



AN ACT GENERALLY REVISING LAWS GOVERNING HIGHWAY ENCROACHMENTS; ALLOWING AN INDIVIDUAL TO PETITION FOR THE REMOVAL OF AN ENCROACHMENT; INCREASING THE FINES FOR FAILURE TO REMOVE AN ENCROACHMENT; AND AMENDING SECTIONS 7-14-2134, 7-14-2136, AND 7-14-2137, 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 ~~(4)~~(5) of this section, if any highway is encroached ~~upon~~on by a gate, fence, building, or otherwise, the road supervisor or county surveyor of the district ~~must~~shall 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) An individual may petition the board in writing to have the encroachment removed from a highway that is a county road as defined in 7-14-2101(4)(b)(i), (4)(b)(ii), or (4)(b)(iii).

~~(4)~~(5) 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."

**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 encroachment is ~~liable~~ subject to a penalty of ~~\$40~~ \$100 for each day the ~~same~~ encroachment continues."

**Section 3.** Section 7-14-2137, MCA, is amended to read:

**"7-14-2137. Legal actions to remove encroachments or recover costs.** (1) (a) If the encroachment is denied, the road supervisor shall commence an action in the proper court to abate the encroachment as a nuisance.

(b) If the road supervisor recovers judgment, the supervisor may have the supervisor's costs and ~~\$40~~ \$100 for each day the nuisance remains after notice.

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

(b) The supervisor may recover the expense of removal, ~~\$40~~ \$100 for each day the encroachment remains after notice, and costs in an action brought for that purpose."

- END -

I hereby certify that the within bill,  
HB 486, originated in the House.

---

Chief Clerk of the House

---

Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

---

President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

HOUSE BILL NO. 486

INTRODUCED BY P. GREEN, M. MALONE, K. ZOLNIKOV, M. MARLER, D. LOGE, T. BROCKMAN, B.

PHALEN, M. ROMANO

AN ACT GENERALLY REVISING LAWS GOVERNING HIGHWAY ENCROACHMENTS; ALLOWING AN INDIVIDUAL TO PETITION FOR THE REMOVAL OF AN ENCROACHMENT; INCREASING THE FINES FOR FAILURE TO REMOVE AN ENCROACHMENT; AND AMENDING SECTIONS 7-14-2134, 7-14-2136, AND 7-14-2137, MCA.