CHAPTER 25

Outdoor Advertising

ARTICLE 1

General Provisions

**SECTION 57‑25‑10.** Unlawful to display, place, or affix posters within right‑of‑way.

It is unlawful for a person to display, place, or affix a sign, as defined in Section 57‑25‑120(3), within a right‑of‑way and visible from the main‑traveled way of the highway. A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 33‑551; 1973 (58) 247; 1990 Act No. 519, Section 1.

CROSS REFERENCES

Administrative regulations with respect to control of outdoor advertising along interstate and federal‑aid primary highways, see Regulations of Department of Highways and Public Transportation, R. 63‑338 et seq.

Library References

Highways 153.5.

Westlaw Topic No. 200.

C.J.S. Highways Sections 359 to 387.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 94, Statutory Provisions.

Attorney General’s Opinions

Advertisements may not be placed on bus stop benches at marked bus stops located within the public right of way of a state road. S.C. Op.Atty.Gen. (September 17, 2007) 2007 WL 4284642.

NOTES OF DECISIONS

In general 1

1. In general

The Department of Highways and Public Transportation erred in denying an application for outdoor advertising permits, on the asserted basis that the location was not visible from the main‑travelled way, where six witnesses testified at the hearing, each of them concurring that the location was visible from an interstate highway, and photographs of the store location taken from the highway confirmed their testimony, so that the location was visible from the main‑travelled way within the meaning of Sections 57‑25‑10, 57‑25‑120(e)(5), and 57‑25‑140. Carter v. South Carolina Dept. of Highways and Public Transp. (S.C. 1983) 279 S.C. 332, 306 S.E.2d 614.

**SECTION 57‑25‑15.** Highway signs.

The prohibition of Section 57‑25‑10 does not extend to a welcome sign or other sign providing directions to a public facility or event erected by the governing body of a county, municipality or organized church if the sign presents no traffic hazard. If the sign is placed on a highway right‑of‑way, it must meet the approval of the department for size, location, and supports.

HISTORY: 1994 Act No. 431, Section 1.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Advertising Section 12, Illegal Signs.

**SECTION 57‑25‑20.** Obscene or indecent billboards prohibited.

(A) No billboard shall be erected or displayed containing obscene or indecent words, photographs, or depictions.

(B) Obscene words, photographs, or depictions must be defined and interpreted as provided in Section 16‑15‑305(B), (C), (D), and (E).

(C) A billboard is indecent when:

(1) taken as a whole, it describes, in a patently offensive way, as determined by contemporary community standards, sexual acts, excretory functions, or parts of the human body; and

(2) taken as a whole, it lacks serious literary, artistic, political, or scientific value.

HISTORY: 1990 Act No. 519, Section 3.

Library References

Highways 153.5.

Westlaw Topic No. 200.

C.J.S. Highways Sections 359 to 387.

**SECTION 57‑25‑30.** Erection of bus shelters; location; permit requirement; fee.

(A) Bus shelters, including those on which commercial advertisements are placed, may be erected and maintained within the rights‑of‑way of public roads by the State. A bus shelter located within the right‑of‑way of a state road shall comply with all applicable requirements of the Department of Transportation, Title 23 of the United States Code, and Title 23 of the Code of Federal Regulations. A bus shelter located within the right‑of‑way of a road other than a state road shall comply with all applicable requirements of the municipality or county within whose jurisdiction it is located.

(B) A person erecting a bus shelter shall obtain a permit for each shelter location from the Department of Transportation. The permit shall cost twenty‑five dollars. Permit fees must be placed in the department’s trust fund and used for public transportation purposes.

HISTORY: 1995 Act No. 145, Part II, Section 93.

CROSS REFERENCES

Department of Highways and Public Transportation regulations pertaining to bus shelters, see S.C. Code of Regulations R. 63‑800 et seq.

Library References

Highways 153.5.

Westlaw Topic No. 200.

C.J.S. Highways Sections 359 to 387.

**SECTION 57‑25‑40.** Commercial advertisement benches; application by regional transit authority or public transit operator to install.

Notwithstanding any other provision of law to the contrary, upon proper application the Department of Transportation may issue appropriate permits to a regional transit authority or public transit operator to install and maintain benches upon which commercial advertisements are placed provided that each bench will be located at one of the applicant’s bus stops, the proposed location for the bench is within the right‑of‑way of a public road, and the applicant otherwise meets all relevant federal statutory and regulatory requirements. The department may charge a permit fee of twenty‑five dollars for each permit application. All permits issued pursuant to this section expire on July 1, 2010.

HISTORY: 2008 Act No. 347, Section 40, eff June 16, 2008.

Library References

Highways 153.5.

Westlaw Topic No. 200.

C.J.S. Highways Sections 359 to 387.

ARTICLE 3

Highway Advertising Control Act

**SECTION 57‑25‑110.** Short title.

This article may be cited as the “Highway Advertising Control Act”.

HISTORY: 1962 Code Section 33‑591.11; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530.

CROSS REFERENCES

Administrative regulations with respect to control of outdoor advertising along interstate and federal‑aid primary highways, see Regulations of Department of Highways and Public Transportation, R. 63‑338 et seq.

Agritourism and Tourism‑Oriented Directional Signing, see S.C. Code of Regulations R. 63‑339.

Library References

Highways 153.5.

Westlaw Topic No. 200.

C.J.S. Highways Sections 359 to 387.

Attorney General’s Opinions

Interchange of hardware constructed of similar materials which holds up billboard faces would be permissible under state outdoor advertising regulations inasmuch as such would be viewed as routine maintenance using more modern, more efficient technologies to serve same non‑conforming use. 1993 Op.Atty.Gen. No. 93‑60 (September 21, 1993) 1993 WL 439032.

**SECTION 57‑25‑120.** Definitions.

As used in this article:

(1) “Interstate system” means that portion of the national system of interstate and defense highways located within this State officially designated now or in the future by the Department of Transportation and approved by the appropriate office of the United States Government pursuant to the provisions of Title 23, United States Code, “Highways”.

(2) “Federal‑aid primary system” means that portion of connected main highways which officially are designated as the federal‑aid primary highway system now or in the future by the Department of Transportation and approved by the appropriate office of the United States Government pursuant to the provisions of Title 23, United States Code, “Highways”.

(3) “Sign” or “outdoor advertising sign” means an outdoor sign, display, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, or any part of the advertising or its informative contents.

(4) An “unzoned commercial or industrial area” does not include land established as a scenic area pursuant to Section 57‑25‑140(D)(4) or land zoned by a subdivision of government. An unzoned commercial, business, or industrial area means the land occupied by the regularly used building, parking lot, and storage and processing area of a commercial, business, or industrial activity and land within six hundred feet of it on both sides of the highway. The unzoned land does not include:

(a) land on the opposite side of an interstate or freeway primary federal‑aid highway;

(b) land predominantly used for residential purposes;

(c) land zoned by state or local law, regulation, or ordinance except land which is zoned in a manner which allows essentially unrestricted development or where regulation of size, spacing, and lighting of signs is unrestricted or less restrictive than the restrictions imposed by Section 57‑25‑140;

(d) land on the opposite side of a nonfreeway primary highway which is designated scenic by the commission.

(5) “Commercial or industrial activities” means those established activities generally recognized as commercial or industrial by zoning authorities within the State, except that none of the following are considered commercial or industrial activities:

(a) outdoor advertising structures;

(b) agriculture, forestry, ranching, grazing, farming, wayside produce stands, quarries, and borrow pits;

(c) activities conducted in a building principally used as a residence;

(d) hospitals, nursing homes, or long‑term care facilities;

(e) transient or temporary activities;

(f) activities not visible from the main‑traveled way;

(g) activities more than six hundred sixty feet from the nearest edge of the right‑of‑way of interstate and freeway primary federal‑aid highways or more than three hundred feet from the nearest edge of the right‑of‑way of nonfreeway primary federal‑aid highways;

(h) railroad tracks and minor sidings;

(i) sham, prohibited, or illegal activities;

(j) junkyards;

(k) schools, churches, or cemeteries;

(l) recreational facilities.

(6) “Freeway primary federal‑aid highway” means a divided arterial highway for through traffic with full control of access built to the same standards as to access as an interstate highway, which is officially designated now or in the future as a part of the federal‑aid primary system.

(7) “Adult business” means a nightclub, bar, restaurant, or another similar establishment in which a person appears in a state of sexually explicit nudity, as defined in Section 16‑15‑375, or semi‑nudity, in the performance of their duties.

(8) “Semi‑nudity” means a state of dress in which opaque clothing fails to cover the genitals, anus, anal cleft or cleavage, pubic area, vulva, nipple and areola of the female breast below a horizontal line across the top of the areola at its highest point. Semi‑nudity includes the entire lower portion of the female breast, but does not include any portion of the cleavage of the human female breast exhibited by wearing clothing provided the areola is not exposed in whole or in part.

