

Senator J. Stuart Adams proposes the following substitute bill:

HIGHWAY SIGNAGE AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill modifies the Transportation Code by amending provisions related to outdoor advertising.

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ clarifies restrictions and requirements for on-premise advertising;
- ▶ amends administrative fine provisions for certain signs being maintained that do not comply with outdoor advertising restrictions; and
- ▶ makes conforming and technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

[72-7-502](#), as last amended by Laws of Utah 2011, Chapter 346

[72-7-504](#), as last amended by Laws of Utah 2015, Chapter 402



26 **72-7-508**, as last amended by Laws of Utah 2011, Chapter 346

27 ENACTS:

28 **72-7-504.6**, Utah Code Annotated 1953

29

30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **72-7-502** is amended to read:

32 **72-7-502. Definitions.**

33 As used in this part:

34 (1) "Clearly visible" means capable of being read without obstruction by an occupant
35 of a vehicle traveling on the main traveled way of a street or highway within the visibility area.

36 (2) "Commercial or industrial activities" means those activities generally recognized as
37 commercial or industrial by zoning authorities in this state, except that none of the following
38 are commercial or industrial activities:

39 (a) agricultural, forestry, grazing, farming, and related activities, including wayside
40 fresh produce stands;

41 (b) transient or temporary activities;

42 (c) activities not visible from the main-traveled way;

43 (d) activities conducted in a building principally used as a residence; and

44 (e) railroad tracks and minor sidings.

45 (3) (a) "Commercial or industrial zone" means only:

46 (i) those areas within the boundaries of cities or towns that are used or reserved for
47 business, commerce, or trade, or zoned as a highway service zone, under enabling state
48 legislation or comprehensive local zoning ordinances or regulations;

49 (ii) those areas within the boundaries of urbanized counties that are used or reserved
50 for business, commerce, or trade, or zoned as a highway service zone, under enabling state
51 legislation or comprehensive local zoning ordinances or regulations;

52 (iii) those areas outside the boundaries of urbanized counties and outside the
53 boundaries of cities and towns that:

54 (A) are used or reserved for business, commerce, or trade, or zoned as a highway
55 service zone, under comprehensive local zoning ordinances or regulations or enabling state
56 legislation; and

57 (B) are within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured
58 from the nearest point of the beginning or ending of the pavement widening at the exit from or
59 entrance to the main-traveled way; or

60 (iv) those areas outside the boundaries of urbanized counties and outside the
61 boundaries of cities and towns and not within 8420 feet of an interstate highway exit, off-ramp,
62 or turnoff as measured from the nearest point of the beginning or ending of the pavement
63 widening at the exit from or entrance to the main-traveled way that are reserved for business,
64 commerce, or trade under enabling state legislation or comprehensive local zoning ordinances
65 or regulations, and are actually used for commercial or industrial purposes.

66 (b) "Commercial or industrial zone" does not mean areas zoned for the sole purpose of
67 allowing outdoor advertising.

68 (4) "Comprehensive local zoning ordinances or regulations" means a municipality's
69 comprehensive plan required by Section 10-9a-401, the municipal zoning plan authorized by
70 Section 10-9a-501, and the county master plan authorized by Sections 17-27a-401 and
71 17-27a-501. Property that is rezoned by comprehensive local zoning ordinances or regulations
72 is rebuttably presumed to have not been zoned for the sole purpose of allowing outdoor
73 advertising.

74 (5) "Contiguous" means that a portion of one parcel of land is situated immediately
75 adjacent to, and shares a common boundary with, a portion of another parcel of land.

76 (6) "Controlled route" means any route where outdoor advertising control is mandated
77 by state or federal law, including under this part and under the Utah-Federal Agreements
78 described in Section 72-7-501.

79 [(5)] (7) "Directional signs" means signs containing information about public places
80 owned or operated by federal, state, or local governments or their agencies, publicly or
81 privately owned natural phenomena, historic, cultural, scientific, educational, or religious sites,
82 and areas of natural scenic beauty or naturally suited for outdoor recreation, that the department
83 considers to be in the interest of the traveling public.

