

2019 Florida Statutes

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Title XXVI PUBLIC TRANSPORTATION

Chapter 337 CONTRACTING; ACQUISITION, DISPOSAL, AND USE OF PROPERTY

SECTION 408 Regulation of bus stops, benches, transit shelters, street light poles, waste disposal receptacles, and modular news racks within rights-of-way.

337.408 Regulation of bus stops, benches, transit shelters, street light poles, waste disposal receptacles, and modular news racks within rights-of-way.—

(1) Benches or transit shelters, including advertising displayed on benches or transit shelters, may be installed within the right-of-way limits of any municipal, county, or state road, except a limited access highway, provided that such benches or transit shelters are for the comfort or convenience of the general public or are at designated stops on official bus routes and provided that written authorization has been given to a qualified private supplier of such service by the municipal government within whose incorporated limits such benches or transit shelters are installed or by the county government within whose unincorporated limits such benches or transit shelters are installed. A municipality or county may authorize the installation, without public bid, of benches and transit shelters together with advertising displayed thereon within the right-of-way limits of such roads. All installations shall be in compliance with all applicable laws and rules, including, without limitation, the Americans with Disabilities Act. Municipalities and counties that authorize or have authorized a bench or transit shelter to be installed within the right-of-way limits of any road on the State Highway System shall be responsible for ensuring that the bench or transit shelter complies with all applicable laws and rules, including, without limitation, the Americans with Disabilities Act, or shall remove the bench or transit shelter. The department shall have no liability for any claims, losses, costs, charges, expenses, damages, liabilities, attorney fees, or court costs relating to the installation, removal, or relocation of any benches or transit shelters authorized by a municipality or county. On and after July 1, 2012, a municipality or county that authorizes a bench or transit shelter to be installed within the right-of-way limits of any road on the State Highway System must require the qualified private supplier, or any other person under contract to install the bench or transit shelter, to indemnify, defend, and hold harmless the department from any suits, actions, proceedings, claims, losses, costs, charges, expenses, damages, liabilities, attorney fees, and court costs relating to the installation, removal, or relocation of such installations, and shall annually certify to the department in a notarized signed statement that this requirement has been met. The certification shall include the name and address of each person responsible for indemnifying the department for an authorized installation. Municipalities and counties that have authorized the installation of benches or transit shelters within the right-of-way limits of any road on the State Highway System must remove or relocate, or cause the removal or relocation of, the installation at no cost to the department within 60 days after written notice by the department that the installation is unreasonably interfering in any way with the convenient, safe, or continuous use of or the maintenance, improvement, extension, or expansion of the State Highway System road. Any contract for the installation of benches or transit shelters or advertising on benches or transit shelters which was entered into before April 8, 1992, without public bidding is ratified and affirmed. Such benches or transit shelters may not interfere with right-of-way preservation and maintenance. Any bench or transit shelter located on a sidewalk within the right-of-way limits of any road on the State Highway System or the county road system shall be located so as to leave at least 36 inches of clearance for pedestrians and persons in wheelchairs. Such clearance shall be measured in a direction perpendicular to the centerline of the road.

(2) Waste disposal receptacles of less than 110 gallons in capacity, including advertising displayed on such waste disposal receptacles, may be installed within the right-of-way limits of any municipal, county, or state road, except a limited access highway, provided that written authorization has been given to a qualified private supplier of such service by the appropriate municipal or county government. A municipality or county may authorize the installation, without public bid, of waste disposal receptacles together with advertising displayed thereon within the right-of-way limits of such roads. Such waste disposal receptacles may not interfere with right-of-way preservation and maintenance.

(3) Modular news racks, including advertising thereon, may be located within the right-of-way limits of any municipal, county, or state road, except a limited access highway, provided the municipal government within whose incorporated limits such racks are installed or the county government within whose unincorporated limits such racks are installed has passed an ordinance regulating the placement of modular news racks within the right-of-way and has authorized a qualified private supplier of modular news racks to provide such service. The modular news rack or advertising thereon shall not exceed a height of 56 inches or a total advertising space of 56 square feet. No later than 45 days prior to installation of modular news racks, the private supplier shall provide a map of proposed locations and typical installation plans to the department for approval. If the department does not respond within 45 days after receipt of the submitted plans, installation may proceed.

before March 1, 1992. The department may adopt rules relating to the regulation of bench size and advertising display size requirements. If a municipality or county within which a bench is to be located has adopted an ordinance or other applicable regulation that establishes bench size or advertising display sign requirements different from requirements specified in department rule, the local government requirement applies within the respective municipality or county. Placement of any bench or advertising display on the National Highway System under a local ordinance or regulation adopted under this subsection is subject to approval of the Federal Highway Administration.

(5) A bus stop, bench, transit shelter, waste disposal receptacle, public pay telephone, or modular news rack, or advertising thereon, may not be erected or placed on the right-of-way of any road in a manner that conflicts with the requirements of federal law, regulations, or safety standards, thereby causing the state or any political subdivision the loss of federal funds. Competition among persons seeking to provide bus stop, bench, transit shelter, waste disposal receptacle, public pay telephone, or modular news rack services or advertising on such benches, shelters, receptacles, public pay telephone, or news racks may be regulated, restricted, or denied by the appropriate local government entity consistent with this section.

(6) Street light poles, including attached public service messages and advertisements, may be located within the right-of-way limits of municipal and county roads in the same manner as benches, transit shelters, waste disposal receptacles, and modular news racks as provided in this section and in accordance with municipal and county ordinances. Public service messages and advertisements may be installed on street light poles on roads on the State Highway System in accordance with height, size, setback, spacing distance, duration of display, safety, traffic control, and permitting requirements established by administrative rule of the Department of Transportation. Public service messages and advertisements shall be subject to bilateral agreements, where applicable, to be negotiated with the owner of the street light poles, which shall consider, among other things, power source rates, design, safety, operational and maintenance concerns, and other matters of public importance. For the purposes of this section, the term "street light poles" does not include electric transmission or distribution poles. The department shall have authority to adopt rules pursuant to ss. [120.536\(1\)](#) and [120.54](#) to implement the provisions of this section. No advertising on light poles shall be permitted on the Interstate Highway System. No permanent structures carrying advertisements attached to light poles shall be permitted on the National Highway System.

(7) A public pay telephone, including advertising displayed thereon, may be installed within the right-of-way limits of any municipal, county, or state road, except on a limited access highway, if the pay telephone is installed by a provider duly authorized and regulated by the Public Service Commission under s. [364.3375](#), if the pay telephone is operated in accordance with all applicable state and federal telecommunications regulations, and if written authorization has been given to a public pay telephone provider by the appropriate municipal or county government. Each advertisement must be limited to a size no greater than 8 square feet, and a public pay telephone booth may not display more than three advertisements at any given time. An advertisement is not allowed on public pay telephones located in rest areas, welcome centers, or other such facilities located on an interstate highway.

(8) Wherever the provisions of this section are inconsistent with other provisions of this chapter or with the provisions of chapter 125, chapter 335, chapter 336, or chapter 479, the provisions of this section shall prevail.

History.—s. 21, ch. 85-180; s. 61, ch. 94-237; s. 30, ch. 95-257; s. 63, ch. 96-323; s. 82, ch. 2002-20; s. 22, ch. 2004-366; s. 11, ch. 2009-85; s. 37, ch. 2012-174.