

FEB 23 2006
Place On Calendar

HOUSE FILE 2515
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HSB 153)

Passed House, Date 3-8-06 Passed Senate, Date _____
Vote: Ayes 98 Nays 0 Vote: Ayes _____ Nays _____
Approved April 26, 2006

A BILL FOR

1 An Act relating to obstructions in highways and providing
2 penalties.

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

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HOUSE FILE 2515

H-8130

1 Amend the amendment, H-8127, to House File 2515 as
2 follows:
3 1. Page 1, by inserting before line 2, the
4 following:
5 "____. Page 1, by striking lines 4 through 11.
6 _____. Page 2, line 31, by inserting before the
7 word "advertising" the following: "or".
8 _____. Page 2, by striking lines 32 through 33 and
9 inserting the following: "devices within the highway
10 right-of-way."
11 2. By renumbering as necessary.

By PAULSEN of Linn

H-8130 FILED MARCH 7, 2006

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1 Section 1. NEW SECTION. 318.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Breakaway mailbox" means a mailbox, approved by the
5 United States postal service under its "standard for
6 mailboxes, city and rural curbside", and used for the curbside
7 delivery of mail, which is supported by a wood post no greater
8 in cross section than four inches square or by a post with a
9 strength no greater than a two-inch-diameter standard steel
10 pipe. Two such posts may be used to support a cluster of four
11 or more mailboxes.

12 2. "Department" means the state department of
13 transportation.

14 3. "Highway authority" means the county board of
15 supervisors, in the case of secondary roads, and the
16 department, in the case of primary roads.

17 4. "Highway right-of-way" means the total area of land,
18 whether reserved by public ownership or easement, that is
19 reserved for the operation and maintenance of a legally
20 established public roadway. This area shall be deemed to
21 consist of two portions, a central traveled way including the
22 shoulders and that remainder on both sides of the road,
23 between the outside shoulder edges and the outer boundaries of
24 the right-of-way.

25 5. "Obstruction" means an obstacle in the highway right-
26 of-way, or an impediment or hindrance which impedes, opposes,
27 or interferes with free passage along the highway right-of-way
28 not including utility structures installed in accordance with
29 an approved permit.

30 6. "Traveled portion of the right-of-way" means that area
31 of the highway right-of-way, not including the shoulders, on
32 which vehicles normally travel.

33 7. "Utility" means all private, public, municipal, or
34 cooperative owned systems for water, sewer, natural gas,
35 electric, telegraph, telephone, transit, pipeline, heating

1 plants, railroads, bridges, street lights, or traffic control
2 signals.

3 8. "Utility structures" means the aboveground devices,
4 required by a utility, including poles, lines, and wires, used
5 for telephone, electric, natural gas, and other distribution
6 or transmission purposes, and natural gas and electrical
7 substations.

8 Sec. 2. NEW SECTION. 318.2 PURPOSE.

9 The purpose of this chapter is to enhance public safety for
10 those traveling the public roads and allow economical
11 maintenance of highway rights-of-way.

12 Sec. 3. NEW SECTION. 318.3 OBSTRUCTIONS IN HIGHWAY
13 RIGHT-OF-WAY.

14 1. A person shall not place, or cause to be placed, an
15 obstruction within any highway right-of-way. This prohibition
16 includes, but is not limited to, the following actions:

17 a. The excavation, filling, or making of any physical
18 changes to any part of the highway right-of-way, except as
19 provided under section 318.8.

20 b. The cultivation or growing of crops within the highway
21 right-of-way.

22 c. The destruction of plants placed within the highway
23 right-of-way.

24 d. The placing of fences or ditches within the highway
25 right-of-way.

26 e. The alteration of ditches, water breaks, or drainage
27 tiles within the highway right-of-way.

28 f. The placement of trash, litter, debris, waste material,
29 manure, rocks, crops or crop residue, brush, vehicles,
30 machinery, or other items within the highway right-of-way.

31 g. The placement of billboards, signs, advertising
32 devices, or mailboxes or mailbox supports, except for
33 breakaway mailboxes, within the highway right-of-way.

34 h. The placement of any red reflector, or any object or
35 other device which shall cause the effect of a red reflector

1 on the highway right-of-way which is visible to passing
2 motorists.

3 2. The following actions shall not constitute an
4 obstruction within a highway right-of-way:

5 a. Mowing or harvesting grass within the highway right-
6 of-way so long as the mowing or harvesting does not destroy
7 the grass or other plants in the highway right-of-way and is
8 not in violation of an integrated roadside vegetation
9 management plan adopted pursuant to section 314.22.

10 b. Any action by, or authorized by, the highway authority
11 or the state of Iowa.

12 Sec. 4. NEW SECTION. 318.4 DUTY OF HIGHWAY AUTHORITIES.

13 The highway authority shall cause all obstructions in a
14 highway right-of-way under its jurisdiction to be removed.
15 The highway authority and its officers and employees shall be
16 immune from liability regarding any claim based upon or
17 arising out of an act or omission in connection with the
18 removal of an obstruction.

19 Sec. 5. NEW SECTION. 318.5 REMOVAL AND COST.

20 1. An obstruction in a highway right-of-way which
21 constitutes an immediate and dangerous hazard shall, without
22 notice or liability in damages, be removed by the highway
23 authority.

24 2. An obstruction not constituting an immediate and
25 dangerous hazard shall be removed by the highway authority
26 without liability after forty-eight-hour notice served in the
27 same manner in which an original notice is served, or in
28 writing by certified mail, or in any other manner reasonably
29 calculated to apprise the person responsible for the
30 obstruction that the obstruction will be removed at the
31 person's expense. The highway authority shall assess the
32 removal cost.

33 3. Upon removal of the obstruction, the highway authority
34 may immediately send a statement of the cost to the person
35 responsible for the obstruction. If within ten days after

1 sending the statement the cost is not paid, the highway
2 authority may institute legal proceedings to collect the cost
3 of removal. The removal costs shall be assessed against the
4 following persons, as applicable:

5 a. The vehicle owner in the case of an abandoned vehicle.

6 b. The abutting property owner in the case of a fence,
7 other than a right-of-way line fence, or other temporary
8 obstruction placed within the highway right-of-way by the
9 owner or tenant of the abutting property.

10 c. The owner or person responsible for placement of any
11 other obstruction.

12 Sec. 6. NEW SECTION. 318.6 PUBLIC NUISANCE.

13 1. Any person who places, or causes to be placed, any
14 obstruction in a highway right-of-way as prohibited under
15 section 318.3 is deemed to have created a public nuisance
16 punishable as provided in chapter 657.

17 2. If a person is found guilty of placing an obstruction
18 within a highway right-of-way, the court may, in addition to
19 any fine imposed, or judgment for damages or costs for which a
20 separate execution may issue, order that the obstruction be
21 abated or removed at the expense of the defendant. The costs
22 for abatement or removal of the obstruction may be entered as
23 a personal judgment against the defendant or assessed against
24 the property where the obstruction occurred, or both.

