

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2090

BY: LITTLEFIELD

AS INTRODUCED

AN ACT RELATING TO ROADS, BRIDGES AND FERRIES;  
AMENDING 69 O.S. 1991, SECTIONS 1271, 1272, 1273,  
1274, 1275, 1276, 1277 AND 1280, WHICH RELATE TO  
THE HIGHWAY ADVERTISING CONTROL ACT OF 1968;  
MODIFYING IMPLEMENTATION AND ENFORCEMENT ENTITIES;  
MODIFYING DEFINITIONS; MODIFYING CERTAIN  
REQUIREMENTS RELATED TO ADVERTISING SIGNS; ADDING  
AND MODIFYING CERTAIN STANDARDS; SPECIFYING CERTAIN  
FEE PROCEDURES; AUTHORIZING CERTAIN RULES;  
CLARIFYING DETERMINATION OF CERTAIN COMPENSATION;  
PROVIDING FOR THE DESIGNATION OF PET AREAS;  
PROVIDING FOR CODIFICATION; AND PROVIDING AN  
EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 69 O.S. 1991, Section 1271, is amended to read as follows:

Section 1271. For the purpose of promoting the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, and to preserve and enhance the scenic beauty of lands bordering public highways, while recognizing that outdoor advertising is a legitimate use of

private property, it is hereby declared to be in the public interest to control the size, number, spacing, lighting, type and location of outdoor advertising devices, as hereinafter defined, in all areas within six hundred sixty (660) feet from the edge of the right-of-way of interstate and federal-aid primary highways located within urban areas, as hereinafter defined, in the State of Oklahoma and in all areas visible from the main traveled way of interstate and federal-aid primary highways located outside of urban areas in the State of Oklahoma. The Oklahoma Transportation Commission and the Oklahoma Department of Transportation shall have the authority to ~~implement and enforce~~ establish rules and regulations for the implementation and enforcement of the Highway Advertising Control Act of 1968, appropriate federal regulations, and this act, and may prohibit outdoor advertising devices in the ~~control~~ controlled areas, and may regulate and permit certain outdoor advertising structures and devices in the ~~control~~ controlled areas, within the limitations of this act and according to the standards and definitions set forth in this act and applicable federal regulations.

SECTION 2. AMENDATORY 69 O.S. 1991, Section 1272, is amended to read as follows:

Section 1272. The provisions of this act apply only to the erection and maintenance of outdoor advertising signs, displays and devices located in adjacent areas which are within six hundred sixty (660) feet ~~from~~ of the nearest edge of the right-of-way and which are visible from the main traveled way, and those which are located in controlled areas beyond six hundred sixty (660) feet ~~from~~ of the nearest edge of the right-of-way, which are visible from the main traveled way and erected with the purpose of being read from the main traveled way.

SECTION 3. AMENDATORY 69 O.S. 1991, Section 1273, is amended to read as follows:

Section 1273. As used in this act:

(a) "Sign", "outdoor advertising" or "outdoor advertising device" means any outdoor sign, display, device, notice, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended or used to advertise or inform, but shall not include surface markers showing the location or route of underground utility facilities or pipelines or public telephone coin stations installed for emergency use.

(b) "Main traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads, ~~turning roadways~~ driveways or parking areas.

(c) "To erect" and its variants means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish. But these shall not include any of the foregoing activities when performed as incident to the change of advertising message or customary maintenance of the sign structure.

(d) "Unzoned commercial or industrial areas" means those areas which are not zoned by state or local law, regulation or ordinance, and on which there is located one or more permanent structures devoted to a commercial or industrial activity or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is located thereon, and the area along the highway extending outward six hundred (600) feet from and beyond the edge of such activity on both sides of the highway. ~~Provided~~ ~~however, the~~ The unzoned area shall not include land on the opposite side of an interstate or dual-laned limited access primary highway from the commercial or industrial activity ~~establishing~~ which establishes the unzoned commercial or industrial area ~~or~~ nor land on

the opposite side of other federal-aid primary highways, which ~~land~~ is deemed scenic by ~~an appropriate agency of the state~~ the Oklahoma Tourism and Recreation Department, the Department of Wildlife Conservation, the Oklahoma Historical Society, or the Department of Transportation.

All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the commercial or industrial activities, not from the property lines of the activities, and shall be along or parallel to the edge of pavement of the highway. Such an area shall not include any area which is:

(1) Within three hundred (300) feet of any building used primarily as a residence, unless the owner of the building consents in writing to the particular commercial use or uses to be made of such lands;

(2) Within five hundred (500) feet of any of the following: public park, ~~garden~~ botanical displays, recreation area or forest preserve, church, school ~~and~~ or officially designated historical battlefield; or

(3) Beyond six hundred sixty (660) feet from the nearest edge of the right-of-way.

