

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

Senate Bill 307

BY SENATORS TRUMP, BLAIR, PLYMALE, AND BOSO

[Originating in the Committee on Transportation and
Infrastructure; reported on January 24, 2018]

1 A BILL to amend and reenact §17-16-1 of the Code of West Virginia, 1931, as amended, relating
2 to declaring that fundraising conducted by a volunteer fire department on a state highway
3 or roadway within the boundaries of a municipality is not an obstruction or nuisance.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16. OBSTRUCTIONS.

**§17-16-1. "Obstructions" defined; obstructions declared nuisance; nuisance exception;
abatement of nuisance by injunction.**

1 Obstructions, within the meaning of this chapter, shall include trees which have been cut
2 or have fallen either on adjacent land or within the bounds of a public road in such a manner as
3 to interfere with travel thereon; limbs of trees which have fallen within a public road or branches
4 of trees overhanging the same so as to interfere with travel thereon; landslides; carcasses of dead
5 animals, lumber, wood, or logs piled within the bounds of a public road; machines, vehicles,
6 conveyances, and implements abandoned or habitually placed within the bounds of a public road;
7 fences, buildings, or other obstructions within the bounds of a public road; ashes, cinders, earth,
8 stone, or other material placed on a public road or in any ditch or waterway along such road; water
9 diverted from its regular course or channel so as to injure or endanger a public road; any road
10 connected without lawful authority with a public road in such manner as to obstruct or impede
11 travel thereon or the flow of water in the gutters or drains along such road; pipelines, telegraph,
12 telephone, trolley, or other poles and wires connected therewith, constructed or erected on a
13 public road in such a way as to interfere with the use thereof; or any other thing which will prevent
14 the easy, safe, and convenient use of such public road for public travel. Such obstructions shall
15 be considered within the bounds of any state or county-district road whenever any part thereof
16 shall occupy any part of the right of way provided by law or acquired for road purposes, not
17 including the additional land acquired for slopes, cuts, or fills. Fundraising, including boot drives
18 and bucket brigades, conducted by a volunteer fire department on a state highway or roadway
19 within the boundaries of a municipality, does not constitute an obstruction or nuisance under this

20 chapter.

21 Such obstructions so placed and left within the limits of such road are hereby declared to
22 be public nuisances, and, in addition to other remedies provided in this chapter, the county court
23 or the State Road Commission, as the case may be, may apply to the circuit court, or other court
24 of competent jurisdiction of the county in which they may be, for an injunction to abate such
25 nuisance.

NOTE: The purpose of this bill is to clarify that fundraising conducted by a volunteer fire department on a state highway or roadway within the boundaries of a municipality does not constitute an obstruction or a nuisance.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.