

As Reported by the Senate Civil Justice Committee

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Sub. 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 sections 1
2305.117 and 2305.118 of the Revised Code to 2
provide that a person is not criminally or civilly 3
liable for trespassing on certain abandoned land 4
or similar places of public amusement if the 5
person enters or remains on the land or place of 6
public amusement to remediate it and knows or has 7
reasonable cause to believe that the land or place 8
of public amusement is in one of those categories; 9
to establish a court process to allow a person to 10
request and receive permission to enter certain 11
abandoned land or similar places of public 12
amusement in order to remediate that land; to 13
provide that a person is not civilly liable for 14
trespassing on that land if the person has 15
received an order from the court granting such 16
permission; to provide the property owner with 17
immunity from liability to a person who enters or 18
remains on the land or place of public amusement 19
in those circumstances subject to the statute 20
governing liability to trespassers; and to provide 21
that a person who enters or remains on the land or 22

place of public amusement in those circumstances 23
is not entitled to any reimbursement for any cost 24
of the remediation unless agreed to by the 25
property owner. 26

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

Section 1. That section 2911.21 be amended and sections 27
2305.117 and 2305.118 of the Revised Code be enacted to read as 28
follows: 29

Sec. 2305.117. (A) As used in this section and section 30
2305.118 of the Revised Code: 31

(1) "Abandoned land" has the same meaning as in section 32
323.65 of the Revised Code. 33

(2) "Manufactured home" has the same meaning as in section 34
3781.06 of the Revised Code. 35

(3) "Mobile home," "park trailer," and "travel trailer" have 36
the same meanings as in section 4501.01 of the Revised Code. 37

(4) "Place of public amusement" has the same meaning as in 38
section 2911.23 of the Revised Code. 39

(5) "Railroad" has the same meaning as in section 4907.02 of 40
the Revised Code. 41

(6) "Remediate" has the same meaning as in section 2911.21 of 42
the Revised Code. 43

(B)(1) If a person wishes to enter abandoned land or a place 44
of public amusement that is abandoned land during the daylight 45
hours from sunrise to sunset in order to remediate that abandoned 46
land or place of public amusement that is abandoned land, that 47
person may file a motion in the county court or municipal court 48
that has jurisdiction over the abandoned land or place of public 49

amusement that is abandoned land requesting to enter the abandoned 50
land or place of public amusement that is abandoned land in order 51
to remediate that abandoned land or place of public amusement that 52
is abandoned land. 53

(2) The motion shall be accompanied by a filing fee of not 54
more than twenty dollars. 55

(C) On receiving the motion filed pursuant to division (B) of 56
this section, the court shall set a date for a hearing on the 57
motion within two weeks of the filing of the motion and send a 58
notice of the hearing to the person who filed the motion and to 59
the address of the owner of the abandoned land or place of public 60
amusement that is abandoned land that is on file in the office of 61
the county auditor in the county where the abandoned land or place 62
of public amusement that is abandoned land is located, unless the 63
person filing the motion is aware of a different address and 64
notifies the court of that address. 65

(D) The person who filed the motion pursuant to division (B) 66
of this section shall present evidence to the court at the hearing 67
indicating the necessity to remediate the abandoned land or place 68
of public amusement that is abandoned land. The owner of the 69
abandoned land or place of public amusement that is abandoned land 70
may also present evidence to rebut the person's assertion that the 71
abandoned land or place of public amusement that is abandoned land 72
must be remediated. 73

(E) If the court finds that the abandoned land or place of 74
public amusement that is abandoned land is in need of remediation, 75
then the court may issue an order permitting the person who filed 76
the motion pursuant to division (B) of this section to enter the 77
abandoned land or place of public amusement that is abandoned land 78
to remediate that land. 79

(F) This section does not apply to a manufactured home, 80

mobile home, travel trailer, or park trailer located on abandoned 81
land or a place of public amusement that is abandoned land or to 82
any land that is owned by a railroad. 83

Sec. 2305.118. (A) As used in this section: 84

(1) "Cost or expense of remediation" means any cost or 85
expense associated with any effort to remediate any abandoned land 86
or place of public amusement that is abandoned land, including, 87
but not limited to, any cost or expense of any material, 88
equipment, product, or labor used in or otherwise associated with 89
the effort. 90

(2) "Trespasser" means an individual who, without express or 91
implied authorization, invitation, or inducement, enters abandoned 92
land or a place of public amusement that is abandoned land purely 93
for the individual's own purposes or convenience. 94

(B) Subject to divisions (D) and (E) of this section, no 95
owner of abandoned land or a place of public amusement that is 96
abandoned land has a civil action, or may receive an award of 97
damages in a civil action, against another person for the other 98
person knowingly entering or remaining upon that land or place of 99
public amusement during the daylight hours from sunrise to sunset 100
if the other person received an order from the court pursuant to 101
section 2305.117 of the Revised Code permitting the person to 102
enter the abandoned land or place of public amusement that is 103
abandoned land in order to remediate that land or proves both of 104
the following: 105