(e) "Commercial and industrial activities" means those activities, clearly visible from the main traveled way, generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following shall be considered commercial or industrial:

(1) Agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands;

(2) Outdoor advertising structures;

(3) Oil wells, oil storage tanks or oil drilling rigs;

(4) Water wells;

(5) Electrical transformer stations, towers, poles, and microwave structures;

~~(3)~~ (6) Transient or temporary activities;

~~(4)~~ (7) Activities more than six hundred sixty (660) feet from the nearest edge of the right-of-way;

~~(5)~~ (8) Activities conducted in a building principally used as a residence; and

~~(6)~~ (9) Railroad tracks and minor sidings.

(f) "Official signs" means signs and notices erected and maintained by public officers or public agencies within their territorial jurisdiction and pursuant to and in accordance with direction or authorization contained in federal or state law for the purposes of carrying out an official duty or responsibility.

(g) "Informational signs" means signs containing directions or information about public persons or public places owned or operated by federal, state or local governments or their agencies, publicly or privately owned natural phenomena, historic, cultural, educational and religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, and deemed to be in the interest of the traveling public. Informational signs do not include political campaign signs or posters.

(h) "On-premise activities signs" means signs advertising commercial or industrial activities conducted upon the property on which the signs are located.

(i) "On-premise sale or lease signs" means signs advertising the sale or lease of property on which ~~they~~ the signs are located.

(j) "Interstate highway" means any highway at any time officially designated a part of the National System of Interstate and Defense Highways by the Department and approved by the appropriate authority of the federal government.

(k) "Primary highway" means any highway at any time officially designated a part of the Federal-aid Primary System by the

Department and approved by the appropriate authority of the federal government.

(l) "Centerline of the highway" means a line equidistant from the edges of the median separating the main traveled ways of a divided highway, or the centerline of the main traveled way of a nondivided highway.

(m) "Adjacent area" or "~~control~~ controlled area" means the area which is adjacent to and within six hundred sixty (660) feet of the nearest edge of the right-of-way on any interstate or primary highway within urban areas, which six hundred sixty-foot distance shall be measured horizontally along a line perpendicular to, or ninety (90) degrees to, the centerline of the highway. Outside of urban areas, adjacent area or ~~control~~ controlled area means the area which is visible from the main traveled way on any interstate or primary highway.

(n) "Business area" means any part of a ~~control~~ controlled area which is:

(1) Within six hundred sixty (660) feet of the nearest edge of the right-of-way and zoned for ~~business~~, industrial, or commercial activities under the authority of any state zoning law, or city or county zoning ordinance of this state; or

(2) Not so zoned, but which constitutes an unzoned commercial or industrial area as herein defined.

(o) "Department" means the Department of Transportation of the State of Oklahoma.

(p) "Maintain" means to hold or keep in a state of efficiency or validity, to support or sustain, by cleaning or repairing the sign or changing the message ~~on its face~~.

(q) "Visible" means capable of being seen without visual aid by a person of normal visual acuity.

(r) "License" means the privilege to do business in the State of Oklahoma having been granted by an official agency.

(s) "Permit" means the privilege to erect a sign or signs in an individual location within the State of Oklahoma having been granted by ~~an official agency~~ the Department.

(t) "License fee" means the monetary consideration paid for the privilege of doing business in the State of Oklahoma.

(u) "Permit fee" means the monetary consideration paid for the privilege of erecting a sign or signs in a specific location within the State of Oklahoma.

(v) "Urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one state, that part of the urbanized area in each such state, or an urban place as designated by the Bureau of the Census having a population of five thousand (5,000) or more and not within any urbanized area, within boundaries to be fixed by responsible state and local officials in cooperation with each other, subject to approval by the Secretary of Transportation. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census.

SECTION 4. AMENDATORY 69 O.S. 1991, Section 1274, is amended to read as follows:

Section 1274. (a) ~~After the effective date of this act April 15, 1968,~~ no sign shall, except as provided in Section ~~&~~ 1278 of this title, be erected or maintained in a ~~control~~ controlled area, except the following:

~~(a)~~ (1) Informational and other official signs, including, but not limited to signs pertaining to natural wonders, or scenic and historical attractions, which are required or authorized by law, and which comply with regulations which shall be promulgated by the Department relative to their lighting, size, number, spacing, and such other requirements as may be appropriate to implement this act; provided, however, that such regulations shall not be inconsistent with, nor more or less restrictive than ~~7~~ such national standards as may be promulgated from time to time by the Secretary of the

Department of Transportation of the United States pursuant to federal law.

~~(b)~~ (2) On-premise activities signs advertising activities conducted on the property on which they are located, including but not limited to, goods sold, ~~stored,~~ manufactured, processed or mined thereon; services rendered thereon; and entertainment provided thereon.

~~(e)~~ (3) On-premise sale or lease signs advertising the sale or lease of property upon which they are located.

