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SENATE BILL 150*
Commerce, Small Business and Entrepreneurship Committee Substitute Adopted
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Short Title: Outdoor Adv. Vegetation Removal Changes.

(Public)

Sponsors:

Referred to:

February 14, 2007

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE DEPARTMENT OF TRANSPORTATION OUTDOOR
ADVERTISING SELECTIVE VEGETATION REMOVAL POLICY.

The General Assembly of North Carolina enacts:

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

"§ 136-18.7. Fees.

The fee for a selective vegetation removal permit issued pursuant to G.S. 136-18(5), (7), and (9) is ~~two hundred dollars (\$200.00)~~ three hundred dollars (\$300.00) per permitted site and is nonrefundable."

SECTION 2. G.S. 136-93 reads as rewritten:

"§ 136-93. Openings, structures, pipes, trees, and issuance of permits.

(a) No opening or other interference whatsoever shall be made in any State road or highway other than streets not maintained by the Department of Transportation in cities and towns, nor shall any structure be placed thereon, nor shall any structure which has been placed thereon be changed or removed except in accordance with a written permit from the Department of Transportation or its duly authorized officers, who shall exercise complete and permanent control over such roads and highways. No State road or State highway, other than streets not maintained by the Department of Transportation in cities and towns, shall be dug up for laying or placing pipes, conduits, sewers, wires, railways, or other objects, and no tree or shrub in or on any State road or State highway shall be planted, trimmed, or removed, and no obstruction placed thereon, without a written permit as hereinbefore provided for, and then only in accordance with the regulations of said Department of Transportation or its duly authorized officers or employees; and the work shall be under the supervision and to the satisfaction of the Department of Transportation or its officers or employees, and the entire expense of replacing the highway in as good condition as before shall be paid by the persons, firms,

1 or corporations to whom the permit is given, or by whom the work is done. The
2 Department of Transportation, or its duly authorized officers, may, in its discretion,
3 before granting a permit under the provisions of this section, require the applicant to file
4 a satisfactory bond, payable to the State of North Carolina, in such an amount as may be
5 deemed sufficient by the Department of Transportation or its duly authorized officers,
6 conditioned upon the proper compliance with the requirements of this section by the
7 person, firm, or corporation granted such permit. Any person making any opening in a
8 State road or State highway, or placing any structure thereon, or changing or removing
9 any structure thereon without obtaining a written permit as herein provided, or not in
10 compliance with the terms of such permit, or otherwise violating the provisions of this
11 section, shall be guilty of a Class 1 misdemeanor: Provided, this section shall not apply
12 to railroad crossings. The railroads shall keep up said crossings as now provided by law.

13 (b) A person who violates this section by trimming or removing a tree shall, in
14 addition to any other penalty imposed by the court, pay a restoration fee of two
15 thousand dollars (\$2,000) per tree, and a maximum restoration fee of thirty thousand
16 dollars (\$30,000) per location of a violation. The restoration fee shall be used by the
17 Department for the restoration or compensatory replacement of vegetation removed in
18 violation of this section. As applicable to this subsection, a tree is defined as a tree with
19 a trunk diameter of four inches or greater, as measured six inches from the ground."

20 **SECTION 3.** G.S. 136-129 reads as rewritten:

21 "**§ 136-129. Limitations of outdoor advertising devices.**

22 (a) No outdoor advertising shall be erected or maintained within 660 feet of the
23 nearest edge of the right-of-way of the interstate or primary highway systems in this
24 State so as to be visible from the main-traveled way thereof after the effective date of
25 this Article as determined by G.S. 136-140, except the following:

26 (1) Directional and other official signs and notices, which signs and
27 notices shall include those authorized and permitted by Chapter 136 of
28 the General Statutes, which include but are not limited to official signs
29 and notices pertaining to natural wonders, scenic and historic
30 attractions and signs erected and maintained by a public utility, electric
31 or telephone membership corporation, or municipality for the purpose
32 of giving warning of or information as to the location of an
33 underground cable, pipeline or other installation.

34 (2) Outdoor advertising which advertises the sale or lease of property
35 upon which it is located.

36 (2a) Outdoor advertising which advertises the sale of any fruit or vegetable
37 crop by the grower at a roadside stand or by having the purchaser pick
38 the crop on the property on which the crop is grown provided: (i) the
39 sign is no more than two feet long on any side; (ii) the sign is located
40 on property owned or leased by the grower where the crop is grown;
41 (iii) the grower is also the seller; and (iv) the sign is kept in place by
42 the grower for no more than 30 days.

43 (3) Outdoor advertising which advertises activities conducted on the
44 property upon which it is located.

1 (4) Outdoor advertising, in conformity with the rules and regulations
2 promulgated by the Department of Transportation, located in areas
3 which are zoned industrial or commercial under authority of State law.

