

CHAPTER 148

(HB 199)

AN ACT relating to rights-of-way on state roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 177.106 is amended to read as follows:

- (1) *As used in this section, "encroachment" means any improvement to land including but not limited to buildings, fences, ditches, embankments, driveways, or signs, or any change from the original contour of land, that:*
 - (a) *Is constructed, created, or implemented under, on, or over the right-of-way of a state-maintained road; and*
 - (b) *May hinder or prevent use or maintenance of a road or right-of-way.*
- (2) (a) *A person shall not cause an encroachment or allow an encroachment to remain under, on, or over any part of the right-of-way of a state-maintained road unless that person has first obtained an encroachment permit from the Department of Highways.*
 - (b) *If the department determines that an encroachment, for which an encroachment permit has not been issued, interferes with the safe, convenient, and continuous use and maintenance of a road, the department shall issue to the responsible party a notice of violation and order to remove or relocate the encroachment within seven (7) days, at the responsible party's expense.*
 - (c) *If the department orders the removal or change in location of any encroachment from the right-of-way and the responsible party fails to remove it or change its location within the time allotted in paragraph (b) of this subsection, the department shall:*
 1. *Cause the removal of the encroachment; and*
 2. *Recoup the cost of removal from the responsible party. Moneys recouped under this paragraph shall be deposited in the road fund.*
- (3) *In addition to any payment required to cover the costs of removal pursuant to subsection (2)(c) of this section, any person who fails to obtain a permit as required by subsection (2)(a) of this section shall, upon issuance of a notice of violation under subsection (2)(b) of this section:*
 - (a) *Be subject to a civil fine of:*
 1. *Five hundred dollars (\$500) for the first violation;*
 2. *One thousand dollars (\$1,000) for the second violation within a three (3) year period; and*
 3. *Two thousand dollars (\$2,000) for a third or subsequent violation within a three (3) year period;*
 - (b) *After a third violation within a three (3) year period, be prohibited from receiving an encroachment permit from the department for a period of six (6) months, from the date of notice of the third violation; and*
 - (c) *Be responsible for payment, within twenty-four (24) hours of notice from the department, for any safety measures determined to be necessary by the department.*
- (4) *Any civil fines imposed pursuant to subsection (3)(a) of this section shall be:*
 - (a) *Collected by the municipality in which the violation occurred; and*
 - (b) *Used by that municipality for public safety or infrastructure purposes* ~~Before any person shall proceed to cause or continue or allow to remain in existence any encroachment under, on or over any part of the right of way of a state highway he shall first obtain from the Department of Highways a permit so to do. Any encroachment heretofore or hereafter placed or allowed to continue or remain under, on or over any road which is found by the Department of Highways to be interfering in any way with the safe, convenient and continuous use and maintenance of such road shall upon thirty (30) days notice to the~~

ACTS OF THE GENERAL ASSEMBLY

~~person or to his chief agent by the Department of Highways be removed or relocated by such person at his own expense.~~

- ~~(2) Whenever an order of the Department of Highways requires such removal or change in location of any encroachment from the right of way of a road and the person causing such encroachment or allowing same to continue or remain fails to remove or change location of same at his own expense to conform to the order within the time stated in the notice, the Department of Highways shall proceed to cause the encroachment to be removed; the expense thereby incurred shall be paid out of any money available therefor, and shall be charged against the person and levied and collected and paid into the State Treasury as provided by law].~~

➔Section 2. The following KRS sections are repealed:

177.103 Definitions for KRS 177.106.

Became law without Governor's signature March 29, 2021.