25 Sec. 7. NEW SECTION. 318.7 INJUNCTION TO RESTRAIN
26 OBSTRUCTIONS.

27 A highway authority may maintain a suit in equity aided by
28 injunction to restrain an obstruction in a highway right-of-
29 way. In such actions, the highway authority may cause the
30 legal boundary lines of the highway to be adjudicated provided
31 all interested parties are impleaded.

32 Sec. 8. NEW SECTION. 318.8 PERMIT REQUIRED.

33 A person shall not excavate, fill, or make a physical
34 change within a highway right-of-way without obtaining a
35 permit from the applicable highway authority. At the request

1 of a permittee, a modification may be granted in the
2 discretion of the highway authority. Work performed under the
3 permit shall be performed in conformity with the
4 specifications prescribed by the highway authority. If the
5 work does not conform to permit specifications, the person
6 shall be notified to make the conforming changes. If after
7 twenty days the changes have not been made, the highway
8 authority may make the necessary changes and immediately send
9 a statement of the cost to the responsible person. If within
10 thirty days after sending the statement the cost is not paid,
11 the highway authority may institute legal proceedings to
12 collect the cost of correction. A violation of the permit
13 specifications shall be considered a violation of section
14 318.3. A public utility subject to section 306A.3 is exempt
15 from this section.

16 Sec. 9. NEW SECTION. 318.9 UTILITY STRUCTURES.

17 1. a. A utility structure in a highway right-of-way used
18 for telephone, electric, natural gas, or other distribution or
19 transmission purposes shall be removed by the owner or
20 operator of the transmission lines upon written notice from
21 the highway authority of not less than ninety days, to the
22 owner and operator. The notice shall, with reasonable
23 certainty, specify the utility structure to be removed, and
24 shall be served in the same manner that original notices are
25 required to be served. If the owner or operator of the
26 transmission line is unable to remove the utility structure
27 within the required time due to circumstances beyond the
28 control of the owner or operator, the owner or operator shall
29 file a request with the highway authority for an extension of
30 time to complete the work.

31 b. If the owner or operator of a transmission line needs
32 authorization from the utilities board or other governmental
33 authority to relocate a utility structure or to obtain a new
34 private easement right for relocation of the utility
35 structure, the owner or operator shall request an extension of

1 time within which to remove the utility structure. The
2 highway authority shall grant an extension of time for at
3 least ninety days following the date authorization is granted
4 or the easement right is obtained.

5 2. Upon written application, the highway authority shall
6 locate the construction of new telephone, electric, or
7 transmission lines or parts of lines, including natural gas
8 pipeline, for the roads within the highway authority's
9 jurisdiction, subject to the jurisdiction of the utilities
10 board under chapters 476, 478, and 479, as follows:

11 a. The county engineer, or the board of supervisors if a
12 county engineer is not available, shall locate the lines for
13 secondary roads.

14 b. The department shall locate the lines for primary
15 roads.

16 3. The department and the county engineer, or the board of
17 supervisors if a county engineer is not available, may
18 designate the location of a utility structure within a highway
19 right-of-way. A utility structure that is not properly
20 located within the highway right-of-way shall be removed
21 within a time prescribed to a designated location. If not so
22 removed, the highway authority may remove the utility
23 structure and recover costs as provided in section 318.5.

24 Sec. 10. NEW SECTION. 318.10 FENCES.

25 1. A fence which constitutes an immediate and dangerous
26 hazard shall, without notice or liability in damages, be
27 removed by the highway authority. In all other cases where a
28 fence is an obstruction in a highway right-of-way, notice in
29 writing of not less than thirty days shall be given to the
30 owner, occupant, or agent of the land enclosed by the fence.

31 2. The notice shall, with reasonable certainty, specify
32 the line to which the fences shall be removed, and shall be
33 served in the same manner that original notices are required
34 to be served, or in writing by certified mail, or in any other
35 manner reasonably calculated to apprise the person responsible

1 for the fence.

2 3. The department and the county engineer, or the board of
3 supervisors if a county engineer is not available, may
4 designate the location of a fence within a highway right-of-
5 way. A fence that is not properly located within the highway
6 right-of-way shall be removed within a time prescribed to a
7 designated location. If not so removed, the highway authority
8 may remove the fences and recover costs as provided in section
9 318.5.

10 Sec. 11. NEW SECTION. 318.11 BILLBOARDS AND SIGNS.

11 1. No billboard or advertising sign or device, except a
12 sign or device authorized by law or approved by the highway
13 authority, shall be placed or erected upon a highway right-
14 of-way.

15 2. A billboard or advertising sign, whether on public or
16 private property, that obstructs the view of any portion of a
17 public highway or of a railway track making the use of the
18 traveled portion of the right-of-way dangerous is a public
19 nuisance and shall be abated. The person responsible for the
20 erection and maintenance of the billboard or sign may be
21 punished as provided in chapter 657.

22 Sec. 12. NEW SECTION. 318.12 ENFORCEMENT.

23 A highway authority shall enforce the provisions of this
24 chapter by appropriate civil or criminal proceeding or by both
25 such proceedings.

26 Sec. 13. Section 68A.406, subsection 2, paragraph a, Code
27 Supplement 2005, is amended to read as follows:

28 a. Any property owned by the state or the governing body
29 of a county, city, or other political subdivision of the
30 state, including all property considered the public right-of-
31 way. Upon a determination by the board that a sign has been
32 improperly placed, the sign shall be removed by highway
33 authorities as provided in section ~~319.13~~ 318.5, or by county
34 or city law enforcement authorities in a manner consistent
35 with section ~~319.13~~ 318.5.

1 Sec. 14. Section 306.46, subsection 1, Code Supplement
2 2005, is amended to read as follows:

3 1. A public utility may construct, operate, repair, or
4 maintain its utility facilities within a public road right-
5 of-way. The location of new utility facilities shall comply
6 with section ~~319.5~~ 318.9. A utility facility shall not be
7 constructed or installed in a manner that causes interference
8 with public use of the road.

9 Sec. 15. Section 306C.13, subsection 8, paragraph f, Code
10 2005, is amended to read as follows:

11 f. Which do not comply with all applicable state or local
12 laws, regulations and ordinances, including but not limited to
13 zoning, building, and sign codes as locally interpreted and
14 applied and enforced, or which violate chapter ~~319~~ 318;
15 however, nothing in this division shall prevent or restrict
16 county or local zoning authorities from making a determination
17 of customary use concerning size, lighting, and spacing of
18 advertising devices in zoned commercial or industrial adjacent
19 areas, and such determinations will be accepted in lieu of the
20 standards of this division. The provisions of this division
21 shall not prevent or restrict county or local zoning
22 authorities within their respective jurisdictions from
23 establishing standards imposing controls stricter than those
24 required by this division.

25 Sec. 16. Section 311.32, Code 2005, is amended to read as
26 follows:

27 311.32 ADMINISTRATION AND MAINTENANCE OF ROADS.

