Conference Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 316

HOUSE BILL 2543

AN ACT

AMENDING SECTIONS 28-7901, 28-7902 AND 28-7903, ARIZONA REVISED STATUTES; RELATING TO OUTDOOR ADVERTISING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 28-7901, Arizona Revised Statutes, is amended to read:

28-7901. Definitions

In this article, unless the context otherwise requires:

1. "Business area" means an area that is outside municipal limits, that embraces all of the land on the same side of the highway on which one or more commercial or industrial activities are conducted, including all land within one thousand feet measured in any direction from the nearest edge of the actual land used or occupied for such activity, its parking, storage and service areas, its driveways and its established front, rear and side yards, that constitutes an integral part of such activity and that is zoned, under authority of law, primarily to permit industrial or commercial activity. If one or more commercial or industrial activities are located within one thousand feet of a freeway interchange, the business area shall extend three thousand feet measured in each direction parallel to the freeway from the center line of the crossroad but shall not extend beyond the limits of the established commercial or industrial zone.

2. "Comprehensive development" means an activity if all of the following apply:

(a) The activity is comprised primarily of individual commercial or industrial activities.

(b) The activity is located on land that is only on one side of the highway.

(c) The lots or parcels within the development are contiguous except for roadways or driveways, whether public or private, that provide access to the development.

(d) The relevant county, city or town has approved the boundaries of the activity as a unified development with a common identity and an interrelated plan for public and private improvements, either as originally planned or as amended.

(e) The activity has common areas such as parking, amenities and landscaping.

(f) The activity has a scheme of common ownership that actively provides for the management and maintenance of common areas within the development.

(g) The premises includes all land used or to be used or occupied for the activity. Uses of land that serve no reasonable or integrated purpose related to the activity, other than an attempt to qualify the land for signing purposes, are not part of the comprehensive development. For the purposes of this subdivision, "premises" includes:

(i) Buildings.

(ii) Parking.

(iii) Storage and service areas.

(iv) Streets.

(v) Driveways.

(vi) Land used and reasonably necessary for landscaped front, rear and side yards.

3. "ELECTRONIC OUTDOOR ADVERTISING" MEANS SIGNS, DISPLAYS AND DEVICES WITH SIGN FACES THAT ARE COMPRISED OF MATRICES OF LIGHT OR LIGHT-EMITTING DEVICES THAT ARE STATIC OR CAPABLE OF CHANGING MESSAGES ELECTRONICALLY BY REMOTE OR AUTOMATIC MEANS.

~~3.~~ 4. "Freeway" means a divided arterial highway on the interstate or primary system with full control of access and with grade separations at intersections.

~~4.~~ 5. "Information center" means a site that is established and maintained at a safety rest area to inform the public of places of interest in this state and that provides other information the board considers desirable.

~~5.~~ 6. "Interstate system" means the portion of the national system of interstate and defense highways located in this state that are officially designated by the board and approved by the United States secretary of transportation pursuant to 23 United States Code.

~~6.~~ 7. "Main traveled way":

(a) Means the portion of a roadway for the movement of vehicles, excluding shoulders, on which through traffic is carried.

(b) In the case of a divided highway, means the traveled way of each of the separated roadways for traffic in opposite directions.

(c) Does not include facilities such as frontage roads or parking areas.

~~7.~~ 8. "Outdoor advertising" means any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard or other thing that is designed, intended or used to advertise or inform and the message of which is visible from any place on the main traveled way of the interstate, secondary or primary systems.

~~8.~~ 9. "Primary system" means that portion of connected main highways located in this state that are officially designated by the board and approved by the United States secretary of transportation pursuant to 23 United States Code.

~~9.~~ 10. "Safety rest area" means a site established and maintained by or under public supervision or control for the convenience of the traveling public within or adjacent to the right-of-way of the interstate or primary systems.

~~10.~~ 11. "Scheme of common ownership" means an ownership scheme in which the owners have recorded irrevocable rights to use common areas.

~~11.~~ 12. "Secondary system" means that portion of connected highways located in this state that are officially designated by the board and approved by the United States secretary of transportation pursuant to 23 United States Code.

