



# HOUSE BILL 645: Revisions to Outdoor Advertising Laws.

2019-2020 General Assembly

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<b>Committee:</b>		<b>Date:</b>	December 12, 2019
<b>Introduced by:</b>	Reps. Saine, Dixon, B. Jones, Wray	<b>Prepared by:</b>	Nicholas Giddings Staff Attorney
<b>Analysis of:</b>	Ratified		

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**OVERVIEW:** *House Bill 645, vetoed by the Governor on August 22, 2019, would amend the laws pertaining to outdoor advertising, to do all of the following:*

- *Allow for relocation and reconstruction of outdoor advertising signs, with specified criteria to be met.*
- *Prohibit the North Carolina Department of Transportation from denying a sign relocation site due to the presence of vegetation obstructing the sign's visibility.*
- *Reduce the waiting period for a permitted outdoor advertising location to receive a selective vegetation removal permit from two years to one year, and exempt relocated signs from that waiting period.*

*If the bill were to become law, Section 4, pertaining to the relocation of lawfully existing outdoor advertising signs, would apply to signs removed on or after July 1, 2019. Section 7, prohibiting the Department of Transportation from denying a sign relocation site due to the presence of vegetation obstructing the sign's visibility, would be apply to outdoor advertising signs relocated on or after the date the bill becomes law. The remainder of the bill would become effective when it becomes law.*

**CURRENT LAW:** The Outdoor Advertising Control Act is set out in Article 11 of Chapter 136 of the General Statutes. The Act is intended to control the erection and maintenance of outdoor advertising devices and was enacted in 1967 to ensure that North Carolina met federal standards for controlling billboards along its Interstate and Federal-aid Primary Highways Systems so that the State continued to receive a full allocation of federal highway funds. The Act delegates authority to the North Carolina Department of Transportation (DOT) to adopt rules enforcing federal standards along these federal highway corridors. The Act requires a permit to erect or maintain any outdoor advertising within 660 feet of the nearest edge of the right of way of the interstate or primary highway system, with some limited exceptions. Once issued, the permit is valid until revoked for nonconformance under Article 11 or under rules adopted by DOT. G.S. 136-133.

Beginning in 2004, monetary compensation is required to be paid by a local government to the outdoor advertising owner when the local government requires the removal of nonconforming, off-premises outdoor advertising, unless the outdoor advertising is determined to be a public nuisance or detrimental to the health or safety of the populace or when the local government allows the removal or relocation of the advertising to an equally visible location for purposes of road widening or another governmental development project. In lieu of monetary compensation, a local government can enter into a relocation, reconstruction, or removal agreement, so long as the terms of the agreement are agreeable to the outdoor advertising owner. G.S. 153A-143 and G.S. 160A-199.

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G.S. 136-133.5 prohibits DOT from issuing permits for new outdoor advertising signs at a location where existing trees, if they were to reach mature height, would make the proposed sign faces not completely visible from the viewing zone. G.S. 136-18(9) grants DOT the authority to "employ appropriate means for properly selecting, planting and protecting trees, shrubs, vines, grasses or legumes in the highway right of way in the promotion of erosion control, landscaping and general protection of said highways." The removal of vegetation in or on any right of way of a State road or State highway requires a written selective vegetation removal permit issued by DOT. The owner of an outdoor advertising sign, or the owner of a business facility, may apply to DOT for a selective vegetation removal permit. If DOT approves the application, the permit is valid for one year upon issuance.

The statutes generally set out a maximum cut or removal zone for each sign face, with that maximum zone varying depending upon whether the site is within the corporate limits and territorial jurisdiction of a municipality and whether the highway is an interstate or other route with fully controlled access. Vegetation cutting and removal is allowed along acceleration and deceleration ramps so long as the view of the outdoor advertising sign is improved and total aggregate amount of cut area is not increased. G.S. 136-133.1. Complete removal of the vegetation in the cut zone, other than dogwoods or redbuds, may be allowed if the applicant submits a plan for replanting the cut zone area. Trees existing at the time the outdoor advertising sign was erected may only be removed if the applicant reimburses DOT for the established value of the trees or if the applicant agrees to remove two nonconforming signs for each sign at which the removal of trees is requested. G.S. 136-133.1.

## **BILL ANALYSIS:**

**Section 2** would make various changes and additions to the definitions applicable to the Outdoor Advertising Control Act, including:

- Creating a definition of "customary use" with regard to size, lighting, and spacing for outdoor advertising signs in areas zoned commercial or industrial and unzoned commercial or industrial areas.

**Section 3** would add a new section to Article 11 of Chapter 136 of the General Statutes related to unzoned commercial or industrial areas, which would be an area that is not currently zoned and is within 660 feet of the right-of-way of the interstate or primary system, having at least one commercial or industrial activity that meets the following criteria:

- Has a business license.
- Is listed for taxes.
- Has utilities.
- Has vehicular access.
- Has a building with a permanent foundation within 660 feet from the right-of-way of a controlled route or, if a mobile home or RV is being used as an office, it must meet State Building Code criteria and be tied down with wheels and axles removed.
- Is in active operation a minimum of 6 months prior to applying for an outdoor advertising permit.
- Is open to the public a minimum of 20 hours per week.
- Is staffed by one or more employees while open.
- Is visible and recognizable as a commercial or industrial area from the main-traveled road.

