

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH30243-MLF-72A (02/07)

Short Title: Revisions to Outdoor Advertising Laws. (Public)

Sponsors: Representatives Lewis, Saine, Goodman, and Hanes (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE SELECTIVE VEGETATION REMOVAL PERMIT FEES AND TO
3 CLARIFY STANDARDS FOR SELECTIVE VEGETATION REMOVAL.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 136-18.7 reads as rewritten:

6 "§ 136-18.7. Fees.

7 The fee for a selective vegetation removal permit issued pursuant to ~~G.S. 136-18(5), (7),~~
8 ~~and (9) is two hundred dollars (\$200.00).~~ Article 11 of this Chapter for an outdoor advertising
9 location is (i) six hundred dollars (\$600.00) for the initial three-year period listed in
10 G.S. 136-133.4 and (ii) two hundred dollars (\$200.00) for any subsequent three-year renewal
11 period."

12 SECTION 2. G.S. 136-93.2 reads as rewritten:

13 "§ 136-93.2. Monetary value of trees.

14 The monetary value for existing trees removed and eligible for reimbursement to the
15 Department as provided in G.S. 136-93 or G.S. 136-133.1 from State rights-of-way shall be
16 ~~determined on an annual basis by the Department. In determining the value of existing trees~~
17 ~~removed, the average cost per caliper inch shall be based on the lower value of either the~~
18 ~~average wholesale commercial nursery prices for hardwood and conifer plants, times a 2.5~~
19 ~~multiplier for installation and warranty or the average cost per caliper inch for tree planting~~
20 ~~contracts let by the Department in the previous calendar year. The values shall be determined~~
21 ~~and published by the Department no later than December 15 of each year. The values~~
22 ~~established pursuant to this section shall be used in calculating the monetary value of trees~~
23 ~~removed from State rights of way beginning January 1 of each year. If the Department fails to~~
24 ~~publish changes in values by December 15, then the values existing on December 15 shall be~~
25 ~~applicable to existing trees removed and eligible for reimbursement for the following~~
26 ~~year.~~ forty-five dollars (\$45.00) per caliper inch."

27 SECTION 3. G.S. 136-128 reads as rewritten:

28 "§ 136-128. Definitions.

29 As used in this Article:

- 30 (1) Cross read face. – The left read advertising face for an off-premises outdoor
31 advertising sign that is intended for viewing and located on the opposite side
32 of the highway to the flow of traffic on the main travel way.
33 (2) Direct read face. – The right read advertising face for an off-premises
34 outdoor advertising sign that is intended for viewing and located on the same
35 side of the highway to the flow of traffic on the main travel way.



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- 1 (3) ~~"Erect" means to~~Erect. – To construct, build, raise, assemble, place, affix,
2 attach, create, paint, draw, or in any other way bring into being or establish.
- 3 ~~(1a)(4) "Illegal sign" means one~~Illegal sign. – One which was erected and/or
4 maintained in violation of State law.
- 5 ~~(1b)(5) "Information center" means an~~Information center. – An area or site
6 established and maintained at safety rest areas for the purpose of informing
7 the public of places of interest within the State and providing such other
8 information as the Department of Transportation may consider desirable.
- 9 ~~(2)(6) "Interstate system" means that~~Interstate system. – That portion of the
10 National System of Interstate and Defense Highways located within the
11 State, as officially designated, or as may hereafter be so designated, by the
12 Department of Transportation, or other appropriate authorities and are also
13 so designated by interstate numbers. As to highways under construction so
14 designated as interstate highways pursuant to the above procedures, the
15 highway shall be a part of the interstate system for the purposes of this
16 Article on the date the location of the highway has been approved finally by
17 the appropriate federal authorities.
- 18 ~~(2a)(7) "Nonconforming sign" shall mean a~~Nonconforming sign. – A sign which
19 was lawfully erected but which does not comply with the provisions of State
20 law or State rules and regulations passed at a later date or which later fails to
21 comply with State law or State rules or regulations due to changed
22 conditions. Illegally erected or maintained signs are not nonconforming
23 signs.
- 24 ~~(3)(8) "Outdoor advertising" means any~~Outdoor advertising. – Any outdoor sign,
25 display, light, device, figure, painting, drawing, message, plaque, poster,
26 billboard, or any other thing which is designed, intended or used to advertise
27 or inform, any part of the advertising or information contents of which is
28 visible from any place on the main-traveled way of the interstate or primary
29 system, whether the same be permanent or portable installation.
- 30 ~~(4)(9) "Primary systems" means the~~Primary systems. – The federal-aid primary
31 system in existence on June 1, 1991, and any highway which is not on that
32 system but which is on the National Highway System. As to highways under
33 construction so designated as primary highways pursuant to the above
34 procedures, the highway shall be a part of the primary system for purposes
35 of this Article on the date the location of the highway has been approved
36 finally by the appropriate federal or State authorities.
- 37 ~~(5)(10) "Safety rest area" means an~~Safety rest area. – An area or site established and
38 maintained within or adjacent to the highway right-of-way by or under
39 public supervision or control, for the convenience of the traveling public.
- 40 ~~(6)(11) "State law" means a~~State law. – A State constitutional provision or statute,
41 or ~~an ordinance,~~ a rule or regulation enacted or adopted by a State agency or
42 political subdivision of a State pursuant to ~~at~~the State Constitution or a
43 statute.
- 44 ~~(7)(12) "Unzoned area" shall mean an~~Unzoned area. – An area where there is no
45 zoning in effect.
- 46 ~~(8)(13) "Urban area" shall mean an~~Urban area. – An area within the boundaries or
47 limits of any incorporated municipality having a population of five thousand
48 or more as determined by the latest available federal census.
- 49 (14) Viewing edge of the sign. – For a multifaced outdoor advertising sign that
50 has either back-to-back sign faces or v-typed sign faces, it is the center point
51 between the front edges of each sign face. For a single-faced sign or a

