

1 SENATE BILL NO. 85

2 INTRODUCED BY C. LARSEN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A BOARD OF COUNTY COMMISSIONERS TO LIMIT
5 USE OF A COUNTY ROAD OR OTHER PUBLIC RIGHT-OF-WAY UNDER THE COUNTY'S JURISDICTION;
6 AND AMENDING SECTIONS 7-14-2103, 7-14-2133, AND 7-14-2134, MCA."

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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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10 **Section 1.** Section 7-14-2103, MCA, is amended to read:

11 **"7-14-2103. Duties of county commissioners concerning county roads and rights-of-way.** (1) A
12 board of county commissioners has general supervision over the county roads within the county.

13 (2) A board may survey, view, lay out, record, open, work, and maintain county roads that are
14 established in accordance with this chapter. Guideposts must be erected.

15 (3) A board may discontinue or abandon county roads when freeholders properly petition for
16 discontinuance or abandonment.

17 (4) A board of county commissioners may determine the level and scope of maintenance on a county
18 road under its jurisdiction, and a local entity or the state may not withhold funds based on the board's
19 maintenance determinations.

20 (5) In addition to the authority provided in 7-14-2127 to temporarily limit or prohibit traffic to preserve or
21 repair a county road, a board may limit use of a county road or other public right-of-way under the county's
22 jurisdiction to nonmotorized traffic or seasonal traffic. If the board limits use as provided in this subsection, the
23 board shall install signs stating the use to which the road is limited."

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25 **Section 2.** Section 7-14-2133, MCA, is amended to read:

26 **"7-14-2133. Removal of obstructions on county roads and rights-of-way -- exemption.** (1) When
27 a county road becomes obstructed, the board of county commissioners, or the county surveyor if the surveyor
28 is in charge, shall remove the obstruction upon being notified of the obstruction.

29 (2) This section does not hold the board or any member responsible or liable for anything other than
30 willful, intentional neglect or failure to act.

1 (3) For the purposes of this section, "obstruction" means an obstacle, such as a rock or a fallen tree, that
2 if not removed would remain in the road indefinitely. The word does not mean snow, ice, or any other obstacle
3 that will melt or dissipate on its own accord.

4 (4) This section does not apply to a county road or other public right-of-way under the county's
5 jurisdiction upon which use has been limited to nonmotorized traffic or seasonal traffic under 7-14-2103 unless
6 the obstruction interferes with the allowed use of the road or right-of-way."

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8 **Section 3.** Section 7-14-2134, MCA, is amended to read:

9 **"7-14-2134. Removal of highway encroachment.** (1) Except as clarified in 23-2-312 and 23-2-313 and
10 except as provided in ~~subsection~~ subsections (4) and (5) of this section, if any highway is encroached upon by
11 fence, building, or otherwise, the road supervisor or county surveyor of the district ~~must~~ shall give notice, orally
12 or in writing, requiring the encroachment to be removed from the highway.

13 (2) If the encroachment obstructs and prevents the use of the highway for vehicles, the road supervisor
14 or county surveyor shall immediately remove the encroachment.

15 (3) The board of county commissioners may at any time order the road supervisor or county surveyor
16 to immediately remove any encroachment.

17 (4) This section does not apply to a fence for livestock control or property management that is in a county
18 road right-of-way and that is attached to or abuts a county road bridge edge, guardrail, or abutment if the fence
19 and bridge appurtenances are not on the roadway, as defined in 61-1-101. Any fence described in this subsection
20 must comply with 23-2-313.

21 (5) This section does not apply to a county road or other public right-of-way under the county's
22 jurisdiction upon which use has been limited to nonmotorized traffic or seasonal traffic under 7-14-2103 unless
23 the encroachment interferes with the allowed use of the road or right-of-way."

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