

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

HOUSE BILL 645
Committee Substitute Favorable 4/30/19
PROPOSED COMMITTEE SUBSTITUTE H645-PCS10641-BA-16

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 1.** G.S. 136-127 reads as rewritten:

5 "**§ 136-127. Declaration of policy.**

6 The General Assembly hereby finds and declares that outdoor advertising is a legitimate
7 commercial use of private property adjacent to roads and ~~highways but~~ highways. The General
8 Assembly also finds and declares that outdoor advertising is an important and distinct medium
9 of communication for effectively displaying commercial and noncommercial messages and is an
10 established segment of the national economy that serves to promote and protect investments in
11 commerce and industry. The General Assembly further finds that the erection and maintenance
12 of outdoor advertising signs and devices in areas in the vicinity of the right-of-way of the
13 interstate and primary highway systems within the State should be controlled and regulated
14 regulated, as provided in this Article, in order to promote the safety, health, welfare and
15 convenience and enjoyment of travel on and protection of the public investment in highways
16 within the State, to prevent unreasonable distraction of operators of motor vehicles and to prevent
17 interference with the effectiveness of traffic regulations and to promote safety on the highways,
18 to attract tourists and promote the prosperity, economic well-being and general welfare of the
19 State, and to preserve and enhance the natural scenic beauty of the highways and areas in the
20 vicinity of the State highways and to promote the reasonable, orderly and effective display of
21 such signs, displays and devices, and to secure the right of validly permitted outdoor advertising
22 to be clearly viewed by the traveling public. The General Assembly declares it to be in the public
23 interest that outdoor advertising signs be erected, maintained, and clearly visible along the
24 highways in this State in order to provide important public service announcements and
25 information regarding places offering lodging, food, motor vehicle fuels and lubricants, motor
26 service and repairs, and other services or products available to the general public. The General
27 Assembly also recognizes that the needs of the outdoor advertisers must be balanced against the
28 beautification of the State. It is the intention of the General Assembly to provide and declare
29 herein a public policy and statutory basis for the regulation and control of outdoor advertising."

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

31 "**§ 136-128. Definitions.**

32 As used in this Article:

33 (1) Area zoned commercial or industrial. – An area which is zoned for business,
34 industry, commerce, or trade pursuant to a State law or local zoning ordinance
35 or regulation, regardless of how labeled, where uses associated with business,



* H 6 4 5 - P C S 1 0 6 4 1 - B A - 1 6 *

1 industry, commerce, or trade are permitted. This term does not include
2 "zoning designed primarily for the purpose of permitting outdoor advertising
3 signs," as that term is defined in G.S. 136-133.5(e).

4 (1a) Customary use. – Compliance with the specific outdoor advertising standards
5 for size, lighting, and spacing in areas zoned commercial or industrial under
6 authority of State law or in unzoned commercial or industrial areas, as the
7 standards and areas are described and defined in the agreement dated January
8 7, 1972, as amended, and entered into between the State and the United States
9 Department of Transportation under G.S. 136-138 to implement the
10 provisions of the federal Highway Beautification Act of 1965.

11 ~~(1)(1b)~~ "Erect" means to Erect or erection. – To construct, build, raise, assemble,
12 place, affix, attach, create, paint, draw, or in any other way bring into being or
13 establish. This term does not include the repair or reconstruction of outdoor
14 advertising, as authorized under G.S. 136-131.2, or the relocation of an
15 outdoor advertising sign as authorized under applicable State law.

16 ~~(1a)(1c)~~ "Illegal sign" means one Illegal sign. – A sign which was erected and/or
17 maintained in violation of State law.

18 ~~(1b)(1d)~~ "Information center" means an Information center. – An area or site
19 established and maintained at safety rest areas for the purpose of informing
20 the public of places of interest within the State and providing such other
21 information as the Department of Transportation may consider desirable.

22 (2) "Interstate system" means that Interstate system. – The portion of the National
23 System of Interstate and Defense Highways located within the State, as
24 officially designated, or as may hereafter be so designated, by the Department
25 of Transportation, or other appropriate authorities and are also so designated
26 by interstate numbers. As to highways under construction so designated as
27 interstate highways pursuant to the above procedures, the highway shall be a
28 part of the interstate system for the purposes of this Article on the date the
29 location of the highway has been approved finally by the appropriate federal
30 authorities.

