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S.B. 59*
134th General Assembly

Bill Analysis

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Version: As Re-reported by House Armed Services and Veterans Affairs

Primary Sponsor: Sen. Schaffer

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SUMMARY

- Designates the Act as the Ohio Veterans' Heritage Protection Act.
- Prohibits a war relic that is located on public property or on the property of a cemetery association from being sold, purchased, or otherwise disposed of by any person.
- Prohibits a war relic that is located on public property or on the property of a cemetery association from being destroyed, altered, or otherwise disturbed by any person, except under certain circumstances.
- Allows the owner of a war relic to permanently move the war relic, as long as it remains on public property or the property of the cemetery association on which it was originally located.
- Exempts the state and a political subdivision from the bill's prohibitions if it can clearly prove ownership of a war relic by written documentation.
- Exempts a governmental agency, the state, or a political subdivision from being fined for destroying, altering, or otherwise disturbing a war relic.
- Generally, establishes that a violation of the Ohio Veterans' Heritage Protection Act is an unclassified misdemeanor, and authorizes the court to order offenders to pay proceeds from a sale, or fines assessed by the court, to the Ohio History Connection.
- Authorizes the Ohio History Connection, with the help of local historical societies, to compile and maintain a registry of war relics.

* This analysis was prepared before the report of the House Armed Services and Veterans Affairs Committee appeared in the House Journal. Note that the legislative history may be incomplete.

DETAILED ANALYSIS

War relics

What is a war relic?

Under the bill, a “war relic” is a cannon or other artillery, from the era of a war, that was used by forces of the American colonies, of the U.S. federal government, or of any state in support of the U.S; or a statue, monument, memorial, or plaque that has been erected for, or named or dedicated in honor of, an individual’s or group of individuals’ service with those forces. “War” means the French and Indian War, American Revolution, War of 1812, United States-Mexican War, American Civil War 1861-1865, Spanish-American War, the Mexican border period, World War I, World War II, Korean conflict, Vietnam era, Operation Urgent Fury (Grenada), Operation El Dorado Canyon (Libya), Operation Just Cause (Panama), Operation Desert Shield/Desert Storm (Persian Gulf War I), Operation Enduring Freedom (Afghanistan), Operation Iraqi Freedom (Persian Gulf War II), any subsequent declaration of war by Congress, or any subsequent armed conflict in which the U.S. is engaged.¹

Prohibitions

The bill is designated the Ohio Veterans’ Heritage Protection Act.² The bill prohibits any person from doing the following:

1. Selling or otherwise disposing of a war relic that is located on public property (property owned or leased by the state or a political subdivision) or on the property of a cemetery association;
2. Purchasing a war relic;
3. Destroying, altering, or otherwise disturbing a war relic that is located on public property or on the property of a cemetery association, except that the person responsible for maintaining the war relic may relocate, remove, alter, or otherwise disturb the war relic to preserve, care for, repair, or restore it, to place it in a temporary public display, or to use it in war re-enactments.³

The bill does not apply to the state or a political subdivision if it can clearly prove ownership, by written documentation, of a war relic. Furthermore, under the bill, a governmental agency, the state, or a political subdivision of the state may not be fined for violating prohibition (3), above (see also “**Penalties and fines**,” below).⁴

¹ R.C. 155.28(A).

² Section 3 of the bill.

³ R.C. 155.28(A) and (B).

⁴ R.C. 155.28(D).

Under the bill, the owner of a war relic may permanently relocate the war relic so long as it remains on the owner's public property or property of the owner's cemetery association.⁵

Exception

An exception to the three prohibitions mentioned above is that a government agency, the state, a political subdivision, or a cemetery association that wishes to dispossess a war relic that is located on public property or on the property of a cemetery association may give the war relic to the federal government. If the federal government does not accept the war relic, it must be given to the Ohio History Connection, but if the Ohio History Connection does not accept the war relic, it must be given to the Sons of Union Veterans of the Civil War, Department of Ohio, or, if the war relic is not of the civil war era, it must be given to any congressionally chartered veterans' service organization at the discretion of the Ohio History Connection.⁶

Penalties and fines

A seller who knowingly (see "**Knowingly**" below), violates the prohibition against selling or otherwise disposing of a war relic is guilty of an unclassified misdemeanor. The court must order the offender to pay any money received from selling or otherwise disposing of the war relic to the Ohio History Connection.⁷

A purchaser who knowingly violates the provision against purchasing a war relic is guilty of an unclassified misdemeanor. The court may order the offender to pay a fine of not more than \$10,000 to the Ohio History Connection. And the court must order the offender to return the war relic to the seller.⁸

Any person, other than a governmental agency, the state, or a political subdivision of the state, who knowingly violates the prohibition against destroying, altering, or otherwise disturbing a war relic is guilty of an unclassified misdemeanor. The court must institute a right to cure period of 90 days to restore the war relic to its prior condition and location. Upon expiration of the right to cure period, the court may order an offender who has not cured the violation to pay a fine of not more than \$10,000 to the Ohio History Connection.⁹

Knowingly

Under continuing Ohio law, the culpable mental state of "knowingly" is defined as follows:

⁵ R.C. 155.28(B)(3).

⁶ R.C. 155.28(C).

⁷ R.C. 155.28(B)(1) and 155.99(C).

⁸ R.C. 155.28(B)(2) and 155.99(D).

⁹ R.C. 155.28(B)(3) and (D) and 155.99(E).

A person acts knowingly, regardless of purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist. When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person subjectively believes that there is a high probability of its existence and fails to make inquiry or acts with a conscious purpose to avoid learning the fact.¹⁰

The Ohio History Connection

The bill authorizes the Ohio History Connection, with the help of local historical societies, to compile and maintain a registry of war relics that are located on public property or on the property of a cemetery association.¹¹

All fines collected by the Ohio History Connection under the Ohio Veterans' Heritage Protection Act may only be spent on the preservation of war relics.¹²

HISTORY

Action	Date
Introduced	02-09-21
Reported, S. Veterans & Public Safety	03-10-21
Passed Senate (32-0)	04-28-21
Reported, H. Armed Services & Veterans Affairs	06-24-21
Re-referred, H. Rules and Reference	10-06-21
Re-referred, H. Armed Services & Veterans Affairs	10-12-21
Re-reported, H. Armed Services & Veterans Affairs	---

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¹⁰ R.C. 2901.22(B), not in the bill.

¹¹ R.C. 149.30.

¹² R.C. 149.30.