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Sub. S. B. No. 109

Senator Schiavoni

**Cosponsors: Senators Smith, Turner, Sawyer, Skindell, Beagle, Tavares,
Cafaro, Bacon, Brown, Gentile, Hughes, Jones, Kearney, LaRose, Manning,
Niehaus, Patton, Peterson, Wagoner, Widener**

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A B I L L

To amend section 2911.21 and to enact section 1
2305.117 of the Revised Code to provide that a 2
person is not criminally or civilly liable for 3
trespassing on certain abandoned land, blighted 4
parcels, or similar places of public amusement if 5
the person enters or remains on the land or parcel 6
to remediate it and knows or has reasonable cause 7
to believe that the land or parcel is in one of 8
those categories; to provide the property owner 9
with immunity from liability to a person who 10
enters or remains on the land or parcel in those 11
circumstances subject to the statute governing 12
liability to trespassers; and to provide that a 13
person who enters or remains on the land or parcel 14
in those circumstances is not entitled to any 15
reimbursement for any cost of the remediation 16
unless agreed to by the property owner. 17

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

Section 1. That section 2911.21 be amended and section 18

2305.117 of the Revised Code be enacted to read as follows: 19

Sec. 2305.117. (A) As used in this section: 20

(1) "Abandoned land" and "unoccupied" have the same meanings 21
as in section 323.65 of the Revised Code. 22

(2) "Blighted parcel" has the same meaning as in section 1.08 23
of the Revised Code. 24

(3) "Cost or expense of remediation" means any cost or 25
expense associated with any effort to remediate any abandoned 26
land, abandoned land that is unoccupied, blighted parcel, or place 27
of public amusement that is abandoned land, abandoned land that is 28
unoccupied, or a blighted parcel, including, but not limited to, 29
any cost or expense of any material, equipment, product, or labor 30
used in or otherwise associated with the effort. 31

(4) "Place of public amusement" has the same meaning as in 32
section 2911.23 of the Revised Code. 33

(5) "Railroad" has the same meaning as in section 4907.02 of 34
the Revised Code. 35

(6) "Remediate" has the same meaning as in section 2911.21 of 36
the Revised Code. 37

(7) "Trespasser" means an individual who, without express or 38
implied authorization, invitation, or inducement, enters abandoned 39
land, abandoned land that is unoccupied, a blighted parcel, or a 40
place of public amusement that is abandoned land, abandoned land 41
that is unoccupied, or a blighted parcel purely for the 42
individual's own purposes and convenience. 43

(B) Subject to division (C) of this section, no owner of 44
abandoned land, abandoned land that is unoccupied, a blighted 45
parcel, or a place of public amusement that is abandoned land, 46
abandoned land that is unoccupied, or a blighted parcel has a 47

civil action, or may receive an award of damages in a civil 48
action, against another person for the other person knowingly 49
entering or remaining upon that land, parcel, or place of public 50
amusement during the daylight hours from sunrise to sunset if the 51
other person proves both of the following: 52

(1) The other person knowingly entered or remained on that 53
land, parcel, or place of public amusement in order to remediate 54
that land, parcel, or place of public amusement. 55

(2) Before entering upon that land, parcel, or place of 56
public amusement, the other person knew, or after duly 57
investigating the matter had reasonable cause to believe, that the 58
land was abandoned land or abandoned land that was unoccupied, 59
that the parcel was a blighted parcel, or that the place of public 60
amusement was a place of public amusement that was abandoned land, 61
abandoned land that was unoccupied, or a blighted parcel. 62

(C) Division (B) of this section does not apply with respect 63
to any land or parcel that is owned by a railroad. 64

(D)(1) Subject to division (D)(2) of this section, no person 65
who is a trespasser and who enters or remains on any abandoned 66
land, abandoned land that is unoccupied, a blighted parcel, or a 67
place of public amusement that is abandoned land, abandoned land 68
that is unoccupied, or a blighted parcel in order to remediate 69
that land, parcel, or place of public amusement has a civil 70
action, or may receive an award of damages in a civil action, 71
against the owner of that land, parcel, or place of public 72
amusement. 73

(2) Division (D)(1) of this section does not apply with 74
respect to any injury, death, or loss to person or property of a 75
trespasser that occurred while the trespasser entered or remained 76
on any abandoned land, abandoned land that is unoccupied, a 77
blighted parcel, or a place of public amusement that is abandoned 78

land, abandoned land that is unoccupied, or a blighted parcel, to 79
the extent that section 2305.402 of the Revised Code provides for 80
or governs civil liability with respect to the injury, death, or 81
loss. 82

(E)(1) Subject to division (E)(2) of this section, no person 83
who enters or remains on any abandoned land, abandoned land that 84
is unoccupied, blighted parcel, or place of public amusement that 85
is abandoned land, abandoned land that is unoccupied, or a 86
blighted parcel in order to remediate that land, parcel, or place 87
of public amusement has a civil action, or may receive an award of 88
damages in a civil action, against the owner of that land, parcel, 89
or place of public amusement for reimbursement of any cost or 90
expense of remediation. 91

(2) Division (E)(1) of this section does not apply to a cost 92
or expense of remediation to the extent that the person who enters 93
on or remains on the land, parcel, or place of public amusement 94
has entered into an agreement with the owner of the land, parcel, 95
or place of public amusement for reimbursement of that cost or 96
expense of remediation. 97

