

1 THE STATE SENATE
2 Tuesday, February 16, 2010

3 Senate Bill No. 2179

4 SENATE BILL NO. 2179 - By: Branam of the Senate and Thompson of the
5 House.

6 An Act relating to outdoor advertising; amending 69 O.S.
7 2001, Sections 1271, 1272 and 1275, as amended by Section 1,
8 Chapter 335, O.S.L. 2003 (69 O.S. Supp. 2009, Section 1275),
9 which relate to outdoor advertising; clarifying intent of
10 regulation of certain signs; modifying application of act;
11 and clarifying certain application to signs visible from
12 certain highways; and declaring an emergency.

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

14 SECTION 1. AMENDATORY 69 O.S. 2001, Section 1271, is
15 amended to read as follows:

16 Section 1271. For the purpose of promoting the public safety,
17 health, welfare, convenience and enjoyment of public travel, to
18 protect the public investment in public highways, and to preserve
19 and enhance the scenic beauty of lands bordering public highways,
20 while recognizing that outdoor advertising is a legitimate use of
21 private property, it is hereby declared to be in the public interest
22 to control the size, number, spacing, lighting, type and location of
23 outdoor advertising devices, as hereinafter defined, in all areas
24 within six hundred sixty (660) feet from the edge of the
25 right-of-way of interstate and federal-aid primary highways located
26 within urban areas, as hereinafter defined, in the State of Oklahoma
27 and in all areas visible with the intent to be read from the main

1 traveled way of interstate and federal-aid primary highways located
2 outside of urban areas in the State of Oklahoma. The Oklahoma
3 Department of Transportation shall have the authority to implement
4 and enforce this act, and may prohibit outdoor advertising devices
5 in the control areas, and may regulate and permit certain outdoor
6 advertising structures and devices in the control areas, within the
7 limitations of this act and according to the standards and
8 definitions set forth in this act.

9 SECTION 2. AMENDATORY 69 O.S. 2001, Section 1272, is
10 amended to read as follows:

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

20 SECTION 3. AMENDATORY 69 O.S. 2001, Section 1275, as
21 amended by Section 1, Chapter 335, O.S.L. 2003 (69 O.S. Supp. 2009,
22 Section 1275), is amended to read as follows:

1 Section 1275. After April 15, 1968, signs which are to be
2 erected in a business area shall comply with the following
3 standards:

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

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

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

9 (b) Size.

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

15 (2) The maximum size limitations shall apply to each sign
16 facing. Two signs not exceeding six hundred (600) square feet each
17 may be erected in a facing, side by side or "doubledecker". Back-
18 to-back and/or V-type signs will be permitted, and shall be treated
19 as one structure with one thousand two hundred (1,200) square feet
20 permitted for each, if the sign structures or facings are physically
21 contiguous, or connected by the same structure or cross bracing, or
22 located not more than fifteen (15) feet apart at their nearest point
23 nor more than thirty (30) feet apart at their widest point in the

1 case of back-to-back or V-type signs. However, nothing in this
2 section shall be construed to allow tri-faced signs.

3 (c) Spacing.

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

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

12 (3) Signs visible from a nonfreeway primary highway shall not
13 be erected within the limits of an incorporated municipality less
14 than one hundred (100) feet on the opposite side of the highway and
15 three hundred (300) feet on the same side of the highway, and
16 outside the limits of an incorporated municipality less than three
17 hundred (300) feet, from another such sign, other than signs
18 described in subsections (a), (b) and (c) of Section 1274 of this
19 title, unless separated by a building or other obstruction in such a
20 manner that only one display located within the minimum spacing
21 distances set forth herein is visible from the highway at any one
22 time; provided, however, that this shall not prevent the erection of
23 double-faced, back-to-back, or V-type signs with a maximum of two

1 signs per facing, as permitted by subsection (b) of this section.
2 Signs visible with the intent to be read from interstate and freeway
3 primary facilities shall not be erected less than one thousand
4 (1,000) feet from another such sign on the same side of such
5 facilities, other than signs described in subsections (a), (b) and
6 (c) of Section 1274 of this title. Outside incorporated
7 municipalities, signs visible with the intent of being read from
8 interstate and freeway primary facilities shall not be erected
9 adjacent to or within five hundred (500) feet of an interchange,
10 intersection at grade, or rest area, on the same side of such
11 facilities such distance to be measured along the interstate highway
12 or freeway from the sign to the nearest point of the beginning or
13 ending of pavement widening at the exit from or entrance to the
14 main-traveled way. Signs may not be located within five hundred
15 (500) feet of any of the following which are adjacent to any
16 interstate or federal-aid primary highway: public parks; public
17 forests; playgrounds; or cemeteries. Provided, however, the
18 Transportation Commission shall promulgate rules pursuant to the
19 Administrative Procedures Act governing the measurement methodology
20 to be prospectively utilized by the Department when determining
21 spacing between outdoor advertising signs, displays and devices and
22 public parks, public forests, playgrounds and cemeteries. Provided
23 further, any measurement methodology heretofore utilized by the