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**Section 4**, *effective for outdoor advertising signs removed on or after July 1, 2019*, would add a new section to Article 11 of Chapter 136 of the General Statutes regarding the relocation of existing outdoor advertising signs that would do the following:

- Authorize any lawfully erected outdoor advertising sign to relocate within a two mile radius of the existing sign location when the property on which that outdoor advertising sign is located is acquired by DOT, or any public or private condemnor, and the acquiring party requires removal of the sign.
- Create the following criteria that must be followed when an outdoor advertising sign is relocated:
  - The relocation site is within 660 feet of a highway on the National System of Interstate and Defense Highways or the federal-aid primary highway system.
  - The relocation site is within an area zoned commercial or industrial within the same zoning jurisdiction. If the original location was within an unzoned area of a city or county, the new location must be within the same unzoned city territorial limits or the same unzoned county territorial limits.
  - The relocation site is not adjacent to a scenic highway unless within the same location or site.
  - The relocation site is not within a lawfully established historic district, unless the governing board consents by resolution.
  - Construction on the relocation begins within 1 year of the date of removal.
  - The reconstruction of a relocated sign is in accordance with the General Statutes pertaining to modernization of outdoor advertising.
  - In addition to other sign characteristic changes or alterations resulting from the relocation, the height of the sign may be increased, not to exceed 50 feet.
- Outdoor advertising not required to be removed by DOT or a public or private condemnor may be voluntarily relocated and reconstructed, provided the relocated distance is not more than 250 feet from the lot boundaries on which the sign was previously located and the above listed criteria are followed. If a sign is relocated under this provision, it cannot be relocated again under this provision for 10 years from the date of the previous relocation, however, the sign may still be relocated on the same sign location or site without regard to this time limitation.
- Lawfully erected outdoor advertising that would not be conforming to customary use if relocated on the same site is nonetheless permitted to be voluntarily relocated on the same site, subject to the following requirements:
  - The structural members of the sign at the relocated site are of like material.
  - The size of the sign face or faces is not increased.
  - The height of the sign at the relocated site does not exceed 50 feet, except that the sign height may be 50 feet above the top of a sound wall.
  - The relocation is not denied by the Federal Highway Administrator or certain other federal officials.
- Provide that vegetation removal permits cannot be denied by DOT for new sites when the outdoor advertising is relocating to that site.

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- Provide that DOT must issue a new outdoor advertising permit for signs required to be relocated by DOT or a public or private condemnor. No permit is required for outdoor advertising signs meeting the criteria for voluntary relocation or for those signs whose height is raised as a result of a sound wall.
- Provide that outdoor advertising affected by construction of a sound wall may either be relocated or raised up to 50 feet above the sound wall.
- Provide that when determining just compensation upon a sign's condemnation, the fact that the sign is not relocated shall not prejudice the compensation determination.

**Section 4.5** would provide all of the following with respect to "view corridors," which are overlay districts established by a city or county prior to April 1, 2019, on a zoning map, or similar map established by ordinance, designating specific thoroughfares or segments of thoroughfares within the territorial limits of the city or county in which the construction of newly permitted outdoor advertising signs are explicitly prohibited:

- A sign not located within a view corridor prior to relocation cannot be relocated into a view corridor without the approval of the city or county.
- Signs previously located within a view corridor are permitted to be relocated within the same view corridor.
- If a city or county has a view corridor, a sign required to be removed by DOT or a public or private condemnor is permitted to be relocated within a five-mile radius from the existing sign location, subject to all of the applicable relocation requirements.

**Section 4.7** would require the owner of an outdoor advertising sign to be relocated within 5 miles of a military base to notify and consult the commander of the military base or the commander's designee, the DOT, the county board of commissioners of the county in which the military base lies, and the city council of the city in which the military base lies, if any. Those notified and consulted would have up to 30 days to provide comments and analysis regarding the compatibility of the proposed relocation with the military operations of the base.

**Section 6** would reduce, by one year, the wait time required before an applicant can submit an application for a selective vegetation removal permit, and provides that this waiting period does not apply to permit applications related to outdoor advertising which has been relocated.

**Section 7**, *effective for outdoor advertising signs removed on or after the date this bill becomes law*, would provide that the prohibition on DOT issuing permits for new outdoor advertising in locations where existing trees would obscure the visibility of the outdoor advertising would not apply to outdoor advertising lawfully relocated.

**Section 8** is a severability clause that provides that if any provision of this bill is found to be invalid, it would not affect other provisions of this bill that can be given effect without the invalid provision.

**EFFECTIVE DATE:** Except as otherwise provided above, this bill would become effective when it becomes law.