

1 SB359
2 164507-2
3 By Senator Allen
4 RFD: Transportation and Energy
5 First Read: 09-APR-15

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8 SYNOPSIS: Under existing law, outdoor advertising is
9 regulated by the Department of Transportation
10 generally on land adjacent to certain federal-aid
11 highways in the state in compliance with federal
12 law.

13 Under existing law, a "business area" is
14 defined as any part of an adjacent area which is at
15 any time zoned for business, industrial, or
16 commercial activities under the authority of any
17 law of this state or areas not zoned but which
18 constitute an unzoned commercial business or
19 industrial area.

20 This bill would amend the definition of a
21 "business area" to delete the words "at any time."

22 Under existing law, the definition of
23 "primary highway" includes a highway other than an
24 interstate highway at any time officially
25 designated as a part of the federal-aid primary
26 system and approved by the appropriate federal
27 authority. The Intermodal Surface Transportation

1 Efficiency Act of 1991, 23 U.S.C. Section 131(t),
2 amended the definition of the primary highway
3 system for purposes of outdoor advertising control
4 to include the federal-aid primary system in
5 existence on June 1, 1991, and any other highway
6 which is not on the system, but which is on the
7 National Highway System.

8 This bill would adopt the federal definition
9 of primary highway.

10 Under existing law, Section 23-1-274, Code
11 of Alabama 1975, signs described in Section
12 23-1-273(5), which were located in a business area
13 on certain dates, are excluded from the spacing
14 requirements set out in Section 23-1-274(3)(c), and
15 signs described in subdivisions (4) and (6) of
16 Section 23-1-273, relating to the property where
17 the business is located and to public utility
18 facilities, are included in the spacing
19 requirements. The spacing requirements for the
20 identified signs is contrary to the February 10,
21 1972 Agreement entered into between the United
22 States Department of Transportation and the Alabama
23 Department of Transportation.

24 This bill would revise the spacing
25 requirements to be consistent with the Federal and
26 State Agreement.

1 A BILL
2 TO BE ENTITLED
3 AN ACT
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5 To amend Section 23-1-271 of the Code of Alabama
6 1975, relating to outdoor advertising control on certain
7 federally funded highways; to further define "business area"
8 and "primary highway," and to amend Section 23-1-274 of the
9 Code of Alabama 1975, to further provide for spacing of
10 outdoor advertising consistent with federal requirements.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Sections 23-1-271 and 23-1-274, Code of
13 Alabama 1975, are amended to read as follows:

14 "§23-1-271.

15 "For the purposes of this division, unless otherwise
16 indicated, the following terms shall have the meanings
17 respectively ascribed to them by this section:

18 "~~(4)~~(1) ADJACENT AREA. An area which is adjacent to
19 and within 660 feet of the nearest edge of the right-of-way of
20 any interstate or primary highway, which 660 feet distance
21 shall be measured horizontally along a line normal or
22 perpendicular to the centerline of the highway.

23 "~~(1)~~(2) BUSINESS AREA. Any part of an adjacent area
24 which is ~~at any time~~ zoned for business, industrial, or
25 commercial activities under the authority of any law of this
26 state or not zoned, but which constitutes an unzoned
27 commercial or industrial area as defined in this section.

1 "~~(2)~~(3) CENTERLINE OF THE HIGHWAY. A line
2 equidistant from the edges of the median separating the
3 main-traveled ways of a divided highway or the centerline of
4 the main-traveled way of a nondivided highway.

5 "~~(11)~~(4) COMMERCIAL OR INDUSTRIAL ACTIVITIES FOR
6 PURPOSES OF UNZONED INDUSTRIAL AND COMMERCIAL AREAS. Those
7 activities generally recognized as commercial or industrial by
8 local zoning authorities in this state, except that none of
9 the following activities shall be considered commercial or
10 industrial:

11 "a. Outdoor advertising structures;

12 "b. Agricultural, forestry, ranching, grazing,
13 farming, and similar activities, including, but not limited
14 to, wayside fresh produce stands;

15 "c. Activities normally or regularly in operation
16 less than three months of the year;

17 "d. Transient or temporary activities;

18 "e. Activities not visible from the main-traveled
19 way;

20 "f. Activities more than 660 feet from the nearest
21 edge of the right-of-way;

22 "g. Activities conducted in a building principally
23 used as a residence;

24 "h. Railroad tracks and minor sidings; or

25 i. Areas which are predominantly used for
26 residential purposes.

1 "~~(3)~~(5) DIRECTOR. The State Department of
2 Transportation.

3 "~~(5)~~(6) ERECT. To construct, build, raise, assemble,
4 place, affix, attach, create, paint, draw, or in any other way
5 bring into being or establish, but it shall not include any of
6 the foregoing activities when performed as an incident to the
7 change of advertising message or customary maintenance of the
8 sign structure.

