

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 183  
Transportation Committee Substitute Adopted 4/28/11  
Finance Committee Substitute Adopted 5/19/11

Short Title: Selective Vegetation Removal/State Highways.

(Public)

Sponsors:

Referred to:

March 3, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH CERTAIN STATUTORY STANDARDS FOR SELECTIVE  
3 VEGETATION REMOVAL WITHIN THE RIGHTS-OF-WAY OF THE STATE  
4 HIGHWAY SYSTEM.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 136-18.7 reads as rewritten:

7 "§ 136-18.7. Fees.

8 The fee for a selective vegetation removal permit issued pursuant to ~~G.S. 136-18(5), (7),~~  
9 ~~and (9) is two hundred dollars (\$200.00).~~G.S. 136-93, 136-133.1, and 136-133.4 is four  
10 hundred dollars (\$400.00) per permitted site and is nonrefundable."

11 SECTION 2. G.S. 136-93 reads as rewritten:

12 "§ 136-93. Openings, structures, pipes, trees, and issuance of permits.

13 (a) No opening or other interference whatsoever shall be made in any State road or  
14 highway other than streets not maintained by the Department of Transportation in cities and  
15 towns, nor shall any structure be placed thereon, nor shall any structure which has been placed  
16 thereon be changed or removed except in accordance with a written permit from the  
17 Department of Transportation or its duly authorized officers, who shall exercise complete and  
18 permanent control over such roads and highways. No State road or State highway, other than  
19 streets not maintained by the Department of Transportation in cities and towns, shall be dug up  
20 for laying or placing pipes, conduits, sewers, wires, railways, or other objects, ~~and no tree or~~  
21 ~~shrub in or on any State road or State highway shall be planted, trimmed, or removed,~~ and no  
22 obstruction placed thereon, without a written permit as hereinbefore provided for, and then only  
23 in accordance with the regulations of said Department of Transportation or its duly authorized  
24 officers or employees; and the work shall be under the supervision and to the satisfaction of the  
25 Department of Transportation or its officers or employees, and the entire expense of replacing  
26 the highway in as good condition as before shall be paid by the persons, firms, or corporations  
27 to whom the permit is given, or by whom the work is done. The Department of Transportation,  
28 or its duly authorized officers, may, in its discretion, before granting a permit under the  
29 provisions of this section, require the applicant to file a satisfactory bond, payable to the State  
30 of North Carolina, in such an amount as may be deemed sufficient by the Department of  
31 Transportation or its duly authorized officers, conditioned upon the proper compliance with the  
32 requirements of this section by the person, firm, or corporation granted such permit. Any  
33 person making any opening in a State road or State highway, or placing any structure thereon,  
34 or changing or removing any structure thereon without obtaining a written permit as herein  
35 provided, or not in compliance with the terms of such permit, or otherwise violating the  
36 provisions of this section, shall be guilty of a Class 1 misdemeanor: Provided, this section shall



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1 not apply to railroad crossings. The railroads shall keep up said crossings as now provided by  
2 law.

3 (b) Except as provided in G.S. 136-133.1(f), no vegetation, including any tree, shrub, or  
4 underbrush, in or on any right-of-way of a State road or State highway shall be planted, cut,  
5 trimmed, pruned, or removed without a written selective vegetation removal permit issued  
6 pursuant to G.S. 136-133.2 and in accordance with the rules of the Department. Requests for a  
7 permit for selective vegetation cutting, thinning, pruning, or removal shall be made by the  
8 owner of an outdoor advertising sign or the owner of a business facility to the appropriate  
9 person in the Division of Highways office on a form prescribed by the Department. For  
10 purposes of this section, G.S. 136-133.1, 136-133.2, and 136-133.4, the phrase "outdoor  
11 advertising" shall mean the outdoor advertising expressly permitted under G.S. 136-129(a)(4)  
12 or G.S. 136-129(a)(5). These provisions shall not be used to provide visibility to on-premise  
13 signs.

14 (c) For outdoor advertising, vegetation cut or removal limits shall be restricted to a  
15 maximum selective vegetation cut or removal zone for each sign face pursuant to the provisions  
16 of G.S. 136-133.1.