Sec. 2911.21. (A) No person, without privilege to do so, 98
shall do any of the following: 99

(1) Knowingly enter or remain on the land or premises of 100
another; 101

(2) Knowingly enter or remain on the land or premises of 102
another, the use of which is lawfully restricted to certain 103
persons, purposes, modes, or hours, when the offender knows the 104
offender is in violation of any such restriction or is reckless in 105
that regard; 106

(3) Recklessly enter or remain on the land or premises of 107
another, as to which notice against unauthorized access or 108

presence is given by actual communication to the offender, or in a 109
manner prescribed by law, or by posting in a manner reasonably 110
calculated to come to the attention of potential intruders, or by 111
fencing or other enclosure manifestly designed to restrict access; 112

(4) Being on the land or premises of another, negligently 113
fail or refuse to leave upon being notified by signage posted in a 114
conspicuous place or otherwise being notified to do so by the 115
owner or occupant, or the agent or servant of either. 116

(B) It is no defense to a charge under this section that the 117
land or premises involved was owned, controlled, or in custody of 118
a public agency. 119

(C) It is no defense to a charge under this section that the 120
offender was authorized to enter or remain on the land or premises 121
involved, when such authorization was secured by deception. 122

(D)(1) Whoever violates this section is guilty of criminal 123
trespass, a misdemeanor of the fourth degree. 124

(2) Notwithstanding section 2929.28 of the Revised Code, if 125
the person, in committing the violation of this section, used a 126
snowmobile, off-highway motorcycle, or all-purpose vehicle, the 127
court shall impose a fine of two times the usual amount imposed 128
for the violation. 129

(3) If an offender previously has been convicted of or 130
pleaded guilty to two or more violations of this section or a 131
substantially equivalent municipal ordinance, and the offender, in 132
committing each violation, used a snowmobile, off-highway 133
motorcycle, or all-purpose vehicle, the court, in addition to or 134
independent of all other penalties imposed for the violation, may 135
impound the certificate of registration of that snowmobile or 136
off-highway motorcycle or the certificate of registration and 137
license plate of that all-purpose vehicle for not less than sixty 138
days. In such a case, section 4519.47 of the Revised Code applies. 139

(E) Notwithstanding any provision of the Revised Code, if the offender, in committing the violation of this section, used an all-purpose vehicle, the clerk of the court shall pay the fine imposed pursuant to this section to the state recreational vehicle fund created by section 4519.11 of the Revised Code.

(F) Subject to division (G) of this section, it is an affirmative defense to a charge of a violation of this section that the person charged knowingly entered or remained on abandoned land, abandoned land that was unoccupied, a blighted parcel, or a place of public amusement that was abandoned land, abandoned land that was unoccupied, or a blighted parcel during the daylight hours from sunrise to sunset, without privilege to do so and that both of the following apply:

(1) The person knowingly entered or remained on that land, parcel, or place of public amusement for the sole purpose to remediate that land, parcel, or place of public amusement.

(2) Before entering upon that land, parcel, or place of public amusement, the person knew, or after duly investigating the matter had reasonable cause to believe, that the land was abandoned land or abandoned land that was unoccupied, that the parcel was a blighted parcel, or that the place of public amusement was a place of public amusement that was abandoned land, abandoned land that was unoccupied, or a blighted parcel.

(G) Division (F) of this section does not apply with respect to any land or parcel that is owned by a railroad.

(H) As used in this section:

(1) "All-purpose vehicle," "off-highway motorcycle," and "snowmobile" have the same meanings as in section 4519.01 of the Revised Code.

(2) "Land or premises" includes any land, building, structure, or place belonging to, controlled by, or in custody of

another, and any separate enclosure or room, or portion thereof. 171

(3) "Abandoned land" and "unoccupied" have the same meanings 172
as in section 323.65 of the Revised Code. 173

(4) "Remediate" means to improve the landscaping, clean up 174
litter, or repair dilapidated conditions on abandoned land, 175
abandoned land that is unoccupied, a blighted parcel, or a place 176
of public amusement that is abandoned land, abandoned land that is 177
unoccupied, or a blighted parcel or to board up windows and doors 178
on any building or structure that is located on the abandoned 179
land, abandoned land that is unoccupied, blighted parcel, or place 180
of public amusement. Remediate does not include any of the 181
following: 182

(a) Any cosmetic improvement, including painting of any kind, 183
to any building or structure that is located on abandoned land, 184
abandoned land that is unoccupied, a blighted parcel, or a place 185
of public amusement that is abandoned land, abandoned land that is 186
unoccupied, or a blighted parcel; 187

(b) Any act or conduct that results in any additional damage 188
to abandoned land, abandoned land that is unoccupied, a blighted 189
parcel, or a place of public amusement that is abandoned land, 190
abandoned land that is unoccupied, or a blighted parcel or to any 191
building or structure that is located on any such land, parcel, or 192
place. 193

(5) "Place of public amusement" has the same meaning as in 194
section 2911.23 of the Revised Code. 195

(6) "Railroad" has the same meaning as in section 4907.02 of 196
the Revised Code. 197

(7) "Blighted parcel" has the same meaning as in section 1.08 198
of the Revised Code. 199

Section 2. That existing section 2911.21 of the Revised Code 200

is hereby repealed.

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