9 "~~(13)~~(7) INFORMATION CENTER. An area or site
10 established or maintained at safety rest areas for the purpose
11 of informing the public of places of interest within the state
12 and providing such other information as the director may
13 consider necessary.

14 "~~(6)~~(8) INTERSTATE HIGHWAY. Any highway at any time
15 officially designated as a part of the national system of
16 interstate and defense highways by the director and approved
17 by the appropriate authority of the federal government.

18 "~~(7)~~(9) MAINTAIN. To allow to exist.

19 "~~(14)~~(10) MAIN-TRAVELED WAY. The through traffic
20 lanes exclusive of frontage roads, auxiliary lanes, and ramps.

21 "~~(16)~~(11) MOTORIST DIRECTIONAL SIGNS. Any signs,
22 displays, or devices giving directional information pertaining
23 to food services, lodging, gasoline and automotive services,
24 resorts, attractions, campgrounds, truck stops, natural
25 wonders, scenic and historical sites, and areas suited for
26 outdoor recreation.

1 "~~(8)~~(12) PRIMARY HIGHWAY. Any highway, other than an
2 interstate highway, ~~at any time~~ officially designated as a
3 part of the federal-aid primary system by the director, ~~and~~
4 approved by the appropriate authority of the federal
5 government, as of June 1, 1991, or any highway which is not on
6 the federal-aid primary system, but which is or becomes a part
7 of the National Highway System.

8 "~~(17)~~(13) REMOVING AUTHORITY. Any governmental
9 entity.

10 "~~(12)~~(14) SAFETY REST AREAS. An area or site
11 established or maintained within or adjacent to the
12 right-of-way by or under public supervision or control for the
13 convenience of the traveling public.

14 "~~(9)~~(15) SIGN. Any outdoor advertising sign,
15 display, device, notice, figure, painting, drawing, message,
16 placard, poster, billboard, or other thing which is designed,
17 intended, or used to advertise or inform, any part of the
18 advertising or informative contents of which is visible from
19 any place on the main-traveled way of any portion of an
20 interstate highway or primary highway.

21 "~~(10)~~ ~~AN~~ (16) UNZONED COMMERCIAL, BUSINESS, OR
22 INDUSTRIAL AREA. The land occupied by the regularly used
23 building, parking lot, storage or processing area of a
24 commercial, business, or industrial activity, and the land
25 within 600 feet thereof on each side of the highway. The
26 unzoned area shall not include:

1 "a. Land on the opposite side of an interstate or
2 primary freeway highway from an unzoned commercial, business,
3 or industrial area, as defined above;

4 "b. Land predominantly used for residential
5 purposes;

6 "c. Land zoned by state or local law, regulation, or
7 ordinance;

8 "d. Land on the opposite side of a nonfreeway
9 primary highway which is determined scenic by the State
10 Department of Transportation.

11 "All measurements shall be from the outer edges of
12 the regularly used buildings, parking lots, storage or
13 processing areas of the commercial or industrial activities,
14 not from the property lines of the activities, unless said
15 property lines coincide with the limits of the regularly used
16 buildings, parking lots, storage or processing areas and shall
17 be along or parallel to the edge or pavement of the highway.

18 "~~(15)~~(17) URBAN AREA. An urbanized area so
19 designated by the Bureau of the Census, within boundaries
20 fixed by responsible state and local officials, subject to
21 approval by the Secretary of the United States Department of
22 Transportation, or an urban place as designated by the Bureau
23 of the Census having a population of 5,000 or more and not
24 within any urbanized area, within boundaries fixed by
25 responsible state and local officials, subject to approval by
26 the Secretary of the United States Department of
27 Transportation.

1 "§23-1-274.

2 "The director shall effectively control, or cause to
3 be controlled, the erection and maintenance of outdoor
4 advertising signs, displays, and devices in all business areas
5 that are erected subsequent to February 10, 1971. Whenever a
6 bona fide state, county, or local zoning authority has made a
7 determination of customary use as to size, lighting, and
8 spacing, such determination may be accepted in lieu of
9 controls by agreement in the zoned commercial and industrial
10 area within the geographical jurisdiction of such authority.
11 In all other controlled commercial and industrial areas, the
12 criteria set forth below shall apply:

13 "(1) SIZE OF SIGNS.

