

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 165

By: Loveless of the Senate

and

Joyner of the House

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9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to outdoor advertising; amending 69
11 O.S. 2011, Section 1273, as amended by Section 1,
12 Chapter 269, O.S.L. 2014 and Section 1275, as amended
13 by Section 13, Chapter 372, O.S.L. 2013 (69 O.S.
14 Supp. 2014, Sections 1273 and 1275), which relate to
the Highway Advertising Control Act of 1972;
clarifying spacing considerations; providing that
certain spacing shall not violate certain federal
agreements; and providing an effective date.

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17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. AMENDATORY 69 O.S. 2011, Section 1273, as
19 amended by Section 1, Chapter 269, O.S.L. 2014 (69 O.S. Supp. 2014,
20 Section 1273), is amended to read as follows:

21 Section 1273. As used in this act:

22 (a) "Sign", "outdoor advertising" or "outdoor advertising
23 device" means any outdoor sign, display, device, notice, figure,
24 painting, drawing, message, placard, poster, billboard or other

1 thing which is designed, intended or used to advertise or inform,
2 but shall not include surface markers showing the location or route
3 of underground utility facilities or pipelines or public telephone
4 coin stations installed for emergency use.

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

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

17 (d) "Unzoned commercial or industrial areas" means those areas
18 which are not zoned by state or local law, regulation or ordinance,
19 and on which there is located one or more permanent structures
20 devoted to a commercial or industrial activity or on which a
21 commercial or industrial activity is actually conducted, whether or
22 not a permanent structure is located thereon, and the area along the
23 highway extending outward six hundred (600) feet from and beyond the
24 edge of such activity on both sides of the highway. Provided

1 however, the unzoned area shall not include land on the opposite
2 side of an interstate or dual-laned limited access primary highway
3 from the commercial or industrial activity establishing the unzoned
4 commercial or industrial area or land on the opposite side of other
5 federal-aid primary highways, which land is deemed scenic by an
6 appropriate agency of the state.

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

15 (1) Within three hundred (300) feet of any building used
16 primarily as a residence, unless the owner of the
17 building consents in writing to ~~the particular~~
18 ~~commercial use or uses to be made of such lands~~ allow
19 the sign to exist; or

20 (2) Within five hundred (500) feet of any of the
21 following: public park, garden, recreation area or
22 forest preserve, church, school and officially
23 designated historical battlefield; ~~or~~

24

1 ~~(3) Beyond six hundred sixty (660) feet from the nearest~~
2 ~~edge of the right-of-way. All spacing considerations~~
3 ~~are determined by whether or not they exist within the~~
4 ~~adjacent or control area.~~

5 (e) "Commercial and industrial activities" means those
6 activities, clearly visible from the main traveled way, generally
7 recognized as commercial or industrial by zoning authorities in this
8 state, except that none of the following shall be considered
9 commercial or industrial:

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

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

1 (g) "Informational signs" means signs containing directions or
2 information about public places owned or operated by federal, state
3 or local governments or their agencies, publicly or privately owned
4 natural phenomena, historic, cultural, educational and religious
5 sites, and areas of natural scenic beauty or naturally suited for
6 outdoor recreation, deemed to be in the interest of the traveling
7 public.

8 (h) "On-premise activities signs" means signs advertising
9 activities conducted upon the property on which the signs are
10 located.

11 (i) "On-premise-sale or lease signs" means signs advertising
12 the sale or lease of property on which they are located.

13 (j) "Interstate highway" means any highway at any time
14 officially designated a part of the National System of Interstate
15 and Defense Highways by the Department and approved by the
16 appropriate authority of the federal government.

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

20 (l) "Centerline of the highway" means a line equidistant from
21 the edges of the median separating the main traveled ways of a
22 divided highway, or the centerline of the main traveled way of a
23 nondivided highway.

24

1 (m) "Adjacent area" or "control area" means the area which is
2 adjacent to and within six hundred sixty (660) feet of the nearest
3 edge of the right-of-way on any interstate or primary highway within
4 urban areas, which six hundred sixty-foot distance shall be measured
5 horizontally along a line perpendicular to, or ninety (90) degrees
6 to, the centerline of the highway. Outside of urban areas, adjacent
7 area or control area means the area which is visible from the main
8 traveled way on any interstate or primary highway.

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

10 (1) Within six hundred sixty (660) feet of the nearest
11 edge of the right-of-way and zoned for business,
12 industrial or commercial activities under the
13 authority of any state zoning law, or city or county
14 zoning ordinance of this state; or

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

17 (o) "Department" means the Department of Transportation of the
18 State of Oklahoma.

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

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

24

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

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

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

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

11 (v) "Urban area" means an urbanized area or, in the case of an
12 urbanized area encompassing more than one state, that part of the
13 urbanized area in each such state, or an urban place as designated
14 by the Bureau of the Census having a population of five thousand
15 (5,000) or more and not within any urbanized area, within boundaries
16 to be fixed by responsible state and local officials in cooperation
17 with each other, subject to approval by the Secretary of
18 Transportation. Such boundaries shall, as a minimum, encompass the
19 entire urban place designated by the Bureau of the Census.