~~(d)~~ (4) Signs in existence in business areas on ~~the effective date of this act~~ April 15, 1968, and signs erected within six (6) months thereafter upon property in business areas leased prior to said effective date, subject to the conditions set forth in Section & 1278 of this title.

~~(e)~~ (5) Signs which are to be erected in business areas and which will comply when erected with the provisions of Section ~~5~~ 1275 of this ~~act~~ title, and after the applicable provisions of Section ~~7~~ 1277 of this title are met.

(b) On-premise signs shall comply with all municipal building codes, zoning requirements, and setback requirements of the municipality in which the sign is located.

SECTION 5. AMENDATORY 69 O.S. 1991, Section 1275, is amended to read as follows:

Section 1275. ~~After the effective date of this act, signs~~ Signs which are to be erected in a business area shall comply with the following standards:

(a) General. Signs shall not be erected or maintained which:

(1) Imitate or resemble any official traffic sign, signal or device.

(2) Are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(b) Size.



(1) Signs shall not be erected which exceed one thousand two hundred (1,200) square feet in area, per facing, including border and trim, nor shall signs be erected on which the facings or design area exceed twenty-five (25) feet in height including apron nor sixty (60) feet in length, excluding apron, supports and other structural members.

(2) The maximum size limitations shall apply to each sign facing. Two signs not exceeding six hundred (600) square feet each may be erected in a facing, side by side or "doubledecked". Back-to-back and/or V-type signs will be permitted, and shall be treated as one structure with one thousand two hundred (1,200) square feet permitted for each, with not more than fifteen (15) feet between structures or faces, to allow for crossbracing.

(c) Spacing.

(1) Signs shall conform to all applicable building codes and ordinances of the municipality, county or state, whichever has jurisdiction as set forth in Section 1272 of this title.

(2) Signs shall not be erected or maintained in such a manner as to obscure or otherwise physically interfere with an official traffic sign, signal or device or to obstruct or physically interfere with the driver's view of approaching, merging or intersecting traffic.

(3) Signs visible from a nonfreeway primary highway shall not be erected within the limits of an incorporated municipality less than one hundred (100) feet, and outside the limits of an incorporated municipality less than three hundred (300) feet, from another such sign, other than signs described in ~~subsections (a), (b) and (c)~~ paragraphs (1), (2) and (3) of subsection (a) of Section 1274 of this title, unless separated by a building or other obstruction in such a manner that only one display located within the minimum spacing distances set forth herein is visible from the highway at any one time; provided, however, that this shall not

prevent the erection of double-faced, back-to-back, or V-type signs with a maximum of two signs per facing, as permitted by subsection (b) of this section. Signs visible from interstate and freeway primary facilities shall not be erected less than five hundred (500) feet from another such sign, other than signs described in ~~subsections (a), (b) and (c)~~ paragraphs (1), (2) and (3) of subsection (a) of Section 1274 of this title. Outside incorporated municipalities, signs visible from interstate and freeway primary facilities shall not be erected adjacent to or within five hundred (500) feet of an interchange, intersection at grade, or rest area, such distance to be measured along the interstate highway or freeway from the sign to the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way. Signs may not be located within five hundred (500) feet of any of the following which are adjacent to any interstate or federal-aid primary highway: public parks; public forests; playgrounds; or cemeteries.

(d) Lighting.

(1) Signs shall not be erected which contain, include, or are illuminated by any flashing, intermittent, revolving or moving light, except on-premise signs and ~~those giving public service information such as, but not limited to, time, date, temperature, weather or news~~ electronic information displays which may be changed at reasonable intervals by electronic process or by remote control, to provide public service information and for advertising activities conducted on the property on which the displays are located.

Steadily burning lights in configuration of letters or pictures are not prohibited.

(2) Signs, displays, or devices shall not be erected or maintained which are not effectively shielded to prevent beams or rays of light from being directed at any portion of the traveled way of any interstate or primary highway ~~and~~ which are of such intensity

or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle.

(3) Signs shall not be erected or maintained which shall be so illuminated that they obscure any official traffic sign, device, or signal, or imitate or may be confused with any such official traffic sign, device or signal.

(e) Permits. Once the permit is issued, construction of the sign must begin within ninety (90) days and be completed as specified in the application within one hundred twenty (120) days from the beginning of construction. If construction is not started within said ninety (90) days, the permit shall be void. A location may be permitted for a second ninety-day period under the same application by paying only the permit fee. No upsizing of the permitted sign shall be allowed within twelve (12) months after issuance of the permit.

