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SENATE BILL DRS35221-MW-99

Short Title: Revisions to Outdoor Advertising Laws.

(Public)

Sponsors: Senators Edwards, Brown, and Nickel (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE THE OUTDOOR ADVERTISING LAWS.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 136-127 reads as rewritten:

5 "§ 136-127. Declaration of policy.

6 The General Assembly hereby finds and declares that outdoor advertising is a legitimate
7 commercial use of private property adjacent to roads and ~~highways but highways~~. The General
8 Assembly also finds and declares that outdoor advertising is an important and distinct medium
9 of communication for effectively displaying commercial and noncommercial messages and is an
10 established segment of the national economy that serves to promote and protect investments in
11 commerce and industry. The General Assembly further finds that the erection and maintenance
12 of outdoor advertising signs and devices in areas in the vicinity of the right-of-way of the
13 interstate and primary highway systems within the State should be controlled and ~~regulated~~
14 regulated, as provided in this Article, in order to promote the safety, health, welfare and
15 convenience and enjoyment of travel on and protection of the public investment in highways
16 within the State, to prevent unreasonable distraction of operators of motor vehicles and to prevent
17 interference with the effectiveness of traffic regulations and to promote safety on the highways,
18 to attract tourists and promote the prosperity, economic well-being and general welfare of the
19 State, and to preserve and enhance the natural scenic beauty of the highways and areas in the
20 vicinity of the State highways and to promote the reasonable, orderly and effective display of
21 such signs, displays and devices, and to secure the right of validly permitted outdoor advertising
22 to be clearly viewed by the traveling public. The General Assembly declares it to be in the public
23 interest that outdoor advertising signs be erected, maintained, and clearly visible along the
24 highways in this State in order to provide important public service announcements and
25 information regarding places offering lodging, food, motor vehicle fuels and lubricants, motor
26 service and repairs, and other services or products available to the general public. The General
27 Assembly also recognizes that the needs of the outdoor advertisers must be balanced against the
28 beautification of the State. It is the intention of the General Assembly to provide and declare
29 herein a public policy and statutory basis for the regulation and control of outdoor advertising."

30 SECTION 2. G.S. 136-128 reads as rewritten:

31 "§ 136-128. Definitions.

32 As used in this Article:

33 (1) Area zoned commercial or industrial. – An area which is zoned for business,
34 industry, commerce, or trade pursuant to a State law or local zoning ordinance
35 or regulation, regardless of how labeled, where uses associated with business,
36 industry, commerce, or trade are permitted. This term does not include



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1 "zoning designed primarily for the purpose of permitting outdoor advertising
2 signs," as that term is defined in G.S. 136-133.5(e).

3 (1a) Customary use. – Compliance with the specific outdoor advertising standards
4 for size, lighting, and spacing in areas zoned commercial or industrial under
5 authority of State law or in unzoned commercial or industrial areas, as the
6 standards and areas are described and defined in the agreement dated January
7 7, 1972, as amended, and entered into between the State and the United States
8 Department of Transportation under G.S. 136-138 to implement the
9 provisions of the federal Highway Beautification Act of 1965.

10 (1)(1b) ~~"Erect" means to Erect or erection. – To construct, build, raise, assemble,~~
11 ~~place, affix, attach, create, paint, draw, or in any other way bring into being or~~
12 ~~establish. This term does not include the repair or reconstruction of outdoor~~
13 ~~advertising, as authorized under G.S. 136-131.2, or the relocation of an~~
14 ~~outdoor advertising sign as authorized under applicable State law.~~

15 (1a)(1c) ~~"Illegal sign" means one-Illegal sign. – A sign which was erected and/or~~
16 ~~maintained in violation of State law.~~

17 (1b)(1d) ~~"Information center" means an-Information center. – An area or site~~
18 ~~established and maintained at safety rest areas for the purpose of informing~~
19 ~~the public of places of interest within the State and providing such other~~
20 ~~information as the Department of Transportation may consider desirable.~~

21 (2) ~~"Interstate system" means that Interstate system. – The portion of the National~~
22 ~~System of Interstate and Defense Highways located within the State, as~~
23 ~~officially designated, or as may hereafter be so designated, by the Department~~
24 ~~of Transportation, or other appropriate authorities and are also so designated~~
25 ~~by interstate numbers. As to highways under construction so designated as~~
26 ~~interstate highways pursuant to the above procedures, the highway shall be a~~
27 ~~part of the interstate system for the purposes of this Article on the date the~~
28 ~~location of the highway has been approved finally by the appropriate federal~~
29 ~~authorities.~~

30 (2a) Main-traveled way or traveled way. – Part of a highway on which through
31 traffic is carried, exclusive of paved shoulders. In the case of a divided
32 highway, the traveled way of each of the separated roadways for traffic in
33 opposite directions is a traveled way. It does not include frontage roads,
34 turning roadways, or parking areas.