31 (2a) Main-traveled way or traveled way. – Part of a highway on which through
32 traffic is carried, exclusive of paved shoulders. In the case of a divided
33 highway, the traveled way of each of the separated roadways for traffic in
34 opposite directions is a traveled way. It does not include frontage roads,
35 turning roadways, or parking areas.

36 ~~(2a)(2b)~~ "Nonconforming sign" shall mean a Nonconforming sign. – A sign which
37 was lawfully erected but which does not comply with the provisions of State
38 law –customary use or State–rules adopted and regulations passed by the
39 Department of Transportation at a later date or which in accordance with this
40 Article, or which, due to changed conditions, later fails to comply with State
41 law –customary use or State–rules adopted or regulations due to changed
42 conditions. Illegally erected or maintained –passed by the Department of
43 Transportation in accordance with this Article. Illegal signs are not
44 nonconforming signs.

45 (2c) On-premise or on-property sign. – A sign which advertises the sale or lease of
46 property upon which it is located or which advertises an activity conducted or
47 product for sale on the property upon which it is located. An on-premise sign
48 may not be converted to a permitted outdoor advertising sign unless it meets
49 all rules in effect at the time of the conversion request. An on-premise sign
50 must be located on property contiguous to the property on which the activity
51 is located. Tracts not considered to be contiguous include:

- 1 a. Tracts of land separated by a federal, State, city, or public access
 2 maintained road.
 3 b. Tracts of land not under common ownership.
 4 c. Tracts of land held in different estates or interests.
 5 (3) ~~"Outdoor advertising" means any Outdoor advertising.~~ – Any outdoor sign,
 6 display, light, device, figure, painting, drawing, message, plaque, poster,
 7 billboard, or any other thing which is designed, intended or used to advertise
 8 or inform, any part of the advertising or information contents of which is
 9 visible from any place on the main-traveled way of the interstate or primary
 10 system, whether the same be permanent or portable installation.
 11 (4) Primary system. – The federal-aid primary system in existence on June 1,
 12 1991, and any highway which is not on that system but which is on the
 13 National Highway System. As to highways under construction so designated
 14 as primary highways pursuant to the above procedures, the highway shall be
 15 a part of the primary system for purposes of this Article on the date the
 16 location of the highway has been approved finally by the appropriate federal
 17 or State authorities.
 18 (5) ~~"Safety rest area" means an Safety rest area.~~ – An area or site established and
 19 maintained within or adjacent to the highway right-of-way by or under public
 20 supervision or control, for the convenience of the traveling public.
 21 (5a) Sign location or site. – The location or site of an outdoor advertising sign
 22 measured to the closest 1/100 of a mile, in conformance with the Department
 23 of Transportation methods of measurement for all State roads.
 24 (6) ~~"State law" means a State law.~~ – A State constitutional provision or statute, or
 25 ~~an ordinance,~~ rule or regulation enacted or adopted by a State agency or
 26 ~~political subdivision of a State pursuant to a State Constitution or~~
 27 ~~statute.~~ agency.
 28 (7) ~~"Unzoned area" shall mean an Unzoned commercial or industrial area.~~ – An
 29 area where there is no zoning in effect. effect that is within 660 feet of the
 30 nearest edge of the right-of-way of the interstate or primary system, in which
 31 there is at least one commercial or industrial activity that meets the criteria set
 32 forth in G.S. 136-130.1.
 33 (8) ~~"Urban area" shall mean an Urban area.~~ – An area within the boundaries or
 34 limits of any incorporated municipality having a population of five thousand
 35 or more as determined by the latest available federal census.
 36 (9) ~~"Visible" means capable Visible.~~ – Capable of being seen (whether or not
 37 legible) without visual aid by a person of normal visual acuity."

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

40 **§ 136-130.1. Unzoned commercial or industrial area criteria for outdoor advertising signs.**

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

- 45 (1) The activity shall maintain all necessary business licenses as may be required
 46 by applicable State law.
 47 (2) The property used for the activity shall be listed for ad valorem taxes with the
 48 county and municipal taxing authorities as required by law.
 49 (3) The activity shall have all basic utilities, including electricity, telephone,
 50 water, and sewer or septic service.

