual aid by a person of normal visual acuity."

14 **SECTION 3.** Article 11 of Chapter 136 of the General Statutes is amended by adding
15 a new section to read:

16 **"§ 136-130.1. Unzoned commercial or industrial area criteria for outdoor advertising signs.**

17 (a) Criteria. – To qualify as an unzoned commercial or industrial area for purposes of this
18 Article, one or more commercial or industrial activities shall meet all of the following criteria
19 prior to submitting an outdoor advertising permit application to the Department of
20 Transportation:

- 21 (1) The activity shall maintain all necessary business licenses as may be required
22 by applicable State law.
- 23 (2) The property used for the activity shall be listed for ad valorem taxes with the
24 county and municipal taxing authorities as required by law.
- 25 (3) The activity shall have all basic utilities, including electricity, telephone,
26 water, and sewer or septic service.
- 27 (4) The activity shall have direct or indirect vehicular access and be a generator
28 of vehicular traffic.
- 29 (5) The activity shall have a building designed with a permanent foundation, built
30 or modified for its current commercial or industrial use, and the building must
31 be located within 660 feet from the nearest edge of the right-of-way of the
32 controlled route. Where a mobile home unit or recreational vehicle is used as
33 a business or office, the following conditions and requirements also apply:
- 34 a. The unit or vehicle shall meet the State Building Code criteria for
35 commercial or business use.
- 36 b. All wheels, axles, and springs on the unit or vehicle shall be removed.
- 37 c. The unit or vehicle shall be permanently secured on piers, pad, or
38 foundation.
- 39 d. The unit or vehicle shall be tied down in accordance with State or local
40 requirements.
- 41 e. A self-propelled vehicle shall not qualify for use as a business or office
42 under this subdivision.
- 43 (6) The activity must be in active operation a minimum of six months prior to the
44 date of submission of an application for an outdoor advertising permit.
- 45 (7) The activity shall be open to the public during hours that are normal and
46 customary for that type of activity in the same or similar communities, but for
47 not less than 20 hours per week.
- 48 (8) One or more employees shall be available to serve customers during the hours
49 the activity is open to the public.
- 50 (9) The activity shall be visible and recognizable as commercial or industrial from
51 the main-traveled way. An activity is visible when that portion on which the

1 permanent building designed, built, or modified for its current commercial use
2 can be clearly seen 12 months a year by a person of normal visual acuity while
3 traveling at the posted speed on the main-traveled way adjacent to the activity.
4 An activity is recognizable as commercial or industrial when its visibility from
5 the main-traveled way is sufficient for the activity to be identified as
6 commercial or industrial.

7 (b) Guidelines. – When making a determination as to whether an activity meets the
8 criteria set forth in subsection (a) of this section, both of the following guidelines shall apply:

9 (1) Each side of the highway shall be considered separately.

10 (2) All measurements shall begin from the outer edges of regularly used
11 buildings, parking lots, storage, or processing areas of the commercial or
12 industrial activity, not from the property line of the activity, and shall be along
13 the nearest edge of the main-traveled way.

14 (c) Nonqualifying Activities. – The following are not considered activities for the
15 purpose of qualifying an unzoned commercial or industrial area under this Article:

16 (1) Outdoor advertising structures.

17 (2) On-premise or on-property outdoor advertising signs, if the on-premise or
18 on-property sign is the only part of the commercial or industrial activity that
19 is visible from the main-traveled way.

20 (3) Agricultural, forestry, ranching, grazing, farming, and related activities,
21 including temporary wayside fresh produce stands.

22 (4) Transient or temporary activities.

23 (5) Activities not visible and recognizable as commercial or industrial from the
24 traffic lanes of the main-traveled way.

25 (6) Activities more than 660 feet from the nearest edge of the right-of-way.

26 (7) Activities conducted in a building principally used as a residence.

27 (8) Railroad tracks and minor sidings.

28 (9) Any outdoor advertising activity or any other business or commercial activity
29 carried on in connection with an outdoor advertising activity.

30 (10) Illegal junkyards, as defined in G.S. 136-146, and nonconforming junkyards,
31 as described in G.S. 136-147."

