

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

D

HOUSE DRH30383-LB-328 (4/10)

Short Title: City Transit Bench/Shelter. (Public)

Sponsors: Representative Cole.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT AUTHORIZING TRANSIT SYSTEM BENCHES AND TRANSIT SYSTEM
3 SHELTERS ON HIGHWAYS WITHIN CITIES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 136 is amended by adding a new section to read:

6 "**§ 136-32.4. Transit system shelters.**

7 (a) Definitions. – The following definitions apply in this section:

8 (1) Transit system shelter. – A shelter, with or without a bench or a bin,
9 located at transit stops for the convenience of passengers of public
10 transportation systems owned and operated by governmental units or
11 public authorities.

12 (2) Commercial advertisement. – A printed or painted sign encouraging or
13 promoting the purchase or use of goods or services.

14 (b) Transit System Shelters Authorized. – Transit system shelters with or without
15 benches or bins, including those on which commercial advertisements are placed, may
16 be erected and maintained on the rights-of-way of public roads subject to the following
17 conditions and requirements:

18 (1) Any public transit system wishing to erect and maintain a transit
19 system shelter on the right-of-way of a State or federal aid primary
20 road shall apply to the Department for a permit, and as a condition of
21 the issuance of the permit, the Department shall approve the transit
22 system shelter building plans and the location of the transit system
23 shelter on the right-of-way; provided, however, that approval is subject
24 to all restrictions imposed by Title 23, U.S.C., and Title 23, Code of
25 Federal Regulations, relating to the federal aid system.

26 (2) If the transit system shelter is to be located on the right-of-way of a
27 public road other than a State or federal aid primary road within a

1 municipality, application for permission to erect and maintain the
2 shelter shall be made to the respective municipality. The application
3 shall conform to the municipality's ordinances and rules governing the
4 erection and maintenance of the structures. When the municipality is
5 served by a public transit agency or authority, the applications for all
6 transit system shelters on routes of that agency or authority shall also
7 be forwarded by the applicant to the transit agency or authority and are
8 subject to the approval of the agency or authority.

9 (3) As a condition of issuing a permit for the erection of a transit system
10 shelter on the right-of-way of a State or federal aid primary road, the
11 Department shall require that the transit system shelter be properly
12 maintained and that its location meet minimum setback requirements
13 as follows:

14 a. Where a curb and gutter are present, there shall be a minimum
15 of four feet clearance from the face of the curb to any portion of
16 the transit system shelter, or the transit system shelter shall be
17 placed at the back of the existing concrete sidewalk.

18 b. Where no curb or gutter is present, the front of the transit
19 system shelter shall be at least 10 feet from the edge of the main
20 traveled roadway.

21 c. Any transit system shelter erected and maintained on the
22 right-of-way of a public road in violation of subdivision (2) of
23 this subsection or in violation of the conditions of the permit
24 issued by the Department or in violation of the conditions of the
25 consent of the municipality is declared to be a public nuisance
26 and, if it is determined to be a hazard to public safety by the
27 Department or the municipality, it may be removed or its
28 removal may be ordered by the Department or the governing
29 authority of the respective municipality. In every case of
30 removal of a transit system shelter as a hazard to public safety
31 by the Department or municipality, a good faith attempt shall be
32 made to notify the owner of its removal. In cases where the
33 Department or municipality orders the removal of the transit
34 system shelter as a public nuisance, if a transit system shelter is
35 not removed by its owner within 30 days after its owner has
36 been issued a written order of removal by the Department or the
37 governing authority of the respective municipality, the
38 Department or the governing authority of the respective
39 municipality may cause the transit system shelter to be removed
40 and submit a statement of expenses incurred in the removal to
41 the owner of the transit system shelter. In the case of a
42 statement of expenses for removal of a shelter on a State or
43 federal aid primary road, if payment or arrangement to make
44 payment is not made within 60 days after the receipt of the

1 statement, the Department shall certify the amount of the
2 payment due to the Attorney General for collection.

3 d. The person to whom a permit has been issued for the erection
4 and maintenance of a transit system shelter on the right-of-way
5 of a public road or who places the shelter on a public road other
6 than a State or federal aid primary road shall at all times assume
7 all risks for the transit system shelter and shall indemnify and
8 hold harmless the State, the Department, and any municipality
9 against all losses or damages resulting solely from the existence
10 of the transit system shelter. Any person who erects and
11 maintains a transit system shelter pursuant to this section shall
12 carry sufficient liability insurance to cover claims resulting
13 from accident or harm.

14 e. Permits for shelters on State or federal aid primary roads shall
15 be issued under this section only to municipalities or public
16 transportation authorities owning or operating public
17 transportation systems or their designated agents.

18 (c) Compliance with Federal Law. – This section shall not apply if the
19 Department receives written notification from the applicable federal authority that
20 compliance will directly cause denial of federal moneys that would otherwise be
21 available or would otherwise be inconsistent with federal law, but only to the extent
22 necessary to prevent denial of the moneys or to eliminate the inconsistency with federal
23 law."

24 **SECTION 2.** This act is effective when it becomes law.