

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 528
Committee Substitute Favorable 4/11/17
PROPOSED COMMITTEE SUBSTITUTE H528-PCS10300-ML-7

Short Title: Traffic Impact Analysis Time Frame.

(Public)

Sponsors:

Referred to:

March 30, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE A TIME FRAME IN WHICH THE DEPARTMENT OF
3 TRANSPORTATION MUST MAKE A DECISION ON A TRAFFIC IMPACT
4 ANALYSIS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 7 of Chapter 136 of the General Statutes is amended by
7 adding a new section to read:

8 **"§ 136-93.1A. Time frame for reviewing and making a decision on traffic impact**
9 **analyses.**

10 (a) Required Time Frames. – The following time frames apply to the Department's
11 process for reviewing and making a decision on a traffic impact analysis:

12 (1) The Department shall communicate the scope of the traffic impact analysis
13 to the applicant no later than 10 business days from the day the Department
14 receives the scope proposed by the applicant.

15 (2) The Department shall review and make a decision as to the completeness of
16 the traffic impact analysis no later than 20 business days from the day the
17 Department receives the traffic impact analysis. Failure of the Department to
18 meet the time frame set forth in this subdivision shall result in the traffic
19 impact analysis being deemed complete.

20 (3) The Department shall review and make a decision as to the approval or
21 rejection of a traffic impact analysis no later than 20 business days from the
22 day the traffic impact analysis is determined or deemed to be complete in
23 accordance with subdivision (2) of this subsection or subsection (e) of this
24 section. Failure of the Department to meet the time frame set forth in this
25 subdivision shall result in the traffic impact analysis being deemed
26 approved.

27 (b) Calculation. – The following rules apply when calculating the time frames set forth
28 in subsection (a) of this section:

29 (1) The period of time in which a local government or local transportation
30 planning organization reviews and provides feedback shall be included.

31 (2) The period of time in which the Department awaits a response from an
32 applicant shall not be included.

33 (c) Basis for Rejection. – The Department shall not reject a traffic impact analysis on
34 the basis that the applicant has failed to include information in a traffic impact analysis that is
35 outside the scope established under subdivision (1) of subsection (a) of this section for that



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1 traffic impact analysis. When the Department rejects a traffic impact analysis, the Department
2 shall provide the applicant written notice specifically setting forth the reason for rejection.

3 (d) Effect of Rejection. – The time frames set forth in subsection (a) of this section shall
4 reset upon rejection of a traffic impact analysis. The Department may authorize an applicant to
5 reuse the scope approved for a rejected traffic impact analysis if the applicant is submitting a
6 revised traffic impact analysis. The Department shall notify the applicant as to whether the
7 original scope may be used no later than five business days from the day the Department
8 receives notice from the applicant that the applicant plans to submit a revised traffic impact
9 analysis.

10 (e) Appeal. – An applicant may appeal a rejection of a traffic impact analysis by
11 providing written notice of appeal to the Chief Engineer no later than five business days from
12 the day the applicant receives the written notice required under subsection (c) of this section.
13 No later than five business days from the day the Chief Engineer receives the written notice of
14 appeal, the Chief Engineer shall either affirm or overturn the rejection being appealed. If the
15 rejection being appealed is overturned, the traffic impact analysis that was the subject of the
16 appeal shall be deemed (i) complete if the basis of the rejection being appealed was lack of
17 completeness or (ii) approved if the basis of the rejection being appealed was for any reason
18 other than lack of completeness. The Chief Engineer shall provide the appealing party with
19 written notice of the Chief Engineer's decision, specifically setting forth the reason if the
20 rejection being appealed is affirmed. A decision by the Chief Engineer shall be final and not
21 subject to further appeal.

22 (f) Criteria. – The Department shall develop and use criteria for determining (i) the
23 scope of a traffic impact analysis, (ii) the completeness of a traffic impact analysis, and (iii)
24 whether to approve or reject a traffic impact analysis. The Department shall post the criteria on
25 its Web site. Prior to amending the criteria, the Department shall consult with a working group
26 that consists of engineers, local government representatives, local transportation planning
27 organization representatives, and other interested stakeholders identified by the Department.
28 The Department shall provide at least 90 days' notice prior to the effective date of any
29 amendments to the criteria. The notice required under this subsection may be satisfied by
30 publishing the proposed amendments on the Department's Web site.

31 (g) Report. – Beginning October 1, and annually thereafter, the Department shall
32 provide to the chairs of the Joint Legislative Transportation Oversight Committee a report on
33 the number of times the Department failed during the year preceding the report to meet the time
34 frame set in subdivision (1) of subsection (a) of this section, including reasoning for each
35 failure."

36 **SECTION 2.** The Department of Transportation shall commence development of
37 the appeals process required under G.S. 136-93.1A(e), as enacted by Section 1 of this act.

38 **SECTION 3.** Section 1 of this act becomes effective October 1, 2017, and applies
39 to proposed scopes and traffic impact analyses submitted on or after that date. The remainder of
40 this act is effective when it becomes law.