

ENROLLED SENATE
BILL NO. 317

By: Dunlap of the Senate

and

Tyler, Wilt and Davis of
the House

An Act relating to roads, bridges and ferries; amending 69 O.S. 2001, Section 1275, which relates to the Highway Advertising Control Act of 1972; modifying spacing requirements; authorizing the Director of the Department of Transportation to approve certain option; stating purpose for the issuance of certain permits; providing certain limitations on relocated sign; authorizing the Transportation Commission to promulgate certain rules; providing authority for the Department of Transportation to enter into certain negotiations; providing certain negotiation procedures; authorizing certain signs adjacent to interstate highway under certain circumstances; providing for statutory construction; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 69 O.S. 2001, Section 1275, is amended to read as follows:

Section 1275. After April 15, 1968, 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 which exceed twenty-five (25) feet in height 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 "doubledecker". 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, if the sign structures or facings are physically contiguous, or connected by the same structure or cross bracing, or located not more than fifteen (15) feet apart at their nearest point nor more than thirty (30) feet apart at their widest point in the case of back-to-back or V-type signs. However, nothing in this section shall be construed to allow tri-faced signs.

(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 on the opposite side of the highway and three hundred (300) feet on the same side of the highway, 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) 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 one thousand (1,000) feet from another such sign, other than signs described in subsections (a), (b) and (c) 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. Provided, however, the Transportation Commission shall promulgate rules pursuant to the Administrative Procedures Act governing the measurement methodology to be prospectively utilized by the Department when determining spacing between outdoor advertising signs, displays and devices and public parks, public forests, playgrounds and cemeteries. Provided further, any measurement

methodology heretofore utilized by the Department, including but not limited to the straight-line method, shall be accepted by the Department without prejudice. Provided further, the Department shall be prohibited from altering a permit classification or revoking any outdoor advertising license, which was properly obtained at the time of issuance, based upon a change of internal agency policy, agency interpretation of law or promulgation of rules. Provided further, a sign location that was permitted in compliance with the spacing requirements of this section in effect prior to the effective date of this act, but which does not comply with the spacing requirements of this section as amended after the effective date of this act, shall maintain its current legal status; provided it complies with all other permitting requirements as set forth by the Transportation Commission.

(4) For the purpose of providing a method and opportunity to minimize the cost of acquiring legally erected outdoor advertising signs to be taken when the state purchases land under eminent domain, the Director of the Department of Transportation shall have the option to approve the issuance of permits for outdoor advertising signs visible from interstate and freeway primary facilities which are to be erected less than one thousand (1,000) feet from another such sign. Permits issued pursuant to this option shall be only for the purpose of providing a relocation site for a sign being taken by the state, and in no case shall such permits allow an outdoor advertising sign to be erected less than the distance provided for in this title from another such sign. Provided, when the Department issues a permit pursuant to this subsection to accommodate the relocation of a structure:

- a. if the structure to be removed is visible from an interstate highway inside an incorporated area, the relocation site shall be inside the same incorporated area and shall be visible from an interstate highway,
- b. if the structure to be removed is visible from a freeway primary highway inside an incorporated area, the relocation site shall be inside the same incorporated area and shall be visible from a freeway primary highway or an interstate highway,
- c. if there are not suitable relocation sites meeting the provisions of subparagraph a of this paragraph and the structure to be removed is visible from an interstate highway inside an incorporated area, notwithstanding the provisions of subparagraph a of this paragraph, the Department may issue a permit for a relocation site outside of the incorporated area which shall be visible from an interstate highway, and
- d. if there are no suitable relocation sites meeting the provisions of subparagraph b of this paragraph and the structure to be removed is visible from a freeway primary highway inside an incorporated area, notwithstanding the provisions of subparagraph b of this paragraph, the Department may issue a permit for a relocation site outside of the incorporated area

which shall be visible from a freeway primary highway or an interstate highway.

Provided further, the square footage of display face on the relocated sign shall not exceed the square footage of display face of the taken sign. The Transportation Commission shall have the authority to promulgate rules necessary to implement the use of the permit option provided for in this subsection and to request the cooperation of municipalities where local permits are required.

(5) Notwithstanding any other provision of law, the Department of Transportation shall, after determining the need to acquire property upon which outdoor advertising structures are located, have the authority to negotiate directly with the owner of the outdoor advertising structure the terms for maintaining such structures in their current position or for the relocation of such structures. Such negotiations may begin prior to the Department's initiation of formal condemnation proceedings and shall be completed within six (6) months or at the time of the court-appointed appraiser's report, whichever occurs first. The owner of the outdoor advertising structure shall initiate such negotiations by written request to the Department, provided such request shall include proof of sole ownership of the structure. Nothing in this section shall be construed to prevent the owner of the land from pursuing a claim of interest in any lease existing between the landowner and the outdoor advertising structure owner, or to prevent the outdoor advertising structure owner from pursuing a claim for fair market value of the owner's interest if negotiations with the Department for a lease or structure relocation arrangement are not successful.

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

(2) Signs 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 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.

(4) Provided, however, nothing in this section shall be construed to prohibit the erection or maintenance of signs which include the steady illumination of sign faces, panels or slats that rotate to different messages in a fixed position, commonly known as tri-vision faces or multiple message signs; provided, the rotation of one sign face to another is no more frequent than every eight (8)

seconds and the actual rotation process is accomplished in four (4) seconds or less.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1287 of Title 69, unless there is created a duplication in numbering, reads as follows:

In counties that do not have county planning or zoning, signs located outside of incorporated municipalities which advertise or give directions to local outdoor recreation areas may be allowed adjacent to interstate highways if such signs are otherwise in compliance with this section and approval is given by the Director of the Department of Transportation.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1288 of Title 69, unless there is created a duplication in numbering, reads as follows:

If any portion of Section 2 of this act is found to be in violation of federal law, the remaining portion, to the extent possible, shall remain operative.

SECTION 4. This act shall become effective July 1, 2003.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 15th day of May, 2003.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of May, 2003.

Presiding Officer of the House
of Representatives