(9) “Sexually‑oriented business” means a business offering its patrons goods of which a substantial portion are sexually‑oriented materials. A business in which more than ten percent of the display space is used for sexually‑oriented materials is presumed to be a sexually‑oriented business.

(10) “Sexually‑oriented materials” means textual, pictorial, or three‑dimensional material that depicts nudity, sexual conduct, sexual enticement, or sadomasochistic abuse in a way that is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors. Sexually‑oriented materials include obscene materials as defined in Section 16‑15‑305(B).

HISTORY: 1962 Code Section 33‑591.1; 1971 (57) 2061; 1975 (59) 596; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530; 2006 Act No. 235, Section 3.B, eff February 22, 2006.

Editor’s Note

2006 Act No. 235, Section 6, provides as follows:

“This act takes effect upon approval by the Governor. Nothing in this act preempts or otherwise alters, modifies, applies to, or effects relocation or removal of any off‑premises outdoor advertising signs pursuant to an ordinance or regulation enacted by a local governing body prior to April 14, 2005. It is the intent of the General Assembly that nothing in this act may be construed to require the payment of monetary compensation for any off‑premises outdoor advertising signs relocated or removed pursuant to an ordinance enacted before the effective date of this act unless the ordinance otherwise requires the payment of monetary compensation.”

NOTES OF DECISIONS

In general 1

Validity of regulations 2

1. In general

Farm‑related gasohol and seed businesses did not constitute commercial or industrial enterprises under Section 57‑25‑120 where both businesses were seasonal, did not keep regular hours, were not readily accessible to the public, existed in unattended buildings lacking common utilities, and were not licensed retail establishments, and where the gasohol business conducted no commercial business activity since it did not engage in sales to customers, and the seed company’s business involved minimal activity at the storage site. Young v. South Carolina Dept. of Highways and Public Transp. (S.C.App. 1985) 287 S.C. 108, 336 S.E.2d 879.

2. Validity of regulations

For purposes of statute allowing advertising sign to be posted along interstate highway within 600 feet of qualifying unzoned commercial or industrial business, which is a commercial or industrial activity visible from main traveled highway, regulation defining “visible” as capable of being seen and readily recognized as a sign or commercial or industrial activity by a person of normal visual acuity was reasonably related to purpose of Highway Advertising Control Act and clearly intended to further policy of the Act and did not impermissibly expand statutory requirement of visibility. U.S. Outdoor Advertising, Inc. v. South Carolina Dept. of Transp. (S.C. 1997) 324 S.C. 1, 481 S.E.2d 112, rehearing denied. Highways 153.5

The General Assembly did not define “transient or temporary” by statute, but it has implicitly authorized the Department of Highways and Public Transportation to interpret, clarify and explain the statute by authorizing the Department to promulgate regulations governing outdoor sign permits. Young v. South Carolina Dept. of Highways and Public Transp. (S.C.App. 1985) 287 S.C. 108, 336 S.E.2d 879.

**SECTION 57‑25‑130.** Declaration of purpose.

The General Assembly finds that outdoor advertising is a legitimate form of commercial use of the private property adjacent to the public highways. The General Assembly also finds that outdoor advertising is an integral part of the business and marketing function and is an established segment of the national economy which serves to promote and protect investments in commerce and industry and is, therefore, a business which must be allowed to exist and operate where other business and commercial activities are conducted and that a reasonable use of property for outdoor advertising to the traveling public is desirable. In order, however, to prevent unreasonable distraction of operators of motor vehicles, prevent confusion with regard to traffic lights, signs, or signals, prevent interference with the effectiveness of traffic regulations, promote the prosperity, economic well‑being, and general welfare of the State, mitigate the adverse secondary effects of sexually‑oriented businesses and limit harm to minors, promote the safety, convenience, and enjoyment of travel on and protection of the public investment in highways within this State, and preserve and enhance the natural scenic beauty or aesthetic features of the highways and adjacent areas, the General Assembly declares it to be the policy of this State that the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the rights‑of‑way of the interstate and federal‑aid primary systems within this State must be regulated in accordance with the terms of this article which provide for standards consistent with customary use in this State and finds that all outdoor advertising devices which do not conform to the requirements of this article are illegal. It is the intention of the General Assembly in this article to provide a statutory basis for regulation of outdoor advertising consistent with the public policy relating to areas adjacent to interstate and federal‑aid primary systems declared by Congress in Title 23, United States Code, “Highways”.

HISTORY: 1962 Code Section 33‑591; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530; 2006 Act No. 235, Section 3.C, eff February 22, 2006.

Editor’s Note

2006 Act No. 235, Section 6, provides as follows:

“This act takes effect upon approval by the Governor. Nothing in this act preempts or otherwise alters, modifies, applies to, or effects relocation or removal of any off‑premises outdoor advertising signs pursuant to an ordinance or regulation enacted by a local governing body prior to April 14, 2005. It is the intent of the General Assembly that nothing in this act may be construed to require the payment of monetary compensation for any off‑premises outdoor advertising signs relocated or removed pursuant to an ordinance enacted before the effective date of this act unless the ordinance otherwise requires the payment of monetary compensation.”

Library References

Highways 153.5.

Westlaw Topic No. 200.

C.J.S. Highways Sections 359 to 387.

NOTES OF DECISIONS

In general 1

1. In general

Outdoor advertising industry is not exempt from Unfair Trade Practices Act, despite allegation that South Carolina Highway Department regulates outdoor advertising industry through issuance of permits for placement of billboards on public highways, because purpose of “Highway Advertising Control Act” is to protect safety on highways and to preserve and enhance natural scenic beauty, and state highway department is charged with issuing permits for erection of signs. Neither highway department statutes nor regulations promulgated pursuant to those statutes address or regulate unfair competition among outdoor advertisers. Bocook Outdoor Media, Inc. v. Summey Outdoor Advertising, Inc. (S.C.App. 1987) 294 S.C. 169, 363 S.E.2d 390.

**SECTION 57‑25‑140.** Signs permitted along interstate or federal‑aid primary highways; customary use exception; removal of vegetation from right‑of‑ways.

(A) An outdoor advertising sign must not be erected or maintained after June 30, 1975, which is visible from the main‑traveled way of the interstate or federal‑aid primary highways in this State and erected with the purpose of its message being read from the traveled way, except the following:

(1) official signs and notices erected and maintained by the State or local governmental authorities pursuant to laws or ordinances for the purpose of carrying out an official duty or responsibility and historical markers authorized by law and erected by the State, local governmental authorities, or nonprofit historical societies;

(2) public utility warning and informational signs, notices, and markers which customarily are erected and maintained by publicly or privately owned utilities as essential to their operations;

(3) signs and notices of service clubs and religious organizations relating to meetings of nonprofit service clubs, charitable organizations or associations, or religious services;

(4) directional signs containing directional information about public places owned and operated by federal, state, or local governments, public or privately owned natural phenomena, historical, cultural, educational, and religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, considered to be in the public interest;

(5) signs advertising the sale or lease of property upon which they are located;

(6) on‑premises signs advertising activities conducted on the property upon which they are located, including any signs advertising a business located on property under single ownership on which are located two or more businesses, regardless of leasing arrangements;

(7) signs located in areas which are zoned industrial or commercial under authority of state law;

(8) signs located in unzoned commercial or industrial areas.

(9) signs of thirty‑two square feet or less advertising agricultural products of a seasonal nature, signs of a political nature, signs erected by or on the behalf of eleemosynary, civic, nonprofit, church, or charitable organizations, or signs advertising special community events which are erected temporarily for ninety days or less.

(B) Signs are not permitted in any of the above categories which imitate or resemble an official traffic sign, signal, or device, are erected or maintained upon trees, are printed or drawn upon rocks or other natural features, or are in disrepair.

(C) The size of a sign permitted under items (7) and (8) of subsection (A) must not be more than six hundred seventy‑two square feet in area, sixty feet in length, or forty‑eight feet in height. All dimensions include border and trim but exclude decorative bases and supports. Cutouts and extensions are in addition to this amount but may not increase the height of a sign to more than forty‑eight feet and may not increase the size of a sign facing by more than one hundred fifty square feet. No more than two sign panels facing in the same direction may be erected on the same sign structure if the total area of both sign panels does not exceed the maximum. The maximum size limitation applies to each sign facing.

(D) No sign permitted under this section may obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device nor obstruct or interfere with the driver’s view of approaching, merging, or intersecting traffic. No sign except on premises and FOR SALE or LEASE signs may be located within three hundred feet of any of the following which are adjacent to the highway in areas outside of incorporated municipalities or within one hundred feet on sections inside municipalities:

(1) public parks of ten acres or more;

(2) public forests;

(3) public playgrounds of one‑half acre or more;

(4) scenic areas designated by the commission or other state agency having and exercising that authority.