32 **SECTION 4.** Article 11 of Chapter 136 of the General Statutes is amended by adding
33 a new section to read:

34 **"§ 136-131.3. Relocation of lawfully existing outdoor advertising sign.**

35 (a) In order to minimize the amount of just compensation due, whenever property on
36 which an outdoor advertising sign is located is acquired by a public or private condemnor, as
37 defined in G.S. 40A-3, or the Department of Transportation, and the acquiring party requires
38 removal of the sign, any legally erected outdoor advertising sign is permitted to be relocated and
39 reconstructed within a two-mile radius from the existing sign location subject to all of the
40 following requirements:

41 (1) The new site for relocation is permitted to be any area within 660 feet of the
42 nearest edge of the right-of-way of a highway on the National System of
43 Interstate and Defense Highways or the federal aid primary highway system
44 within the following, as applicable:

45 a. An area zoned commercial or industrial located within the same
46 zoning jurisdiction, provided it is not located adjacent to any highway
47 as provided in G.S. 136-129.2.

48 b. The same unzoned city territorial limits or the same unzoned county
49 territorial limits if the initial outdoor advertising sign was located in
50 an unzoned area prior to the relocation.

- 1 (2) Except as provided in subsection (c) of this section, the outdoor advertising
2 sign at the relocated site shall conform with customary use in areas zoned
3 commercial or industrial under authority of State law, or if the relocated site
4 is unzoned, in unzoned commercial or industrial areas. The new site for
5 relocation shall not be within a historic district lawfully established by a city
6 or county pursuant to Part 3C of Article 19 of Chapter 160A of the General
7 Statutes, unless consented to by a resolution adopted by the applicable local
8 governing board.
- 9 (3) The construction work related to the relocation of the outdoor advertising sign
10 shall commence within one year after the date of removal.
- 11 (4) Subject to subsection (c) of this section, any outdoor advertising that is
12 required to be removed may be reconstructed as provided in G.S. 136-131.2
13 so long as the square footage of its advertising surface area is not increased.
14 In addition to other sign characteristic changes or alterations resulting from
15 the relocation, the height of the sign may be increased not to exceed 50 feet
16 measured from the adjoining road grade or base of the sign, whichever allows
17 for the greatest visibility.
- 18 (5) The express allowances of relocation and reconstruction in this section shall
19 apply to any legally erected outdoor advertising sign anywhere within this
20 State that is required to be removed as a result of action taken by a public or
21 private condemnor, as defined in G.S. 40A-3, or the Department of
22 Transportation, including such signs that are not subject to the jurisdiction of
23 the Department of Transportation.
- 24 (6) The express allowances of relocation and reconstruction in this section shall
25 apply whenever a lawfully erected outdoor advertising sign is affected by the
26 construction of a sound wall. In lieu of relocation, a lawfully erected outdoor
27 advertising sign that is affected by the construction of a sound wall may raise
28 the height of the sign not to exceed 50 feet above the top of the wall.
- 29 (b) Any outdoor advertising sign that does not otherwise qualify for relocation as
30 provided in subsection (a) of this section and for which there is in effect a valid permit issued by
31 the Department of Transportation pursuant to this Article is permitted to be relocated and
32 reconstructed subject to all of the requirements listed in subdivisions (1) through (6) of subsection
33 (a) of this section, except that the sign shall not be relocated a distance greater than 250 feet from
34 the lot boundaries on which the sign was previously located. No sign shall be relocated pursuant
35 to this subsection within 10 years from the date of the last relocation pursuant to this subsection;
36 however, this temporal limitation does not apply to relocations on the same sign location or site.
- 37 (c) Any outdoor advertising sign that is legally existing but would not be conforming to
38 customary use if relocated on the same sign location or site is permitted to be relocated on the
39 same sign location or site, subject to the following requirements:
- 40 (1) The structural members of the sign at the relocated site are of like material.
41 (2) The size of the sign face or faces is not increased.
42 (3) The height of the sign at the relocated site does not exceed 50 feet measured
43 from the adjoining road grade or base of the sign, whichever allows for the
44 greatest visibility, except that a sign may be 50 feet above the top of a sound
45 wall or noise barrier constructed between the sign and the main-traveled way.
- 46 (4) The relocation on the same sign location or site is not denied by the Federal
47 Highway Administrator or such other federal official delegated the
48 responsibility for enforcing the federal State agreement referenced in the
49 definition of customary use in G.S. 136-128.
- 50 (d) A new site for relocation shall not be denied by the Department of Transportation due
51 to the presence of vegetation obstructing the visibility of the outdoor advertising sign from the

1 viewing zone. The owner or operator of the outdoor advertising sign shall be permitted to
2 improve the visibility of the sign by removing any vegetation on private property upon receiving
3 written consent of the landowner and on the right-of-way of the interstate and primary systems
4 of the State pursuant to a selective vegetation removal permit issued under this Article. A city or
5 county shall not enforce any ordinance or regulation in conflict with the rights set forth in this
6 subsection or to otherwise cause the withholding of consent by the landowner.