35 (2a)(2b) ~~"Nonconforming sign" shall mean a-Nonconforming sign. – A sign which~~
36 ~~was lawfully erected but which does not comply with the provisions of State~~
37 ~~lawcustomary use or State-rules adopted and regulations passed by the~~
38 ~~Department of Transportation at a later date or which in accordance with this~~
39 ~~Article, or which, due to changed conditions, later fails to comply with State~~
40 ~~lawcustomary use or State-rules adopted or regulations due to changed~~
41 ~~conditions-passed by the Department of Transportation in accordance with~~
42 ~~this Article. Illegally erected or maintainedIllegal signs are not~~
43 ~~nonconforming signs.~~

44 (2c) On-premise/on-property sign. – A sign which advertises the sale or lease of
45 property upon which it is located or which advertises an activity conducted or
46 product for sale on the property upon which it is located. An on-premise sign
47 may not be converted to a permitted outdoor advertising sign unless it meets
48 all rules in effect at the time of the conversion request. An on-premise sign
49 must be located on property contiguous to the property on which the activity
50 is located. Tracts not considered to be contiguous include:

- 1 a. Tracts of land separated by a federal, State, city, or public access
 2 maintained road.
 3 b. Tracts of land not under common ownership.
 4 c. Tracts of land held in different estates or interests.
 5 (3) ~~"Outdoor advertising" means any Outdoor advertising.~~ – Any outdoor sign,
 6 display, light, device, figure, painting, drawing, message, plaque, poster,
 7 billboard, or any other thing which is designed, intended or used to advertise
 8 or inform, any part of the advertising or information contents of which is
 9 visible from any place on the main-traveled way of the interstate or primary
 10 system, whether the same be permanent or portable installation.
 11 (4) Primary system. – The federal-aid primary system in existence on June 1,
 12 1991, and any highway which is not on that system but which is on the
 13 National Highway System. As to highways under construction so designated
 14 as primary highways pursuant to the above procedures, the highway shall be
 15 a part of the primary system for purposes of this Article on the date the
 16 location of the highway has been approved finally by the appropriate federal
 17 or State authorities.
 18 (5) ~~"Safety rest area" means an Safety rest area.~~ – An area or site established and
 19 maintained within or adjacent to the highway right-of-way by or under public
 20 supervision or control, for the convenience of the traveling public.
 21 (5a) Sign location or site. – The location or site of an outdoor advertising sign
 22 measured to the closest 1/100th of a mile, in conformance with the Department
 23 of Transportation methods of measurement for all State roads.
 24 (6) ~~"State law" means a State law.~~ – A State constitutional provision or statute, or
 25 ~~an ordinance,~~ rule or regulation enacted or adopted by a State ~~agency or~~
 26 ~~political subdivision of a State pursuant to a State Constitution or~~
 27 ~~statute.~~ agency.
 28 (7) ~~"Unzoned area" shall mean an Unzoned commercial or industrial area.~~ – An
 29 area where there is no zoning in ~~effect.~~ effect that is within 660 feet of the
 30 nearest edge of the right-of-way of the interstate or primary system, in which
 31 there is at least one commercial or industrial activity that meets the criteria set
 32 forth in G.S. 136-130.1.
 33 (8) ~~"Urban area" shall mean an Urban area.~~ – An area within the boundaries or
 34 limits of any incorporated municipality having a population of five thousand
 35 or more as determined by the latest available federal census.
 36 (9) ~~"Visible" means capable Visible.~~ – Capable of being seen (whether or not
 37 legible) without visual aid by a person of normal visual acuity."

