

PUBLIC ASSEMBLY FACILITY SIGN AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Francis D. Gibson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Outdoor Advertising Act by amending provisions relating to public assembly facility signs.

Highlighted Provisions:

This bill:

- ▶ amends the definition of a public assembly facility;
- ▶ provides that a public assembly facility may not have more than one advertising structure on the premises of the public assembly facility;
- ▶ specifies penalty amounts for a public assembly facility sign that violates certain restrictions; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-7-502, as last amended by Laws of Utah 2016, Chapter 299

72-7-504.5, as last amended by Laws of Utah 2011, Chapter 346

72-7-508, as last amended by Laws of Utah 2016, Chapter 299



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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **72-7-502** is amended to read:

72-7-502. Definitions.

As used in this part:

(1) "Clearly visible" means capable of being read without obstruction by an occupant of a vehicle traveling on the main traveled way of a street or highway within the visibility area.

(2) "Commercial or industrial activities" means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following are commercial or industrial activities:

(a) agricultural, forestry, grazing, farming, and related activities, including wayside fresh produce stands;

(b) transient or temporary activities;

(c) activities not visible from the main-traveled way;

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

(e) railroad tracks and minor sidings.

(3) (a) "Commercial or industrial zone" means only:

(i) those areas within the boundaries of cities or towns that are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under enabling state legislation or comprehensive local zoning ordinances or regulations;

(ii) those areas within the boundaries of urbanized counties that are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under enabling state legislation or comprehensive local zoning ordinances or regulations;

(iii) those areas outside the boundaries of urbanized counties and outside the boundaries of cities and towns that:

(A) are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under comprehensive local zoning ordinances or regulations or enabling state legislation; and

(B) are within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured from the nearest point of the beginning or ending of the pavement widening at the exit from or entrance to the main-traveled way; or

59 (iv) those areas outside the boundaries of urbanized counties and outside the
60 boundaries of cities and towns and not within 8420 feet of an interstate highway exit, off-ramp,
61 or turnoff as measured from the nearest point of the beginning or ending of the pavement
62 widening at the exit from or entrance to the main-traveled way that are reserved for business,
63 commerce, or trade under enabling state legislation or comprehensive local zoning ordinances
64 or regulations, and are actually used for commercial or industrial purposes.

65 (b) "Commercial or industrial zone" does not mean areas zoned for the sole purpose of
66 allowing outdoor advertising.

67 (4) "Comprehensive local zoning ordinances or regulations" means a municipality's
68 comprehensive plan required by Section 10-9a-401, the municipal zoning plan authorized by
69 Section 10-9a-501, and the county master plan authorized by Sections 17-27a-401 and
70 17-27a-501. Property that is rezoned by comprehensive local zoning ordinances or regulations
71 is rebuttably presumed to have not been zoned for the sole purpose of allowing outdoor
72 advertising.

73 (5) "Contiguous" means that a portion of one parcel of land is situated immediately
74 adjacent to, and shares a common boundary with, a portion of another parcel of land.

75 (6) "Controlled route" means any route where outdoor advertising control is mandated
76 by state or federal law, including under this part and under the Utah-Federal Agreements
77 described in Section 72-7-501.

78 (7) "Directional signs" means signs containing information about public places owned
79 or operated by federal, state, or local governments or their agencies, publicly or privately
80 owned natural phenomena, historic, cultural, scientific, educational, or religious sites, and areas
81 of natural scenic beauty or naturally suited for outdoor recreation, that the department considers
82 to be in the interest of the traveling public.

83 (8) (a) "Erect" means to construct, build, raise, assemble, place, affix, attach, create,
84 paint, draw, or in any other way bring into being.

85 (b) "Erect" does not include any activities defined in Subsection (8)(a) if they are
86 performed incident to the change of an advertising message or customary maintenance of a
87 sign.

