



H.B. 8

123rd General Assembly
(As Introduced)

Reps. D. Miller, Grendell, Opfer, Allen

BILL SUMMARY

- Authorizes a director of public safety, police chief, or marshal of a municipal corporation to declare certain premises or real estate as a nuisance and to order it closed because two or more felony drug offenses occurred on two or more occasions within a 24-month period on the premises or real estate and resulted in two or more convictions of the owner, lessor, lessee, mortgagor, or mortgagee of the premises or real estate.
- Authorizes the closing of those premises or real estate for a period not to exceed one year only if it is found at a hearing to be a nuisance because of the felony drug offense-related acts.
- Prohibits destroying, removing, or defacing a posted order that is issued under the bill to close real estate or premises.
- Prohibits intentionally disobeying an order of a director of public safety, police chief, or marshal that closes premises or real estate pursuant to the bill.

CONTENT AND OPERATION

Closing premises in which drug violations have occurred

Existing law

Existing law provides that premises or real estate, including vacant land, on which a felony violation of the Drug Offense Law or the Controlled Substances Law occurs constitute a nuisance subject to abatement pursuant to the Nuisance Law (sec. 3719.10). The Nuisance Law specifies that the Attorney General, the chief legal officer of a municipal corporation, a prosecuting attorney, or a citizen

may bring an action in the appropriate common pleas court for an injunction against the operation of the place of nuisance and for a court order of abatement that directs the removal of personal property and contents used in conducting or maintaining the nuisance from the place of nuisance and the sale of that property at public auction. The order also may direct the effectual closing of the place of nuisance against its use for any purpose for a period of one year. (Secs. 3767.03, 3767.04, 3767.05, and 3767.06, not in the bill.)

Operation of the bill

The bill expands the above-described nuisance provisions by specifying a procedure for the director of public safety, police chief, or village marshal of a municipal corporation to use to close a place of nuisance on which drug law violations have occurred. Under the bill, if two or more felony violations of the Drug Offense Law or the Controlled Substances Law have occurred on two or more occasions within a 24-month period on premises or real estate, including vacant land, and have resulted in two or more criminal convictions of the owner, lessor, lessee, mortgagor, or mortgagee of that premises or real estate, the director, chief, or marshal is authorized to declare the premises or real estate a nuisance and order it closed. Before issuing such an order, the director, chief, or marshal must give at least ten days' notice and an opportunity for a hearing to each owner, lessor, lessee, mortgagor, or mortgagee of the premises or real estate. After holding any requested hearings and making an appropriate finding that the premises or real estate is a nuisance and should be closed, the director, chief, or marshal must post on the premises or real estate an order declaring that place to be a nuisance and ordering it closed. Beginning on the tenth business day following the posting of the order, the director, chief, or marshal may enforce the order.

The bill authorizes the closing of the premises or real estate for a period of time that the director, chief, or marshal directs and that does not exceed one year from the date of the closing. The director, chief, or marshal must vacate the order to close if an interested person either (1) posts a bond for the period of the order in an amount satisfactory to the director, chief, or marshal but not exceeding the assessed value of the premises or real estate as shown on county property tax records or (2) submits reasonably adequate proof to the director, chief, or marshal that the nuisance has been abated and will not be maintained or permitted in any unit of the premises or real estate during the period of the ordered closing. The bill states that a closing ordered under its provisions is not an act of possession, ownership, or control by the municipal corporation. (Sec. 3719.10(B).)

The director of public safety, police chief, or marshal of a municipal corporation must adopt any rules that are necessary or proper to carry out the bill's provisions. The rules may provide for notification of the owner or an agent of the



owner of the premises or real estate regarding an arrest or conviction for the criminal conduct described in "Prohibitions," below, occurring in or on the premises or real estate, and including rules that specify the procedures and terms for posting bonds. (Sec. 3719.10(D).)

The bill authorizes a person aggrieved by an action taken under the bill's provisions by the director, chief, or marshal to appeal to a court of common pleas under the law providing for appeals from orders of administrative officers and agencies (sec. 3719.10(E)).

Prohibitions

The bill prohibits a person who is not authorized to do so from destroying, removing, or defacing during the time the order is operative an order posted under its provisions. A violation of the prohibition is a misdemeanor of the fourth degree. (Sec. 3719.10(C)(1).)

The bill also prohibits a person, except in connection with the use or occupation of the premises or real estate for abating a nuisance, from intentionally disobeying any proper order posted under its provisions and from using or occupying or permitting any other person to use or occupy any premises or real estate ordered closed under its provisions. A violation of the prohibition is a misdemeanor of the first degree. Each day a violation continues is a separate offense. (Sec. 3719.10(C)(2) and (3).)

HISTORY

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