



H.B. 433

126th General Assembly
(As Introduced)

Reps. Carano, Boccieri, J. McGregor, Yuko, S. Patton, Hartnett, Fende, Perry

BILL SUMMARY

- Provides broader authority to an urban township to regulate traffic, parking, and pedestrians, to remove snow, ice, debris, and other obstructions, and to address certain other matters during declared emergencies.
- Allows an urban township to charge for each subsequent false fire alarm occurring any time after its board of township trustees sends a specified certified mail notice pertaining to a previous false alarm by an automatic fire alarm system to a commercial establishment's or residential building's owner and, if any, lessee.
- Allows an urban township to adopt a reasonable fee, without a specified limit, for transient vendor registrations.
- Subjects parked or stopped vehicles in urban townships to the same exception to otherwise applicable front and rear lighting requirements that applies to parked or stopped vehicles in municipal corporations under certain circumstances.

CONTENT AND OPERATION

Background information

A township that adopts a limited home rule government in accordance with statutory procedures and has a population of 15,000 or more in its unincorporated territory is denoted an "urban township" (R.C. 504.01(B)(2)--not in the bill).

Snow, ice, debris, and other obstruction removal, etc.

Existing law

A board of township trustees may exercise the powers listed below if the board by a unanimous vote or, in the event of one trustee's unavoidable absence, by an affirmative vote of two trustees adopts a resolution declaring the existence of an *emergency* that threatens life or property within the township's unincorporated territory or declaring that such an emergency is imminent. The powers may be exercised during the emergency for a period not exceeding six months from the resolution's adoption, and the resolution must state the specific period the powers are to be in effect. (R.C. 505.82(A).)

The emergency powers are as follows:

(1) In accordance with specified procedures, remove snow, ice, debris, or other obstructions from an undedicated road or stream bank in the township's unincorporated territory, when the road's or stream bank's owner or owners have not provided for that removal.¹ The board has the ability to impose service charges upon the owner or owners for the costs that the township incurs in that removal. Alternatively, instead of imposing service charges for snow or ice removal from an undedicated road on its owners under this circumstance, the board can contract with a developer to pay those service charges. (R.C. 505.82(A)(1) and (B).)

(2) Contract for the immediate acquisition, replacement, or repair of equipment needed for the emergency situation, without the need for complying with statutory competitive bidding requirements (R.C. 505.82(A)(2)).

Changes proposed by the bill

The bill does not modify the emergency powers provisions discussed above for boards of township trustees in general. However, it confers certain *additional* powers upon the board of township trustees of an "urban township" when that board by a unanimous vote or, in the event of one trustee's unavoidable absence, by an affirmative vote of two trustees adopts a resolution declaring the existence of an *emergency* that threatens life or property within the township's unincorporated territory or declaring that such an emergency is imminent. That

¹ An "undedicated road" is defined as a road that has not been approved and accepted by the board of county commissioners and that is not a part of the state, county, or township road systems (R.C. 505.82(D)(1)). The removal of snow, ice, debris, or other obstructions from an undedicated road under the emergency powers provisions does not constitute approval or acceptance of the road (R.C. 505.82(C)).

board is permitted to adopt resolutions for use during the declared emergency pertaining to (1) the regulation of traffic, parking, and pedestrians, (2) the removal of snow, ice, debris, or other obstructions, and (3) any other subjects necessary (a) to expedite the flow and direction of traffic on township roads, (b) to eliminate congestion on township roads, and (c) to provide for the safety of passengers and pedestrians in the township during the declared emergency. (R.C. 505.82(A), (D)(2), and (E).)

False fire alarms in townships²

Background law

Applicable false alarms. Under former law, a board of township trustees could assess a charge for responding to a false fire alarm if (1) the fire department of the township, township fire district, or joint fire district, or a private fire company that contracted with any of those political subdivisions for fire protection, responded to a false alarm from an automatic fire alarm system at a commercial establishment or residential building and (2) the board of township trustees gave a written notice to the premises' owner and lessee (if any) by certified mail that it might assess a stated charge of \$300 or less for each subsequent false alarm by that system that occurred "within a period of 30 days after any false alarm by that system." After that notice, the township could charge for a false alarm without further notice. (R.C. 505.391.)

Am. Sub. H.B. 385 of the 126th General Assembly changed the false alarms for which a township may charge after the provision of the written notice, to subsequent false alarms occurring after three false alarms by the system within the same calendar year (R.C. 505.391(A)).

Lien procedure. Former law provided that if a charge for a subsequent false alarm was not paid within 60 days after the owner or lessee received by certified mail a written notice that the charge had been assessed, the charge had to be entered upon the real property tax list, became a lien upon the property, and had to be collected as taxes are collected. Collected charges (whether by normal payment or through the lien procedure) were required to be deposited into the township general fund. (R.C. 505.391.)