(1) The other person knowingly entered or remained on that 106
land or place of public amusement in order to remediate that land 107
or place of public amusement. 108

(2) Before entering upon that land or place of public 109
amusement, the other person knew, or after duly investigating the 110

matter had reasonable cause to believe, that the land was 111
abandoned land or that the place of public amusement was a place 112
of public amusement that was abandoned land. 113

(C) Notwithstanding division (B) of this section, any 114
individual who enters upon any land or place of public amusement 115
for the purposes described in division (B) of this section does 116
not have a right to possession of that land or place of public 117
amusement and any individual who remains on that land or place of 118
public amusement is subject to Chapter 1923. of the Revised Code. 119

(D) Notwithstanding division (B) of this section, no 120
individual who enters upon abandoned land or a place of public 121
amusement that is abandoned land for the purposes described in 122
division (B) of this section shall remediate or make any cosmetic 123
improvement to a manufactured home, mobile home, travel trailer, 124
or park trailer located on the abandoned land or place of public 125
amusement that is abandoned land, engage in any act or conduct 126
that results in any additional damage to a manufactured home, 127
mobile home, travel trailer, or park trailer located on the 128
abandoned land or place of public amusement that is abandoned 129
land, or engage in any act or conduct that would require the 130
individual to enter the interior of a manufactured home, mobile 131
home, travel trailer, or park trailer that is located on the 132
abandoned land or place of public amusement that is abandoned 133
land. 134

(E) Division (B) of this section does not apply with respect 135
to any land that is owned by a railroad. 136

(F)(1) Subject to division (F)(2) of this section, no person 137
who is a trespasser and who enters or remains on any abandoned 138
land or a place of public amusement that is abandoned land in 139
order to remediate that land or place of public amusement has a 140
civil action, or may receive an award of damages in a civil 141
action, against the owner of that land or place of public 142

amusement. 143

(2) Division (F)(1) of this section does not apply with 144
respect to any injury, death, or loss to person or property of a 145
trespasser that occurred while the trespasser entered or remained 146
on any abandoned land or a place of public amusement that is 147
abandoned land to the extent that another section of the Revised 148
Code or the common law of this state provides for or governs civil 149
liability with respect to the injury, death, or loss. 150

(G)(1) Subject to division (G)(2) of this section, no person 151
who enters or remains on any abandoned land or place of public 152
amusement that is abandoned land in order to remediate that land 153
or place of public amusement has a civil action, or may receive an 154
award of damages in a civil action, against the owner of that land 155
or place of public amusement for reimbursement of any cost or 156
expense of remediation. 157

(2) Division (G)(1) of this section does not apply to a cost 158
or expense of remediation to the extent that the person who enters 159
on or remains on the land or place of public amusement has entered 160
into an agreement with the owner of the land or place of public 161
amusement for reimbursement of that cost or expense of 162
remediation. 163

(H) Nothing in this section or section 2305.117 of the 164
Revised Code shall require a person who enters or remains on any 165
abandoned land or place of public amusement that is abandoned land 166
in order to remediate that land or place of public amusement to 167
remediate that land or place of public amusement on a continuing 168
basis. 169

(I) Nothing in this section affects a municipality's ability 170
to remove, repair, or secure insecure, unsafe, structurally 171
defective, abandoned, deserted, or open and vacant buildings or 172
other structures, to make emergency corrections of hazardous 173

conditions, or to abate any nuisance pursuant to section 715.261 174
of the Revised Code or any municipal ordinance that allows a 175
municipal corporation to remediate abandoned land or a place of 176
public amusement that is abandoned land. 177

Sec. 2911.21. (A) No person, without privilege to do so, 178
shall do any of the following: 179

(1) Knowingly enter or remain on the land or premises of 180
another; 181

(2) Knowingly enter or remain on the land or premises of 182
another, the use of which is lawfully restricted to certain 183
persons, purposes, modes, or hours, when the offender knows the 184
offender is in violation of any such restriction or is reckless in 185
that regard; 186

(3) Recklessly enter or remain on the land or premises of 187
another, as to which notice against unauthorized access or 188
presence is given by actual communication to the offender, or in a 189
manner prescribed by law, or by posting in a manner reasonably 190
calculated to come to the attention of potential intruders, or by 191
fencing or other enclosure manifestly designed to restrict access; 192

(4) Being on the land or premises of another, negligently 193
fail or refuse to leave upon being notified by signage posted in a 194
conspicuous place or otherwise being notified to do so by the 195
owner or occupant, or the agent or servant of either. 196

(B) It is no defense to a charge under this section that the 197
land or premises involved was owned, controlled, or in custody of 198
a public agency. 199