88 (9) "Highway service zone" means a highway service area where the primary use of the
89 land is used or reserved for commercial and roadside services other than outdoor advertising to

90 serve the traveling public.

91 (10) "Information center" means an area or site established and maintained at rest areas
92 for the purpose of informing the public of:

93 (a) places of interest within the state; or

94 (b) any other information that the department considers desirable.

95 (11) "Interchange or intersection" means those areas and their approaches where traffic
96 is channeled off or onto an interstate route, excluding the deceleration lanes, acceleration lanes,
97 or feeder systems, from or to another federal, state, county, city, or other route.

98 (12) "Maintain" means to allow to exist, subject to the provisions of this chapter.

99 (13) "Maintenance" means to repair, refurbish, repaint, or otherwise keep an existing
100 sign structure safe and in a state suitable for use, including signs destroyed by vandalism or an
101 act of God.

102 (14) "Main-traveled way" means the through traffic lanes, including auxiliary lanes,
103 acceleration lanes, deceleration lanes, and feeder systems, exclusive of frontage roads and
104 ramps. For a divided highway, there is a separate main-traveled way for the traffic in each
105 direction.

106 (15) "Major sponsor" means a sponsor of a public assembly facility or of a team or
107 event held at the facility where the amount paid by the sponsor to the owner of the facility, to
108 the team, or for the event is at least \$100,000 per year.

109 (16) "Official signs and notices" means signs and notices erected and maintained by
110 public agencies within their territorial or zoning jurisdictions for the purpose of carrying out
111 official duties or responsibilities in accordance with direction or authorization contained in
112 federal, state, or local law.

113 (17) "Off-premise sign" means a sign located in an area zoned industrial, commercial,
114 or H-1 and in an area determined by the department to be unzoned industrial or commercial
115 that advertises an activity, service, event, person, or product located on premises other than the
116 premises on which the sign is located.

117 (18) "On-premise sign" means a sign used to advertise the sale or lease of, or activities
118 conducted on, the property on which the sign is located.

119 (19) "Outdoor advertising" means any outdoor advertising structure or outdoor
120 structure used in combination with an outdoor advertising sign or outdoor sign within the

121 outdoor advertising corridor which is visible from a place on the main-traveled way of a
122 controlled route.

123 (20) "Outdoor advertising corridor" means a strip of land 660 feet wide, measured
124 perpendicular from the edge of a controlled highway right-of-way.

125 (21) "Outdoor advertising structure" or "outdoor structure" means any sign structure,
126 including any necessary devices, supports, appurtenances, and lighting that is part of or
127 supports an outdoor sign.

128 (22) "Point of widening" means the point of the gore or the point where the intersecting
129 lane begins to parallel the other lanes of traffic, but the point of widening may never be greater
130 than 2,640 feet from the center line of the intersecting highway of the interchange or
131 intersection at grade.

132 (23) "Public assembly facility" means a convention facility as defined under Section
133 [59-12-602](#) that:

134 (a) includes all contiguous interests in land, improvements, and utilities acquired,
135 constructed, and used in connection with the operation of the public assembly facility, whether
136 the interests are owned or held in fee title or a lease or easement for a term of at least 40 years,
137 and regardless of whether the interests are owned or operated by separate governmental
138 authorities or districts;

139 (b) is wholly or partially funded by public money;

140 (c) requires a person attending an event at the public assembly facility to purchase a
141 ticket or that otherwise charges for the use of the public assembly facility as part of its regular
142 operation; and

143 (d) (i) has a minimum and permanent seating capacity of at least 10,000 people[-]; or

144 (ii) if the public assembly facility has multiple venues where conventions, conferences,
145 or other gatherings are held, has a combined minimum and permanent seating capacity of at
146 least 10,000 people among all venues located on the premises where the public assembly
147 facility sign is located.

148 (24) "Public assembly facility sign" means a sign located on a public assembly facility
149 that only advertises the public assembly facility, major sponsors, events, the sponsors of events
150 held or teams playing at the facility, and products sold or services conducted at the facility.