17 (d) If the application for vegetation cutting, thinning, pruning, or removal is for a site  
18 located within the corporate limits of a municipality, the municipality shall be given 30 days to  
19 review and provide nonbinding comments on the application if the municipality has previously  
20 advised the Department in writing of the desire to review such applications and the name of the  
21 local official to whom notice of such application should be directed. Local governments are  
22 prohibited from regulating vegetation cutting, trimming, pruning, or removal within the limits  
23 of interstate or primary highway rights-of-way by any permittee or other person authorized by  
24 the Department, including anyone authorized under G.S. 136-133.1(f)."

25 **SECTION 3.** Article 7 of Chapter 136 of the General Statutes is amended by  
26 adding a new section to read:

27 **"§ 136-93.2. Monetary value of trees.**

28 The monetary value for existing trees removed and eligible for reimbursement to the  
29 Department as provided in G.S. 136-93 or G.S. 136-133.1 from State rights-of-way shall be  
30 determined on an annual basis by the Department. In determining the value of existing trees  
31 removed, the average cost per caliper inch shall be based on the lower value of either the  
32 average wholesale commercial nursery prices for hardwood and conifer plants, times a 2.5  
33 multiplier for installation and warranty or the average cost per caliper inch for tree planting  
34 contracts let by the Department in the previous calendar year. The values shall be determined  
35 and published by the Department no later than December 15 of each year. The values  
36 established pursuant to this section shall be used in calculating the monetary value of trees  
37 removed from State rights-of-way beginning January 1 of each year. If the Department fails to  
38 publish changes in values by December 15, then the values existing on December 15 shall be  
39 applicable to existing trees removed and eligible for reimbursement for the following year."

40 **SECTION 4.** G.S. 136-133 reads as rewritten:

41 **"§ 136-133. Permits required.**

42 (a) No person shall erect or maintain any outdoor advertising within 660 feet of the  
43 nearest edge of the right-of-way of the interstate or primary highway system, except those  
44 allowed under G.S. 136-129, subdivisions (2) and (3) in this Article, or beyond 660 feet of the  
45 nearest edge of the right-of-way of the interstate or primary highway system, except those  
46 allowed under G.S. 136-129.1, subdivisions (2) and (3), without first obtaining a permit from  
47 the Department of Transportation or its agents pursuant to the procedures set out by rules  
48 adopted by the Department of Transportation. The permit shall be valid until revoked for  
49 nonconformance with this Article or rules adopted by the Department of Transportation. Any  
50 person aggrieved by the decision of the Department of Transportation or its agents in refusing  
51 to grant or in revoking a permit may appeal the decision in accordance with the rules adopted

1 by the Department of Transportation pursuant to this Article to the Secretary of Transportation  
2 who shall make the final decision on the agency appeal. The Department of Transportation  
3 shall have the authority to charge permit fees to defray the costs of administering the permit  
4 procedures under this Article. The fees for directional signs as set forth in G.S. 136-129(1) and  
5 G.S. 136-129.1(1) shall not exceed a forty dollar (\$40.00) initial fee and a thirty dollar (\$30.00)  
6 annual renewal fee. The fees for outdoor advertising structures, as set forth in G.S. 136-129(4)  
7 and (5) shall not exceed a ~~one hundred twenty dollar (\$120.00) initial fee and a sixty dollar~~  
8 ~~(\$60.00) annual renewal fee.~~ one hundred fifty dollar (\$150.00) initial fee and a ninety dollar  
9 (\$90.00) annual renewal fee. Thirty dollars (\$30.00) of each initial and annual fee collected  
10 pursuant to this section shall be used by the Department for highway beautification projects. No  
11 additional funds from the Highway Trust Fund shall be used for the purposes of vegetation  
12 replacement under the provisions of this subsection.

