

**UNIFIED COMMERCIAL DEVELOPMENT AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Francis D. Gibson**

Senate Sponsor: Margaret Dayton

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**LONG TITLE**

**General Description:**

This bill repeals a section pertaining to unified commercial developments.

**Highlighted Provisions:**

This bill:

- ▶ repeals a section in the Utah Outdoor Advertising Act pertaining to unified commercial developments; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**72-7-504**, as last amended by Laws of Utah 2016, Chapter 299

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

REPEALS:

**72-7-504.6**, as enacted 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 **72-7-504** is amended to read:



28           **72-7-504. Advertising prohibited near interstate or primary system -- Exceptions**  
29 **-- Logo advertising -- Department rules.**

30           (1) As used in this section, "specific service trailblazer sign" means a guide sign that  
31 provides users with business identification or directional information for services and eligible  
32 activities that are advertised on a logo advertising sign authorized under Subsection (3)(a)(i).

33           (2) Outdoor advertising that is capable of being read or comprehended from any place  
34 on the main-traveled way of an interstate or primary system may not be erected or maintained,  
35 except:

36           (a) directional and other official signs and notices authorized or required by law,  
37 including signs and notices pertaining to natural wonders and scenic and historic attractions,  
38 informational or directional signs regarding utility service, emergency telephone signs, buried  
39 or underground utility markers, and above ground utility closure signs;

40           (b) on-premise signs advertising the sale or lease of property upon which the  
41 on-premise signs are located;

42           (c) on-premise signs advertising major activities conducted on the property where the  
43 on-premise signs are located;

44           (d) public assembly facility signs;

45           ~~[(e) on-premise signs within a unified commercial development as described in Section~~  
46 ~~72-7-504.6;]~~

47           ~~[(f)]~~ (e) signs located in a commercial or industrial zone;

48           ~~[(g)]~~ (f) signs located in unzoned industrial or commercial areas as determined from  
49 actual land uses; and

50           ~~[(h)]~~ (g) logo advertising under Subsection (3).

51           (3) (a) The department may itself or by contract erect, administer, and maintain  
52 informational signs:

53           (i) on the main-traveled way of an interstate or primary system, as it existed on June 1,  
54 1991, specific service signs for the display of logo advertising and information of interest,  
55 excluding specific service trailblazer signs as defined in rules adopted in accordance with  
56 Section 41-6a-301, to the traveling public if:

57           (A) the department complies with Title 63G, Chapter 6a, Utah Procurement Code, in  
58 the lease or other contract agreement with a private party for the sign or sign space; and

59 (B) the private party for the lease of the sign or sign space pays an amount set by the  
60 department to be paid to the department or the party under contract with the department under  
61 this Subsection (3); and

62 (ii) only on rural conventional roads as defined in rules adopted in accordance with  
63 Section 41-6a-301 in a county of the fourth, fifth, or sixth class for tourist-oriented directional  
64 signs that display logo advertising and information of interest to the traveling public if:

65 (A) the department complies with Title 63G, Chapter 6a, Utah Procurement Code, in  
66 the lease or other contract agreement with a private party for the tourist-oriented directional  
67 sign or sign space; and

68 (B) the private party for the lease of the sign or sign space pays an amount set by the  
69 department to be paid to the department or the party under contract with the department under  
70 this Subsection (3).

71 (b) The amount shall be sufficient to cover the costs of erecting, administering, and  
72 maintaining the signs or sign spaces.

73 (c) (i) Any sign erected pursuant to this Subsection (3) which was existing as of March  
74 1, 2015, shall be permitted as if it were in compliance with this Subsection (3).

75 (ii) A noncompliant sign shall only be permitted for the contract period of the  
76 advertising contract.

77 (iii) A new advertising contract may not be issued for a noncompliant sign.

78 (d) The department may consult the Governor's Office of Economic Development in  
79 carrying out this Subsection (3).

80 (4) (a) Revenue generated under Subsection (3) shall be:

81 (i) applied first to cover department costs under Subsection (3); and

82 (ii) deposited in the Transportation Fund.

83 (b) Revenue in excess of costs under Subsection (3)(a) shall be deposited in the  
84 General Fund as a dedicated credit for use by the Governor's Office of Economic Development  
85 no later than the following fiscal year.

86 (5) Outdoor advertising under Subsections (2)(a), (f), (g), and (h) shall conform to the  
87 rules made by the department under Sections 72-7-506 and 72-7-507.

