

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 524
HOUSE BILL 1053

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

The General Assembly of North Carolina enacts:

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

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

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

- (1) a. A scenic highway or scenic byway designated by the Board of Transportation;
- b. Within 1,200 feet, on the same side of the highway, of the boundary line of a North Carolina State Park, a National Park, a State or national wildlife refuge, or a designated wild and scenic river; or
- c. Within 500 feet, on the same side of the highway, of the boundary lines of any historic districts and other properties listed in the National Register of Historic Places or State rest areas, or within the boundary lines of any historic district;

except as permitted under G.S. 136-129(1),(2),(2a), or (3); or

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

(b) The distances set forth in this section shall be measured horizontally in linear feet extending in each direction along the edge of the pavement of the highway from

any point on the boundary of the subject property, or any point on the opposite side of the highway perpendicular to any point on the boundary line of the subject property.

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

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

"§ 136-130. Regulation of advertising.

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

- (1) The erection and maintenance of outdoor advertising permitted in G.S. 136-129,
- (2) The erection and maintenance of outdoor advertising permitted in G.S. 136-129.1,
- (2a) The erection and maintenance of outdoor advertising permitted in G.S. 136-129.2,
- (3) The specific requirements and procedures for obtaining a permit for outdoor advertising as required in G.S. 136-133 and for the administrative procedures for appealing a decision at the agency level to refuse to grant or in revoking a permit previously issued, and
- (4) The administrative procedures for appealing a decision at the agency level to declare any outdoor advertising illegal and a nuisance as pursuant to G.S. 136-134, as may be necessary to carry out the policy of the State declared in this Article."

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

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

The Department of Transportation is authorized to acquire by purchase, gift, or condemnation all outdoor advertising and all property rights pertaining thereto which are prohibited under the provisions of G.S. ~~136-129 or 136-129.1, 136-129, 136-129.1 or 136-129.2,~~ provided such outdoor advertising is in lawful existence on the effective date of this Article as determined by G.S. 136-140, or provided that it is lawfully erected after the effective date of this Article as determined by G.S. 136-140.

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

In any acquisition, purchase or condemnation, just compensation to the owner of the fee or other interest in the real property upon which the outdoor advertising is located where said owner does not own the outdoor advertising located thereon shall be limited to the difference in the fair market value of the entire tract immediately before and immediately after the taking by the Department of Transportation of the right to maintain such outdoor advertising thereon and in arriving at the fair market value after

the taking, any special or general benefits accruing to the property by reason of the acquisition shall be taken into consideration.

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

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

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

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

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

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

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives