



972224

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
	.	
	.	
	.	

The Committee on Community Affairs (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 840 - 901
and insert:

(1) (a) 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 the ~~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 the ~~such~~ service



972224

13 by the municipal government within whose incorporated limits the
14 ~~such~~ benches or transit shelters are installed or by the county
15 government within whose unincorporated limits the ~~such~~ benches
16 or transit shelters are installed. A municipality or county may
17 authorize the installation, without public bid, of benches and
18 transit shelters together with advertising displayed thereon
19 within the right-of-way limits of the ~~such~~ roads. All
20 installations must ~~shall~~ be in compliance with all applicable
21 laws and rules, including, without limitation, the Americans
22 with Disabilities Act. A person who installs or has installed a
23 transit shelter or a bus bench ~~Municipalities and counties that~~
24 ~~authorize or have authorized a bench or transit shelter to be~~
25 ~~installed~~ within the right-of-way limits of any road on the
26 State Highway System is ~~shall be~~ responsible for ensuring that
27 the bench or transit shelter complies with the ~~all~~ applicable
28 laws and rules, including, without limitation, the Americans
29 with Disabilities Act, or shall remove the bench or transit
30 shelter. The department is not liable ~~shall have no liability~~
31 for any claims, losses, costs, charges, expenses, damages,
32 liabilities, attorney fees, or court costs relating to the
33 installation, removal, or relocation of any benches or transit
34 shelters authorized by a municipality or county. If the
35 department determines that a bench or transit shelter
36 installation within the right-of-way limits of any road on the
37 State Highway System does not comply with the applicable laws
38 and rules, the owner of the bench or transit shelter shall
39 remove the bench or transit shelter or bring the bench or
40 shelter installation into compliance within 60 days after
41 receiving notice from the department. If the bench or transit



972224

42 shelter is not removed, the department may, but is not required
43 to, remove the bench or transit shelter and assess the cost of
44 the removal against the owner of the bench or transit shelter.

45 (b) On or before December 31, 2013, each owner of a bench
46 or transit shelter installed at any location within the right-
47 of-way limits of any road on the State Highway System must
48 provide to the department a written inventory of the location of
49 each bench or transit shelter. On and after July 1, 2013, each
50 owner of a new bench or transit shelter that will be installed
51 within the right-of-way limits of any road on the State Highway
52 System shall identify, in writing, the location of the new
53 installation to the department before installing the bench or
54 transit shelter. On or after January 1, 2014, the department
55 may, but is not required to, remove any unidentified bench or
56 transit shelter within the right-of-way limits of any road on
57 the State Highway System, and assess the cost of removal against
58 the owner of the bench or transit shelter.

59 (c) On and after July 1, ~~2013~~ 2012, a municipality or
60 county that authorizes a bench or transit shelter to be
61 installed within the right-of-way limits of any road on the
62 State Highway System must require the qualified private
63 supplier, or any other person under contract to install the
64 bench or transit shelter, to indemnify, defend, and hold
65 harmless the department from any suits, actions, proceedings,
66 claims, losses, costs, charges, expenses, damages, liabilities,
67 attorney fees, and court costs relating to the installation,
68 removal, or relocation of such installations, and to maintain
69 liability insurance in the minimum amount of \$1 million with
70 supplemental liability insurance in the minimum amount of an



972224

71 additional \$4 million. Each insurance policy must name the
72 department as an additional insured and a certificate of
73 insurance shall be furnished to the department before the
74 installation of any bench or transit shelter, and annually after
75 the initial installation. The certificate of insurance must
76 provide that the policy may not be modified, cancelled, or non-
77 renewed without providing to the department and to the
78 municipality or county written notice 45 days before the
79 modification, cancellation, or non-renewal. Each insurance
80 policy must specifically include coverage for any alleged
81 violation of applicable law, including, but not limited to, the
82 Americans with Disabilities Act. The requirements of this
83 paragraph do not apply to transit shelters installed by public
84 transit providers at designated stops on official transit routes
85 ~~shall annually certify to the department in a notarized signed~~
86 ~~statement that this requirement has been met. The certification~~
87 ~~shall include the name and address of each person responsible~~
88 ~~for indemnifying the department for an authorized installation.~~

89 (d) Municipalities and counties that have authorized the
90 installation of benches or transit shelters within the right-of-
91 way limits of any road on the State Highway System must remove
92 or relocate, or cause the removal or relocation of, the
93 installation at no cost to the department within 60 days after
94 written notice by the department that the installation is
95 unreasonably interfering in any way with the convenient, safe,
96 or continuous use of or the maintenance, improvement, extension,
97 or expansion of the State Highway System road.

98 (e) Any contract for the installation of benches or transit
99 shelters or advertising on benches or transit shelters which was



972224

100 entered into before April 8, 1992, without public bidding is
101 ratified and affirmed. The ~~Such~~ benches or transit shelters may
102 not interfere with right-of-way preservation and maintenance.

103 (f) Any bench or transit shelter located on a sidewalk
104 within the right-of-way limits of any road on the State Highway
105 System or the county road system must ~~shall~~ be located so as to
106 leave at least 36 inches of clearance for pedestrians and
107 persons in wheelchairs. The ~~Such~~ clearance must ~~shall~~ be
108 measured in a direction perpendicular to the centerline of the
109 road.

110
111 ===== T I T L E A M E N D M E N T =====

112 And the title is amended as follows:

113 Delete line 69

114 and insert:

115 of-way; providing that persons who install a transit
116 shelter or bus bench on certain right-of-ways are
117 responsible for ensuring that the bench or transit
118 shelter complies with applicable laws and rules;
119 providing for the disposition of a bench or transit
120 shelter that is not in compliance with applicable laws
121 or rules; requiring owners of a bench or transit
122 shelter to provide the department with a written
123 inventory of locations; requiring the owner of a bench
124 or transit shelter to maintain a liability insurance
125 policy naming the department as an additional insured;
126 specifying requirements for the policy; providing
127 criteria for notice of modification, cancellation, or
128 nonrenewal of an insurance policy; providing



972224

129
130

exceptions; requiring each county or municipality to
remit