As Introduced

133rd General Assembly Regular Session 2019-2020

S. B. No. 114

Senator Hottinger

A BILL

То	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 505.1/2 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

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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
(D) (1) Except as otherwise provided in division (C) of this section, any regulation or order adopted under division (B)	35 36
this section, any regulation or order adopted under division (B)	36
this section, any regulation or order adopted under division (B) of this section shall apply to any business or industry or to	36 37
this section, any regulation or order adopted under division (B) of this section shall apply to any business or industry or to any premises to which a D permit has been issued by the division of liquor control regardless of when it came into existence.	36 37 38 39
this section, any regulation or order adopted under division (B) of this section shall apply to any business or industry or to any premises to which a D permit has been issued by the division of liquor control regardless of when it came into existence. (E) Whoever violates any regulation or order adopted under	36 37 38 39 40
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regulation or order. A board of township trustees that adopts a

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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 6.5 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

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Code is hereby repealed.