151 (25) "Relocation" includes the removal of a sign from one situs together with the

152 erection of a new sign upon another situs in a commercial or industrial zoned area as a
153 substitute.

154 (26) "Relocation and replacement" means allowing all outdoor advertising signs or
155 permits the right to maintain outdoor advertising along the interstate, federal aid primary
156 highway existing as of June 1, 1991, and national highway system highways to be maintained
157 in a commercial or industrial zoned area to accommodate the displacement, remodeling, or
158 widening of the highway systems.

159 (27) "Remodel" means the upgrading, changing, alteration, refurbishment,
160 modification, or complete substitution of a new outdoor advertising structure for one permitted
161 pursuant to this part and that is located in a commercial or industrial area.

162 (28) "Rest area" means an area or site established and maintained within or adjacent to
163 the right-of-way by or under public supervision or control for the convenience of the traveling
164 public.

165 (29) "Scenic or natural area" means an area determined by the department to have
166 aesthetic value.

167 (30) "Traveled way" means that portion of the roadway used for the movement of
168 vehicles, exclusive of shoulders and auxiliary lanes.

169 (31) (a) "Unzoned commercial or industrial area" means:

170 (i) those areas not zoned by state law or local law, regulation, or ordinance that are
171 occupied by one or more industrial or commercial activities other than outdoor advertising
172 signs;

173 (ii) the lands along the highway for a distance of 600 feet immediately adjacent to
174 those activities; and

175 (iii) lands covering the same dimensions that are directly opposite those activities on
176 the other side of the highway, if the department determines that those lands on the opposite side
177 of the highway do not have scenic or aesthetic value.

178 (b) In measuring the scope of the unzoned commercial or industrial area, all
179 measurements shall be made from the outer edge of the regularly used buildings, parking lots,
180 storage, or processing areas of the activities and shall be along or parallel to the edge of
181 pavement of the highway.

182 (c) All signs located within an unzoned commercial or industrial area become

183 nonconforming if the commercial or industrial activity used in defining the area ceases for a
184 continuous period of 12 months.

185 (32) "Urbanized county" means a county with a population of at least 125,000 persons.

186 (33) "Visibility area" means the area on a street or highway that is:

187 (a) defined at one end by a line extending from the base of the billboard across all lanes
188 of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

189 (b) defined on the other end by a line extending across all lanes of traffic of the street
190 or highway in a plane that is:

191 (i) perpendicular to the street or highway; and

192 (ii) 500 feet from the base of the billboard.

193 Section 2. Section **72-7-504.5** is amended to read:

194 **72-7-504.5. Public assembly facility signs -- Restrictions.**

195 (1) Signs on the premises of a public assembly facility that do not bring rental income
196 to the owner of the public assembly facility may advertise:

197 (a) the name of the facility, including identifiable venues or stores within the facility;
198 and

199 (b) principal or accessory products or services offered on the property and activities
200 conducted on the property as permitted by 23 C.F.R. Section 750.709, including:

201 (i) events being conducted in the facility or upon the premises, including the sponsor of
202 the current event; and

203 (ii) products or services sold at the facility and activities conducted on the property that
204 produce significant income to the operation of the facility.

205 (2) An advertising structure described in Subsection (1):

206 (a) shall be located on a public assembly facility or on a parcel contiguous to the public
207 assembly facility;

208 (b) shall be under the same ownership as the public assembly facility; and

209 (c) may not be separated from the public assembly facility by a public road.

210 (3) An advertising structure described in Subsection (1) may only promote a maximum
211 of seven major sponsors and the sponsor of a current event at any one time.

212 (4) An advertising structure described in Subsection (1) may not be located on narrow
213 land held by easement or anything other than a fee interest unless it is a part of a public

214 assembly facility.

