

By Senator Rodriguez

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1                   A bill to be entitled  
2       An act relating to kiosks and pushcarts; amending s.  
3       337.408, F.S.; authorizing kiosks and pushcarts,  
4       including advertising displayed on such kiosks and  
5       pushcarts, to be installed within the right-of-way  
6       limits of any municipal, county, or state road, except  
7       a limited access highway, subject to certain  
8       requirements and restrictions; conforming provisions  
9       to changes made by the act; amending s. 479.16, F.S.;  
10      conforming a provision to changes made by the act;  
11      providing an effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15       Section 1. Section 337.408, Florida Statutes, is amended to  
16      read:

17       337.408 Regulation of bus stops, benches, transit shelters,  
18      street light poles, waste disposal receptacles, ~~and~~ modular news  
19      racks, kiosks, and pushcarts within rights-of-way.—

20       (1) Benches or transit shelters, including advertising  
21      displayed on benches or transit shelters, may be installed  
22      within the right-of-way limits of any municipal, county, or  
23      state road, except a limited access highway, provided that such  
24      benches or transit shelters are for the comfort or convenience  
25      of the general public or are at designated stops on official bus  
26      routes and provided that written authorization has been given to  
27      a qualified private supplier of such service by the municipal  
28      government within whose incorporated limits such benches or  
29      transit shelters are installed or by the county government

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30 within whose unincorporated limits such benches or transit  
31 shelters are installed. A municipality or county may authorize  
32 the installation, without public bid, of benches and transit  
33 shelters together with advertising displayed thereon within the  
34 right-of-way limits of such roads. All installations shall be in  
35 compliance with all applicable laws and rules, including,  
36 without limitation, the Americans with Disabilities Act.  
37 Municipalities and counties that authorize or have authorized a  
38 bench or transit shelter to be installed within the right-of-way  
39 limits of any road on the State Highway System shall be  
40 responsible for ensuring that the bench or transit shelter  
41 complies with all applicable laws and rules, including, without  
42 limitation, the Americans with Disabilities Act, or must ~~shall~~  
43 remove the bench or transit shelter. The department has ~~shall~~  
44 ~~have~~ no liability for any claims, losses, costs, charges,  
45 expenses, damages, liabilities, attorney fees, or court costs  
46 relating to the installation, removal, or relocation of any  
47 benches or transit shelters authorized by a municipality or  
48 county. On and after July 1, 2012, a municipality or county that  
49 authorizes a bench or transit shelter to be installed within the  
50 right-of-way limits of any road on the State Highway System must  
51 require the qualified private supplier, or any other person  
52 under contract to install the bench or transit shelter, to  
53 indemnify, defend, and hold harmless the department from any  
54 suits, actions, proceedings, claims, losses, costs, charges,  
55 expenses, damages, liabilities, attorney fees, and court costs  
56 relating to the installation, removal, or relocation of such  
57 installations, and must ~~shall~~ annually certify to the department  
58 in a notarized signed statement that this requirement has been

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59 met. The certification must ~~shall~~ include the name and address  
60 of each person responsible for indemnifying the department for  
61 an authorized installation. Municipalities and counties that  
62 have authorized the installation of benches or transit shelters  
63 within the right-of-way limits of any road on the State Highway  
64 System must remove or relocate, or cause the removal or  
65 relocation of, the installation at no cost to the department  
66 within 60 days after written notice by the department that the  
67 installation is unreasonably interfering in any way with the  
68 convenient, safe, or continuous use of or the maintenance,  
69 improvement, extension, or expansion of the State Highway System  
70 road. Any contract for the installation of benches or transit  
71 shelters or advertising on benches or transit shelters which was  
72 entered into before April 8, 1992, without public bidding is  
73 ratified and affirmed. Such benches or transit shelters may not  
74 interfere with right-of-way preservation and maintenance. Any  
75 bench or transit shelter located on a sidewalk within the right-  
76 of-way limits of any road on the State Highway System or the  
77 county road system must ~~shall~~ be located so as to leave at least  
78 36 inches of clearance for pedestrians and persons in  
79 wheelchairs. Such clearance shall be measured in a direction  
80 perpendicular to the centerline of the road.

81 (2) Waste disposal receptacles of less than 110 gallons in  
82 capacity, including advertising displayed on such waste disposal  
83 receptacles, may be installed within the right-of-way limits of  
84 any municipal, county, or state road, except a limited access  
85 highway, provided that written authorization has been given to a  
86 qualified private supplier of such service by the appropriate  
87 municipal or county government. A municipality or county may

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88 authorize the installation, without public bid, of waste  
89 disposal receptacles together with advertising displayed thereon  
90 within the right-of-way limits of such roads. Such waste  
91 disposal receptacles may not interfere with right-of-way  
92 preservation and maintenance.

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

109 (4) Kiosks and pushcarts, including advertising displayed  
110 on the kiosks and pushcarts, may be installed within the right-  
111 of-way limits of any municipal, county, or state road, except a  
112 limited access highway, provided that the appropriate municipal  
113 or county government has given its written authorization to a  
114 qualified private supplier of such service. Such kiosks and  
115 pushcarts may not interfere with right-of-way preservation and  
116 maintenance.

