



H.B. 378

124th General Assembly
(As Introduced)

Reps. Womer Benjamin, Driehaus, Seitz, Hagan, Husted, Kearns, Webster, Latta, Setzer, Allen, Aslanides, Schaffer, Lendrum, Flowers

BILL SUMMARY

- Increases the penalty for failure to disperse from a minor misdemeanor to a misdemeanor of the fourth degree.

CONTENT AND OPERATION

Existing law

Under existing law, where five or more persons are participating in a course of disorderly conduct (see "**Background--disorderly conduct**," below), and there are other persons in the vicinity whose presence creates the likelihood of physical harm to persons or property or of serious public inconvenience, annoyance, or alarm, a law enforcement officer or other public official may order the participants and the other persons to disperse. A person is guilty of failure to disperse if the person knowingly fails to obey the order. Failure to disperse is a minor misdemeanor. This prohibition does not require people to disperse if they are peaceably assembled for a lawful purpose. (R.C. 2917.04.)

Operation of the bill

The bill increases the penalty for failure to disperse from a minor misdemeanor to a misdemeanor of the fourth degree (R.C. 2917.04(C)).

By increasing this penalty, the bill makes it easier for a law enforcement officer to arrest a person for failing to disperse. Under existing law, a law enforcement officer generally may not arrest an offender who is committing a minor misdemeanor, but instead must issue the offender a citation, unless certain circumstances apply. By increasing the penalty for failure to disperse to a misdemeanor of the fourth degree, the bill permits an officer to arrest an offender for failure to disperse and makes the citation requirement inapplicable to that offense. (R.C. 2935.26(A).)

Background--disorderly conduct

Prohibitions

The offense of disorderly conduct contains two prohibitions (R.C. 2917.11(A) and (B)):

(1) The first prohibition prohibits a person from recklessly causing inconvenience, annoyance, or alarm to another by doing any of the following: (a) engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior, (b) making unreasonable noise or an offensively coarse utterance, gesture, or display or communicating unwarranted and grossly abusive language to any person, (c) insulting, taunting, or challenging another, under circumstances in which that conduct is likely to provoke a violent response, (d) hindering or preventing the movement of persons on a public street, road, highway, or right-of-way, or to, from, within, or upon public or private property, so as to interfere with the rights of others, and by any act that serves no lawful and reasonable purpose of the offender, or (e) creating a condition that is physically offensive to persons or that presents a risk of physical harm to persons or property, by any act that serves no lawful and reasonable purpose of the offender.

(2) The second prohibition prohibits a person, while voluntarily intoxicated, from doing either of the following: (a) in a public place or in the presence of two or more persons, engage in conduct likely to be offensive or to cause inconvenience, annoyance, or alarm to persons of ordinary sensibilities, which conduct the offender, if the offender were not intoxicated, should know is likely to have that effect on others, or (b) engage in conduct or create a condition that presents a risk of physical harm to the offender or another, or to the property of another.

Penalty

A person who violates either prohibition is guilty of disorderly conduct. Generally, disorderly conduct is a minor misdemeanor. But, disorderly conduct is a misdemeanor of the fourth degree if any of the following applies: (1) the offender persists in disorderly conduct after reasonable warning or request to desist, (2) the offense is committed in the vicinity of a school or in a school safety zone, or (3) the offense is committed in the presence of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person who is engaged in the person's duties at the scene of a fire, accident, disaster, riot, or emergency of any kind. (R.C. 2917.11(E).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	09-25-01	p. 856

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