215 (5) A public assembly facility is exempt from the requirement under this part to have a
216 state outdoor advertising permit.

217 (6) A public assembly facility may not have more than one advertising structure
218 described in Subsection (1) on the premises of the public assembly facility.

219 Section 3. Section **72-7-508** is amended to read:

220 **72-7-508. Unlawful outdoor advertising -- Adjudicative proceedings -- Judicial**
221 **review -- Costs of removal -- Civil and criminal liability for damaging regulated signs --**
222 **Immunity for Department of Transportation.**

223 (1) Outdoor advertising is unlawful when:

224 (a) erected after May 9, 1967, contrary to the provisions of this chapter;

225 (b) a permit is not obtained as required by this part;

226 (c) a false or misleading statement has been made in the application for a permit that
227 was material to obtaining the permit;

228 (d) the sign for which a permit was issued is not in a reasonable state of repair, is
229 unsafe, or is otherwise in violation of this part; or

230 (e) a sign in the outdoor advertising corridor is permitted by the local zoning authority
231 as an on-premise sign and the sign, from time to time or continuously, advertises an activity,
232 service, event, person, or product located on property other than the property on which the sign
233 is located.

234 (2) The establishment, operation, repair, maintenance, or alteration of any sign contrary
235 to this chapter is also a public nuisance.

236 (3) Except as provided in Subsections (4) and (10), in its enforcement of this section,
237 the department shall comply with the procedures and requirements of Title 63G, Chapter 4,
238 Administrative Procedures Act.

239 (4) (a) The district courts shall have jurisdiction to review by trial de novo all final
240 orders of the department under this part resulting from formal and informal adjudicative
241 proceedings.

242 (b) Venue for judicial review of final orders of the department shall be in the county in
243 which the sign is located.

244 (5) (a) If the department is granted a judgment in an action brought under Subsection

245 (4), the department is entitled to have any nuisance abated and recover from the responsible
246 person, firm, or corporation, jointly and severally:

247 ~~[(a)]~~ (i) the costs and expenses incurred in removing the sign; and

248 (ii) except as provided in Subsection (5)(c):

249 ~~[(b)-(i)]~~ (A) \$500 for each day the sign was maintained following the expiration of 10
250 days after notice of agency action was filed and served under Section 63G-4-201;

251 ~~[(ii)]~~ (B) \$750 for each day the sign was maintained following the expiration of 40
252 days after notice of agency action was filed and served under Section 63G-4-201;

253 ~~[(iii)]~~ (C) \$1,000 for each day the sign was maintained following the expiration of 70
254 days after notice of agency action was filed and served under Section 63G-4-201; and

255 ~~[(iv)]~~ (D) \$1,500 for each day the sign was maintained following the expiration of 100
256 days after notice of agency action was filed and served under Section 63G-4-201.

257 (b) For a public assembly facility sign that violates Section 72-7-504.5, if the
258 department is granted a judgment in an action brought under Subsection (4), the department is
259 entitled to have any nuisance abated and recover from the responsible person, firm, or
260 corporation, jointly and severally:

261 (i) the costs and expenses incurred in removing the sign; and

262 (ii) the greater of:

263 (A) \$10,000 for each day the sign was maintained following the expiration of 10 days
264 after notice of agency action was filed and served under Section 63G-4-201; or

265 (B) \$10,000 for each violation of Section 72-7-504.5.

266 (6) (a) Any person, partnership, firm, or corporation who vandalizes, damages, defaces,
267 destroys, or uses any sign controlled under this chapter without the owner's permission is liable
268 to the owner of the sign for treble the amount of damage sustained and all costs of court,
269 including a reasonable attorney's fee, and is guilty of a class C misdemeanor.

270 (b) This Subsection (6) does not apply to the department, its agents, or employees if
271 acting to enforce this part.

