

**OUTDOOR ADVERTISING SIGN PROXIMITY
TO UTILITY LINES**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Terry R. Spencer

This act modifies Public Utilities and Outdoor Advertising provisions to provide an exemption from proximity restrictions for certain activities conducted with respect to outdoor advertising structures that comply with the proximity restriction. The act requires counties and municipalities to accommodate a move of an outdoor advertising structure to comply with requirements relating to distance from high voltage overhead lines. The act requires the owner of a high voltage overhead line to move the line if the outdoor advertising structure cannot be moved due to federal agency restrictions. The act adds definitions, makes technical changes, and provides an effective date.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

§ [~~54-8c-1, as last amended by Chapter 30, Laws of Utah 1992~~

~~54-8c-2, as enacted by Chapter 250, Laws of Utah 1988~~

~~54-8c-5, as enacted by Chapter 250, Laws of Utah 1988]~~

72-7-510, as last amended by Chapter 21, Laws of Utah 1999 §

72-7-513, as last amended by Chapter 72, Laws of Utah 1999

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

§ [Section 1. Section 54-8c-1 is amended to read:

~~54-8c-1. Definitions:~~

~~As used in this chapter:~~

~~(1) "Authorized person" means an employee or agent:~~

~~(a) of a public utility that:~~

~~(i) generates, transmits, or delivers electricity; or~~

~~(ii) provides and whose work relates to communication services;] §~~



28 § ~~[(b) of an industrial plant whose work relates to the electrical system of the industrial plant;~~
 29 ~~———— (c) of a cable television or communication services company, or of a contractor of cable~~
 30 ~~television or communication services company, if specifically and expressly authorized by the~~
 31 ~~owner of the poles to make cable television or communication services attachments; or~~
 32 ~~———— (d) of a state, county, or municipal agency which has or whose work relates to:~~
 33 ~~———— (i) overhead electrical lines;~~
 34 ~~———— (ii) overhead lighting systems;~~
 35 ~~———— (iii) authorized overhead circuit construction;~~
 36 ~~———— (iv) conductors on poles; or~~
 37 ~~———— (v) structures of any type.~~
 38 ~~———— (2) "Business day" means any day other than Saturday, Sunday, or a legal holiday.~~
 39 ~~———— (3) "High voltage" means voltage in excess of six hundred volts measured between:~~
 40 ~~———— (a) conductors; or~~
 41 ~~———— (b) a conductor and the ground.~~
 42 ~~———— (4) "Maintenance," as used in relation to an outdoor advertising structure, has the same~~
 43 ~~meaning as provided in Section 72-7-502.~~
 44 ~~———— (5) "Outdoor advertising structure" has the same meaning as provided in Section 72-7-502.~~
 45 ~~———— [(4)] (6) "Overhead line" means all bare or insulated electrical conductors installed above~~
 46 ~~the ground.~~
 47 ~~———— [(5)] (7) "Public utility" means any entity that generates, transmits, or distributes electrical~~
 48 ~~energy, including any:~~
 49 ~~———— (a) public utility as defined in Title 54, Chapter 2, Definitions;~~
 50 ~~———— (b) municipality as defined in Title 10, Utah Municipal Code;~~
 51 ~~———— (c) agricultural cooperative association as defined in Title 3, Agricultural Cooperative~~
 52 ~~Associations;~~
 53 ~~———— (d) county improvement district as defined in Title 17A, Chapter 2, Part 3, County~~
 54 ~~Improvement Districts for Water, Sewerage, Flood Control, Electric and Gas; or~~
 55 ~~———— (e) entity created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act.~~
 56 ~~———— [(6)] (8) "Responsible party" means any person who contracts to perform, is responsible~~
 57 ~~for the performance of, or has control over, any function or activity at any location.~~
 58 ~~———— Section 2. Section 54-8c-2 is amended to read:] §~~

