

House Transportation Committee 1

Amendment No. 1 to HB0963

**Howell
Signature of Sponsor**

AMEND Senate Bill No. 902

House Bill No. 963*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 54-21-102, is amended by adding the following as a new, appropriately designated subdivision:

() "Conforming" means an outdoor advertising device that was permitted under and conforms to the zoning, size, lighting, and spacing criteria established in accordance with either the current agreement entered into between the commissioner and the secretary of transportation of the United States on or about October 18, 1984, or the original agreement entered into on or about November 11, 1971, as authorized in § 54-21-116. Any permitted outdoor advertising device that continues to conform to either the current agreement or the original agreement and conditions provided in § 54-21-116 is considered conforming;

SECTION 2. Tennessee Code Annotated, Section 54-21-104(a), is amended by designating the existing subsection as subdivision (a)(1) and adding a new subdivision (a)(2) as follows:

(2) If an existing outdoor advertising device was not subject to this chapter when it was erected but is subsequently made subject to this chapter by a federal law or action that adds a highway or section of a highway to the interstate or primary highway systems, such outdoor advertising device shall be required to obtain a permit and tag from the commissioner as provided in subdivision (b)(2).

SECTION 3. Tennessee Code Annotated, Section 54-21-104(b)(1), is amended by deleting the first sentence and substituting the following language:

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Except as otherwise provided in subdivision (b)(2), permits and tags shall not be issued until applications are made in accordance with and on forms provided by the commissioner and accompanied by payment of a fee of two hundred dollars (\$200) for each permit and tag requested.

SECTION 4. Tennessee Code Annotated, Section 54-21-104(b), is amended by adding the following as a new subdivision (b)(2) and renumbering existing subdivision (b)(2) and the remaining subdivisions accordingly:

(2) If an existing outdoor advertising device is made subject to this chapter under subdivision (a)(2), the owner or operator of the device shall obtain a permit and tag in the same manner as provided in subdivision (b)(1) except as follows:

(A) The application for the permit and tag shall be made on an application form specifically provided for this purpose;

(B) The application form shall exempt the applicant from providing:

(i) Any stake or mark on the ground showing the location of the outdoor advertising device on the real property;

(ii) A map or scaled drawing showing the property lines of the real property within which the outdoor advertising device is located, the location of the outdoor advertising device within the real property, the public roads adjacent to the real property, or the means of access to the outdoor advertising device; or

(iii) Any affidavit or other document from the real property owner verifying that the owner has granted the applicant the right to construct and operate the outdoor advertising device on the real property;

(C) The application shall be accompanied by payment of a fee of seventy dollars (\$70.00) for each permit and tag requested. This fee shall represent payment for the required tag and for the first annual permit and shall not be subject to return upon rejection of any application;

(D) After a completed application is submitted to and processed by the department of transportation in accordance with this subdivision (b)(2) and the applicable provisions of the department of transportation's outdoor advertising regulations, the department of transportation shall issue the permit, except as otherwise provided in subdivision (b)(2)(F);

(E) No existing outdoor advertising device shall be denied a permit under this subdivision (b)(2) solely because the device does not meet the size, lighting, spacing, or zoning criteria that are required for new outdoor advertising devices under current law and regulations;

(F)

(i) An application for a permit may be denied on other grounds under this subdivision (b)(2) only in accordance with current law or regulations, including as follows:

(a) The outdoor advertising device is located within or encroaches upon state highway right-of-way;

(b) There is no access to the outdoor advertising device for maintenance or operational purposes except by direct access from state highway right-of-way or across the state's access control limits;

(c) The applicant for the permit is subject to enforcement action under § 54-21-105(c); or

(d) Issuance of the permit would violate federal law.

(ii) Before denying a permit on any of the grounds provided in subdivision (b)(2)(F)(i), the department of transportation shall notify the applicant in writing of the violation that prevents issuance of the permit. The department shall also give the applicant a reasonable amount of time to undertake such action, if any, that would cure the violation. If the applicant cures the violation, the department shall issue the permit, but if the applicant fails to cure the violation the department shall deny the permit;

(G) Any permit that is issued under this subdivision (b)(2) shall indicate whether the outdoor advertising device shall be characterized and regulated as a conforming or nonconforming device under this chapter based upon the conditions and laws in effect on the date of the department's field inspection. The department shall notify the applicant in writing of the reason or reasons for characterizing a device as nonconforming; and

(H) The applicant has the right to appeal the department's decision in accordance with the department of transportation's outdoor advertising regulations and the applicable provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 5. This act shall take effect July 1, 2019, the public welfare requiring it.