

SECOND REGULAR SESSION

# HOUSE BILL NO. 1261

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HOHULIN.

Pre-filed December 17, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3366L.011

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### AN ACT

To repeal section 263.245 and 263.247, RSMo, and to enact in lieu thereof one new section relating to brush adjacent to county roads.

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

Section A. Section 263.245 and 263.247, RSMo, are repealed and one new section  
2 enacted in lieu thereof, to be known as section 263.245, to read as follows:

263.245. 1. All owners of land [in any county with a township form of government,  
2 located north of the Missouri River and having no portion of the county located east of U.S.  
3 Highway 63] shall control all brush growing on such owner's property that is designated as the  
4 county right-of-way or county maintenance easement part of such owner's property and which  
5 is adjacent to any county road. Such brush shall be cut, burned or otherwise destroyed as often  
6 as necessary in order to keep such lands accessible for purposes of maintenance and safety of the  
7 county road.

8 2. The county commission, either upon its own motion or upon receipt of a written notice  
9 requesting the action from any residents of the county in which the county road bordering the  
10 lands in question is located or upon written request of any person regularly using the county road,  
11 may control such brush so as to allow easy access to the land described in subsection 1 of this  
12 section, and for that purpose the county commission, or its agents, servants, or employees shall  
13 have authority to enter on such lands without being liable to an action of trespass therefor, and  
14 shall keep an accurate account of the expenses incurred in eradicating the brush, and shall verify  
15 such statement under seal of the county commission, and transmit the same to the officer whose  
16 duty it is or may be to extend state and county taxes on tax books or bills against real estate.

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 Such officer shall extend the aggregate expenses so charged against each tract of land as a special  
18 tax, which shall then become a lien on such lands, and be collected as state and county taxes are  
19 collected by law and paid to the county commission and credited to the county control fund.

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

37 4. County commissions shall not withhold rock, which is provided from funds from the  
38 county aid road trust fund, for maintaining county roads due to the abutting property owner's  
39 refusal to remove brush located on land designated as the county right-of-way or county  
40 maintenance easement part of such owner's land. County commissions shall use such rock on  
41 the county roads, even though the brush is not removed, or county commissions may resort to  
42 the procedures in this section to remove the brush.

2 [263.247. 1. Section 263.245 shall become effective only in those counties  
3 described in subsection 1 of section 263.245 in which the governing body of the  
4 county submits to the voters of the county, at a regularly scheduled countywide  
5 election, a proposal to implement the provisions of section 263.245. The governing  
6 body of the county shall give notice of the election by publication in a newspaper of  
7 general circulation in the county for two consecutive weeks, the last insert of which  
8 shall be within ten days of the election.

9 2. The ballot of submission shall include, but not be limited to, the following  
10 language:

11 Shall the county of..... (county's name) enforce brush control  
12 adjacent to county roads?

G YES

G NO

13 If you are in favor of the question, place an "X" in the box opposite "Yes". If you are  
14 opposed to the question, place an "X" in the box opposite "No".

15 3. If a majority of the votes cast at the election are in favor of such proposal,  
16 section 263.245 shall become effective in that county. If a majority of the votes cast  
17 at the election are opposed to such proposal, section 263.245 shall not become  
18 effective in that county.

19 4. The governing body of any county in which the provisions of section  
20 263.245 are in effect may, on its own motion, call for an election to repeal the  
21 implementation of section 263.245 in that county. The election shall be held at the  
22 same time and in the same manner as an election to implement section 263.245 in the  
23 county as prescribed in subsections 1 to 3 of this section, except that the ballot of  
24 submission shall include, but not be limited to, the following language:

25 Shall the county of..... (county's name) discontinue enforcement of  
26 brush control adjacent to county roads?

27 G YES G NO]