

1 HB322  
2 174667-1  
3 By Representative Nordgren  
4 RFD: Judiciary  
5 First Read: 25-FEB-16

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8 SYNOPSIS: Under existing law, a governmental entity  
9 may bring a civil action to collect for damages to  
10 roads under its jurisdiction.

11 This bill would clarify the definition of  
12 damage and further specify under what conditions  
13 the state Department of Transportation may recover  
14 damages for obstructing, encroaching, or damaging a  
15 highway.

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT  
20

21 To amend Section 32-5-9, Code of Alabama 1975, to  
22 clarify the definition of damage and to further specify under  
23 what conditions the Department of Transportation may recover  
24 damages.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 32-5-9, Code of Alabama 1975, is  
27 amended to read as follows:

1           "§32-5-9.

2           "(a) Any person driving any vehicle, object, or  
3 contrivance upon any highway ~~or highway structure~~ shall be  
4 liable for all damage ~~which the highway or structure may~~  
5 sustain incurred by a governmental entity as a result of any  
6 illegal or careless operation, driving or moving of such  
7 vehicle, object, or contrivance, or as a result of operating,  
8 driving, or moving any vehicle, object, or contrivance  
9 weighing in excess of the maximum weight prescribed by law but  
10 authorized by a special permit issued as provided in Section  
11 32-9-29.

12           "(b) Whenever ~~such~~ the driver is not the owner of  
13 ~~such~~ the vehicle, object, or contrivance, but is so operating,  
14 driving, or moving the same with the express or implied  
15 permission of the owner, then the owner and driver shall be  
16 jointly and severally liable for any ~~such~~ damage.

17           "(c) Such damage may be recovered in a civil action  
18 ~~brought~~ by the authorities in control of ~~such~~ the highway ~~or~~  
19 ~~highway structures~~ which may be brought either in Montgomery  
20 County or the county in which the accident occurred. Damage  
21 includes construction or reconstruction to applicable  
22 standards, reimbursement for use of equipment, labor, removal  
23 of debris and site cleanup, reimbursement for equipment and  
24 vehicle rental or damage, traffic control and management, and  
25 any other related cost incurred by the authority in control of  
26 the highway.

1                   "(d) Any person who unlawfully obstructs, encroaches  
2 upon, or damages a highway shall be responsible for  
3 reimbursing the authority in control of the highway for the  
4 costs directly incurred for the removal of the obstruction or  
5 encroachment and the costs of repairs to the highway directly  
6 incurred by the authority from the obstruction or  
7 encroachment, including any costs associated with traffic  
8 control and management."

9                   Section 2. This act shall become effective  
10 immediately following its passage and approval by the  
11 Governor, or its otherwise becoming law.