13 (b) If outdoor advertising is under construction and the Department of Transportation  
14 determines that a permit has not been issued for the outdoor advertising, the Department may  
15 require that all work on the outdoor advertising cease until the owner of the outdoor advertising  
16 shows that the outdoor advertising does not violate this section. The stopwork order shall be  
17 prominently posted on the outdoor advertising structure, and no further notice of the stopwork  
18 order is required. The failure of an owner of outdoor advertising to comply immediately with  
19 the stopwork order shall subject the outdoor advertising to removal by the Department of  
20 Transportation or its agents. Outdoor advertising is under construction when it is in any phase  
21 of construction prior to the attachment and display of the advertising message in final position  
22 for viewing by the traveling public. The cost of removing outdoor advertising by the  
23 Department of Transportation or its agents pursuant to this section shall be assessed against the  
24 owner of the unpermitted outdoor advertising by the Department of Transportation. No  
25 stopwork order may be issued when the Department of Transportation process agent has been  
26 served with a court order allowing the sign to be constructed.

27 (c) No electrical utility permit shall be denied to an outdoor advertising sign described  
28 in G.S. 136-129(4) and G.S. 136-129(5) for which a permit has been issued by the Department,  
29 is valid, and is otherwise compliant with technical utility standards."

30 **SECTION 5.** Article 11 of Chapter 136 of the General Statutes is amended by  
31 adding a new section to read:

32 **"§ 136-133.1. Outdoor advertising vegetation cutting or removal.**

33 (a) The owner of an outdoor advertising sign permitted under G.S. 136-129(a)(4) or  
34 G.S. 136-129(a)(5) who obtains a selective vegetation removal permit, and the owner's  
35 designees, may cut, thin, prune, or remove vegetation in accordance with this section,  
36 G.S. 136-93(b), 136-133.2, and 136-133.4. The maximum cut or removal zone for vegetation  
37 for each sign face shall be determined as follows:

- 38 (1) The point located on the edge of the right-of-way that is the closest point to  
39 the centerline of the sign face shall be point A.
- 40 (2) The point located 200 feet down the right-of-way line in the direction of the  
41 sign viewing zone shall be point B.
- 42 (3) The point on the edge of the pavement of the travel way, including  
43 acceleration and deceleration ramps, that is the closest to the centerline of  
44 the sign shall be point C.
- 45 (4) The point 50 feet down the edge of the pavement in the direction of the sign  
46 viewing zone from point C shall be point D.
- 47 (5) The point 380 feet down the edge of the pavement in the direction of the  
48 sign viewing zone from point C shall be point E; provided, however, the  
49 following shall apply within the corporal limits and territorial jurisdiction of  
50 any city, as defined in Chapter 160A of the General Statutes:

1           a.       On interstates or other routes with fully controlled access, the point  
2                   340 feet down the edge of the pavement in the direction of the sign  
3                   viewing zone from point C shall be point E.

4           b.       On highways other than interstates and other routes with fully  
5                   controlled access, the point 250 feet down the edge of the pavement  
6                   in the direction of the sign viewing zone from point C shall be point  
7                   E.

8           (6)       Lines drawn from point A to point D and from point B to point E shall  
9                   define the limits of the vegetation cut or removal area.

10       (b)       Vegetation permitted to be cut, thinned, pruned, or removed shall be defined as any  
11       tree, shrub, or underbrush within the zone created by points A, B, D, and E. Any existing tree  
12       that was in existence at the time that an outdoor advertising structure was erected shall only be  
13       eligible for removal in accordance with subsections (c) and (d) of this section. Native  
14       dogwoods and native redbuds shall be preserved. For the purposes of this section, an existing  
15       tree is defined as a tree that had a diameter of four inches or greater as measured six inches  
16       from the ground at the time that the outdoor advertising structure was erected. An outdoor  
17       advertising sign is considered erected when the sign is completely constructed with a sign face.

18       (c)       The applicant for a selective vegetation removal permit shall submit to the  
19       Department a site plan locating thereon any trees existing at the time that the outdoor  
20       advertising sign was erected, as defined in subsection (b) of this section, that are requested to  
21       be cut, thinned, pruned, or removed, and noting their species and total caliper inches. The  
22       applicant shall also tag, with highly visible material or flagging, any tree that is, at the time of  
23       the application for a selective vegetation removal permit, greater than four inches in diameter  
24       as measured six inches from the ground and requested to be cut, thinned, pruned, or removed.  
25       The selective vegetation removal request may be investigated on-site by Department personnel  
26       and a representative of the applicant. In the event that the Department disputes the accuracy of  
27       the existing tree information on the site plan noted above, the Department shall notify the  
28       applicant in writing and may request the following:

29           (1)       A tree survey.

