



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4340

Introduced 02/02/04, by Kathleen A. Ryg

SYNOPSIS AS INTRODUCED:

605 ILCS 5/6-401.5 new

Amends the Illinois Highway Code. Sets limits on the rights of the owners of property adjoining a road, highway, or right-of-way under the jurisdiction of a highway authority. Establishes procedures for the highway authority to follow if a property owner violates these limitations. Authorizes the highway authority to take action to correct the violations or to seek injunctive relief if necessary.

LRB093 18269 DRH 43971 b

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Highway Code is amended by adding
5 Section 6-401.5 as follows:

6 (605 ILCS 5/6-401.5 new)

7 Sec. 6-401.5. Adjoining property owners; unauthorized
8 encroachments.

9 (a) Except as provided in Section 9-118, no property owner,
10 occupant, manager, or person in actual control of real property
11 adjoining a road, highway, or right-of-way within the
12 jurisdiction of the highway authority, without the written
13 consent of the highway authority, may:

14 (1) plant or maintain any planting or growth of any
15 kind within the right-of-way that either exceeds 12 inches
16 in height or creates any hazard or danger to the safety of
17 those using the public road or highway;

18 (2) permit any planting or growth on or within the
19 property adjoining the road, highway, or right-of-way to
20 overhang or extend into the road, highway, or right-of-way
21 so as to create any hazard or danger to those using the
22 public road or highway; or

23 (3) construct, place, or maintain any rocks, boulders,
24 fences, or other physical structures within the
25 right-of-way.

26 (b) If the highway authority believes that a property
27 owner, occupant, manager, or person in actual control of
28 adjoining property is in violation of any of the provisions set
29 forth in subsection (a) of this Section, the highway authority
30 shall give the person or persons written notice specifying the
31 nature of the violations, the corrective action that must be
32 taken, and a reasonable time of not less than 7 days to

1 complete the corrective action. This notice may be given after
2 the notice of a violation has been received by registered or
3 certified mail or by personal delivery.

4 (c) If corrective action is not completed with the time
5 specified in the notice, or any agreed extensions, the highway
6 authority may:

7 (1) with respect to the road, highway, or right-of-way,
8 take whatever corrective action is necessary to cure any
9 violations. The person or persons to whom notice to correct
10 was given pursuant to subsection (b) of this Section shall
11 be jointly and severally liable for all costs and expenses
12 incurred by the highway authority for the corrective
13 action, plus interest, costs, and reasonable attorney's
14 fees; or

15 (2) seek injunctive relief compelling the person or
16 persons to whom notice was given to take corrective action.
17 If the highway authority is the prevailing party in any
18 such action, the highway authority shall also be entitled
19 to recover its costs and reasonable attorney's fees.