Amendment - 1st Reading-white - Requested by: Edward Butcher - (H) Transportation

| - 20 | 23 | |
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| 68th | Legislature | 2023 |

Drafter: Sara Hess, (406) 444-4838

HB0486.001.002

| 1 | HOUSE BILL NO. 486 |
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| 2 | INTRODUCED BY P. GREEN, M. MALONE, K. ZOLNIKOV, M. MARLER, D. LOGE, T. BROCKMAN, B. |
| 3 | PHALEN, M. ROMANO |
| 4 | |
| 5 | A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING HIGHWAY |
| 6 | ENCROACHMENTS; ALLOWING AN INDIVIDUAL TO PETITION FOR THE REMOVAL OF AN |
| 7 | ENCROACHMENT; INCREASING THE FINES FOR FAILURE TO REMOVE AN ENCROACHMENT; AND |
| 8 | AMENDING SECTIONS 7-14-2134, 7-14-2136, AND 7-14-2137, MCA." |
| 9 | |
| 10 | BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: |
| 11 | |
| 12 | Section 1. Section 7-14-2134, MCA, is amended to read: |
| 13 | "7-14-2134. Removal of highway encroachment. (1) Except as clarified in 23-2-312 and 23-2-313 |
| 14 | and except as provided in subsection (4) (5) of this section, if any highway is encroached upon on by a gate, |
| 15 | fence, building, or otherwise, the road supervisor or county surveyor of the district must shall give notice, orally |
| 16 | or in writing, requiring the encroachment to be removed from the highway. |
| 17 | (2) If the encroachment obstructs and prevents the use of the highway for vehicles, the road |
| 18 | supervisor or county surveyor shall immediately remove the encroachment. |
| 19 | (3) The board of county commissioners may at any time order the road supervisor or county |
| 20 | surveyor to immediately remove any encroachment. |
| 21 | (4) An individual may petition the board in writing to have the encroachment removed from the |
| 22 | highway. |
| 23 | (4)(5) This section does not apply to a fence for livestock control or property management that is in a |
| 24 | county road right-of-way and that is attached to or abuts a county road bridge edge, guardrail, or abutment if |
| 25 | the fence and bridge appurtenances are not on the roadway, as defined in 61-1-101. Any fence described in |
| 26 | this subsection must comply with 23-2-313." |
| 27 | |
| 28 | Section 2. Section 7-14-2136, MCA, is amended to read: |
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| 1 | "7-14-2136. Penalty for failure to remove encroachment promptly. (1) If the encroachment is not |
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| 2 | removed immediately or removal is not diligently conducted, the one who causes, owns, or controls the |
| 3 | encroachment is liable <u>subject</u> to a penalty of \$10 <u>not less than \$100 or more than \$500</u> for each day the same |
| 4 | encroachment continues. |
| 5 | (2) Any fines established in subsection (1) must be suspended upon commencement of and during |
| 6 | litigation." |
| 7 | |
| 8 | Section 3. Section 7-14-2137, MCA, is amended to read: |
| 9 | "7-14-2137. Legal actions to remove encroachments or recover costs. (1) (a) If the encroachment |
| 10 | is denied, the road supervisor shall commence an action in the proper court to abate the encroachment as a |
| 11 | nuisance. |
| 12 | (b) If the road supervisor recovers judgment, the supervisor may have the supervisor's costs and |
| 13 | \$10 not less than \$100 or more than \$500 for each day the nuisance remains after notice. |
| 14 | (2) (a) If the encroachment is not denied and is not removed for 5 days after notice is complete, |
| 15 | the road supervisor or county surveyor may remove it at the expense of the owner or occupant of the land or of |
| 16 | the person owning or controlling the encroachment. |
| 17 | (b) The supervisor may recover the expense of removal, \$10 not less than \$100 or more than |
| 18 | \$500 for each day the encroachment remains after notice, and costs in an action brought for that purpose." |
| 19 | - END - |
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