(E) No sign structure permitted under items (7) and (8) of subsection (A) on the interstate system or on a federal‑aid primary route, constructed to controlled access standards, may be erected within five hundred feet of another sign structure on the same side of the highway. No sign may be located on the interstate system or controlled access federal‑aid primary route adjacent to or within five hundred feet of an interchange or a rest area measured along the interstate or controlled access primary highways from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main‑traveled way. The distance from an interchange or a rest area set forth in this subsection does not apply to sites adjacent to highways that are within the boundaries of an incorporated municipality. No sign structure permitted under items (7) and (8) of subsection (A) on a noncontrolled access federal‑aid primary route outside of an incorporated municipality may be erected within three hundred feet of another sign structure on the same side of the highway. No sign structure located adjacent to a noncontrolled access federal‑aid primary route may be erected within a distance of one hundred feet of another sign structure inside an incorporated municipality on the same side of the highway. This subsection does not apply to advertising displays which are separated by a building or other obstruction so that only one display located within the minimum spacing distance is visible from any point on the highway at any one time.

(F) No sign permitted under items (7) and (8) of subsection (A) may contain, include, or be illuminated by a flashing, intermittent, or moving light, except those giving public service information such as time, date, temperature, weather, or other similar information. No sign permitted under this section may be erected or maintained which is not shielded effectively so as to prevent beams or rays of light from being directed at a portion of the main‑traveled way of an interstate or federal‑aid primary route and which is of an intensity or brilliance so as to cause glare or to impair the vision of the driver of a motor vehicle or which otherwise may interfere with a driver’s operation of a motor vehicle. No sign may be illuminated so that it interferes with the effectiveness of or obscures an official traffic sign, device, or signal.

(G) The standards contained in this section pertaining to size, shape, description, lighting, and spacing of outdoor advertising signs permitted in zoned and unzoned commercial and industrial areas do not apply to signs lawfully in place on this article’s effective date. Signs lawfully in place on November 3, 1971, or erected within six months after that date under a lease dated and recorded before that date are exempted from the standards requirement.

(H) Whenever a bona fide county or local zoning authority has made a determination of customary use, which includes a regulation of size, lighting, and spacing of outdoor advertising signs, in zoned industrial or commercial areas, the determination prevails over the size, lighting, and spacing otherwise provided for the signs in subsections (C) and (E) if all of the following exist:

(1) The standards imposed on size, lighting, and spacing are at least as restrictive as the standards set forth in subsections (C), (D), (E), and (F).

(2) The zoning plan provides for effective enforcement by the zoning authority of the imposed restrictions.

(3) The zoning plan and amendments are submitted to and approved by the Department of Transportation before they prevail over the standards set forth in this section.

Zoning which controls contiguous tracts which comprise less than twenty percent of the land within a political subdivision or land which is zoned primarily to permit outdoor advertising signs is not considered zoning for the purposes of this section.

(I)(1) No person may cut, trim, or otherwise cause to be removed vegetation from within the limits of highway rights‑of‑way unless permitted to do so by the department. Permits to remove vegetation may be granted only for sign locations which have been permitted at least two years and then only at the sole discretion of the department.

(2) If vegetation is removed from within a highway right‑of‑way without a permit by the sign owner or his agent and the removal has the effect of enhancing the visibility of the outdoor advertising sign, the sign is illegal and must be removed at the responsible party’s expense. Upon a violation of this subsection the responsible party is not eligible for a sign permit:

(a) for one year: first violation;

(b) for five years: second violation;

(c) permanently: third and subsequent violations.

(3) The department must be reimbursed for cleaning or replanting at the site of the illegal cutting by the responsible party. Until the expenses are reimbursed, the responsible party must not be issued a sign permit.

(J) Signs permitted under items (1), (2), (3), and (4) of subsection (A) must comply with the regulations promulgated by the commission in accordance with uniform national standards.

HISTORY: 1962 Code Section 33‑591.2; 1971 (57) 2061; 1975 (59) 596; 1990 Act No. 519, Section 1; 1992 Act No. 473, Section 4; 1993 Act No. 181, Section 1530.

CROSS REFERENCES

Applicability of provisions pertaining to use of uniform traffic ticket, see Section 56‑7‑10.

On‑premise signs, see S.C. Code of Regulations R. 63‑352.

Size limitations of outdoor advertising signs, spacing limitations for outdoor advertising signs, and permits for such signs, see S.C. Code of Regulations R. 63‑345, 63‑346, 63‑349.

Library References

Highways 153.5.

Westlaw Topic No. 200.

C.J.S. Highways Sections 359 to 387.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Advertising Section 12, Illegal Signs.

S.C. Jur. Magistrates and Municipal Judges Section 22, Jurisdiction.

NOTES OF DECISIONS

In general 1

Delay in forcing removal 3

Presumptions and burden of proof 4

Sufficiency of evidence 5

Validity of regulations 2

1. In general

In proceedings to revoke permits for outdoor advertising signs, sign owner failed to overcome South Carolina Department of Transportation’s (SCDOT) prima facie case that business where signs were located was involved in a sham activity and created to qualify the sign sites as an unzoned commercial area under the Highway Advertising Control Act; sign owner’s primary business activity was outdoor advertising and it owned buildings that business occupied, lease terms were favorable to business, and business closed within one year after sign permits were issued and it did not have a permit to occupy the building, which established that it did not conduct meaningful business at location. Daisy Outdoor Advertising Co., Inc. v. South Carolina Dept. of Transp. (S.C.App. 2002) 352 S.C. 113, 572 S.E.2d 462. Highways 157

The Department of Highways and Public Transportation erred in denying an application for outdoor advertising permits, on the asserted basis that the location was not visible from the main‑travelled way, where six witnesses testified at the hearing, each of them concurring that the location was visible from an interstate highway, and photographs of the store location taken from the highway confirmed their testimony, so that the location was visible from the main‑travelled way within the meaning of Sections 57‑25‑10, 57‑25‑120(e)(5), and 57‑25‑140. Carter v. South Carolina Dept. of Highways and Public Transp. (S.C. 1983) 279 S.C. 332, 306 S.E.2d 614.

2. Validity of regulations

For purposes of statute allowing advertising sign to be posted along interstate highway within 600 feet of qualifying unzoned commercial or industrial business, which is a commercial or industrial activity visible from main traveled highway, regulation defining “visible” as capable of being seen and readily recognized as a sign or commercial or industrial activity by a person of normal visual acuity was reasonably related to purpose of Highway Advertising Control Act and clearly intended to further policy of the Act and did not impermissibly expand statutory requirement of visibility. U.S. Outdoor Advertising, Inc. v. South Carolina Dept. of Transp. (S.C. 1997) 324 S.C. 1, 481 S.E.2d 112, rehearing denied. Highways 153.5

3. Delay in forcing removal

The Department of Highways and Public Transportation was not equitably estopped from requiring a landowner to remove his illegal, nonconforming sign from a highway based on its delay of 16 years from the time it notified the landowner that the sign would have to be removed, to the time that it brought the instant action for removal. Flowers v. South Carolina Dept. of Highways and Public Transp. (S.C.App. 1992) 309 S.C. 76, 419 S.E.2d 832.

4. Presumptions and burden of proof

In proceedings to revoke permits for outdoor advertising signs, burden of proof shifted to sign owner after South Carolina Department of Transportation (SCDOT) established prima facie case that business where signs were located was involved in a sham activity and was created to qualify the sign sites as an unzoned commercial area under the Highway Advertising Control Act. Daisy Outdoor Advertising Co., Inc. v. South Carolina Dept. of Transp. (S.C.App. 2002) 352 S.C. 113, 572 S.E.2d 462. Highways 157

5. Sufficiency of evidence

The evidence supported the decision by the Department of Highways and Public Transportation that a landowner’s sign was not erected before the effective date of the Highway Advertising Control Act, Section 57‑25‑110 et seq., despite evidence that the posts used for the sign were manufactured prior to the effective date, where 2 1/2 weeks after the effective date the Department had conducted an inventory of all signs along the interstate on which the landowner’s sign was located, and his sign was not among those listed. Flowers v. South Carolina Dept. of Highways and Public Transp. (S.C.App. 1992) 309 S.C. 76, 419 S.E.2d 832.

**SECTION 57‑25‑145.** Outdoor advertising signs for adult or sexually‑oriented business; location restriction; continuation as nonconforming use; penalties.

(A) Notwithstanding the provisions of Section 57‑25‑140 or another provision of law, an off‑premises, outdoor advertising sign for an adult or sexually‑oriented business may not be located within one mile of a public highway.

