

1 **SENATE FLOOR VERSION**

2 April 5, 2016

3 ENGROSSED HOUSE
4 BILL NO. 2553

By: Wright of the House

5 and

6 Barrington of the Senate

7
8 [outdoor advertising - adding certain requirement
9 for certain relocation permits - effective date]

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11
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 69 O.S. 2011, Section 1273, as
14 last amended by Section 1, Chapter 379, O.S.L. 2015 (69 O.S. Supp.
15 2015, Section 1273), is amended to read as follows:

16 Section 1273. As used in this act:

17 (a) "Sign", "outdoor advertising" or "outdoor advertising
18 device" means any outdoor sign, display, device, notice, figure,
19 painting, drawing, message, placard, poster, billboard or other
20 thing which is designed, intended or used to advertise or inform,
21 but shall not include surface markers showing the location or route
22 of underground utility facilities or pipelines or public telephone
23 coin stations installed for emergency use.

1 (b) "Main traveled way" means the traveled way of a highway on
2 which through traffic is carried. In the case of a divided highway,
3 the traveled way of each of the separated roadways for traffic in
4 opposite directions is a main traveled way. It does not include
5 such facilities as frontage roads, turning roadways or parking
6 areas.

7 (c) "To erect" and its variants means to construct, build,
8 raise, assemble, place, affix, attach, create, paint, draw or in any
9 other way bring into being or establish. But these shall not
10 include any of the foregoing activities when performed as incident
11 to the change of advertising message or customary maintenance of the
12 sign structure.

13 (d) "Unzoned commercial or industrial areas" means those areas
14 which are not zoned by state or local law, regulation or ordinance,
15 and on which there is located one or more permanent structures
16 devoted to a commercial or industrial activity or on which a
17 commercial or industrial activity is actually conducted, whether or
18 not a permanent structure is located thereon, and the area along the
19 highway extending outward six hundred (600) feet from and beyond the
20 edge of such activity on both sides of the highway. Provided
21 however, the unzoned area shall not include land on the opposite
22 side of an interstate or dual-laned limited access primary highway
23 from the commercial or industrial activity establishing the unzoned
24 commercial or industrial area or land on the opposite side of other

1 federal-aid primary highways, which land is deemed scenic by an
2 appropriate agency of the state.

3 All measurements shall be from the outer edges of the regularly
4 used buildings, parking lots, storage or processing areas of the
5 commercial or industrial activities, not from the property lines of
6 the activities, and shall be along or parallel to the edge of
7 pavement of the highway. Such an area shall not include any area
8 which is beyond six hundred sixty (660) feet from the nearest edge
9 of the right-of-way. In unzoned commercial or industrial areas
10 signs shall not be located:

11 (1) Within three hundred (300) feet of any building used
12 primarily as a residence, unless the owner of the
13 building consents in writing to allow the sign to
14 exist; or

15 (2) Within five hundred (500) feet of any of the
16 following: public park, garden, recreation area or
17 forest preserve, church, school and officially
18 designated historical battlefield. All spacing
19 considerations are determined by whether or not they
20 exist within the adjacent or control area.

21 (e) "Commercial and industrial activities" means those
22 activities, clearly visible from the main traveled way, generally
23 recognized as commercial or industrial by zoning authorities in this
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1 state, except that none of the following shall be considered
2 commercial or industrial:

- 3 (1) Agricultural, forestry, ranching, grazing, farming and
4 related activities, including, but not limited to,
5 wayside fresh produce stands;
- 6 (2) Outdoor advertising structures;
- 7 (3) Transient or temporary activities;
- 8 (4) Activities more than six hundred sixty (660) feet from
9 the nearest edge of the right-of-way;
- 10 (5) Activities conducted in a building principally used as
11 a residence; and
- 12 (6) Railroad tracks and minor sidings.

13 (f) "Official signs" means signs and notices erected and
14 maintained by public officers or public agencies within their
15 territorial jurisdiction and pursuant to and in accordance with
16 direction or authorization contained in federal or state law for the
17 purposes of carrying out an official duty or responsibility.

18 (g) "Informational signs" means signs containing directions or
19 information about public places owned or operated by federal, state
20 or local governments or their agencies, publicly or privately owned
21 natural phenomena, historic, cultural, educational and religious
22 sites, and areas of natural scenic beauty or naturally suited for
23 outdoor recreation, deemed to be in the interest of the traveling
24 public.

1 (h) "On-premise activities signs" means signs advertising
2 activities conducted upon the property on which the signs are
3 located.

4 (i) ~~"On-premise-sale~~ On-premise sale or lease signs" means
5 signs advertising the sale or lease of property on which they are
6 located.

