

As Introduced

**129th General Assembly
Regular Session
2011-2012**

H. B. No. 560

Representative Lynch

**Cosponsors: Representative Anielski Speaker Batchelder
Representatives Combs, Hagan, C., Huffman, Kozlowski, McGregor, Pelanda,
Sears, Terhar, Uecker, Wachtmann, Young**

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A B I L L

To amend section 5543.14 and to enact sections 1
503.35, 5543.15, and 5571.18 of the Revised Code 2
to authorize a board of county commissioners and a 3
board of township trustees to order removal of 4
vegetation on private property that blocks or 5
otherwise interferes with the sight lines of 6
motorists traveling on county or township roads, 7
to authorize a board of township trustees to 8
require certain ditches or culverts located in the 9
township to be cleaned, and to require notice to 10
be given to abutting landowners before the 11
trimming or removal of certain vegetation growing 12
in or encroaching onto the right-of-way of county 13
or township roads. 14

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5543.14 be amended and sections 15
503.35, 5543.15, and 5571.18 of the Revised Code be enacted to 16
read as follows: 17

Sec. 503.35. (A) A board of township trustees may require 18
that a ditch or culvert located on property in the township be 19
cleaned out if the ditch or culvert has become partially or 20
totally obstructed and, because of the obstruction, flooding of a 21
road or other public property may result. 22

(B) The board shall provide written notice that action to 23
remove an obstruction is necessary to the owner of the property on 24
which is located a ditch or culvert that has become partially or 25
totally obstructed. The notice shall specify a reasonable time 26
period of not less than fifteen days after the date of the notice 27
within which the owner of the property shall remove or provide for 28
the removal of the obstruction. The notice also shall inform the 29
owner of the property that if the owner does not remove or provide 30
for the removal of the obstruction within the time period 31
specified in the notice, the board will provide for the removal of 32
the obstruction and, if the board makes the report permitted under 33
division (E) of this section, the owner will be liable for all 34
costs of the removal. 35

(C) If the owner of property who has received a notice under 36
division (B) of this section fails to remove or provide for the 37
removal of an obstruction in a ditch or culvert as required by the 38
notice, the board of township trustees shall provide additional 39
notice in writing to the owner that the board intends to take 40
actions to remove the obstruction. Not less than three days after 41
the issuance of the notice, the board shall provide for the 42
removal of the obstruction. The board may employ the necessary 43
labor, materials, and equipment to perform the task. All expenses 44
incurred, when approved by the board, shall be paid out of the 45
township general fund from moneys not otherwise appropriated. The 46
entrance on a person's property to remove an obstruction as 47
authorized by this section does not constitute a trespass. 48

(D) In the event of an emergency, a board of township trustees or the board's designee may enter on private property for the purpose of removing an obstruction in a ditch or culvert without providing prior notice to the owner of the property as otherwise required by this section. 49 50 51 52 53

(E) A board of township trustees may make a written report to the county auditor of the board's actions under this section. The board shall include in the report a proper description of the property at issue and a statement of all expenses incurred in providing for the removal of any obstruction as provided in division (C) or (D) of this section, including the board's charges for its services, the costs incurred in providing notice, any fees or interest paid to borrow moneys, and the amount paid for labor, materials, and equipment. The expenses incurred shall be entered on the tax duplicate, are a lien on the land from the date of the entry, shall be collected as other taxes, and shall be returned to the township and placed in the township general fund. 54 55 56 57 58 59 60 61 62 63 64 65

Sec. 5543.14. The county engineer may trim or remove any and all trees, shrubs, and other vegetation growing in or encroaching onto the right-of-way of the county roads of the engineer's county, and the board of township trustees may trim or remove any and all trees, shrubs, and other vegetation growing in or encroaching onto the right-of-way of the township roads of its township, as is necessary in the engineer's or board's judgment to facilitate the right of the public to improvement and maintenance of, and uninterrupted travel on, county and township roads. The engineer or board is not required to compensate the abutting landowner for trimming or removing such trees, shrubs, and other vegetation as is necessary to facilitate these rights. Except in the case of an emergency, at least seven days before trimming or removing any such trees, shrubs, and other vegetation, the engineer or board shall send a written notice by certified mail 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80

generally describing the trees, shrubs, and other vegetation to be 81
trimmed or removed to the abutting landowner of the engineer's or 82
board's intention to trim or remove the trees, shrubs, and other 83
vegetation. The notice shall state that the engineer or board is 84
not required to compensate the abutting landowner for trimming or 85
removing the trees, shrubs, and other vegetation. The department 86
of agriculture or other proper department may, with the consent of 87
the proper authorities, take charge of the care of such trees to 88
facilitate these rights. Such department may, with the consent of 89
the proper authorities of the township, county, or state, plant 90
trees along the public highway and may use any funds available for 91
the development of forestry in the state to pay the expense of the 92
planting and care of such trees. The ownership of all trees, so 93
planted, shall remain in the public. 94

