

SENATE BILL REPORT

E2SHB 1332

As of February 24, 2018

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

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

Sponsors: House Committee on Transportation (originally sponsored by Representatives Fey, Stambaugh and Jinkins).

Brief History: Passed House: 2/13/18, 62-36.

Committee Activity: Transportation: 2/20/18.

Brief Summary of 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.
- Provides that 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.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Kim Johnson (786-7472)

Background: County Roads. A nuisance is defined to include, among other things, omitting to perform a duty that renders a public street or highway dangerous for passage. 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.

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.

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 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 WSDOT.

Summary of 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.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Counties have thousands of miles of county roads to maintain. In Pierce County, we have over 1775 miles of roads and when a tree becomes a danger to the road it can be difficult and time consuming to try to track down all

of the property owners we may need to, in order to gain access and reach the tree in question. To fully abate a tree that has become a public nuisance, you often have to enter private property to deal with an imminent danger. Our state has a long, 70-year history of allowing WSDOT to protect state highways and the travelling public. A county can be sued if we abuse this authority.

Persons Testifying: PRO: Representative Jake Fey, Prime Sponsor; Michael Shaw, Pierce County.

Persons Signed In To Testify But Not Testifying: No one.