7 (j) "Interstate highway" means any highway at any time
8 officially designated a part of the National System of Interstate
9 and Defense Highways by the Department and approved by the
10 appropriate authority of the federal government.

11 (k) "Primary highway" means the Federal-aid Primary System in
12 existence on June 1, 1991, and any highway which is not on that
13 system but is on the National Highway System.

14 (l) "Centerline of the highway" means a line equidistant from
15 the edges of the median separating the main traveled ways of a
16 divided highway, or the centerline of the main traveled way of a
17 nondivided highway.

18 (m) "Adjacent area" or "control area" means the area which is
19 adjacent to and within six hundred sixty (660) feet of the nearest
20 edge of the right-of-way on any interstate or primary highway within
21 urban areas, which six hundred sixty-foot distance shall be measured
22 horizontally along a line perpendicular to, or ninety (90) degrees
23 to, the centerline of the highway. Outside of urban areas, adjacent
24

1 area or control area means the area which is visible from the main
2 traveled way on any interstate or primary highway.

3 (n) "Business area" means any part of a control area which is:

4 (1) Within six hundred sixty (660) feet of the nearest
5 edge of the right-of-way and zoned for business,
6 industrial or commercial activities under the
7 authority of any state zoning law, or city or county
8 zoning ordinance of this state; or

9 (2) Not so zoned, but which constitutes an unzoned
10 commercial or industrial area as herein defined.

11 (o) "Department" means the Department of Transportation of the
12 State of Oklahoma.

13 (p) "Maintain" means to hold or keep in a state of efficiency
14 or validity, to support or sustain, by cleaning or repairing the
15 sign or changing the message on its face.

16 (q) "Visible" means capable of being seen without visual aid by
17 a person of normal visual acuity.

18 (r) "License" means the privilege to do business in the State
19 of Oklahoma having been granted by an official agency.

20 (s) "Permit" means the privilege to erect a sign or signs in an
21 individual location within the State of Oklahoma having been granted
22 by an official agency.

23 (t) "License fee" means the monetary consideration paid for the
24 privilege of doing business in the State of Oklahoma.

1 (u) "Permit fee" means the monetary consideration paid for the
2 privilege of erecting a sign or signs in a specific location within
3 the State of Oklahoma.

4 (v) "Urban area" means an urbanized area or, in the case of an
5 urbanized area encompassing more than one state, that part of the
6 urbanized area in each such state, or an urban place as designated
7 by the Bureau of the Census having a population of five thousand
8 (5,000) or more and not within any urbanized area, within boundaries
9 to be fixed by responsible state and local officials in cooperation
10 with each other, subject to approval by the Secretary of
11 Transportation. Such boundaries shall, as a minimum, encompass the
12 entire urban place designated by the Bureau of the Census.

13 (w) "Relocation permit" means a permit issued pursuant to the
14 provisions of subparagraph (d) of paragraph (3) of Section 1275 of
15 this title. A relocation permit shall have precedence over any
16 municipal or county restriction that interferes with the intended
17 purpose of providing a method and opportunity to minimize the cost
18 of acquiring legally erected outdoor advertising signs by the
19 Department, provided that all potential relocation sites which
20 comply with all applicable federal, state, county or municipal codes
21 or regulations must be exhausted before a relocation permit can be
22 issued for a location not in compliance with all applicable
23 restrictions on outdoor advertising signs set forth in a municipal
24 or county code or ordinance.

1 SECTION 2. AMENDATORY 69 O.S. 2011, Section 1275, as
2 last amended by Section 2, Chapter 379, O.S.L. 2015 (69 O.S. Supp.
3 2015, Section 1275), is amended to read as follows:

4 Section 1275. After April 15, 1968, signs which are to be
5 erected in a business area shall comply with the following
6 standards:

7 1. General. Signs shall not be erected or maintained which:

- 8 a. imitate or resemble any official traffic sign, signal
9 or device, or
- 10 b. are erected or maintained upon trees or painted or
11 drawn upon rocks or other natural features;

12 2. Size.

- 13 a. Signs shall not be erected which exceed one thousand
14 two hundred (1,200) square feet in area, per facing,
15 including border and trim, nor shall signs be erected
16 which exceed twenty-five (25) feet in height nor sixty
17 (60) feet in length, excluding apron, supports and
18 other structural members.

- 19 b. The maximum size limitations shall apply to each sign
20 facing. Two signs not exceeding six hundred (600)
21 square feet each may be erected in a facing, side by
22 side or "doubledecker". Back-to-back and/or V-type
23 signs will be permitted, and shall be treated as one
24 structure with one thousand two hundred (1,200) square

1 feet permitted for each, if the sign structures or
2 facings are physically contiguous, or connected by the
3 same structure or cross bracing, or located not more
4 than fifteen (15) feet apart at their nearest point
5 nor more than thirty (30) feet apart at their widest
6 point in the case of back-to-back or V-type signs.
7 However, nothing in this section shall be construed to
8 allow tri-faced signs;

9 3. Spacing.