38 **SECTION 3.** Article 11 of Chapter 136 of the General Statutes is amended by adding
 39 a new section to read:

40 **"§ 136-130.1. Unzoned commercial or industrial area criteria for outdoor advertising signs.**

41 (a) Criteria. – To qualify an area unzoned commercial or industrial for purposes of this
 42 Article, one or more commercial or industrial activities shall meet all of the following criteria
 43 prior to submitting an outdoor advertising permit application to the Department of
 44 Transportation:

- 45 (1) The activity shall maintain all necessary business licenses as may be required
 46 by applicable State law.
 47 (2) The property used for the activity shall be listed for ad valorem taxes with the
 48 county and municipal taxing authorities as required by law.
 49 (3) The activity shall have all basic utilities, including electricity, telephone,
 50 water, and sewer or septic service.

- 1 (4) The activity shall have direct or indirect vehicular access and be a generator
2 of vehicular traffic.
- 3 (5) The activity shall have a building designed with a permanent foundation, built
4 or modified for its current commercial or industrial use, and the building must
5 be located within 660 feet from the nearest edge of the right-of-way of the
6 controlled route. Where a mobile home unit or recreational vehicle is used as
7 a business or office, the following conditions and requirements also apply:
- 8 a. The unit or vehicle shall meet the State Building Code criteria for
9 commercial or business use.
- 10 b. All wheels, axles, and springs on the unit or vehicle shall be removed.
- 11 c. The unit or vehicle shall be permanently secured on piers, pad, or
12 foundation.
- 13 d. The unit or vehicle shall be tied down in accordance with State or local
14 requirements.
- 15 e. A self-propelled vehicle shall not qualify for use as a business or office
16 under this subdivision.
- 17 (6) The activity must be in active operation a minimum of six months prior to the
18 date of submission of an application for an outdoor advertising permit.
- 19 (7) The activity shall be open to the public during hours that are normal and
20 customary for that type of activity in the same or similar communities but for
21 not less than 20 hours per week.
- 22 (8) One or more employees shall be available to serve customers during the hours
23 the activity is open to the public.
- 24 (9) The activity shall be visible and recognizable as commercial or industrial from
25 the main-traveled way. An activity is visible when that portion on which the
26 permanent building designed, built, or modified for its current commercial use
27 can be clearly seen 12 months a year by a person of normal visual acuity while
28 traveling at the posted speed on the main-traveled way adjacent to the activity.
29 An activity is recognizable as commercial or industrial when its visibility from
30 the main-traveled way is sufficient for the activity to be identified as
31 commercial or industrial.
- 32 (b) Guidelines. – When making a determination as to whether an activity meets the
33 criteria set forth in subsection (a) of this section, both of the following guidelines shall apply:
- 34 (1) Each side of the highway shall be considered separately.
- 35 (2) All measurements shall begin from the outer edges of regularly used
36 buildings, parking lots, storage, or processing areas of the commercial or
37 industrial activity, not from the property line of the activity, and shall be along
38 the nearest edge of the main-traveled way.
- 39 (c) Nonqualifying Activities. – The following are not considered activities qualifying an
40 area as unzoned commercial or industrial under this Article:
- 41 (1) Outdoor advertising structures.
- 42 (2) On-premise or on-property outdoor advertising signs, if the on-premise or
43 on-property sign is the only part of the commercial or industrial activity that
44 is visible from the main-traveled way.
- 45 (3) Agricultural, forestry, ranching, grazing, farming, and related activities,
46 including temporary wayside fresh produce stands.
- 47 (4) Transient or temporary activities.
- 48 (5) Activities not visible and recognizable as commercial or industrial from the
49 traffic lanes of the main-traveled way.
- 50 (6) Activities more than 660 feet from the nearest edge of the right-of-way.
- 51 (7) Activities conducted in a building principally used as a residence.

1 (8) Railroad tracks and minor sidings.

2 (9) Any outdoor advertising activity or any other business or commercial activity
3 carried on in connection with an outdoor advertising activity.

4 (10) Illegal junkyards, as defined in G.S. 136-146, and nonconforming junkyards,
5 as described in G.S. 136-147."

