

As Introduced

**128th General Assembly
Regular Session
2009-2010**

H. B. No. 42

Representative Evans

**Cosponsors: Representatives Amstutz, Book, Harris, Stewart, Stebelton,
Derickson, Okey**

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A BILL

To amend sections 505.99 and 1531.02 and to enact 1
sections 505.872, 505.873, 505.874, 505.875, and 2
505.876 of the Revised Code to establish 3
requirements and procedures for the removal of 4
beaver dams and beavers as ordered by boards of 5
township trustees. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 505.99 and 1531.02 be amended and 7
sections 505.872, 505.873, 505.874, 505.875, and 505.876 of the 8
Revised Code be enacted to read as follows: 9

Sec. 505.872. As used in this section and sections 505.873 to 10
505.876 of the Revised Code, "aggrieved owner" means the owner of 11
property that has been flooded by water as a result of a beaver 12
dam that is located on adjoining property. 13

Sec. 505.873. (A) If a beaver dam that exists on an owner's 14
property causes the adjoining owner's property to be flooded, the 15
owner shall remove the beaver dam and trap any beavers that are on 16
the owner's property. If the owner neglects to remove such a 17

beaver dam and trap any beavers, the aggrieved owner may file a 18
complaint with the board of township trustees of the township in 19
which the dam is located. 20

(B) If a complaint is filed with a board of township trustees 21
under division (A) of this section, the board, after not less than 22
ten days' written notice to the owner of the property on which the 23
beaver dam exists and to all adjoining property owners of the time 24
and place of a viewing, shall view the beaver dam and the 25
aggrieved owner's property. After the viewing, the board may 26
request additional information from the owner or the aggrieved 27
owner. 28

(C)(1) At the next regularly scheduled meeting of the board 29
after viewing the beaver dam and the aggrieved owner's property, 30
the board shall determine whether the owner on whose property the 31
beaver dam exists must remove the dam, trap any beavers that are 32
on the property, or do both. 33

(2)(a) If the board determines that the owner on whose 34
property the beaver dam exists must remove the dam, trap any 35
beavers that are on the property, or do both, the board shall send 36
a written notice by certified mail ordering the owner to perform 37
one of the actions specified in division (C)(1) of this section 38
not later than thirty days after receipt of the notice. The notice 39
shall serve as confirmation that a beaver dam exists on the 40
property and that the beaver dam is causing the aggrieved owner's 41
property to be flooded. The board shall send a copy of the notice 42
to the aggrieved owner. 43

(b) The board also shall send a copy of the notice that was 44
prepared under division (C)(2)(a) of this section to the wildlife 45
officer designated under section 1531.13 of the Revised Code in 46
whose jurisdiction the beaver dam is located. The wildlife officer 47
shall inform the owner of the property on which the beaver dam 48

exists of the applicable requirements established in Chapter 1533. 49
of the Revised Code and rules adopted under it governing the 50
trapping of beavers. The wildlife officer shall allow beavers to 51
be trapped for the purposes of this section notwithstanding any 52
provision of Chapter 1533. of the Revised Code or any rule adopted 53
pursuant to it to the contrary. 54

(3) If the board determines that the owner on whose property 55
the beaver dam exists does not have to remove the dam or trap any 56
beavers that are on the property, the board shall send a written 57
notice of that determination by certified mail to the owner and to 58
the aggrieved owner. 59

Sec. 505.874. (A) The cost that is incurred by a board of 60
township trustees for making the determination that is required in 61
section 505.873 of the Revised Code shall be taxed as follows: 62

(1) If the board determines that the owner on whose property 63
a beaver dam exists must remove the dam, trap any beavers that are 64
on the property, or do both, that owner shall be taxed. If the 65
owner does not pay the township fiscal officer within thirty days 66
from the date of the receipt of the notification of the amount to 67
be paid, the cost shall be certified by the fiscal officer to the 68
county auditor with a correct description of the property and the 69
amount charged against it. 70

(2) If the board determines that the owner on whose property 71
a beaver dam exists does not have to remove the dam or trap any 72
beavers that are on the property, that owner and the aggrieved 73
owner shall be taxed equally. If either owner does not pay the 74
township fiscal officer within thirty days from the date of the 75
receipt of the notification of the amount to be paid, the cost 76
shall be certified by the fiscal officer to the county auditor 77
with a correct description of the applicable property and the 78
amount charged against it. 79