- 1 (4) The activity shall have direct or indirect vehicular access and be a generator
2 of vehicular traffic.
- 3 (5) The activity shall have a building designed with a permanent foundation, built
4 or modified for its current commercial or industrial use, and the building must
5 be located within 660 feet from the nearest edge of the right-of-way of the
6 controlled route. Where a mobile home unit or recreational vehicle is used as
7 a business or office, the following conditions and requirements also apply:
- 8 a. The unit or vehicle shall meet the State Building Code criteria for
9 commercial or business use.
- 10 b. All wheels, axles, and springs on the unit or vehicle shall be removed.
- 11 c. The unit or vehicle shall be permanently secured on piers, pad, or
12 foundation.
- 13 d. The unit or vehicle shall be tied down in accordance with State or local
14 requirements.
- 15 e. A self-propelled vehicle shall not qualify for use as a business or office
16 under this subdivision.
- 17 (6) The activity must be in active operation a minimum of six months prior to the
18 date of submission of an application for an outdoor advertising permit.
- 19 (7) The activity shall be open to the public during hours that are normal and
20 customary for that type of activity in the same or similar communities but for
21 not less than 20 hours per week.
- 22 (8) One or more employees shall be available to serve customers during the hours
23 the activity is open to the public.
- 24 (9) The activity shall be visible and recognizable as commercial or industrial from
25 the main-traveled way. An activity is visible when that portion on which the
26 permanent building designed, built, or modified for its current commercial use
27 can be clearly seen 12 months a year by a person of normal visual acuity while
28 traveling at the posted speed on the main-traveled way adjacent to the activity.
29 An activity is recognizable as commercial or industrial when its visibility from
30 the main-traveled way is sufficient for the activity to be identified as
31 commercial or industrial.
- 32 (b) Guidelines. – When making a determination as to whether an activity meets the
33 criteria set forth in subsection (a) of this section, both of the following guidelines shall apply:
- 34 (1) Each side of the highway shall be considered separately.
- 35 (2) All measurements shall begin from the outer edges of regularly used
36 buildings, parking lots, storage, or processing areas of the commercial or
37 industrial activity, not from the property line of the activity, and shall be along
38 the nearest edge of the main-traveled way.
- 39 (c) Nonqualifying Activities. – The following are not considered activities for the
40 purpose of qualifying an unzoned commercial or industrial area under this Article:
- 41 (1) Outdoor advertising structures.
- 42 (2) On-premise or on-property outdoor advertising signs, if the on-premise or
43 on-property sign is the only part of the commercial or industrial activity that
44 is visible from the main-traveled way.
- 45 (3) Agricultural, forestry, ranching, grazing, farming, and related activities,
46 including temporary wayside fresh produce stands.
- 47 (4) Transient or temporary activities.
- 48 (5) Activities not visible and recognizable as commercial or industrial from the
49 traffic lanes of the main-traveled way.
- 50 (6) Activities more than 660 feet from the nearest edge of the right-of-way.
- 51 (7) Activities conducted in a building principally used as a residence.

- 1 (8) Railroad tracks and minor sidings.
2 (9) Any outdoor advertising activity or any other business or commercial activity
3 carried on in connection with an outdoor advertising activity.
4 (10) Illegal junkyards, as defined in G.S. 136-146, and nonconforming junkyards,
5 as described in G.S. 136-147."

