

HB179 provisions - Road Closure Amendments - Rep. Lyman (summary)

2/28/2019

Under HB179, the following would not be considered an illegal road closure. (partial list).

72-1-212. Special use permitting -- Rulemaking.

- 1 Temporary closure by a permit issued for a special use or a special event that takes place on a highway.
- 2 Temporary closure by a special use permit to maintain public safety and serve the needs of the traveling public.

72-5-105. Highways, streets, or roads once established continue until abandoned -- Temporary closure.

- 3 Temporary closure of roads by a highway authority until formally abandoned or vacated by written order, resolution
- 4 Temporary closure by a resolution of a highway authority having jurisdiction.
- 5 Temporary closure due to a court decree.
- 6 Temporary closure when a federal authority, or other person, provides an alternate route to an R.S. 2477 right-of-way or portion of an R.S. 2477 right-of-way if the alternate route is (A) accepted by the highway authority, and (B) Formalized by a federal permit on a written agreement between the federal agency or other person and the highway authority.
- 7 Temporary closure when a federal authority, or other person, provides an alternate route to an R.S. 2477 right-of-way or portion of an R.S. 2477 right-of-way.
- 8 Temporary closure when a state or local highway authority determines that correction or mitigation of injury to private or public land resources is necessary on or near a class B or D road or portion of a class B or D road.
- 9 Temporary closure when a local highway authority makes a finding that temporary closure of all or part of a class C road is necessary to mitigate unsafe conditions.
- 10 Temporary closure when the closed portion of the road is the subject of a lease agreement between the local highway authority and another entity.
- 11 A local highway authority may close a road if it passes an ordinance to temporarily or indefinitely close the road.
- 12 A local highway authority may close a road if the local highway authority makes a finding that the closed highway, road, or street is not necessary for vehicular travel.
- 13 A local highway authority may close a road if the local highway authority makes a finding that the closed highway, road, or street is not necessary for vehicular travel.
- 14 A local highway authority may close a road if the local highway authority makes a finding that the closure of the highway, road, or street is necessary to mitigate unsafe conditions.

72-6-114. Restricting use of or closing highway -- Penalty for failure to observe barricade, warning light, etc.

- 15 A highway authority may close or restrict travel on a highway under their jurisdiction due to construction, maintenance work, or emergency.

72-7-103. Limitation on access authority.

- 16 A highway authority may deny ingress and egress to property adjoining a public highway if the highway authority acquires right of ingress and egress by gift, agreement, purchase, eminent domain, or otherwise.
- 17 A highway authority may deny ingress and egress to property adjoining a public highway if no right of ingress or egress exists between the right-of-way and the adjoining property.
- 18 A highway authority may close a legal point of access to the public highway if the property has reasonably equivalent access to the public highway after the legal access is closed; or
- 19 A highway authority may close a legal point of access to the public highway if the highway authority acquires the legal point of access by gift, agreement, purchase, or eminent domain.

Specific exceptions included in HB179

- 20 Firefighters or peace officers responding to an emergency, may close a road.
- 21 Railroad companies may permanently or temporarily closure of a public or private railroad crossing.
- 22 Individuals may close an R.S. 2477 right-of-way across private land if a perpetual public right-of-way has not been granted through a settlement or court order.

Unauthorized road closures that would be cited as class C misdemeanors under HB179: *Lyman*

Unwillingness to follow due process or to work with highway authority. Any road closure not covered by specific exemptions for firefighters, peace officers, emergency responders, railroad companies, or private individuals acting on a road across private land on which a perpetual public right-of-way has not been granted through settlement or court order.



Unauthorized closure signs by Park Service.



Unauthorized closure by Friends of Cedar Mesa



Unauthorized closure by BLM employee.

Unauthorized placement of official looking carsonite signs.



Unauthorized closure by individuals.

With more than 30 misdemeanor charges provided for in the Transportation Code - mostly class A or Class B misdemeanors - specified charges for unauthorized closures like those presented above are conspicuously absent. Though counties pass ordinances, without a state law, their only recourse in state court is to sue the offending party. This is a waste of taxpayer resources and is inconsistent with the rest of the Transportation Code.

Note:

Currently Section 72-7-106 assigns a class B misdemeanor to any person who:

- (a) leaves open a gate, erected or maintained under this section;**
- (b) unnecessarily drives over the ground adjoining the highway on which a gate is erected;**
- (c) places a lock or other restrictive device on a gate; or**
- (d) violates a rule or regulation of a county legislative body relating to the gates within the county.**

The intent of HB179 is not to increase punishment for illegal actions, but to assign the lowest level misdemeanor charge.