7 (e) In determining just compensation as provided by law, a fact finder in awarding
8 damages to the outdoor advertising property owner may consider the actual relocation of the
9 outdoor advertising in accordance with this section.

10 (f) For purposes of this subsection, a "view corridor" shall mean any overlay district
11 established prior to April 1, 2019, by a municipality which designates on a zoning map, specific
12 thoroughfares or segments of thoroughfares within the territorial limits of a municipality, in
13 which the construction of newly permitted outdoor advertising signs are explicitly prohibited.
14 Notwithstanding subsection (a) of this section, all of the following shall apply to a relocation of
15 an outdoor advertising sign:

16 (1) A sign not located within a view corridor prior to relocation shall not be
17 relocated into a view corridor without the approval of the municipality.

18 (2) Signs previously located within a view corridor are permitted to be relocated
19 within the same view corridor.

20 (3) If a municipality has an established view corridor, a sign relocated under
21 subsection (a) of this section is permitted to be relocated within a five-mile
22 radius from the existing sign location, subject to all of the requirements listed
23 in subdivisions (1) through (6) of subsection (a) of this section."

24 **SECTION 4.7.** Article 11 of Chapter 136 of the General Statutes is amended by
25 adding a new section to read:

26 **"§ 136-131.5. Relocation within five miles of a military base.**

27 (a) Notwithstanding G.S. 136-131.3, if any outdoor advertising sign is to be relocated to
28 a site located five miles or less from the perimeter boundary of a military base, the owner of the
29 outdoor advertising sign shall notify and consult the commander of the military base or the
30 commander's designee, the Department, the county board of commissioners of the county in
31 which the military base lies, and the city council of the city in which the military base lies, if any,
32 of the proposed relocation of the outdoor advertising sign. Such notification shall include a
33 detailed map and explanation of the proposed relocation and reconstruction.

34 (b) The commander of the military base or the commander's designee, the board of county
35 commissioners, and the city council, if applicable, shall have 30 days from receipt of the notice
36 to submit comments or analysis regarding the compatibility of the proposed relocation and
37 reconstruction with military operations at the base to the Department. If the Department does not
38 receive a response within 30 days of the notice, the military, board of commissioners, and city
39 council, if applicable, are deemed to waive the comment period."

40 **SECTION 6.** G.S. 136-133.2 reads as rewritten:

41 **"§ 136-133.2. Issuance or denial of a selective vegetation removal permit.**

42 (a) Except as provided in subsection (b) of this section and G.S. 136-133.1(g), permits to
43 remove vegetation may be granted for outdoor advertising locations that have been permitted for
44 at least ~~two years~~ one year prior to the date of application. The Department shall approve or deny
45 an application submitted pursuant to this section, including the fee required by G.S. 136-18.7 and
46 all required documentation, within 30 days of the receipt of an application for a selective
47 vegetation removal permit. If written notice of approval or denial is not given to the applicant
48 within the 30-day period, then the application shall be deemed approved. If the application is
49 denied, the Department shall advise the applicant, in writing, by registered or certified mail,
50 return receipt requested, addressed to the party to be noticed, and delivering to the addressee, the
51 reasons for the denial.

1 (b) Notwithstanding the one-year period required in subsection (a) of this section, permits
2 to remove vegetation may be granted for outdoor advertising locations, if the outdoor advertising
3 has been relocated, as allowed by law, and the outdoor advertising otherwise complies with the
4 requirements of this section and rules adopted by the Department in accordance with this
5 section."

6 **SECTION 7.** G.S. 136-133.5(d) reads as rewritten:

7 "(d) ~~The~~Except for relocations authorized under G.S. 136-131.3, the Department shall not
8 issue permits for new outdoor advertising signs at a sign location where existing trees, if they
9 were to reach the average mature size for that species, would make the proposed sign faces, when
10 erected, not completely visible from the viewing zone. "Existing trees" are those trees that at the
11 time of the permit application are four inches or greater in diameter as measured six inches from
12 the ground. "Viewing zone" means the area which is 500 feet as measured along the edge of the
13 main travel way of the controlled route on each side of the proposed sign structure which will
14 have a sign face."

15 **SECTION 8.** If any provision of this act or its application is held invalid, the
16 invalidity does not affect other provisions or applications of this act that can be given effect
17 without the invalid provisions or application, and, to this end, the provisions of this act are
18 severable.

19 **SECTION 9.** This act is effective when it becomes law. Section 4 of this act applies
20 to outdoor advertising signs removed on or after the effective date of this act. Section 7 of this
21 act applies to outdoor advertising signs relocated on or after the effective date.