

HOUSE BILL No. 2086

By Committee on Local Government

1-28

AN ACT concerning roads; relating to certain unopened roads; amending K.S.A. 68-115 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 68-115 is hereby amended to read as follows: 68-115. (a) Except as provided by ~~subsection (b), it shall be the duty of each and every county engineer to subsections (b) and (c), the county engineer shall~~ open or cause to be opened all state and county roads ~~and of each and every township trustee to.~~ *The township trustee shall* open or cause to be opened all mail routes and township roads which have been or may ~~hereafter~~ be laid out or established through any part of the respective county or township. Notice of such action shall be given to the owner or owners, or their agent or agents, if residing in the county, or, if such owner is incapacitated, to the guardian of such person, if a resident of the county, through whose inclosed or cultivated lands such road is laid out or established. Such notice shall direct such property owners to open such road through their lands within 90 days after service of such notice. If the person or persons so notified do not open such road within the time stated in such notice, ~~it shall be lawful and it is hereby made the duty of such~~ *the county engineer, on state and county roads and of such the trustee on township roads and mail route roads to respectively, shall* enter upon such property and open such roads. If such notice is given between the March 1, and October 1, the notice shall designate the next following January 1, as the time of opening such road. And the county engineer or township trustee respectively shall keep the same in repair, and remove or cause to be removed all obstructions that may be found therein. The township trustee and the county engineer ~~are hereby authorized to~~ *may* enter upon any land near or adjoining such public road, to dig and carry away any gravel, sand, stone, clay, gypsum or any other road-building material and to purchase any timber which may be necessary to improve or repair the road, and to enter upon any land adjoining or lying near such road, to make such drains or ditches through the same as the county engineer or township trustee deems necessary for the benefit of the roads, doing as little damage to the lands as the nature of the case and the public good will permit. The drains and ditches ~~thus made~~

1 shall be kept open if necessary by the township trustee or county engineer
2 and shall not be obstructed by the owner or occupants of the land or by
3 any other person, under the penalty of being fined not exceeding \$10 for
4 each offense.

5 The owner of any gravel, sand, stone, clay, gypsum or any other road-
6 building material taken, or the owner of the land through which ditches
7 or drains may be made, ~~as herein provided,~~ or the owner of the crops
8 thereon; shall be allowed a fair and reasonable compensation for the ma-
9 terial so taken or for any injuries the lands or crops may sustain in con-
10 sequence of the making of such drains or ditches. The amount of such
11 compensation shall be determined, allowed and paid by the highway com-
12 missioners ~~in event if~~ such material is used upon a mail route or a town-
13 ship road, and determined, allowed and paid by the board of county com-
14 missioners of the county when such material is used upon a county or
15 state road. Such claims shall be allowed and paid in the same manner as
16 other ordinary claims against the county or township and the claimant
17 shall have the same right of appeal as is now provided by law in other
18 cases.

19 (b) If the owner of any property adjacent to or abutting a township
20 road which has been laid out but not opened ~~prior to the effective date~~
21 ~~of this act~~ desires to have such road opened, it shall be the duty of such
22 owner to open such road. Such property owner shall establish a main-
23 tainable road bed and drainage in accordance with the standards estab-
24 lished by the township board pursuant to K.S.A. 68-115a, *and amend-*
25 *ments thereto*. Thereafter, it shall be the duty of the township board to
26 maintain such road as required by subsection (a).

27 If the owner of any property adjacent to or abutting a township road
28 which has been opened ~~prior to the effective date of this act, but such~~
29 ~~road~~ but has not been maintained by the township for at least 20 years
30 or has not been ~~regularly~~ *regularly* used *regularly* by the general public and the
31 owner desires to have the road maintained for general public use, it shall
32 be the duty of such owner to establish a maintainable road bed and drain-
33 age in accordance with the standards established by the township board
34 pursuant to K.S.A. 68-115a, *and amendments thereto*. Thereafter, it shall
35 be the duty of the township board to maintain such road as required by
36 subsection (a).

37 If there is a dispute between landowners regarding the location of a
38 township road, the county engineer shall determine the location of the
39 road.

40 (c) *If the owner of any property adjacent to or abutting a county road*
41 *which has been laid out but not opened desires to have such road opened,*
42 *it shall be the duty of such owner to open such road. Such property owner*
43 *shall establish a maintainable road bed and drainage in accordance with*

1 *minimum standards for road beds and road drainage which shall be es-*
2 *tablished by the county engineer. Thereafter, such road shall be main-*
3 *tained as required by subsection (a).*

4 *If the owner of any property adjacent to or abutting a county road*
5 *which has been opened but has not been maintained by the county for at*
6 *least 20 years or has not been used regularly by the general public and*
7 *the owner desires to have the road maintained for general public use, it*
8 *shall be the duty of such owner to establish a maintainable road bed and*
9 *drainage in accordance with minimum standards for road beds and road*
10 *drainage which shall be established by the county engineer. Thereafter,*
11 *such road shall be maintained as required by subsection (a).*

12 *If there is a dispute between landowners regarding the location of a*
13 *county road, the county engineer shall determine the location of the road.*

14 Sec. 2. K.S.A. 68-115 is hereby repealed.

15 Sec. 3. This act shall take effect and be in force from and after its
16 publication in the statute book.

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