

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: H3/25/19
A Bill

HOUSE BILL 1872

By: Representative Dotson
By: Senator J. Dismang

For An Act To Be Entitled

AN ACT CONCERNING LANDSCAPING ON CERTAIN RIGHTS-OF-WAY; TO ALLOW THE ISSUANCE OF A RESTORE PROPERTY VISIBILITY PERMIT; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING LANDSCAPING ON CERTAIN RIGHTS-OF-WAY; AND TO ALLOW THE ISSUANCE OF A RESTORE PROPERTY VISIBILITY PERMIT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 27-64-103 is amended to read as follows:

27-64-103. Mowing, installing, and maintaining sprinkler system on rights-of-way by adjoining landowner.

(a)(1) The owners or lessees of properties which abut the right-of-way of interstate, federal-aid primary, state, or county roads or highways in this state may enter upon and mow grass, weeds, and other vegetation on the portion of the right-of-way adjoining the property unless the Arkansas Department of Transportation or the county has installed barriers designed to prohibit entry or unless the property owner or lessee has received notice from the department or the county restricting or prohibiting mowing grass, weeds, and other vegetation.

(2) The owner or lessee of a property which abuts a right-of-way of a state highway may, upon receipt of a permit from the department, install, use, and maintain a sprinkler system on the portion of the right-of-way adjoining the property unless the department has installed a barrier



designed to prohibit entry.

(b) If an owner or lessee elects to mow grass, weeds, or other vegetation or installs, uses, or maintains a sprinkler system on the right-of-way adjoining his or her property, the owner or lessee shall do so at the owner's or lessee's own risk and shall have no right or claim for damages against the department or any political subdivision of this state for loss of life, injury, or damage to his or her property while engaged in the ~~mowing activity~~ mowing grass, weeds, or other vegetation, or the installation, use, or maintenance of the sprinkler system.

(c) Subject to the limitations of subsections (a) and (b) of this section, the owner or lessee shall:

(1) Mow the grass, weeds, or other vegetation and install, use, and maintain the sprinkler system in a manner that does not obstruct or pose danger to motorists in their lawful use of the public road or highway; and

(2) Be liable for any loss, injury, or damage to the life, person, or property of others that is caused by any negligence in connection with mowing grass, weeds, or other vegetation or installing, using, or maintaining the sprinkler system on the highway right-of-way.

SECTION 2. Arkansas Title 27, Chapter 65, Subchapter 1, is amended to add an additional section to read as follows:

27-65-146. Restore Property Visibility Permit.

(a) The Arkansas Department of Transportation may issue a Restore Property Visibility Permit to a property owner or lessee that is valid for a two-year period and allows the permit holder to cut and clear trees:

(1) Located in a right-of-way adjoining the property owner's or lessee's property;

(2) Located in a right-of-way and that block the view of a structure on the property owner's or lessee's property; and

(3) Located in a right-of-way within five hundred feet (500 ft.) in each direction of the property owner's or lessee's property.

(b) An application for a Restore Property Visibility Permit shall include without limitation:

(1) The name of the owner or lessee and the address of the property;

(2) The name and contact information of the vendor, if any, who

will perform the work authorized under subdivision (a)(2) of this section;
and

(3) A detailed description of the location of the right-of-way, including without limitation the street or highway designations.

(c) A holder of a Restore Property Visibility Permit:

(1) Shall use a vendor for the removal of trees that meets the same requirements that the department has for the contractors who do landscaping work or tree removal from rights-of-way in the state;

(2) Is prohibited from authorizing the removal of historic trees, landmark trees, or trees that:

(A) Were planted by the department as part of a highway beautification or enhancement program; or

(B) Are located on a right-of-way within a national park, state park, county or city park, or wildlife management area; and

(3) Shall plant bushes or replacement vegetation as necessary to avoid erosion if a section of the right-of way is sloped.

(f) The department may:

(1) Suspend a Restore Property Visibility Permit if the holder fails to comply with the requirements of this section; and

(2) Adopt rules necessary to implement this section.

/s/Dotson