

Commercial Activities on State Highway FAQs – Applicants

Table of Contents

1. Why can't businesses normally operate on State property?.....	1
2. How are businesses being allowed to operate on State Property now? Are there State statutes that need to be changed or suspended to allow this change to take effect?	1
3. Will businesses be allowed to permanently operate within the State's property?	1
4. What scope of activities are allowed under this program?	1
5. Is this only for restaurants or can other businesses apply?	1
6. Are mobile and/or pop-up businesses able to use the State right-of-way to operate or only adjacent businesses?.....	1
7. Would a marijuana dispensary/smoke shop be an approved business to sell products in State ROW?	1
8. Can businesses install any advertising signs? What types of advertising is allowed?	2
9. How will prohibition on 3rd party advertisement signs be enforced? Are shade umbrellas with beverage names printed on them considered 3rd party signs?	2
10. Who will the permit be issued to?.....	2
11. How can the businesses obtain permit to perform commercial activities on State Highway System?	2
12. What is the permitting process for cities and counties?	2
13. How long is the permit being issued for?	2
14. Is there potential for Caltrans to deny a permit request? Why would Caltrans deny a request?	3
15. Is any permit fee involved for the permit?.....	3
16. Are there limitations on the hours of operation for authorized activities?	3
17. How long does it take to get the permit upon submitting permit application?	3
18. Are any other approvals needed for these permits beyond District reviews? 3	
19. Why is FHWA approval needed for activities on State Highway System?	3

20. Are there any requirements or restrictions on how the authorized activities can be performed on State Highway System?	3
21. How will boundaries be determined for adjacent/multi-story building businesses along a shared right of way? Will spaces be filled on a first-come basis?.....	3
22. How is this non-transportation-related activity considered an appropriate use of State property?	4
23. How are potential traffic impacts addressed?	4
24. Public transit is my only transportation option – will my route be delayed? .	4
25. In areas where businesses are operating in the State right-of-way, what temporary safety measures will be implemented for those who walk, bike and use scooters?.....	4
26. Will pets be allowed in the right of way?.....	4
27. What resources are available for applicants to help with permitting process?.....	4
28. Who can I contact with a complaint?	4

Commercial Activities on State Highway FAQs – Applicants

1. Why can't businesses normally operate on State property?

Federal and State laws prohibit commercial services/activities such as vending within the State highway right-of-way, except for very limited activities that are part of special events as described in Streets and Highways Code, Section 682.5.

2. How are businesses being allowed to operate on State Property now? Are there State statutes that need to be changed or suspended to allow this change to take effect?

California law (Streets and Highways Code, Section 731) mandates that no article or thing may be sold within the State highway. The Governor's Executive Order N-83-20, issued on October 28, 2020, temporarily suspends this law for 120 days.

3. Will businesses be allowed to permanently operate within the State's property?

Businesses cannot be allowed to permanently operate within State highway right of way. With the signing of the Executive Order, the State laws are being suspended for a limited period of 120 days to allow commercial activities. This is a temporary program to help businesses operate on State Highway System during the current COVID-19 emergency with proper physical distancing and other public health safety-related protocols.

4. What scope of activities are allowed under this program?

Commercial activities including but not limited to outdoor dining, retail sales, etc.; Markings on sidewalks for physical distancing; temporary shade structures/installations; curbside pick-up; advertising using sandwich boards/posters for the adjacent businesses etc. See guidelines available at the following link for full details: <https://dot.ca.gov/programs/traffic-operations/ep>

5. Is this only for restaurants or can other businesses apply?

This program is for all businesses that front the State highway right-of-way and that can operate within the established guidelines.

6. Are mobile and/or pop-up businesses able to use the State right-of-way to operate or only adjacent businesses?

Only adjacent businesses are allowed.

7. Would a marijuana dispensary/smoke shop be an approved business to sell products in State ROW?

Vending of such products is allowed if it is a legal business and licensed to operate in that jurisdiction. However, consumption of the product within the highway right-of-way is not allowed.

Commercial Activities on State Highway FAQs – Applicants

8. Can businesses install any advertising signs? What types of advertising is allowed?

Advertisement signs associated with the business operating is allowed within the limits of the frontage. 3rd party advertising (other than the name/products by the business authorized to operate under the permit for money) by the business is not allowed. Advertisement signs for adjacent business shall be A-frame sandwich boards, signs, posters or other form no larger than 24"x36". The design of the advertisement shall not resemble traffic signs in style or in color. The location of the advertisement shall not block the view of traffic signs, signals or other traffic control devices. Advertisement shall be removed when associated business is not in operation.

9. How will prohibition on 3rd party advertisement signs be enforced? Are shade umbrellas with beverage names printed on them considered 3rd party signs?

