



HB 71 OBSTRUCTION OF CERTAIN PUBLIC PLACES SECTIONAL ANALYSIS

Section 1. This section increases the penalty for obstruction of airports if the obstruction creates a substantial risk of physical injury to another person or interferes with a firefighting, medical, or other emergency response.

Section 2. This section makes a conforming change to account for the amendments in section 1.

Section 3. This section creates a new provision that establishes strict liability for violation of any of the criminal statutes created or amended in the bill. There is no requirement that a defendant in a civil case be convicted of a crime under this new section; however, the elements of the criminal offense would need to be established by a preponderance of the evidence in a civil action to establish liability.

Subsection (a) extends standing to bring a lawsuit to any person whose passage is obstructed, regardless of whether the person was physically injured. This subsection provides for a schedule of statutory damages in addition to compensatory and punitive damages available to a successful plaintiff. This subsection also provides for “strict liability” so that a plaintiff should not be required to prove that the defendant negligently, recklessly, or intentionally damaged the plaintiff.

Subsection (b) extends liability beyond specific individuals who physically obstruct access to include any person who with actual malice instigated, planned, encouraged, or conspired with the obstructor or obstructors. Liability for collaborators under this subsection is “joint and several” and does not divide the responsibility for paying damages between the defendants. Any one defendant is responsible for the full measure of damages awarded to a plaintiff and the defendant is responsible for seeking reimbursement from the other tortfeasors. Joint and several liability under this subsection includes corporations and other legal entities as well as natural persons.

Subsection (c) authorizes a successful party in a lawsuit under this section to be awarded costs and fees if successful.

Subsection (d) permits a plaintiff to obtain a temporary or permanent restraining order to stop ongoing obstructions.

Subsection (e) is a “long-arm” provision that extends the court’s jurisdiction to persons outside of the state who plan and encourage obstruction within the state.

Subsection (f) immunizes state and local governments from civil liability for a cause of action under this section.

Subsection (g) defines “actual malice” and “nominal damages” in this section. A person has actual malice for purposes of this section when they know or recklessly disregard that their words or actions will result in unlawful obstruction. Nominal damages are awarded to a plaintiff who proves that their passage was obstructed but suffered no injury to person or property.

Section 4. This section creates the new crime of obstruction of a public place. A person commits the crime of obstruction of free passage in a public place by knowingly causing or allowing a substance to drop on a public place that creates a substantial risk of physical injury to another person or obstructs or blocks a public place by any other means.. Obstruction of a public place is a class A misdemeanor, unless the obstruction creates a substantial risk of physical injury to another person, substantially interferes with a person’s ability to access public places that render governmental services, or interferes with an emergency response, in which case it is a class C felony. This statute does not apply to permitted conduct by the state or a municipal government or conduct that is otherwise authorized by law or by the person in charge of the premises.

Section 5. This section amends the crime of obstruction to navigable water to be a class C felony if the person obstructs a navigable waterway and the conduct creates a substantial risk of physical injury to a person or interferes with an emergency response. Other obstructions to navigable water are a class A misdemeanor.

Section 6. This section repeals AS 11.61.150 ("Obstruction of highways") and the obstruction portion of AS 28.35.140 ("Unlawful obstruction of blocking of traffic; duty to yield to following traffic").

Section 7. This section provides prospective application of the criminal offenses amended in the bill.

Section 8. This section establishes the effective date as July 1, 2025.