

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 647**  
99TH GENERAL ASSEMBLY

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Reported from the Committee on Local Government and Elections, April 13, 2017, with recommendation that the Senate Committee Substitute do pass.

1416S.03C

ADRIANE D. CROUSE, Secretary.

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**AN ACT**

To repeal sections 229.150, 233.295, and 263.245, RSMo, and to enact in lieu thereof three new sections relating to county roads, with existing penalty provisions.

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

Section A. Sections 229.150, 233.295, and 263.245, RSMo, are repealed  
2 and three new sections enacted in lieu thereof, to be known as sections 229.150,  
3 233.295, and 263.245, to read as follows:

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

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

16 3. The road overseer of any district, or county highway engineer, who

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 finds any road **damaged or** obstructed as above specified, [shall] **may** notify the  
18 [person] **landowner** violating the provisions of this section, [verbally or] in  
19 writing, to remove such obstruction, **to repair such damage in a manner**  
20 **approved by the road overseer or county highway engineer making the**  
21 **request, or to pay the reasonable cost of such removal or**  
22 **repair.** [Within ten days after being notified, he shall pay the sum of five dollars  
23 for each and every day after the tenth day if such obstruction is maintained or  
24 permitted to remain; such fine to be recovered by suit brought by the road  
25 overseer, in the name of the road district, in any court of competent jurisdiction]  
26 **If the landowner fails to remove any obstruction, make any repairs, or**  
27 **remit any payment of costs as requested within thirty days, the road**  
28 **overseer or county highway engineer may petition the associate circuit**  
29 **court of the county in which the land is located to authorize the**  
30 **overseer or engineer or an agent or employee thereof, to enter the**  
31 **landowner's land to remove the obstruction or to repair the damage, in**  
32 **order to restore the roadway or drainage ditch to a condition**  
33 **substantially the same as the adjacent roadways and drainage**  
34 **ditches. Such entry on the landowner's lands shall be limited to the**  
35 **extent necessary to repair the roadway or drainage ditch, and shall**  
36 **constitute no cause of action for trespass. The petition shall include an**  
37 **estimate of the costs.**

38       4. **If the court enters a judgment granting the petition and**  
39 **authorizing the actions requested therein, the judgment shall include**  
40 **an award for the reasonable cost of removal or repair, court costs, and**  
41 **reasonable attorney's fees, and shall become a lien on such lands, and**  
42 **shall be collected as state and county taxes are collected by law.**

233.295. 1. Whenever a petition, signed by the owners of a majority of the  
2 acres of land, within a road district organized under the provisions of sections  
3 233.170 to 233.315 shall be filed with the county commission of any county in  
4 which such district is situated, setting forth the name of the district and the  
5 number of acres owned by each signer of such petition and the whole number of  
6 acres in such district, the county commission shall have power, if in its opinion  
7 the public good will be thereby advanced, to disincorporate such road district. No  
8 such road district shall be disincorporated until notice is published in at least one  
9 newspaper of general circulation in the county where the district is situated for  
10 four weeks successively prior to the hearing of such petition.

11           2. In any county with a population of at least thirty-two thousand  
12 inhabitants which adjoins a county of the first classification which contains a city  
13 with a population of one hundred thousand or more inhabitants that adjoins no  
14 other county of the first classification, whenever a petition signed by at least fifty  
15 registered voters residing within the district organized under the provisions of  
16 sections 233.170 to 233.315 is filed with the county clerk of the county in which  
17 the district is situated, setting forth the name of the district and requesting the  
18 disincorporation of such district, the county clerk shall certify for election the  
19 following question to be voted upon by the eligible voters of the district:

20           Shall the ..... incorporated road district organized under  
21 the provisions of sections 233.170 to 233.315, RSMo, be dissolved?

22                                    YES                                    NO

23 If a majority of the persons voting on the question are in favor of the proposition,  
24 then the county commission shall disincorporate the road district.

25           3. The petition filed pursuant to subsection 2 of this section shall be  
26 submitted to the clerk of the county no later than eight weeks prior to the next  
27 countywide election at which the question will be voted upon.

28           4. Notwithstanding other provisions of this section to the contrary, in any  
29 county of the first classification with more than one hundred four thousand six  
30 hundred but less than one hundred four thousand seven hundred inhabitants,  
31 any petition to disincorporate a road district organized under sections 233.170 to  
32 233.315 shall be presented to the county commission or similar authority. The  
33 petition shall be signed by the lesser of fifty or a majority of the registered voters  
34 residing within the district, shall state the name of the district, and shall request  
35 the disincorporation of the district. If a petition is submitted as authorized in  
36 this section, and it is the opinion of the county commission that the public good  
37 will be advanced by the disincorporation after providing notice and a hearing as  
38 required in this section, then the county commission shall disincorporate the road  
39 district. This subsection shall not apply to any road district located in two  
40 counties.

