

Senate Bill 383

By: Senators Ginn of the 47th, Mullis of the 53rd, Black of the 8th, Williams of the 27th,
Sims of the 12th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to the
2 regulation of maintenance and use of public roads, so as to provide for the purpose of the
3 Roadside Enhancement and Beautification Council; to provide for the issuance of permits
4 for the removal or trimming of vegetation on state rights of way when such vegetation
5 obstructs the target viewing zone of a building, sign, or structure upon commercial property;
6 to provide for procedures, conditions, and limitations for the issuance of such permits; to
7 provide for definitions; to provide for legislative intent; to provide for the department to set
8 standards for applications and fees for such permits; to prohibit the removal or certain types
9 of vegetation; to provide for penalties; to provide for related matters; to repeal conflicting
10 laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to the regulation
14 of maintenance and use of public roads, is amended in Code Section 32-6-75.1, relating to
15 membership, purpose, and compensation of the Roadside Enhancement and Beautification
16 Council, by revising subsection (b) as follows:

17 "(b) The council shall aid the commissioner in formulating policies and discussing
18 problems related to the administration of this article and Part 1 of Article 5 of this chapter.

19 In addition, the council shall:

20 (1) Review, comment upon, and make recommendations to the commissioner on the
21 standards and policies to be used in the trimming and removal of vegetation on state
22 rights of way in front of legally erected and maintained outdoor advertising signs and
23 commercial sites as such term is defined in subparagraph (a)(1)(A) of Code Section
24 32-6-136;

25 (2) Make recommendations to the department regarding standards for vegetation removal
26 and landscape and maintenance plans submitted by permittees including without

27 limitation the use of viewing zones under Code Section 32-6-75.3 and Code Section
 28 32-6-136;

29 (3) Review the performance of permittees holding current tree and vegetation trimming
 30 permits issued under Code Section 32-6-75.3 and Code Section 32-6-136 for compliance
 31 with the requirements of such permits including without limitation the implementation
 32 of landscaping plans;

33 (4) Encourage the contribution of funds from appropriate sources to support roadside
 34 enhancement and beautification;

35 (5) Submit to the commissioner annually not later than 30 days after the date of its fourth
 36 quarter meeting a written report of findings based upon its reviews of permittees'
 37 performances and recommendations including without limitation any recommendations
 38 for expenditures for roadside enhancement and beautification; and

39 (6) Perform such other functions as may be specified for the council by the department.

40 The council shall have full and complete access to all department records necessary for the
 41 performance of its duties."

42 SECTION 2.

43 Said chapter is further amended by adding a new Code section to read as follows:

44 "32-6-136.

45 (a)(1) For purposes of this Code section, the term:

46 (A) 'Commercial site' means a building, sign, or structure located upon commercial
 47 property when such property is used for commercial or industrial purposes.

48 (B) 'Removal' or 'removed' means the elimination of trees or other vegetation from a
 49 viewing zone.

50 (C) 'Target view zone' means an area of a viewing zone extending from a commercial
 51 site to a roadway which allows for the visibility of the commercial site by passing
 52 motorists.

53 (D) 'Trimming' or 'trimmed' means the pruning of excess limbs or branches from trees
 54 or other vegetation which are not removed from a viewing zone.

55 (E) 'Viewing zone' means a continuous 1,000 foot horizontal distance parallel to a state
 56 right of way and adjacent to or otherwise within the line of sight of a specific point on
 57 a commercial site designated by the property owner in the permit application.

58 (2) The General Assembly finds and declares that commercial businesses and enterprises
 59 provide a substantial service and benefit to Georgia, Georgia's citizens, and the economy
 60 of this state. The General Assembly further finds that in the interest of safety to motorists
 61 and pedestrians, there is a benefit to the traveling public to be able to locate and identify
 62 a commercial site. The General Assembly further finds the economy of this state is

63 benefited and trade is promoted when a traveling motorist can easily identify a place of
64 business. Therefore, the General Assembly declares it to be in the public interest that
65 provisions be made for the visibility of commercial sites located along the highways in
66 this state to provide information regarding businesses offering goods and services
67 available to the general public. Recognizing, however, that the beautification of this state
68 and the health of its environment are absolutely essential and equally as important to the
69 traveling public, the General Assembly finds and declares that such needs must be
70 balanced.

71 (b) To promote the objectives provided in paragraph (2) of subsection (a) of this Code
72 section, and in accordance with the provisions of this Code section, the commissioner shall
73 provide by rule and regulation for the issuance and annual renewal of permits for the
74 trimming and removal of trees and other vegetation on state rights of way within viewing
75 zones with respect to commercial sites adjacent to such rights of way. Such rules and
76 regulations shall include, without limitation, standards for survival of trees and other
77 vegetation trimmed or planted.

78 (c) Application for a tree or vegetation trimming or removal permit and the annual renewal
79 thereof shall be made upon the forms prescribed and provided by the department and shall
80 contain the signature of the applicant and such other information as may be required by the
81 department's rules and regulations.

82 (d) An application fee shall accompany the application for each tree or vegetation
83 trimming or removal permit, and both the application and fee shall be submitted to the
84 department. There shall be an annual renewal of the permit for activities in the original
85 scope of the permit. The department shall promulgate rules and regulations setting forth
86 the application fees and renewal fees. Such application and renewal fees shall be
87 established by the department in reasonable amounts in order to fully recover the costs of
88 administering the tree or vegetation maintenance program.

