



NEBRASKA LEGISLATURE



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Chapter 39

39-301.

Roads; injuring or obstructing; penalties; exceptions.

Any person who injures or obstructs a public road by felling a tree or trees in, upon, or across the same, by placing or leaving any other obstruction thereon, by encroaching upon the same with any fence, by plowing or digging any ditch or other opening thereon, by diverting water onto or across such road so as to saturate, wash, or impair the maintenance, construction, or passability of such public road, or by allowing water to accumulate on the roadway or traveled surface of the road or who leaves the cutting of any hedge thereupon for more than five days shall, upon conviction thereof, be guilty of a Class V misdemeanor and, in case of placing any obstruction on the road, be charged an additional sum of not exceeding three dollars per day for every day he or she allows such obstruction to remain after being ordered to remove the same by the road overseer or other officer in charge of road work in the area where such obstruction is located, complaint to be made by any person feeling aggrieved.

This section shall not apply to any person who lawfully fells any tree for use and will immediately remove the same out of the road nor to any person through whose land a public road may pass who desires to drain such land and gives due notice of such intention to the road overseer or other officer in charge of road work nor when damage has been caused by a mechanical malfunction of any irrigation equipment, when a sprinkler irrigation system had been set so that under normal weather conditions no water would have been placed upon the right-of-way of any road, when the county board grants permission for the landowner to divert water from one area to another along a county highway right-of-way, or when a municipality has granted permission along or across the right-of-way under its jurisdiction, except that if damage has been caused by a mechanical malfunction of irrigation equipment more than two times in one calendar year, the penalty provided in this section shall apply.



For Lobbyists

For Students
and Teachers

Any officer in charge of road work, after having given reasonable notice to the owners of the obstruction or person so obstructing or plowing or digging ditches upon such road, may remove any such fence or other obstruction, fill up any such ditch or excavation, and recover the necessary cost of such removal from such owner or other person obstructing such road, to be collected by such officer in an action in county court.

Any public roads which have not been worked and which have not been used or traveled by the public for the last fifteen years may be fenced by the owners of adjoining lands if written permission is first obtained from the county board of commissioners or supervisors and if adequate means of ingress and egress are provided by suitable gates.

Source

-  Laws 1879, § 69, p. 135;
-  R.S.1913, § 3027;
-  C.S.1922, § 2778;
-  C.S.1929, § 39-1009;
-  Laws 1941, c. 75, § 1, p. 311;
-  C.S.Supp.,1941, § 39-1009;
-  R.S.1943, § 39-703;
-  Laws 1959, c. 181, § 6, p. 655;
-  Laws 1972, LB 1032, § 246;
-  Laws 1975, LB 85, § 1;
-  Laws 1978, LB 748, § 53;
-  Laws 1984, LB 968, § 1;
-  R.S.1943, (1988), § 39-703;
-  Laws 1993, LB 370, § 25.

Annotations

A public road includes the entire area within the county's right-of-way. County of Cedar v. Thelen, 305 Neb. 351, 940 N.W.2d 521 (2020).

It is in the interest of the public to prevent obstructions of the public roads, both for their maintenance and more direct safety, and the mere fact that the Legislature has enacted a criminal law addressing the subject does not mean that the subject matter is preempted. County of Cedar v. Thelen, 305 Neb. 351, 940 N.W.2d 521 (2020).

Contractor on county highway work, who negligently leaves holes unfilled, is liable for automobilist's death, even though latter was unlicensed. Pratt v. Western Bridge & Constr. Co., 116 Neb. 553, 218 N.W. 397 (1928).