84 [(6)] (8) (a) "Erect" means to construct, build, raise, assemble, place, affix, attach,
85 create, paint, draw, or in any other way bring into being.

86 (b) "Erect" does not include any activities defined in Subsection [(6)] (8)(a) if they are
87 performed incident to the change of an advertising message or customary maintenance of a

88 sign.

89 ~~[(7)]~~ (9) "Highway service zone" means a highway service area where the primary use
90 of the land is used or reserved for commercial and roadside services other than outdoor
91 advertising to serve the traveling public.

92 ~~[(8)]~~ (10) "Information center" means an area or site established and maintained at rest
93 areas for the purpose of informing the public of:

94 (a) places of interest within the state; or

95 (b) any other information that the department considers desirable.

96 ~~[(9)]~~ (11) "Interchange or intersection" means those areas and their approaches where
97 traffic is channeled off or onto an interstate route, excluding the deceleration lanes, acceleration
98 lanes, or feeder systems, from or to another federal, state, county, city, or other route.

99 ~~[(10)]~~ (12) "Maintain" means to allow to exist, subject to the provisions of this chapter.

100 ~~[(11)]~~ (13) "Maintenance" means to repair, refurbish, repaint, or otherwise keep an
101 existing sign structure safe and in a state suitable for use, including signs destroyed by
102 vandalism or an act of God.

103 ~~[(12)]~~ (14) "Main-traveled way" means the through traffic lanes, including auxiliary
104 lanes, acceleration lanes, deceleration lanes, and feeder systems, exclusive of frontage roads
105 and ramps. For a divided highway, there is a separate main-traveled way for the traffic in each
106 direction.

107 ~~[(13)]~~ (15) "Major sponsor" means a sponsor of a public assembly facility or of a team
108 or event held at the facility where the amount paid by the sponsor to the owner of the facility,
109 to the team, or for the event is at least \$100,000 per year.

110 ~~[(14)]~~ (16) "Official signs and notices" means signs and notices erected and maintained
111 by public agencies within their territorial or zoning jurisdictions for the purpose of carrying out
112 official duties or responsibilities in accordance with direction or authorization contained in
113 federal, state, or local law.

114 ~~[(15)] "Off-premise signs" means signs]~~

115 (17) "Off-premise sign" means a sign located in ~~[areas]~~ an area zoned industrial,
116 commercial, or H-1 and in ~~[areas]~~ an area determined by the department to be unzoned
117 industrial or commercial that ~~[advertise]~~ advertises an activity, service, event, person, or
118 product located on premises other than the premises ~~[at]~~ on which the ~~[advertising occurs]~~ sign

119 is located.

120 [~~(16)~~] "~~On-premise signs~~" means signs]

121 (18) "On-premise sign" means a sign used to advertise the [major] sale or lease of, or
122 activities conducted on, the property [~~where the~~] on which the sign is located.

123 [~~(17)~~] (19) "Outdoor advertising" means any outdoor advertising structure or outdoor
124 structure used in combination with an outdoor advertising sign or outdoor sign within the
125 outdoor advertising corridor which is visible from a place on the main-traveled way of a
126 controlled route.

127 [~~(18)~~] (20) "Outdoor advertising corridor" means a strip of land 350 feet wide,
128 measured perpendicular from the edge of a controlled highway right-of-way.

129 [~~(19)~~] (21) "Outdoor advertising structure" or "outdoor structure" means any sign
130 structure, including any necessary devices, supports, appurtenances, and lighting that is part of
131 or supports an outdoor sign.

132 [~~(20)~~] (22) "Point of widening" means the point of the gore or the point where the
133 intersecting lane begins to parallel the other lanes of traffic, but the point of widening may
134 never be greater than 2,640 feet from the center line of the intersecting highway of the
135 interchange or intersection at grade.