28 Any road established by petition and any road improved by
29 petition under this chapter shall be administered and
30 maintained by the county under chapters 306, 309, 314, 317,
31 and ~~319~~ 318. However, the fact that right-of-way is donated
32 by property owners for the establishment of a road or a
33 portion of the cost of a road improvement is paid by property
34 owners under this chapter, does not preclude the board of
35 supervisors from exercising its responsibility over these

1 roads as secondary roads.

2 Sec. 17. Section 331.362, subsection 7, Code 2005, is
3 amended to read as follows:

4 7. The board shall cause the removal of obstructions on
5 the secondary roads, in accordance with chapter ~~319~~ 318.

6 Sec. 18. Section 331.756, subsection 57, Code Supplement
7 2005, is amended to read as follows:

8 57. Commence legal proceedings to remove billboards and
9 signs which constitute a public nuisance as provided in
10 section ~~319-11~~ 318.11.

11 Sec. 19. Chapter 319, Code 2005, is repealed.

12 EXPLANATION

13 This bill reorganizes much of the existing Code chapter
14 pertaining to obstructions in highways into new Code chapter
15 318, while adding some new provisions. The bill provides a
16 purpose section and definitions for the new Code chapter. The
17 bill lists actions that are and are not prohibited
18 obstructions. The bill provides that an obstruction creates a
19 public nuisance punishable under Code chapter 657 pertaining
20 to nuisances. The bill also addresses utility structures
21 located in a highway right-of-way.

22 The bill also provides amendments to other Code sections to
23 conform to the new Code chapter.

24

HOUSE FILE 2515

H-8127

1 Amend House File 2515 as follows:
2 1. Page 3, by striking lines 15 through 18 and
3 inserting the following: "All removals shall be
4 without liability on the part of any officer ordering
5 or effecting such removal."

By PAULSEN of Linn

H-8127 FILED MARCH 6, 2006

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HOUSE FILE 2515
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HSB 153)

(As Amended and Passed by the House March 8, 2006)

Re- Passed House, Date 4-19-06 Passed Senate, Date 4-18-06
Vote: Ayes 99 Nays 0 Vote: Ayes 50 Nays 0
Approved _____

A BILL FOR

1 An Act relating to obstructions in highways and providing
2 penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Deleted Language *
House Amendments _____

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1 Section 1. NEW SECTION. 318.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

* 4 1. "Department" means the state department of
5 transportation.

6 2. "Highway authority" means the county board of
7 supervisors, in the case of secondary roads, and the
8 department, in the case of primary roads.

9 3. "Highway right-of-way" means the total area of land,
10 whether reserved by public ownership or easement, that is
11 reserved for the operation and maintenance of a legally
12 established public roadway. This area shall be deemed to
13 consist of two portions, a central traveled way including the
14 shoulders and that remainder on both sides of the road,
15 between the outside shoulder edges and the outer boundaries of
16 the right-of-way.

17 4. "Obstruction" means an obstacle in the highway right-
18 of-way, or an impediment or hindrance which impedes, opposes,
19 or interferes with free passage along the highway right-of-way
20 not including utility structures installed in accordance with
21 an approved permit.

22 5. "Traveled portion of the right-of-way" means that area
23 of the highway right-of-way, not including the shoulders, on
24 which vehicles normally travel.

25 6. "Utility" means all private, public, municipal, or
26 cooperative owned systems for water, sewer, natural gas,
27 electric, telegraph, telephone, transit, pipeline, heating
28 plants, railroads, bridges, street lights, or traffic control
29 signals.

30 7. "Utility structures" means the aboveground devices,
31 required by a utility, including poles, lines, and wires, used
32 for telephone, electric, natural gas, and other distribution
33 or transmission purposes, and natural gas and electrical
34 substations.

35 Sec. 2. NEW SECTION. 318.2 PURPOSE.

1 The purpose of this chapter is to enhance public safety for
2 those traveling the public roads and allow economical
3 maintenance of highway rights-of-way.

4 Sec. 3. NEW SECTION. 318.3 OBSTRUCTIONS IN HIGHWAY
5 RIGHT-OF-WAY.

6 1. A person shall not place, or cause to be placed, an
7 obstruction within any highway right-of-way. This prohibition
8 includes, but is not limited to, the following actions:

9 a. The excavation, filling, or making of any physical
10 changes to any part of the highway right-of-way, except as
11 provided under section 318.8.

12 b. The cultivation or growing of crops within the highway
13 right-of-way.

14 c. The destruction of plants placed within the highway
15 right-of-way.

16 d. The placing of fences or ditches within the highway
17 right-of-way.

18 e. The alteration of ditches, water breaks, or drainage
19 tiles within the highway right-of-way.

20 f. The placement of trash, litter, debris, waste material,
21 manure, rocks, crops or crop residue, brush, vehicles,
22 machinery, or other items within the highway right-of-way.

23 g. The placement of billboards, signs, or advertising
24 devices within the highway right-of-way.

25 h. The placement of any red reflector, or any object or
26 other device which shall cause the effect of a red reflector
27 on the highway right-of-way which is visible to passing
28 motorists.

29 2. The following actions shall not constitute an
30 obstruction within a highway right-of-way:

31 a. Mowing or harvesting grass within the highway right-
32 of-way so long as the mowing or harvesting does not destroy
33 the grass or other plants in the highway right-of-way and is
34 not in violation of an integrated roadside vegetation
35 management plan adopted pursuant to section 314.22.

1 b. Any action by, or authorized by, the highway authority
2 or the state of Iowa.

3 Sec. 4. NEW SECTION. 318.4 DUTY OF HIGHWAY AUTHORITIES.

4 The highway authority shall cause all obstructions in a
5 highway right-of-way under its jurisdiction to be removed.

6 All removals shall be without liability on the part of any
7 officer ordering or effecting such removal.

8 Sec. 5. NEW SECTION. 318.5 REMOVAL AND COST.

9 1. An obstruction in a highway right-of-way which
10 constitutes an immediate and dangerous hazard shall, without
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12 authority.

13 2. An obstruction not constituting an immediate and
14 dangerous hazard shall be removed by the highway authority
15 without liability after forty-eight-hour notice served in the
16 same manner in which an original notice is served, or in
17 writing by certified mail, or in any other manner reasonably
18 calculated to apprise the person responsible for the
19 obstruction that the obstruction will be removed at the
20 person's expense. The highway authority shall assess the
21 removal cost.

22 3. Upon removal of the obstruction, the highway authority
23 may immediately send a statement of the cost to the person
24 responsible for the obstruction. If within ten days after
25 sending the statement the cost is not paid, the highway
26 authority may institute legal proceedings to collect the cost
27 of removal. The removal costs shall be assessed against the
28 following persons, as applicable:

29 a. The vehicle owner in the case of an abandoned vehicle.

30 b. The abutting property owner in the case of a fence,
31 other than a right-of-way line fence, or other temporary
32 obstruction placed within the highway right-of-way by the
33 owner or tenant of the abutting property.

34 c. The owner or person responsible for placement of any
35 other obstruction.