~~12.~~ 13. "Tourist related advertising display" means any outdoor advertising that advertises a specific public or private facility, accommodation, goods or service, at a particular location or site, including an overnight lodging, campsite, food service, recreational facility, tourist attraction, educational or historical site or feature and automotive service facility or garage.

~~13.~~ 14. "Unzoned commercial or industrial area" means an area that is not zoned under authority of law and in which land use is characteristic of that generally permitted only in areas that are actually zoned commercial or industrial under authority of state law, that embraces all land on the same side of the highway on which one or more commercial or industrial activities are conducted, including all land within one thousand feet measured in any direction from the nearest edge of the actual land used or occupied by this activity, its parking, storage and service areas, its driveways and its established front, rear and side yards, and that constitutes an integral part of this activity. As used in this paragraph, commercial or industrial activities do not include:

(a) Outdoor advertising structures.

(b) Agricultural, forestry, grazing, farming and related activities.

(c) Transient or temporary activities, including wayside fresh produce stands.

(d) Activities not visible from the main traveled way.

(e) Activities conducted in a building principally used as a residence.

(f) Railroad tracks and minor sidings and aboveground or underground utility lines.

Sec. 2. Section 28-7902, Arizona Revised Statutes, is amended to read:

28-7902. Outdoor advertising authorized

A. The following outdoor advertising may be placed or maintained along an interstate, secondary or primary system within six hundred sixty feet of the edge of the right-of-way:

1. Directional or other official signs or notices that are required or authorized by law, including signs pertaining to natural wonders and scenic and historic attractions.

2. Signs, displays and devices that are located on the premises of the activity that they advertise. This paragraph applies to any sign that is located on the premises of a comprehensive development that the sign advertises if the placement of the sign does not cause a reduction of federal aid highway monies pursuant to 23 United States Code section 131. For the purposes of this paragraph, "activity" means the active use or collective uses of the premises.

3. Signs, displays and devices advertising the sale or lease of the property on which they are located.

4. Signs, displays and devices lawfully placed after April 1, 1970 in business areas.

5. Signs, displays and devices lawfully placed after either:

(a) July 1, 1974 in zoned or unzoned commercial or industrial areas inside municipal limits.

(b) April 1, 1972 in unzoned commercial or industrial areas outside municipal limits.

6. Signs, displays and devices that are lawfully existing on April 1, 1970 and that are located in business areas and in zoned commercial or industrial areas outside municipal limits.

7. Signs, displays and devices lawfully existing on either:

(a) July 1, 1974 that are located in zoned or unzoned commercial or industrial areas inside municipal limits.

(b) April 1, 1972 in unzoned commercial or industrial areas outside municipal limits.

8. Nonconforming tourist related advertising displays that are lawfully erected and in existence on May 5, 1976, that are located in defined hardship areas, that provide specific directional information to the traveling public and that are approved by the United States secretary of transportation pursuant to 23 United States Code section 131(o).

9. A sign located in a charter city adjacent to an interstate highway with a changing message for identification of businesses that are located on separate contiguous parcels and that are part of a single development approved by a city council as part of a development agreement entered into before April 22, 1990. The changing message may not contain words or phrases that continuously travel or scroll in a manner that presents a message longer than may be displayed on the sign at one instant in time. The director may adopt rules governing the interval within which a message may be displayed or changed. This paragraph does not alter, change or affect any other statute, rule, regulation, policy or interpretation concerning the use of signs with changing messages or the ownership of property on which the signs are located.

B. Outdoor advertising authorized under subsection A, paragraphs 1, 4 and 5 shall conform with standards contained and shall bear permits required in rules adopted by the director under this article, except that the authorized outdoor advertising along highways in the secondary system that are not state highways need only bear permits required by the responsible county or municipal authority.

C. Outdoor advertising authorized under subsection A, paragraphs 6 and 7 need not conform to standards contained but shall bear permits required in rules adopted by the director under this article, except that the authorized outdoor advertising along highways in the secondary system that are not state highways need only bear permits required by the responsible county or municipal authority.

D. If preservation would be consistent with this article, signs may be preserved or maintained if they were lawfully in existence on October 22, 1965 and if the director determines, subject to the approval of the United

States secretary of transportation as provided for by 23 United States Code section 131(c), that they are landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance.

