

CLARIFY THE STATUS OF FENCES ATTACHED OR THAT ABUT TO BRIDGES

It in the intent of the Montana Association of Counties to support legislation clarifying that a fence attached or that abuts to a county road bridge off the traveled way is not considered an encroachment under 7-14-2134 MCA.

WHEREAS, 7-14-2102 MCA states "Each board of county commissioners may in its discretion do whatever may be necessary for the best interest of the county roads..." and

WHEREAS, the Montana Association of Counties is concerned for the health, welfare and safety of the traveling public by keeping livestock off the county roads and with containment of livestock in transit across the bridges; and

WHEREAS, 7-14-2130(1) MCA states that "Cattle guards, appurtenances, and gates may be constructed and maintained adjacent to county roads;" and,

WHEREAS, fences from the edge of the road right-of-way to the bridge provide safety for the traveling public; and

WHEREAS, since fences were first introduced, it has been the custom and practice of counties across the Great State of Montana to allow fences to be tied to bridges for the safety of the traveling public.

NOW, THEREFORE, BE IT RESOLVED that MACo support the addition of subparagraph (4) to 7-14-2134 MCA that states: (4) For the purposes of this section, "encroachment" does not include fencing, if allowed by the county, from the county road right of way up to bridge edges, bridge guardrails, or bridge abutments that are off the traveled way.

SPONSOR: Madison County, MACo Districts 8, 9 and 12

RECOMMENDATION: Do Pass

PRIORITY: High

REFERRED TO: MACo Transportation Committee,
MACo Agriculture Committee

ADOPTED: Annual Conference, Missoula, MT
September 29, 2004