

HOUSE BILL REPORT

HB 1332

As Reported by House Committee On:
Transportation

Title: An act relating to dangerous objects on county roads and bridges.

Brief Description: Concerning dangerous objects on county roads and bridges.

Sponsors: Representatives Fey, Stambaugh and Jinkins.

Brief History:

Committee Activity:

Transportation: 2/8/17, 2/15/17 [DPS].

Brief Summary of Substitute Bill

- Declares an item in or near the right-of-way of a county bridge or road that imminently threatens to damage or endanger a county bridge or road or obstructs, blocks, or threatens normal use of the roadway to be a public nuisance, and allows a county to take any actions necessary to abate it.
- Allows any item in or near the right-of-way of a county bridge or road and considered by a county to be immediately or eminently dangerous to travel upon a county bridge or road to be immediately removed, and this removal is not considered a breach of the peace or trespass.
- Requires logs dumped on a county road or bridge or in a county road drainage ditch to be removed immediately. Logs remaining on the county right-of-way for 30 days or more must be confiscated and removed or disposed of as directed by the county.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Wylie, Vice Chair; Chapman, Gregerson, Kloba, Lovick, McBride, Morris, Ortiz-Self, Pellicciotti, Riccelli, Stambaugh and Tarleton.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 9 members: Representatives Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Hayes, Irwin, Pike, Shea, Van Werven and Young.

Minority Report: Without recommendation. Signed by 1 member: Representative Rodne.

Staff: David Munnecke (786-7315).

Background:

County Roads.

A nuisance is defined to include, among other things, omitting to perform a duty that renders dangerous for passage a public street or highway. Counties have the general authority to deal with nuisances under both the state constitutional delegation of the police power to counties as well as state statute.

Both superior and district courts have the authority to impose fines for violations of a county's nuisance ordinance. A warrant of abatement allows the jurisdiction that receives it to enter onto private property, abate the designated nuisance, and hold the property owner responsible for the costs of the abatement. Such a warrant may only be issued by a superior court.

A jurisdiction may take action to abate a nuisance without a warrant of abatement, but the jurisdiction could be liable to the property owner if a court determined that the condition was not actually a nuisance or a hazard.

State Highways.

Whenever an item in or near the right-of-way of a state highway tends to endanger, obstruct, or constitute a hazard to vehicles or travelers, the item is declared to be a public nuisance, and the Washington State Department of Transportation (WSDOT) may take any actions necessary to abate it.

Any item in or near the right-of-way of a state highway and considered by the WSDOT to be immediately or eminently dangerous to travel upon a state highway may be immediately removed. This removal is not considered a breach of the peace or trespass.

Logs dumped on a state highway or in a state highway drainage ditch are required to be removed immediately. Logs remaining on the state highway right-of-way for 30 days or more must be confiscated and removed or disposed of as directed by the WSDOT.

Summary of Substitute Bill:

Whenever an item in or near the right-of-way of a county bridge or road imminently threatens to damage or endanger a county bridge or road or obstructs, blocks, or threatens normal use of the roadway, the item is declared to be a public nuisance, and the county may take any actions necessary to abate it.

Any item in or near the right-of-way of a county bridge or road and considered by the county to be immediately or eminently dangerous to travel upon a county bridge or road may be immediately removed. This removal is not considered a breach of the peace or trespass.

Logs dumped on a county road or bridge or in a county road drainage ditch are required to be removed immediately. Logs remaining on the county right-of-way for 30 days or more must be confiscated and removed or disposed of as directed by the county.

Substitute Bill Compared to Original Bill:

The substitute bill limits the declaration of a public nuisance to items that imminently threaten to damage or endanger a county bridge or road and items that obstruct, block, or threaten the normal use of the roadway.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The WSDOT currently has the authority to remove hazards on state highways, and this bill would give counties the same authority to abate such hazards.

One of the biggest problems that counties face is dealing with imminently hazardous trees near roadways, and they have three options when doing so: (1) trespass, remove the tree, and possibly be sued; (2) close the threatened road; or (3) do nothing and see what happens.

A county currently has to secure the right to enter the property before it can deal with a hazardous tree. It will document the condition of the tree, after it makes a determination that the tree is about to fall and before it is removed. Any compensation to the owner of the tree is determined on a case-by-case basis.

In Pierce County, the county deals with hazardous trees approximately 200 times per year, but only one or two of them are usually imminently dangerous. The county will make every effort to get in touch with the property owner before entering a person's property.

Under the bill, the county has the right to remove a hazardous tree, but damages for negligent actions could still be recovered by the property owner.

A hazardous tree fell in Pierce County in 1994 and killed the parents in the vehicle, but not the children.

(Opposed) None.

(Other) There is additional language being considered to resolve concerns about the bill.

Persons Testifying: (In support) Representative Fey, prime sponsor; and Phil Prettyman and Paul Marsh, Pierce County Roads Department.

(Other) Shelly Helder, Snohomish County.

Persons Signed In To Testify But Not Testifying: None.