

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 307

BY SENATORS TRUMP, BLAIR, PLYMALE, AND BOSO

[Introduced January 17, 2018; Referred
to the Committee on Transportation and Infrastructure; and
then to the Committee on the Judiciary]

1 A BILL to amend and reenact §17-16-1 of the Code of West Virginia, 1931, as amended, relating
 2 to declaring a “boot drive” conducted on a state highway or roadway within the boundaries
 3 of a municipality by a volunteer fire department is not an obstruction or a nuisance.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16. OBSTRUCTIONS.

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

1 Obstructions, within the meaning of this chapter, shall include trees which have been cut
 2 or have fallen either on adjacent land or within the bounds of a public road in such a manner as
 3 to interfere with travel thereon; limbs of trees which have fallen within a public road or branches
 4 of trees overhanging the same so as to interfere with travel thereon; landslides; carcasses of dead
 5 animals, lumber, wood or logs piled within the bounds of a public road; machines, vehicles,
 6 conveyances and implements abandoned or habitually placed within the bounds of a public road;
 7 fences, buildings, or other obstructions within the bounds of a public road; ashes, cinders, earth,
 8 stone or other material placed on a public road or in any ditch or waterway along such road; water
 9 diverted from its regular course or channel so as to injure or endanger a public road; any road
 10 connected without lawful authority with a public road in such manner as to obstruct or impede
 11 travel thereon or the flow of water in the gutters or drains along such road; pipelines, telegraph,
 12 telephone, trolley or other poles and wires connected therewith, constructed or erected on a public
 13 road in such a way as to interfere with the use thereof; or any other thing which will prevent the
 14 easy, safe and convenient use of such public road for public travel. Such obstructions shall be
 15 considered within the bounds of any state or county-district road whenever any part thereof shall
 16 occupy any part of the right of way provided by law or acquired for road purposes, not including
 17 the additional land acquired for slopes, cuts or fills. However, a “boot drive” conducted on a state
 18 highway or roadway within the boundaries of a municipality by a volunteer fire department does
 19 not constitute an obstruction or a nuisance under this chapter.

20 Such obstructions so placed and left within the limits of such road are hereby declared to
21 be public nuisances, and, in addition to other remedies provided in this chapter, the county court
22 or the State Road Commission, as the case may be, may apply to the circuit court, or other court
23 of competent jurisdiction of the county in which they may be, for an injunction to abate such
24 nuisance.

NOTE: The purpose of this bill is to declare a “boot drive” conducted on a state highway or roadway within the boundaries of a municipality by a volunteer fire department is not an obstruction or a nuisance.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.