

1 HOUSE BILL NO. 304

2 INTRODUCED BY M. TROPILA

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING ENCROACHMENTS AND
5 OBSTRUCTIONS ON COUNTY ROADS; PROVIDING THAT A LOCKED GATE IS CONSIDERED TO BE AN
6 OBSTRUCTION; INCREASING THE PENALTY FOR FAILURE TO REMOVE AN ENCROACHMENT;
7 REQUIRING THAT THE PENALTY BE PAID INTO THE GENERAL FUND OF THE COUNTY; AND AMENDING
8 SECTIONS 7-14-2133, 7-14-2136, AND 7-14-2137, MCA."

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

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12 **Section 1.** Section 7-14-2133, MCA, is amended to read:
13 **"7-14-2133. Removal of obstructions on county roads.** (1) When a county road becomes obstructed,
14 the board of county commissioners, or the county surveyor if the surveyor is in charge, shall remove the
15 obstruction upon being notified of the obstruction.

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

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

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22 **Section 2.** Section 7-14-2136, MCA, is amended to read:
23 **"7-14-2136. Penalty for failure to remove encroachment promptly.** If the encroachment is not
24 removed immediately or removal is not diligently conducted, the one who causes, owns, or controls the
25 encroachment is liable to a penalty of ~~\$40~~ \$500 for each day the ~~same~~ encroachment continues."

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27 **Section 3.** Section 7-14-2137, MCA, is amended to read:
28 **"7-14-2137. Legal actions to remove encroachments or recover costs.** (1) (a) If the encroachment
29 is denied, the road supervisor shall commence an action in the proper court to abate the encroachment as a
30 nuisance.

1 (b) If the road supervisor recovers judgment, the supervisor may have the supervisor's costs and ~~\$10~~
2 \$500 for each day the nuisance remains after notice.

3 (2) (a) If the encroachment is not denied and is not removed for 5 days after notice is complete, the road
4 supervisor or county surveyor may remove it at the expense of the owner or occupant of the land or of the person
5 owning or controlling the encroachment.

6 (b) The supervisor may recover the expense of removal, ~~\$10~~ \$500 for each day the encroachment
7 remains after notice, and costs in an action brought for that purpose.

8 (3) The penalty must be paid into the general fund of the county and is not subject to 3-10-601."

9 - END -