WEST VIRGINIA CODE CHAPTER 17 ARTICLE 16

WV Legislature

§17-16-1. "Obstructions" defined; obstructions declared nuisance; nuisance exception; abatement of nuisance by injunction.

Obstructions, within the meaning of this chapter, shall include trees which have been cut or have fallen either on adjacent land or within the bounds of a public road in such a manner as to interfere with travel thereon; limbs of trees which have fallen within a public road or branches of trees overhanging the same so as to interfere with travel thereon; landslides; carcasses of dead animals, lumber, wood, or logs piled within the bounds of a public road; machines, vehicles, conveyances, and implements abandoned or habitually placed within the bounds of a public road; fences, buildings, or other obstructions within the bounds of a public road; ashes, cinders, earth, stone, or other material placed on a public road or in any ditch or waterway along such road; water diverted from its regular course or channel so as to injure or endanger a public road; any road connected without lawful authority with a public road in such manner as to obstruct or impede travel thereon or the flow of water in the gutters or drains along such road; pipelines, telegraph, telephone, trolley, or other poles and wires connected therewith, constructed or erected on a public road in such a way as to interfere with the use thereof; or any other thing which will prevent the easy, safe, and convenient use of such public road for public travel. Such obstructions shall be considered within the bounds of any state or county-district road whenever any part thereof shall occupy any part of the right-of-way provided by law or acquired for road purposes, not including the additional land acquired for slopes, cuts, or fills. Fundraising by a volunteer fire department including boot drives and bucket brigades, and similar fund raising activities by school-approved or -sponsored groups, bona fide charitable organizations and nonprofit service organizations within the boundaries of a municipality do not constitute an obstruction or nuisance under this chapter: Provided, That the fund raising activity is conducted during daylight hours at a signal controlled intersection, an intersection requiring all vehicles to stop, or at a location approved for such an activity by the municipal law-enforcement agency. Such obstructions so placed and left within the limits of such road are hereby declared to be public nuisances, and, in addition to other remedies provided in this chapter, the county court or the State Road Commission, as the case may be, may apply to the circuit court, or other court of competent jurisdiction of the county in which they may be, for an injunction to abate such nuisance.

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§17-16-2. Duty of landowner, occupant and public utility to remove obstructions and fill excavations.

It shall be the duty of the owner or occupant of land situated along any state or county-district road to remove all obstructions within the bounds of the road which have been placed there by himself or with his consent.

It shall be the duty of all telephone, telegraph, electric railway or other electrical companies to remove and reset telephone, telegraph, trolley and other poles and the wire connected therewith when the same constitute obstructions to the use of a state or county-district road by the traveling public.

It shall be the duty of all pipeline companies whose lines have been laid across or along any state or county-district road in this state for the purpose of transporting natural gas, oils, water, or any other substance, to fill up all excavations made thereby and to make the road in all respects as good as it was before the excavation was made, and to keep the same in like good condition, and, when any such line has been laid along any such road on the right-of-way thereof and constitutes an obstruction to the traveling public, to relay or remove the same.

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§17-16-3. Removal of obstructions by state road commission or county; expense to be charged against owner, etc.

If such obstructions, poles, wires or pipelines are not removed, or such poles with wires reset, or such excavations are not properly filled and maintained, or such pipelines are not relaid or removed, within ten days after the service of a notice, by the state road commission, or its engineer in charge of the road obstructed, or the county road engineer or supervisor, as the case may be, upon such owner or occupant, or upon such company or corporation, requesting the same to be done, the commission or its engineer, or the county road engineer or supervisor, as the case may be, shall cause such obstructions and such poles and wires to be removed and reset, or such repairs on the excavation to be made, or such pipelines to be relaid or removed, as may be necessary to place the same in its original condition. The expense thereby incurred shall be paid in the first instance out of moneys levied and collected or available therefor, and the amount thereof shall be charged against such owner, occupant, company or corporation and levied and collected as provided in section four of this article.

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§17-16-4. Assessment and collection of costs of removing obstructions.

The state road commission by its engineer or engineers in charge, as to state roads, and the county road engineer or supervisor, as to county-district roads, shall assess the cost of removing obstructions from state or county-district roads and removing and resetting poles and wires or the relaying or removing of pipelines pursuant to sections two and three of this article, against the owner, occupant, company or corporation neglecting to perform its duty imposed by the provisions of this article.

