

1 HB441  
2 166728-1  
3 By Representative Rich  
4 RFD: County and Municipal Government  
5 First Read: 09-APR-15

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, the Highway  
9 Beautification Act-Outdoor Advertising, outdoor  
10 advertising is regulated along federal primary  
11 highways in this state by the State Department of  
12 Transportation and enforced by the department and  
13 the Director of Transportation.

14 This bill would authorize a municipality to  
15 enforce the law in the corporate limits of the  
16 municipality.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT  
21

22 To amend Section 23-1-278 of the Code of Alabama  
23 1975, relating to the enforcement of the Highway  
24 Beautification Act-Outdoor Advertising, regulating outdoor  
25 advertising along federal primary highways in the state, to  
26 authorize municipalities to enforce the law in the corporate  
27 limits of the municipality.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 23-1-278 of the Code of Alabama  
3 1975, is amended to read as follows:

4 "§23-1-278.

5 "(a) Any sign erected or maintained in an adjacent  
6 area after February 10, 1972, and any outdoor advertising  
7 sign, display, or device erected with the purpose of its  
8 message being read from the main-traveled way of any  
9 interstate highway or primary highway outside of an urban area  
10 and beyond 660 feet of the right-of-way after April 11, 1978,  
11 in violation of the provisions of this division or the rules  
12 and regulations promulgated under the provisions of this  
13 division may be removed by the director upon 30 days' prior  
14 notice by certified or registered mail to the owner thereof  
15 and to the owner of the land on which said sign is located or  
16 through court proceedings at the option of the director. No  
17 notice shall be required to be given to the owner of the sign  
18 or to a property owner whose name is not stated on the sign or  
19 on the structure on which it is displayed or whose address is  
20 not stated thereon and is not on file with the director.

21 "(b) The courts of this state shall have  
22 jurisdiction, in accordance with the provisions of Sections  
23 6-6-220 through 6-6-232, over actions for declaratory  
24 judgment, initiated by the director, the owners of signs or  
25 the owners of property on which signs are located, to  
26 determine and adjudicate controversies arising under or out of  
27 the enforcement of this division and to set forth the rights,

1 duties, and responsibilities of the various parties arising  
2 under this division, including decrees of injunction and  
3 ordering removal of signs. In addition the courts of this  
4 state shall have such injunctive powers as may be necessary to  
5 enforce or compel compliance with the provisions of this  
6 division in cases filed by the director for injunction in the  
7 enforcement of this division, including the power to enjoin  
8 the continuing maintenance of any sign erected or maintained  
9 in violation of the provisions of this division and the  
10 removal of any such signs on complaint filed by the director.  
11 Proceedings hereunder being largely equitable in nature, the  
12 courts shall set forth the rights, duties, and  
13 responsibilities of the parties under this division on the  
14 facts presented without intervention of a jury except as may  
15 be otherwise provided by statute or the Constitution of  
16 Alabama. In the event a sign or signs involved in any  
17 proceeding hereunder are found to be maintained, permitted to  
18 exist, or erected in violation of any of the provisions of  
19 this division, the court trying the cause, on being petitioned  
20 by the director, shall order the removal of the sign or signs,  
21 subject to Sections 23-1-280, 23-1-281, and 23-1-282, where  
22 applicable, by the sign owner or jointly by the sign owner and  
23 property owner if joined in the proceeding or separately by  
24 the property owner; provided, that the director, acting  
25 through personnel of the State Department of Transportation,  
26 may remove such signs at the option of the director as  
27 provided herein or as ordered by the court. Court costs shall

1 be taxed against a sign owner or property owner on which a  
2 sign is located if a court determines that such parties have  
3 erected or maintained a sign in violation of this division.  
4 Jurisdiction and procedure of courts are not limited by this  
5 division.

6 "(c) In any proceeding hereunder in the courts of  
7 this state, an allegation or averment setting forth the owner  
8 of the real property or the owner of a sign located thereon to  
9 be a particular party or parties shall be deemed to establish  
10 prima facie ownership of the real property or the sign to be  
11 in such party or parties, respectively, unless within 30 days  
12 from the service of process upon them, such party or parties  
13 file in the proceeding a sworn denial of ownership and, in  
14 addition thereto, set forth any interest in and to such real  
15 property or sign to which they claim to be entitled. In any  
16 proceeding hereunder in the courts, employees of the State  
17 Department of Transportation may testify, from general  
18 knowledge, that a particular highway is an interstate or  
19 primary highway or as to the location of geographical  
20 boundaries of urban areas, incorporated municipalities and  
21 other zoned areas. In addition to other official maps, maps  
22 prepared by the State Department of Transportation as to the  
23 location of geographical boundaries of urban areas hereunder  
24 shall be received in evidence in aid of establishment of such  
25 boundaries when offered on the general knowledge of employees  
26 of the State Department of Transportation that such map or  
27 maps were prepared by the State Department of Transportation

1 for the purpose of establishing the geographical boundaries of  
2 an urban area.

3 "(d) In the event a determination is made by the  
4 director that a particular sign or signs have been erected or  
5 are being maintained or allowed to exist in violation of any  
6 of the provisions of this division, upon written notice to the  
7 owner of such sign or signs, such owner of the sign or signs  
8 shall have a duty to submit to the director all factual and  
9 documentary evidence in his possession, under his control, or  
10 reasonably obtainable by such sign owner relating to the date  
11 or dates of the erection of the sign or signs, the names of  
12 individuals erecting same and all information relating in any  
13 manner to the erection of the sign or signs, the names of  
14 individuals erecting same and all information relating in any  
15 manner to the location thereof which would tend to have a  
16 bearing on whether the sign or signs were erected in violation  
17 of or are being maintained or allowed to exist in violation of  
18 any of the provisions of this division.

19 "All officers and employees of the State Department  
20 of Transportation are hereby authorized and empowered to enter  
21 upon and go across any land located within the State of  
22 Alabama for the purpose of inspection of any sign determined  
23 by the director to be in existence in violation of this  
24 division or any amendment thereto. Any officer and employee of  
25 the State Department of Transportation who, acting lawfully  
26 under this division, enters upon or crosses any lands located  
27 within this state for the purpose of inspection or removal of

1 any such sign and in and about the activity of inspection or  
2 removal of any such sign is hereby vested with full police  
3 power to arrest or prefer charges against any person or  
4 persons who interferes with the performance of his or her  
5 duty.

6 "(e) In addition to the enforcement otherwise  
7 provided in this section, a municipality may enforce this  
8 division within the corporate limits of the municipality in  
9 the same manner as the Director of Transportation and the  
10 department and shall have the same power and authority as  
11 provided for the director and the department in this section."

12 Section 2. This act shall become effective on the  
13 first day of the third month following its passage and  
14 approval by the Governor, or its otherwise becoming law.