

1 HB220
2 182174-1
3 By Representative Nordgren
4 RFD: Judiciary
5 First Read: 14-FEB-17

SYNOPSIS: Under existing law, a governmental entity may bring a civil action to collect for damages to roads under its jurisdiction.

This bill would clarify the definition of damage and further specify under what conditions the state Department of Transportation may recover damages for obstructing, encroaching, or damaging a highway.

A BILL
TO BE ENTITLED
AN ACT

To amend Section 32-5-9, Code of Alabama 1975, to clarify the definition of damage and to further specify under what conditions the Department of Transportation may recover damages.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 32-5-9, Code of Alabama 1975, is amended to read as follows:

1 "§32-5-9.

2 "(a) Any person driving any vehicle, object, or
3 contrivance upon any highway ~~or highway structure~~ shall be
4 liable for all damage ~~which the highway or structure may~~
5 ~~sustain~~ incurred by a governmental entity as a result of any
6 illegal or careless operation, driving or moving of such
7 vehicle, object, or contrivance, or as a result of operating,
8 driving, or moving any vehicle, object, or contrivance
9 weighing in excess of the maximum weight prescribed by law but
10 authorized by a special permit issued as provided in Section
11 32-9-29.

12 "(b) Whenever ~~such~~ the driver is not the owner of
13 ~~such~~ the vehicle, object, or contrivance, but is so operating,
14 driving, or moving the same with the express or implied
15 permission of the owner, then the owner and driver shall be
16 jointly and severally liable for any ~~such~~ damage.

17 "(c) Such damage may be recovered in a civil action
18 ~~brought~~ by the authorities in control of ~~such~~ the highway ~~or~~
19 ~~highway structures~~ which may be brought either in Montgomery
20 County or the county in which the accident occurred. Damage
21 includes construction or reconstruction to applicable
22 standards, reimbursement for use of equipment, labor, removal
23 of debris and site cleanup, reimbursement for equipment and
24 vehicle rental or damage, traffic control and management, and
25 any other related cost incurred by the authority in control of
26 the highway.

1 "(d) Any person who unlawfully obstructs, encroaches
2 upon, or damages a highway shall be responsible for
3 reimbursing the authority in control of the highway for the
4 costs directly incurred for the removal of the obstruction or
5 encroachment and the costs of repairs to the highway directly
6 incurred by the authority from the obstruction or
7 encroachment, including any costs associated with traffic
8 control and management."

9 Section 2. This act shall become effective
10 immediately following its passage and approval by the
11 Governor, or its otherwise becoming law.