



## **H.B. 50**

127th General Assembly  
(As Passed by the General Assembly)

**Reps.** Evans, J. McGregor, Stebelton, Flowers, Setzer, Combs, Seitz, Bacon, Hite, Okey, Webster, Collier, Bubb, Chandler, Batchelder, Bolon, Coley, Daniels, Dolan, Gerberry, Gibbs, R. Hagan, Hottinger, Huffman, Letson, Luckie, Mallory, Otterman, Patton, Schindel, Schneider, J. Stewart, Wagoner, Zehringer

**Sens.** Cates, Mumper, Carey, Harris, Roberts, Seitz, Niehaus

**Effective date:** March 5, 2008

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### **ACT SUMMARY**

- Authorizes townships to remove junk motor vehicles from public and private property.
- Authorizes 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.

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### **CONTENT AND OPERATION**

#### **Township removal of junk motor vehicles**

Although townships were and continue to be authorized to regulate the storage of junk motor vehicles within their unincorporated territories, townships have not been authorized to remove junk motor vehicles from within that territory. The act authorizes 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. A "junk motor vehicle" is a motor vehicle that is three model years old or older, is apparently inoperable, and is extensively damaged, including, without limitation, missing wheels, tires, engine, or transmission. (R.C. 505.173, not in the act.)

If the junk motor vehicle is on public property, the board may provide in the resolution for its immediate removal. If the junk motor vehicle is on private property, the board may provide in the resolution for its removal not sooner than 14 days after the board 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, subject, however, to the special rules applying to township regulation of collector's vehicles.<sup>1</sup> (R.C. 505.871(A), (B), (C)(1), (F), and (G).)

### **Implementing notices**

The notice must (1) generally describe the vehicle to be removed, (2) indicate that the board of township trustees has determined that 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 removing the vehicle 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. A 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).)

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<sup>1</sup> A township cannot prevent or restrict a person from storing or keeping a collector's vehicle on private property with the permission of the person having the right to possession of the property, except that a township may require such a person to conceal any unlicensed collector's vehicle stored in the open by means of buildings, fences, vegetation, terrain, or other suitable screening. R.C. 505.173(A) (not in the act). If, however, a collector's vehicle is a "junk motor vehicle" its storage is subject to the same regulations as other junk motor vehicles are, and if those regulations are violated, the board of township trustees "may pursue any remedy provided by law"--which might include the remedy of removal provided by the act. R.C. 505.173(C) (not in the act).

### **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 or disposal of junk motor vehicles. All expenses incurred in removing or causing the removal of a junk motor vehicle, 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, 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**

Under continuing law, a township may provide for the abatement, control, or removal of vegetation, garbage, refuse, and other debris 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 such a nuisance, and, if it is not abated, controlled, or removed (or provision made to do so) within seven days after notice to the landowner and any lienholders of record with respect to the land, the board can provide for the abatement, control, or removal. 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, thus becoming a lien upon the land. (R.C. 505.87(A), (B), and (C).)

Under the act, when a township incurs expenses that exceed \$500 in abating, controlling, or removing vegetation, garbage, refuse, or other debris that has become a nuisance, the board of township trustees may 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)).

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## HISTORY

ACTION	DATE
Introduced	02-20-07
Reported, H. Local & Municipal Gov't & Urban Revitalization	04-03-07
Passed House (96-2)	05-09-07
Reported, S. State & Local Gov't & Veterans Affairs	10-09-07
Passed Senate (29-1)	11-14-07

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