6 **SECTION 4.(a)** G.S. 136-131 reads as rewritten:

7 "**§ 136-131. Removal of existing ~~nonconforming~~ outdoor advertising.**

8 (a) The Department of Transportation is authorized to acquire by purchase, gift, or
9 condemnation all outdoor advertising and all property rights pertaining ~~thereto which are~~
10 ~~prohibited under the provisions of G.S. 136-129, 136-129.1 or 136-129.2, provided such to~~
11 outdoor advertising is in lawful existence on the effective date of this Article as determined by
12 G.S. 136-140, or provided that it is lawfully erected after the effective date of this Article as
13 determined by G.S. 136-140. This section shall apply to all acquisitions, purchases,
14 condemnations, or takings by the Department of Transportation that cause the removal of any
15 lawfully erected outdoor advertising, regardless of the location and proximity of the outdoor
16 advertising to the interstate or primary system.

17 (b) In any acquisition, ~~purchase or condemnation,~~ purchase, condemnation, or taking, just
18 compensation to the owner of the outdoor advertising, where the owner of the outdoor advertising
19 does not own the fee, shall be limited to the fair market value at the time of the taking of the
20 outdoor advertising owner's interest in the real property on which the outdoor advertising is
21 located and such value shall include the value of the outdoor advertising.

22 (c) In any acquisition, ~~purchase or condemnation,~~ purchase, condemnation, or taking, just
23 compensation to the owner of the fee or other interest in the real property upon which the outdoor
24 advertising is located where said owner does not own the outdoor advertising located thereon
25 shall be limited to the difference in the fair market value of the entire tract immediately before
26 and immediately after the taking by the Department of Transportation of the right to maintain
27 such outdoor advertising thereon and in arriving at the fair market value after the taking, any
28 special or general benefits accruing to the property by reason of the acquisition shall be taken
29 into consideration.

30 (d) In any acquisition, ~~purchase or condemnation,~~ purchase, condemnation, or taking, just
31 compensation to the owner of the fee in the real property upon which the outdoor advertising is
32 located, where said owner also owns the outdoor advertising located thereon, shall be limited to
33 the fair market value of the outdoor advertising plus the difference in the fair market value of the
34 entire tract immediately before and immediately after the taking by the Department of
35 Transportation of the right to maintain such outdoor advertising thereon and in arriving at the fair
36 market value after the taking, any special or general benefits accruing to the property by reason
37 of the acquisition shall be taken into consideration.

38 (e) The following factors shall be used in determining just compensation under this
39 section:

40 (1) The sales price of similar outdoor advertising.

41 (2) The physical condition of the outdoor advertising sign, including its useful
42 life.

43 (3) The income generated by the rental of advertising space on the outdoor
44 advertising sign.

45 (4) The effects of zoning or other land-use restrictions.

46 (5) The value of possessing an outdoor advertising permit issued by an
47 appropriate governing body.

48 (6) The ability or inability to relocate and reconstruct the outdoor advertising to a
49 site reasonably comparable to or better than the condemned location within
50 the same zoning jurisdiction or, if unzoned, within the same city or county
51 territorial jurisdiction, taking into account the similarity of advantages arising

1 from lease terms, visibility, traffic flow, and other criteria that affect the value
2 of outdoor advertising. The factor in this subdivision shall not be considered
3 if the applicable governmental jurisdiction allows for numerical increases in
4 outdoor advertising signs.

5 (7) The advantages arising from leasehold or other property interests, including
6 length or term of property interest, renewal rights, options to purchase, or
7 rights of first refusal.

8 (8) Reasonable expectations of lease renewal for a period in excess of that stated
9 in the lease for original and renewal terms.

10 (9) Any other factor that may affect the value of the property rights affected by
11 the condemnation.

12 (f) Prior to any acquisition or taking by the Department of Transportation under this
13 section, the Department of Transportation shall undertake the project necessitating the
14 acquisition or taking in accordance with G.S. 133-11 to minimize adverse impacts to the
15 displaced outdoor advertiser and to reduce the costs of acquiring the outdoor advertising and all
16 related property rights, including allowing the outdoor advertising to remain until actual
17 construction or other physical site work is commenced on the project and within 100 feet of the
18 outdoor advertising sign.

19 (g) This section shall not in any way affect relocation assistance funding, as provided by
20 federal or State law, which funding is in addition to, and not in lieu of, just compensation in
21 accordance with this section."

