



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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Am. H.B. 39

132nd General Assembly
(As Reported by H. State and Local Government)

Reps. Arndt and Gavarone, Anielski, Hambley, Bishoff, Carfagna

BILL SUMMARY

- Authorizes certain townships to require the removal of snow and ice from sidewalks abutting property.
 - Allows a township to cause the removal of snow and ice from sidewalks abutting property when the abutting property owner, occupant, or person has failed to do so.
 - Allows a township to collect from an owner expenses incurred in the removal of snow and ice.
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CONTENT AND OPERATION

Township resolution to require snow and ice removal

The bill authorizes a board of township trustees of a township that has had an average of five or more inches of snow per month during November through April over a previous ten-year period to adopt a resolution to require an owner, occupant, or person having charge of a lot or parcel of land in the unincorporated area of the township to remove snow and ice from abutting sidewalks. The resolution must specify a reasonable amount of time within which the owner, occupant, or person must comply with the requirement. And, the resolution may specify circumstances under which individuals can be exempt from the requirement, including age, infirmity, disability, or extended absence. The township may cause the removal of snow and ice from the sidewalk of a noncomplying owner, occupant, or person. The expenses the township incurs in the removal must be paid from available funds in the township general fund.

A board of township trustees may recover expenses the township incurred in the removal of snow and ice from an owner's, occupant's, or person's sidewalk by directing

the township fiscal officer to certify the expenses and a description of the land to the county auditor, who must place the amount for the expenses on the tax duplicate as a lien on the land, to be collected from the owner of record as other taxes and returned to the township general fund.

The bill specifies that no owner, occupant, or person complying with or failing to comply with a township's resolution is liable for personal injuries or property damage allegedly caused by the person's compliance or failure to comply. And, the law enacted by the bill or a resolution adopted under the law cannot be used to prove damages or liability in a civil action for damage or for liability arising from any personal injury or property damage allegedly caused by an owner's, occupant's or person's removal or failure to remove snow or ice.¹

COMMENT

In Ohio, under common law there is no duty on the part of a property owner to remove snow and ice from sidewalks. Because there is no such duty, property owners are not liable for injuries caused to invited guests or any others who may slip and fall on natural accumulations of snow and ice.² The Ohio Supreme Court has considered a city ordinance that required property owners to keep sidewalks in repair and free from snow or any nuisance. The Court held that the ordinance does not create a duty on the owner or occupant to the public at large, nor does it subject the owner to civil liability even where the ordinance requires the owner to remove snow and ice.³

Considering the holding in the *Lopatkovich* case, a township resolution adopted under the bill does not appear to impart, on township residents, a duty to the public at large. The bill also does not, by its language and considering *Lopatkovich*, create civil liability between individuals for injuries allegedly caused by compliance or failure to comply with the township resolution. Under *Lopatkovich*, a violation of the city ordinance did not create a prima facie case of negligence but rather, something more on the order of a duty to assist the city in removing snow and ice from public sidewalks.

The bill does create a statutory duty on the part of residents who are subject to a township resolution authorized by the bill to keep sidewalks clear and allows a

¹ R.C. 505.872.

² *Brinkman v. Ross*, 68 Ohio St.3d 82 (1993). Snow and ice that remain after shoveling and plowing, and ice that forms when piles of snow melt, are considered natural accumulations under Ohio law. A homeowner has no duty to remove or make less hazardous a natural accumulation of ice and snow on sidewalks or to warn invitees of the inherent dangers of such natural accumulations.

³ *Lopatkovich v. City of Tiffin*, 28 Ohio St.3d 204 (1986).



township to recover the costs incurred by it to clear the sidewalks. The bill states that a complying or noncomplying person is not liable for personal injuries or damages allegedly caused by that compliance, and that the law or a resolution cannot be used in a civil action for liability or damages allegedly caused by a person's compliance or failure to comply. The township is immune from liability under the Political Subdivision Sovereign Immunity Law.⁴

HISTORY

ACTION	DATE
Introduced	02-07-17
Reported, H. State & Local Gov't	03-22-17

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⁴ R.C. 2744.01(C)(2)(e); R.C. 2744.02(A)(1) – general immunity – and (B)(1) to (5) – exceptions, creating liability for injury, death, or loss to person or property. See *Hess v. Austintown Twp.*, 2009-Ohio-4808 (7th Appellate District, Mahoning County, 2009).