272 (7) The following criteria shall be used for determining whether an existing sign within
273 an interstate outdoor advertising corridor has as its purpose unlawful off-premise outdoor
274 advertising:

275 (a) whether the sign complies with this part;

276 (b) whether the premise includes an area:
277 (i) from which the general public is serviced according to normal industry practices for
278 organizations of that type; or
279 (ii) that is directly connected to or is involved in carrying out the activities and normal
280 industry practices of the advertised activities, services, events, persons, or products;
281 (c) whether the sign generates revenue:
282 (i) arising from the advertisement of activities, services, events, or products not
283 available on the premise according to normal industry practices for organizations of that type;
284 (ii) arising from the advertisement of activities, services, events, persons, or products
285 that are incidental to the principal activities, services, events, or products available on the
286 premise; and
287 (iii) including the following:
288 (A) money;
289 (B) securities;
290 (C) real property interest;
291 (D) personal property interest;
292 (E) barter of goods or services;
293 (F) promise of future payment or compensation; or
294 (G) forbearance of debt;
295 (d) whether the purveyor of the activities, services, events, persons, or products being
296 advertised:
297 (i) carries on hours of operation on the premise comparable to the normal industry
298 practice for a business, service, or operation of that type, or posts the hours of operation on the
299 premise in public view;
300 (ii) has available utilities comparable to the normal industry practice for an entity of
301 that type; and
302 (iii) has a current valid business license or permit under applicable local ordinances,
303 state law, and federal law to conduct business on the premise upon which the sign is located;
304 (e) whether the advertisement is located on the site of any auxiliary facility that is not
305 essential to, or customarily used in, the ordinary course of business for the activities, services,
306 events, persons, or products being advertised; or

307 (f) whether the sign or advertisement is located on property that is not contiguous to a
308 property that is essential and customarily used for conducting the business of the activities,
309 services, events, persons, or products being advertised.

310 (8) The following do not qualify as a business under Subsection (7):

- 311 (a) public or private utility corridors or easements;
- 312 (b) railroad tracks;
- 313 (c) outdoor advertising signs or structures;
- 314 (d) vacant lots;
- 315 (e) transient or temporary activities; or
- 316 (f) storage of accessory products.

317 (9) The sign owner has the burden of proving, by a preponderance of the evidence, that
318 the advertised activity is conducted on the premise.

319 (10) (a) If the department has issued two or more notices of violation of Subsection
320 (1)(e) for an existing sign within the last three years, the department may bring an action to
321 enforce in any state court of competent jurisdiction against a person, firm, or corporation that
322 satisfies one or more of the following prerequisites:

- 323 (i) has a present ownership interest in the sign;
- 324 (ii) had an ownership interest in the sign on one or more of the days the sign was in
325 violation of Subsection (1)(e);
- 326 (iii) has a present ownership interest in the property upon which the sign is located, or
327 in contiguous property as defined in Subsection 72-7-504.6(1);
- 328 (iv) had an ownership interest in the property upon which the sign is located, or in
329 contiguous property as defined in Subsection 72-7-504.6(1), on one or more of the days the
330 sign was in violation of Subsection (1)(e);
- 331 (v) received or became entitled to receive compensation in any form for the unlawful
332 outdoor advertising; or
- 333 (vi) solicited the advertising.

334 (b) In an action under Subsection (10)(a):

335 (i) except as provided in Subsection (10)(c), the provisions of Subsections (7) and (8)
336 apply; and

337 (ii) the defendants have the burden of proving, by a preponderance of the evidence, that

338 the advertising in question is lawful under this part.

339 (c) In an action under Subsection (10)(a), for an on-premise sign within a unified
340 commercial development Section [72-7-504.6](#) applies.

341 (d) If the department is granted judgment in an action under this Subsection (10), the
342 department is entitled to recover from the defendants, jointly and severally, \$1,500 for each day
343 on which the sign was used for unlawful off-premises outdoor advertising.

Legislative Review Note
Office of Legislative Research and General Counsel