



H.B. 560*

126th General Assembly

(As Reported by H. Local and Municipal Government and Urban Revitalization)

Reps. C. Evans, Law, Harwood, Combs, Domenick, Reidelbach, Cassell, Perry, J. McGregor, Bulp, Setzer, S. Patton, J. Stewart, Latta, Yuko, Garrison, Bocchieri, Carano

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

Current law

Township Law. Current law contains several provisions for townships to regulate, but not remove, junk motor vehicles. The Township Law, for example, permits a board of township trustees to adopt regulations for the *storage* of junk motor vehicles on private or public property within the unincorporated territory of the township.¹ For that purpose, 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. The regulations, however, may not restrict the operation of a state-

* *This analysis was prepared before the report of the House Local and Municipal Government and Urban Revitalization Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

¹ *This authority is not affected by the bill's provisions (R.C. 505.871(G)(1)).*

licensed scrap metal processing facility, motor vehicle salvage dealer, salvage motor vehicle auction, or salvage motor vehicle pool, or the provision of towing and recovery services conducted under the Motor Vehicles Law governing vehicles ordered to be removed from property by specified law enforcement officials, including the storage and disposal of junk motor vehicles removed from public or private property under that law. (R.C. 505.173(A) and (E)--not in the bill.)

The latter township regulations generally cannot prevent a person from storing or keeping, or restrict a person in the method of storing or keeping, any *collector's vehicle* on private property with the permission of the person having the right to the property's possession, except that a person having that permission may be *required to conceal*, by means of buildings, fences, vegetation, terrain, or other suitable screening, any *unlicensed collector's vehicle* stored in the open. And, regardless of whether licensed or unlicensed, the storage of a collector's vehicle that qualifies as a "junk motor vehicle" may be regulated, even on private property. (R.C. 505.173(A) and (C)--not in the bill.)

A violation of these township regulations is a criminal offense--a minor misdemeanor (maximum fine of \$125). A township also may commence a court action for an injunction, a writ of mandamus, or abatement of a nuisance, among other actions, to prohibit the storage of junk motor vehicles in violation of the regulations. (R.C. 505.173(B) and (D)--not in the bill.)

Motor Vehicles Law. The Motor Vehicles Law permits political subdivisions to regulate *the storage of motor vehicles, junk motor vehicles, and abandoned junk motor vehicles* on public or private property (R.C. 4513.60 to 4513.65--not in the bill). For purposes of this law, a "junk motor vehicle" generally is a vehicle that is *left uncovered in the open on private property* for more than 72 hours with the permission of the person having the right to the property's possession, is three years old or older, is extensively damaged (including, but not limited to, missing wheels, tires, motor, or transmission), is apparently inoperable, and has a fair market value of \$1,500 or less (R.C. 4513.65(A)--not in the bill).²

² An "abandoned" junk motor vehicle for purposes of the law must meet the last four criteria but it must be left on private property 48 hours or longer without the permission of the person having the right to the property's possession, or on a public street or other property open to the public for vehicular travel or parking for 48 hours or longer, or upon or within the right-of-way of a road or highway for 48 hours or longer (R.C. 4513.63--not in the bill).

Under this law, a board of township trustees or the zoning authority of a township may send by certified mail, return receipt requested, to the person having the right to the possession of the private property on which a junk motor vehicle is left, a notice that, within ten days of its receipt, the junk motor vehicle either must be covered by being housed in a garage or other suitable structure or be removed from the property. A person is prohibited from willfully leaving a junk motor vehicle uncovered in the open for more than ten days after receipt of this notice. The fact that a junk motor vehicle is so left is prima-facie evidence of willful failure to comply with the notice, and each subsequent period of 30 days that a junk motor vehicle continues to be so left constitutes a separate offense. Violations of the prohibition are criminal offenses--depending on the number of prior convictions, either a minor misdemeanor, a misdemeanor of the fourth degree, or misdemeanor of the third degree. (R.C. 4513.65(A) and (B)--not in the bill.)

Under this law, a township cannot prevent a person from storing or keeping, or restrict a person in the method of storing or keeping, any *collector's vehicle* on private property with the permission of the person having the right to the property's possession, except that a township may require a person having that permission to conceal any unlicensed collector's vehicle stored in the open, in the same manner as described under "Township Law," above (R.C. 4513.65(A)). The Motor Vehicles Law, however, defines a "collector's vehicle" as any motor vehicle or agricultural tractor or traction engine that is of special interest, that has a fair market value of \$100 or more, whether operable or not, and that is owned, operated, collected, preserved, restored, maintained, or used essentially as a collector's item, leisure pursuit, or investment, but not as the owner's principal means of transportation (R.C. 4501.01(F)--not in the bill).³

³ *Current law in related sections of the Motor Vehicles Law permits specified law enforcement officers to order into storage (arrange for the removal of) motor vehicles left on private residential or private agricultural property for at least four hours without permission, and to order into storage motor vehicles as well as abandoned junk motor vehicles that come into their possession as a result of performing their duties or that are left on "public" property (see Footnote 2) for 48 hours or longer without notification to the appropriate law enforcement officer of the reasons for so leaving them. (R.C. 4513.60(A) and 4513.61.)*

After being ordered into storage, unclaimed motor vehicles must be disposed of upon the order of the appropriate law enforcement officer or sold in specified manners, and abandoned junk motor vehicles must be immediately disposed of upon the order of the appropriate law enforcement officer in a specified manner (R.C. 4513.62 and 4513.63).

Changes proposed by the bill

Removal resolutions and implementing notices. 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*--using the same definition of "junk motor vehicle" as is used in the **Township Law**" explained above. 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 seven days after it serves written notice of its intention to have the vehicle removed on the owner of the land and any holders of liens of record on the land. This *includes* any collector's vehicle that is a junk motor vehicle, except if the collector's vehicle is on private property with the permission of the person having the right to the property's possession. (R.C. 505.871(A), (B), (C)(1), (F), and (G)(2).)

The notice that must be served before the removal of a junk motor vehicle from private property 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 seven days after the service, 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(C)(2) and (3).)

Actual removal. The board of township trustees may employ the labor, materials, and equipment necessary to remove or cause the removal of a junk motor vehicle. The board, for example, may contract with a motor vehicle salvage dealer or scrap metal processing facility for the removal (added by the bill) or disposal (current law) of motor vehicles. 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).)

Township removal of debris

Currently, a township may provide for the abatement, control, or removal of debris, such as vegetation, garbage, and refuse, from private property if the board of township trustees determines that the landowner's maintenance of 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 of notice to the landowner and any lienholders of record with respect to the land, 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 to this township nuisance procedure 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, instead of taking the money from the township general fund (R.C. 505.87(C) and (D)).

HISTORY

ACTION	DATE
Introduced	04-04-06
Reported, H. Local & Municipal Gov't & Urban Revitalization	---

h0560-rh-126.doc/kl

