

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

HOUSE BILL NO. 1646

99TH GENERAL ASSEMBLY

5425H.01T

2018

AN ACT

To repeal section 263.245, RSMo, and to enact in lieu thereof one new section relating to brush control on county roads.

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

Section A. Section 263.245, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 263.245, to read as follows:

263.245. 1. **Subject to voter approval under section 263.247**, all owners of land in:
(1) Any county with a township form of government, located north of the Missouri River and having no portion of the county located east of U.S. Highway 63 ~~[and located in]~~ ;

(2) Any county of the third classification without a township form of government and with more than four thousand one hundred but fewer than four thousand two hundred inhabitants~~[-]~~ ; or ~~[in]~~

(3) Any county of the third classification without a township form of government and with more than two thousand three hundred but fewer than two thousand four hundred inhabitants

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11 shall control all brush growing on such owner's property that is designated as the county
12 right-of-way or county maintenance easement part of such owner's property and which is
13 adjacent to any county road. Such brush shall be cut, burned, or otherwise destroyed as often as
14 necessary in order to keep such lands accessible for purposes of maintenance and safety of the
15 county road **and to prevent brush from interfering with any vehicle that may travel the**
16 **road.**

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.

17 2. The county commission, either upon its own motion or upon receipt of a written notice
18 requesting the action from any residents of the county in which the county road bordering the
19 lands in question is located or upon written request of any person regularly using the county road,
20 may control such brush so as to allow easy access to the land described in subsection 1 of this
21 section, and for that purpose the county commission, or its agents, servants, or employees shall
22 have authority to enter on such lands without being liable to an action of trespass therefor, and
23 shall keep an accurate account of the expenses incurred in eradicating the brush, and shall verify
24 such statement under seal of the county commission, and transmit the same to the officer whose
25 duty it is or may be to extend state and county taxes on tax books or bills against real estate.
26 Such officer shall extend the aggregate expenses so charged against each tract of land as a special
27 tax, which shall then become ~~[a lien on such lands,]~~ **due on such landowner's real and**
28 **personal property tax assessment** and be collected as state and county taxes are collected by
29 law and paid to the county commission and credited to the county control fund.

30 3. Before proceeding to control brush as provided in this section, the county commission
31 of the county in which the land is located shall notify the owner of the land of the requirements
32 of this law ~~[by certified mail, return receipt requested, from a list]~~ **in writing using any mail**
33 **service with delivery tracking and an address** supplied by the officer who prepares the tax
34 list~~;~~ and shall allow the owner of the land thirty days from ~~[acknowledgment date of return~~
35 ~~receipt, or]~~ **the date of [refusal of acceptance of]** delivery ~~[as the case may be,]~~ to eradicate all
36 such brush growing on land designated as the county right-of-way or county maintenance
37 easement part of such owner's land and which is adjacent to the county road. In the event that
38 the property owner cannot be located by ~~[certified]~~ mail, notice shall be placed in a newspaper
39 of general circulation in the county in which the land is located at least thirty days before the
40 county commission removes the brush pursuant to subsection 2 of this section. Such property
41 owner shall be granted an automatic thirty-day extension due to hardship by notifying the county
42 commission that such owner cannot comply with the requirements of this section, due to
43 hardship, within the first thirty-day period. The property owner may be granted a second
44 extension by a majority vote of the county commission. There shall be no further extensions. For
45 the purposes of this subsection, "hardship" may be financial, physical or any other condition that
46 the county commission deems to be a valid reason to allow an extension of time to comply with
47 the requirements of this section.

48 4. County commissions shall not withhold rock, which is provided from funds from the
49 county aid road trust fund, for maintaining county roads due to the abutting property owner's
50 refusal to remove brush located on land designated as the county right-of-way or county
51 maintenance easement part of such owner's land. County commissions shall use such rock on

52 the county roads, even though the brush is not removed, or county commissions may resort to
53 the procedures in this section to remove the brush.

54 **5. The county right-of-way or county maintenance easement shall extend fifteen feet**
55 **from the center of the county road or the distance set forth in the original conveyance,**
56 **whichever is greater. For purposes of this subsection, the "center of the county road" shall**
57 **be the point equidistant from both edges of the drivable ground of the road in its current**
58 **condition.**

59 **6. In the event a county is required to obtain a land survey to enforce this section,**
60 **the costs of such survey shall be divided equally between the county and the landowner.**

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