

As Introduced

**130th General Assembly
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S. B. No. 16

Senator Schiavoni

**Cosponsors: Senators Tavares, Kearney, Skindell, Smith, Brown, Gentile,
Sawyer, Cafaro, Seitz, Beagle, Turner**

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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 or similar 4
places of public amusement if the person enters or 5
remains on the land or place of public amusement 6
to remediate it and knows or has reasonable cause 7
to believe that the land or place of public 8
amusement is in one of those categories; to 9
provide the property owner with immunity from 10
liability to a person who enters or remains on the 11
land or place of public amusement in those 12
circumstances subject to the statute governing 13
liability to trespassers; and to provide that a 14
person who enters or remains on the land or place 15
of public amusement in those circumstances is not 16
entitled to any reimbursement for any cost of the 17
remediation unless agreed to by the property 18
owner. 19

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

Section 1. That section 2911.21 be amended and section 20
2305.117 of the Revised Code be enacted to read as follows: 21

Sec. 2305.117. (A) As used in this section: 22

(1) "Abandoned land" has the same meaning as in section 23
323.65 of the Revised Code. 24

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

(3) "Place of public amusement" has the same meaning as in 31
section 2911.23 of the Revised Code. 32

(4) "Railroad" has the same meaning as in section 4907.02 of 33
the Revised Code. 34

(5) "Remediate" has the same meaning as in section 2911.21 of 35
the Revised Code. 36

(6) "Trespasser" means an individual who, without express or 37
implied authorization, invitation, or inducement, enters abandoned 38
land or a place of public amusement that is abandoned land purely 39
for the individual's own purposes and convenience. 40

(B) Subject to division (D) of this section, no owner of 41
abandoned land or a place of public amusement that is abandoned 42
land has a civil action, or may receive an award of damages in a 43
civil action, against another person for the other person 44
knowingly entering or remaining upon that land or place of public 45
amusement if the other person proves both of the following: 46

(1) The other person knowingly entered or remained on that 47
land or place of public amusement in order to remediate that land 48

or place of public amusement. 49

(2) Before entering upon that land or place of public amusement, the other person knew, or after duly investigating the matter had reasonable cause to believe, that the land was abandoned land or that the place of public amusement was a place of public amusement that was abandoned land. 50
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(C) Notwithstanding division (B) of this section, any individual who enters upon any land or place of public amusement for the purposes described in division (B) of this section does not have a right to possession of that land or place of public amusement and any individual who remains on that land or place of public amusement is subject to Chapter 1923. of the Revised Code. 55
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(D) Division (B) of this section does not apply with respect to any land that is owned by a railroad. 61
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(E)(1) Subject to division (E)(2) of this section, no person who is a trespasser and who enters or remains on any abandoned land or a place of public amusement that is abandoned land in order to remediate that land or place of public amusement has a civil action, or may receive an award of damages in a civil action, against the owner of that land or place of public amusement. 63
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(2) Division (E)(1) of this section does not apply with respect to any injury, death, or loss to person or property of a trespasser that occurred while the trespasser entered or remained on any abandoned land or a place of public amusement that is abandoned land to the extent that another section of the Revised Code or the common law of this state provides for or governs civil liability with respect to the injury, death, or loss. 70
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(F)(1) Subject to division (F)(2) of this section, no person who enters or remains on any abandoned land or place of public amusement that is abandoned land in order to remediate that land 77
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or place of public amusement has a civil action, or may receive an 80
award of damages in a civil action, against the owner of that land 81
or place of public amusement for reimbursement of any cost or 82
expense of remediation. 83

(2) Division (F)(1) of this section does not apply to a cost 84
or expense of remediation to the extent that the person who enters 85
on or remains on the land or place of public amusement has entered 86
into an agreement with the owner of the land or place of public 87
amusement for reimbursement of that cost or expense of 88
remediation. 89

Sec. 2911.21. (A) No person, without privilege to do so, 90
shall do any of the following: 91

(1) Knowingly enter or remain on the land or premises of 92
another; 93

(2) Knowingly enter or remain on the land or premises of 94
another, the use of which is lawfully restricted to certain 95
persons, purposes, modes, or hours, when the offender knows the 96
offender is in violation of any such restriction or is reckless in 97
that regard; 98