88 Section 2. Section 72-7-508 is amended to read:

89 **72-7-508. Unlawful outdoor advertising -- Adjudicative proceedings -- Judicial**

90 **review -- Costs of removal -- Civil and criminal liability for damaging regulated signs --**  
91 **Immunity for Department of Transportation.**

92 (1) Outdoor advertising is unlawful when:  
93 (a) erected after May 9, 1967, contrary to the provisions of this chapter;  
94 (b) a permit is not obtained as required by this part;  
95 (c) a false or misleading statement has been made in the application for a permit that  
96 was material to obtaining the permit;

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

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

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

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

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

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

113 (5) If the department is granted a judgment in an action brought under Subsection (4),  
114 the department is entitled to have any nuisance abated and recover from the responsible person,  
115 firm, or corporation, jointly and severally:

116 (a) the costs and expenses incurred in removing the sign; and

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

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

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

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

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

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

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

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

135 (b) whether the premise includes an area:

136 (i) from which the general public is serviced according to normal industry practices for  
137 organizations of that type; or

138 (ii) that is directly connected to or is involved in carrying out the activities and normal  
139 industry practices of the advertised activities, services, events, persons, or products;

140 (c) whether the sign generates revenue:

141 (i) arising from the advertisement of activities, services, events, or products not  
142 available on the premise according to normal industry practices for organizations of that type;

143 (ii) arising from the advertisement of activities, services, events, persons, or products  
144 that are incidental to the principal activities, services, events, or products available on the  
145 premise; and

146 (iii) including the following:

147 (A) money;

148 (B) securities;

149 (C) real property interest;

150 (D) personal property interest;

151 (E) barter of goods or services;

- 152 (F) promise of future payment or compensation; or
- 153 (G) forbearance of debt;
- 154 (d) whether the purveyor of the activities, services, events, persons, or products being
- 155 advertised:
- 156 (i) carries on hours of operation on the premise comparable to the normal industry
- 157 practice for a business, service, or operation of that type, or posts the hours of operation on the
- 158 premise in public view;
- 159 (ii) has available utilities comparable to the normal industry practice for an entity of
- 160 that type; and
- 161 (iii) has a current valid business license or permit under applicable local ordinances,
- 162 state law, and federal law to conduct business on the premise upon which the sign is located;
- 163 (e) whether the advertisement is located on the site of any auxiliary facility that is not
- 164 essential to, or customarily used in, the ordinary course of business for the activities, services,
- 165 events, persons, or products being advertised; or
- 166 (f) whether the sign or advertisement is located on property that is not contiguous to a
- 167 property that is essential and customarily used for conducting the business of the activities,
- 168 services, events, persons, or products being advertised.
- 169 (8) The following do not qualify as a business under Subsection (7):
- 170 (a) public or private utility corridors or easements;
- 171 (b) railroad tracks;
- 172 (c) outdoor advertising signs or structures;
- 173 (d) vacant lots;
- 174 (e) transient or temporary activities; or
- 175 (f) storage of accessory products.
- 176 (9) The sign owner has the burden of proving, by a preponderance of the evidence, that
- 177 the advertised activity is conducted on the premise.
- 178 (10) (a) If the department has issued two or more notices of violation of Subsection
- 179 (1)(e) for an existing sign within the last three years, the department may bring an action to
- 180 enforce in any state court of competent jurisdiction against a person, firm, or corporation that
- 181 satisfies one or more of the following prerequisites:
- 182 (i) has a present ownership interest in the sign;

183 (ii) had an ownership interest in the sign on one or more of the days the sign was in  
 184 violation of Subsection (1)(e);

185 [~~(iii) has a present ownership interest in the property upon which the sign is located, or~~  
 186 ~~in contiguous property as defined in Subsection 72-7-504.6(1);]~~

187 [~~(iv) had an ownership interest in the property upon which the sign is located, or in~~  
 188 ~~contiguous property as defined in Subsection 72-7-504.6(1), on one or more of the days the~~  
 189 ~~sign was in violation of Subsection (1)(e);]~~

190 [~~(v)~~] (iii) received or became entitled to receive compensation in any form for the  
 191 unlawful outdoor advertising; or

192 [~~(vi)~~] (iv) solicited the advertising.

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

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

196 (ii) the defendants have the burden of proving, by a preponderance of the evidence, that  
 197 the advertising in question is lawful under this part.

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

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

203 Section 3. **Repealer.**

204 This bill repeals:

205 Section 72-7-504.6, **Unified commercial development.**