(B) The county auditor shall place the amount authorized in 80
division (A)(1) or (2) of this section on the tax duplicate to be 81
collected as other taxes, and the county treasurer shall pay it, 82
when collected, to the township fiscal officer as other moneys are 83
paid. 84

(C) As used in this section, "cost" includes notification 85
costs and costs associated with the viewing of property by a board 86
of township trustees under section 505.873 of the Revised Code. 87

Sec. 505.875. (A) If the owner on whose property a beaver dam 88
exists and beavers are located fails to remove the dam or trap the 89
beavers, as applicable, as ordered by a board of township trustees 90
under section 505.873 of the Revised Code, the board shall award a 91
contract to the lowest responsible bidder agreeing to furnish the 92
labor and materials to remove the beaver dam and trap the beavers, 93
if applicable, after advertising for bids once a week for two 94
consecutive weeks in a newspaper of general circulation in the 95
county in which the township is located. 96

In addition, the board also may advertise for bids in trade 97
papers or other publications designated by the board or by 98
electronic means, including posting the notice on the board's 99
internet site, if any. If the board posts the notice on its 100
internet site, it may eliminate the second notice that is 101
otherwise required to be published in a newspaper of general 102
circulation in the county in which the township is located, 103
provided that the first notice that is published in such a 104
newspaper meets all of the following requirements: 105

(1) It is published at least two weeks before the opening of 106
bids. 107

(2) It includes a statement that the notice is posted on the 108
board's internet site. 109

(3) It includes the internet address of the board's internet site and instructions describing how the notice may be accessed on the internet site. 110
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(B) If no bids are received from responsible bidders as provided in this section, the board shall procure labor and materials and cause the beaver dam to be removed and the beavers to be trapped, if applicable. 113
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(C) No person shall obstruct or interfere with anyone who is lawfully engaged in the removal of a beaver dam or the trapping of beavers in accordance with this section. 117
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Sec. 505.876. (A) When the work that is provided for under section 505.875 of the Revised Code is completed to the satisfaction of the board of township trustees, the board shall certify the costs to the township fiscal officer. If the costs are not paid within thirty days by the owner on whose property the beaver dam or beavers were located, as applicable, the township fiscal officer shall certify them to the applicable county auditor with a statement of the costs of the removal of the beaver dam and trapping of the beavers, if applicable, and incidental costs incurred by the board under that section and a correct description of the property on which the costs are assessed. 120
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(B) The county auditor shall place the amounts certified on the tax duplicate, which shall become a lien and be collected as other taxes. In anticipation of the collection of the amounts, the auditor shall draw orders for the payment of the amounts out of the county treasury. 131
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Sec. 505.99. (A) Whoever violates section 505.374, 505.74, 505.75, 505.76, 505.77, or 505.94 of the Revised Code is guilty of a minor misdemeanor. 136
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(B) Whoever violates section 505.875 of the Revised Code is 139

guilty of a misdemeanor of the third degree. 140

Sec. 1531.02. The ownership of and the title to all wild 141
animals in this state, not legally confined or held by private 142
ownership legally acquired, is in the state, which holds such 143
title in trust for the benefit of all the people. Individual 144
possession shall be obtained only in accordance with the Revised 145
Code or division rules. No person at any time of the year shall 146
take in any manner or possess any number or quantity of wild 147
animals, except wild animals that the Revised Code or division 148
rules permit to be taken, hunted, killed, or had in possession, 149
and only at the time and place and in the manner that the Revised 150
Code or division rules prescribe. No person shall buy, sell, or 151
offer any part of wild animals for sale, or transport any part of 152
wild animals, except as permitted by the Revised Code or division 153
rules. No person shall possess or transport a wild animal that has 154
been taken or possessed unlawfully outside the state. 155

A person doing anything prohibited or neglecting to do 156
anything required by this chapter or Chapter 1533. of the Revised 157
Code or contrary to any division rule violates this section. A 158
person who counsels, aids, shields, or harbors an offender under 159
those chapters or any division rule, or who knowingly shares in 160
the proceeds of such a violation, or receives or possesses any 161
wild animal in violation of the Revised Code or division rule, 162
violates this section. 163

A person who traps beavers in accordance with section 505.873 164
or 505.875 of the Revised Code is not in violation of this 165
section. 166

Section 2. That existing sections 505.99 and 1531.02 of the 167
Revised Code are hereby repealed. 168