30           (2)       That the applicant amends the site plan.

31           (3)       That the applicant deletes the trees in dispute from the desired cutting.

32       If a notice of disputed tree information is received from the Department, the applicant can  
33       either employ the services of a North Carolina licensed landscape architect or certified arborist  
34       to perform a tree survey, amend the site plan, or notify the Department in writing that any or all  
35       of the disputed trees are deleted from the application. If the applicant selects a tree survey, the  
36       landscape architect or certified arborist will submit a report under seal that contains a tree  
37       inventory of existing trees in the removal zone for the outdoor advertising structure and include  
38       the age of any tree that existed at the time that the sign was erected. The report will categorize  
39       tree species and include a site map of sufficient detail and dimensions. A tree survey will not be  
40       required for subsequent applications to cut, thin, prune, or remove trees at the same site for  
41       trees that have been previously permitted. Any dispute relating to whether or not the tree  
42       existed at the time the outdoor advertising sign was erected shall be conclusively resolved by  
43       information in the report from the licensed landscape architect or certified arborist.

44       (d)       Trees existing at the time the outdoor advertising sign was erected may only be  
45       removed within the zone created in subsection (a) of this section if the applicant satisfies one of  
46       the following two options selected by the applicant: (i) reimbursement to the Department  
47       pursuant to G.S. 136-93.2 or (ii) trees that existed at the time of the erection of the sign may be  
48       removed if the applicant agrees to remove two nonconforming outdoor advertising signs for  
49       each sign at which removal of existing trees is requested. The surrendered nonconforming signs  
50       must be fully disassembled before any removal of existing trees is permitted and shall not be  
51       eligible for future outdoor advertising permits in perpetuity.

1       (e) Tree branches within a highway right-of-way that encroach into the zone created by  
2 points A, C, and D may be cut or pruned. Except as provided in subsection (f) of this section,  
3 no person, firm, or entity shall cut, trim, prune, or remove or otherwise cause to be cut,  
4 trimmed, pruned, or removed vegetation that is in front of, or adjacent to, outdoor advertising  
5 and within the limits of the highway right-of-way for the purpose of enhancing the visibility of  
6 outdoor advertising unless permitted to do so by the Department in accordance with this  
7 section, G.S. 136-93(b), 136-133.2, and 136-133.4.

8       (f) Notwithstanding any law to the contrary, the owner of an outdoor advertising sign  
9 defined by subsection (a) of this section or the owner's designees may, working only from the  
10 private property side of the fence, without charge and without obtaining a selective vegetation  
11 removal permit, cut, trim, prune, or remove any tree or other vegetation except for native  
12 dogwoods or native redbuds that is (i) less than four inches in diameter at the height of the  
13 controlled access fence, (ii) located within 200 feet on either side of the existing sign location  
14 as defined by point A and point B in G.S. 136-133.1(a)(1) and (2), and (iii) a distance of three  
15 feet from a controlled access fence within the limits of the highway right-of-way. The activities  
16 permitted by this subsection must be performed from the private property owner side of the  
17 controlled access fence and with the consent of the owner of the land that is used to access said  
18 fence.

19       (g) The Department may revoke an outdoor advertising permit for the unlawful  
20 destruction or illegal cutting of vegetation within the right-of-way of any State-owned or  
21 State-maintained highway only if both of the following conditions are met:

22       (1) The unlawful destruction or illegal cutting occurred within 500 feet of either  
23 side of the corresponding sign location measured along the edge of  
24 pavement of the main-travel way of the nearest controlled route and was  
25 willfully caused by one or more of the following:

26       a. The sign owner.

27       b. The permit holder.

28       c. The lessee or advertiser employing the sign.