1 Sec. 6. NEW SECTION. 318.6 PUBLIC NUISANCE.

2 1. Any person who places, or causes to be placed, any
3 obstruction in a highway right-of-way as prohibited under
4 section 318.3 is deemed to have created a public nuisance
5 punishable as provided in chapter 657.

6 2. If a person is found guilty of placing an obstruction
7 within a highway right-of-way, the court may, in addition to
8 any fine imposed, or judgment for damages or costs for which a
9 separate execution may issue, order that the obstruction be
10 abated or removed at the expense of the defendant. The costs
11 for abatement or removal of the obstruction may be entered as
12 a personal judgment against the defendant or assessed against
13 the property where the obstruction occurred, or both.

14 Sec. 7. NEW SECTION. 318.7 INJUNCTION TO RESTRAIN
15 OBSTRUCTIONS.

16 A highway authority may maintain a suit in equity aided by
17 injunction to restrain an obstruction in a highway right-of-
18 way. In such actions, the highway authority may cause the
19 legal boundary lines of the highway to be adjudicated provided
20 all interested parties are impleaded.

21 Sec. 8. NEW SECTION. 318.8 PERMIT REQUIRED.

22 A person shall not excavate, fill, or make a physical
23 change within a highway right-of-way without obtaining a
24 permit from the applicable highway authority. At the request
25 of a permittee, a modification may be granted in the
26 discretion of the highway authority. Work performed under the
27 permit shall be performed in conformity with the
28 specifications prescribed by the highway authority. If the
29 work does not conform to permit specifications, the person
30 shall be notified to make the conforming changes. If after
31 twenty days the changes have not been made, the highway
32 authority may make the necessary changes and immediately send
33 a statement of the cost to the responsible person. If within
34 thirty days after sending the statement the cost is not paid,
35 the highway authority may institute legal proceedings to

1 collect the cost of correction. A violation of the permit
2 specifications shall be considered a violation of section
3 318.3. A public utility subject to section 306A.3 is exempt
4 from this section.

5 Sec. 9. NEW SECTION. 318.9 UTILITY STRUCTURES.

6 1. a. A utility structure in a highway right-of-way used
7 for telephone, electric, natural gas, or other distribution or
8 transmission purposes shall be removed by the owner or
9 operator of the transmission lines upon written notice from
10 the highway authority of not less than ninety days, to the
11 owner and operator. The notice shall, with reasonable
12 certainty, specify the utility structure to be removed, and
13 shall be served in the same manner that original notices are
14 required to be served. If the owner or operator of the
15 transmission line is unable to remove the utility structure
16 within the required time due to circumstances beyond the
17 control of the owner or operator, the owner or operator shall
18 file a request with the highway authority for an extension of
19 time to complete the work.

20 b. If the owner or operator of a transmission line needs
21 authorization from the utilities board or other governmental
22 authority to relocate a utility structure or to obtain a new
23 private easement right for relocation of the utility
24 structure, the owner or operator shall request an extension of
25 time within which to remove the utility structure. The
26 highway authority shall grant an extension of time for at
27 least ninety days following the date authorization is granted
28 or the easement right is obtained.

29 2. Upon written application, the highway authority shall
30 locate the construction of new telephone, electric, or
31 transmission lines or parts of lines, including natural gas
32 pipeline, for the roads within the highway authority's
33 jurisdiction, subject to the jurisdiction of the utilities
34 board under chapters 476, 478, and 479, as follows:

35 a. The county engineer, or the board of supervisors if a

1 county engineer is not available, shall locate the lines for
2 secondary roads.

3 b. The department shall locate the lines for primary
4 roads.

5 3. The department and the county engineer, or the board of
6 supervisors if a county engineer is not available, may
7 designate the location of a utility structure within a highway
8 right-of-way. A utility structure that is not properly
9 located within the highway right-of-way shall be removed
10 within a time prescribed to a designated location. If not so
11 removed, the highway authority may remove the utility
12 structure and recover costs as provided in section 318.5.

13 Sec. 10. NEW SECTION. 318.10 FENCES.

14 1. A fence which constitutes an immediate and dangerous
15 hazard shall, without notice or liability in damages, be
16 removed by the highway authority. In all other cases where a
17 fence is an obstruction in a highway right-of-way, notice in
18 writing of not less than thirty days shall be given to the
19 owner, occupant, or agent of the land enclosed by the fence.

20 2. The notice shall, with reasonable certainty, specify
21 the line to which the fences shall be removed, and shall be
22 served in the same manner that original notices are required
23 to be served, or in writing by certified mail, or in any other
24 manner reasonably calculated to apprise the person responsible
25 for the fence.

26 3. The department and the county engineer, or the board of
27 supervisors if a county engineer is not available, may
28 designate the location of a fence within a highway right-of-
29 way. A fence that is not properly located within the highway
30 right-of-way shall be removed within a time prescribed to a
31 designated location. If not so removed, the highway authority
32 may remove the fences and recover costs as provided in section
33 318.5.

34 Sec. 11. NEW SECTION. 318.11 BILLBOARDS AND SIGNS.

35 1. No billboard or advertising sign or device, except a

1 sign or device authorized by law or approved by the highway
2 authority, shall be placed or erected upon a highway right-
3 of-way.

4 2. A billboard or advertising sign, whether on public or
5 private property, that obstructs the view of any portion of a
6 public highway or of a railway track making the use of the
7 traveled portion of the right-of-way dangerous is a public
8 nuisance and shall be abated. The person responsible for the
9 erection and maintenance of the billboard or sign may be
10 punished as provided in chapter 657.

11 Sec. 12. NEW SECTION. 318.12 ENFORCEMENT.

12 A highway authority shall enforce the provisions of this
13 chapter by appropriate civil or criminal proceeding or by both
14 such proceedings.

15 Sec. 13. Section 68A.406, subsection 2, paragraph a, Code
16 Supplement 2005, is amended to read as follows:

17 a. Any property owned by the state or the governing body
18 of a county, city, or other political subdivision of the
19 state, including all property considered the public right-of-
20 way. Upon a determination by the board that a sign has been
21 improperly placed, the sign shall be removed by highway
22 authorities as provided in section ~~319.13~~ 318.5, or by county
23 or city law enforcement authorities in a manner consistent
24 with section ~~319.13~~ 318.5.

25 Sec. 14. Section 306.46, subsection 1, Code Supplement
26 2005, is amended to read as follows:

27 1. A public utility may construct, operate, repair, or
28 maintain its utility facilities within a public road right-
29 of-way. The location of new utility facilities shall comply
30 with section ~~319.5~~ 318.9. A utility facility shall not be
31 constructed or installed in a manner that causes interference
32 with public use of the road.