20 (w) "Relocation permit" means a permit issued pursuant to the
21 provisions of subparagraph (d) of paragraph (3) of Section 1275 of
22 this title. A relocation permit shall have precedence over any
23 municipal or county restriction that interferes with the intended
24 purpose of providing a method and opportunity to minimize the cost

1 of acquiring legally erected outdoor advertising signs by the
2 Department.

3 SECTION 2. AMENDATORY 69 O.S. 2011, Section 1275, as
4 amended by Section 13, Chapter 372, O.S.L. 2013 (69 O.S. Supp. 2014,
5 Section 1275), is amended to read as follows:

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

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

10 a. imitate or resemble any official traffic sign, signal
11 or device, or

12 b. are erected or maintained upon trees or painted or
13 drawn upon rocks or other natural features;

14 2. Size.

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

21 b. The maximum size limitations shall apply to each sign
22 facing. Two signs not exceeding six hundred (600)
23 square feet each may be erected in a facing, side by
24 side or "doubledecked". Back-to-back and/or V-type

1 signs will be permitted, and shall be treated as one
2 structure with one thousand two hundred (1,200) square
3 feet permitted for each, if the sign structures or
4 facings are physically contiguous, or connected by the
5 same structure or cross bracing, or located not more
6 than fifteen (15) feet apart at their nearest point
7 nor more than thirty (30) feet apart at their widest
8 point in the case of back-to-back or V-type signs.
9 However, nothing in this section shall be construed to
10 allow tri-faced signs;

11 3. Spacing.

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

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

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

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

10 d. For the purpose of providing a method and opportunity
11 to minimize the cost of acquiring legally erected
12 outdoor advertising signs, the Director of the
13 Department of Transportation shall have the option to
14 approve the issuance of permits for outdoor
15 advertising signs visible from a roadway subject to
16 the regulatory control of the Department of
17 Transportation which ~~are to~~ may be erected less than
18 ~~one thousand (1,000) feet~~ current state spacing
19 distances from another such sign. Permits issued
20 pursuant to this option shall be only for the purpose
21 of providing a relocation site for a sign being taken
22 by the state and shall not violate spacing regulations
23 as stipulated in the Federal State Agreement. The
24 Department shall also issue a relocation permit if a

1 roadway for which a legally erected permitted sign
2 adjacent thereto is realigned; provided, however, the
3 applicant for such relocation permit shall surrender
4 four legally issued permits on a road realigned and
5 the applicant shall waive any claim for compensation
6 against the Department upon issuance of a relocation
7 permit based on highway realignment. Provided, when
8 the Department issues a permit pursuant to this
9 subsection to accommodate the relocation of a
10 structure:

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

18 (2) if there are not suitable relocation sites
19 meeting the provisions of division 1 of this
20 subparagraph and the structure to be removed is
21 visible from a roadway subject to the regulatory
22 control of the Department, notwithstanding the
23 provisions of division 1 of this subparagraph,
24 the Department may issue a permit for a

1 relocation site outside of the incorporated area,
2 provided the relocation site is either in a
3 contiguous county thereto or the same
4 Transportation Commission District, which shall
5 be visible from a roadway subject to the
6 regulatory control of the Department.

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

20 e. Notwithstanding any other provision of law, the
21 Department of Transportation shall, after determining
22 the need to acquire property upon which outdoor
23 advertising structures are located, have the authority
24 to negotiate directly with the owner of the outdoor

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

20 4. Lighting.

- 21 a. Signs shall not be erected which contain, include, or
22 are illuminated by any flashing, intermittent,
23 revolving or moving light, except on-premise signs and
24 those giving public service information such as, but

1 not limited to, time, date, temperature, weather or
2 news. Steadily burning lights in configuration of
3 letters or pictures are not prohibited.

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

10 c. Signs shall not be erected or maintained which shall
11 be so illuminated that they obscure any official
12 traffic sign, device, or signal, or imitate or may be
13 confused with any such official traffic sign, device
14 or signal.

15 d. Provided, however, nothing in this section shall be
16 construed to prohibit the erection or maintenance of
17 signs which include the steady illumination of sign
18 faces, panels or slats that rotate to different
19 messages in a fixed position, commonly known as tri-
20 vision faces or multiple message signs; provided, the
21 rotation of one sign face to another is no more
22 frequent than every eight (8) seconds and the actual
23 rotation process is accomplished in four (4) seconds
24 or less; and

1 5. Vegetation Management.

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

11 b. The Department shall promulgate rules prescribing the
12 scope of such vegetation management activities and any
13 requirements it deems necessary to monitor such
14 activities.

15 SECTION 3. This act shall become effective November 1, 2015.

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