

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1232
(Representatives Monson, Headland, Kilichowski)
(Senators Miller, Olafson, Dotzenrod)

AN ACT to amend and reenact sections 24-06-28 and 24-06-29 of the North Dakota Century Code, relating to obstructions and traffic safety hazards on section line roads.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-06-28 of the North Dakota Century Code is amended and reenacted as follows:

24-06-28. Obstruction of section lines prohibited - Exception - Certain fences not considered obstructions - Obstructions and traffic safety hazards - Penalty.

1. A person may not place or cause to be placed any permanent obstruction, ~~stone, tree or portion of a tree, or rubbish~~ within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway, unless written permission is first secured from the board of county commissioners or the board of township supervisors, ~~as the case may be appropriate~~. The permission must be granted where the section line has been closed pursuant to section 24-07-03 or where the topography of the land along the section line is such that in the opinion of the board of county commissioners or board of township supervisors, as the case may be, the construction of a road on the section line is impracticable.
2. A person may not place or cause to be placed any obstruction or traffic safety hazard within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway, unless written permission is first secured from the board of county commissioners or board of township supervisors, as appropriate.
3. Subsection 1 may not be construed to prohibit construction of fences:
 - a. Along or across section lines which have been closed pursuant to section 24-07-03 or which have not been opened because construction of a road is impracticable due to the topography of the land along the section line, but such fences are subject to removal as provided in section 24-06-30.
 - b. Across section lines which have not been closed pursuant to section 24-07-03 if cattle guards are provided in accordance with chapter 24-10 where fences cross the section lines.
- ~~3.4.~~ The construction of fences pursuant to subsection ~~23~~ may not be considered an obstruction of section lines and any person who damages any fence or who opens and fails to close any gate constructed under subsection ~~23~~ is guilty of an infraction.
5. Subsection 2 does not apply to a railroad company performing maintenance and repair work of railroad track, crossings, or other railroad facilities.

SECTION 2. AMENDMENT. Section 24-06-29 of the North Dakota Century Code is amended and reenacted as follows:

24-06-29. Removal of permanent obstructions when section lines opened - Removal of obstructions and traffic safety hazards - Cost.

1. If a person places or causes to be placed a stone, tree or portion of a tree, or rubbish permanent obstruction within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway, the board of county commissioners or board of township supervisors, as the case may be appropriate, when a public highway is opened, shall notify the owners of adjacent property to remove the stone, tree or portion of a tree, or rubbish permanent obstruction. Written notice by registered mail to the record owner of the adjacent property mailed to the owner's last-known address and to any other persons in possession of the property constitutes valid notice. If the owners fail to remove the stone, tree or portion of a tree, or rubbish permanent obstruction within thirty days after the notice is mailed, the board of county commissioners or the board of township supervisors, as the case may be appropriate, shall remove the stone, tree or portion of a tree, or rubbish permanent obstruction. The cost of removal must be entered the same as taxes against the adjacent property and paid in the same manner as taxes.
2. If a person places or causes to be placed an obstruction or traffic safety hazard within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway road surface, the board of county commissioners or board of township supervisors, as appropriate, shall issue a written order to the person who caused the obstruction or traffic safety hazard to be placed there to remove the obstruction or traffic safety hazard. If the person notified fails to remove the obstruction or traffic safety hazard as soon as practical after the notice is received, the board of county commissioners or board of township supervisors, as appropriate, shall remove the obstruction or traffic safety hazard. The person responsible for placement of the obstruction or traffic safety hazard is responsible and may be billed for any costs incurred by the county or township for removal of the obstruction or traffic safety hazard.
3. Subsection 2 does not apply to railroad facilities.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1232.

House Vote: Yeas 86 Nays 2 Absent 6

Senate Vote: Yeas 29 Nays 18 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State