33 Sec. 15. Section 306C.13, subsection 8, paragraph f, Code
34 2005, is amended to read as follows:

35 f. Which do not comply with all applicable state or local

1 laws, regulations and ordinances, including but not limited to
2 zoning, building, and sign codes as locally interpreted and
3 applied and enforced, or which violate chapter 319 318;
4 however, nothing in this division shall prevent or restrict
5 county or local zoning authorities from making a determination
6 of customary use concerning size, lighting, and spacing of
7 advertising devices in zoned commercial or industrial adjacent
8 areas, and such determinations will be accepted in lieu of the
9 standards of this division. The provisions of this division
10 shall not prevent or restrict county or local zoning
11 authorities within their respective jurisdictions from
12 establishing standards imposing controls stricter than those
13 required by this division.

14 Sec. 16. Section 311.32, Code 2005, is amended to read as
15 follows:

16 311.32 ADMINISTRATION AND MAINTENANCE OF ROADS.

17 Any road established by petition and any road improved by
18 petition under this chapter shall be administered and
19 maintained by the county under chapters 306, 309, 314, 317,
20 and 319 318. However, the fact that right-of-way is donated
21 by property owners for the establishment of a road or a
22 portion of the cost of a road improvement is paid by property
23 owners under this chapter, does not preclude the board of
24 supervisors from exercising its responsibility over these
25 roads as secondary roads.

26 Sec. 17. Section 331.362, subsection 7, Code 2005, is
27 amended to read as follows:

28 7. The board shall cause the removal of obstructions on
29 the secondary roads, in accordance with chapter 319 318.

30 Sec. 18. Section 331.756, subsection 57, Code Supplement
31 2005, is amended to read as follows:

32 57. Commence legal proceedings to remove billboards and
33 signs which constitute a public nuisance as provided in
34 section 319-11 318.11.

35 Sec. 19. Chapter 319, Code 2005, is repealed.

HOUSE FILE 2515

S-5191

- 1 Amend House File 2515, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, by inserting after line 21 the
4 following:
5 "____. "Officer" means any department employee,
6 county employee, or elected county official."
7 2. By striking page 2, line 29, through page 3,
8 line 2.
9 3. Page 3, by striking lines 6 and 7.
10 4. Page 3, by inserting after line 35 the
11 following:
12 "4. All removals shall be without liability on the
13 part of any officer ordering or effecting such
14 removal."
15 5. By renumbering as necessary.

By DICK L. DEARDEN

S-5191 FILED APRIL 12, 2006

SENATE AMENDMENT TO
HOUSE FILE 2515

H-8557

- 1 Amend House File 2515, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, by inserting after line 21 the
4 following:
5 "____. "Officer" means any department employee,
6 county employee, or elected county official."
7 2. By striking page 2, line 29, through page 3,
8 line 2.
9 3. Page 3, by striking lines 6 and 7.
10 4. Page 3, by inserting after line 35 the
11 following:
12 "4. All removals shall be without liability on the
13 part of any officer ordering or effecting such
14 removal."
15 5. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-8557 FILED APRIL 19, 2006
CONCURRED

*Chair - Schickel
Raeber
Buckner*

HSB 153

TRANSPORTATION

HOUSE FILE SF 02515 ^{By}
BY (PROPOSED COMMITTEE ON
TRANSPORTATION BILL BY
CHAIRPERSON ARNOLD)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to obstructions in highways and providing
2 penalties.

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

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1 Section 1. NEW SECTION. 318.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Breakaway mailbox" means a mailbox, approved by the
5 United States postal service under its "standard for
6 mailboxes, city and rural curbside", and used for the curbside
7 delivery of mail, which is supported by a wood post no greater
8 in cross section than four inches square or by a post with a
9 strength no greater than a two-inch-diameter standard steel
10 pipe. Two such posts may be used to support a cluster of four
11 or more mailboxes.

12 2. "Department" means the state department of
13 transportation.

14 3. "Highway authority" means the county board of
15 supervisors, in the case of secondary roads, city council, in
16 the case of city streets, and the department, in the case of
17 primary roads.

18 4. "Highway right-of-way" means the total area of land,
19 whether reserved by public ownership or easement, that is
20 reserved for the operation and maintenance of a legally
21 established public roadway. This area shall be deemed to
22 consist of two portions, a central traveled way including the
23 shoulders and that remainder on both sides of the road,
24 between the outside shoulder edges and the outer boundaries of
25 the right-of-way.

26 5. "Obstruction" means an obstacle in the way, or an
27 impediment or hindrance which impedes, opposes, or interferes
28 with free passage along the highway right-of-way.

29 6. "Traveled portion of the right-of-way" means that area
30 of the highway right-of-way, not including the shoulders, on
31 which vehicles normally travel.

32 7. "Utility structures" means the aboveground devices,
33 required by utility companies, including poles, lines, and
34 wires, used for telephone and other transmission purposes, and
35 gas and electrical substations.

1 Sec. 2. NEW SECTION. 318.2 PURPOSE.

2 The purpose of this chapter is to enhance public safety for
3 those traveling the public roads and allow economical
4 maintenance of highway rights-of-way.

5 Sec. 3. NEW SECTION. 318.3 OBSTRUCTIONS IN HIGHWAY
6 RIGHT-OF-WAY.

7 1. A person shall not place, or cause to be placed, an
8 obstruction within any highway right-of-way. This prohibition
9 includes, but is not limited to, the following actions:

10 a. The excavation, filling, or making of any physical
11 changes to any part of the highway right-of-way, except as
12 provided under section 318.8.

13 b. The cultivation or growing of crops within the highway
14 right-of-way.

15 c. The destruction of plants placed within the highway
16 right-of-way.

17 d. The placing of fences or ditches within the highway
18 right-of-way.

19 e. The alteration of ditches, water breaks, or drainage
20 tiles within the highway right-of-way.

21 f. The placement of trash, litter, debris, waste material,
22 manure, rocks, crops or crop residue, brush, vehicles,
23 machinery, or other items within the highway right-of-way.

24 g. The placement of billboards, signs, advertising
25 devices, or mailboxes or mailbox supports, except for
26 breakaway mailboxes, within the highway right-of-way.

27 h. The placement of any red reflector, or any object or
28 other device which shall cause the effect of a red reflector
29 on the highway right-of-way which is visible to passing
30 motorists.

31 2. The following actions shall not constitute an
32 obstruction within a highway right-of-way:

33 a. Mowing or harvesting grass within the highway right-
34 of-way so long as the mowing or harvesting does not destroy
35 the grass or other plants in the highway right-of-way and is

1 not in violation of an integrated roadside vegetation
2 management plan adopted pursuant to section 314.22.

3 b. Placement of a breakaway mailbox.

4 c. Any action by, or authorized by, the highway authority
5 or the state of Iowa.

6 Sec. 4. NEW SECTION. 318.4 DUTY OF HIGHWAY AUTHORITIES.

7 The highway authority shall remove all obstructions in a
8 highway right-of-way under its jurisdiction. The highway
9 authority and its officers and employees shall be immune from
10 liability regarding any claim based upon or arising out of an
11 act or omission in connection with the removal of an
12 obstruction.

13 Sec. 5. NEW SECTION. 318.5 REMOVAL AND COST.

14 1. An obstruction in a highway right-of-way which
15 constitutes an immediate and dangerous hazard shall, without
16 notice or liability in damages, be removed by the highway
17 authority.