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

14 (4) For the purpose of providing a method and opportunity to
15 minimize the cost of acquiring legally erected outdoor advertising
16 signs to be taken when the state purchases land under eminent
17 domain, the Director of the Department of Transportation shall have
18 the option to approve the issuance of permits for outdoor
19 advertising signs visible from interstate and freeway primary
20 facilities which are to be erected less than one thousand (1,000)
21 feet from another such sign. Permits issued pursuant to this option
22 shall be only for the purpose of providing a relocation site for a
23 sign being taken by the state, and in no case shall such permits

1 allow an outdoor advertising sign to be erected less than the
2 distance provided for in this title from another such sign.

3 Provided, when the Department issues a permit pursuant to this
4 subsection to accommodate the relocation of a structure:

- 5 a. if the structure to be removed is visible from an
6 interstate highway inside an incorporated area, the
7 relocation site shall be inside the same incorporated
8 area and shall be visible from an interstate highway,
- 9 b. if the structure to be removed is visible from a
10 freeway primary highway inside an incorporated area,
11 the relocation site shall be inside the same
12 incorporated area and shall be visible from a freeway
13 primary highway or an interstate highway,
- 14 c. if there are not suitable relocation sites meeting the
15 provisions of subparagraph a of this paragraph and the
16 structure to be removed is visible from an interstate
17 highway inside an incorporated area, notwithstanding
18 the provisions of subparagraph a of this paragraph,
19 the Department may issue a permit for a relocation
20 site outside of the incorporated area which shall be
21 visible from an interstate highway, and
- 22 d. if there are no suitable relocation sites meeting the
23 provisions of subparagraph b of this paragraph and the

1 structure to be removed is visible from a freeway
2 primary highway inside an incorporated area,
3 notwithstanding the provisions of subparagraph b of
4 this paragraph, the Department may issue a permit for
5 a relocation site outside of the incorporated area
6 which shall be visible from a freeway primary highway
7 or an interstate highway.

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

14 (5) Notwithstanding any other provision of law, the Department
15 of Transportation shall, after determining the need to acquire
16 property upon which outdoor advertising structures are located, have
17 the authority to negotiate directly with the owner of the outdoor
18 advertising structure the terms for maintaining such structures in
19 their current position or for the relocation of such structures.

20 Such negotiations may begin prior to the Department's initiation of
21 formal condemnation proceedings and shall be completed within six
22 (6) months or at the time of the court-appointed appraiser's report,
23 whichever occurs first. The owner of the outdoor advertising

1 structure shall initiate such negotiations by written request to the
2 Department, provided such request shall include proof of sole
3 ownership of the structure. Nothing in this section shall be
4 construed to prevent the owner of the land from pursuing a claim of
5 interest in any lease existing between the landowner and the outdoor
6 advertising structure owner, or to prevent the outdoor advertising
7 structure owner from pursuing a claim for fair market value of the
8 owner's interest if negotiations with the Department for a lease or
9 structure relocation arrangement are not successful.

10 (d) Lighting.

11 (1) Signs shall not be erected which contain, include, or are
12 illuminated by any flashing, intermittent, revolving or moving
13 light, except on-premise signs and those giving public service
14 information such as, but not limited to, time, date, temperature,
15 weather or news. Steadily burning lights in configuration of
16 letters or pictures are not prohibited.

17 (2) Signs shall not be erected or maintained which are not
18 effectively shielded to prevent beams or rays of light from being
19 directed at any portion of the traveled way of any interstate or
20 primary highway and are of such intensity or brilliance as to cause
21 glare or to impair the vision of the driver of any motor vehicle.

22 (3) Signs shall not be erected or maintained which shall be so
23 illuminated that they obscure any official traffic sign, device, or

1 signal, or imitate or may be confused with any such official traffic
2 sign, device or signal.

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

11 SECTION 4. It being immediately necessary for the preservation
12 of the public peace, health and safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

15 COMMITTEE REPORT BY: COMMITTEE ON TRANSPORTATION, dated 2-9-10 - DO
16 PASS, As Coauthored.