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HOUSE REPUBLICAN STAFF ANALYSIS

Bill: House File 299
Committee: Commerce
Floor Manager: Representative Nick Wagner
Date: July 14, 2011
Staff: Brad Trow (1-3471)

Trespassing on Utility Property

House File 299 addresses trespassing on certain utility properties. The bill would increase the penalty for trespassing on restricted utility grounds to a class D felony. Also, the bill creates a template for a possible local ordinances regarding salvage dealers and record-keeping of materials bought and sold.

Summary of Action

Committee Action – The Commerce Committee **PASSED** House File 299 on a vote of 22-0 on February 14, 2011.

House Action – The House **ADOPTED** House File 299 on a vote of 92-6 on March 6, 2011.

Senate Action – The Senate **ADOPTED** House File 299 on a vote of 50-0 on April 6, 2011.

Final Action – The Governor **SIGNED** House File 299 on April 13, 2011.

Section by Section Analysis

Section 1 – Copper Theft – Ordinance Authorized - Penalty – The section creates a new section in Iowa Code chapter 714 authorizing political subdivisions to enact a copper theft ordinance. The ordinance would require a salvage dealer to maintain complete, accurate, and legible records in English in all purchases and receipt of salvaged materials. The ordinance would require that the records be kept for at least one year.

The ordinance can also require a salvage dealer to keep additional records, including:

- identity of the person selling or buying salvaged materials;
- license plate numbers of the person's vehicle;
- time and date of the sale or purchase;
- inventory of salvaged material obtained, its value, and its weight;
- from whom the person selling the material obtained it, and the time and date of the transaction, if it is known;
- whether the salvage dealer acquired the material in pieces or in bulk; and
- name and address of the person to whom the material was sold to.

If a political subdivision issues a license or a permit for having a salvage business, then the ordinance can provide for the suspension, revocation, or non-renewal of a the license or permit due to violating the ordinance. The action against the salvage dealer will not go into effect until they have been notified by mail and 10 days has passed. Then there can be a hearing before a judge or magistrate. If the license or permit is taken away, the person cannot seek a new license or permit for 180 days.

If the political subdivision does not license or permit salvage dealers, then the ordinance can provide for a different penalty.

Section 2 – The section amends Iowa Code section 716.7 (2) by adding a new part to the definition of trespass. The new provision would define trespass as including those situations where a person enters into public utility property without authority or permission of the public utility. The new definition would not apply to those situation in which a person passes through public utility property if they have not been notified to stay out or there is no signage posted to stay out.

Section 3 – The section amends Iowa Code section 716.7 (3), which defines what is not trespass. In that provision, a person who goes onto the property of another to retrieve personal property is not considered to be trespassing. The new language says this exception does not apply when the property being entered onto is public utility property where a person has been notified to stay out or signage on the property tells people to stay out.

Section 4 – The section creates a new definition in Iowa Code section 716.7. The new language defines what is “public utility property”.

Section 5 – The section adds new groups to Iowa Code section 716.7 (6), which exempt certain groups from being subject to the trespass law. Under the new language, representatives of the Iowa Utilities Board, Federal Energy Regulatory Commission, or the Federal Communications Commission would not be trespassing if they were on public utility property in the performance of their official duties. The section also creates a new exemption for employees of public utilities who are on public utility property in the course of their employment.

Section 6 – The section amends the penalties section for Trespassing, Iowa Code section 716.8(2). The new language has the current penalty for trespassing apply for all instances except trespassing on public utility property. That penalty is a serious misdemeanor if the trespassing results in an injury to a person or damage of at least \$200.

Section 7 – The section creates a new subsection in Iowa Code section 716.8, setting the penalty for trespassing on public utility property. A person who is found to have trespassed on such property commits a class “D” felony.