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Senate BILL NO. 212

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE REMOVAL OF ENCROACHMENTS ON HIGHWAYS UNDER THE JURISDICTION OF THE DEPARTMENT OF HIGHWAYS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Highway encroachments -- removal. (1) If any highway under the jurisdiction of the highway commission is encroached upon by a fence, building, structure, sign, marker, or other obstruction, the department of highways must give notice in writing to the person erecting or maintaining such encroachment, requiring the same to be removed.

(2) If the encroachment obstructs and prevents the use of the highway for vehicles, the department of highways may immediately remove the same.

Section 2. Notice of encroachment. (1) Notice to remove the encroachment immediately, specifying the width of the highway right-of-way and the place and extent of the encroachment, must be given to the person erecting or maintaining such encroachment.

(2) Notice must be given in the following manner:

(a) In writing by certified mail sent to the person's

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business or personal address or by personal service;

(b) If such address cannot be found, by posting it on the encroachment.

Section 3. Penalty for nonremoval. If the encroachment is not removed immediately, or removal is not diligently conducted, the person who causes, owns, or controls the encroachment is liable to a penalty of ten dollars (\$10) for each day the same continues.

Section 4. Time limit for removal -- penalty. If the encroachment is not permanently affixed to the land, such encroachment shall be removed from the right-of-way within two (2) days after receipt of the notice. If such an encroachment remains on the right-of-way after this period of time, the person who causes, owns, or controls the encroachment shall be liable for the cost of such removal plus a fine of ten dollars (\$10) per day for every day it remains.

Section 5. Denial of encroachment -- department action-- when owner to pay department expense. (1) If the encroachment is denied, the department of highways shall commence appropriate legal action to have said encroachment removed. If the department recovers a judgment, it shall have its cost and ten dollars (\$10) for each day such encroachment remained after receipt of the notice.

(2) If an encroachment affixed to the land is not

1 denied, and is not removed within five (5) days after
2 receipt of the notice, then the department of highways may
3 remove it at the expense of the person who causes, owns, or
4 controls it. The department may recover the expense of
5 removal, ten dollars (\$10) for each day the encroachment
6 remained after receipt of notice and costs in an action
7 brought for that purpose.

8 Section 6. Actions brought by departent -- penalties
9 to county road fund. All actions heretofore provided shall
10 be brought by the department of highways and the penalties
11 shall be paid into the county road fund.

-End-

Approved by Committee
on Judiciary

SENATE BILL NO. 212
INTRODUCED BY GRAHAM

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must MAY give notice in writing to the person erecting or
maintaining such encroachment, requiring the same to be
removed.

(2) If the encroachment obstructs and prevents the use
of the highway for vehicles, the department of highways may
immediately remove the same WITHOUT THE NOTICE REQUIRED BY
(SECTION 2).

Section 2. Notice of encroachment. (1) Notice to
remove the encroachment ~~immediately~~, specifying the width of
the highway right-of-way and the place and extent of the
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encroachment remained after receipt of the notice.~~ COSTS,

SECOND READING
SECOND PRINTING 2/24/75

1 AND IF THE ENCROACHMENT IS NOT REMOVED WITHIN FIVE (5) DAYS
2 AFTER ENTRY OF JUDGMENT, THEN THE DEPARTMENT OF HIGHWAYS MAY
3 REMOVE IT AT THE EXPENSE OF THE PERSON WHO CAUSES, OWNS OR
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6 denied, and is not removed within five (5) days after
7 receipt of the notice, then the department of highways may
8 remove it at the expense of the person who causes, owns, or
9 controls it. The department may recover the expense of
10 removal, ~~ten dollars (\$10) for each day the encroachment~~
11 ~~remained after receipt of notice~~ and costs in an action
12 brought for that purpose.

13 ~~Section 5. Actions brought by department penalties~~
14 ~~to county road fund. All actions heretofore provided shall~~
15 ~~be brought by the department of highways and the penalties~~
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16 (2) If the encroachment obstructs and prevents the use
17 of the highway for vehicles, the department of highways may
18 immediately remove the same WITHOUT THE NOTICE REQUIRED BY
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22 the highway right-of-way and the place and extent of the
23 encroachment, must be given to the person erecting or
24 maintaining such encroachment.

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1 (a) In writing by certified mail sent to the person's
2 business or personal address or by personal service;

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4 the encroachment.

5 ~~Section 3. --Penalty--for--nonremoval;--if--the~~
6 ~~encroachment--is--not--removed--immediately,--or--removal--is--not~~
7 ~~diligently--conducted,--the--person--who--causes,--owns,--or~~
8 ~~controls--the--encroachment--is--liable--to--a--penalty--of--ten~~
9 ~~dollars--(\$10)--for--each--day--the--same--continues.~~

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14 encroachment remains on the right-of-way after this period
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25 ~~encroachment--remained--after--receipt--of--the--notice: COSTS,~~

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