

FIRST REGULAR SESSION

HOUSE BILL NO. 162

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE EGGLESTON.

0173H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 229.150, RSMo, and to enact in lieu thereof one new section relating to drainage ditches, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

2 Section A. Section 229.150, RSMo, is repealed and one new section enacted in lieu
3 thereof, to be known as section 229.150, to read as follows:

2 229.150. 1. All driveways or crossings over ditches connecting highways with the
3 private property shall be made under the supervision of the overseer or commissioners of the
4 road districts.

4 2. ~~[Any]~~ **No** person or persons ~~[who]~~ shall willfully or knowingly obstruct or damage
5 any public road by obstructing the side or cross drainage or ditches thereof, or by turning water
6 upon such road or right-of-way, or by throwing or depositing brush, trees, stumps, logs, or any
7 refuse or debris whatsoever, in said road, or on the sides or in the ditches thereof, or by fencing
8 across or upon the right-of-way of the same, or by planting any hedge or erecting any advertising
9 sign within the lines established for such road, or by changing the location thereof, or ~~[shall]~~
10 obstruct said road, highway, or drains in any other manner whatsoever~~[-, shall be deemed guilty~~
11 ~~of a misdemeanor, and, upon conviction, shall be fined not less than five dollars nor more than~~
12 ~~two hundred dollars, or by imprisonment in the county jail for not exceeding six months, or by~~
13 ~~both such fine and imprisonment].~~

14 3. The road overseer of any district~~[-]~~ **or** county highway engineer~~[-]~~ who finds any road
15 **damaged or** obstructed as above specified, ~~[shall notify the person violating the provisions of~~
16 ~~this section, verbally or in writing, to remove such obstruction. Within ten days after being~~
17 ~~notified, he shall pay the sum of five dollars for each and every day after the tenth day if such~~

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 ~~obstruction is maintained or permitted to remain; such fine to be recovered by suit brought by~~
19 ~~the road overseer, in the name of the road district, in any court of competent jurisdiction]~~ **shall**
20 **notify the owner of the land of the requirements of this section by certified mail, return**
21 **receipt requested, and shall allow the owner of the land thirty days from acknowledgment**
22 **date of return receipt, or date of refusal of acceptance of delivery as the case may be, to**
23 **repair any damage to the roadway or drainage ditch and to remedy the cause of any**
24 **drainage ditch obstruction or malfunction. Any such repairs shall be conducted in a**
25 **manner approved by the road overseer or county engineer making the request. In the**
26 **event the property owner cannot be located by certified mail, notice shall be placed in a**
27 **newspaper of general circulation in the county or municipality in which the land is located**
28 **at least thirty days before the road overseer or county highway engineer initiates action as**
29 **provided under subsection 4 of this section. The property owner shall be granted an**
30 **automatic thirty-day extension due to hardship by notifying the road overseer or county**
31 **highway engineer that he or she cannot comply with the requirements of this section, due**
32 **to hardship, within the first thirty-day period. The property owner may be granted a**
33 **second extension by the road overseer or county highway engineer. There shall be no**
34 **further extensions. For purposes of this subsection, "hardship" may be financial, physical,**
35 **or any other condition that the road overseer or county highway engineer deems to be a**
36 **valid reason to allow an extension of time to comply with the requirements of this section.**

37 **4. In the event a property owner fails to make a repair to a roadway or drainage**
38 **ditch or fails to remedy a condition causing a drainage ditch obstruction or malfunction**
39 **as requested by the road overseer or county engineer, or fails to make a repair in a manner**
40 **meeting the specifications of the road overseer or highway engineer as required under**
41 **subsection 3 of this section, the overseer or highway engineer may repair the roadway or**
42 **drainage ditch and remedy any condition causing a drainage malfunction so as to allow**
43 **proper drainage. For that purpose, the road overseer or county highway engineer,**
44 **including his or her agents, servants, or employees, shall have authority to enter on such**
45 **lands without being liable to an action of trespass therefor, and shall keep an accurate**
46 **account of the expenses incurred in repairing the roadway or drainage ditch and in**
47 **removing any condition impeding proper drainage, and transmit the same to the political**
48 **subdivision wherein the property lies. Upon receipt of such expenses, the political**
49 **subdivision shall extend the aggregate expenses so charged against each tract of land as a**
50 **special tax, which shall then become a lien on such lands, and be collected as state and**
51 **county taxes are collected by law.**

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