(B) Outdoor advertising signs in existence at the time of the effective date of this section, which do not conform to the requirements of this section, may continue as a nonconforming use, but must conform within three years of the effective date of this section.

(C) An owner of an adult or sexually‑oriented business who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than one year. Each week a violation of this section continues constitutes a separate offense.

HISTORY: 2006 Act No. 235, Section 3.A, eff February 22, 2006.

Editor’s Note

2006 Act No. 235, Section 6, provides as follows:

“This act takes effect upon approval by the Governor. Nothing in this act preempts or otherwise alters, modifies, applies to, or effects relocation or removal of any off‑premises outdoor advertising signs pursuant to an ordinance or regulation enacted by a local governing body prior to April 14, 2005. It is the intent of the General Assembly that nothing in this act may be construed to require the payment of monetary compensation for any off‑premises outdoor advertising signs relocated or removed pursuant to an ordinance enacted before the effective date of this act unless the ordinance otherwise requires the payment of monetary compensation.”

Library References

Highways 153.5, 163(1).

Westlaw Topic No. 200.

C.J.S. Highways Sections 359 to 387.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Advertising Section 12, Illegal Signs.

**SECTION 57‑25‑150.** Permits for erection and maintenance of signs; fees.

(A) The commission shall issue permits for the erection and maintenance of outdoor advertising signs coming within the exceptions contained in items (1), (2), and (3) of subsection (A) of Section 57‑25‑140, consistent with the safety and welfare of the traveling public necessary to carry out the policy of the State declared in this article and consistent with the national standards promulgated by the Secretary of Transportation or other appropriate federal official pursuant to Title 23, United States Code.

The commission also shall promulgate regulations governing the issuance of the permits and standards for size, spacing, and lighting of the signs and their messages.

(B) The Department of Transportation shall issue permits for all signs on location on November 3, 1971, except those signs erected pursuant to items (1), (2), (3), (5), and (6) of subsection (A) of Section 57‑25‑140. It also shall issue permits for the erection and maintenance of additional outdoor advertising signs coming within the exceptions contained within items (4), (7), and (8) of subsection (A) of Section 57‑25‑140. Sign owners must be assessed the following fees:

(1) the appropriate annual fee plus an initial nonrefundable permit application fee of one hundred dollars, except that the nonrefundable permit application fee shall be waived for South Carolina farmers advertising agricultural products produced on land that they farm which are for sale to the public and if the signs do not exceed thirty‑two square feet;

(2) an annual fee of twenty dollars if the advertising area does not exceed three hundred fifty square feet; and

(3) an annual fee of thirty dollars if the advertising area exceeds three hundred fifty square feet.

The permit fees must be allocated first for administrative costs incurred by the department in maintaining the outdoor advertising program.

The permit number must be displayed prominently on the sign.

(C) Permits are for the calendar year, must be assigned a permanent number, and must be renewed annually upon payment of the fee for the new year without the filing of a new application. Fees must not be prorated for a portion of the year. Only one permit is required for a double‑faced, back‑to‑back, or V‑type sign. Advertising copy may be changed without the payment of an additional fee. No permit is required before January 1, 1973. Failure to pay a renewal fee within ninety days of the date of the first bill for the fee cancels the permit and makes the sign illegal.

(D) The commission shall promulgate regulations governing the issuance of permits which must include mandatory maintenance to ensure that all signs are always in a good state of repair. Signs not in a good state of repair are illegal.

(E) The cost of permits or their renewals required under the provisions of this article are in addition to ad valorem taxes.

(F) No permit application may be approved without written permission of the owner or other person in lawful possession of the site designated as the location of the sign in the application.

(G) Permits for the following signs are void:

(1) a conforming sign that is removed voluntarily for more than thirty days; and

(2) a nonconforming sign that is removed voluntarily by the owner.

(H) Permits shall be maintained for nonconforming signs structurally damaged by vandalism, and:

(1) those signs may only be restored in kind;

(2) restoration may begin not earlier than ten business days after the department has received notice of the vandalism from the sign owner, but must begin no later than one hundred eighty days after the department has received the report of vandalism pursuant to subsection (H)(3); and

(3) restoration shall not begin until a report of the vandalism incident has been made by the appropriate law enforcement authority and the report has been received by the department.

(I)(1) National Historic Landmark Section 501(C)(3) properties located along South Carolina highways and properties listed on the National Register of Historic Places by the Department of the Interior which are located along South Carolina highways are allowed to erect small directional signs no more frequently than one a mile within six miles of such properties.

(2) The signs shall state the name of the historic property and mileage and comprise no more than twenty letters measuring no more than fifteen inches by thirty‑six inches and painted using a single color or a neutral background.

(3) The South Carolina Department of Transportation shall issue a permit sticker for each sign for an annual fee of fifteen dollars a sign. The department is also authorized to issue regulations as are necessary to implement the permit process and the conditions and restrictions for the proper placement, height, and design as necessary to the efficient administration of this subsection. The department has no responsibility for erecting these permitted signs.

HISTORY: 1962 Code Section 33‑591.3; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1992 Act No. 473,1993 Act No. 164, Part II, Section 106A; 1993 Act No. 181, Section 1530; 1994 Act No. 431, Section 2; 2017 Act No. 27 (S.200), Section 1, eff May 10, 2017.

Effect of Amendment

2017 Act No. 27, Section 1, rewrote (G) and (H) and added (I), revising provisions that void permits for conforming and nonconforming signs removed in certain circumstances, providing that permits must be maintained for nonconforming signs structurally damaged by vandalism, and providing procedures for restoring such signs.

Library References

Highways 153.5.

Westlaw Topic No. 200.

C.J.S. Highways Sections 359 to 387.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Advertising Section 12, Illegal Signs.

Attorney General’s Opinions

Subsections (D) and (G), amended by 1990 Act No. 519, are constitutional on their faces, but the implementation may create fact intensive constitutional issues that must be decided by a court. S.C. Op.Atty.Gen. (June 4, 1990) 1990 WL 599302.

The S.C. Department of Highways and Public Transportation is without authority to allow abutting owners to enter rights of ways for Interstate highways held in fee simple by the Department, or the purpose of cutting trees and shrubs in order that billboards situated on the abutting property may be exposed to the motoring public; if the South Carolina Department of Highways and Public Transportation concludes that trees and shrubs, situate on rights of way of the Interstate System in South Carolina held by easement for highway purposes, are not necessary to the public purpose and are outside the scope of the easement, owners of the underlying fee simple title may cut and harvest such trees and shrubs under such regulations as the Department may establish for the protection of the motoring public; the Department of Highways and Public Transportation may not use its own maintenance force to cut trees and shrubs for the purpose of exposing commercial outdoor advertising devices. S.C. Op.Atty.Gen. (February 22, 1978) 1978 WL 22518.

NOTES OF DECISIONS

In general 1

1. In general

Time period for measuring whether a qualifying business is conducting meaningful business at an outdoor advertising sign site continues for a period of one year after approval of the sign permit, for purposes of determining whether business is a sham and created solely to qualify the site as an unzoned commercial area under the Highway Advertising Control Act. Daisy Outdoor Advertising Co., Inc. v. South Carolina Dept. of Transp. (S.C.App. 2002) 352 S.C. 113, 572 S.E.2d 462. Highways 153.5

Outdoor advertising industry is not exempt from Unfair Trade Practices Act, despite allegation that South Carolina Highway Department regulates outdoor advertising industry through issuance of permits for placement of billboards on public highways, because purpose of “Highway Advertising Control Act” is to protect safety on highways and to preserve and enhance natural scenic beauty, and state highway department is charged with issuing permits for erection of signs. Neither highway department statutes nor regulations promulgated pursuant to those statutes address or regulate unfair competition among outdoor advertisers. Bocook Outdoor Media, Inc. v. Summey Outdoor Advertising, Inc. (S.C.App. 1987) 294 S.C. 169, 363 S.E.2d 390.

The General Assembly has implicitly authorized the Department of Highways and Public Transportation to interpret, clarify and explain the Highway Advertising Control Act by authorizing the Department to promulgate regulations governing outdoor sign permits. Young v. South Carolina Dept. of Highways and Public Transp. (S.C.App. 1985) 287 S.C. 108, 336 S.E.2d 879.

**SECTION 57‑25‑155.** Issuance of permits for existing signs; department not authorized to require removal of conforming signs.

Notwithstanding any other provision of law, the Department of Transportation must issue permits for existing signs and outdoor advertising signs on highways in the interstate system or federal‑aid primary system in this State that are nonconforming only because a permit was not obtained prior to erection of the sign. The department may not require removal of conforming signs and outdoor advertising signs as a prerequisite to issuing a permit for such signs that would otherwise qualify for a permit.