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

8 **"§ 136-131.3. Relocation of lawfully existing outdoor advertising sign.**

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

- 15 (1) The new site for relocation is permitted to be any area within 660 feet of the
16 nearest edge of the right-of-way of a highway on the National System of
17 Interstate and Defense Highways or the federal aid primary highway system
18 within the following, as applicable:
19 a. An area zoned commercial or industrial located within the same
20 zoning jurisdiction, provided it is not located within a view corridor.
21 b. The same unzoned city territorial limits or the same unzoned county
22 territorial limits if the initial outdoor advertising sign was located in
23 an unzoned area prior to the relocation.
24 (2) Except as provided in subsection (c) of this section, the outdoor advertising
25 sign at the relocated site shall conform with customary use in areas zoned
26 commercial or industrial under authority of State law or if the relocated site is
27 unzoned, in unzoned commercial or industrial areas. The new site for
28 relocation shall not be within an historic district lawfully established by a city
29 or county pursuant to Part 3C of Article 19 of Chapter 160A of the General
30 Statutes, unless consented to by a resolution adopted by the applicable local
31 governing board.
32 (3) The construction work related to the relocation of the outdoor advertising sign
33 shall commence within one year after the date of removal.
34 (4) Subject to subsection (c) of this section, any outdoor advertising that is
35 required to be removed may be reconstructed as provided in G.S. 136-131.2
36 so long as the square footage of its advertising surface area is not increased.
37 In addition to other sign characteristic changes or alterations resulting from
38 the relocation, the height of the sign may be increased not to exceed 50 feet
39 measured from the adjoining road grade or base of the sign, whichever allows
40 for the greatest visibility.
41 (5) The express allowances of relocation and reconstruction in this section shall
42 apply to any legally erected outdoor advertising sign anywhere within this
43 State that is required to be removed as a result of action taken by a public or
44 private condemnor, as defined in G.S. 40A-3, or the Department of
45 Transportation, including such signs that are not subject to the jurisdiction of
46 the Department of Transportation.
47 (6) The express allowances of relocation and reconstruction in this section shall
48 apply whenever a lawfully erected outdoor advertising sign is affected by the
49 construction of a sound wall. In lieu of relocation, a lawfully erected outdoor
50 advertising sign that is affected by the construction of a sound wall may raise
51 the height of the sign not to exceed 50 feet above the top of the wall.

1 **(b)** Any outdoor advertising sign that does not otherwise qualify for relocation as
2 provided in subsection (a) of this section and for which there is in effect a valid permit issued by
3 the Department of Transportation pursuant to this Article is permitted to be relocated and
4 reconstructed subject to all of the requirements listed in subdivisions (1) through (6) of subsection
5 (a) of this section, except that the sign shall not be relocated a distance greater than 250 feet from
6 the lot boundaries on which the sign was previously located. No sign shall be relocated pursuant
7 to this subsection within 10 years from the date of the last relocation pursuant to this subsection,
8 however, this temporal limitation does not apply to relocations on the same sign location or site.

9 **(c)** Any outdoor advertising sign that is legally existing but would not be conforming to
10 customary use if relocated on the same sign location or site is permitted to be relocated on the
11 same sign location or site, subject to the following requirements:

- 12 **(1)** The structural members of the sign at the relocated site are of like material.
- 13 **(2)** The size of the sign face or faces is not increased.
- 14 **(3)** The height of the sign at the relocated site does not exceed 50 feet measured
15 from the adjoining road grade or base of the sign, whichever allows for the
16 greatest visibility, except that a sign may be 50 feet above the top of a sound
17 wall or noise barrier constructed between the sign and the main-traveled way.
- 18 **(4)** The relocation on the same sign location or site is not denied by the Federal
19 Highway Administrator or such other federal official delegated the
20 responsibility for enforcing the federal State agreement referenced in the
21 definition of customary use in G.S. 136-128.

22 **(d)** A new site for relocation shall not be denied by the Department of Transportation due
23 to the presence of vegetation obstructing the visibility of the outdoor advertising sign from the
24 viewing zone. The owner or operator of the outdoor advertising sign shall be permitted to
25 improve the visibility of the sign by removing any vegetation on private property upon receiving
26 written consent of the landowner and on the right-of-way of the interstate and primary systems
27 of the State pursuant to a selective vegetation removal permit issued under this Article. A city or
28 county shall not enforce any ordinance or regulation in conflict with the rights set forth in this
29 subsection or to otherwise cause the withholding of consent by the landowner.

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

33 **SECTION 5.** G.S. 136-133.1 reads as rewritten:

34 **"§ 136-133.1. Outdoor advertising vegetation cutting or removal.**

35 **(a)** The owner of an outdoor advertising sign permitted under G.S. 136-129(a)(4)
36 [G.S. 136-129(4)] or G.S. 136-129(a)(5) [G.S. 136-129(5)] who obtains a selective vegetation
37 removal permit, and the owner's designees, may cut, thin, prune, or remove vegetation in
38 accordance with this section, G.S. 136-93(b), 136-133.2, and 136-133.4. The maximum cut or
39 removal zone ~~for vegetation for each sign face shall be determined as follows: for each sign face~~
40 for the direction of travel for which the sign face is oriented shall be an area that is a continuous
41 500 feet horizontal distance parallel to a State right-of-way and measured from a point on the
42 main-traveled way of the highway nearest the sign face, and shall include any area within the
43 right-of-way between sign faces for any outdoor advertising with two sign faces.

