



SENATE BILL 582: North Carolina Farm Act of 2023, Sec. 2: Agritourism Advertising

2023-2024 General Assembly

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| Committee: | | Date: | November 27, 2023 |
| Introduced by: | | Prepared by: | Chris Saunders Staff Attorney |
| Analysis of: | Sec. 2 of S.L. 2023-63 | | |

OVERVIEW: *Section 2 of S.L. 2023-63 allows placement of farm signs in the right-of-way of the State highway system during a farm's seasonal operation. The same placement rules that apply to political signs during the period when they are allowed to be placed in the right-of-way apply to farm signs.*

This bill was vetoed by the Governor on June 23, 2023, and that veto was overridden by the General Assembly on June 27, 2023.

This section became effective June 27, 2023.

BACKGROUND: The Supreme Court held in *Reed v. Town of Gilbert, Arizona*, 576 U.S. 155 (2015) that "content-based laws—those that target speech based on its communicative content—are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests."

In that case, the Town of Gilbert, Arizona, had a sign code that generally required permits for signs but had exemptions for political signs, temporary directional signs, and ideological signs, among others. A local church that posted small directional signs to guide people to its services was cited for a violation of the rules for temporary directional signs and challenged the sign code as restricting their freedom of speech under the First Amendment. The Supreme Court held that the distinctions in the sign code were plainly content-based and therefore subject to strict scrutiny, because the distinctions in the exceptions (i.e. for political signs, temporary directional signs, and ideological signs) "depend[ed] on the communicative content of the sign." In other words, there was no way to know if a sign complied with the sign code without reading what it said. The decision also held that "a speech regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints with that subject matter."

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