CS for HB 2609

THE HOUSE OF REPRESENTATIVES
Monday, February 22, 2010

Committee Substitute for

House Bill No. 2609

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2609 - By: LIEBMANN of the House and BRANAN of the Senate.

An Act relating to outdoor advertising; amending 69 O.S. 2001, Sections 1271, 1272 and 1275, as amended by Section 1, Chapter 335, O.S.L. 2003 (69 O.S. Supp. 2009, Section 1275), which relate to outdoor advertising; clarifying intent of regulation of certain signs; modifying application of act; and clarifying certain application to signs visible from certain highways; and declaring an emergency.

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

SECTION 1. AMENDATORY 69 O.S. 2001, 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 with the intent to be read from the main traveled way of interstate and federal-aid primary highways located outside of urban areas in the State of Oklahoma. The ~~Oklahoma~~ Department of Transportation shall have the authority to implement and enforce this act, and may prohibit outdoor advertising devices in the control areas, and may regulate and permit certain outdoor advertising structures and devices in the control areas, within the limitations of this act and according to the standards and definitions set forth in this act.

SECTION 2. AMENDATORY 69 O.S. 2001, 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 within six hundred sixty (660) feet from the nearest edge of the right-of-way and which are visible and intended to be read from the main traveled way and those which are located in controlled areas beyond six hundred sixty (660) feet from the nearest edge of the right-of-way, visible and intended to be read from the main traveled way and erected with the purpose of being read from the main traveled way.

SECTION 3. AMENDATORY 69 O.S. 2001, Section 1275, as amended by Section 1, Chapter 335, O.S.L. 2003 (69 O.S. Supp. 2009, 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:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

(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 "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, 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.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

(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 <u>with the intent to be read</u> from interstate and freeway primary facilities shall not be erected less than one thousand (1,000) feet from another such sign <u>on the same side of such facilities</u>, other than signs described in subsections (a), (b) and (c) of Section 1274 of this title. Outside incorporated municipalities, signs visible <u>with the intent of being read</u> 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, <u>on the same side of such facilities</u> 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

<u>UNDERLINED</u> language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

another is no more frequent than every eight (8) seconds and the actual rotation process is accomplished in four (4) seconds or less.

SECTION 4. 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.

COMMITTEE REPORT BY: COMMITTEE ON TRANSPORTATION, dated 02-18-10 - DO PASS, As Amended and Coauthored.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.