

- 90 (B) securities;
- 91 (C) real property interest;
- 92 (D) personal property interest;
- 93 (E) barter of goods or services;
- 94 (F) promise of future payment or compensation; or
- 95 (G) forbearance of debt;

96 (d) whether the purveyor of the activities, services, events, persons, or products being  
 97 advertised:

98 (i) carries on hours of operation on the premise comparable to the normal industry  
 99 practice for a business, service, or operation of that type, or posts the hours of operation on the  
 100 premise in public view;

101 (ii) has available utilities comparable to the normal industry practice for an entity of  
 102 that type; and

103 (iii) has a current valid business license or permit under applicable local ordinances,  
 104 state law, and federal law to conduct business on the premise upon which the sign is located;

105 (e) whether the advertisement is located on the site of any auxiliary facility that is not  
 106 essential to, or customarily used in, the ordinary course of business for the activities, services,  
 107 events, persons, or products being advertised; or

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

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

- 112 (a) public or private utility corridors or easements;
- 113 (b) railroad tracks;
- 114 (c) outdoor advertising signs or structures;
- 115 (d) vacant lots;
- 116 (e) transient or temporary activities; or
- 117 (f) storage of accessory products.

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

120 (10) (a) (i) ~~H~~→ **[The] After issuing a written warning for a first offense of Subsection**

120a **(1)(b) or (e), the** ←~~H~~ **department may issue a citation to a person who has violated**

121 Subsection (1)(b) or (e).

122 (ii) If the department issues a citation as described in Subsection (10)(a)(i), the  
 123 department may impose a fine not to exceed \$500.

123a **H→ (iii) A fine imposed under Subsection (10)(a)(ii) shall be deposited in the Transportation**

123b **Fund. ←H**

124 [~~(a)~~] (b) If the department has issued two or more notices of violation of or a citation  
 125 for a violation of Subsection [~~(1)~~]~~(e)~~ (1)(b) or (e) for an existing sign within the last three  
 126 years, the department may bring an action to enforce in any state court of competent  
 127 jurisdiction against a person, firm, or corporation that satisfies one or more of the following  
 128 prerequisites:

129 (i) has a present ownership interest in the sign;

130 (ii) had an ownership interest in the sign on one or more of the days the sign was in  
 131 violation of Subsection [~~(1)~~]~~(e)~~ (1)(b) or (e);

132 (iii) has a present ownership interest in the property upon which the sign is located, or  
 133 in a unified commercial development as defined in Section 72-7-504.6;

134 (iv) had an ownership interest in the property upon which the sign is located, or in a  
 135 unified commercial development as defined in Section 72-7-504.6, on one or more of the days  
 136 the sign was in violation of Subsection [~~(1)~~]~~(e)~~ (1)(b) or (e);

137 (v) received or became entitled to receive compensation in any form for the unlawful  
 138 outdoor advertising; or

139 (vi) solicited the advertising.

140 [~~(b)~~] (c) In an action under Subsection (10)[~~(a)~~](b):

141 (i) the provisions of Subsections (7) and (8) apply; and

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

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

147 (e) (i) Subject to Subsection (10)(e)(ii), for purposes of calculating the number of days  
 148 on which the sign was used for unlawful off-premises outdoor advertising as described in  
 149 Subsection (10)(d), the department shall count each day that the sign was maintained after the  
 150 first notice of agency action was filed and served under Section 63G-4-201.

151 (ii) For purposes of calculating the number of days on which the sign was used for