4 (5) Outdoor advertising, in conformity with the rules and regulations
5 promulgated by the Department of Transportation, located in unzoned
6 commercial or industrial areas.

7 (b) On controlled routes with fully controlled access no two legally erected
8 outdoor advertising structures shall be spaced less than 500 feet apart. On controlled
9 routes without fully controlled access outside of incorporated municipalities no two
10 structures shall be spaced less than 500 feet apart.

11 (c) The fee for outdoor advertising structures specified in subdivisions (a)(4) and
12 (a)(5) of this section shall not exceed one hundred fifty dollars (\$150.00) for the initial
13 fee and ninety dollars (\$90.00) for the annual renewal fee.

14 (d) The Department of Transportation shall designate thirty dollars (\$30.00) of
15 each initial and annual renewal fee for restoration funds for compensatory replacement
16 of vegetation removed within the highway rights-of-way for opening views to legally
17 erected forms of outdoor advertising that is located adjacent to State highway
18 rights-of-way. The Department shall use the restoration funds received for removal of
19 vegetation under this subsection for replacement planting along the highway
20 rights-of-way.

21 (e) Except as authorized under subsection (d) of this section, no other fees or
22 charges shall apply for restoration or compensatory replacement of vegetation permitted
23 to be removed under G.S. 136-133.1 within the highway rights-of-way for opening
24 views to legally erected forms of outdoor advertising structures that are located adjacent
25 to highway rights-of-way."

26 **SECTION 4.** Chapter 136 of the General Statutes is amended by adding a
27 new section to read:

28 **"§ 136-133.1. Outdoor advertising selective vegetation removal.**

29 (a) The maximum removal area for vegetation for each sign face shall be
30 determined as follows:

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

33 (2) The point located 150 feet down the right-of-way line in the direction
34 of the sign viewing zone shall be point B.

35 (3) The point on the edge of the pavement of the travel way that is the
36 closest to the centerline of the sign shall be point C.

37 (4) The point 50 feet down the edge of the pavement in the direction of the
38 sign viewing zone from point C shall be point D.

39 (5) The point 375 feet down the edge of pavement in the direction of the
40 sign viewing zone from point C shall be point E.

41 (6) Lines drawn from point A to point D and from point B to point E shall
42 define the limits of the vegetation removal area.

43 (b) Vegetation permitted to be removed shall be defined as any tree, shrub, or
44 plant growing within the ABED removal zone that blocks or will be blocking the sign

1 face of the outdoor advertising. Any tree that was in existence before an outdoor
2 advertising structure was erected shall not be eligible for removal. As applicable to this
3 subsection, a tree is defined as a tree with a diameter of four inches or greater, as
4 measured six inches from the ground.

5 (c) No person shall cut, trim, or otherwise cause to be removed vegetation that is
6 in front of or adjacent to outdoor advertising and also within the limits of highway
7 rights-of-way for the purpose of enhancing the visibility of outdoor advertising unless
8 permitted to do so by the Department of Transportation.

9 (d) Permits to remove vegetation may be granted only for outdoor advertising
10 locations that have been permitted at least two years and then only at the sole discretion
11 of the Department of Transportation.

12 (e) If a person or company who is legally responsible for the outdoor advertising
13 structure removes or causes to be removed vegetation that is in front of or adjacent to an
14 outdoor advertising sign and also within a highway right-of-way without a permit and
15 the removal has the effect of enhancing the visibility of the outdoor advertising, the
16 outdoor advertising is illegal and shall be removed from the sign structure at that
17 person's or company's expense.

18 (f) If a person or company who is legally responsible for the outdoor advertising
19 structure is convicted of violating subsection (c) of this section, the person or company
20 shall not be eligible for an outdoor advertising permit or selective vegetation permit at
21 the specific location of the violation for the period of time indicated by subdivisions (1),
22 (2), and (3) of this subsection:

23 (1) For a first violation: one year.

24 (2) For a second violation: five years.

25 (3) For a third violation: ineligibility is permanent.

26 (g) Any person or company who is convicted of violating subsection (b) or (c) of
27 this section shall reimburse the Department of Transportation for cleaning or replanting
28 at the site of the violation. Until the expenses are reimbursed, the person or company
29 shall not be issued a permit for outdoor advertising or selective vegetation removal at
30 the specific location of the violation.

31 (h) Any person or company who is legally responsible for an outdoor advertising
32 structure that appeals an outdoor advertising permit revocation to a court and loses the
33 appeal or settles prior to the hearing of the case shall forfeit to the Department of
34 Transportation all revenues generated by the outdoor advertising from the date of
35 revocation to the date of the court decision or settlement."

36 **SECTION 5.** This act becomes effective December 1, 2007, and applies to
37 permits applied for on or after that date and offenses that occur on or after that date.