18 2. An obstruction not constituting an immediate and
19 dangerous hazard shall be removed by the highway authority
20 without liability after forty-eight-hour notice served in the
21 same manner in which an original notice is served, or in
22 writing by certified mail, or in any other manner reasonably
23 calculated to apprise the person responsible for the
24 obstruction that the obstruction will be removed at the
25 person's expense. The highway authority shall assess the
26 removal cost.

27 3. Upon removal of the obstruction, the highway authority
28 may immediately send a statement of the cost to the person
29 responsible for the obstruction. If within ten days after
30 sending the statement the cost is not paid, the highway
31 authority may institute legal proceedings to collect the cost
32 of removal. The removal costs shall be assessed against the
33 following persons, as applicable:

34 a. The vehicle owner in the case of an abandoned vehicle.

35 b. The abutting property owner in the case of a fence,

1 other than a right-of-way line fence, or other temporary
2 obstruction placed within the highway right-of-way by the
3 owner or tenant of the abutting property.

4 c. The owner or person responsible for placement of any
5 other obstruction.

6 Sec. 6. NEW SECTION. 318.6 PUBLIC NUISANCE.

7 1. Any person who places, or causes to be placed, any
8 obstruction in a highway right-of-way as prohibited under
9 section 318.3 is deemed to have created a public nuisance
10 punishable as provided in chapter 657.

11 2. If a person is found guilty of placing an obstruction
12 within a highway right-of-way, the court may, in addition to
13 any fine imposed, or judgment for damages or costs for which a
14 separate execution may issue, order that the obstruction be
15 abated or removed at the expense of the defendant. The costs
16 for abatement or removal of the obstruction may be entered as
17 a personal judgment against the defendant or assessed against
18 the property where the obstruction occurred, or both.

19 Sec. 7. NEW SECTION. 318.7 INJUNCTION TO RESTRAIN
20 OBSTRUCTIONS.

21 A highway authority may maintain a suit in equity aided by
22 injunction to restrain an obstruction in a highway right-of-
23 way. In such actions, the highway authority may cause the
24 legal boundary lines of the highway to be adjudicated provided
25 all interested parties are impleaded.

26 Sec. 8. NEW SECTION. 318.8 PERMIT REQUIRED.

27 A person shall not excavate, fill, or make a physical
28 change within a highway right-of-way without obtaining a
29 permit from the applicable highway authority. At the request
30 of a permittee, a modification may be granted in the
31 discretion of the highway authority. Work performed under the
32 permit shall be performed in conformity with the
33 specifications prescribed by the highway authority. If the
34 work does not conform to permit specifications, the person
35 shall be notified to make the conforming changes. If after

1 twenty days the changes have not been made, the highway
2 authority may make the necessary changes and immediately send
3 a statement of the cost to the responsible person. If within
4 thirty days after sending the statement the cost is not paid,
5 the highway authority may institute legal proceedings to
6 collect the cost of correction. A violation of the permit
7 specifications shall be considered a violation of section
8 318.3.

9 Sec. 9. NEW SECTION. 318.9 UTILITY STRUCTURES.

10 1. A pole in a highway right-of-way used for telephone or
11 other transmission purposes shall be removed by the owner or
12 person operating the transmission lines upon written notice of
13 not less than thirty days, to the owner or other person. In
14 the event the owner or other person is unable to remove the
15 pole within the thirty-day period due to a storm or other act
16 of God, the pole shall be removed by the owner or other person
17 within a reasonable time.

18 2. Upon written application, the highway authority shall
19 locate the construction of new telephone or transmission lines
20 or parts of lines for the roads within the highway authority's
21 jurisdiction, as follows:

22 a. The county engineer, or the board of supervisors if a
23 county engineer is not available, shall locate the lines for
24 secondary roads.

25 b. The city engineer or the city street department shall
26 locate the lines for city streets.

27 c. The state highway engineer shall locate the lines for
28 primary roads.

29 3. The state highway engineer and the county engineer, or
30 the board of supervisors if a county engineer is not
31 available, may designate the location of a utility structure
32 within a highway right-of-way. A utility structure that is
33 not properly located within the highway right-of-way shall be
34 removed within a time prescribed to a designated location. If
35 not so removed, the highway authority may remove the utility

1 structure and recover costs as provided in section 318.5.

2 Sec. 10. NEW SECTION. 318.10 FENCES.

3 1. A fence which constitutes an immediate and dangerous
4 hazard shall, without notice or liability in damages, be
5 removed by the highway authority. In all other cases where a
6 fence is an obstruction in a highway right-of-way, notice in
7 writing of not less than thirty days shall be given to the
8 owner, occupant, or agent of the land enclosed by the fence.

9 2. The notice shall, with reasonable certainty, specify
10 the line to which the fences shall be removed, and shall be
11 served in the same manner that original notices are required
12 to be served, or in writing by certified mail, or in any other
13 manner reasonably calculated to apprise the person responsible
14 for the fence.

15 3. The state highway engineer and the county engineer, or
16 the board of supervisors if a county engineer is not
17 available, may designate the location of a fence within a
18 highway right-of-way. A fence that is not properly located
19 within the highway right-of-way shall be removed within a time
20 prescribed to a designated location. If not so removed, the
21 highway authority may remove the fences and recover costs as
22 provided in section 318.5.

23 Sec. 11. NEW SECTION. 318.11 BILLBOARDS AND SIGNS.

24 1. No billboard or advertising sign or device, except a
25 sign or device authorized by law or approved by the highway
26 authority, shall be placed or erected upon a highway right-
27 of-way.

28 2. A billboard or advertising sign, whether on public or
29 private property, that obstructs the view of any portion of a
30 public highway or of a railway track making the use of the
31 traveled portion of the right-of-way dangerous is a public
32 nuisance and shall be abated. The person responsible for the
33 erection and maintenance of the billboard or sign may be
34 punished as provided in chapter 657.

35 Sec. 12. NEW SECTION. 318.12 ENFORCEMENT.

1 A highway authority shall enforce the provisions of this
2 chapter by appropriate civil or criminal proceeding or by both
3 such proceedings.

4 Sec. 13. Section 68A.406, subsection 2, paragraph a, Code
5 2005, is amended to read as follows:

6 a. Any property owned by the state or the governing body
7 of a county, city, or other political subdivision of the
8 state, including all property considered the public right-of-
9 way. Upon a determination by the board that a sign has been
10 improperly placed, the sign shall be removed by highway
11 authorities as provided in section ~~319-13~~ 318.5, or by county
12 or city law enforcement authorities in a manner consistent
13 with section ~~319-13~~ 318.5.

14 Sec. 14. Section 306.46, subsection 1, Code 2005, is
15 amended to read as follows:

16 1. A public utility may construct, operate, repair, or
17 maintain its utility facilities within a public road right-
18 of-way. The location of new utility facilities shall comply
19 with section ~~319-5~~ 318.9. A utility facility shall not be
20 constructed or installed in a manner that causes interference
21 with public use of the road.

