

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1559
Committee Substitute Favorable 5/23/07

Short Title: City Transit Amenities.

(Public)

Sponsors:

Referred to:

April 18, 2007

1 A BILL TO BE ENTITLED
2 AN ACT AUTHORIZING TRANSIT AMENITIES ON HIGHWAYS WITHIN
3 CITIES.

4 The General Assembly of North Carolina enacts:

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

7 "**§ 136-32.4. Transit system amenities.**

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

9 (1) Commercial advertisement. – A printed, painted, or back-lit sign
10 encouraging or promoting the purchase or use of goods or services.

11 (2) Transit system amenities. – A transit shelter or bench with a trash or
12 recycling bin(s) or stand-alone trash or recycling bin(s), located at
13 transit stops for the convenience of passengers of public transportation
14 systems owned and operated by governmental units or public
15 authorities.

16 (b) Transit System Amenities Authorized. – Transit system amenities, including
17 those on which commercial advertisements are placed, may be erected and maintained
18 on the rights-of-way of public roads subject to the following conditions and
19 requirements:

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

28 (2) If the transit system amenity is to be located on the right-of-way of a
29 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 amenities. When the municipality is
5 served by a public transit agency or authority, the applications for all
6 transit system amenities 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 amenity on the right-of-way of a State or federal aid primary road, the
11 Department shall require that the transit system amenity be properly
12 maintained and that its location meet minimum setback requirements
13 as follows:

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

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

21 (4) Any transit system amenity erected on the right-of-way of a public
22 road shall be required to comply with any existing setback
23 requirements for similar structures contained in any local ordinance or
24 in State law.

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

1 arrangement to make payment is not made within 60 days after the
2 receipt of the statement, the Department shall certify the amount of the
3 payment due to the Attorney General for collection.

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

14 (7) Permits for transit system amenities on State or federal aid primary
15 roads shall be issued under this section only to municipalities or public
16 transportation authorities owning or operating public transportation
17 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.