SECTION 6. AMENDATORY 69 O.S. 1991, Section 1276, is amended to read as follows:

Section 1276. The Department on behalf of the state shall seek agreement to the provisions of Sections 4 1274 and 5 1275 of this ~~act~~ title by the Secretary of Transportation on the basis of their being consistent with federal laws and customary usages and zoning principles and standards which hold and govern in this state. In the event such an agreement cannot be achieved, this legislation shall be returned to the legislative bodies of the State of Oklahoma for remedial action and resubmission to the Secretary. In the event such a new agreement cannot be achieved, the Department shall promptly institute proceedings of the kind provided for in Title 23 U.S.C.A. 131(1) in order to obtain a judicial determination as to whether this chapter and the regulations promulgated thereunder provide effective control of outdoor advertising as set forth therein. In such action the Department shall request that the court declared rights, status and other legal relations and declare

whether the standards, criteria and definitions contained in the agreement proposed by the Department are consistent with customary use. If such agreement is held by the court in a final judgment to be invalid in whole or in part as inconsistent with customary use or is otherwise in conflict with Title 23 U.S.C.A. 131, the Department shall promptly negotiate with the Secretary of Transportation, or his successor, a new agreement or agreements which shall conform to said statute as interpreted by the court in such action.

SECTION 7. AMENDATORY 69 O.S. 1991, Section 1277, is amended to read as follows:

Section 1277. A. The Transportation Commission is hereby authorized to enact and adopt rules and regulations for the issuance of licenses and permits and ~~the~~ for charging and ~~collection of~~ collecting permit fees for other than "on-premise" outdoor advertising structures as defined in this act.

B. At any time after an outdoor advertising company, corporation, or individual business is more than six (6) months delinquent in the payment of the dealer's license renewal, the Director of the Department, or designee, may institute a legal proceeding in the district court of Oklahoma County to terminate all sign permits issued to the business, corporation, or individual. No transfers of title shall be permitted during the pendency of such proceedings.

C. The Department of Transportation, when requested, shall acknowledge all correspondence by mail within twenty-one (21) working days. Outdoor advertising sign permit applications shall be acknowledged and acted upon within ninety (90) working days after receipt by the Department of Transportation.

SECTION 8. AMENDATORY 69 O.S. 1991, Section 1280, is amended to read as follows:

Section 1280. (a) Outdoor advertising and property rights pertaining thereto may be acquired by the Department under agreement

between the Department, the owner of the outdoor advertising and the owner of the land upon which the outdoor advertising is located if the outdoor advertising is lawfully in existence on the effective date of this act and located within areas prohibited to advertising by this act. Such compensation must be based on fair market value which shall include all costs for labor, materials, supplies, and site leasing.

(b) Outdoor advertising is a trade fixture and owners shall be awarded just and fair compensation for its taking.

(c) If the Department and the owners are unable to agree upon the amount of compensation to be paid by the Department, the Department may acquire by condemnation such outdoor advertising and property rights pertaining thereto. This right of eminent domain or condemnation shall be exercised in the manner provided by law.

(d) Any outdoor advertising authorized under Sections 1274 and 1275 of this title which does not conform with standards contained in regulations set forth in this act, except as provided in Section 1278 of this title, and any outdoor advertising prohibited by this act and not subject to compensation under other terms of this act shall, after the effective date of this act, be a public nuisance. The Department shall give notice by certified mail to the owner of the sign and to the owner of the land upon which the outdoor advertising is located, ordering the notified owners to cause the outdoor advertising to conform with regulations or to remove prohibited outdoor advertising. If the owner of the sign ~~or the landowner~~ fails to act within ninety (90) days after mailing of the notice, the Department may, at its discretion, remove the outdoor advertising device.

(e) All persons or business entities engaged in the outdoor advertising business, which includes but is not limited to, the erection, maintenance and selling of advertising space on and along the interstate and federal-aid primary highways of this state,

shall, not later than October 31, 1972, furnish the Director a written inventory of all outdoor advertising signs, displays or devices erected and being maintained by such person or entity. Such inventory shall include, with respect to each such sign, not less than the following information:

(1) Location and dimensions of the sign;

(2) Distance from the nearest edge of the right-of-way;

(3) Date erected; and

(4) Name and address of the owner of the property on which the sign is located.

(f) For failure to comply with the conditions set forth in subsection (e) of this section, the Department may declare such outdoor advertising signs, displays or devices to be a public nuisance and remove them in the manner provided by subsection (d) of this section.

(g) Regardless of any local regulation or ordinance requiring amortization, the compensation provided in subsections (a) through (c) of this section shall be the exclusive remedy for taking such outdoor advertising and property rights pertaining thereto.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1735 of Title 69, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Turnpike Authority and the Transportation Commission are hereby directed to designate certain areas at each designated rest stop located along both sides of turnpikes and interstate highways to be "pet areas". Signs shall be provided to direct pet owners to walk their pets in such areas and to discourage use of picnic areas and other public areas for such purpose.

SECTION 10. This act shall become effective September 1, 1992.

43-2-7661

JAF

