

SUBJECT: County permission to erect gates on certain roads

COMMITTEE: County Affairs —favorable, without amendment

VOTE: 7 ayes — Allen, W. Smith, Casteel, Laney, Naishtat, Olivo, Otto
0 nays
2 absent — Coleman, Farabee

WITNESSES: For — Jim Allison, County Judges and Commissioners Associations of Texas; (*Registered, but did not testify:* Mark Mendez, Tarrant County Commissioners Court; Bobby Smith)

BACKGROUND: Transportation Code, ch. 251.010 authorizes the erection of gates across third-class and neighborhood roads in counties by landowners who have obtained appropriate right-of-way. The gate must meet certain specifications and must be constructed so that opening and shutting the gate will not cause unnecessary delay to persons, including emergency personnel, using the road. A person erecting a gate who fails to comply with the statutory requirements commits a misdemeanor punishable by a fine of between \$5 and \$20, and each week the person fails to comply is a separate offense. Willfully or negligently leaving open a gate is a misdemeanor punishable by a fine of between \$5 and \$20.

DIGEST: HB 348 would require county commissioner court approval to erect gates on third-class and neighborhood roads.

The bill would take effect September 1, 2005.

SUPPORTERS SAY: HB 348 would allow counties to monitor certain roads for convenient emergency vehicle access. With increased population growth in many counties, the need for emergency response services has increased. Quick response time is critical for public safety, and emergency vehicles should not be hampered by gates. The purpose of HB 348 is not to prevent land owners from erecting gates but to guarantee the safety and access of county residents, emergency vehicles, and other vehicles.

Tractors, farm machinery, and other vehicles should not be blocked by gates from travel to farms, homes, and other destinations. Oversized gates and gateposts often prevent the passage of vehicles through the gated parts of roads. Other times, large trucks and farm equipment cannot fit through average-sized gates.

Counties may be forced to litigate when access to certain county roads is denied. With commissioner court approval, counties could maintain inventories on the locations and sizes of gates, which would improve county road access. The county also would be able to notify the appropriate emergency responders and maintenance crews of newly constructed gates.

A landowner who failed to acquire approval would not be subject to a criminal penalty. The bill would establish the same standards for gate specifications as for the construction of cattle guards, which require county commissioners court approval under Transportation Code, ch. 251.090. Also, HB 348 would not affect existing gates on county roads.

**OPPONENTS
SAY:**

HB 348 could prevent landowners from managing their lands as they deemed best if approval to erect a gate was denied. Gates often control the movement of animals, and they protect access to private property. If the county were to disapprove the construction of a gate, the bill would provide no recourse for the landowner.