(C) It is no defense to a charge under this section that the 200
offender was authorized to enter or remain on the land or premises 201
involved, when such authorization was secured by deception. 202

(D)(1) Whoever violates this section is guilty of criminal 203

trespass, a misdemeanor of the fourth degree. 204

(2) Notwithstanding section 2929.28 of the Revised Code, if 205
the person, in committing the violation of this section, used a 206
snowmobile, off-highway motorcycle, or all-purpose vehicle, the 207
court shall impose a fine of two times the usual amount imposed 208
for the violation. 209

(3) If an offender previously has been convicted of or 210
pleaded guilty to two or more violations of this section or a 211
substantially equivalent municipal ordinance, and the offender, in 212
committing each violation, used a snowmobile, off-highway 213
motorcycle, or all-purpose vehicle, the court, in addition to or 214
independent of all other penalties imposed for the violation, may 215
impound the certificate of registration of that snowmobile or 216
off-highway motorcycle or the certificate of registration and 217
license plate of that all-purpose vehicle for not less than sixty 218
days. In such a case, section 4519.47 of the Revised Code applies. 219

(E) Notwithstanding any provision of the Revised Code, if the 220
offender, in committing the violation of this section, used an 221
all-purpose vehicle, the clerk of the court shall pay the fine 222
imposed pursuant to this section to the state recreational vehicle 223
fund created by section 4519.11 of the Revised Code. 224

(F) Subject to divisions (G) and (H) of this section, it is 225
an affirmative defense to a charge of a violation of this section 226
that the person charged knowingly entered or remained on abandoned 227
land or a place of public amusement that was abandoned land during 228
the daylight hours from sunrise to sunset without privilege to do 229
so and that the person received an order from the court pursuant 230
to section 2305.117 of the Revised Code permitting the person to 231
enter the abandoned land or place of public amusement that is 232
abandoned land in order to remediate that land or both of the 233
following apply: 234

(1) The person knowingly entered or remained on that land or place of public amusement for the sole purpose to remediate that land or place of public amusement. 235
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(2) Before entering upon that land 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 that the place of public amusement was a place of public amusement that was abandoned land. 238
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(G) Division (F) of this section does not apply if an individual who enters upon abandoned land or a place of public amusement that is abandoned land for the purposes described in division (F) of this section remediates or makes any cosmetic improvement to a manufactured home, mobile home, travel trailer, or park trailer located on the abandoned land or place of public amusement that is abandoned land, engages in any act or conduct that results in any additional damage to a manufactured home, mobile home, travel trailer, or park trailer located on the abandoned land or place of public amusement that is abandoned land, or engages in any act or conduct that would require the individual to enter the interior of a manufactured home, mobile home, travel trailer, or park trailer that is located on the abandoned land or place of public amusement that is abandoned land. 243
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(H) Division (F) of this section does not apply with respect to any land that is owned by a railroad. 258
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(I) As used in this section: 260

(1) "All-purpose vehicle," "off-highway motorcycle," and "snowmobile" have the same meanings as in section 4519.01 of the Revised Code. 261
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(2) "Land or premises" includes any land, building, structure, or place belonging to, controlled by, or in custody of 264
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another, and any separate enclosure or room, or portion thereof. 266

(3) "Abandoned land" has the same meaning as in section 267
323.65 of the Revised Code. 268

(4) "Remediate" means to improve the landscaping, clean up 269
litter, or repair dilapidated conditions on abandoned land or a 270
place of public amusement that is abandoned land or to board up 271
windows and doors on any building or structure that is located on 272
the abandoned land or place of public amusement. Remediate does 273
not include any of the following: 274

(a) Any cosmetic improvement, including painting of any kind 275
other than painting a board for boarding up a window or door, to 276
any building or structure that is located on abandoned land or a 277
place of public amusement that is abandoned land; 278

(b) Any act or conduct that results in any additional damage 279
to abandoned land or a place of public amusement that is abandoned 280
land or to any building or structure that is located on any such 281
land or place. 282

(c) Any act or conduct that would require the individual 283
entering the abandoned land or the place of public amusement that 284
is abandoned land to enter into the interior of any building or 285
structure on that abandoned land or place of public amusement that 286
is abandoned land unless it is necessary for the individual to 287
enter into the interior of the building or structure on that 288
abandoned land or place of public amusement that is abandoned land 289
in order to board up the windows and doors in the building or 290
structure. 291

(5) "Place of public amusement" has the same meaning as in 292
section 2911.23 of the Revised Code. 293

(6) "Railroad" has the same meaning as in section 4907.02 of 294
the Revised Code. 295

(7) "Manufactured home" has the same meaning as in section 3781.06 of the Revised Code. 296
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(8) "Mobile home," "park trailer," and "travel trailer" have the same meanings as in section 4501.01 of the Revised Code. 298
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Section 2. That existing section 2911.21 of the Revised Code 300
is hereby repealed. 301