136 [~~(21)~~] (23) "Public assembly facility" means a convention facility as defined under
137 Section [59-12-602](#) [~~and~~] that:

138 (a) includes all contiguous interests in land, improvements, and utilities acquired,
139 constructed, and used in connection with the operation of the public assembly facility, whether
140 the interests are owned or held in fee title or a lease or easement for a term of at least 40 years,
141 and regardless of whether the interests are owned or operated by separate governmental
142 authorities or districts;

143 (b) is wholly or partially funded by public money;

144 (c) requires a person attending an event at the public assembly facility to purchase a
145 ticket or that otherwise charges for the use of the public assembly facility as part of its regular
146 operation; and

147 (d) has a minimum and permanent seating capacity of at least 10,000 people.

148 [~~(22)~~] (24) "Public assembly facility sign" means a sign located on a public assembly
149 facility that only advertises the public assembly facility, major sponsors, events, the sponsors of

150 events held or teams playing at the facility, and products sold or services conducted at the
151 facility.

152 ~~[(23)]~~ (25) "Relocation" includes the removal of a sign from one situs together with the
153 erection of a new sign upon another situs in a commercial or industrial zoned area as a
154 substitute.

155 ~~[(24)]~~ (26) "Relocation and replacement" means allowing all outdoor advertising signs
156 or permits the right to maintain outdoor advertising along the interstate, federal aid primary
157 highway existing as of June 1, 1991, and national highway system highways to be maintained
158 in a commercial or industrial zoned area to accommodate the displacement, remodeling, or
159 widening of the highway systems.

160 ~~[(25)]~~ (27) "Remodel" means the upgrading, changing, alteration, refurbishment,
161 modification, or complete substitution of a new outdoor advertising structure for one permitted
162 pursuant to this part and that is located in a commercial or industrial area.

163 ~~[(26)]~~ (28) "Rest area" means an area or site established and maintained within or
164 adjacent to the right-of-way by or under public supervision or control for the convenience of
165 the traveling public.

166 ~~[(27)]~~ (29) "Scenic or natural area" means an area determined by the department to
167 have aesthetic value.

168 ~~[(28)]~~ (30) "Traveled way" means that portion of the roadway used for the movement
169 of vehicles, exclusive of shoulders and auxiliary lanes.

170 ~~[(29)]~~ (31) (a) "Unzoned commercial or industrial area" means:

171 (i) those areas not zoned by state law or local law, regulation, or ordinance that are
172 occupied by one or more industrial or commercial activities other than outdoor advertising
173 signs;

174 (ii) the lands along the highway for a distance of 600 feet immediately adjacent to
175 those activities; and

176 (iii) lands covering the same dimensions that are directly opposite those activities on
177 the other side of the highway, if the department determines that those lands on the opposite side
178 of the highway do not have scenic or aesthetic value.

179 (b) In measuring the scope of the unzoned commercial or industrial area, all
180 measurements shall be made from the outer edge of the regularly used buildings, parking lots,

181 storage, or processing areas of the activities and shall be along or parallel to the edge of
182 pavement of the highway.

183 (c) All signs located within an unzoned commercial or industrial area become
184 nonconforming if the commercial or industrial activity used in defining the area ceases for a
185 continuous period of 12 months.

186 ~~[(30)]~~ (32) "Urbanized county" means a county with a population of at least 125,000
187 persons.

188 ~~[(31)]~~ (33) "Visibility area" means the area on a street or highway that is:

189 (a) defined at one end by a line extending from the base of the billboard across all lanes
190 of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

191 (b) defined on the other end by a line extending across all lanes of traffic of the street
192 or highway in a plane that is:

193 (i) perpendicular to the street or highway; and

194 (ii) 500 feet from the base of the billboard.