This program is to alleviate the challenges of local communities and businesses. Considering the extraordinary circumstances that everybody is facing, there will be flexibility in accommodating the business operations. But no entity shall generate direct revenue from advertising on the State Highway System. Any violations may result in revoking the permission to operate in State Highway right-of-way.

10. Who will the permit be issued to?

The permit will be issued to cities and counties.

11. How can the businesses obtain permit to perform commercial activities on State Highway System?

Businesses shall work with their city or county.

12. What is the permitting process for cities and counties?

Cities and counties must submit a permit application along with applicable supporting documents identified in the guidelines available at:

<https://dot.ca.gov/programs/traffic-operations/ep>

Partially completed permit application template has been provided on the same webpage to help the applicants. Once a city or county has obtained a permit, they will provide guidance to local businesses.

13. How long is the permit being issued for?

The Executive Order allows the commercial activities on State Highway System for a duration of 120 days only and hence permits must be issued with an expiration date of 02/25/2020. If an extension to the Executive Order is issued, permits may be extended accordingly upon request from the permittees.

Commercial Activities on State Highway FAQs – Applicants

14. Is there potential for Caltrans to deny a permit request? Why would Caltrans deny a request?

Caltrans will not grant a permit to an applicant who is unable to comply with public safety requirements or obligations related to mitigating potential safety, or other impacts as established in the guidelines.

15. Is any permit fee involved for the permit?

Permit fee has been exempted for these permits considering that the permit is being issued to cities and counties.

16. Are there limitations on the hours of operation for authorized activities?

Caltrans doesn't have any limitations, but local jurisdictions may have.

17. How long does it take to get the permit upon submitting permit application?

It depends on the completeness and quality of information submitted. If all needed information is submitted, Caltrans will expedite these permits. It is anticipated to take at least two weeks initially considering Caltrans needs to obtain Federal Highway Administration (FHWA) approval as well.

18. Are any other approvals needed for these permits beyond District reviews?

FHWA approval is needed. Programmatic approval is anticipated after the first few permits. FHWA has already reviewed and approved the program guidelines as well as indicated support to the program.

19. Why is FHWA approval needed for activities on State Highway System?

By Federal statutes and regulations non-transportation use of State Highway System is not allowed without Fair Market Value compensation. FHWA will be reviewing and providing approval to fair market value exception for current emergency related temporary activities.

20. Are there any requirements or restrictions on how the authorized activities can be performed on State Highway System?

Please see Special Provisions and General Provisions that are part of the permit. They can also be found at the following website: <https://dot.ca.gov/-/media/dot-media/programs/traffic-operations/documents/encroachment-permits/appendix-k-ada.pdf>

21. How will boundaries be determined for adjacent/multi-story building businesses along a shared right of way? Will spaces be filled on a first-come basis?

The local agency would be required to work with the building's tenants to develop a plan that has consensus from all tenants.

Commercial Activities on State Highway FAQs – Applicants

22. How is this non-transportation-related activity considered an appropriate use of State property?

This program is consistent with the department's response to pandemic and resulting economic crises. With the declared state of emergency and the temporary suspension of the State statute, Caltrans will be able to help promote public health safety and help support communities/businesses that have been negatively affected by COVID-19.

23. How are potential traffic impacts addressed?

Caltrans, cities, counties and business owners are required to work together to avoid negative impacts to traffic. Caltrans' permit review will evaluate the proposals for potential delays. Closures that may lead to significant delays will not be authorized. Caltrans shall advise cities and counties to consider potential traffic disruptions before temporarily allowing local businesses to operate in State property. Businesses are expected to use the wide sidewalks, which should not delay traffic. If guidelines are not met/issues cannot be resolved, Caltrans reserves the right to terminate permits at any time without any additional commitment or notice.

24. Public transit is my only transportation option – will my route be delayed?

Public transit needs will be addressed by the city or county. Full highway closures are not allowed during the peak hours. Detour routes will be designed to minimize out of way travel.

25. In areas where businesses are operating in the State right-of-way, what temporary safety measures will be implemented for those who walk, bike and use scooters?

The permittee and businesses are required to allow sufficient space for pedestrians to travel through the area. Temporary Traffic Control measures implemented shall address the transportation needs of all modes of travel through the area like any other construction activity.

26. Will pets be allowed in the right of way?

There are no restrictions on pets since they are not prohibited on the State Highway System. Anybody can access pedestrian facilities on the State Highway System with pets.

27. What resources are available for applicants to help with permitting process?

Link to webpage to be provided.

28. Who can I contact with a complaint?

If there are any concerns, it can be first brought to the attention of the city or county. If the issue is not resolved, it can be brought to the attention of the local Caltrans District Encroachment Permits office. If not resolved there, the matter can be elevated to Caltrans HQ Encroachment Permits Office.