



H.B. 50

127th General Assembly
(As Introduced)

**Reps. Evans, J. McGregor, Stebelton, Flowers, Setzer, Combs, Seitz, Bacon,
Hite, Okey, Webster, Collier**

BILL SUMMARY

- Permits townships to remove junk motor vehicles from public and private property.
- Permits townships to borrow money to pay for the removal of junk motor vehicles on public or private property and for the abatement, control, or removal of nuisance debris on private property when, in either case, the expenses incurred exceed \$500.

CONTENT AND OPERATION

Township regulation of junk motor vehicles

Junk motor vehicle controls

Townships may adopt regulations governing the storage of junk motor vehicles, subject to some exceptions. For instance, townships may not regulate the storage of licensed collector's vehicles and may only require that unlicensed collector's vehicles be screened from view, unless the licensed or unlicensed collector's vehicle qualifies as a junk motor vehicle. (R.C. 505.173--not in bill.)

Townships also may provide for the abatement, control, or removal of debris, such as vegetation, garbage, and refuse, if the board of trustees determines that the debris constitutes a nuisance (R.C. 505.87). The Attorney General has interpreted this provision as authorizing townships to remove junk motor vehicles that have become a nuisance (1995 Ohio Op. Atty. Gen. No. 95-043).

Additionally, when a junk motor vehicle is left uncovered in the open on private property for longer than 72 hours with permission of the person with the right to the possession of the property, the board of township trustees or the township zoning authority may give notice to the person with the right to the

possession of the property that the vehicle must be covered or removed within ten days. There are exceptions to this authority as well. For instance, in regard to collector's vehicles, townships may only require that unlicensed collector's vehicles be screened from view. The willful refusal to cover or remove a junk motor vehicle after receiving notice is a minor misdemeanor, which may rise to a third degree misdemeanor if the person has prior convictions or guilty pleas. Every 30 days that a person ignores a notice to cover or remove constitutes a new offense. (R.C. 4513.65--not in the bill.)

Additional method for addressing junk motor vehicles

The bill permits a board of township trustees to provide, by resolution, for *the removal* of any vehicle in the unincorporated territory of the township that it determines is a *junk motor vehicle*. If the junk motor vehicle is on public property, the board may provide for its immediate removal; if the junk motor vehicle is on private property, the board may provide for its removal not sooner than 14 days after it serves written notice of its intention to have the vehicle removed. The notice must (1) generally describe the vehicle to be removed, (2) indicate that the board of township trustees has determined the vehicle is a junk motor vehicle, (3) state that, if the landowner fails to remove the vehicle within 14 days after service of the notice, the board may have the vehicle removed, and (4) state that any expenses the board incurs in the removal may become a lien on the land that is entered on the tax duplicate. The notice must be served by sending it by *certified mail*, return receipt requested, (1) to the landowner, if the owner resides in the unincorporated territory of the township or if the owner resides outside that territory and the owner's address is known or reasonably ascertainable, and (2) to any lienholder of record with respect to the land. If a notice sent by certified mail is refused or unclaimed, or if an owner's address is unknown and cannot be reasonably ascertained, the board must *publish* the notice once in a newspaper of general circulation in the township before the removal of the vehicle, and, if the land contains any structures, the board also must *post* the notice on the principal structure on the land. Notice sent by certified mail is deemed to be served on the date it was received as indicated by the date on a signed return receipt. A notice given by publication is deemed to be served on the date of the newspaper publication. (R.C. 505.871(A), (B), and (C).)

The board of township trustees may employ the labor, materials, and equipment necessary to remove or cause the removal of a junk motor vehicle, and may do so by contracting with a motor vehicle salvage dealer or scrap metal processing facility. All expenses incurred in removing or causing the removal of junk motor vehicles, when approved by the board, must be paid out of the township general fund from moneys not otherwise appropriated, except that, if the

expenses exceed \$500, the board may borrow moneys from a financial institution to pay the expenses in whole or in part. (R.C. 505.85 and 505.871(D).)

The board of township trustees can use any lawful means to collect the expenses incurred in removing or causing the removal of a junk motor vehicle under the bill, including any fees or interest paid to borrow moneys to pay removal expenses. The board may direct the township fiscal officer to certify the expenses and a description of the land to the county auditor, who must place the expenses upon the tax duplicate as a lien upon the land to be collected as other taxes and returned to the township general fund. (R.C. 505.871(E).)

For purposes of this additional method for removing junk motor vehicles, the bill incorporates the definition of "junk motor vehicle" that already is found in existing law authorizing townships to regulate the storage of junk motor vehicles: a "junk motor vehicle" is a motor vehicle that is three model years old or older, is apparently inoperable, and is extensively damaged, including, but not limited to, missing wheels, tires, engine, or transmission. A collector's vehicle that meets this definition apparently is subject to removal as a junk motor vehicle. (R.C. 505.871(A), (F), and (G); R.C. 505.173--not in the bill.)

Township removal of debris

As noted above, under existing law, townships may provide for the abatement, control, or removal of debris, if the board of trustees determines that the debris constitutes a nuisance. The township can order the landowner to abate, control, or remove that nuisance, and, if it is not abated, controlled, or removed (or provision made to do so) within seven days, the board can provide for the abatement, control, or removal itself. If the board incurs expenses in doing so, they must be paid out of the township general fund from moneys not otherwise appropriated, and also must be entered upon the tax duplicate and become a lien upon the land. (R.C. 505.87(A), (B), and (C).)

The bill adds authority for a township, when it incurs expenses *that exceed \$500* in abating, controlling, or removing a declared nuisance, to borrow moneys from a financial institution to pay for the expenses in whole or in part (R.C. 505.87(C) and (D)).

HISTORY

ACTION

DATE

Introduced

02-20-07

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