

## ROADSIDE TREES PROTECTED

Act of Apr. 1, 1909, P.L. 97, No. 58

Cl. 36

AN ACT

To protect trees growing by the roadsides and within the road limits; and providing a penalty for the unlawful killing, removal of, or injury to the same.

Section 1. Be it enacted, &c., That where any public highway in this Commonwealth passes through or along forested lands, wild lands, or uncultivated lands, no trees growing within the limits of the said highway, at a distance beyond fifteen feet on either side of the centre-line of said highway, which shall measure four inches or over in diameter at a point two feet from the surface of the ground, shall be cut down or destroyed by the commissioners, supervisors, or road-masters employed by them, or any other person, without first obtaining the consent of the abutting owners. If any board of commissioners or supervisors deem the removal of any such trees, beyond said limit of fifteen feet on each side of the centre-line of said highway, necessary for the improvement of the road, and the consent of the abutting property owners cannot be obtained, the board of commissioners or supervisors may appeal the matter to the judge of the court of the proper district; who is hereby directed to examine and inquire into all such subjects of dispute which may be referred to him, and, having due regard for the demand for road improvement as well as for the preservation of the trees, shall, after hearing all parties in interest, make such order in respect thereof as to him shall appear reasonable, equitable, and just; and from whose decision there shall be no appeal: Provided, That the commissioners or supervisors shall at all times have the right to clear out brush and other refuse from along the sides of the road, to the legal width thereof: And Provided further, That all such clearing and removal of brush and refuse shall be confined to growth that is under the limit hereinabove described, and to the removal of branches that in any way may interfere with public travel; and that no other injury, by fire, cutting, abrasion, or otherwise, shall be done to the standing timber.

Section 2. Whenever any public highway running through improved or cultivated lands, in this Commonwealth, has been opened, and there shall be growing along the roadsides, and within the road limits, shrubs or trees not interfering with public travel, no board of supervisors or road-masters, or other persons in their employ, shall remove, cut, injure, or destroy or in any other manner interfere with, such shrubs or trees, unless said removal or cutting shall be absolutely necessary for the purpose of maintaining the highway at its best and highest efficiency; and, then, not until the abutting property owners shall have received notice thereof, and an agreement shall have been entered into between the local highway authorities and the abutting property owners relating to the removal, cutting or interference with said trees. If the said parties shall be unable to arrive at an agreement in respect thereto, the same shall be referred to a judge of the proper court, as aforesaid. Said judge shall examine and inquire into the subject of controversy, and, in like manner, render his decision, as provided for in section one of this act: and from which decision there shall be no appeal.

Section 3. All logs, cordwood, branch wood, or other forms of wood, which shall be derived from the destruction or removal of any trees growing along the public highways of this

Commonwealth, as aforesaid, shall be surrendered to, and remain the property of, the respective abutting owners.

Section 4. Nothing in this act shall be so construed as to prevent the local highway authorities, anywhere in this Commonwealth, from removing such roadside trees which may be thrown down by the wind, or lodged in such position as to be a menace to public travel, or which, by reason of any other cause, become a source of danger to the public and ought to be removed; but every such act of removal on the part of the highway authorities shall always be made with due regard to the circumstances in such case, so as to preserve the true intent and purpose of this act.

Section 5. The term "highway authorities" in this act shall be construed to mean any person who, by law, shall be vested with the power to deal in any manner with the public highways of this Commonwealth, and shall include the officials of the State Highway Department, supervisors, road-masters, and all persons employed by them in any capacity, or who exercise any authority over said roads or highways.

Section 6. If any commissioner, supervisor, roadmaster, or person in their employ, or any other person, shall cut down, kill, or injure any living tree, growing as aforesaid, and of a size four inches in diameter, or greater, at a point two feet from the surface of the ground, or shall violate any other provision of this act, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a penalty of not more than five dollars for every tree so cut, injured, or destroyed, with costs of suit; to be recovered in an appropriate action to be brought before any magistrate, alderman, or justice of the peace of the county wherein the said offence was committed, who, upon affidavit of any person, duly presented, is hereby authorized and directed to issue his warrant to any person empowered to make arrests, directing him to arrest the person so charged. The said magistrate, alderman, or justice of the peace shall, thereupon, proceed to hear both the complainant and the defendant and their witnesses, and shall forthwith decide as to him shall appear to be just and right. If any defendant upon conviction for any offence shall fail or refuse to pay the fine and costs which may be imposed upon him, or shall not give bond with approved surety to pay the same within ten days, he shall be committed to the jail of the county wherein the offense was committed, there to remain for a period not to exceed thirty days, or until he shall, in the meantime, have paid the said fine and costs in full.

**Compiler's Note:** Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.