E. OUTDOOR ADVERTISING THAT CONFORMS TO STANDARDS AND BEARS A PERMIT PURSUANT TO SUBSECTION B OR C OF THIS SECTION MAY INCLUDE ELECTRONIC OUTDOOR ADVERTISING ONLY IF THE ELECTRONIC OUTDOOR ADVERTISING MEETS THE FOLLOWING REQUIREMENTS:

1. THE ELECTRONIC OUTDOOR ADVERTISING DOES NOT CONTAIN ANY FORM OF ANIMATION AND REMAINS STATIC FOR AT LEAST EIGHT SECONDS WITH A TRANSITION TIME OF NO GREATER THAN TWO SECONDS.

2. EXCEPT AS PROVIDED IN SUBSECTION H OR I OF THIS SECTION, THE ELECTRONIC OUTDOOR ADVERTISING IS LOCATED WITHIN THE AREA WITH THE FOLLOWING COORDINATES:

BEGINNING AT LATITUDE 33.9 NORTH, LONGITUDE 114.5 WEST, HENCE DUE EAST TO LATITUDE 33.9 NORTH, LONGITUDE 112.25 WEST, HENCE FOLLOWING THE CIRCUMFERENCE OF A CIRCLE WITH A RADIUS OF SEVENTY-FIVE MILES FROM THE COORDINATES OF THE DISCOVERY CHANNEL TELESCOPE TO LATITUDE 33.66 NORTH, LONGITUDE 111.23 WEST, HENCE DUE SOUTH TO LATITUDE 33.46 NORTH, LONGITUDE 111.23 WEST, HENCE FOLLOWING THE CIRCUMFERENCE OF A CIRCLE WITH A RADIUS OF SEVENTY-FIVE MILES FROM THE COORDINATES OF THE MOUNT LEMMON OBSERVATORY TO LATITUDE 33.02 NORTH, LONGITUDE 111.91 WEST, HENCE FOLLOWING THE CIRCUMFERENCE OF A CIRCLE WITH A RADIUS OF SEVENTY-FIVE MILES FROM THE COORDINATES OF KITT PEAK OBSERVATORY TO LATITUDE 32.6 NORTH, LONGITUDE 112.65 WEST, HENCE DUE WEST TO LATITUDE 32.6 NORTH, LONGITUDE 114.802 WEST, AND HENCE NORTH ALONG THE COLORADO RIVER TO THE POINT OF BEGINNING.

3. FROM SUNSET UNTIL 11:00 P.M., THE DIMMER FOR ELECTRONIC OUTDOOR ADVERTISING SIGNS, DISPLAYS AND DEVICES SHALL NOT BE SET TO EXCEED THREE HUNDRED FORTY-TWO NITS IN FULL WHITE MODE FOR SIGNS THAT ARE SMALLER THAN SIX HUNDRED SEVENTY-TWO SQUARE FEET IN AREA AND THREE HUNDRED NITS IN FULL WHITE MODE FOR SIGNS THAT ARE EQUAL TO OR LARGER THAN SIX HUNDRED SEVENTY-TWO SQUARE FEET IN AREA.

4. FROM 11:00 P.M. UNTIL SUNRISE, ILLUMINATION SHALL BE EXTINGUISHED AND ELECTRONIC OUTDOOR ADVERTISING SIGNS, DISPLAYS AND DEVICES SHALL BE EQUIPPED WITH AN AUTOMATIC DEVICE TO ENSURE COMPLIANCE WITH THIS PARAGRAPH, EXCEPT FOR AMBER ALERTS AND OTHER GOVERNMENTAL EMERGENCIES. THE AUTOMATIC DEVICE SHALL HAVE THE ABILITY TO DIM THE DISPLAY THROUGH A PHOTO ELECTRIC SENSOR THAT DETECTS AMBIENT LIGHT LEVELS AND ADJUSTS THE DISPLAY INTENSITY AUTOMATICALLY TO ENSURE THE MAXIMUM NIT LEVELS ARE ENFORCED.