Such engineer or supervisor having charge of either state or county-district roads shall serve upon such owner, occupant or company a written notice stating that at the time and place specified therein, he or his agents will assess such costs against the owner, occupant or company neglecting to perform such duty. Such notice shall be served at least ten days prior to the time specified therein. If directed against a corporation, it may be served as other notices or process are served under chapter fifty-six of this code. At the time and place specified, he shall hear the parties interested and shall thereupon complete the assessment, stating therein the name of the owner, occupant or company, the amount assessed against him or it, and shall return such assessment to the state road commission or the county court of the county, as the case may be. Such assessment shall be made a matter or record by the commission or court, and the amount so assessed and fixed shall constitute a lien upon the property of such person, firm or corporation as a lien for taxes. The amount so assessed, fixed and levied may be placed in the hands of the sheriff of the county wherein such road is located and shall be collected by him as taxes levied and imposed are collected, and shall be paid into the State Treasury to the credit of the state road fund, or the county treasury to the credit of the district road fund, as the case may be, to reimburse the fund from which such costs were defrayed.

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§17-16-5. Liability for failure to remove obstructions.

If any obstruction, such as is mentioned in section one of this article, be not removed by the person who, by himself or agent, caused the same, within ten days after written notice so to do, given on behalf of the state road commission or county court, by the engineer or person in charge of such road, then the person causing the obstruction shall be liable to such commission or county court, as the case may be, in a sum of not less than one nor more than $5 for each day such obstruction remains unremoved after the service of such notice.

WV Legislature

§17-16-6. Permit by commission or county court for openings in or structures on public roads; franchises and easements of oil, etc., transportation companies.

No opening shall be made in any state or county-district road or highway, nor shall any structure be placed therein or thereover, nor shall any structure, which has been so placed, be changed or removed, except in accordance with a permit from the state road commission or county court, as the case may be. No road or highway shall be dug up for laying or placing pipes, sewers, poles or wires, or for other purposes, and no trees shall be planted or removed or obstructions placed thereon, without the written permit of the commission or county court, or its duly authorized agent, and then only in accordance with the regulations of the commission or court. The work shall be done under the supervision and to the satisfaction of the commission or court; and the entire expense of replacing the highway in as good condition as before shall be paid by the persons to whom the permit was given, or by whom the work was done: Provided, however, That nothing herein contained shall be so construed as to prevent any oil or gas company or person having a proper permit or franchise from transporting oil or gasoline along any of the public highways of this state, nor to give such company a franchise without paying to the landowners through whose lands such road passes the usual and customary compensation paid or to be paid to the landowners for such right of way. Any grant or franchise when made shall be construed to give to such company or person only the right to use the easement in such public road.

A violation of any provision of this section shall be a misdemeanor and, the person or corporation violating the same shall, upon conviction thereof, be fined not less than $25 nor more than $100 for each offense.

WV Legislature

§17-16-7.

Repealed.

Acts, 1949 Reg. Sess., Ch. 116.

WV Legislature

§17-16-8. Duty of railroad company to keep state or county- district road in good condition.

Every railroad company heretofore or hereafter incorporated which has, by the building of its road, or otherwise, obstructed, or shall hereafter obstruct, any state or county-district road, shall, as far as possible, put the road so obstructed in as good condition as it was in before the obstruction. Every railroad company which has changed, or shall hereafter change, the grade or location of any state or county-district road, shall put the same in as good condition and repair, and on as practical a grade, as such road was before its change; and if such road, after construction, becomes damaged or injured or is caused to be damaged or injured by reason of the construction of any railroad, such railroad company shall be liable for all damages occasioned thereby and for all costs incurred in repairing and keeping in repair the road so damaged or injured as aforesaid.

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§17-16-9. Private driveways or approaches to roads; obstruction of ditches.

The owner or tenant of land fronting on any state road shall construct and keep in repair all approaches or driveways to and from the same, under the direction of the state road commission, and, likewise, the owner or tenant of land fronting on any county- district road shall construct and keep in repair all approaches or driveways to and from the same, under the direction of the county road engineer, and it shall be unlawful for such owner or tenant to fill up any ditch, or place any material of any kind or character in any ditch, so as in any manner to obstruct or interfere with the purposes for which it was made.

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