41           5. Notwithstanding other provisions of this section to the contrary, in any  
42 county of the third classification without a township form of government and with  
43 more than thirty-four thousand but fewer than thirty-four thousand one hundred  
44 inhabitants, any petition to disincorporate a road district organized under  
45 sections 233.170 to 233.315 shall be presented to the county commission or  
46 similar authority. The petition shall be signed by the lesser of fifty or a majority

47 of the registered voters residing within the district, shall state the name of the  
48 district, and shall request the disincorporation of the district. If a petition is  
49 submitted as authorized in this section, and it is the opinion of the county  
50 commission that the public good will be advanced by the disincorporation after  
51 providing notice and a hearing as required in this section, then the county  
52 commission shall disincorporate the road district. This subsection shall not apply  
53 to any road district located in two counties.

54           6. Notwithstanding other provisions of this section to the contrary, in any  
55 county of the second classification with more than fifty-four thousand two  
56 hundred but fewer than fifty-four thousand three hundred inhabitants, any  
57 petition to disincorporate a road district organized under sections 233.170 to  
58 233.315 shall be presented to the county commission or similar authority. The  
59 petition shall be signed by the lesser of fifty or a majority of the registered voters  
60 residing within the district, shall state the name of the district, and shall request  
61 the disincorporation of the district. If a petition is submitted as authorized in  
62 this section, and it is the opinion of the county commission that the public good  
63 will be advanced by the disincorporation after providing notice and a hearing as  
64 required in this section, then the county commission shall disincorporate the road  
65 district. This subsection shall not apply to any road district located in two  
66 counties.

67           7. Notwithstanding other provisions of this section to the contrary, in any  
68 county, any petition to disincorporate a road district organized under sections  
69 233.170 to 233.315 shall be presented to the county commission or similar  
70 authority. The petition shall be signed by the lesser of fifty or a majority of the  
71 registered voters residing within the district, shall state the name of the district,  
72 and shall request the disincorporation of the district. If a petition is submitted  
73 as authorized in this section, and it is the opinion of the county commission that  
74 the public good will be advanced by the disincorporation after providing notice  
75 and a hearing as required in this section, then the county commission shall  
76 disincorporate the road district. This subsection shall not apply to any road  
77 district located in two counties.

78           8. Notwithstanding other provisions of this section to the contrary, in any  
79 county, a petition to disincorporate a road district located in two counties  
80 organized under sections 233.170 to 233.315 shall be presented to the county  
81 commission or similar authority in each county in which the road district is  
82 located. Each petition shall be signed by the lesser of fifty or a majority of the

83 registered voters residing within the district and county, shall state the name of  
84 the district, and shall request the disincorporation of the district. If a petition  
85 is submitted as authorized in this section, and it is the opinion of the county  
86 commission in each county in which the road district is located that the public  
87 good will be advanced by the disincorporation after providing notice and a  
88 hearing as required in this section, then the county commission in each county  
89 in which the road district is located shall disincorporate the road district. A road  
90 district located in two counties shall not be disincorporated until it is  
91 disincorporated in each county in which it is located.

92 **9. (1) The county commission or similar authority shall have the**  
93 **power to combine two or more road districts organized under sections**  
94 **233.170 to 233.315 upon petition signed by a majority of the**  
95 **commissioners in each of the road districts seeking to be combined;**

96 **(2) The petition presented to the county commission or similar**  
97 **authority shall set forth the request that the road district's desire to be**  
98 **consolidated and shall set forth the proposed name of the new road**  
99 **district. If a petition is submitted as authorized in this subsection, then**  
100 **the county commission or similar authority shall hold a public hearing**  
101 **at a place and time it designates after it has published notice of the**  
102 **hearing for four consecutive weeks in a newspaper of general**  
103 **circulation in the county;**

104 **(3) After such hearing, if it is the opinion of the county**  
105 **commission that the public good will be advanced by the consolidation**  
106 **of the districts, then the county commission or similar authority shall**  
107 **issue its order consolidating the districts and set the effective date of**  
108 **the consolidation in such order;**

109 **(4) Upon consolidation, the county commission or similar**  
110 **authority shall appoint the three initial commissioners of the**  
111 **consolidated district: one for a term of one year, one for a term of two**  
112 **years, and one for a term of three years;**