14 "a. For sign structures erected after July 15, 1995,
15 the maximum area for any one sign shall be 672 square feet
16 with a maximum height of 14 feet and a maximum length of 48
17 feet, inclusive of any border and trim on the sign face, but
18 excluding any embellishment on and cut-out extension of the
19 sign face, the base or apron, supports, and other structural
20 members. For sign structures lawfully in existence on or
21 before July 15, 1995, the maximum area for any one sign shall
22 be 1,200 square feet with a maximum height of 30 feet and a
23 maximum length of 60 feet, inclusive of any border and trim,
24 but excluding the base or apron, supports, and other
25 structural members.

1 "b. The area shall be measured by the smallest
2 square, rectangle, triangle, or circle or combination thereof
3 which will encompass the entire sign.

4 "c. Sign structures erected after July 15, 1995, may
5 contain one or two signs per facing and may use only a
6 side-by-side, back-to-back, or V-type configuration, and may
7 use no other configuration; provided, that if two signs are
8 used facing the same direction, the aggregate total area shall
9 not exceed 672 square feet. Sign structures lawfully in
10 existence on or before July 15, 1995, may contain one or two
11 signs per facing and may be placed double-faced, back-to-back,
12 or V-type; provided, that if two signs are used facing the
13 same direction, the aggregate total area shall not exceed
14 1,200 square feet.

15 "(2) LIGHTING.

16 "a. Signs shall not be erected or maintained which
17 contain, include, or are illuminated by any flashing,
18 intermittent, or moving lights, except those giving public
19 service information such as, but not limited to, time, date,
20 temperature, weather, or news.

21 "b. Signs shall not be erected or maintained which
22 are not effectively shielded so as to prevent beams or rays of
23 light from being directed at any portion of traveled way of
24 any interstate or primary highway and are of such intensity or
25 brilliance as to cause glare or to impair the vision of the
26 driver of any motor vehicle.

1 "c. Signs shall not be erected or maintained which
2 shall be so illuminated that they obscure or interfere with
3 any official traffic sign, device, or signal.

4 "(3) SPACING.

5 "a. Signs shall not be erected or maintained in such
6 a manner as to obscure, or otherwise physically interfere
7 with, an official traffic sign, signal, or device or which
8 obstructs or physically interferes with the driver's view of
9 approaching, merging, or intersecting traffic.

10 "b. Signs shall not be erected or maintained which
11 do not comply with all applicable county or municipal codes
12 and ordinances, including, but not limited to, zoning,
13 buildings, and sign codes, as locally interpreted, applied,
14 and enforced.

15 "c. Signs shall not be erected or maintained closer
16 to another sign other than a sign described in subdivisions
17 (1), (2), (3), (4), and ~~(5)~~(6) of Section 23-1-273 than the
18 following prescribed distances. These spacing provisions do
19 not apply to signs separated by buildings or other
20 obstructions in such manner that only one sign located within
21 the above spacing distance is visible from the highway at any
22 one time. The minimum distance between signs shall be measured
23 along the nearest edge of the pavement between points directly
24 opposite the signs along each side of the highway.

25 "1. On all interstate highways and freeway primary
26 highways, there must be at least 500 feet between sign
27 structures on the same side of the highway.

1 "2. On interstate highways and freeway primary
2 highways located outside the zoning authority of incorporated
3 cities, no sign structure is permitted adjacent to or within
4 500 feet of an interchange or intersection at grade or safety
5 roadside rest areas. Such distances shall be measured along
6 the highway to the nearest point of beginning or ending of
7 pavement widening at the exit from or entrance to the
8 main-traveled way.

9 "3. On primary highways located outside the zoning
10 authority of incorporated cities, for sign structures erected
11 after July 15, 1995, there must be at least 500 feet between
12 sign structures on the same side of such highway, and for sign
13 structures lawfully in existence on or before July 15, 1995,
14 there must be at least 300 feet between sign structures on the
15 same side of such highway.

16 "4. On primary highways located within the zoning
17 authority of incorporated cities, for sign structures erected
18 after July 15, 1995, there must be at least 500 feet between
19 sign structures on the same side of such highway, and for sign
20 structures lawfully in existence on or before July 15, 1995,
21 there must be at least 100 feet between sign structures on the
22 same side of such highway.

23 "(4) GENERAL.

24 "a. Signs shall not be erected or maintained which
25 imitate or resemble any official traffic sign, signal, or
26 device.

1 "b. Signs shall not be erected or maintained upon
2 trees, or painted or drawn upon rocks or other natural
3 features.

4 "c. Signs shall not be erected or maintained which
5 are structurally unsafe or in substantial disrepair.

6 "d. Signs which are obsolete shall be removed."

7 Section 2. The provisions of this act are severable.
8 If any part of this act is declared invalid or
9 unconstitutional, that declaration shall not affect the part
10 which remains.

11 Section 3. This act shall become effective
12 immediately following its passage and approval by the
13 Governor, or its otherwise becoming law.