



# Ohio Legislative Service Commission

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## Bill Analysis

Wendy H. Gridley

### **Am. H.B. 375**

131st General Assembly  
(As Passed by the House)

**Reps.** Brown and Arndt, LaTourette, Rogers, Hambley, Anielski, Sweeney

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### **BILL SUMMARY**

- Authorizes a township to require the removal of snow and ice from sidewalks abutting property and to impose a fine for failure to do so.
  - 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 use lawful means to collect from an owner, occupant, or person a fine or 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 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 must charge any person who is not exempt and who violates the resolution a fine of no more than \$50 per day.

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 use any lawful means to collect a fine assessed against an owner, occupant, or person for the expenses incurred in the removal of snow and ice from the owner's, occupant's, or person's sidewalk. The board may direct the township fiscal officer to certify the fine or expenses and a description of the land to the county auditor, who must place the fine or expenses on the tax duplicate as a lien on the land, to be collected as other taxes and returned to the township general fund.

The bill specifies that no person complying with a township's resolution is liable for personal injuries allegedly caused by the person's compliance unless the alleged conduct is willful and wanton.<sup>1</sup>

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## 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.<sup>2</sup> 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.<sup>3</sup>

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 or create civil liability between individuals for injuries allegedly caused by a failure to comply with the township resolution. Willful and wanton conduct, under common law and under the bill, is actionable.

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 imposes a fine for failure to do so; it also imposes civil liability for the fine and the costs incurred by a township to clear the sidewalks. 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 court in

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<sup>1</sup> R.C. 505.872.

<sup>2</sup> *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.

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



*Lopatkovich*, however, did not consider an ordinance that imposed monetary penalties as does the bill. The bill states that a complying person is not liable for personal injuries allegedly caused by that compliance unless it is willful and wanton. The township is immune from liability under the Political Subdivision Sovereign Immunity Law.<sup>4</sup>

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## HISTORY

ACTION	DATE
Introduced	10-19-15
Reported, H. Local Gov't	04-25-16
Passed House (84-13)	05-10-16

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<sup>4</sup> 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).

