

1 HB640
2 147799-2
3 By Representative Beech
4 RFD: Transportation, Utilities and Infrastructure
5 First Read: 18-APR-13

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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 and substitute "adjoining" for "adjacent."

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

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

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

11 Under existing law, an "unzoned commercial,
12 business, or industrial area" is defined as land
13 occupied by the regularly used building, parking
14 lot, storage, or processing area of a commercial,
15 business, or industrial activity and the land
16 within 600 feet thereof on each side of the
17 highway.

18 This bill would amend the definition to
19 further provide that all the property would be
20 required to be regularly used for its business
21 purpose.

22 Under existing law, Section 23-1-274, Code
23 of Alabama 1975, signs described in Section
24 23-1-273(5), which were located in a business area
25 on certain dates, are excluded from the spacing
26 requirements set out in Section 23-1-274(3)(c), and
27 signs described in subdivisions (4) and (6) of

1 Section 23-1-273, relating to the property where
2 the business is located and to public utility
3 facilities, are included in the spacing
4 requirements. The spacing requirements for the
5 identified signs is contrary to the February 10,
6 1972 Agreement entered into between the United
7 States Department of Transportation and the Alabama
8 Department of Transportation.

9 This bill would revise the spacing
10 requirements to be consistent with the Federal and
11 State Agreement.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

17 To amend Section 23-1-271 of the Code of Alabama
18 1975, relating to outdoor advertising control on certain
19 federally funded highways; to further define "business area,"
20 "primary highway," and "unzoned commercial, business, or
21 industrial area;" and to amend Section 23-1-274 of the Code of
22 Alabama 1975, to further provide for spacing of outdoor
23 advertising consistent with federal requirements.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

27 "§23-1-271.

1 "For the purposes of this division, unless otherwise
2 indicated, the following terms shall have the meanings
3 respectively ascribed to them by this section:

4 "(1) BUSINESS AREA. Any part of an ~~adjacent~~
5 adjoining area which is ~~at any time~~ zoned for business,
6 industrial, or commercial activities under the authority of
7 any law of this state or not zoned, but which constitutes an
8 unzoned commercial or industrial area as defined in this
9 section.

10 "(2) CENTERLINE OF THE HIGHWAY. A line equidistant
11 from the edges of the median separating the main-traveled ways
12 of a divided highway or the centerline of the main-traveled
13 way of a nondivided highway.

14 "(3) DIRECTOR. The State Department of
15 Transportation.

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

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

1 "(6) INTERSTATE HIGHWAY. Any highway at any time
2 officially designated as a part of the national system of
3 interstate and defense highways by the director and approved
4 by the appropriate authority of the federal government.

5 "(7) MAINTAIN. To allow to exist.

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

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

20 "(10) AN UNZONED COMMERCIAL, BUSINESS, OR INDUSTRIAL
21 AREA. The land occupied by the regularly used building, and
22 the adjoining regularly used parking lot, regularly used
23 storage area, or regularly used 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 "(11) COMMERCIAL OR INDUSTRIAL ACTIVITIES FOR
19 PURPOSES OF UNZONED INDUSTRIAL AND COMMERCIAL AREAS. Those
20 activities generally recognized as commercial or industrial by
21 local zoning authorities in this state, except that none of
22 the following activities shall be considered commercial or
23 industrial:

24 "a. Outdoor advertising structures;

25 "b. Agricultural, forestry, ranching, grazing,
26 farming, and similar activities, including, but not limited
27 to, wayside fresh produce stands;

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

3 "d. Transient or temporary activities;

4 "e. Activities not visible from the main-traveled
5 way;

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

8 "g. Activities conducted in a building principally
9 used as a residence;

10 "h. Railroad tracks and minor sidings; or

11 i. Areas which are predominantly used for
12 residential purposes.

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

17 "(13) INFORMATION CENTER. An area or site
18 established or maintained at safety rest areas for the purpose
19 of informing the public of places of interest within the state
20 and providing such other information as the director may
21 consider necessary.

22 "(14) MAIN-TRAVELED WAY. The through traffic lanes
23 exclusive of frontage roads, auxiliary lanes, and ramps.

24 "(15) URBAN AREA. An urbanized area so designated by
25 the Bureau of the Census, within boundaries fixed by
26 responsible state and local officials, subject to approval by
27 the Secretary of the United States Department of

1 Transportation, or an urban place as designated by the Bureau
2 of the Census having a population of 5,000 or more and not
3 within any urbanized area, within boundaries fixed by
4 responsible state and local officials, subject to approval by
5 the Secretary of the United States Department of
6 Transportation.

7 "(16) MOTORIST DIRECTIONAL SIGNS. Any signs,
8 displays, or devices giving directional information pertaining
9 to food services, lodging, gasoline and automotive services,
10 resorts, attractions, campgrounds, truck stops, natural
11 wonders, scenic and historical sites, and areas suited for
12 outdoor recreation.

13 "(17) REMOVING AUTHORITY. Any governmental entity.

14 "§23-1-274.