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117        (5)~~(4)~~ The department has the authority to direct the  
118 immediate relocation or removal of any bus stop, bench, transit  
119 shelter, waste disposal receptacle, public pay telephone, ~~or~~  
120 modular news rack, kiosk, or pushcart that endangers life or  
121 property or that is otherwise not in compliance with applicable  
122 laws and rules, except that transit bus benches that were placed  
123 in service before April 1, 1992, are not required to comply with  
124 bench size and advertising display size requirements established  
125 by the department before March 1, 1992. The department may adopt  
126 rules relating to the regulation of bench size and advertising  
127 display size requirements. If a municipality or county within  
128 which a bench is to be located has adopted an ordinance or other  
129 applicable regulation that establishes bench size or advertising  
130 display sign requirements different from requirements specified  
131 in department rule, the local government requirement applies  
132 within the respective municipality or county. Placement of any  
133 bench or advertising display on the National Highway System  
134 under a local ordinance or regulation adopted under this  
135 subsection is subject to approval of the Federal Highway  
136 Administration.

137        (6)~~(5)~~ A bus stop, bench, transit shelter, waste disposal  
138 receptacle, public pay telephone, ~~or~~ modular news rack, kiosk,  
139 or pushcart or advertising thereon, may not be erected or placed  
140 on the right-of-way of any road in a manner that conflicts with  
141 the requirements of federal law, regulations, or safety  
142 standards, thereby causing the state or any political  
143 subdivision the loss of federal funds. Competition among persons  
144 seeking to provide bus stop, bench, transit shelter, waste  
145 disposal receptacle, public pay telephone, ~~or~~ modular news rack,

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146 kiosk, or pushcart services or advertising on such benches,  
147 shelters, receptacles, public pay telephone, ~~or~~ news racks,  
148 kiosks, or pushcarts may be regulated, restricted, or denied by  
149 the appropriate local government entity consistent with this  
150 section.

151 (7)~~(6)~~ Street light poles, including attached public  
152 service messages and advertisements, may be located within the  
153 right-of-way limits of municipal and county roads in the same  
154 manner as benches, transit shelters, waste disposal receptacles,  
155 ~~and~~ modular news racks, kiosks, and pushcarts as provided in  
156 this section and in accordance with municipal and county  
157 ordinances. Public service messages and advertisements may be  
158 installed on street light poles on roads on the State Highway  
159 System in accordance with height, size, setback, spacing  
160 distance, duration of display, safety, traffic control, and  
161 permitting requirements established by administrative rule of  
162 the Department of Transportation. Public service messages and  
163 advertisements shall be subject to bilateral agreements, where  
164 applicable, to be negotiated with the owner of the street light  
165 poles, which shall consider, among other things, power source  
166 rates, design, safety, operational and maintenance concerns, and  
167 other matters of public importance. For the purposes of this  
168 section, the term "street light poles" does not include electric  
169 transmission or distribution poles. The department shall have  
170 authority to adopt rules pursuant to ss. 120.536(1) and 120.54  
171 to implement ~~the provisions of~~ this section. No advertising on  
172 light poles shall be permitted on the Interstate Highway System.  
173 No permanent structures carrying advertisements attached to  
174 light poles shall be permitted on the National Highway System.

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175        (8)~~(7)~~ A public pay telephone, including advertising  
176 displayed thereon, may be installed within the right-of-way  
177 limits of any municipal, county, or state road, except on a  
178 limited access highway, if the pay telephone is installed by a  
179 provider duly authorized and regulated by the Public Service  
180 Commission under s. 364.3375, if the pay telephone is operated  
181 in accordance with all applicable state and federal  
182 telecommunications regulations, and if written authorization has  
183 been given to a public pay telephone provider by the appropriate  
184 municipal or county government. Each advertisement must be  
185 limited to a size no greater than 8 square feet, and a public  
186 pay telephone booth may not display more than 3 ~~three~~  
187 advertisements at any given time. An advertisement is not  
188 allowed on public pay telephones located in rest areas, welcome  
189 centers, or other such facilities located on an interstate  
190 highway.

191        (9)~~(8)~~ Wherever the provisions of this section are  
192 inconsistent with other provisions of this chapter or with the  
193 provisions of chapter 125, chapter 335, chapter 336, or chapter  
194 479, the provisions of this section shall prevail.

195        Section 2. Subsection (13) of section 479.16, Florida  
196 Statutes, is amended to read:

197        479.16 Signs for which permits are not required.—The  
198 following signs are exempt from the requirement that a permit  
199 for a sign be obtained under this chapter but are required to  
200 comply with s. 479.11(4)-(8), and subsections (15)-(20) may not  
201 be implemented or continued if the Federal Government notifies  
202 the department that implementation or continuation will  
203 adversely affect the allocation of federal funds to the

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204 department:

205 (13) Signs placed on benches, transit shelters, modular  
206 news racks, street light poles, public pay telephones, ~~and~~ waste  
207 receptacles, kiosks, and pushcarts within the right-of-way, as  
208 provided for in s. 337.408, are exempt from this chapter.

209

210 If the exemptions in subsections (15)-(20) are not implemented  
211 or continued due to notification from the Federal Government  
212 that the allocation of federal funds to the department will be  
213 adversely impacted, the department shall provide notice to the  
214 sign owner that the sign must be removed within 30 days after  
215 receipt of the notice. If the sign is not removed within 30 days  
216 after receipt of the notice by the sign owner, the department  
217 may remove the sign, and the costs incurred in connection with  
218 the sign removal shall be assessed against and collected from  
219 the sign owner.

220 Section 3. This act shall take effect July 1, 2018.