195 Section 2. Section 72-7-504 is amended to read:

196 **72-7-504. Advertising prohibited near interstate or primary system -- Exceptions**
197 **-- Logo advertising -- Department rules.**

198 (1) As used in this section, "specific service trailblazer sign" means a guide sign that
199 provides users with business identification or directional information for services and eligible
200 activities that are advertised on a logo advertising sign authorized under Subsection (3)(a)(i).

201 (2) Outdoor advertising that is capable of being read or comprehended from any place
202 on the main-traveled way of an interstate or primary system may not be erected or maintained,
203 except:

204 (a) directional and other official signs and notices authorized or required by law,
205 including signs and notices pertaining to natural wonders and scenic and historic attractions,
206 informational or directional signs regarding utility service, emergency telephone signs, buried
207 or underground utility markers, and above ground utility closure signs;

208 (b) on-premise signs advertising the sale or lease of property upon which ~~[they]~~ the
209 on-premise signs are located;

210 (c) on-premise signs advertising major activities conducted on the property where
211 ~~[they]~~ the on-premise signs are located~~[-including signs on the premises of a public assembly~~

212 facility as provided in Section ~~72-7-504.5~~];

213 (d) public assembly facility signs;

214 (e) on-premise signs within a unified commercial development as described in Section
215 ~~72-7-504.6~~;

216 ~~(f)~~ (f) signs located in a commercial or industrial zone;

217 ~~(g)~~ (g) signs located in unzoned industrial or commercial areas as determined from
218 actual land uses; and

219 ~~(h)~~ (h) logo advertising under Subsection (3).

220 (3) (a) The department may itself or by contract erect, administer, and maintain
221 informational signs:

222 (i) on the main-traveled way of an interstate or primary system, as it existed on June 1,
223 1991, specific service signs for the display of logo advertising and information of interest,
224 excluding specific service trailblazer signs as defined in rules adopted in accordance with
225 Section ~~41-6a-301~~, to the traveling public if:

226 (A) the department complies with Title 63G, Chapter 6a, Utah Procurement Code, in
227 the lease or other contract agreement with a private party for the sign or sign space; and

228 (B) the private party for the lease of the sign or sign space pays an amount set by the
229 department to be paid to the department or the party under contract with the department under
230 this Subsection (3); and

231 (ii) only on rural conventional roads as defined in rules adopted in accordance with
232 Section ~~41-6a-301~~ in a county of the fourth, fifth, or sixth class for tourist-oriented directional
233 signs that display logo advertising and information of interest to the traveling public if:

234 (A) the department complies with Title 63G, Chapter 6a, Utah Procurement Code, in
235 the lease or other contract agreement with a private party for the tourist-oriented directional
236 sign or sign space; and

237 (B) the private party for the lease of the sign or sign space pays an amount set by the
238 department to be paid to the department or the party under contract with the department under
239 this Subsection (3).

240 (b) The amount shall be sufficient to cover the costs of erecting, administering, and
241 maintaining the signs or sign spaces.

242 (c) (i) Any sign erected pursuant to this Subsection (3) which was existing as of March

243 1, 2015, shall be permitted as if it were in compliance with this Subsection (3).

244 (ii) A noncompliant sign shall only be permitted for the contract period of the
245 advertising contract.

246 (iii) A new advertising contract may not be issued for a noncompliant sign.

247 (d) The department may consult the Governor's Office of Economic Development in
248 carrying out this Subsection (3).

249 (4) (a) Revenue generated under Subsection (3) shall be:

250 (i) applied first to cover department costs under Subsection (3); and

251 (ii) deposited in the Transportation Fund.

252 (b) Revenue in excess of costs under Subsection (3)(a) shall be deposited in the
253 General Fund as a dedicated credit for use by the Governor's Office of Economic Development
254 no later than the following fiscal year.

255 (5) Outdoor advertising under Subsections (2)(a), [~~(d), (e), and~~] (f), (g), and (h) shall
256 conform to the rules made by the department under Sections 72-7-506 and 72-7-507.