22 **SECTION 4.(b)** G.S. 136-131.1 reads as rewritten:

23 **"§ 136-131.1. Just compensation required for the removal of billboards ~~on federal aid~~**
24 **~~primary highways~~ by local authorities.**

25 No municipality, county, local or regional zoning authority, or other political subdivision,
26 shall, without the payment of just compensation in accordance with the provisions that are
27 applicable to the Department of Transportation as provided in paragraphs 2, 3, and 4 of G.S. 136
28 ~~131, G.S. 136-131~~, remove or cause to be removed any outdoor advertising ~~adjacent to a highway~~
29 ~~on the National System of Interstate and Defense Highways or a highway on the Federal aid~~
30 ~~Primary Highway System~~ for which there is in effect a valid permit issued by the Department of
31 Transportation pursuant to the provisions of Article 11 of Chapter 136 of the General Statutes
32 and regulations promulgated pursuant ~~thereto~~ to this Article."

33 **SECTION 5.** Article 11 of Chapter 136 of the General Statutes is amended by adding
34 a new section to read:

35 **"§ 136-131.3. Relocation of lawfully existing outdoor advertising sign.**

36 (a) Relocation as a Result of the Use of Eminent Domain. – In order to minimize the
37 amount of just compensation due whenever property on which an outdoor advertising sign is
38 located, is acquired by State or local government agencies or others possessing eminent domain
39 authority, any legally erected outdoor advertising that is caused to be moved shall be relocated
40 and reconstructed subject to all of the following requirements.

41 (1) The new site for relocation shall be any area within 660 feet of the nearest
42 edge of the right-of-way of a highway on the National System of Interstate
43 and Defense Highways or the federal aid primary highway system within the
44 same zoning jurisdiction or within the same city or county limits if the outdoor
45 advertising sign was located in an unzoned area.

46 (2) Except as provided in subsection (c) of this section, the outdoor advertising
47 sign at the relocated site shall conform with customary use in areas zoned
48 commercial or industrial under authority of State law or if the relocated site is
49 unzoned, in unzoned commercial or industrial areas. The new site for
50 relocation shall not be within an historic district lawfully established by a city
51 or county pursuant to Part 3C of Article 19 of Chapter 160A of the General

1 Statutes, unless consented to by a resolution adopted by the applicable local
2 governing board.

3 (3) The construction work related to the relocation of the outdoor advertising sign
4 shall commence within one year after the later of the date of removal or the
5 effective date of this Article.

6 (4) Subject to subsection (c) of this section, any outdoor advertising that is caused
7 to be moved, as provided in this section, may be reconstructed as provided in
8 G.S. 136-131.2 so long as the square footage of its advertising surface area is
9 not increased. In addition to other sign characteristic changes or alterations
10 resulting from the relocation, the height of the sign may be increased not to
11 exceed 50 feet measured from the adjoining road grade or base of the sign,
12 whichever allows for the greatest visibility.

13 (5) The express allowances of relocation and reconstruction in this section shall
14 apply to any legally erected outdoor advertising sign anywhere within this
15 State that is caused to be moved as a result of action taken by those possessing
16 the power of eminent domain, including such signs that are not subject to the
17 jurisdiction of the Department of Transportation.

18 (6) The express allowances of relocation and reconstruction in this section shall
19 apply whenever a lawfully erected outdoor advertising sign is affected by the
20 construction of a sound wall. In lieu of relocation, a lawfully erected outdoor
21 advertising sign that is affected by the construction of a sound wall may raise
22 the height of the sign not to exceed 50 feet above the top of the wall.

23 (b) General Relocation. – Any outdoor advertising sign that does not otherwise qualify
24 for relocation as provided in subsection (a) of this section and for which there is in effect a valid
25 permit issued by the Department of Transportation pursuant to this Article shall be authorized to
26 be relocated and reconstructed subject to all of the requirements listed in subdivisions (1) through
27 (6) of subsection (a) of this section, except that the sign shall not be relocated a distance greater
28 than 250 feet from the original lot boundaries on which the sign was previously erected.

29 (c) Customary Use Exception. – Any outdoor advertising sign that is legally existing but
30 would not be conforming to customary use if relocated on the same sign location or site may still
31 be relocated on the same sign location or site, subject to the following requirements:

32 (1) The structural members of the sign at the relocated site are of like material.

33 (2) The size of the sign face or faces are not increased.