29       d. The owner of the property upon which the sign is located.

30       e. Any employees, agents, or assigns of persons listed in  
31 sub-subdivisions a. through d. of this subdivision, including, but not  
32 limited to, independent contractors hired by the permit holder/sign  
33 owner, the lessee/agents or advertiser employing the sign, or the  
34 owner of the property upon which the sign is located.

35       (2) There is substantial, material evidence that the unlawful destruction or  
36 illegal cutting of vegetation would create, increase, or improve a view to the  
37 outdoor advertising sign for passing motorists from the main-traveled way of  
38 the nearest controlled route."

39       **SECTION 6.** Article 11 of Chapter 136 of the General Statutes is amended by  
40 adding a new section to read:

41 **"§ 136-133.2. Issuance or denial of a selective vegetation removal permit.**

42       (a) Except as provided in G.S. 136-133.1(f), permits to remove vegetation may be  
43 granted for outdoor advertising locations that have been permitted for at least two years prior to  
44 the date of application. The Department shall approve or deny an application submitted  
45 pursuant to this section, including the fee required by G.S. 136-18.7 and all required  
46 documentation, within 30 days of the receipt of an application for a selective vegetation  
47 removal permit. If written notice of approval or denial is not given to the applicant within the  
48 30-day period, then the application shall be deemed approved. If the application is denied, the  
49 Department shall advise the applicant, in writing, by registered or certified mail, return receipt  
50 requested, addressed to the party to be noticed, and delivering to the addressee, the reasons for  
51 the denial.

- 1       (b) The application shall be denied by the Department if any of the following apply:  
2           (1) The application is for the opening of a view to an outdoor advertising sign  
3           which has been declared illegal, is currently the subject of litigation, or the  
4           outdoor advertising sign owner has received written notification of an  
5           investigation by the Department for impermissible activity.  
6           (2) The application is for the opening of a view to an outdoor advertising sign  
7           that was obscured from view at the time of erection of the sign.  
8           (3) Removal of vegetation will adversely affect the safety of the traveling  
9           public.  
10          (4) Trees, shrubs, or other vegetation of any sort that are requested to be cut,  
11          thinned, pruned, or removed were planted in accordance with a local, State,  
12          or federal beautification or environmental project but only to the extent that  
13          such planting was done prior to the erection of the outdoor advertising sign  
14          the visibility of which is sought to be enhanced. Any beautification or  
15          environmental projects that were planted after the erection of the outdoor  
16          advertising sign, but before May 1, 2011, and that were planted beyond 250  
17          feet as measured down the edge of the pavement of the travel way from  
18          point C, as defined in G.S. 136-133.1(a)(3), shall not be eligible for removal.  
19          (5) Trees, shrubs, or other vegetation of any sort that are requested to be cut,  
20          thinned, pruned, or removed were planted in conjunction with a designed  
21          noise barrier but only to the extent that such planting was done prior to the  
22          erection of the outdoor advertising sign the visibility of which is sought to be  
23          enhanced. Any plantings done in conjunction with a designed noise barrier  
24          that were planted after the erection of the outdoor advertising sign but before  
25          May 1, 2011, that were planted beyond 250 feet as measured down the edge  
26          of the pavement of the travel way from point C, as defined in  
27          G.S. 136-133.1(a)(3), shall not be eligible for removal.  
28          (6) The applicant, or the applicant's designee, has not performed satisfactory  
29          work authorized by previous permits issued under the provisions of this  
30          section. The Department may not deny an application for a permit if the  
31          work authorized by previous permits issued pursuant to this section was  
32          performed by a landscape architect or certified arborist.  
33          (7) The selective vegetation removal, cutting, or pruning involves opening of a  
34          view to a junkyard.  
35          (8) Unlawful destruction or illegal cutting of vegetation as defined in  
36          G.S. 136-133.1(g) has occurred within five years preceding the date of filing  
37          an application with the Department for a selective vegetation removal  
38          permit."