Sec. 5543.15. (A) If a county engineer determines upon the 95
basis of evidence that, at a particular location, vegetation 96
located on land that is located on a county road constitutes a 97
clear and present danger to the safety of traveling public, which 98
may include pedestrians, because the vegetation blocks or 99
otherwise interferes with the sight lines of operators of motor 100
vehicles traveling on that county road, the engineer shall send a 101
written notice by certified mail to the owner of that land 102
informing the owner of that fact and also particularly describing 103
the vegetation at issue. 104

The notice shall direct the owner to remove that vegetation 105
forthwith, but in no case later than fifteen days after the date 106
of the notice. The notice further shall inform the owner that if 107
the owner does not remove the vegetation at issue within that 108
fifteen-day period, the engineer will cause the vegetation to be 109
removed and, if the engineer makes the report permitted under 110
division (C) of this section, the owner will be liable for all 111
costs of the removal. 112

(B) If a county engineer issues a notice to the owner of the 113
land pursuant to division (A) of this section and the owner does 114
not remove the vegetation described in the notice in a timely 115
manner, the engineer shall issue an order directing that the 116
engineer or employees or designees of the engineer enter upon the 117
land and remove the vegetation at issue. The engineer shall give 118
notice of the proposed entry to the owner and the person in 119
possession of the land, if such person is not the owner, by such 120
means as are reasonably available not less than three days but not 121
more than seven days prior to the date of such entry. The engineer 122
or employees or designees of the engineer shall enter upon the 123
land and shall remove the vegetation at issue and nothing more, 124
and such entry does not constitute a trespass. If the engineer 125
makes the report permitted under division (C) of this section, the 126
owner is liable to reimburse the engineer for expenses the 127
engineer incurred in having the vegetation at issue removed. 128

(C) The county engineer may make a written report to the 129
county auditor of the engineer's action under this section. The 130
engineer shall include in any such report a proper description of 131
the premises and a statement of all expenses the county incurred 132
in having the vegetation at issue removed, including any costs 133
incurred in providing the required notice and the amount the 134
county paid for labor, materials, fuel, and equipment. The 135
expenses incurred shall be entered upon the tax duplicate and are 136
a lien upon the land from the date of the entry. They shall be 137
collected as taxes are collected and shall be returned to the 138
county and placed in the county general fund. 139

(D) The county engineer shall make restitution or 140
reimbursement for any actual damage done to the land or to 141
improvements or personal property located on such land by the 142
engineer or employees or designees of the engineer that is not 143
incidental to the removal of the vegetation. 144

(E) A county, county engineer, and any employee or designee of an engineer, is not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises under this section. 145
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Sec. 5571.18. (A) If a board of township trustees determines upon the basis of evidence submitted by the county engineer that, at a particular location, vegetation located on land that is located on a township road constitutes a clear and present danger to the safety of traveling public, which may include pedestrians, because the vegetation blocks or otherwise interferes with the sight lines of operators of motor vehicles traveling on that township road, the board shall send a written notice by certified mail to the owner of that land informing the owner of that fact and also particularly describing the vegetation at issue. 149
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The notice shall direct the owner to remove that vegetation forthwith, but in no case later than fifteen days after the date of the notice. The notice further shall inform the owner that if the owner does not remove the vegetation at issue within that fifteen-day period, the board will cause the vegetation to be removed and, if the board makes the report permitted under division (C) of this section, the owner will be liable for all costs of the removal. 159
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(B) If a board issues a notice to the owner of the land pursuant to division (A) of this section and the owner does not remove the vegetation described in the notice in a timely manner, the board shall issue an order directing that the board or employees or designees of the board enter upon the land and remove the vegetation at issue. The board shall give notice of the proposed entry to the owner and the person in possession of the land, if such person is not the owner, by such means as are reasonably available not less than three days but not more than 167
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seven days prior to the date of such entry. The board or employees 176
or designees of the board shall enter upon the land and shall 177
remove the vegetation at issue and nothing more, and such entry 178
does not constitute a trespass. If the board makes the report 179
permitted under division (C) of this section, the owner is liable 180
to reimburse the board for expenses the board incurred in having 181
the vegetation at issue removed. 182

(C) The board of township trustees may make a written report 183
to the county auditor of the board's action under this section. 184
The board shall include in any such report a proper description of 185
the premises and a statement of all expenses the township incurred 186
in having the vegetation at issue removed, including any costs 187
incurred in providing the required notice and the amount the 188
township paid for labor, materials, fuel, and equipment. The 189
expenses incurred shall be entered upon the tax duplicate and are 190
a lien upon the land from the date of the entry. They shall be 191
collected as taxes are collected and shall be returned to the 192
township and placed in the township general fund. 193

(D) The board shall make restitution or reimbursement for any 194
actual damage done to the land or to improvements or personal 195
property located on such land by the board or employees or 196
designees of the board that is not incidental to the removal of 197
the vegetation. If the township and owner of the land are unable 198
to agree upon restitution or other settlement, damages are 199
recoverable by civil action to which the township hereby consents, 200
except that the value of the vegetation removed is not 201
recoverable. 202

(E) A township, board, and any employee or designee of a 203
board, is not liable in damages in a civil action for any injury, 204
death, or loss to person or property that allegedly arises under 205
this section. 206

Section 2. That existing section 5543.14 of the Revised Code 207

is hereby repealed.

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