34 (3) The height of the sign at the relocated site does not exceed 50 feet measured
35 from the adjoining road grade or base of the sign, whichever allows for the
36 greatest visibility, except that a sign may be 50 feet above the top of a sound
37 wall or noise barrier constructed between the sign and the main-traveled way.

38 (4) The relocation on the same sign location or site is not denied by the Federal
39 Highway Administrator or such other federal official delegated the
40 responsibility for enforcing the federal State agreement referenced in the
41 definition of customary use in G.S. 136-128.

42 (d) Vegetation Removal. – A new site for relocation shall not be denied by the
43 Department of Transportation due to the presence of vegetation obstructing the visibility of the
44 outdoor advertising sign from the viewing zone. The owner or operator of the off-premises
45 outdoor advertising sign shall be permitted to improve the visibility of the sign by removing any
46 vegetation on private property upon receiving written consent of the landowner and on the
47 right-of-way of the interstate and primary systems of the State pursuant to a selective vegetation
48 removal permit issued under this Article. A city or county shall not enforce any ordinance or
49 regulation in conflict with the rights set forth in this subsection or to otherwise cause the
50 withholding of consent by the landowner.

1 (e) Preemptive Effect. – No municipality, county, local or regional zoning authority, or
2 other political subdivision shall regulate or prohibit any relocation of outdoor advertising
3 authorized by this section."

4 **SECTION 6.** G.S. 136-133.1 reads as rewritten:

5 **"§ 136-133.1. Outdoor advertising vegetation cutting or removal.**

6 (a) The owner of an outdoor advertising sign permitted under G.S. 136-129(a)(4)
7 [G.S. 136-129(4)] or G.S. 136-129(a)(5) [G.S. 136-129(5)] who obtains a selective vegetation
8 removal permit, and the owner's designees, may cut, thin, prune, or remove vegetation in
9 accordance with this section, G.S. 136-93(b), 136-133.2, and 136-133.4. The maximum cut or
10 removal zone for each sign face for the direction of travel for which the sign face is oriented shall
11 be an area not to exceed a continuous 500 feet horizontal distance parallel to a State right-of-way
12 and measured from a point on the main-traveled way of the highway nearest the sign face.~~for~~
13 ~~vegetation for each sign face shall be determined as follows:~~

- 14 (1) ~~The point located on the edge of the right-of-way that is the closest point to~~
15 ~~the centerline of the sign face shall be point A.~~
16 (2) ~~The point located 200 feet down the right-of-way line in the direction of the~~
17 ~~sign viewing zone shall be point B.~~
18 (3) ~~The point on the edge of the pavement of the travel way, including~~
19 ~~acceleration and deceleration ramps, that is the closest to the centerline of the~~
20 ~~sign shall be point C.~~
21 (4) ~~The point 50 feet down the edge of the pavement in the direction of the sign~~
22 ~~viewing zone from point C shall be point D.~~
23 (5) ~~The point 380 feet down the edge of the pavement in the direction of the sign~~
24 ~~viewing zone from point C shall be point E; provided, however, the following~~
25 ~~shall apply within the corporal limits and territorial jurisdiction of any city, as~~
26 ~~defined in Chapter 160A of the General Statutes:~~
27 a. ~~On interstates or other routes with fully controlled access, the point~~
28 ~~340 feet down the edge of the pavement in the direction of the sign~~
29 ~~viewing zone from point C shall be point E.~~
30 b. ~~On highways other than interstates and other routes with fully~~
31 ~~controlled access, the point 250 feet down the edge of the pavement in~~
32 ~~the direction of the sign viewing zone from point C shall be point E.~~
33 (6) ~~Lines drawn from point A to point D and from point B to point E shall define~~
34 ~~the limits of the vegetation cut or removal area.~~

35 (a1) Notwithstanding any law to the contrary, in order to promote the outdoor advertiser's
36 right to be clearly viewed as set forth in G.S. 136-127, the Department of Transportation, at the
37 request of a selective vegetation removal permittee, ~~may~~shall approve plans for the cutting,
38 thinning, pruning, or removal of vegetation outside of the cut or removal zone defined in
39 subsection (a) of this section along acceleration or deceleration ramps so long as the view to the
40 outdoor advertising sign will be improved and the total aggregate area of cutting or removal does
41 not exceed the maximum allowed in subsection (a) of this section.

