

1 SENATE BILL NO. 358

2 INTRODUCED BY J. COHENOUR

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING REMOVAL OF HIGHWAY
5 ENCROACHMENTS; PROVIDING THAT LOCKED GATES AND MANMADE BARRIERS ARE
6 ENCROACHMENTS; INCREASING THE PENALTY FOR FAILURE TO REMOVE AN ENCROACHMENT
7 PROMPTLY; AND AMENDING SECTIONS 7-14-2134 AND 7-14-2136, MCA."

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

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

12 **"7-14-2134. Removal of highway encroachment.** (1) Except as clarified in 23-2-312 and 23-2-313 and
13 except as provided in ~~subsection~~ subsections (4) and (5) of this section, if any highway is encroached upon by
14 a locked gate, fence, building, other manmade barrier, or otherwise, the road supervisor or county surveyor of
15 the district ~~must~~ shall give notice, orally or in writing, requiring the encroachment to be removed from the highway.

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

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

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

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

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

29 **"7-14-2136. Penalty for failure to remove encroachment promptly.** If the encroachment is not
30 removed immediately or removal is not diligently conducted, the one who causes, owns, or controls the

1 encroachment is liable to for a penalty of ~~\$10~~ up to \$250 for each day ~~the same continues~~ the responsible party
2 fails to remove the encroachment."

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