15 "The director shall effectively control, or cause to
16 be controlled, the erection and maintenance of outdoor
17 advertising signs, displays, and devices in all business areas
18 that are erected subsequent to February 10, 1971. Whenever a
19 bona fide state, county, or local zoning authority has made a
20 determination of customary use as to size, lighting, and
21 spacing, such determination may be accepted in lieu of
22 controls by agreement in the zoned commercial and industrial
23 area within the geographical jurisdiction of such authority.
24 In all other controlled commercial and industrial areas, the
25 criteria set forth below shall apply:

26 "(1) SIZE OF SIGNS.

1 "a. For sign structures erected after July 15, 1995,
2 the maximum area for any one sign shall be 672 square feet
3 with a maximum height of 14 feet and a maximum length of 48
4 feet, inclusive of any border and trim on the sign face, but
5 excluding any embellishment on and cut-out extension of the
6 sign face, the base or apron, supports, and other structural
7 members. For sign structures lawfully in existence on or
8 before July 15, 1995, the maximum area for any one sign shall
9 be 1,200 square feet with a maximum height of 30 feet and a
10 maximum length of 60 feet, inclusive of any border and trim,
11 but excluding the base or apron, supports, and other
12 structural members.

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

16 "c. Sign structures erected after July 15, 1995, may
17 contain one or two signs per facing and may use only a
18 side-by-side, back-to-back, or V-type configuration, and may
19 use no other configuration; provided, that if two signs are
20 used facing the same direction, the aggregate total area shall
21 not exceed 672 square feet. Sign structures lawfully in
22 existence on or before July 15, 1995, may contain one or two
23 signs per facing and may be placed double-faced, back-to-back,
24 or V-type; provided, that if two signs are used facing the
25 same direction, the aggregate total area shall not exceed
26 1,200 square feet.

27 "(2) LIGHTING.

1 "a. Signs shall not be erected or maintained which
2 contain, include, or are illuminated by any flashing,
3 intermittent, or moving lights, except those giving public
4 service information such as, but not limited to, time, date,
5 temperature, weather, or news.

6 "b. Signs shall not be erected or maintained which
7 are not effectively shielded so as to prevent beams or rays of
8 light from being directed at any portion of traveled way of
9 any interstate or primary highway and are of such intensity or
10 brilliance as to cause glare or to impair the vision of the
11 driver of any motor vehicle.

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

15 "(3) SPACING.

16 "a. Signs shall not be erected or maintained in such
17 a manner as to obscure, or otherwise physically interfere
18 with, an official traffic sign, signal, or device or which
19 obstructs or physically interferes with the driver's view of
20 approaching, merging, or intersecting traffic.

21 "b. Signs shall not be erected or maintained which
22 do not comply with all applicable county or municipal codes
23 and ordinances, including, but not limited to, zoning,
24 buildings, and sign codes, as locally interpreted, applied,
25 and enforced.

26 "c. Signs shall not be erected or maintained closer
27 to another sign other than a sign described in subdivisions

1 (1), (2), (3), (4), and ~~(5)~~(6) of Section 23-1-273 than the
2 following prescribed distances. These spacing provisions do
3 not apply to signs separated by buildings or other
4 obstructions in such manner that only one sign located within
5 the above spacing distance is visible from the highway at any
6 one time. The minimum distance between signs shall be measured
7 along the nearest edge of the pavement between points directly
8 opposite the signs along each side of the highway.

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

12 "2. On interstate highways and freeway primary
13 highways located outside the zoning authority of incorporated
14 cities, no sign structure is permitted adjacent to or within
15 500 feet of an interchange or intersection at grade or safety
16 roadside rest areas. Such distances shall be measured along
17 the highway to the nearest point of beginning or ending of
18 pavement widening at the exit from or entrance to the
19 main-traveled way.

20 "3. On primary highways located outside the zoning
21 authority of incorporated cities, for sign structures erected
22 after July 15, 1995, there must be at least 500 feet between
23 sign structures on the same side of such highway, and for sign
24 structures lawfully in existence on or before July 15, 1995,
25 there must be at least 300 feet between sign structures on the
26 same side of such highway.

1 "4. On primary highways located within the zoning
2 authority of incorporated cities, for sign structures erected
3 after July 15, 1995, there must be at least 500 feet between
4 sign structures on the same side of such highway, and for sign
5 structures lawfully in existence on or before July 15, 1995,
6 there must be at least 100 feet between sign structures on the
7 same side of such highway.

8 "(4) GENERAL.

9 "a. Signs shall not be erected or maintained which
10 imitate or resemble any official traffic sign, signal, or
11 device.

12 "b. Signs shall not be erected or maintained upon
13 trees, or painted or drawn upon rocks or other natural
14 features.

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

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

18 Section 2. The provisions of this act are severable.
19 If any part of this act is declared invalid or
20 unconstitutional, that declaration shall not affect the part
21 which remains.

22 Section 3. This act shall become effective
23 immediately following its passage and approval by the
24 Governor, or its otherwise becoming law.