257 Section 3. Section 72-7-504.6 is enacted to read:

258 **72-7-504.6. Unified commercial development.**

259 (1) As used in this section:

260 (a) (i) "Contiguous" includes parcels that are otherwise contiguous, as defined in
261 Section 72-7-502, that are considered to be contiguous notwithstanding a survey error or
262 discrepancy in a legal boundary description or the presence of any of the following intervening
263 features, including land reasonably related to those features:

264 (A) a road, other than a controlled route;

265 (B) a railway right-of-way of a public transit district that provides access to the
266 development;

267 (C) a utility line; or

268 (D) land that is undevelopable.

269 (ii) "Contiguous" does not include a parcel of land that is only physically connected to
270 another parcel of land by a long, narrow strip.

271 (b) "Property," for purposes of the definition of "on-premise sign," includes all
272 property within a unified commercial development.

273 (c) "Unified commercial development" means a development that:

- 274 (i) is used primarily for commercial or industrial activities;
- 275 (ii) is developed by a single developer, including successors, under a common
- 276 development plan;
- 277 (iii) may include phased development;
- 278 (iv) consists solely of land that is contiguous;
- 279 (v) holds itself out to the public as a common development through signs or other
- 280 marketing efforts;
- 281 (vi) includes one or more retail outlet stores;
- 282 (vii) is connected by a railway right-of-way of a public transit district;
- 283 (viii) is located wholly or partially within a planned community or similar zone;
- 284 (ix) includes a hotel;
- 285 (x) is located in a county other than a county of the first class;
- 286 (xi) received planning approval from the local land use authority for some or all of the
- 287 development prior to December 31, 2012; and
- 288 (xii) is located in a city that, at the time of approval under Subsection (1)(c)(xi),
- 289 included a resort community zone.
- 290 (2) An on-premise sign within a unified commercial development may advertise:
- 291 (a) the sale or lease of land within the unified commercial development where the sign
- 292 is located;
- 293 (b) any activities conducted within the unified commercial development where the sign
- 294 is located;
- 295 (c) the name of identifiable venues or stores within the unified commercial
- 296 development; and
- 297 (d) products for sale or services provided at venues or stores within the unified
- 298 commercial development.
- 299 Section 4. Section **72-7-508** is amended to read:
- 300 **72-7-508. Unlawful outdoor advertising -- Adjudicative proceedings -- Judicial**
- 301 **review -- Costs of removal -- Civil and criminal liability for damaging regulated signs --**
- 302 **Immunity for Department of Transportation.**
- 303 (1) Outdoor advertising is unlawful when:
- 304 (a) erected after May 9, 1967, contrary to the provisions of this chapter;

305 (b) a permit is not obtained as required by this part;

306 (c) a false or misleading statement has been made in the application for a permit that
307 was material to obtaining the permit; or

308 (d) the sign for which a permit was issued is not in a reasonable state of repair, is
309 unsafe, or is otherwise in violation of this part.

310 (2) The establishment, operation, repair, maintenance, or alteration of any sign contrary
311 to this chapter is also a public nuisance.

312 (3) Except as provided in Subsection (4), in its enforcement of this section, the
313 department shall comply with the procedures and requirements of Title 63G, Chapter 4,
314 Administrative Procedures Act.

315 (4) (a) The district courts shall have jurisdiction to review by trial de novo all final
316 orders of the department under this part resulting from formal and informal adjudicative
317 proceedings.

318 (b) Venue for judicial review of final orders of the department shall be in the county in
319 which the sign is located.