HISTORY: 1992 Act No. 473, Section 3; 1993 Act No. 181, Section 1530.

Library References

Highways 153.5.

Westlaw Topic No. 200.

C.J.S. Highways Sections 359 to 387.

**SECTION 57‑25‑160.** Erection and maintenance of illegal advertising device.

A person who erects or maintains an advertising device in violation of Section 57‑25‑140 is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than thirty days for each violation.

In addition, a person who violates the provisions of this chapter must be assessed by the department a civil penalty of one hundred dollars a day until the violation ends. A civil penalty must be paid to the department and allocated to the administrative costs of the outdoor advertising program. All monies in excess of the administrative costs must be used in the acquisition of nonconforming signs and may be carried over from year to year. No permit may be issued to a person who is in violation of the provisions of this chapter or who has not paid an assessed civil penalty.

HISTORY: 1962 Code Section 33‑591.7; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530.

CROSS REFERENCES

Effect of unavailability of federal compensation for nonconforming sign upon sign’s removal, see Section 57‑25‑180.

Library References

Highways 153.5.

Westlaw Topic No. 200.

C.J.S. Highways Sections 359 to 387.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Advertising Section 12, Illegal Signs.

**SECTION 57‑25‑170.** Information signs on highway right‑of‑way.

The commission may provide within the right‑of‑way for areas at appropriate distances from interchanges on the interstate system and controlled access roads on the federal‑aid primary system on which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained under standards and regulations authorized to be adopted and promulgated by the commission. The standards and regulations may provide for cooperative agreements between the Department of Transportation and private interests for the use and display of names for FOOD, LODGING, and GAS information signs on the highway right‑of‑way.

HISTORY: 1962 Code Section 33‑591.4; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530.

Library References

Highways 153.5.

Westlaw Topic No. 200.

C.J.S. Highways Sections 359 to 387.

**SECTION 57‑25‑180.** Advertising devices violating article declared illegal; removal; just compensation for existing devices; right of entry for purpose of removal.

(A) An outdoor advertising sign which violates the provisions of this article is illegal and the Department of Transportation shall give thirty days’ notice by certified or registered mail to the owner of the advertising sign and to the owner of the property on which the sign is located for its removal. However, a sign lawfully in existence along the interstate system or the federal‑aid primary system on November 3, 1971, or which was lawfully erected after that date, which is not in conformity with the provisions contained in this article, is not required to be removed until just compensation has been paid for it. Except as provided in Section 57‑25‑160, no sign otherwise required to be removed under this article for which just compensation is authorized to be paid by the department is required to be removed if the federal share of at least seventy‑five percent of the just compensation to be paid upon its removal is not available for the payment. Nothing in this section prevents the removal of nonconforming signs for which no federal share is payable in those instances where no compensation has to be paid.

(B) Employees or agents of the department may go upon the property upon which an illegal sign is located after expiration of the thirty‑day period for the purpose of its removal. The period of the notice must be computed from the date of mailing. No notice, however, is required to be given to the owner of an advertising sign for which a permit has not been obtained. The moving of an illegal sign from one location to another without a permit having been obtained for the illegal sign does not require the department to provide additional notice to the sign owner before removing the sign, even if the sign is moved from the property of one owner to the property of another.

(C) When the department removes an illegal sign, it must be reimbursed the removal expenses by the sign owner. The sign must be maintained in the possession of the department for no more than thirty days during which the sign may be claimed by the owner upon payment of the expenses. If the sign is not claimed during the thirty days, it is declared abandoned, becomes the property of the department, and may be disposed of through sale or in any other manner which the department considers appropriate. Even if the owner does not recover the sign, he remains liable to the department for the expenses incurred in removing and storing the sign. Until the expenses are reimbursed, the sign owner must not be issued a permit for an outdoor advertising sign from the department.

(D) Review of the department’s determination that a sign is illegal is through an administrative hearing pursuant to the Administrative Procedures Act. Written request for the review must be received by the department within the thirty‑day period.

HISTORY: 1962 Code Section 33‑591.5; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530.

Library References

Highways 153.5, 157.

Westlaw Topic No. 200.

C.J.S. Highways Sections 339 to 343, 359 to 387.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Advertising Section 12, Illegal Signs.

**SECTION 57‑25‑185.** Department to promulgate regulations.

The Department of Transportation shall promulgate regulations consistent with Section 131(o), Title 23, United States Code, or such other provisions of Title 23 as may be appropriate, to allow signs, displays, and devices on federally‑aided primary routes outside of nonurban areas which (1) provide directional information about goods and services in the interest of the traveling public and (2) are such that removal would work an economic hardship in such areas. Pursuant to Section 131(o), Title 23, United States Code, the department shall submit these regulations to the United States Secretary of Transportation for approval.

HISTORY: 1992 Act No. 473, Section 6; 1993 Act No. 181, Section 1530.

**SECTION 57‑25‑190.** Compensation for removal of signs; relocation of signs affected by highway projects.

(A) The Department of Transportation may acquire by purchase, gift, or condemnation and shall pay just compensation upon the removal of the following outdoor advertising signs:

(1) those lawfully in existence on November 3, 1971;

(2) those lawfully erected after November 2, 1971.

(B) Compensation may be paid only for the taking from the owner of:

(1) a sign of all right, title, leasehold, and interest in it;

(2) the real property on which the sign is located of the right to erect and maintain a sign on it.

(C) No sign may be removed until the owner of the property on which it is located has been compensated fully for a loss which may be suffered by him as a result of the removal of the sign through the termination of a lease or other financial arrangement with the owner of the sign. The compensation must include damage to the landowner’s property occasioned by the removal of the sign. The Department of Transportation is limited to an expenditure of five million dollars for the state’s part of just compensation.

(D) Tourist oriented directional signs must be the last to be removed under the terms of this article.

(E) Notwithstanding a county or municipal zoning plan, ordinance, or resolution, outdoor advertising signs conforming to Section 57‑25‑110, et seq., affected by state highway projects may be relocated pursuant to the federal uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.) to a position which is perpendicular to the right of way of the original sign site, or may be altered so that no portion of the sign overhangs the right of way.

HISTORY: 1962 Code Section 33‑591.6; 1971 (57) 2061; 1987 Act No. 173 Section 41; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530; 2000 Act No. 302, Section 1.

CROSS REFERENCES

Procedures for the condemnation of property, see the Eminent Domain Procedure Act, see Sections 28‑2‑10 et seq.

Library References

Highways 153.5, 157.

Westlaw Topic No. 200.

C.J.S. Highways Sections 339 to 343, 359 to 387.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Advertising Section 12, Illegal Signs.

**SECTION 57‑25‑195.** Department to confer with Federal Highway Administration; submission of plan to Administration; consultation with interested parties.

In order to comply with Section 131, Title 23, United States Code and regulations promulgated under that section and to prevent interruption of the state’s federally‑aided highway funding, the Department of Transportation shall confer with the Federal Highway Administration as to how best to structure a nonconforming sign removal program.

The department shall submit to the Federal Highway Administration in a timely fashion its process, program, and timetable for removal of nonconforming signs under Section 131, Title 23, United States Code and regulations promulgated under that section.

In developing and implementing this removal program the department shall consult with interested parties and affected entities including, but not limited to, other state and local agencies, sign owners, environmental groups, and the business community.

HISTORY: 1992 Act No. 473, Section 7; 1993 Act No. 181, Section 1530.

**SECTION 57‑25‑200.** Agreements with other authorities as to control of advertising in areas adjacent to interstate and primary highway systems.

(A) Within the requirements of this article the commission may enter into agreements with other governmental authorities relating to the control of outdoor advertising in areas adjacent to the interstate and primary highway systems, including the establishment of information centers and safety rest areas and take action in the name of the State to comply with the terms of the agreements.

(B) If an agreement is not achieved, the Attorney General of this State promptly shall initiate proceedings under the provisions of Section 131(1) of Title 23 of the United States Code with respect to hearings, stay of penalties, and judicial review in order to resolve the disagreement by judicial determination. He also shall initiate the proceedings if there is a determination to withhold funds from this State for its alleged failure to comply with any provision of Section 131 in order to obtain a judicial determination of whether this article provides effective control of outdoor advertising in conformity with the section and, if not, the extent of modifications necessary to bring it into compliance.

HISTORY: 1962 Code Section 33‑591.9; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530.

Federal Aspects

Federal provisions regarding the control of outdoor advertising along highways, see 23 U.S.C.A. Section 131.

Library References

Highways 153.5.

Westlaw Topic No. 200.

C.J.S. Highways Sections 359 to 387.

**SECTION 57‑25‑210.** Expenditures for removal dependent upon availability of federal funds and agreement with Secretary of Transportation.