39       **SECTION 7.** Article 11 of Chapter 136 of the General Statutes is amended by  
40 adding a new section to read:

41 **"§ 136-133.3. Appeals of selective vegetation removal permit decisions.**

42       (a) An applicant for a selective vegetation removal permit issued pursuant to  
43 G.S. 136-133.2 may appeal a decision of the Department pertaining to the denial or  
44 conditioning of a permit for selective vegetation removal pursuant to the provisions of this  
45 section.

46       (b) Within 30 days of service of the Department's decision to deny or condition a  
47 selective vegetation removal permit issued pursuant to G.S. 136-133.4, the applicant shall  
48 submit a written appeal to the Secretary of Transportation setting forth with particularity the  
49 facts and arguments upon which the appeal is based. The appeal shall be sent to the Secretary  
50 by registered or certified mail, return receipt requested, addressed to the Secretary, and  
51 delivering to the addressee, with a copy to the Department official who issued the decision.

1       (c) Upon receipt of the written appeal, the Secretary of Transportation shall review the  
2 written appeal and the Department's decision, as well as any available documents, exhibits, or  
3 other evidence bearing on the appeal, and shall render the agency's final decision, supported by  
4 findings of fact and conclusions of law. The final agency decision shall be served upon the  
5 appealing party by registered or certified mail, return receipt requested, addressed to the  
6 applicant, and delivering to the addressee, within 90 days after the Secretary receives the  
7 written appeal. A copy of the agency's final decision shall also be delivered to the Department  
8 official who issued the initial decision.

9       (d) A person aggrieved by a decision made pursuant to this section may seek judicial  
10 review of the final agency decision pursuant to G.S. 136-134.1."

11       **SECTION 8.** Article 11 of Chapter 136 of the General Statutes is amended by  
12 adding a new section to read:

13 **"§ 136-133.4. Selective vegetation removal permits.**

14       (a) Selected vegetation within the approved limits shall be cut, thinned, pruned, or  
15 removed by the permittee or the permittee's agent in accordance with accepted International  
16 Society of Arboriculture (ISA) standards.

17       (b) Permits are valid for a period of one year. The permittee may cut, thin, prune, or  
18 remove vegetation more than one time per year. A 48-hour notification shall be provided to the  
19 Department by the permittee before entering the right-of-way.

20       (c) The permittee, or the permittee's agent, shall not impede the flow of traffic on any  
21 highway -while performing vegetation removal authorized by a permit. Access to the work site  
22 on controlled access highways must be gained without using the main travel way of the  
23 highway. The Department shall determine the traffic control signage that may be required. The  
24 permittee shall furnish, erect, and maintain the required signs as directed by the Department.  
25 The permittee, or the permittee's agent, shall wear safety vests that conform to OSHA standards  
26 while performing the work.

27       (d) Any damage to vegetation designated to remain at the site, to highway fences, signs,  
28 paved areas, or other facilities shall be repaired or replaced by the permittee to the condition  
29 prior to the occurrence of the damage caused by the permittee or the permittee's agent. All  
30 trimmings, laps, and debris shall be removed from the right-of-way and disposed of in areas  
31 provided by the permittee. No burning or burying of trimmings, laps, or debris shall be  
32 permitted on the highway right-of-way. When chipping is used to dispose of trimmings, chips  
33 may be neatly spread on a right-of-way at locations which the Department determines will not  
34 be harmful to the environment or affect traffic safety.

35       (e) Willful failure to substantially comply with all the requirements specified in the  
36 selective vegetation removal permit, unless otherwise mutually resolved by the Department and  
37 the permittee, shall result in a five-year moratorium for vegetation removal at the site, a  
38 summary revocation of the outdoor advertising permit if such willful failure meets the  
39 standards in G.S. 136-133.1(g), payment of Department investigative costs, and forfeiture of  
40 any applicable performance bond as determined by the Secretary. The moratorium shall begin  
41 upon execution of a settlement agreement or entry of a final disposition in the case."

42       **SECTION 9.** Article 11 of Chapter 136 of the General Statutes is amended by  
43 adding a new section to read:

44 **"§ 136-133.5. Denial of a permit for proposed outdoor advertising.**

45       (a) When a district engineer determines that a proposed outdoor advertising structure  
46 would not conform to the standards of outdoor advertising as set out in the Outdoor Advertising  
47 Control Act, the district engineer shall refuse to issue a permit for that proposed outdoor  
48 advertising structure.

