



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Andrew Little

H.B. 633

132nd General Assembly
(As Introduced)

Reps. Boggs and Miller

BILL SUMMARY

- Establishes a criminal prohibition against depositing litter, of a kind or quantity reasonably expected to be dangerous to life or health, on one's own property if that property is located in a village or city.
 - Requires that, before criminal liability may be imposed, the owner or other person in control of the property be given notice and five days within which to remove the litter.
 - Requires that the offending litter be present for at least two days before the notice to cure may be delivered.
 - Clarifies that criminal liability for the new offense established in the bill is not precluded by the existence of civil proceedings or a civil order related to the same facts underlying the criminal offense.
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CONTENT AND OPERATION

The bill establishes a criminal penalty for owners, or others in control, of private property in municipal corporations (i.e., cities and villages) who deposit litter of a kind or quantity reasonably expected to be dangerous to life or health. Liability can only be imposed under the bill, however, if the owner or person in control of the property fails to remove the litter after receiving a notice required by the bill. Under existing law, there is no state-level prohibition against depositing litter on one's own property.

New littering prohibition

The bill prohibits the owner or person in control of private property located in a municipal corporation (i.e., a city or village) from depositing, or causing to be deposited, on the outdoor areas of the premises, litter of any kind or quantity reasonably expected to be dangerous to life or health. Continuing law defines "**litter**" as garbage, waste, ashes, cans, bottles, wire, paper, boxes, automobile parts, furniture, glass, or anything else of an unsightly or unsanitary nature.¹

Penalty

Violation of the bill's new prohibition is a strict liability offense, meaning a specific mental state, such as recklessly or knowingly, is not required for a person to be guilty of the offense; the key element to liability is occurrence of the prohibited event.² The bill classifies a violation of its new prohibition just as current law classifies a violation of Ohio's existing littering prohibitions. That is, as a third degree misdemeanor, punishable by a fine of not more than \$500 and a definite jail term of not more than 60 days; though the sentencing court may, in addition to or in lieu of those penalties, require a person to remove the litter.³

Notice and cure period

Before a person can face liability under the bill's new provisions, a notice and cure process must be followed. The first requirement in the process is that the conditions resulting from the violation (i.e., the offending litter) be present for at least two business days, excluding the first day those conditions exist. Once that requirement is met, an enforcement official may give the owner and person in control of the property a notice specifying the conditions that constitute a violation and also explaining that failure to remedy those conditions within five business days, *excluding the day the notice is effective*, may result in criminal prosecution.

A notice's effective date depends on the delivery method, which in turn depends on the recipient. Enforcement officials must give notice to the property's occupants and, if the property is not owner-occupied, to its owner. Notice to a property's occupants may be given by posting it on the property's door or leaving it with an occupant, and is effective when either act is completed. Notice to a property owner who does not occupy

¹ R.C. 3767.32(C)(1) and (E)(1).

² R.C. 3767.32(C)(3).

³ R.C. 2929.24, 2929.28, and 3767.99, not in the bill.



the property must be sent by certified mail, return receipt requested, and is considered effective when it is delivered or refused.⁴

Effect of civil proceedings

The bill's final element establishes that prosecution or liability for a violation of its new prohibition is not precluded by the existence of civil proceedings or a civil order related to the same facts or circumstances underlying the criminal offense.⁵

HISTORY

ACTION	DATE
Introduced	05-03-18

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⁴ R.C. 3767.32(C)(2).

⁵ R.C. 3767.32(C)(4).

