

Original sponsor: Rules Committee  
by request

Offered: 2/19/70  
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 338

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the protection and use of state  
7 highways and roads; and providing for an effective  
8 date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 19.25.020(a) is amended to read:

11 (a) If, incident to the construction of a highway project on a  
12 federal-aid primary or secondary system, or the interstate system  
13 including its extensions in an urban area, the department determines  
14 and orders that a utility facility located in, over, along, or under a  
15 road right-of-way must be changed, relocated, or removed, the utility  
16 owning or in charge of the facility shall change, relocate, or remove  
17 it within a reasonable time set by the department. If the utility does  
18 not change, relocate, or remove a utility facility within the time set  
19 by the department, the facility specified in the order shall be con-  
20 sidered an unauthorized encroachment subject to the provisions of secs.  
21 220 - 250 of this chapter [AS SOON AS POSSIBLE IN ACCORDANCE WITH THE  
22 ORDER].

23 \* Sec. 2. AS 19.05.130 is amended by adding a new paragraph to read:

24 (13) "encroachment" includes a tower, pole, pole line, pipe,  
25 pipeline, driveway, private road, fence, billboard, stand or building,  
26 or structure or object of any kind or character not particularly  
27 mentioned in this section, which is placed in, under or over a portion  
28 of the highway.

29 \* Sec. 3. AS 19.25 is amended by adding new sections to read:

1                   ARTICLE 4. ENCROACHMENTS IN HIGHWAYS.

2                   Sec. 19.25.200. ENCROACHMENT PERMITS. An encroachment may be  
3 constructed, placed, changed or maintained across or along a highway  
4 only in accordance with regulations adopted by the department. No  
5 encroachment may be constructed, placed, maintained, or changed until  
6 it is authorized by a written permit issued by the department.

7                   Sec. 19.25.210. RELOCATION OR REMOVAL OF ENCROACHMENT. If,  
8 incident to the construction or maintenance of a state highway, the  
9 department determines and orders that an encroachment previously author-  
10 ized by written permit must be changed, relocated, or removed, the  
11 owner of the encroachment shall change, relocate or remove it within a  
12 reasonable time set by the department. If the owner does not change,  
13 relocate or remove an encroachment within the time set by the depart-  
14 ment, the encroachment shall be considered an unauthorized encroachment  
15 subject to the provisions of secs. 220 - 250 of this chapter.

16                   Sec. 19.25.220. UNAUTHORIZED ENCROACHMENTS. If an unauthorized  
17 encroachment exists in, under or over a state highway, the department  
18 may require the removal of the encroachment in the manner provided in  
19 secs. 230 - 250 of this chapter.

20                   Sec. 19.25.230. NOTICE OF REMOVAL. Except as otherwise provided  
21 in secs. 20, 210 and 240 of this chapter, notice shall be given to the  
22 owner, occupant or person in possession of the encroachment, or to any  
23 other person causing or permitting the encroachment to exist, by serving  
24 upon the person a notice containing a demand for the immediate removal  
25 of the encroachment. The notice shall describe the encroachment com-  
26 plained of with reasonable certainty as to its character and location.  
27 In place of service upon the person, service of the notice may be made  
28 by registered mail and by posting, for a period of 30 days, a copy of  
29 the notice on the encroachment described in the notice.

1           Sec. 19.25.240. SUMMARY REMOVAL. The department may immediately  
2 remove from a state highway an encroachment which obstructs or prevents  
3 the use of the highway by the public.

4           Sec. 19.25.250. REMOVAL AFTER NONCOMPLIANCE; REMOVAL EXPENSE.  
5 The department may remove an encroachment upon the failure of the owner  
6 to comply with a notice or demand of the department under the provisions  
7 of secs. 20, 210 and 230 of this chapter, and shall have an action  
8 to recover

9                   (1) the expenses of removal;

10                   (2) costs incurred by the state for a claim filed with the  
11 department by a highway construction contractor for costs due to delay  
12 because an encroachment was not changed, removed, or relocated in  
13 accordance with the order of the department;

14                   (3) costs and expenses of suit; and

15                   (4) the sum of \$10 for each day the encroachment remains  
16 after the expiration of 30 days from the date of service of the notice  
17 or demand.

18       \* Sec. 4. This Act takes effect on the day after its passage and approv-  
19 al or on the day it becomes law without approval.  
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