multifaced sign that has side-to-side sign faces, it is the back edge away from the viewing zone of the sign face closest to the right-of-way.

~~(9)(15) "Visible" means capable~~ Visible. – Capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity."

SECTION 4. G.S. 136-133.1 reads as rewritten:

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

(a) The owner of an outdoor advertising sign permitted under ~~G.S. 136-129(a)(4)~~G.S. 136-129(4) or ~~G.S. 136-129(a)(5)~~G.S. 136-129(5) who obtains a selective vegetation removal permit, and the owner's designees, may cut, thin, prune, or remove vegetation in accordance with this section, G.S. 136-93(b), 136-133.2, and 136-133.4. The maximum cut or removal zone for vegetation for each sign face shall be determined as follows:

(1) ~~The point located on the edge of the right-of-way that is the closest point to the centerline of the sign face~~viewing edge of the sign shall be point A.

(2) ~~The point located 200 feet down the right of way line in the direction of the sign viewing zone~~on the edge of the pavement of the main traveled way that is closest to the viewing edge of the sign shall be point B.

(3) ~~The point on the edge of the pavement of the travel way, including acceleration and deceleration ramps, that is the closest to the centerline of the sign~~500 feet down the edge of the pavement of the main travel way in the direction of the sign viewing zone from point B shall be point C.

(4) ~~The farthest point 50 feet down the edge of the pavement in the direction of the sign viewing zone from point C~~of the sign face located from the edge of the right-of-way shall be point D.

(5) ~~The point 380 feet down the edge of the pavement in the direction of the sign viewing zone from~~on the edge of the right-of-way that connects point C and point D shall be point E; provided, however, the following shall apply within the corporal limits and territorial jurisdiction of any city, as defined in Chapter 160A of the General Statutes:E.

a. ~~On interstates or other routes with fully controlled access, the point 340 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point E.~~

b. ~~On highways other than interstates and other routes with fully controlled access, the point 250 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point E.~~

(5a) The point on a center median located directly opposite point C in relation to a cross read face viewing zone and immediately adjacent to the travel way of the highway on the opposite side from the outdoor advertising sign shall be point F.

(5b) The point on a center median located directly opposite point B in relation to a cross read face viewing zone and immediately adjacent to the travel way of the highway on the opposite side from the outdoor advertising sign shall be point G.

(6) ~~Lines drawn from point A to point D and from point B to point C shall define the limits of the vegetation cut or removal area.~~area for a direct read face. Lines drawn from point A to point B to point G and from point E to point C to point F shall define the limits of the vegetation cut or removal area for a cross read face.

(a1) Notwithstanding any law to the contrary, in order to promote the outdoor advertiser's right to be clearly viewed as set forth in G.S. 136-127, (i) the owner of an outdoor advertising sign who is a selective vegetation removal permittee shall be permitted to cut or

1 remove vegetation on private property within the zones marked by points A to D to E with the
 2 written permission of the landowner and (ii) the Department of Transportation, at the request of
 3 a selective vegetation removal permittee, may approve plans for the cutting, thinning, pruning,
 4 or removal of vegetation outside of the cut or removal zone defined in subsection (a) of this
 5 section along ~~acceleration or deceleration ramps~~ or within gores, medians, or other areas of the
 6 primary highway system so long as the view to the outdoor advertising sign will be improved
 7 and the ~~total aggregate area of cutting or removal does not exceed the maximum allowed in~~
 8 subsection (a) of this section. safety of the traveling public is protected.