5. THE ELECTRONIC OUTDOOR ADVERTISING SHALL COMPLY WITH THE SIZE AND SPACING LIMITATIONS PRESCRIBED IN SECTION 28-7905.

F. THE DIRECTOR SHALL PREPARE A PICTORIAL REPRESENTATION OF THE COORDINATES DESCRIBED IN SUBSECTION E, PARAGRAPH 2 OF THIS SECTION. THE DIRECTOR SHALL POST THE PICTORIAL REPRESENTATION ON THE DEPARTMENT'S WEBSITE.

G. THE OWNER OF ANY OUTDOOR ADVERTISING THAT IS WITHIN THE AREA DESCRIBED IN SUBSECTION E, PARAGRAPH 2 OF THIS SECTION, THAT BEARS A PERMIT PURSUANT TO SUBSECTION B OR C OF THIS SECTION AND THAT IS CONVERTED TO ELECTRONIC OUTDOOR ADVERTISING SHALL NOTIFY THE DEPARTMENT OF THE FACE-TYPE STATUS CHANGE. THE NOTICE SHALL INCLUDE A CERTIFICATION THAT THE SIGN REMAINS IN COMPLIANCE WITH THIS SECTION. THE DEPARTMENT SHALL MAINTAIN THE FACE-TYPE STATUS CHANGE DOCUMENTS IN ITS RECORDS. AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE CONVERSION OF OUTDOOR ADVERTISING TO ELECTRONIC OUTDOOR ADVERTISING IS ONLY ALLOWED IN THE AREA DESCRIBED IN SUBSECTION E, PARAGRAPH 2 OF THIS SECTION.

H. ELECTRONIC OUTDOOR ADVERTISING IS DEEMED TO HAVE LEGAL NONCONFORMING STATUS FOR THE PURPOSES OF STATE LAW, INCLUDING FOR THE PURPOSES OF ANY PERMITS AND APPROVALS ISSUED BY THE DEPARTMENT, IF BOTH OF THE FOLLOWING APPLY:

1. THE ELECTRONIC OUTDOOR ADVERTISING IS BOTH OPERATIONAL AND BEARS A PERMIT PURSUANT TO SUBSECTION B OR C OF THIS SECTION BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION.

2. THE ELECTRONIC OUTDOOR ADVERTISING IS NOT LOCATED WITHIN THE AREA DESCRIBED IN SUBSECTION E, PARAGRAPH 2 OF THIS SECTION.

I. ELECTRONIC OUTDOOR ADVERTISING IN EXISTENCE AND OPERATIONAL AS OF THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION IS DEEMED TO HAVE LEGAL CONFORMING STATUS FOR THE PURPOSES OF STATE LAW, INCLUDING FOR THE PURPOSES OF ANY PERMITS AND APPROVALS ISSUED BY THE DEPARTMENT IF BOTH OF THE FOLLOWING APPLY:

1. THE ELECTRONIC OUTDOOR ADVERTISING BEARS A PERMIT PURSUANT TO SUBSECTION B OR C OF THIS SECTION.

2. THE ELECTRONIC OUTDOOR ADVERTISING IS LOCATED WITHIN THE AREA DESCRIBED IN SUBSECTION E, PARAGRAPH 2 OF THIS SECTION.

J. THE ELECTRONIC OUTDOOR ADVERTISING THAT IS DESCRIBED IN SUBSECTION H OR I OF THIS SECTION IS SUBJECT TO THE REQUIREMENTS PRESCRIBED BY SUBSECTION E, PARAGRAPHS 1, 3, 4 AND 5.

K. A CITY, TOWN OR COUNTY SHALL NOT ISSUE A PERMIT FOR CONVERSION OF AN EXISTING OUTDOOR ADVERTISING USE TO AN ELECTRONIC OUTDOOR ADVERTISING USE AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION IF THE EXISTING OUTDOOR ADVERTISING IS NOT LOCATED IN THE AREA DESCRIBED IN SUBSECTION E, PARAGRAPH 2 OF THIS SECTION.