320 (5) If the department is granted a judgment, the department is entitled to have any
321 nuisance abated and recover from the responsible person, firm, or corporation, jointly and
322 severally:

323 (a) the costs and expenses incurred in removing the sign; [~~and~~]

324 (b) except as provided in Subsection (5)(c):

325 (i) \$500 for each day the sign was maintained following the expiration of 10 days after
326 notice of agency action was filed and served under Section 63G-4-201;

327 (ii) \$750 for each day the sign was maintained following the expiration of 40 days after
328 notice of agency action was filed and served under Section 63G-4-201;

329 (iii) \$1,000 for each day the sign was maintained following the expiration of 70 days
330 after notice of agency action was filed and served under Section 63G-4-201; and

331 (iv) \$1,500 for each day the sign was maintained following the expiration of 100 days
332 after notice of agency action was filed and served under Section 63G-4-201[-]; and

333 (c) if a person, firm or corporation was previously served with a notice of agency
334 action for unlawful outdoor advertising:

335 (i) \$500 for each day the sign was maintained beginning the day after the notice of

336 agency action was filed and served under Section 63G-4-201;

337 (ii) \$750 for each day the sign was maintained following the expiration of 30 days after
338 the notice of agency action was filed and served under Section 63G-4-201;

339 (iii) \$1,000 for each day the sign was maintained following the expiration of 60 days
340 after the notice of agency action was filed and served under Section 63G-4-201; and

341 (iv) \$1,500 for each day the sign was maintained following the expiration of 90 days
342 after the notice of agency action was filed and served under Section 63G-4-201.

343 (6) (a) Any person, partnership, firm, or corporation who vandalizes, damages, defaces,
344 destroys, or uses any sign controlled under this chapter without the owner's permission is liable
345 to the owner of the sign for treble the amount of damage sustained and all costs of court,
346 including a reasonable attorney's fee, and is guilty of a class C misdemeanor.

347 (b) This Subsection (6) does not apply to the department, its agents, or employees if
348 acting to enforce this part.

349 (7) The following criteria shall be used for determining whether an existing sign within
350 an interstate outdoor advertising corridor has as its purpose unlawful off-premise outdoor
351 advertising:

352 (a) whether the sign complies with this part;

353 (b) whether the premise includes an area:

354 (i) from which the general public is serviced according to normal industry practices for
355 organizations of that type; or

356 (ii) that is directly connected to or is involved in carrying out the activities and normal
357 industry practices of the advertised activities, services, events, persons, or products;

358 (c) whether the sign generates revenue:

359 (i) arising from the advertisement of activities, services, events, or products not
360 available on the premise according to normal industry practices for organizations of that type;

361 (ii) arising from the advertisement of activities, services, events, persons, or products
362 that are incidental to the principal activities, services, events, or products available on the
363 premise; and

364 (iii) including the following:

365 (A) money;

366 (B) securities;

- 367 (C) real property interest;
- 368 (D) personal property interest;
- 369 (E) barter of goods or services;
- 370 (F) promise of future payment or compensation; or
- 371 (G) forbearance of debt;
- 372 (d) whether the purveyor of the activities, services, events, persons, or products being
- 373 advertised:
- 374 (i) carries on hours of operation on the premise comparable to the normal industry
- 375 practice for a business, service, or operation of that type, or posts the hours of operation on the
- 376 premise in public view;
- 377 (ii) has available utilities comparable to the normal industry practice for an entity of
- 378 that type; and
- 379 (iii) has a current valid business license or permit under applicable local ordinances,
- 380 state law, and federal law to conduct business on the premise upon which the sign is located;
- 381 (e) whether the advertisement is located on the site of any auxiliary facility that is not
- 382 essential to, or customarily used in, the ordinary course of business for the activities, services,
- 383 events, persons, or products being advertised; or
- 384 (f) whether the sign or advertisement is located on property that is not contiguous to a
- 385 property that is essential and customarily used for conducting the business of the activities,
- 386 services, events, persons, or products being advertised.
- 387 (8) The following do not qualify as a business under Subsection (7):
- 388 (a) public or private utility corridors or easements;
- 389 (b) railroad tracks;
- 390 (c) outdoor advertising signs or structures;
- 391 (d) vacant lots;
- 392 (e) transient or temporary activities; or
- 393 (f) storage of accessory products.
- 394 (9) The sign owner has the burden of proving, by a preponderance of the evidence, that
- 395 the advertised activity is conducted on the premise.