59 § ~~[54-8c-2. Notification to public utility -- Protective measures -- Procedures --~~
60 **Payment:**
61 ~~———— (1) No person or thing may be brought within [10] ten feet of any high voltage overhead~~
62 ~~line unless:~~
63 ~~———— (a) a responsible party has notified the public utility operating the high voltage overhead~~
64 ~~line of the intended activity; and~~
65 ~~———— (b) a responsible party and the public utility have completed mutually satisfactory~~
66 ~~precautions for the activity.~~
67 ~~———— (2) If the identity of the public utility owning or operating the high voltage overhead line~~
68 ~~is unknown, the county clerk in the county where the line is located shall provide the name,~~
69 ~~address, and telephone number of the utility's designated representative. If there is an association~~
70 ~~as provided in Section 54-8c-6 in the county, the association shall provide this information. The~~
71 ~~notification required in Subsection (1)(a) shall be given by telephone or in person and shall include~~
72 ~~the location and duration of the proposed activity.~~
73 ~~———— (3) Mutually satisfactory precautions required in Subsection (1)(b) may include:~~
74 ~~———— (a) coordination of work, construction, and activity schedules;~~
75 ~~———— (b) placement of temporary mechanical barriers to separate and prevent contact between~~
76 ~~persons or things and the high voltage overhead line; or~~
77 ~~———— (c) temporary deenergization and grounding or temporary relocation or raising of the high~~
78 ~~voltage overhead line.~~
79 ~~———— (4) If a responsible party is under contract or agreement with a governmental entity, and~~
80 ~~the governmental entity and the public utility operating the high voltage overhead line have already~~
81 ~~reached agreement concerning precautions, further agreements for the activity are not required.~~
82 ~~———— (5) [All] Each responsible [parties are obligated to] party shall pay to the public utility~~
83 ~~operating the high voltage overhead line the cost of mutually satisfactory precautions, except if:~~
84 ~~———— (a) prior arrangements for payment have been made between a governmental entity for~~
85 ~~whom the work is to be done and the public utility operating the line; or~~
86 ~~———— (b) the public utility operating the line has not installed the line in conformance with the~~
87 ~~National Electrical Safety Code or its preceding code in effect at the time the line was constructed.~~
88 ~~———— (6) (a) Unless other arrangements are necessary, the public utility operating the high~~
89 ~~voltage overhead line shall commence the precautionary measures:] §~~

90 § ~~(f) within three business days after the date an agreement for payment, if required, has been~~
 91 ~~reached; or~~

92 ~~—— (ii) if no payment is required, within five business days after the date of the request of a~~
 93 ~~responsible party.~~

94 ~~—— (b) The public utility [shall] may not be required to provide the precautionary measures~~
 95 ~~until an agreement for payment, if required, has been reached. Once started, the precautionary~~
 96 ~~measures shall continue without unreasonable interruption until completed.~~

97 ~~—— (7) If an outdoor advertising structure is required to be moved to comply with the~~
 98 ~~requirement of Subsection (1) with respect to its distance from a high voltage overhead line or to~~
 99 ~~comply with a similar distance requirement imposed by the National Electrical Safety Code or any~~
 100 ~~other applicable regulation promulgated by a federal agency but the federal agency responsible for~~
 101 ~~licensing or regulating the outdoor advertising structure will not authorize the move, then the~~
 102 ~~owner of the high voltage overhead line shall, if practicable and at the request of the owner of the~~
 103 ~~outdoor advertising structure, relocate the high voltage overhead line to comply with the applicable~~
 104 ~~distance requirement.~~

105 ~~—— Section 3. Section 54-8c-5 is amended to read:~~

106 ~~—— 54-8c-5. Exemptions:~~

107 ~~—— This chapter does not apply to:~~

108 ~~—— (1) construction, reconstruction, operation, or maintenance by an authorized person of:~~

109 ~~—— (a) overhead electrical, cable television, or communications circuits or conductors and~~
 110 ~~their supporting structures;~~

111 ~~—— (b) electrical generating, transmission, or distribution systems; or~~

112 ~~—— (c) communications, cable television, or overhead lighting systems[.]; or~~

113 ~~—— (2) with respect to an outdoor advertising structure that is at least ten feet away from a high~~
 114 ~~voltage overhead line:~~

115 ~~—— (a) a person engaged in activities incident to:~~

116 ~~—— (i) the change of an advertising message on the outdoor advertising structure; or~~

117 ~~—— (ii) the customary maintenance of the outdoor advertising structure; and~~

118 ~~—— (b) a thing used by a person engaged in the activities described in Subsection (2)(a).]~~

118a Section 1. Section 72-7-510 is amended to read:

118b 72-7-510. Existing outdoor advertising not in conformity with part -- Procedure -- Eminent
 118c domain -- Compensation -- Relocation.

