

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1942
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Utilities February 28, 2008 with recommendation that House Committee Substitute for House Bill No. 1942 Do Pass by Consent. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

4375L.03C

AN ACT

To repeal section 537.340, RSMo, and to enact in lieu thereof one new section relating to reliable electrical service by electric cooperatives.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 537.340, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.340, to read as follows:

537.340. **1.** If any person shall cut down, injure or destroy or carry away any tree placed or growing for use, shade or ornament, or any timber, rails or wood standing, being or growing on the land of any other person, including any governmental entity, or shall dig up, quarry or carry away any stones, ore or mineral, gravel, clay or mold, or any ice or other substance or material being a part of the realty, or any roots, fruits or plants, or cut down or carry away grass, grain, corn, flax or hemp in which such person has no interest or right, standing, lying or being on land not such person's own, or shall knowingly break the glass or any part of it in any building not such person's own, the person so offending shall pay to the party injured treble the value of the things so injured, broken, destroyed or carried away, with costs. Any person filing a claim for damages pursuant to this section need not prove negligence or intent.

2. Notwithstanding the provisions of subsection 1 of this section, the following rules shall apply to the trimming, removing, and controlling of trees and other vegetation by any electric supplier:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 14 **(1) Every electric supplier that operates electric transmission or distribution lines**
15 **shall have the authority to maintain the same by trimming, removing, and controlling trees**
16 **and other vegetation posing a hazard to the continued safe and reliable operation thereof;**
- 17 **(2) An electric supplier may exercise its authority under subdivision (1) of this**
18 **subsection if the trees and other vegetation are within the legal description of any recorded**
19 **easement, or in the absence of a recorded easement, the following:**
- 20 **(a) Within ten feet, plus one-half the length of any attached crossarm, of either side**
21 **of the centerline of electricity lines potentially energized at or below 34.5 kilovolts**
22 **measured line to line and located within the limits of any city; or**
- 23 **(b) Within thirty feet of either side of the centerline of electricity lines potentially**
24 **energized at or below 34.5 kilovolts measured line to line and located outside the limits of**
25 **any city; or**
- 26 **(c) Within fifty feet of either side of the centerline of electricity lines potentially**
27 **energized between 34.5 and one hundred kilovolts measured line to line; or**
- 28 **(d) Within the greater of the following for any electricity lines potentially energized**
29 **at one hundred kilovolts or more measured line to line:**
- 30 **a. Seventy-five feet to either side of the centerline; or**
- 31 **b. Any required clearance distance adopted by either the Federal Energy**
32 **Regulatory Commission or an Electric Reliability Organization authorized by the Energy**
33 **Policy Act of 2005, 16 U.S.C. Section 824o. Such exercise shall be considered reasonable**
34 **and necessary for the proper and reliable operation of electric service and shall create a**
35 **presumption that the electric supplier acted with reasonable care, operated within its rights**
36 **regarding the operation and maintenance of its electricity lines, and has not committed a**
37 **trespass;**
- 38 **(3) An electric supplier may trim, remove, and control trees and other vegetation**
39 **outside the provisions in subdivision (2) of this subsection if such actions are necessary to**
40 **maintain the continued safe and reliable operation of its electric lines;**
- 41 **(4) An electric supplier may secure from the owner or occupier of land greater**
42 **authority to trim, remove, and control trees and other vegetation than the provisions set**
43 **forth in subdivision (2) of this subsection and may exercise any and all rights regarding the**
44 **trimming, removing, and controlling of trees and other vegetation granted in any easement**
45 **held by the electric supplier;**
- 46 **(5) An electric supplier may trim or remove any tree of sufficient height outside the**
47 **provisions of subdivision (2) of this subsection when such tree, if it were to fall, would**
48 **threaten the integrity and safety of any electric transmission or distribution line and would**
49 **pose a hazard to the continued safe and reliable operation thereof;**

50 (6) Prior to the removal of any tree under the provisions of subdivision (5) of this
51 subsection, an electric supplier shall notify the owner or occupier of land, if available, at
52 least fourteen days prior to such removal, unless either the electric supplier deems the
53 removal to be immediately necessary to continue the safe and reliable operation of its
54 electricity lines, or the electric supplier is trimming or removing trees and other vegetation
55 following a major weather event or other emergency situation;

56 (7) If any tree which is partially trimmed by an electric supplier dies within three
57 months as a result of such trimming, the owner or occupier of land upon which the tree
58 was trimmed may request in writing that the electric supplier remove such tree at the
59 electric supplier's expense. The electric supplier shall respond to such request within
60 ninety days;

61 (8) Nothing in this subsection shall be interpreted as requiring any electric supplier
62 to fully exercise the authorities granted in this subsection.

63 3. For purposes of this section, the term "electric supplier" means any rural
64 cooperative that is subject to the provisions of chapter 394, RSMo, and any electric
65 corporation which is required by its bylaws to operate on the not-for-profit cooperative
66 business plan, with its consumers who receive service as the stockholders of such
67 corporation and that holds a certificate of public convenience and necessity to serve a
68 majority of its customer-owners in counties of the third classification as of August 28, 2003.

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