- 44 **(1)** ~~The point located on the edge of the right-of-way that is the closest point to~~
45 ~~the centerline of the sign face shall be point A.~~
- 46 **(2)** ~~The point located 200 feet down the right-of-way line in the direction of the~~
47 ~~sign viewing zone shall be point B.~~
- 48 **(3)** ~~The point on the edge of the pavement of the travel way, including~~
49 ~~acceleration and deceleration ramps, that is the closest to the centerline of the~~
50 ~~sign shall be point C.~~

- 1 (4) The point 50 feet down the edge of the pavement in the direction of the sign
2 viewing zone from point C shall be point D.
- 3 (5) The point 380 feet down the edge of the pavement in the direction of the sign
4 viewing zone from point C shall be point E; provided, however, the following
5 shall apply within the corporal limits and territorial jurisdiction of any city, as
6 defined in Chapter 160A of the General Statutes:
- 7 a. On interstates or other routes with fully controlled access, the point
8 340 feet down the edge of the pavement in the direction of the sign
9 viewing zone from point C shall be point E.
- 10 b. On highways other than interstates and other routes with fully
11 controlled access, the point 250 feet down the edge of the pavement in
12 the direction of the sign viewing zone from point C shall be point E.
- 13 (6) Lines drawn from point A to point D and from point B to point E shall define
14 the limits of the vegetation cut or removal area.

15 (a1) Notwithstanding any law to the contrary, in order to promote the outdoor advertiser's
16 right to be clearly viewed as set forth in G.S. 136-127, the Department of Transportation, at the
17 request of a selective vegetation removal permittee, ~~may shall~~ approve plans for the cutting,
18 thinning, pruning, or removal of vegetation outside of the cut or removal zone defined in
19 subsection (a) of this section along acceleration or deceleration ramps so long as the view to the
20 outdoor advertising sign will be improved and the total aggregate area of cutting or removal does
21 not exceed the maximum allowed in subsection (a) of this section.

22 (b) Vegetation permitted to be cut, thinned, pruned, or removed shall be defined as any
23 tree, shrub, or underbrush within the zone created ~~by points A, B, D, and E.~~ pursuant to this
24 section. Any existing tree that was in existence at the time that an outdoor advertising structure
25 was erected shall only be eligible for removal in accordance with subsections (c), (d), and (e) of
26 this section. ~~Native~~ To the extent possible, native dogwoods and native redbuds shall be
27 preserved. A selective vegetation removal permittee may remove native dogwoods or native
28 redbuds existing within the areas established in subsections (a) and (a1) of this section, however,
29 the permittee shall replace any native dogwoods or native redbuds removed with the same species
30 of at least a quantity that totals twice the caliper inches to a location within 2,500 feet on either
31 side of the outdoor advertising structure, as measured along the edge of the pavement of the
32 main-traveled way of the nearest controlled route. For the purposes of this section, an existing
33 tree is defined as a tree that had a diameter of four inches or greater as measured six inches from
34 the ground at the time that the outdoor advertising structure was erected. An outdoor advertising
35 sign is considered erected when the sign is completely constructed with a sign face.

36 "

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

38 "**§ 136-133.2. Issuance or denial of a selective vegetation removal permit.**

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

49 (b) Notwithstanding the one-year period required in subsection (a) of this section, permits
50 to remove vegetation may be granted for outdoor advertising locations, if the outdoor advertising
51 has been relocated, as allowed by law, and the outdoor advertising otherwise complies with the

1 requirements of this section and rules adopted by the Department in accordance with this
2 section."

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

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

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

16 **SECTION 9.** This act is effective when it becomes law. Section 4 of this act applies
17 to outdoor advertising signs removed on or after January 1, 2017, and the one-year time period
18 for construction under G.S. 136-131.3(a)(3), as enacted by Section 4 of this act, shall commence
19 on the effective date of this act. Section 7 of this act applies to outdoor advertising signs relocated
20 on or after the effective date.