118d (1) As used in this section, "nonconforming sign" means a sign that has been erected in a
 118e zone or area other than commercial or industrial or where outdoor advertising is not permitted under
 118f this part.

118g (2) (a) The department may acquire by gift, purchase, agreement, exchange, or eminent
 118h domain, any existing outdoor advertising and all property rights pertaining to the outdoor advertising
 118i which were lawfully in existence on May 9, 1967, and which by reason of this part §

118j § become nonconforming.

118k (b) If the department, or any town, city, county, governmental entity, public utility, or any
118l agency or the United States Department of Transportation under this part, prevents the maintenance
118m as defined in Section 72-7-502, or requires that maintenance of an existing sign be discontinued, the
118n sign in question shall be considered acquired by the entity and just compensation will become
118o immediately due and payable.

118p (c) Eminent domain shall be exercised in accordance with the provision of Title 78, Chapter
118q 34, Eminent Domain.

118r (3) (a) Just compensation shall be paid for outdoor advertising and all property rights
118s pertaining to the same, including the right of the landowner upon whose land a sign is located,
118t acquired through the processes of eminent domain.

118u (b) For the purposes of this part, just compensation shall include the consideration of
118v damages to remaining properties, contiguous and noncontiguous, of an outdoor advertising sign
118w company's interest, which remaining properties, together with the properties actually condemned,
118x constituted an economic unit.

118y (c) The department is empowered to remove signs found in violation of Section 72-7-508
118z without payment of any compensation.

118aa (4) Except as specifically provided in this section or Section 72-7-513, this part may not be
118ab construed to permit a person to place or maintain any outdoor advertising adjacent to any interstate
118ac or primary highway system which is prohibited by law or by any town, city, or county ordinance. Any
118ad town, city, county, governmental entity, or public utility which requires the removal, relocation,
118ae alteration, change, or termination of outdoor advertising shall pay just compensation as defined in
118af this part and in Title 78, Chapter 34, Eminent Domain.

118ag (5) Except as provided in Section 72-7-508, no sign shall be required to be removed by the
118ah department nor sign maintenance as described in this section be discontinued unless at the time of
118ai removal or discontinuance there are sufficient funds, from whatever source, appropriated and
118aj immediately available to pay the just compensation required under this section and unless at that time
118ak the federal funds required to be contributed under 23 U.S.C., Sec. 131, if any, with respect to the
118al outdoor advertising being removed, have been appropriated and are immediately available to this
118am state.

118an (6) (a) If any outdoor advertising use, structure, or permit may not be continued because of
118ao the widening, construction, or reconstruction along an interstate, federal aid primary highway existing
118ap as of June 1, 1991, or national highway systems highway, the owner shall have the option to relocate
118aq and remodel the use, structure, or permit to another location:

118ar (i) on the same property;

118as (ii) on adjacent property;

118at (iii) on the same highway within 5280 feet of the previous location, which may be extended
118au 5280 feet outside the areas described in Subsection 72-7-505(3)(c)(i)(A), on either side of the same
118av highway; or

118aw (iv) mutually agreed upon by the owner and the county or municipality in which the use,
118ax structure, or permit is located. §

118ay § (b) The relocation under Subsection (6)(a) shall be in a commercial or industrial zoned area or
 118az where outdoor advertising is permitted under this part.

118ba (c) The county or municipality in which the use or structure is located shall, if necessary,
 118bb provide for the relocation and remodeling by ordinance for a special exception to its zoning
 118bc ordinance.

118bd (d) The relocated and remodeled use or structure may be:

118be (i) erected to a height and angle to make it clearly visible to traffic on the main-traveled way of
 118bf the highway to which it is relocated or remodeled;

118bg (ii) the same size and at least the same height as the previous use or structure, but the
 118bh relocated use or structure may not exceed the size and height permitted under this part;

118bi (iii) relocated to a comparable vehicular traffic count.

118bj (7) (a) The governmental entity, quasi-governmental entity, or public utility that causes the
 118bk need for the outdoor advertising relocation or remodeling as provided in Subsection (6)(a) shall pay
 118bl the costs related to the relocation, remodeling, or acquisition.