89 (e)(1) The department shall evaluate each application for a permit and require as a
90 condition of granting any such permit under this Code section that the value of the
91 landscaping to be either provided or paid for by the applicant is not less than the
92 department's appraised value of the benefit to be conferred by the state upon the applicant
93 by allowing the trimming or removal of trees or other vegetation as requested, which
94 shall be the value of the trees or vegetation to be trimmed or removed; provided,
95 however, that a permit may be granted to an otherwise qualified applicant when the value
96 of the landscaping to be either provided or paid for by the applicant is less than the
97 department's appraised value of the trees or other vegetation to be trimmed or removed
98 if, in addition, the applicant pays to the department an amount equal to the amount of the
99 difference between the value of the landscaping to be either provided or paid for by the

100 applicant and the department's appraised value of the trees or other vegetation to be
 101 trimmed or removed.

102 (2) Any measurement of vegetation to be removed for valuation purposes shall be made
 103 at diameter breast height as shown in the section entitled 'Height of Measurement' in the
 104 Guide for Plant Appraisal (9th Edition) as published by the International Society of
 105 Arboriculture. Based on the substantial benefit to the state when dead or diseased trees
 106 are removed from a right of way and the negligible value of dead or diseased trees, such
 107 trees shall not be measured or valued in determining the appraised value. Trees shall only
 108 be deemed dead or diseased if listed as such in the report of a certified forester or arborist,
 109 subject to review and approval by the department. Within 60 days of receipt of a
 110 properly completed application, the department shall issue the permit for vegetation
 111 maintenance.

112 (3)(A) For purposes of this paragraph, the term 'historic tree' means a tree or group of
 113 trees that are reasonably determined by the department to be:

114 (i) Identified by a unit of government to recognize an individual or group;

115 (ii) Located at the site of a historic event and to have a significant impact on an
 116 individual's perception of the event;

117 (iii) Dated to the time of a historic event at the location of the tree or group of trees,
 118 as identified by a unit of government; or

119 (iv) Confirmed as the progeny of a tree or group of trees that meets any of the criteria
 120 contained in this subparagraph.

121 (B) For purposes of this paragraph, the term 'landmark tree' means a tree or group of
 122 trees that:

123 (i) Has been planted and maintained for educational purposes for more than 75 years;

124 (ii) Was planted as a memorial to an individual, group, event, or cause and is more
 125 than 75 years old; or

126 (iii) Symbolizes a historically significant individual, place, event, or contribution, as
 127 recognized by a unit of government prior to July 1, 2016.

128 (C) For purposes of this paragraph, the term 'specimen tree' means a hardwood tree or
 129 group of hardwood trees that is determined to be in excess of 75 years of age as
 130 determined by a registered forester or arborist.

131 (D) The applicant shall be allowed to remove all trees and other vegetation from the
 132 target view zone. Tree and other vegetation removal shall be prohibited in all areas of
 133 the viewing zone outside of the target view zone; provided, however, that portions of
 134 trees and other vegetation, such as tree limbs, which extend into the target view zone
 135 from outside the target view zone may be trimmed as necessary to preserve the clear
 136 target view zone. The only vegetation which cannot be removed from the target view

137 zone pursuant to this subparagraph shall be historic trees, landmark trees, and specimen
 138 trees, as defined in subparagraphs (A) through (C) of this paragraph, and any tree or
 139 other vegetation planted as part of a permitted local, state, or federal government
 140 beautification project.

141 (E) Pruning or trimming of trees or other vegetation under a permit shall conform to
 142 industry standards as defined by the National Arborist Association, International
 143 Society of Arboriculture, or ANSI A300 pruning standards as of January 1, 2016, or
 144 such later edition as may be adopted by rule or regulation of the department.

145 (4) An applicant's record of conduct regarding disturbance of trees or other vegetation
 146 on state rights of way shall be considered by the department as part of the evaluation
 147 process for any permit or permit renewal application.

148 (5) Prior to approving any permit application to remove allegedly dead or diseased trees,
 149 the department shall verify that such trees are in fact dead or diseased. Such
 150 determination shall be made by the department's landscape architect.

151 (6) A performance bond in an amount adequate for the requirements of the permit as
 152 determined by the department shall be required of each permittee.

153 (f)(1) No trees or other vegetation on state rights of way shall be trimmed, killed, or
 154 removed by any person other than in accordance with a permit issued under this Code
 155 section by any person other than the department or an authorized agent or contractor
 156 thereof.

157 (2)(A) In cases where the department has reasonable cause to believe that a violation
 158 of this subsection has been committed by any person, the department shall provide
 159 notice to the permittee detailing the alleged violation in accordance with Code Section
 160 50-13-13.

161 (B) Following a notice, a hearing, and a finding that a person has committed a violation
 162 of paragraph (1) of this subsection, a civil fine of not less than \$10,000.00 nor more
 163 than \$20,000.00 and restitution in an amount equal to the appraised value of the trees
 164 or vegetation, or both, which were unlawfully trimmed or removed shall be imposed
 165 on such person.

166 (g) Nothing in this Code section shall supersede any applicable local rules or ordinances.
 167 The department shall not deny an applicant a tree or vegetation trimming or removal permit
 168 for complying with applicable local rules or ordinances."

169 **SECTION 3.**

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