(3) Recklessly enter or remain on the land or premises of 99
another, as to which notice against unauthorized access or 100
presence is given by actual communication to the offender, or in a 101
manner prescribed by law, or by posting in a manner reasonably 102
calculated to come to the attention of potential intruders, or by 103
fencing or other enclosure manifestly designed to restrict access; 104

(4) Being on the land or premises of another, negligently 105
fail or refuse to leave upon being notified by signage posted in a 106
conspicuous place or otherwise being notified to do so by the 107
owner or occupant, or the agent or servant of either. 108

(B) It is no defense to a charge under this section that the 109

land or premises involved was owned, controlled, or in custody of 110
a public agency. 111

(C) It is no defense to a charge under this section that the 112
offender was authorized to enter or remain on the land or premises 113
involved, when such authorization was secured by deception. 114

(D)(1) Whoever violates this section is guilty of criminal 115
trespass, a misdemeanor of the fourth degree. 116

(2) Notwithstanding section 2929.28 of the Revised Code, if 117
the person, in committing the violation of this section, used a 118
snowmobile, off-highway motorcycle, or all-purpose vehicle, the 119
court shall impose a fine of two times the usual amount imposed 120
for the violation. 121

(3) If an offender previously has been convicted of or 122
pleaded guilty to two or more violations of this section or a 123
substantially equivalent municipal ordinance, and the offender, in 124
committing each violation, used a snowmobile, off-highway 125
motorcycle, or all-purpose vehicle, the court, in addition to or 126
independent of all other penalties imposed for the violation, may 127
impound the certificate of registration of that snowmobile or 128
off-highway motorcycle or the certificate of registration and 129
license plate of that all-purpose vehicle for not less than sixty 130
days. In such a case, section 4519.47 of the Revised Code applies. 131

(E) Notwithstanding any provision of the Revised Code, if the 132
offender, in committing the violation of this section, used an 133
all-purpose vehicle, the clerk of the court shall pay the fine 134
imposed pursuant to this section to the state recreational vehicle 135
fund created by section 4519.11 of the Revised Code. 136

(F) Subject to division (G) of this section, it is an 137
affirmative defense to a charge of a violation of this section 138
that the person charged knowingly entered or remained on abandoned 139
land or a place of public amusement that was abandoned land 140

without privilege to do so and that both of the following apply: 141

(1) The person knowingly entered or remained on that land or 142
place of public amusement for the sole purpose to remediate that 143
land or place of public amusement. 144

(2) Before entering upon that land or place of public 145
amusement, the person knew, or after duly investigating the matter 146
had reasonable cause to believe, that the land was abandoned land 147
or that the place of public amusement was a place of public 148
amusement that was abandoned land. 149

(G) Division (F) of this section does not apply with respect 150
to any land that is owned by a railroad. 151

(H) As used in this section: 152

(1) "All-purpose vehicle," "off-highway motorcycle," and 153
"snowmobile" have the same meanings as in section 4519.01 of the 154
Revised Code. 155

(2) "Land or premises" includes any land, building, 156
structure, or place belonging to, controlled by, or in custody of 157
another, and any separate enclosure or room, or portion thereof. 158

(3) "Abandoned land" has the same meaning as in section 159
323.65 of the Revised Code. 160

(4) "Remediate" means to improve the landscaping, clean up 161
litter, or repair dilapidated conditions on abandoned land or a 162
place of public amusement that is abandoned land or to board up 163
windows and doors on any building or structure that is located on 164
the abandoned land or place of public amusement. Remediate does 165
not include any of the following: 166

(a) Any cosmetic improvement, including painting of any kind, 167
to any building or structure that is located on abandoned land or 168
a place of public amusement that is abandoned land; 169

(b) Any act or conduct that results in any additional damage 170

to abandoned land or a place of public amusement that is abandoned 171
land or to any building or structure that is located on any such 172
land or place. 173

(c) Any act or conduct that would require the individual 174
entering the abandoned land or the place of public amusement that 175
is abandoned land to enter into the interior of any building or 176
structure on that abandoned land or place of public amusement that 177
is abandoned land. 178

(5) "Place of public amusement" has the same meaning as in 179
section 2911.23 of the Revised Code. 180

(6) "Railroad" has the same meaning as in section 4907.02 of 181
the Revised Code. 182

Section 2. That existing section 2911.21 of the Revised Code 183
is hereby repealed. 184