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ATTORNEY GENERAL  
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SPRINGFIELD

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FILE NO. S-1273

TRANSPORTATION:  
Power of Department of  
Transportation to Permit  
Construction of Bus  
Passenger Shelters on Right-  
of-Way Under Its Jurisdiction

John D. Kramer  
Acting Secretary  
Illinois Department of Transportation  
Office of the Secretary  
2300 South Dirksen Parkway  
Springfield, Illinois 62764

Dear Mr. Kramer:

I have your predecessor's letter wherein he asks whether the Department of Transportation has the authority to permit the construction of bus passenger shelters on highway rights-of-way under its jurisdiction. As pointed out in your predecessor's letter, a 1952 Attorney General's

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opinion advised that the Department of Public Works and Buildings, now the Department of Transportation, had no statutory authority to grant such permits. 1952 Ill. Att'y. Gen. Op. 344.

Since the issuance of the 1952 opinion, the Department of Transportation has been given new statutory powers in regard to mass transportation. Because of these new powers, the conclusion reached in the 1952 opinion is no longer valid. It is my opinion that the Department of Transportation now has the authority to permit the construction of bus passenger shelters on its highway rights-of-way.

Public Act 77-153, which in 1972 created the Department of Transportation, gave the Department a broad range of powers in regard to mass transportation. Specifically, Public Act 77-153 added section 49.18 to the Civil Administrative Code of Illinois. (Ill. Rev. Stat. 1975, ch. 127, par. 49.18.) Section 49.18 gives the Department the following powers:

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\* \* \*

- (4) To encourage experimentation in developing new mass transportation facilities and services;

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- (5) To recommend policies, programs and actions designed to improve utilization of mass transportation services;  
\* \* \*
- (7) To participate fully in a statewide effort to improve transport safety;
- (8) To conduct by contract or otherwise technical studies, and demonstration and development projects which shall be designed to test and develop methods for increasing public use of mass transportation and for providing mass transportation in an efficient, coordinated and convenient manner;  
\* \* \*

These statutory powers express the legislative determination that the Department should take an active role in promoting and developing mass transportation services. I am of the opinion that as part of this active role and pursuant to the above statutory powers, the Department of Transportation may permit the construction of bus passenger shelters on highway rights-of-way under its jurisdiction.

Very truly yours,

A T T O R N E Y   G E N E R A L