22 Sec. 15. Section 306C.13, subsection 8, paragraph f, Code
23 2005, is amended to read as follows:

24 f. Which do not comply with all applicable state or local
25 laws, regulations and ordinances, including but not limited to
26 zoning, building, and sign codes as locally interpreted and
27 applied and enforced, or which violate chapter ~~319~~ 318;
28 however, nothing in this division shall prevent or restrict
29 county or local zoning authorities from making a determination
30 of customary use concerning size, lighting, and spacing of
31 advertising devices in zoned commercial or industrial adjacent
32 areas, and such determinations will be accepted in lieu of the
33 standards of this division. The provisions of this division
34 shall not prevent or restrict county or local zoning
35 authorities within their respective jurisdictions from

1 establishing standards imposing controls stricter than those
2 required by this division.

3 Sec. 16. Section 311.32, Code 2005, is amended to read as
4 follows:

5 311.32 ADMINISTRATION AND MAINTENANCE OF ROADS.

6 Any road established by petition and any road improved by
7 petition under this chapter shall be administered and
8 maintained by the county under chapters 306, 309, 314, 317,
9 and ~~319~~ 318. However, the fact that right-of-way is donated
10 by property owners for the establishment of a road or a
11 portion of the cost of a road improvement is paid by property
12 owners under this chapter, does not preclude the board of
13 supervisors from exercising its responsibility over these
14 roads as secondary roads.

15 Sec. 17. Section 331.362, subsection 7, Code 2005, is
16 amended to read as follows:

17 7. The board shall cause the removal of obstructions on
18 the secondary roads, in accordance with chapter ~~319~~ 318.

19 Sec. 18. Section 331.756, subsection 57, Code 2005, is
20 amended to read as follows:

21 57. Commence legal proceedings to remove billboards and
22 signs which constitute a public nuisance as provided in
23 section ~~319-11~~ 318.11.

24 Sec. 19. Chapter 319, Code 2005, is repealed.

25 EXPLANATION

26 This bill reorganizes much of the existing Code chapter
27 pertaining to obstructions in highways into new Code chapter
28 318, while adding some new provisions. The bill provides a
29 purpose section and definitions for the new Code chapter. The
30 bill lists actions that are and are not prohibited
31 obstructions. The bill provides that an obstruction creates a
32 public nuisance punishable under Code chapter 657 pertaining
33 to nuisances.

34 The bill also provides amendments to other Code sections to
35 conform to the new Code chapter.

HOUSE FILE 2515

AN ACT

RELATING TO OBSTRUCTIONS IN HIGHWAYS AND PROVIDING PENALTIES.

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

Section 1. NEW SECTION. 318.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Department" means the state department of transportation.
2. "Highway authority" means the county board of supervisors, in the case of secondary roads, and the department, in the case of primary roads.
3. "Highway right-of-way" means the total area of land, whether reserved by public ownership or easement, that is reserved for the operation and maintenance of a legally established public roadway. This area shall be deemed to consist of two portions, a central traveled way including the shoulders and that remainder on both sides of the road, between the outside shoulder edges and the outer boundaries of the right-of-way.
4. "Obstruction" means an obstacle in the highway right-of-way, or an impediment or hindrance which impedes, opposes, or interferes with free passage along the highway right-of-way not including utility structures installed in accordance with an approved permit.
5. "Officer" means any department employee, county employee, or elected county official.
6. "Traveled portion of the right-of-way" means that area of the highway right-of-way, not including the shoulders, on which vehicles normally travel.

7. "Utility" means all private, public, municipal, or cooperative owned systems for water, sewer, natural gas, electric, telegraph, telephone, transit, pipeline, heating plants, railroads, bridges, street lights, or traffic control signals.

8. "Utility structures" means the aboveground devices, required by a utility, including poles, lines, and wires, used for telephone, electric, natural gas, and other distribution or transmission purposes, and natural gas and electrical substations.

Sec. 2. NEW SECTION. 318.2 PURPOSE.

The purpose of this chapter is to enhance public safety for those traveling the public roads and allow economical maintenance of highway rights-of-way.

Sec. 3. NEW SECTION. 318.3 OBSTRUCTIONS IN HIGHWAY RIGHT-OF-WAY.

A person shall not place, or cause to be placed, an obstruction within any highway right-of-way. This prohibition includes, but is not limited to, the following actions:

1. The excavation, filling, or making of any physical changes to any part of the highway right-of-way, except as provided under section 318.8.
2. The cultivation or growing of crops within the highway right-of-way.
3. The destruction of plants placed within the highway right-of-way.
4. The placing of fences or ditches within the highway right-of-way.
5. The alteration of ditches, water breaks, or drainage tiles within the highway right-of-way.
6. The placement of trash, litter, debris, waste material, manure, rocks, crops or crop residue, brush, vehicles, machinery, or other items within the highway right-of-way.
7. The placement of billboards, signs, or advertising devices within the highway right-of-way.

8. The placement of any red reflector, or any object or other device which shall cause the effect of a red reflector on the highway right-of-way which is visible to passing motorists.

Sec. 4. NEW SECTION. 318.4 DUTY OF HIGHWAY AUTHORITIES.

The highway authority shall cause all obstructions in a highway right-of-way under its jurisdiction to be removed.

Sec. 5. NEW SECTION. 318.5 REMOVAL AND COST.

1. An obstruction in a highway right-of-way which constitutes an immediate and dangerous hazard shall, without notice or liability in damages, be removed by the highway authority.

2. An obstruction not constituting an immediate and dangerous hazard shall be removed by the highway authority without liability after forty-eight-hour notice served in the same manner in which an original notice is served, or in writing by certified mail, or in any other manner reasonably calculated to apprise the person responsible for the obstruction that the obstruction will be removed at the person's expense. The highway authority shall assess the removal cost.

3. Upon removal of the obstruction, the highway authority may immediately send a statement of the cost to the person responsible for the obstruction. If within ten days after sending the statement the cost is not paid, the highway authority may institute legal proceedings to collect the cost of removal. The removal costs shall be assessed against the following persons, as applicable:

- a. The vehicle owner in the case of an abandoned vehicle.
- b. The abutting property owner in the case of a fence, other than a right-of-way line fence, or other temporary obstruction placed within the highway right-of-way by the owner or tenant of the abutting property.
- c. The owner or person responsible for placement of any other obstruction.

4. All removals shall be without liability on the part of any officer ordering or effecting such removal.

Sec. 6. NEW SECTION. 318.6 PUBLIC NUISANCE.

1. Any person who places, or causes to be placed, any obstruction in a highway right-of-way as prohibited under section 318.3 is deemed to have created a public nuisance punishable as provided in chapter 657.

2. If a person is found guilty of placing an obstruction within a highway right-of-way, the court may, in addition to any fine imposed, or judgment for damages or costs for which a separate execution may issue, order that the obstruction be abated or removed at the expense of the defendant. The costs for abatement or removal of the obstruction may be entered as a personal judgment against the defendant or assessed against the property where the obstruction occurred, or both.

