

## HOUSE BILL NO. 295

INTRODUCED BY T. JACOBSON

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING COUNTY ROAD ENCROACHMENTS BY PROVIDING THAT A LOCKED GATE IS AN ENCROACHMENT, ALLOWING ISSUANCE OF A PERMIT FOR CERTAIN ENCROACHMENTS, AND INCREASING THE FINE FOR FAILURE TO REMOVE AN ENCROACHMENT; AND AMENDING SECTIONS 7-14-2134 AND 7-14-2136, MCA."

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

**Section 1.** Section 7-14-2134, MCA, is amended to read:

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

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

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

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

(5) A county may issue a revocable permit for an encroachment upon a county road right-of-way as long as the encroachment does not obstruct a road or create a hazard to traffic. An encroachment permit may not allow a locked gate to be placed across a county road right-of-way."

**Section 2.** Section 7-14-2136, MCA, is amended to read:

**"7-14-2136. Penalty for failure to remove encroachment promptly.** If the encroachment is not removed immediately or removal is not diligently conducted, the one who causes, owns, or controls the

1 encroachment is liable to a penalty of ~~\$10~~ up to \$500 for each day the ~~same~~ failure to remove the encroachment  
2 continues."

3 - END -