

090307536

HOUSE BILL NO. 2536

Offered January 19, 2009

A BILL to amend and reenact § 55-50.1 of the Code of Virginia, relating to easements; injury to servient estate.

Patron—Hogan

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 55-50.1 of the Code of Virginia is amended and reenacted as follows:

§ 55-50.1. Enjoyment of easement.

Unless otherwise provided for in the terms of an easement, (i) the owner of a dominant estate shall not use an easement in a way that is not reasonably consistent with the uses contemplated by the grant of the easement, (ii) *the owner of a dominant estate shall not use an easement in a way that materially damages or injures the servient estate or is hazardous to the health or safety of the servient estate or its owner*, and (iii) the owner of the servient estate shall not engage in an activity or cause to be present any objects either upon the burdened land or immediately adjacent thereto which unreasonably interferes with the enjoyment of the easement by the owner of the dominant estate. The term "object" as contained in this section shall not include any fence, electric fence, cattle guard, gate, or division fence adjacent to such easement as those terms are defined in §§ 55-298.1 through 55-322. Any violation of this section may be deemed a private nuisance, provided, however, that the remedy for a violation of this section shall not in any manner impair the right to any other relief that may be applicable at law or in equity.

INTRODUCED

HB2536