L. THIS SECTION DOES NOT PREVENT A CITY, TOWN OR COUNTY FROM ENFORCING OR ENACTING AN ORDINANCE REGULATING OUTDOOR ADVERTISING THAT IS AUTHORIZED BY SUBSECTION E OF THIS SECTION, INCLUDING THE LIGHTING OF THE OUTDOOR ADVERTISING. THE CITY, TOWN OR COUNTY MAY ENACT AN ORDINANCE THAT IS MORE RESTRICTIVE THAN THIS SECTION BUT NOT LESS RESTRICTIVE THAN THIS SECTION.

Sec. 3. Section 28-7903, Arizona Revised Statutes, is amended to read:

28-7903. <u>Outdoor advertising prohibited</u>

A. Outdoor advertising shall not be placed or maintained adjacent to the interstate, secondary or primary systems at the following locations or

positions, under any of the following conditions or if the outdoor advertising is of the following nature:

1. If it is within view of, directed at and intended to be read from the main traveled way of the interstate, primary or secondary systems, except outdoor advertising authorized under section 28-7902.

2. If it is visible from the main traveled way and simulates or imitates a directional, warning, danger or information sign permitted under this article, if it is likely to be mistaken for any such permitted sign or if it is intended or likely to be construed as giving warning to traffic, such as by the use of the words "stop" or "slow down".

3. If it is within any stream or drainage channel or below the flood water level of any stream or drainage channel where the outdoor advertising might be deluged by floodwaters and swept under any highway structure crossing the stream or drainage channel or against the supports of the highway structure.

4. If it is visible from the main traveled way and displays a red, flashing, blinking, intermittent or moving light, EXCEPT AS PROVIDED IN SECTION 28-7902, SUBSECTION E, or lights likely to be mistaken for a warning or danger signal, except that part necessary to give public service information such as time, date, weather, temperature or similar information.

5. If an illumination on the outdoor advertising is of such brilliance and in such a position as to blind or dazzle the vision of travelers on the main traveled way.

6. If it exists under a permit as required by this article and is not maintained in safe condition.

7. If it is obviously abandoned.

8. If it is placed in a manner that either:

(a) Obstructs or otherwise physically interferes with an official traffic sign, signal or device.

(b) Obstructs or physically interferes with the vision of drivers in approaching, merging or intersecting traffic.

9. If it is placed on trees or painted or drawn on rocks or other natural features, except signs permitted by section 28-7902, subsection A, paragraph 2.

B. At interchanges on freeways or interstate highways outside municipal limits, an outdoor advertising sign, display or device shall not be erected in the area between the crossroad and a point five hundred feet beyond the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.

Sec. 4. <u>Temporary directional signage on state highways for nonprofit museums; delayed repeal</u>

A. The director of the department of transportation may approve, install and maintain interim or temporary directional signage on a state highway for a nonprofit museum if the museum satisfies all of the following:

1. Files an application with the department of transportation for a permit for installation of the directional signage.

2. Is qualified under section 501(c)(3) of the United States internal revenue code for federal income tax purposes.

3. Is located on a road on which vehicles exit the state highway or that crosses the state highway.

B. An applicant for a permit pursuant to this section must agree that the directional signage installed pursuant to this section is temporary and that the department may remove the signage at any time without consultation of the permittee. The granting of the permit pursuant to this section shall not be construed to allow the directional signage to continue after the urban logo sign program is established by the department of transportation.

C. No state monies shall be spent for installation, upkeep or maintenance of directional signage installed pursuant to this section.

D. This section is repealed from and after September 30, 2014.

Sec. 5. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

APPROVED BY THE GOVERNOR MAY 9, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2012.

Passed the House February 28, 2012

by the following vote: 56 Ayes,

0 Nays, 3 Not Voting
1 vacant

Speaker of the House

Chief Clerk of the House

Passed the Senate April 12, 2012

by the following vote: 27 Ayes,

3 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

Secretary of State

H.B. 2543

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House April 30, 2012

by the following vote: 49 Ayes,

9 Nays, 2 Not Voting

with Emergency

Speaker of the House

Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate April 30, 2012

by the following vote: 24 Ayes,

6 Nays, 0 Not Voting

With Emergency

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

1 day of May, 2012

at 11:50 o'clock P M.

Secretary to the Governor

Approved this 9th day of

May

at 4:50 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 10th day of May, 2012

at 8:27 o'clock a M.

Secretary of State

H.B. 2543