

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1053

Committee Substitute Favorable 5/5/93

Third Edition Engrossed 5/11/93

Senate Economic Dev/Travel & Tourism Committee Substitute Adopted 7/20/93

Short Title: Scenic Hwys/Outdoor Ad Limited.

(Public)

Sponsors:

Referred to:

April 19, 1993

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DESIGNATION OF SCENIC HIGHWAYS AND BYWAYS AND TO LIMIT THE CONSTRUCTION OF OUTDOOR ADVERTISING TO PROMOTE THE SAFETY AND RECREATIONAL VALUE OF PUBLIC TRAVEL, AND TO ENHANCE NATURAL BEAUTY.

The General Assembly of North Carolina enacts:

Section 1. Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-129.2. **Limitation of outdoor advertising devices adjacent to scenic highways, State and National Parks, historic areas and other places.**

(a) In addition to the limitations contained in G.S. 136-129 and G.S. 136-129.1, in order to further the purposes set forth in Article 10 of this Chapter and to promote the reasonable, orderly, and effective display of outdoor advertising devices along highways adjacent to scenic and historical areas, while protecting the public investment in these highways and promoting the safety and recreational value of public travel, and to preserve natural beauty, no outdoor advertising sign shall be erected adjacent to any highway which is either:

(1) a. A scenic highway or scenic byway designated by the Board of Transportation;

1 b. Within 1,200 feet, on the same side of the highway, of the
2 boundary line of a North Carolina State Park, a National Park, a
3 State or national wildlife refuge, or a designated wild and scenic
4 river; or
5 c. Within 500 feet, on the same side of the highway, of the
6 boundary lines of any historic districts and other properties
7 listed in the National Register of Historic Places or State rest
8 areas, or within the boundary lines of any historic district;
9 except as permitted under G.S. 136-129(1),(2),(2a), or (3); or

10 (2) Within one-third of the applicable distances under sub-subdivision
11 (a)(1)b. and (a)(1)c. of this section, along the opposite side of the
12 highway from any of the properties designated in sub-subdivision
13 (a)(1)b. and (a)(1)c. of this section, except as permitted under G.S.
14 136-129(1),(2),(2a),(3), (4), or (5).

15 (b) The distances set forth in this section shall be measured horizontally in linear
16 feet extending in each direction along the edge of the pavement of the highway from
17 any point on the boundary of the subject property, or any point on the opposite side of
18 the highway perpendicular to any point on the boundary line of the subject property.

19 (c) As used in sub-subdivision (a)(1)b. and (a)(1)c. of this section, the term
20 'highway' means a highway that is designated as a part of the interstate or federal-aid
21 primary highway system as of June 1, 1991, or any highway which is or becomes a part
22 of the National Highway System."

23 Sec. 2. G.S. 136-130 reads as rewritten:

24 **"§ 136-130. Regulation of advertising.**

25 The Department of Transportation is authorized to promulgate rules and regulations
26 in the form of ordinances governing:

27 (1) The erection and maintenance of outdoor advertising permitted in G.S.
28 136-129,

29 (2) The erection and maintenance of outdoor advertising permitted in G.S.
30 136-129.1,

31 (2a) The erection and maintenance of outdoor advertising permitted in G.S.
32 136-129.2,

33 (3) The specific requirements and procedures for obtaining a permit for
34 outdoor advertising as required in G.S. 136-133 and for the
35 administrative procedures for appealing a decision at the agency level
36 to refuse to grant or in revoking a permit previously issued, and

37 (4) The administrative procedures for appealing a decision at the agency
38 level to declare any outdoor advertising illegal and a nuisance as
39 pursuant to G.S. 136-134, as may be necessary to carry out the policy
40 of the State declared in this Article."

41 Sec. 3. G.S. 136-131 reads as rewritten:

42 **"§ 136-131. Removal of existing nonconforming advertising.**

43 The Department of Transportation is authorized to acquire by purchase, gift, or
44 condemnation all outdoor advertising and all property rights pertaining thereto which

1 are prohibited under the provisions of G.S. ~~136-129 or 136-129.1~~, 136-129, 136-129.1 or
2 136-129.2, provided such outdoor advertising is in lawful existence on the effective date
3 of this Article as determined by G.S. 136-140, or provided that it is lawfully erected
4 after the effective date of this Article as determined by G.S. 136-140.

5 In any acquisition, purchase or condemnation, just compensation to the owner of the
6 outdoor advertising, where the owner of the outdoor advertising does not own the fee,
7 shall be limited to the fair market value at the time of the taking of the outdoor
8 advertising owner's interest in the real property on which the outdoor advertising is
9 located and such value shall include the value of the outdoor advertising.

10 In any acquisition, purchase or condemnation, just compensation to the owner of the
11 fee or other interest in the real property upon which the outdoor advertising is located
12 where said owner does not own the outdoor advertising located thereon shall be limited
13 to the difference in the fair market value of the entire tract immediately before and
14 immediately after the taking by the Department of Transportation of the right to
15 maintain such outdoor advertising thereon and in arriving at the fair market value after
16 the taking, any special or general benefits accruing to the property by reason of the
17 acquisition shall be taken into consideration.

18 In any acquisition, purchase or condemnation, just compensation to the owner of the
19 fee in the real property upon which the outdoor advertising is located, where said owner
20 also owns the outdoor advertising located thereon, shall be limited to the fair market
21 value of the outdoor advertising plus the difference in the fair market value of the entire
22 tract immediately before and immediately after the taking by the Department of
23 Transportation of the right to maintain such outdoor advertising thereon and in arriving
24 at the fair market value after the taking, any special or general benefits accruing to the
25 property by reason of the acquisition shall be taken into consideration."

26 Sec. 4. G.S. 136-18 is amended by adding a new subdivision to read:

27 "(31) The Department of Transportation is authorized to designate
28 portions of highways as scenic highways, and combinations of
29 portions of highways as scenic byways, for portions of those
30 highways that possess unusual, exceptional, or distinctive scenic,
31 recreational, historical, educational, scientific, geological, natural,
32 wildlife, cultural or ethnic features. The Department shall remove,
33 upon application, from any existing or future scenic highway or
34 scenic byway designation, highway sections that:

- 35 a. Have no scenic value,
36 b. Have been designated or would be so designated solely to
37 preserve system continuity, and
38 c. Are adjacent to property on which is located one or more
39 permanent structures devoted to a commercial or industrial
40 activity and on which a commercial or industrial activity is
41 actually conducted, in an unzoned area or an area zoned
42 commercial or industrial pursuant to a State or local zoning
43 ordinance or regulation, except for commercial activity related
44 to tourism or recreation,

1 The Department shall adopt rules and regulations setting forth the
2 criteria and procedures for the designation of scenic highways and
3 scenic byways under this subsection.

4 Those portions of highways designated as scenic by the
5 Department prior to July 1, 1993, are considered to be designated as
6 scenic highways and scenic byways under this subsection but the
7 Department shall remove from this designation portions of those
8 highway sections that meet the criteria set forth in this subsection, if
9 requested."

10 Sec. 5. This act is effective upon ratification.