The commission is not required to expend funds for the removal of outdoor advertising under this article until federal funds are made available to the State for the purpose of carrying out the provisions of this article and the commission has entered into an agreement with the Secretary of Transportation as authorized by Section 57‑25‑200 and as provided by the Highway Beautification Act of 1965.

HISTORY: 1962 Code Section 33‑591.10; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530.

**SECTION 57‑25‑220.** Rule of construction.

Nothing in this article abrogates or affects the provisions of a lawful ordinance, regulation, or resolution which is more restrictive than the provisions of this article.

HISTORY: 1962 Code Section 33‑591.8; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530.

ARTICLE 5

Andrew Pickens Scenic Parkway

**SECTION 57‑25‑410.** Definitions.

As used in this article:

(a) “The highway” means that recently constructed portion, portion under construction or portion to be constructed, of State Highway No. 11, which has been designated as the Andrew Pickens Scenic Parkway.

(b) “Sign” or “outdoor advertising sign” means any outdoor sign, display, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main‑traveled way of the highway.

(c) “Unzoned commercial or industrial area” means the lands occupied by the regularly used buildings, parking lots, storage or processing areas of at least one distinct commercial or industrial activity, and those lands lying along the highway for a distance of seven hundred and fifty feet immediately adjacent to the outermost or end activity. All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property line of the activities, and shall be measured parallel to the edge of the highway pavement. An unzoned area, as defined herein, shall not include land predominantly used for residential properties, and land zoned by the State or local law, regulations or ordinance.

(d) “Commercial or industrial activities” means those established activities generally recognized as commercial or industrial by zoning authorities within the area affected by this article, except that none of the following shall be considered commercial or industrial activities:

(1) Outdoor advertising structures.

(2) Agricultural, forestry, ranching, grazing, farming, wayside produce stands and related activities.

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

(4) Railroad tracks and minor sidings.

HISTORY: 1962 Code Section 33‑595; 1969 (56) 187.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Advertising Section 13, Special Highway Regulation.

**SECTION 57‑25‑420.** Information required on signs.

On or before January 1, 1970 all advertising signs, displays, or devices, or the structures on which they are displayed, shall have stated thereon the name and address of the owner thereof and the month, day and year when the sign was erected, and the name and address of the owner of the property upon which such sign, display or device is located.

HISTORY: 1962 Code Section 33‑595.8; 1969 (56) 187.

**SECTION 57‑25‑430.** Permitted outdoor advertising signs.

(a) No outdoor advertising sign shall be erected or maintained within three hundred feet of the nearest edge of the right‑of‑way and visible from the main‑traveled way of the highway, except the following:

(1) Official signs and notices erected and maintained by the State or local governmental authorities pursuant to laws or ordinances for the purpose of carrying out an official duty or responsibility, and historical markers authorized by law and erected by State or local governmental authorities or nonprofit historical societies.

(2) Public utility warning and informational signs, notices and markers which are customarily erected and maintained by publicly or privately owned utilities as essential to their operations.

(3) Signs and notices of service clubs and religious organizations relating to meetings of nonprofit service clubs or charitable organizations or associations, or religious services; provided, that such signs do not exceed eight square feet in area.

(4) Directional signs containing directional information about public places owned and operated by Federal, State or local governments, public or privately owned natural phenomena, historical, cultural, educational and religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the public interest.

(5) Signs, displays and devices advertising the sale or lease of property upon which they are located.

(6) On premises signs, displays and devices advertising activities conducted on the property upon which they are located.

(7) Signs, displays and devices located in areas which are zoned industrial or commercial under authority of State law.

(8) Signs, displays and devices located in unzoned commercial or industrial areas.

(b) Signs shall not be permitted in any of the above categories which imitate or resemble any official traffic sign, signal or device; signs which are erected or maintained upon trees or are printed or drawn upon rocks or other natural features; or signs which are in disrepair.

(c) No sign permitted under items (a)(7) and (a)(8) of this section shall exceed a maximum area of size of twelve hundred square feet, a maximum length of sixty feet, or a maximum height of thirty feet. Signs permitted under items (a)(1), (a)(2) and (a)(4) of this section may not exceed a maximum area of one hundred and fifty square feet. All such dimensions shall include border, trim, cutouts and extensions, but shall exclude decorative bases and supports. Double‑faced, back‑to‑back, or V‑type signs shall be considered as one sign. Two sign panels facing in the same direction may be erected on the same structure, provided that the total area of both panels does not exceed the aforesaid maximum.

(d) No sign permitted under this section may be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, nor obstruct or interfere with the driver’s view of approaching, merging or intersecting traffic; also, no such sign except on premises and FOR SALE or LEASE signs may be located within three hundred feet of any of the following which are adjacent to the highway in areas outside of incorporated municipalities or within one hundred feet on sections inside municipalities.

(1) Public parks of ten acres or more.

(2) Public forests.

(3) Public playgrounds.

(4) Scenic areas designated by the Department of Transportation or other state agency having and exercising such authority.

(e) No sign structure permitted under items (a)(7) and (a)(8) of this section shall be erected within five hundred feet of another such sign structure on the same side of the highway. This subsection shall not apply to advertising displays which are separated by a building or other obstruction in such a manner that only one display located within the minimum spacing distance set forth herein is visible from one point on the highway at any one time.

(f) No sign permitted under this section shall contain, include, or be illuminated by any flashing, intermittent, or moving light or lights, except those giving public service information, such as time, date, temperature, weather, or other similar information. Also, no such sign permitted under this section shall be erected or maintained which is not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the main‑traveled way of the highway and which is of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which may otherwise interfere with any driver’s operation of a motor vehicle. No such sign may be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device or signal.

(g) The standards contained in this section pertaining to size, shape, description, lighting, and spacing of outdoor advertising signs permitted in zoned and unzoned commercial and industrial areas shall not apply to such signs lawfully in place on May 6, 1969, nor to such signs erected within six months thereafter under a lease dated prior to May 6, 1969 and recorded on the records of the respective clerk of court or register of mesne conveyance of the county.

HISTORY: 1962 Code Section 33‑595.1; 1969 (56) 187; 1993 Act No. 181, Section 1531.

**SECTION 57‑25‑440.** Permits for erection and maintenance of signs.

The Department of Transportation is hereby authorized to issue permits for the erection and maintenance of outdoor advertising signs coming within the exceptions contained in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of Section 57‑25‑430, consistent with the safety and welfare of the traveling public, and as may be necessary to carry out the policy declared in this article.

HISTORY: 1962 Code Section 33‑595.2; 1969 (56) 187; 1993 Act No. 181, Section 1532.

**SECTION 57‑25‑450.** Erection and maintenance of illegal advertising device.

Whoever erects or maintains an advertising device in violation of Section 57‑25‑430 shall be fined not more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 33‑595.6; 1969 (56) 187.

**SECTION 57‑25‑460.** Advertising devices violating article declared public nuisances; removal; right of entry for purpose of removal.

(1) Any advertising device which violates the provisions of this article is hereby declared to be a public nuisance and the department shall give sixty days notice, by certified or registered mail, to the owner of the advertising device and to the owner of the property on which such device is located to remove the device. Provided, however, that any sign, display or device lawfully in existence along the highway on September 1, 1965 which is not in conformity with the provisions contained herein shall not be required to be removed until July 1, 1971, except that the Department of Transportation may jointly agree with the owner of any sign or the property owner for the earlier removal of such sign. Any other sign, display or device lawfully erected subsequent to September 1, 1965 and prior to May 6, 1969, which does not conform with the requirements of this article may not be required to be removed until the end of the fifth year after the erection thereof, or after it becomes nonconforming, except that the Department of Transportation may jointly agree with the owner of any sign, or the property owner, for the earlier removal of such sign.

(2) Employees or agents of the Department are hereby authorized to go upon the property upon which a prohibited or nonconforming device is located, after expiration of the sixty day period, for the purpose of removing the advertising device. The period of such notice shall be computed from the date of mailing. No notice, however, shall be required to be given to the owner of an advertising sign, display, or device whose name is not stated thereon or on the structure on which it is displayed as required in Section 57‑25‑420.

HISTORY: 1962 Code Section 33‑595.4; 1969 (56) 187; 1993 Act No. 181, Section 1533.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Nuisance Section 16, Advertising Devices Along Certain Scenic Highways.

**SECTION 57‑25‑470.** Compensation for removal of signs.

(a) The Department of Highways and Public Transportation may acquire by purchase, gift, or condemnation, and shall pay just compensation upon the removal of the following outdoor advertising signs, displays, and devices:

(1) those lawfully in existence on October 22, 1965;

(2) those lawfully erected on or after May 6, 1969.

(b) Compensation may be paid only for the following:

(1) the taking from the owner of a sign, display, or device of all right, title, leasehold, and interest in the sign, display, or device; and

(2) the taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain signs, displays, and devices.

