

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

S. B. No. 114

Senator Hottinger

A BILL

To amend section 505.172 of the Revised Code to 1
expand the authority of a township to regulate 2
noise within the unincorporated area of the 3
township. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 505.172 of the Revised Code be 5
amended to read as follows: 6

Sec. 505.172. (A) As used in this section, "law 7
enforcement officer" means a sheriff, deputy sheriff, constable, 8
police officer of a township or joint police district, marshal, 9
deputy marshal, or municipal police officer. 10

(B) Except as otherwise provided in this section and 11
section 505.17 of the Revised Code, a board of township trustees 12
may adopt regulations and orders that are necessary to control 13
noise generated within the unincorporated territory of the 14
township ~~that is generated at any premises to which a D permit~~ 15
~~has been issued by the division of liquor control or that is~~ 16
~~generated within any areas zoned for residential use.~~ 17

(C) Any person who engages in any of the activities 18
described in section 1.61 of the Revised Code is exempt from any 19

regulation or order adopted under division (B) of this section 20
if the noise is attributed to an activity described in section 21
1.61 of the Revised Code. Any person who engages in coal mining 22
and reclamation operations, as defined in division (B) of 23
section 1513.01 of the Revised Code, or surface mining, as 24
defined in division (A) of section 1514.01 of the Revised Code, 25
is exempt from any regulation or order adopted under division 26
(B) of this section if the noise is attributed to coal mining 27
and reclamation or surface mining activities. Noise resulting 28
from the drilling, completion, operation, maintenance, or 29
construction of any crude oil or natural gas wells or pipelines 30
or any appurtenances to those wells or pipelines or from the 31
distribution, transportation, gathering, or storage of crude oil 32
or natural gas is exempt from any regulation or order adopted 33
under division (B) of this section. 34

~~(D) (1) Except as otherwise provided in division (C) of 35
this section, any regulation or order adopted under division (B) 36
of this section shall apply to any business or industry or to 37
any premises to which a D permit has been issued by the division 38
of liquor control regardless of when it came into existence. 39~~

~~(E)~~ Whoever violates any regulation or order adopted under 40
division (B) of this section is guilty of a misdemeanor of the 41
second degree. Fines levied and collected under this section 42
shall be paid into the township general revenue fund. 43

~~(F)~~ (E) Any person allegedly aggrieved by another person's 44
violation of a regulation or order adopted under division (B) of 45
this section may seek in a civil action a declaratory judgment, 46
an injunction, or other appropriate relief against the other 47
person committing the act or practice that violates that 48
regulation or order. A board of township trustees that adopts a 49

regulation or order under division (B) of this section may seek 50
in a civil action an injunction against any person that commits 51
an act or practice that violates that regulation or order. The 52
court involved in a civil action referred to in this division 53
may award to the prevailing party reasonable attorney's fees 54
limited to the work reasonably performed. 55

~~(G)~~ (F) If any law enforcement officer with jurisdiction 56
in a township that has adopted a regulation or order under 57
division (B) of this section has reasonable cause to believe 58
that any premises ~~to which a D permit has been issued by the~~ 59
~~division of liquor control~~ has violated the regulation or order 60
and, as a result of the violation, has caused, is causing, or is 61
about to cause substantial and material harm, the law 62
enforcement officer may issue an order that the premises cease 63
and desist from the activity violating the regulation or order. 64
The cease-and-desist order shall be served personally upon the 65
owner, operator, manager, or other person in charge of the 66
premises immediately after its issuance by the officer. The 67
township thereafter may publicize or otherwise make known to all 68
interested persons that the cease-and-desist order has been 69
issued. 70

The cease-and-desist order shall specify the particular 71
conduct that is subject to the order and shall inform the person 72
upon whom it is served that the premises will be granted a 73
hearing in the municipal court or county court with jurisdiction 74
over the premises regarding the operation of the order and the 75
possible issuance of an injunction or other appropriate relief. 76
The premises shall comply with the cease-and-desist order 77
immediately upon receipt of the order. Upon service of the 78
cease-and-desist order upon the owner, operator, manager, or 79
other person in charge of the premises, the township law 80

director or, if the township does not have a law director, the 81
prosecuting attorney of the county in which the township is 82
located shall file in the municipal court or county court with 83
jurisdiction over the premises a civil action seeking to confirm 84
the cease-and-desist order and seeking an injunction or other 85
appropriate relief against the premises. The owner, operator, 86
manager, or other person in charge of the premises may file a 87
motion in that civil action for a stay of the cease-and-desist 88
order for good cause shown, pending the court's rendering its 89
decision in the action. The court shall set a date for a 90
hearing, hold the hearing, and render a decision in the action 91
not more than ten days after the date of the cease-and-desist 92
order, or the cease-and-desist order is terminated. Division ~~(F)~~ 93
(E) of this section applies regarding an action filed as 94
described in this division. 95

~~(H) Nothing in this section authorizes a township to 96
enforce any regulation or order adopted under division (B) of 97
this section against a premises to which a D permit has been 98
issued by the division of liquor control if that premises is not 99
located in the unincorporated territory of that township. 100~~

Section 2. That existing section 505.172 of the Revised 101
Code is hereby repealed. 102