

The Senate Transportation Committee offered the following substitute to HB 1097:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated,
2 relating to control of signs and signals on or near public roads, so as to prohibit certain
3 outdoor advertising containing depictions of nudity or sexual conduct which are visible to
4 motor vehicle drivers traveling on certain public roads; to define certain terms; to provide
5 punishments for violations; to provide legislative findings and declarations; to change certain
6 provisions relating to restrictions on outdoor advertising signs authorized by Code Sections
7 32-6-72 and 32-6-73 and multiple message signs on the interstate system, primary highways,
8 and other highways; to provide for reduction of height of certain outdoor advertising signs;
9 to repeal certain provisions of law restricting outdoor advertising which were declared
10 unconstitutional by the Georgia Supreme Court in the case of *State v. Cafe Erotica, Inc.*, 270
11 Ga. 97 (1998); to provide for severability; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Article 3 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to
15 control of signs and signals on or near public roads, is amended by adding a new Code
16 Section 32-6-52 to read as follows:

17 "32-6-52.

18 (a) As used in this Code section, the term:

19 (1) 'Nudity' means the displaying of any portion of the human female breast below the
20 top of the areola or the displaying of any portion of any human's pubic hair, anus, vulva,
21 or genitals.

22 (2) 'Outdoor advertising' means any commercial advertisement displayed outdoors by
23 means of billboards or signs.

24 (3) 'Sexual conduct' means acts of sexual intercourse, masturbation, sodomy, or fondling
25 of a human's clothed or unclothed genitals, pubic area, buttocks, or, if the human is
26 female, breast.

1 (b) The General Assembly finds and declares that outdoor advertising containing
 2 depictions of nudity or sexual conduct which are visible from the roadways of public roads
 3 may be startling or provocative and thereby divert the attention of motor vehicle drivers,
 4 thus causing real and substantial hazards to traffic safety. The General Assembly further
 5 declares that the purpose of this Code section is to protect the public welfare and safety
 6 against such hazards.

7 (c) No person shall display any outdoor advertising containing any depiction of nudity or
 8 sexual conduct when such depiction is visible from the roadway of any public road in the
 9 state highway system as defined in Code Section 32-4-1.

10 (d)(1) Any person who violates subsection (c) of this Code section shall be guilty of a
 11 misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding
 12 \$1,000.00.

13 (2) Each day during which outdoor advertising is displayed in violation of subsection (c)
 14 of this Code section shall constitute a separate offense."

15 SECTION 2.

16 Said article is further amended by striking in its entirety paragraph (12) of subsection (a) of
 17 Code Section 32-6-75, relating to outdoor advertising signs authorized by Code Sections
 18 32-6-72 and 32-6-73 and multiple message signs on the interstate system, primary highways,
 19 and other highways, and inserting in lieu thereof the following:

20 "(12) Contains more than two faces visible from the same direction on the main traveled
 21 way; provided, however, that after July 1, 2006, no sign shall be erected that contains
 22 more than one face vertically stacked visible from the same direction on the main traveled
 23 way. Double-faced, back-to-back, and V-type constructed signs shall, for the purpose of
 24 determining compliance with size and spacing limitations, be considered as one sign;"

25 SECTION 3.

26 Said article is further amended in said Code section by striking in its entirety paragraph (8)
 27 of subsection (a) and inserting in lieu thereof a new paragraph (8) to read as follows:

28 "(8) If illuminated, contains, includes, or is illuminated by any flashing, intermittent, or
 29 moving light or lights except those giving public service information such as time, date,
 30 temperature, weather, or other similar information except as expressly permitted under
 31 subsection (c) of this Code section. The illumination of mechanical multiple message
 32 signs is not illumination by flashing, intermittent, or moving light or lights, except that
 33 no multiple message sign may include any illumination which is flashing, intermittent,
 34 or moving when the sign is in a fixed position;"

1 (E) Any maximum size limitations shall apply independently to each side of a multiple
2 message sign; and

3 (F) Nonmechanical electronic multiple message signs that are otherwise in compliance
4 with this subsection and are illuminated entirely by the use of light emitting diodes,
5 back lighting, or any other light source shall be permitted under the following
6 circumstances:

7 (i) Each transitional change occurs within two seconds;

8 (ii) If the department finds an electronic sign or any display or effect thereon to cause
9 glare or to impair the vision of the driver of any motor vehicle or to otherwise
10 interfere with the safe operation of a motor vehicle, then, upon the department's
11 request, the owner of the sign shall promptly and within not more than 48 hours
12 reduce the intensity of the sign to a level acceptable to the department; and

13 (iii) The owner of any existing or nonconforming electronic sign shall have 180 days
14 from the effective date of this subparagraph to bring the electronic sign in compliance
15 with this subparagraph and to request a permit from the department."