- 10 a. Signs shall conform to all applicable building codes
11 and ordinances of the municipality, county or state,
12 whichever has jurisdiction as set forth in Section
13 1272 of this title, except as provided for in
14 subparagraph d of this paragraph.
- 15 b. Signs shall not be erected or maintained in such a
16 manner as to obscure or otherwise physically interfere
17 with an official traffic sign, signal or device or to
18 obstruct or physically interfere with the driver's
19 view of approaching, merging or intersecting traffic.
- 20 c. Signs visible from a nonfreeway primary highway shall
21 not be erected within the limits of an incorporated
22 municipality less than one hundred (100) feet on the
23 opposite side of the highway and three hundred (300)
24 feet on the same side of the highway, and outside the

1 limits of an incorporated municipality less than three
2 hundred (300) feet, from another such sign, other than
3 signs described in subsections (a), (b) and (c) of
4 Section 1274 of this title, unless separated by a
5 building or other obstruction in such a manner that
6 only one display located within the minimum spacing
7 distances set forth herein is visible from the highway
8 at any one time; provided, however, that this shall
9 not prevent the erection of double-faced, back-to-
10 back, or V-type signs with a maximum of two signs per
11 facing, as permitted by paragraph 2 of this section.
12 Signs visible and intended to be read from interstate
13 and freeway primary facilities shall not be erected
14 less than one thousand (1,000) feet from another such
15 sign on the same side of such facilities, other than
16 signs described in subsections (a), (b) and (c) of
17 Section 1274 of this title. Outside incorporated
18 municipalities, signs visible and intended to be read
19 from interstate and freeway primary facilities shall
20 not be erected adjacent to or within five hundred
21 (500) feet of an interchange, intersection at grade,
22 or rest area, on the same side of such facilities such
23 distance to be measured along the interstate highway
24 or freeway from the sign to the nearest point of the

1 beginning or ending of pavement widening at the exit
2 from or entrance to the main-traveled way. Signs may
3 not be located within five hundred (500) feet of any
4 of the following which are adjacent to any interstate
5 or federal-aid primary highway: public parks; public
6 forests; playgrounds; or cemeteries. Provided,
7 however, the Transportation Commission shall
8 promulgate rules pursuant to the Administrative
9 Procedures Act governing the measurement methodology
10 to be prospectively utilized by the Department when
11 determining spacing between outdoor advertising signs,
12 displays and devices and public parks, public forests,
13 playgrounds and cemeteries. Provided further, any
14 measurement methodology heretofore utilized by the
15 Department, including but not limited to the straight-
16 line method, shall be accepted by the Department
17 without prejudice. Provided further, the Department
18 shall be prohibited from altering a permit
19 classification or revoking any outdoor advertising
20 license, which was properly obtained at the time of
21 issuance, based upon a change of internal agency
22 policy, agency interpretation of law or promulgation
23 of rules. Provided further, a sign location that was
24 permitted in compliance with the spacing requirements

1 of this section in effect prior to the effective date
2 of this act, but which does not comply with the
3 spacing requirements of this section as amended after
4 the effective date of this act, shall maintain its
5 current legal status; provided it complies with all
6 other permitting requirements as set forth by the
7 Transportation Commission.

- 8 d. For the purpose of providing a method and opportunity
9 to minimize the cost of acquiring legally erected
10 outdoor advertising signs, the Director of the
11 Department of Transportation shall have the option to
12 approve the issuance of permits for outdoor
13 advertising signs visible from a roadway subject to
14 the regulatory control of the Department of
15 Transportation which may be erected less than current
16 state spacing distances from another such sign.
17 Permits issued pursuant to this option shall be only
18 for the purpose of providing a relocation site for a
19 sign being taken by the state and shall not violate
20 spacing regulations as stipulated in the Federal State
21 Agreement. The Department shall also issue a
22 relocation permit if a roadway for which a legally
23 erected permitted sign adjacent thereto is realigned;
24 provided, however, the applicant for such relocation

1 permit shall surrender four legally issued permits on
2 a road realigned and the applicant shall waive any
3 claim for compensation against the Department upon
4 issuance of a relocation permit based on highway
5 realignment. Provided, when the Department issues a
6 permit pursuant to this subsection to accommodate the
7 relocation of a structure:

8 (1) if the structure to be removed is visible from a
9 roadway subject to the regulatory control of the
10 Department inside an incorporated area, the
11 relocation site shall be inside the same
12 incorporated area and shall be visible from a
13 roadway subject to the regulatory control of the
14 Department, ~~and~~

15 (2) if there are not suitable relocation sites
16 meeting the provisions of division 1 of this
17 subparagraph and the structure to be removed is
18 visible from a roadway subject to the regulatory
19 control of the Department, notwithstanding the
20 provisions of division 1 of this subparagraph,
21 the Department may issue a permit for a
22 relocation site outside of the incorporated area,
23 provided the relocation site is either in a
24 contiguous county thereto or the same

1 Transportation Commission District, which shall
2 be visible from a roadway subject to the
3 regulatory control of the Department, and
4 (3) all potential relocation sites that comply with
5 all applicable federal, state, county or
6 municipal codes or regulations must be exhausted
7 before a relocation permit can be issued for a
8 location not in compliance with all applicable
9 restrictions on outdoor advertising signs set
10 forth in a municipal or county code or ordinance.

11 Provided further, the square footage of display face
12 on the relocated sign shall not exceed the square
13 footage of display face of the taken sign. The
14 relocated sign shall maintain the same legal status as
15 existed prior to relocation; provided it complies with
16 all other permitting requirements set forth by the
17 Transportation Commission and no other permits shall
18 be required. The Transportation Commission shall have
19 the authority to promulgate rules necessary to
20 implement the use of the permit option provided for in
21 this subsection and to request the cooperation of
22 municipalities where local structure permits are
23 required.

1 e. Notwithstanding any other provision of law, the
2 Department of Transportation shall, after determining
3 the need to acquire property upon which outdoor
4 advertising structures are located, have the authority
5 to negotiate directly with the owner of the outdoor
6 advertising structure the terms for maintaining such
7 structures in their current position or for the
8 relocation of such structures. Such negotiations may
9 begin prior to the Department's initiation of formal
10 condemnation proceedings and shall be completed prior
11 to a jury award in a condemnation proceeding. The
12 Department of Transportation retains its right to
13 require the removal of the sign structure improvement
14 effective as of the payment by the Department in the
15 amount awarded by the court-appointed commissioners
16 pursuant to applicable law. Nothing in this section
17 shall be construed to prevent the owner of the land
18 from pursuing a claim of interest in any lease
19 existing between the landowner and the outdoor
20 advertising structure owner, or to prevent the outdoor
21 advertising structure owner from pursuing a claim for
22 fair market value of the owner's interest if
23 negotiations with the Department for a lease or
24 structure relocation arrangement are not successful;

1 4. Lighting.

2 a. Signs shall not be erected which contain, include, or
3 are illuminated by any flashing, intermittent,
4 revolving or moving light, except on-premise signs and
5 those giving public service information such as, but
6 not limited to, time, date, temperature, weather or
7 news. Steadily burning lights in configuration of
8 letters or pictures are not prohibited.

9 b. Signs shall not be erected or maintained which are not
10 effectively shielded to prevent beams or rays of light
11 from being directed at any portion of the traveled way
12 of any interstate or primary highway and are of such
13 intensity or brilliance as to cause glare or to impair
14 the vision of the driver of any motor vehicle.

15 c. Signs shall not be erected or maintained which shall
16 be so illuminated that they obscure any official
17 traffic sign, device, or signal, or imitate or may be
18 confused with any such official traffic sign, device
19 or signal.

20 d. Provided, however, nothing in this section shall be
21 construed to prohibit the erection or maintenance of
22 signs which include the steady illumination of sign
23 faces, panels or slats that rotate to different
24 messages in a fixed position, commonly known as tri-

1 vision faces or multiple message signs; provided, the
2 rotation of one sign face to another is no more
3 frequent than every eight (8) seconds and the actual
4 rotation process is accomplished in four (4) seconds
5 or less; and

6 5. Vegetation Management.

7 a. For the purpose of minimizing costs to the Department
8 for the removal, cutting, or trimming of trees or
9 vegetation on a public right-of-way to make visible or
10 ensure future visibility of the facing of a permitted
11 outdoor advertising sign, the Department is authorized
12 to establish a process for an outdoor advertising
13 permit holder to conduct vegetation management
14 activities within a specific area surrounding the
15 permit holders' outdoor advertising device.

16 b. The Department shall promulgate rules prescribing the
17 scope of such vegetation management activities and any
18 requirements it deems necessary to monitor such
19 activities.

20 SECTION 3. This act shall become effective November 1, 2016.

21 COMMITTEE REPORT BY: COMMITTEE ON TRANSPORTATION
22 April 5, 2016 - DO PASS
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