49       (b) When a violation of the Outdoor Advertising Control Act has been discovered, the  
50 district engineer shall notify the permit applicant by registered or certified mail, return receipt  
51 requested, addressed to the party to be noticed, and delivering to the addressee, in writing, the

1 reason for the denial and the statutes or rules forming the basis for the denial and include a  
2 copy of the Act.

3 (c) The Department shall not issue permits for new outdoor advertising signs at a sign  
4 location for a period of five years where the unlawful destruction or illegal cutting of  
5 vegetation has occurred within 500 feet on either side of the proposed sign location and as  
6 measured along the edge of the pavement of the main travel way of the nearest controlled route.  
7 For the purposes of this section, unlawful destruction or illegal cutting is defined as the  
8 destruction or cutting of trees, shrubs, or other vegetation on the State-owned or State-  
9 maintained rights-of-way by anyone other than the Department or its authorized agents, or  
10 without written permission of the Department. Before a permit is denied pursuant to this  
11 subsection, the Department shall reveal some evidence that the unlawful destruction or illegal  
12 cutting would create, increase, or improve a view to a proposed outdoor advertising sign from  
13 the main traveled way of the nearest controlled route. The five-year period shall begin on the  
14 date the Department executes a settlement agreement or final disposition of the case is entered.  
15 The five-year prohibition period for a new sign permit shall apply to all sign locations,  
16 including the following:

- 17 (1) Sign locations where the unlawful destruction or illegal cutting of vegetation  
18 occurs prior to the time the location becomes a conforming location.
- 19 (2) Sign locations where a revocation of an existing permit has been upheld and  
20 a sign has been removed.
- 21 (3) Sign locations where the unlawful destruction or illegal cutting occurs prior  
22 to receipt of an outdoor advertising permit.
- 23 (4) Sign locations where the unlawful destruction or illegal cutting occurs  
24 following receipt of an outdoor advertising permit application, but prior to  
25 the issuance of the permit by the Department.

26 (d) The Department shall not issue permits for new outdoor advertising signs at a sign  
27 location where existing trees, if they were to reach the average mature size for that species,  
28 would make the proposed sign faces, when erected, not completely visible from the viewing  
29 zone. "Existing trees" are those trees that at the time of the permit application are four inches or  
30 greater in diameter as measured six inches from the ground. "Viewing zone" means the area  
31 which is 500 feet as measured along the edge of the main-traveled way of the controlled route  
32 on each side of the proposed sign structure which will have a sign face.

33 (e) An outdoor advertising permit requested pursuant to G.S. 136-129(a)(4) shall not be  
34 issued to a location if the zoning to commercial or industrial zones was adopted within one year  
35 prior to the filing of the permit application and is not part of comprehensive zoning or  
36 constitutes spot zoning, which, for purposes of this subsection, shall be defined as zoning  
37 designed primarily for the purpose of permitting outdoor advertising signs and in an area which  
38 would not normally permit outdoor advertising. Zoning shall not be considered "primarily for  
39 the purpose of permitting outdoor advertising signs" if the zoning would permit more than one  
40 principal commercial or industrial use, other than outdoor advertising, and the size of the land  
41 being zoned can practically support such commercial or industrial uses.

42 (f) Outdoor advertising permits shall not be issued to a location for a period of 12  
43 months prior to the proposed letting of a new construction contract that may affect the spacing  
44 or location requirements for an outdoor advertising structure until the project is completed. The  
45 prohibition authorized by this subsection shall not extend for a period longer than 18 months.  
46 Priority in spacing shall be given by the Department to the first submitted application for an  
47 outdoor advertising permit at the location.

48 (g) Outdoor advertising permits shall not be issued for a location on a North Carolina or  
49 United States route designated as a scenic byway."



1           **SECTION 10.** This act becomes October 1, 2011, and applies to permit  
2 applications or renewals submitted on or after that date and to offenses occurring on or after  
3 that date.