118bm (b) If a governmental entity prohibits the relocation and remodeling as provided in Subsection
 118bn (6)(a), it shall pay just compensation as provided in Subsection (3).

118bo (8) IF AN OUTDOOR ADVERTISING STRUCTURE IS REQUIRED TO BE MOVED TO COMPLY
 118bp WITH THE REQUIREMENT OF SUBSECTION 54-8c-2(1) WITH RESPECT TO ITS DISTANCE FROM A
 118bq HIGH VOLTAGE OVERHEAD LINE OR TO COMPLY WITH A REQUIREMENT IMPOSED BY THE
 118br NATIONAL ELECTRICAL SAFETY CODE OR ANY OTHER APPLICABLE REGULATION PROMULGATED
 118bs BY A FEDERAL AGENCY, THE COUNTY OR MUNICIPALITY IN WHICH THE OUTDOOR ADVERTISING
 118bt STRUCTURE IS LOCATED:

118bu (a) MAY NOT WITHHOLD ANY NECESSARY APPROVAL OF THE MOVE OR OF THE OUTDOOR
 118bv ADVERTISING STRUCTURE AT ITS LOCATION AFTER THE MOVE; AND

118bw (b) SHALL, IF NECESSARY, ACCOMMODATE THE MOVE BY A SPECIAL EXCEPTION TO ITS
 118bx ZONING ORDINANCE. §

119 Section § [4] 2 § . Section 72-7-513 is amended to read:

120 72-7-513. Relocation on state highways.

121 (1) As used in this section, "state highway" means those highways designated as state
122 highways in Title 72, Chapter 4, Designation of State Highways, on July 1, 1999, and any
123 subsequently designated state highway.

124 (2) If any outdoor advertising use or structure may not be continued because of the
125 widening, construction, or reconstruction along a state highway, the owner shall have the option
126 to relocate and remodel the use or structure to another location:

127 (a) on the same property;

128 (b) on adjacent property;

129 (c) within 2640 feet of the previous location on either side of the same highway; or

130 (d) mutually agreed upon by the owner and the county or municipality in which the use,
131 structure, or permit is located.

132 (3) The relocation under Subsection (2) shall be in a commercial or industrial zoned area
133 or where outdoor advertising is permitted under this part.

134 (4) The county or municipality in which the use or structure is located shall, if necessary,
135 provide for the relocation and remodeling by ordinance for a special exception to its zoning
136 ordinance.

137 (5) The relocated and remodeled use or structure may be:

138 (a) erected to a height and angle to make it clearly visible to traffic on the main-traveled
139 way of the highway to which it is relocated or remodeled;

140 (b) the same size and at least the same height as the previous use or structure, but the
141 relocated use or structure may not exceed the size and height permitted under this part; or

142 (c) relocated to a comparable vehicular traffic count.

143 (6) (a) The governmental entity, quasi-governmental entity, or public utility that causes
144 the need for the outdoor advertising relocation or remodeling as provided in Subsection (2) shall
145 pay the costs related to the relocation, remodeling, or acquisition.

146 (b) If a governmental entity prohibits the relocation and remodeling as provided in
147 Subsection (2)(a), (b), or (c), it shall pay just compensation as provided in Subsection 72-7-510(3).

148 (7) If an outdoor advertising structure is required to be moved to comply with the
149 requirement of Subsection § [54-8c-2(1)] 54-8c-2 § with respect to its distance from a high voltage
149a overhead line
150 or to comply with a similar distance requirement imposed by the National Electrical Safety Code
151 or any other applicable regulation promulgated by a federal agency, the county or municipality in

152 which the outdoor advertising structure is located:

153 (a) may not withhold any necessary approval of the move or of the outdoor advertising
154 structure at its location after the move; and

155 (b) shall, if necessary, accommodate the move by a special exception to its zoning
156 ordinance.

157 **Section 5. Effective date.**

158 If approved by two-thirds of all the members elected to each house, this act takes effect
159 upon approval by the governor, or the day following the constitutional time limit of Utah
160 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the
161 date of veto override.

Legislative Review Note

as of 1-24-02 12:17 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel