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HOUSE BILL NO. 2212

Offered January 9, 2019

Prefiled January 8, 2019

A BILL to amend and reenact § 33.2-110 of the Code of Virginia, relating to certain private roads or rights-of-way; gates and fences.

Patron—Fariss

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. That § 33.2-110 of the Code of Virginia is amended and reenacted as follows:****§ 33.2-110. Gates across private roads; leaving gates open; gates across private roads leading to forestlands; penalties.**

A. Any person owning land over which another or others have a private road or right-of-way may, except when it is otherwise provided by contract, erect and maintain gates across such roads or right-of-way at all points at which fences extend to such roads on each side thereof; ~~provided that a. A court of competent jurisdiction may, upon petition, where it is alleged and proved by petitioner that the gates have been willfully and maliciously erected,~~ require the landowner to make such changes as may be necessary and reasonable in the use of such roads for both the landowner and the petitioner. *Nothing herein shall prohibit the replacement of a gate with a cattle guard as authorized in § 55-305.*

B. If any person without permission of the owners of such gate or of the land on which the gate is located leaves the gate open, he is guilty of a Class 1 misdemeanor.

C. The owners of forest and timberlands may substantially obstruct or close private and seldom used roads leading to or into such forest or timberlands from the public highways of the Commonwealth at points at or near which the private roads enter their property or forestlands; and, in all cases where any such private road is subject to an easement for travel for the benefit of other lands not regularly and continuously inhabited, the owner of such forest or timberlands may obstruct the road with a gate, chain, cable, or other removable obstruction, lock the obstruction, and after furnishing a key to the lock to the owner or owners of the land or lands to which the forestlands are servient, require those entitled to the easement to unlock and relock such obstruction upon making use of the road.

There shall be no penalty upon the owner of such forest or timberlands for failure to erect such obstructions, but if such obstruction is erected, any person without the permission of the owner who destroys, removes, or leaves the obstruction open or unlocked, in cases where the obstruction is locked by the owner and the keys are furnished as provided in this subsection, is guilty of a misdemeanor punishable by a fine of not less than \$25 nor more than \$500, provided that in all cases of forest fires upon the owner's lands or those adjacent or near thereto, the expressed permission of the owner shall be deemed given to all persons aiding in extinguishing or preventing the spreading of the fire to remove the obstructions, including the breaking of locks.

INTRODUCED

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