Sec. 7. NEW SECTION. 318.7 INJUNCTION TO RESTRAIN OBSTRUCTIONS.

A highway authority may maintain a suit in equity aided by injunction to restrain an obstruction in a highway right-of-way. In such actions, the highway authority may cause the legal boundary lines of the highway to be adjudicated provided all interested parties are impleaded.

Sec. 8. NEW SECTION. 318.8 PERMIT REQUIRED.

A person shall not excavate, fill, or make a physical change within a highway right-of-way without obtaining a permit from the applicable highway authority. At the request of a permittee, a modification may be granted in the discretion of the highway authority. Work performed under the permit shall be performed in conformity with the specifications prescribed by the highway authority. If the work does not conform to permit specifications, the person shall be notified to make the conforming changes. If after twenty days the changes have not been made, the highway authority may make the necessary changes and immediately send a statement of the cost to the responsible person. If within

thirty days after sending the statement the cost is not paid, the highway authority may institute legal proceedings to collect the cost of correction. A violation of the permit specifications shall be considered a violation of section 318.3. A public utility subject to section 306A.3 is exempt from this section.

Sec. 9. NEW SECTION. 318.9 UTILITY STRUCTURES.

1. a. A utility structure in a highway right-of-way used for telephone, electric, natural gas, or other distribution or transmission purposes shall be removed by the owner or operator of the transmission lines upon written notice from the highway authority of not less than ninety days, to the owner and operator. The notice shall, with reasonable certainty, specify the utility structure to be removed, and shall be served in the same manner that original notices are required to be served. If the owner or operator of the transmission line is unable to remove the utility structure within the required time due to circumstances beyond the control of the owner or operator, the owner or operator shall file a request with the highway authority for an extension of time to complete the work.

b. If the owner or operator of a transmission line needs authorization from the utilities board or other governmental authority to relocate a utility structure or to obtain a new private easement right for relocation of the utility structure, the owner or operator shall request an extension of time within which to remove the utility structure. The highway authority shall grant an extension of time for at least ninety days following the date authorization is granted or the easement right is obtained.

2. Upon written application, the highway authority shall locate the construction of new telephone, electric, or transmission lines or parts of lines, including natural gas pipeline, for the roads within the highway authority's jurisdiction, subject to the jurisdiction of the utilities board under chapters 476, 478, and 479, as follows:

a. The county engineer, or the board of supervisors if a county engineer is not available, shall locate the lines for secondary roads.

b. The department shall locate the lines for primary roads.

3. The department and the county engineer, or the board of supervisors if a county engineer is not available, may designate the location of a utility structure within a highway right-of-way. A utility structure that is not properly located within the highway right-of-way shall be removed within a time prescribed to a designated location. If not so removed, the highway authority may remove the utility structure and recover costs as provided in section 318.5.

Sec. 10. NEW SECTION. 318.10 FENCES.

1. A fence which constitutes an immediate and dangerous hazard shall, without notice or liability in damages, be removed by the highway authority. In all other cases where a fence is an obstruction in a highway right-of-way, notice in writing of not less than thirty days shall be given to the owner, occupant, or agent of the land enclosed by the fence.

2. The notice shall, with reasonable certainty, specify the line to which the fences shall be removed, and shall be served in the same manner that original notices are required to be served, or in writing by certified mail, or in any other manner reasonably calculated to apprise the person responsible for the fence.

3. The department and the county engineer, or the board of supervisors if a county engineer is not available, may designate the location of a fence within a highway right-of-way. A fence that is not properly located within the highway right-of-way shall be removed within a time prescribed to a designated location. If not so removed, the highway authority may remove the fences and recover costs as provided in section 318.5.

Sec. 11. NEW SECTION. 318.11 BILLBOARDS AND SIGNS.

1. No billboard or advertising sign or device, except a sign or device authorized by law or approved by the highway authority, shall be placed or erected upon a highway right-of-way.

2. A billboard or advertising sign, whether on public or private property, that obstructs the view of any portion of a public highway or of a railway track making the use of the traveled portion of the right-of-way dangerous is a public nuisance and shall be abated. The person responsible for the erection and maintenance of the billboard or sign may be punished as provided in chapter 657.

Sec. 12. NEW SECTION. 318.12 ENFORCEMENT.

A highway authority shall enforce the provisions of this chapter by appropriate civil or criminal proceeding or by both such proceedings.

Sec. 13. Section 68A.406, subsection 2, paragraph a, Code Supplement 2005, is amended to read as follows:

a. Any property owned by the state or the governing body of a county, city, or other political subdivision of the state, including all property considered the public right-of-way. Upon a determination by the board that a sign has been improperly placed, the sign shall be removed by highway authorities as provided in section ~~319.13~~ 318.5, or by county or city law enforcement authorities in a manner consistent with section ~~319.13~~ 318.5.

Sec. 14. Section 306.46, subsection 1, Code Supplement 2005, is amended to read as follows:

1. A public utility may construct, operate, repair, or maintain its utility facilities within a public road right-of-way. The location of new utility facilities shall comply with section ~~319.5~~ 318.9. A utility facility shall not be constructed or installed in a manner that causes interference with public use of the road.

Sec. 15. Section 306C.13, subsection 8, paragraph f, Code 2005, is amended to read as follows:

f. Which do not comply with all applicable state or local laws, regulations and ordinances, including but not limited to zoning, building, and sign codes as locally interpreted and applied and enforced, or which violate chapter ~~319~~ 318; however, nothing in this division shall prevent or restrict county or local zoning authorities from making a determination of customary use concerning size, lighting, and spacing of advertising devices in zoned commercial or industrial adjacent areas, and such determinations will be accepted in lieu of the standards of this division. The provisions of this division shall not prevent or restrict county or local zoning authorities within their respective jurisdictions from establishing standards imposing controls stricter than those required by this division.

Sec. 16. Section 311.32, Code 2005, is amended to read as follows:

311.32 ADMINISTRATION AND MAINTENANCE OF ROADS.

Any road established by petition and any road improved by petition under this chapter shall be administered and maintained by the county under chapters 306, 309, 314, 317, and ~~319~~ 318. However, the fact that right-of-way is donated by property owners for the establishment of a road or a portion of the cost of a road improvement is paid by property owners under this chapter, does not preclude the board of supervisors from exercising its responsibility over these roads as secondary roads.

Sec. 17. Section 331.362, subsection 7, Code 2005, is amended to read as follows:

7. The board shall cause the removal of obstructions on the secondary roads, in accordance with chapter ~~319~~ 318.

Sec. 18. Section 331.756, subsection 57, Code Supplement 2005, is amended to read as follows:

57. Commence legal proceedings to remove billboards and signs which constitute a public nuisance as provided in section ~~319.11~~ 318.11.

Sec. 19. Chapter 319, Code 2005, is repealed.

CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2515, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2006

THOMAS J. VILSACK
Governor