

SENATE FILE 1333

By COMMITTEE ON COUNTY GOVERNMENT

FILED MAR 25 1974

Passed Senate, Date 5-1-74 (1826) Passed House, Date 5-3-74 (2434)
Vote: Ayes 48 Nays 0 Vote: Ayes 83 Nays 3
Approved 5-11-74

A BILL FOR

1 An Act relating to obstructions on public highways, establishing
2 procedures for the removal of obstructions, and providing for
3 the assessment and collection of costs.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section three hundred nineteen point two
2 (319.2), Code 1973, is amended to read as follows:

3 319.2 FENCES AND ELECTRIC TRANSMISSION POLES. Poles used
4 for telephone, telegraph, or other transmission purposes,
5 shall not be removed until notice, in writing, of not less
6 than thirty days, has been given to the owner or company
7 operating such lines, and in case of fences, notice in writing
8 of not less than ~~sixty~~ thirty days has been given to the
9 owner, occupant, or agent of the land enclosed by said fence,
10 unless such poles or fences constitute an immediate and
11 dangerous hazard to persons or property lawfully using the
12 right-of-way.

13 Sec. 2. Section three hundred nineteen point seven (319.7),
14 Code 1973, is amended to read as follows:

15 319.7 DUTY OF ROAD OFFICERS. It shall be the duty of
16 all officers responsible for the care of public highways,
17 outside cities and towns, to remove from the traveled portion
18 and shoulders of the highways within their several
19 jurisdictions, all open ditches, water breaks, and like
20 obstructions, and to employ labor for this purpose in the
21 same manner as for the repair of highways.

22 Sec. 3. Section three hundred nineteen point thirteen
23 (319.13), Code 1973, is amended to read as follows:

24 319.13 RIGHT AND DUTY TO REMOVE. ~~All~~ If the following
25 constitute an immediate and dangerous hazard, all billboards,
26 advertising signs or devices, fences other than right of way
27 boundary fences, or any temporary obstruction, including aban-
28 doned vehicles except signs or devices authorized by law or
29 or approved by the highway authorities, placed or erected
30 upon the right of way of any public highway shall without
31 notice or liability in damages be removable and the costs
32 thereof assessed against:

33 1. The owner of any billboard, advertising sign or de-
34 vice so removed.

35 2. The vehicle owner in the case of abandoned vehicles.

1 3. The abutting property in the case of fences other than
2 right of way line fences and other temporary obstructions
3 placed by the owner of or tenant on said property.

4 4. The owner or person responsible for placement of all
5 other obstructions.

6 Any such obstruction not constituting an immediate and
7 dangerous hazard shall be removed without liability after
8 forty-eight hour notice served in the same manner in which
9 an original notice is served, or in writing by certified mail,
10 or in any other manner reasonably calculated to apprise the
11 person responsible for the obstruction that the obstruction
12 will be removed at the expense of such person within forty-
13 eight hours after the notice is given.

14 Such removal and assessment of cost in the case of pri-
15 mary roads shall be by the highway commission and in the case
16 of secondary roads by the board of supervisors.

17 Upon removal of the obstruction, the highway authority
18 may immediately send a statement of the cost of removal to
19 the person responsible for the obstruction. If within ten
20 days after sending the statement the cost is not paid, the
21 highway authority may institute proceeding in the district
22 court to collect the cost of removal.

23 Sec. 4. Chapter three hundred nineteen (319), Code 1973,
24 is amended by adding the following new section:

25 NEW SECTION. PERMIT REQUIRED. A person shall not exca-
26 vate, fill or make any physical change within the right-of-
27 way of a public road or highway without obtaining a permit
28 from the highway authority having jurisdiction of such public
29 road or highway. Any work performed under the permit shall
30 be performed in conformity with the specifications prescribed
31 by the highway authority.

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EXPLANATION

33 This bill is intended to clarify ambiguities in chapter
34 three hundred nineteen (319) of the Code relating to obstruc-
35 tions within the right-of-way of public roads and highways

1 and to provide procedures for the removal of obstructions
2 and the collection of costs if the obstruction is not removed
3 by the person who is responsible for placing or causing it.

4 The bill also provides that no person may excavate, fill
5 or otherwise make any physical change within the right-of-
6 way of a public road or street without obtaining a permit
7 from the highway authority having jurisdiction of the public
8 road or highway.

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