9 (b) Vegetation permitted to be cut, thinned, pruned, or removed shall be defined as any
 10 tree, shrub, or underbrush within the zone created by points A, B, D, and E. Any existing tree
 11 that was in existence at the time that an outdoor advertising structure was erected shall only be
 12 eligible for removal in accordance with subsections (c), (d), and (e) of this section. ~~Native~~
 13 to the extent possible, native dogwoods and native redbuds shall be preserved. A selective
 14 vegetation removal permittee may relocate, and replace if necessary, any native dogwoods or
 15 native redbuds existing within the cut or removal zone established in subsection (a) of this
 16 section to a location within 2,500 feet on either side of the outdoor advertising structure, as
 17 measured along the edge of the pavement of the main travel way of the nearest controlled route.
 18 If a native dogwood or native redbud cannot be preserved during relocation, a selective
 19 vegetation removal permittee shall replace the native dogwood or native redbud with native
 20 dogwoods or native redbuds of the same cumulative caliper inches. For the purposes of this
 21 section, an existing tree is defined as a tree that had a diameter of four inches or greater as
 22 measured six inches from the ground at the time that the outdoor advertising structure was
 23 erected. An outdoor advertising sign is considered erected when the sign is completely
 24 constructed with a sign face.

25"

26 **SECTION 5.** G.S. 136-133.2 reads as rewritten:

27 "**§ 136-133.2. Issuance or denial of a selective vegetation removal permit.**

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

38 (b) Notwithstanding the two-year period required in subsection (a) of this section,
 39 permits to remove vegetation may be granted for outdoor advertising locations (i) where
 40 outdoor advertising has been relocated as allowed by law and (ii) that otherwise comply with
 41 the requirements of this section and rules adopted by the Department in accordance with this
 42 section."

43 **SECTION 6.** G.S. 136-133.4 reads as rewritten:

44 "**§ 136-133.4. Selective vegetation removal permits.**

45 ...

46 (b) Permits are valid for a period of ~~one year~~ three years. The permittee may cut, thin,
 47 prune, or remove vegetation more than one time per year. A 48-hour notification shall be
 48 provided to the Department by the permittee before entering the right-of-way.

49 ...

50 (d) Any damage to vegetation designated to remain at the site, to highway fences, signs,
 51 paved areas, or other facilities shall be repaired or replaced by the permittee to the condition

1 prior to the occurrence of the damage caused by the permittee or the permittee's agent. ~~All~~
2 ~~trimmings, logs, and debris~~ Except for authorized chips or when the Department and the
3 permittee or the permittee's agent agree in writing to the contrary, all cut vegetation shall be
4 removed from the right-of-way and disposed of in areas provided by the ~~permittee~~ permittee
5 within 72 hours after commencement of the event that necessitated cutting the vegetation. No
6 burning or burying of ~~trimmings, logs, or debris~~ cut vegetation shall be permitted on the
7 highway right-of-way. When chipping is used to dispose of ~~trimmings~~ cut vegetation, chips
8 may be neatly spread on a right-of-way at locations which the Department determines will not
9 be harmful to the environment or affect traffic safety.

10"

11 **SECTION 7.** Notwithstanding any provision of Article 2A of Chapter 150B of the
12 General Statutes, no later than six months after the effective date of this act, the Department of
13 Transportation shall adopt rules to implement the provisions of this act. The Department of
14 Transportation shall use the following procedure to adopt rules to implement the provisions of
15 this act:

- 16 (1) At least 15 business days prior to adopting a rule, submit the rule and a
17 notice of public hearing to the Codifier of Rules. The Codifier of Rules shall
18 publish the proposed rule and the notice of public hearing on the Internet
19 within five business days.
- 20 (2) At least 15 business days prior to adopting a rule, notify persons on the
21 mailing list maintained pursuant to G.S. 150B-21.2(d) and any other
22 interested parties of the Department of Transportation's intent to adopt a rule
23 and of the public hearing.
- 24 (3) Accept written comments on the proposed rule for at least 15 business days
25 prior to adoption of the rule.
- 26 (4) Hold at least one public hearing on the proposed rule no less than five days
27 after the rule and notice have been published.

28 A rule adopted in accordance with this section becomes effective on the first day of
29 the month following the month the Department of Transportation adopts the rule and submits
30 the rule to the Codifier of Rules for entry into the North Carolina Administrative Code. Any
31 rule adopted more than six months after the effective date of this act shall comply with the
32 requirement of Article 2A of Chapter 150B of the General Statutes.

33 **SECTION 8.** Any rule or policy adopted by the Department of Transportation that
34 does not comply with the provisions of this act shall be null, void, and without effect.

35 **SECTION 9.** If any provision of this act or its application is held invalid, the
36 invalidity does not affect other provisions or applications of this act that can be given effect
37 without the invalid provisions or applications, and to this end, the provisions of this act are
38 severable.

39 **SECTION 10.** Section 1 of this act and G.S. 136-133.4(b), as amended by Section
40 6 of this act, are effective when this act becomes law and apply to applications for permits
41 received on or after that date. Section 2 of this act is effective when this act becomes law and
42 applies to trees removed on or after that date. The remainder of this act is effective when this
43 act becomes law.