HISTORY: 1962 Code Section 33‑595.5; 1969 (56) 187; 1987 Act No. 173 Section 42.

CROSS REFERENCES

Payment of just compensation for removal of signs within view of interstate of Federal‑aid primary highways, see Section 57‑25‑195.

Procedures for the condemnation of property, see the Eminent Domain Procedure Act, see Sections 28‑2‑10 et seq.

**SECTION 57‑25‑480.** Information signs within right‑of‑way.

The Department of Transportation may provide within the right‑of‑way for areas at appropriate distances on which signs, displays and devices giving specific information in the interest of the traveling public may be erected and maintained under standards and regulations hereby authorized to be adopted by the department. Such standards and regulations may provide for cooperative agreements between the Department of Transportation and private interests for the use and display of brand names for FOOD, LODGING and GAS information signs on the highway right‑of‑way.

HISTORY: 1962 Code Section 33‑595.3; 1969 (56) 187; 1993 Act No. 181, Section 1534.

**SECTION 57‑25‑490.** Agencies shall cooperate with Department of Transportation.

In order to carry out the provisions of this article and to make the highway a scenic highway, the State Forestry Commission, the Department of Parks, Recreation and Tourism, and all other state agencies or governmental entities shall cooperate with the Department of Transportation.

HISTORY: 1962 Code Section 33‑595.9; 1969 (56) 187; 1993 Act No. 181, Section 1535.

CROSS REFERENCES

Department of Parks, Recreation and Tourism, see Sections 51‑1‑10 et seq.

**SECTION 57‑25‑500.** Rule of construction.

Nothing in this article shall be construed to abrogate or affect the provisions of any lawful ordinance, regulations or resolution, which are more restrictive than the provisions of this article.

HISTORY: 1962 Code Section 33‑595.7; 1969 (56) 187.

ARTICLE 7

John C. Calhoun Memorial Highway

**SECTION 57‑25‑610.** Definitions.

As used in this article:

(a) “The Highway” means the John C. Calhoun Memorial Highway.

(b) “Sign” or “outdoor advertising sign” means any outdoor sign, display, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main‑traveled way of the highway.

(c) “Unzoned commercial or industrial area” means the lands occupied by the regularly used buildings, parking lots, storage or processing areas of at least one distinct commercial or industrial activity, and those lands lying along the highway for a distance of seven hundred and fifty feet immediately adjacent to the outermost or end activity. All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property line of the activities, and shall be measured parallel to the edge of the highway pavement. An unzoned area, as defined herein, shall not include land predominantly used for residential properties, and land zoned by the State or local law, regulations or ordinance.

(d) “Commercial or industrial activities” means those established activities generally recognized as commercial or industrial by zoning authorities within the area affected by this article, except that none of the following shall be considered commercial or industrial activities:

(1) Outdoor advertising structures.

(2) Agricultural, forestry, ranching, grazing, farming, wayside produce stands and related activities.

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

(4) Railroad tracks and minor sidings.

HISTORY: 1962 Code Section 33‑595.22; 1969 (56) 362.

**SECTION 57‑25‑620.** Portion of United States Highway No. 123 designated as John C. Calhoun Memorial Highway.

That portion of United States Highway No. 123 between the corporate limits of the city of Easley and the town of Clemson is hereby designated as the John C. Calhoun Memorial Highway.

HISTORY: 1962 Code Section 33‑595.21; 1969 (56) 362.

**SECTION 57‑25‑630.** Information required on signs.

On or before January 1, 1970 all advertising signs, displays, or devices, or the structures on which they are displayed, shall have stated thereon the name and address of the owner thereof and the month, day and year when the sign was erected, and the name and address of the owner of the property upon which such sign, display or device is located.

HISTORY: 1962 Code Section 33‑595.30; 1969 (56) 362.

**SECTION 57‑25‑640.** Permitted outdoor advertising signs.

(a) No outdoor advertising sign shall be erected or maintained within three hundred feet of the nearest edge of the right‑of‑way and visible from the main‑traveled way of the highway, except the following:

(1) Official signs and notices erected and maintained by the State or local government authorities pursuant to laws or ordinances for the purpose of carrying out an official duty or responsibility, and historical markers authorized by law and erected by State or local governmental authorities or nonprofit historical societies.

(2) Public utility warning and informational signs, notices and markers which are customarily erected and maintained by publicly or privately owned utilities as essential to their operations.

(3) Signs and notices of service clubs and religious organizations relating to meetings of nonprofit service clubs or charitable organizations or associations, or religious services; provided, that such signs do not exceed eight square feet in area.

(4) Directional signs containing directional information about public places owned and operated by Federal, State or local governments, public or privately owned natural phenomena, historical, cultural, educational and religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the public interest.

(5) Signs, displays and devices advertising the sale or lease of property upon which they are located.

(6) On premises signs, displays and devices advertising activities conducted on the property upon which they are located.

(7) Signs, displays and devices located in areas which are zoned industrial or commercial under authority of State law.

(8) Signs, displays and devices located in unzoned commercial or industrial areas.

(b) Signs shall not be permitted in any of the above categories which imitate or resemble any official traffic sign, signal or device; signs which are erected or maintained upon trees or are printed or drawn upon rocks or other natural features; or signs which are in disrepair.

(c) No sign permitted under items (a) (7) and (a) (8) of this section shall exceed a maximum area of size of twelve hundred square feet, a maximum length of sixty feet, or a maximum height of thirty feet. Signs permitted under items (a) (1), (a) (2) and (a) (4) of this section may not exceed a maximum area of one hundred and fifty square feet. All such dimensions shall include border, trim, cutouts and extensions, but shall exclude decorative bases and supports. Double‑faced, back‑to‑back, or V‑type signs shall be considered as one sign. Two sign panels facing in the same direction may be erected on the same structure, provided that the total area of both panels does not exceed the aforesaid maximum.

(d) No sign permitted under this section may be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, nor obstruct or interfere with the driver’s view of approaching, merging or intersecting traffic; also, no such sign except on premises and FOR SALE or LEASE signs may be located within three hundred feet of any of the following which are adjacent to the highway in areas outside of incorporated municipalities or within one hundred feet on sections inside municipalities.

(1) Public parks of ten acres or more.

(2) Public forests.

(3) Public playgrounds.

(4) Scenic areas designated by the Department of Transportation or other state agency having and exercising such authority.

(e) No sign structure permitted under items (a) (7) and (a) (8) of this section shall be erected within five hundred feet of another such sign structure on the same side of the highway. This subsection shall not apply to advertising displays which are separated by a building or other obstruction in such a manner that only one display located within the minimum spacing distance set forth herein is visible from one point on the highway at any one time.

(f) No sign permitted under this section shall contain, include, or be illuminated by any flashing, intermittent, or moving light or lights, except those giving public service information, such as time, date, temperature, weather, or other similar information. Also, no such sign permitted under this section shall be erected or maintained which is not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the main‑traveled way of the highway and which is of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which may otherwise interfere with any driver’s operation of a motor vehicle. No such sign may be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device or signal.

(g) The standards contained in this section pertaining to size, shape, description, lighting, and spacing of outdoor advertising signs permitted in zoned and unzoned commercial and industrial areas shall not apply to such signs lawfully in place on June 11 1969, nor to such signs erected within six months thereafter under a lease dated prior to June 11 1969 and recorded on the records of the respective clerk of court or register of mesne conveyance of the county.

HISTORY: 1962 Code Section 33‑595.23; 1969 (56) 362; 1993 Act No. 181, Section 1536.

**SECTION 57‑25‑650.** Permits for erection and maintenance of signs.

The Department of Transportation is hereby authorized to issue permits for the erection and maintenance of outdoor advertising signs coming within the exception contained in subsections (a) (1), (a) (2), (a) (3) and (a) (4) of Section 57‑25‑640, consistent with the safety and welfare of the traveling public, and as may be necessary to carry out the policy declared in this article.

HISTORY: 1962 Code Section 33‑595.24; 1969 (56) 362; 1993 Act No. 181, Section 1537.

**SECTION 57‑25‑660.** Erection and maintenance of illegal advertising device.

Whoever erects or maintains an advertising device in violation of Section 57‑25‑640 shall be fined not more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 33‑595.28; 1969 (56) 362.

**SECTION 57‑25‑670.** Advertising devices violating article declared public nuisances; removal; right of entry for purpose of removal.

