

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

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for

Senate Bill 307

BY SENATORS TRUMP, BLAIR, PLYMALE, AND BOSO

[Originating in the Committee on the Judiciary;

Reported on February 20, 2018]

1 A BILL to amend and reenact §17-16-1 of the Code of West Virginia, 1931, as amended, relating
2 to declaring that fundraising conducted by a volunteer fire department, school -sponsored
3 or -approved group, bona fide charity, or nonprofit entity on a state highway or roadway
4 within the boundaries of a municipality does not constitute an obstruction or nuisance if
5 done during daylight hours, at signal controlled intersections requiring all vehicles to stop,
6 or at a location approved by municipal law enforcement.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16. OBSTRUCTIONS.

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

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
13 public road in such a way as to interfere with the use thereof; or any other thing which will prevent
14 the easy, safe, and convenient use of such public road for public travel. Such obstructions shall
15 be considered within the bounds of any state or county-district road whenever any part thereof
16 shall occupy any part of the right-of-way provided by law or acquired for road purposes, not

17 including the additional land acquired for slopes, cuts, or fills. Fundraising by a volunteer fire
18 department including boot drives and bucket brigades, and similar fund raising activities by school
19 -approved or -sponsored groups, bona fide charitable organizations as regulated by the provisions
20 of §29-26-1 et seq. of this code nonprofit service organization within the boundaries of a
21 municipality do not constitute an obstruction or nuisance under this chapter: *Provided*, That the
22 fund raising activity is conducted during daylight hours at a signal controlled intersection, an
23 intersection requiring all vehicles to stop, or at a location approved for such an activity by the
24 municipal law-enforcement agency. Such obstructions so placed and left within the limits of such
25 road are hereby declared to be public nuisances, and, in addition to other remedies provided in
26 this chapter, the county court or the State Road Commission, as the case may be, may apply to
27 the circuit court, or other court of competent jurisdiction of the county in which they may be, for
28 an injunction to abate such nuisance.