16 SECTION 6.

17 Said article is further amended in said Code section by adding at the end thereof a new
18 subsection to read as follows:

19 "(d)(1) The General Assembly finds and declares that reducing the height of outdoor
20 advertising signs serves the public purpose and function of roadside beautification and
21 enhancement. The procuring of rights and interests providing for reduction in the height
22 of such signs or their maintenance at a height below the maximum legally authorized
23 confers a substantial benefit upon the state and the public.

24 (2) After July 1, 2006, the department shall not accept any application to construct any
25 sign exceeding 70 feet in height as measured from the top of the sign to the road level.

26 (3) Any sign shall receive the permit and renewals provided for by subsection (b) of
27 Code Section 32-6-75.3 for not more than the fees set forth in subsection (d) of said Code
28 section, except as otherwise provided by this subsection, in exchange for an agreement
29 by the owner with the department providing that:

30 (A) If the sign is not more than 60 feet in height, the height of such sign shall not
31 thereafter be increased;

32 (B) If the sign exceeds 60 feet but does not exceed 70 feet in height, it shall be lowered
33 at least ten feet and the height of such sign shall not thereafter be increased; or

34 (C) If such sign exceeds 70 feet in height, it shall be lowered to not more than 70 feet
35 and the height of such sign shall not thereafter be increased.

1 The applicant shall pay to the department as an additional fee pursuant to this subsection
 2 an amount equal to three times the appraised pulpwood value of all trees removed
 3 pursuant to each permit. Lowering of signs pursuant to such an agreement shall be
 4 permitted irrespective of otherwise applicable ordinances or regulations. Any agreement
 5 made pursuant to this subsection with any owner of one or more signs exceeding 70 feet
 6 shall require that at least one such sign be lowered to not more than 70 feet. For each
 7 such sign exceeding 70 feet that is lowered to not more than 70 feet pursuant to such
 8 agreement, an additional permit and renewals provided for by subsection (b) of Code
 9 Section 32-6-75.3 may be obtained for any sign of the same owner not exceeding 70 feet
 10 in height without regard to the requirements of subparagraphs (A) and (B) of this
 11 paragraph.

12 (4) In light of the substantial benefits conferred, permits issued pursuant to this
 13 subsection shall be issued irrespective of paragraph (2) of subsection (b) and paragraph
 14 (1) of subsection (e) of Code Section 32-6-75.3 and shall allow removal irrespective of
 15 diameter restriction and over a viewing zone of 500 horizontal feet parallel to the right
 16 of way in the direction of a face visible from the main traveled way. The procedures and
 17 requirements for issuance of permits established by this subsection shall be an alternative
 18 to the procedures provided for by Code Section 32-6-75.3, and the option to proceed
 19 under this subsection or such Code section shall be at the election of the owner."

20 SECTION 7.

21 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared
 22 or adjudged invalid or unconstitutional, such declaration or adjudication shall affect and
 23 invalidate the whole of the section in which such matter appears herein, but shall in no
 24 manner affect the other sections, subsections, sentences, clauses, or phrases of this Act,
 25 which shall remain of full force and effect as if the section, subsection, sentence, clause, or
 26 phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof.
 27 The General Assembly declares that it would have passed the remaining parts of this Act if
 28 it had known that such part or parts hereof would be declared or adjudged invalid or
 29 unconstitutional, but would not have passed any section of this Act containing or constituting
 30 an invalid or unconstitutional provision.

31 SECTION 8.

32 This Act shall become effective upon its approval by the Governor or upon its becoming law
 33 without such approval.

1 **SECTION 9.**

2 All laws and parts of laws in conflict with this Act are hereby repealed.