113 **(5) Upon consolidation, all assets and liabilities of the combined**  
114 **districts shall vest in the new consolidated district. In the event the**  
115 **tax levies of the combined districts are different, then the initial tax**  
116 **levy for the consolidated district shall be the lower of the districts that**  
117 **were combined until changed as provided by statute;**

118 **(6) The county commission or similar authority shall have the**  
119 **power to make deeds, bills of sale, or other instruments transferring**

120 **the assets of the districts combined to the new consolidated district and**  
121 **shall have all other powers necessary to effectuate the consolidation**  
122 **and transfer of all assets and liabilities to the consolidated road**  
123 **district; and**

124 **(7) The provisions of subsection 9 of this section shall not apply**  
125 **to any road district located in two counties.**

263.245. 1. All owners of land in any county with a township form of  
2 government, located north of the Missouri River and having no portion of the  
3 county located east of U.S. Highway 63 and located in any county of the third  
4 classification without a township form of government and with more than four  
5 thousand one hundred but fewer than four thousand two hundred inhabitants, or  
6 in any county of the third classification without a township form of government  
7 and with more than two thousand three hundred but fewer than two thousand  
8 four hundred inhabitants shall control all brush growing on such owner's property  
9 that is designated as the county right-of-way or county maintenance easement  
10 part of such owner's property and which is adjacent to any county road. **For**  
11 **purposes of implementing this section, the center of the existing county**  
12 **road shall be considered the center of the county road for purposes of**  
13 **determining if such brush growing on a property is located in the**  
14 **county right-of-way or county maintenance easement part of such**  
15 **owner's property.** Such brush shall be cut, burned or otherwise destroyed as  
16 often as necessary in order to keep such lands accessible for purposes of  
17 maintenance and safety of the county road.

18 2. The county commission, either upon its own motion or upon receipt of  
19 a written notice requesting the action from any residents of the county in which  
20 the county road bordering the lands in question is located or upon written request  
21 of any person regularly using the county road, may control such brush so as to  
22 allow easy access to the land described in subsection 1 of this section, and for that  
23 purpose the county commission, or its agents, servants, or employees shall have  
24 authority to enter on such lands without being liable to an action of trespass  
25 therefor, and shall keep an accurate account of the expenses incurred in  
26 eradicating the brush, and shall verify such statement under seal of the county  
27 commission, and transmit the same to the officer whose duty it is or may be to  
28 extend state and county taxes on tax books or bills against real estate. Such  
29 officer shall extend the aggregate expenses so charged against each tract of land  
30 as a special tax, which shall then become [a lien on such lands] **due on such**

31 **property owner's real and personal property tax assessment**, and be  
32 collected as state and county taxes are collected by law and paid to the county  
33 commission and credited to the county control fund.

34         3. Before proceeding to control brush as provided in this section, the  
35 county commission of the county in which the land is located shall notify the  
36 owner of the land of the requirements of this law by certified mail, return receipt  
37 requested, from a list supplied by the officer who prepares the tax list, and shall  
38 allow the owner of the land thirty days from acknowledgment date of return  
39 receipt, or date of refusal of acceptance of delivery as the case may be, to  
40 eradicate all such brush growing on land designated as the county right-of-way  
41 or county maintenance easement part of such owner's land and which is adjacent  
42 to the county road. In the event that the property owner cannot be located by  
43 certified mail, notice shall be placed in a newspaper of general circulation in the  
44 county in which the land is located at least thirty days before the county  
45 commission removes the brush pursuant to subsection 2 of this section. Such  
46 property owner shall be granted an automatic thirty-day extension due to  
47 hardship by notifying the county commission that such owner cannot comply with  
48 the requirements of this section, due to hardship, within the first thirty-day  
49 period. The property owner may be granted a second extension by a majority vote  
50 of the county commission. There shall be no further extensions. For the purposes  
51 of this subsection, "hardship" may be financial, physical or any other condition  
52 that the county commission deems to be a valid reason to allow an extension of  
53 time to comply with the requirements of this section.

54         4. County commissions shall not withhold rock, which is provided from  
55 funds from the county aid road trust fund, for maintaining county roads due to  
56 the abutting property owner's refusal to remove brush located on land designated  
57 as the county right-of-way or county maintenance easement part of such owner's  
58 land. County commissions shall use such rock on the county roads, even though  
59 the brush is not removed, or county commissions may resort to the procedures in  
60 this section to remove the brush.

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