42 (a2) In order to promote the outdoor advertiser's right to be clearly viewed as set forth in
43 G.S. 136-127, the Department of Transportation, at the request of an owner of an outdoor
44 advertising sign permitted under G.S. 136-129(4) or G.S. 136-129(5), shall approve plans for the
45 cutting, thinning, pruning, or removal of vegetation along or within medians of the interstate or
46 federal aid primary highway system so long as the view to the cross read face of the outdoor
47 advertising sign will be improved and the sign owner replants the disturbed median area with
48 low growth hardy shrubs at the sign owner's expense.

49 (b) Vegetation permitted to be cut, thinned, pruned, or removed shall be defined as any
50 tree, shrub, or underbrush within the zone created by points A, B, D, and E. Any existing tree
51 that was in existence at the time that an outdoor advertising structure was erected shall only be

1 eligible for removal in accordance with subsections (c), (d), and (e) of this section. ~~Native~~ To the
2 extent possible, native dogwoods and native redbuds shall be preserved. A selective vegetation
3 removal permittee may relocate and replace, if necessary, any native dogwoods or native redbuds
4 existing within the cut or removal zone established in subsection (a) of this section to a location
5 within 2,500 feet on either side of the outdoor advertising structure, as measured along the edge
6 of the pavement of the main-traveled way of the nearest controlled route. If a native dogwood or
7 native redbud cannot be preserved during relocation, a selective vegetation removal permittee
8 shall replace the native dogwood or native redbud with the same species of any quantity that total
9 the same caliper inches. For the purposes of this section, an existing tree is defined as a tree that
10 had a diameter of four inches or greater as measured six inches from the ground at the time that
11 the outdoor advertising structure was erected. An outdoor advertising sign is considered erected
12 when the sign is completely constructed with a sign face.

13"

14 **SECTION 7.** G.S. 136-133.2 reads as rewritten:

15 "**§ 136-133.2. Issuance or denial of a selective vegetation removal permit.**

16 (a) Except as provided in subsection (b) of this section and G.S. 136-133.1(g), permits to
17 remove vegetation may be granted for outdoor advertising locations that have been permitted for
18 at least ~~two years~~ one year prior to the date of application. The Department shall approve or deny
19 an application submitted pursuant to this section, including the fee required by G.S. 136-18.7 and
20 all required documentation, within 30 days of the receipt of an application for a selective
21 vegetation removal permit. If written notice of approval or denial is not given to the applicant
22 within the 30-day period, then the application shall be deemed approved. If the application is
23 denied, the Department shall advise the applicant, in writing, by registered or certified mail,
24 return receipt requested, addressed to the party to be noticed, and delivering to the addressee, the
25 reasons for the denial.

26 (b) Notwithstanding the one-year period required in subsection (a) of this section, permits
27 to remove vegetation may be granted for outdoor advertising locations, if the outdoor advertising
28 has been relocated, as allowed by law, and the outdoor advertising otherwise complies with the
29 requirements of this section and rules adopted by the Department in accordance with this
30 section."

31 **SECTION 8.** G.S. 136-133.5(d) reads as rewritten:

32 "(d) ~~The~~ Except for relocations authorized under G.S. 136-131.2, the Department shall not
33 issue permits for new outdoor advertising signs at a sign location where existing trees, if they
34 were to reach the average mature size for that species, would make the proposed sign faces, when
35 erected, not completely visible from the viewing zone. "Existing trees" are those trees that at the
36 time of the permit application are four inches or greater in diameter as measured six inches from
37 the ground. "Viewing zone" means the area which is 500 feet as measured along the edge of the
38 main travel way of the controlled route on each side of the proposed sign structure which will
39 have a sign face."

40 **SECTION 9.** If any provision of this act or its application is held invalid, the
41 invalidity does not affect other provisions or applications of this act that can be given effect
42 without the invalid provisions or application, and, to this end, the provisions of this act are
43 severable.

44 **SECTION 10.** This act is effective when it becomes law. Section 4 of this act applies
45 to determinations of just compensation on or after the effective date. Section 5 applies to outdoor
46 advertising signs removed on or after January 1, 2014. Section 8 applies to outdoor advertising
47 signs relocated on or after the effective date.