(1) Any advertising device which violates the provisions of this article is hereby declared to be a public nuisance and the department shall give sixty days’ notice, by certified or registered mail, to the owner of the advertising device and to the owner of the property on which such device is located to remove the device. Provided, however, that any sign, display, or device lawfully in existence along the highway on September 1, 1965, which is not in conformity with the provisions contained herein, shall not be required to be removed until July 1, 1971, except that the Department of Transportation may jointly agree with the owner of any sign or the property owner for the earlier removal of such sign. Any other sign, display, or device lawfully erected subsequent to September 1, 1965, and prior to June 11, 1969, which does not conform with the requirements of this article may not be required to be removed until the end of the fifth year after the erection thereof, or after it becomes nonconforming, except that the Department of Transportation may jointly agree with the owner of any sign, or the property owner, for the earlier removal of such sign.

(2) Employees or agents of the Department are hereby authorized to go upon the property upon which a prohibited or nonconforming device is located, after expiration of the sixty‑day period, for the purpose of removing the advertising device. The period of such notice shall be computed from the date of mailing. No notice, however, shall be required to be given to the owner of an advertising sign, display, or device whose name is not stated thereon or on the structure on which it is displayed as required in Section 57‑25‑630.

HISTORY: 1962 Code Section 33‑595.26; 1969 (56) 362; 1993 Act No. 181, Section 1538.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Nuisance Section 16, Advertising Devices Along Certain Scenic Highways.

**SECTION 57‑25‑680.** Compensation for removal of signs.

(a) The Department of Highways and Public Transportation may acquire by purchase, gift, or condemnation, and shall pay just compensation upon the removal of the following outdoor advertising signs, displays, and devices:

(1) those lawfully in existence on October 22, 1965;

(2) those lawfully erected on or after June 11, 1969.

(b) Compensation may be paid only for the following:

(1) the taking from the owner of the sign, display, or device of all right, title, leasehold, and interest in the sign, display, or device; and

(2) the taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain signs, displays, and devices.

HISTORY: 1962 Code Section 33‑595.27; 1969 (56) 362; 1987 Act No. 173 Section 43.

CROSS REFERENCES

Payment of just compensation for removal of signs within view of interstate or Federal‑aid primary highways, see Section 57‑25‑195.

Procedures for the condemnation of property, see the Eminent Domain Procedures Act, see Sections 28‑2‑10 et seq.

**SECTION 57‑25‑690.** Information signs within right‑of‑way.

The Department of Transportation may provide within the right‑of‑way for areas at appropriate distances on which signs, displays and devices giving specific information in the interest of the traveling public may be erected and maintained under standards and regulations hereby authorized to be adopted by the Department of Transportation. Such standards and regulations may provide for cooperative agreements between the Department of Transportation and private interests for the use and display of brand names for FOOD, LODGING and GAS information signs on the highway right‑of‑way.

HISTORY: 1962 Code Section 33‑595.25; 1969 (56) 362; 1993 Act No. 181, Section 1539.

**SECTION 57‑25‑700.** Markers; agencies shall cooperate with Department of Transportation.

In order to carry out the provisions of this article and to make the highway a scenic highway, the Department of Transportation shall provide for appropriate markers designating the highway as the John C. Calhoun Memorial Highway, and the State Forestry Commission, the Department of Parks, Recreation and Tourism and all other state agencies or governmental entities shall cooperate with the Department of Transportation.

HISTORY: 1962 Code Section 33‑595.31; 1969 (56) 362; 1993 Act No. 181, Section 1540.

**SECTION 57‑25‑710.** Rule of construction.

Nothing in this article shall be construed to abrogate or affect the provisions of any lawful ordinance, regulations or resolution, which are more restrictive than the provisions of this article.

HISTORY: 1962 Code Section 33‑595.29; 1969 (56) 362.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Advertising Section 13, Special Highway Regulation.

ARTICLE 8

Agritourism and Tourism‑Oriented Signage Program

**SECTION 57‑25‑800.** Definitions.

As used in this article:

(1) “Agritourism‑oriented facility” means a type of location where an agritourism activity, as defined in Section 46‑53‑10(1), is carried out by an agritourism professional, as defined in Section 46‑53‑10(2), or another type of agricultural facility recommended by the Department of Agriculture and incorporated into regulations of the Department of Transportation pursuant to Section 57‑25‑830(A).

(2) “Tourism‑oriented facility” means a type of facility recommended by the Department of Parks, Recreation and Tourism and incorporated into regulations of the Department of Transportation pursuant to Section 57‑25‑830(A).

(3) “Conventional highway” means a highway with at‑grade intersections and without control of access.

(4) “Rural” means an area outside the limits of an incorporated municipality having a population of five thousand or more according to the most recent decennial census of the United States Bureau of Census.

HISTORY: 2012 Act No. 224, Section 1, eff June 18, 2012.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Advertising Section 11, Permitted Signs.

**SECTION 57‑25‑810.** Creation of program to provide directional signs leading to tourism and agritourism facilities; regulations.

In an effort to promote and assist South Carolina facilities that have an interest in educating, sharing, and selling their programs and products to the general public, the Department of Transportation is directed to create and supervise a coordinated, self‑funded, statewide program related to providing directional signs along certain of the state’s rural conventional highways and noninterstate scenic byways leading to agritourism and tourism‑oriented facilities. The statewide program shall be operated according to standards and regulations consistent with the Manual on Uniform Traffic Control Devices authorized to be adopted and promulgated by the Department of Transportation. The standards and regulations may provide for the use of official logos developed by the Department of Parks, Recreation and Tourism and the Department of Agriculture in compliance with the federal Manual on Uniform Traffic Control Devices. The standards and regulations also may provide for cooperative agreements between the department and private interests for the administration of the program and for the use and display of names for tourism and agritourism information signs on the highway right of way.

HISTORY: 2012 Act No. 224, Section 1, eff June 18, 2012.

Editor’s Note

2012 Act No. 224, Section 2, provides as follows:

“The Department of Agriculture and the Department of Parks, Recreation and Tourism must develop logos to be utilized for the signage authorized by this act. The logos developed may be used by those departments for other promotional purposes associated with tourism and agritourism.”

Library References

Highways 153.5.

Westlaw Topic No. 200.

C.J.S. Highways Sections 359 to 387.

**SECTION 57‑25‑820.** Department of Transportation responsibility for signs; coordination with other departments; criteria for selection of qualified agritourism facilities; approval of applications for signs.

(A) The Department of Transportation shall be responsible for the erection and maintenance of the official signs giving specific information to the traveling public providing directions to agritourism and tourism‑oriented facilities. All signs must conform to department rules and regulations regarding the size and placement of the signs and be in compliance with all federal and state regulations.

(B) The Department of Transportation shall coordinate with the Department of Agriculture and the Department of Parks, Recreation and Tourism, as applicable, to allow those departments to promote agritourism and tourism‑ oriented facilities participating in this directional signage program.

(C) The criteria for selection of qualified agritourism facilities shall be recommended by the Department of Agriculture and incorporated into regulations of the Department of Transportation pursuant to Section 57‑25‑830(A). The criteria for selection of qualified tourism facilities shall be recommended by the Department of Parks, Recreation and Tourism and incorporated into regulations of the Department of Transportation pursuant to Section 57‑25‑830(A).

(D) The approval of applications for signs for agritourism and tourism‑oriented facilities must be determined by an oversight committee. The oversight committee shall consist of the following members and shall meet at the call of the chairman semiannually to consider applications for signage:

(1) Secretary of the Department of Transportation, or his designee, serving as chairman;

(2) Director of the Department of Parks, Recreation and Tourism, or his designee;

(3) Commissioner of the Department of Agriculture, or his designee;

(4) President of the South Carolina Association of Tourism Regions (SCATR), or his designee, and a member of SCATR appointed by its president;

(5) President of the South Carolina Travel and Tourism Coalition, or his designee, and a member of the SCTTC appointed by its president; and

(6) President of the Outdoor Advertising Association of South Carolina, or his designee, and a member of the Outdoor Advertising Association appointed by its president.

HISTORY: 2012 Act No. 224, Section 1, eff June 18, 2012.

Library References

Highways 153.5.

Westlaw Topic No. 200.

C.J.S. Highways Sections 359 to 387.

**SECTION 57‑25‑830.** Submission of application; costs, installation, and maintenance of signs.

(A) Qualified facilities which elect to participate in the directional signage program must submit an application to the Department of Transportation on a form to be supplied by the department. Eligibility and approval to participate in the signage program must be determined by written criteria to be set forth by the Department of Transportation in regulation.

(B) Participating facilities are responsible for the cost of the signs and their installation and maintenance.

HISTORY: 2012 Act No. 224, Section 1, eff June 18, 2012.

CROSS REFERENCES

Department of Transportation responsibility for signs, coordination with other departments, criteria for selection of qualified agritourism facilities, approval of applications for signs, see Section 57‑25‑820.

Library References

Highways 153.5.

Westlaw Topic No. 200.

C.J.S. Highways Sections 359 to 387.