Am. Sub. H.B. 365 of the 126th General Assembly changed the procedure for unpaid false alarm charges by providing a 30-day notice before an unpaid

² R.C. 505.391's provisions in the bill are dated. Am. Sub. H.B. 385 of the 126th General Assembly recently enacted the current version of this section. The background law discussion in this portion of the analysis reflects the provisions of Am. Sub. H.B. 385.

charge becomes a lien. Under the act, if payment of the bill assessing a charge is not received within 30 days, the township fiscal officer must send a notice by certified mail to the manager and the owner of the real estate of which the commercial establishment is a part, or to the occupant, lessee, agent, or tenant and the owner of the real estate of which the residential building is a part, indicating that failure (1) to pay the bill within 30 days or (2) to show just cause within 30 days why the bill should not be paid will result in the assessment of a lien on the real estate in the amount of the bill. If payment is not received or just cause for nonpayment is not shown within those 30 days, the amount of the bill must be entered upon the tax duplicate, is a lien upon the real estate upon that entry, and must be collected as other taxes. The act requires charges so collected, instead of being deposited into the township general fund, to be earmarked in the township treasury for use for fire services.³ (R.C. 505.391(B).)

Changes proposed by the bill

Because the bill contains dated law, it is not entirely clear what its proposed change in R.C. 505.391 would do. Most likely, it would carve an exception to the new authority for a township, after the provision of written notice, to charge for subsequent false alarms *occurring after three false alarms* by an automatic fire alarm system *within the same calendar year*. The exception would appear to be that a board of township trustees, when the township *is an urban township or a fire district includes an urban township*, may state in the certified mail notice to building owners and lessees that the board may assess a charge of up to \$300 for *each subsequent false alarm* by the fire alarm system in question. (R.C. 505.391.)

Fees for transient vendors in townships⁴

Background law

Registration authority and definitional expansion. A board of township trustees may require the registration of all transient vendors within the unincorporated territory of the township and regulate the time, place, and manner in which they may sell, offer for sale, or solicit orders for future delivery of goods.

³ *The act repeals former law's general requirement that "charges collected" under R.C. 505.391 be deposited into the township general fund. It is not clear whether charges collected other than pursuant to the new lien procedure will continue to be deposited into the township general fund or also must be earmarked in the township treasury for use for fire services.*

⁴ *R.C. 505.94's provisions in the bill are dated. Am. Sub. H.B. 385 of the 126th General Assembly recently enacted the current version of this section. The background law discussion in this portion of the analysis reflects the provisions of Am. Sub. H.B. 385.*

"Transient vendors" formerly were generally defined as persons who opened a temporary place of business for the sale of goods or who, on the streets or while traveling about the township, either sold or offered for sale goods, or solicited orders for future delivery of goods where payment was required before the delivery of the goods. "Transient vendors" formerly did not include (1) persons who represented any of certain Ohio tax-exempt entities that notified a board of township trustees that its representatives were present in the township for the purpose of either selling or offering for sale goods, or soliciting orders for future delivery of goods, or (2) licensed auctioneers. (R.C. 505.94.)

Am. Sub. H.B. 385 of the 126th General Assembly expanded the preceding general definition of a "transient vendor" to include any person who, on the streets or while traveling about a township, attempts to arrange an appointment for a future estimate or sales call. It correspondingly amended the preceding exception to the definition to include any person who represents an Ohio tax-exempt entity that notifies the board of township trustees that its representatives are present in the township for the purpose of attempting to make those arrangements. (R.C. 505.94.)

Registration fee. Under former law, when registration was required of all transient vendors, a reasonable registration fee not to exceed \$75 could be charged for the registration period. The registration was valid for at least a 90-day period. Am. Sub. H.B. 385 of the 126th General Assembly increased the permissible fee to one "not to exceed \$150" for such a registration period. (R.C. 505.94.)

Changes made by the bill

In light of the new law enacted by Am. Sub. H.B. 185 of the 126th General Assembly, it would appear that the bill would carve an exception to the maximum \$150 registration fee--the board of township trustees of an urban township may establish a registration fee "not to exceed a reasonable amount" for the registration period, which still must be at least 90 days. (R.C. 505.94(A).)

Parked or stopped vehicle's display of lights

Existing law

If a vehicle is parked or stopped upon a road open to traffic or on an adjacent shoulder, the vehicle *generally* must be equipped with one or more lights that exhibit a white or amber light on the road side visible from a distance of 500 feet to the vehicle's front and a red light visible from a similar distance to the vehicle's rear during (1) the time from sunset to sunrise and (2) at any other time when there are unfavorable atmospheric conditions or when there is not sufficient natural light to render discernible persons, vehicles, and substantial objects on the

road at a distance of 1,000 feet ahead (R.C. 4513.10(A) and related R.C. 4513.03--not in the bill). This lighting requirement applies whether a vehicle is attended or unattended, but it does not apply as follows (R.C. 4513.10(A)):

--In an emergency;

--When a vehicle is stopped or parked within a *municipal corporation* and there is sufficient light to reveal any person or substantial object within a distance of 500 feet upon a highway.

A violator of the lighting requirement commits one of the following: a minor misdemeanor on a first offense, a misdemeanor of the fourth degree on a second offense within one year after the first offense, or a misdemeanor of the third degree on each subsequent offense within one year after the first offense (R.C. 4513.10(B) and related R.C. 4513.99--not in the bill).

Changes proposed by the bill

The bill retains the general lighting requirements discussed above, the associated penalties for violations of the requirements, and the emergency exception to the requirements. But, it expands the second exception to the requirements such that, in addition to vehicles stopped or parked in municipal corporations, vehicles stopped or parked in an "urban township" where there is sufficient light to reveal any person or substantial object within a distance of 500 feet upon a highway are exempted from the lighting requirements. (R.C. 4513.10(A).)

HISTORY

ACTION	DATE
Introduced	11-28-05

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