



## Ohio Revised Code

### Section 505.172 Noise control.

Effective: September 29, 2011

Legislation: House Bill 153 - 129th General Assembly

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(A) As used in this section, "law enforcement officer" means a sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, or municipal police officer.

(B) Except as otherwise provided in this section and section 505.17 of the Revised Code, a board of township trustees may adopt regulations and orders that are necessary to control noise within the unincorporated territory of the township that is generated at any premises to which a D permit has been issued by the division of liquor control or that is generated within any areas zoned for residential use.

(C) Any person who engages in any of the activities described in section 1.61 of the Revised Code is exempt from any regulation or order adopted under division (B) of this section if the noise is attributed to an activity described in section 1.61 of the Revised Code. Any person who engages in coal mining and reclamation operations, as defined in division (B) of section 1513.01 of the Revised Code, or surface mining, as defined in division (A) of section 1514.01 of the Revised Code, is exempt from any regulation or order adopted under division (B) of this section if the noise is attributed to coal mining and reclamation or surface mining activities. Noise resulting from the drilling, completion, operation, maintenance, or construction of any crude oil or natural gas wells or pipelines or any appurtenances to those wells or pipelines or from the distribution, transportation, gathering, or storage of crude oil or natural gas is exempt from any regulation or order adopted under division (B) of this section.

(D) (1) Except as otherwise provided in division (C) of 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 division (B) of this section is guilty of a



misdemeanor of the second degree. Fines levied and collected under this section shall be paid into the township general revenue fund.

(F) Any person allegedly aggrieved by another person's violation of a regulation or order adopted under division (B) of this section may seek in a civil action a declaratory judgment, an injunction, or other appropriate relief against the other person committing the act or practice that violates that regulation or order. A board of township trustees that adopts a regulation or order under division (B) of this section may seek in a civil action an injunction against any person that commits an act or practice that violates that regulation or order. The court involved in a civil action referred to in this division may award to the prevailing party reasonable attorney's fees limited to the work reasonably performed.

(G) If any law enforcement officer with jurisdiction in a township that has adopted a regulation or order under division (B) of this section has reasonable cause to believe that any premises to which a D permit has been issued by the division of liquor control has violated the regulation or order and, as a result of the violation, has caused, is causing, or is about to cause substantial and material harm, the law enforcement officer may issue an order that the premises cease and desist from the activity violating the regulation or order. The cease-and-desist order shall be served personally upon the owner, operator, manager, or other person in charge of the premises immediately after its issuance by the officer. The township thereafter may publicize or otherwise make known to all interested persons that the cease-and-desist order has been issued.

The cease-and-desist order shall specify the particular conduct that is subject to the order and shall inform the person upon whom it is served that the premises will be granted a hearing in the municipal court or county court with jurisdiction over the premises regarding the operation of the order and the possible issuance of an injunction or other appropriate relief. The premises shall comply with the cease-and-desist order immediately upon receipt of the order. Upon service of the cease-and-desist order upon the owner, operator, manager, or other person in charge of the premises, the township law director or, if the township does not have a law director, the prosecuting attorney of the county in which the township is located shall file in the municipal court or county court with jurisdiction over the premises a civil action seeking to confirm the cease-and-desist order and seeking an injunction or other appropriate relief against the premises. The owner, operator, manager, or other person in charge of the premises may file a motion in that civil action for a stay



of the cease-and-desist order for good cause shown, pending the court's rendering its decision in the action. The court shall set a date for a hearing, hold the hearing, and render a decision in the action not more than ten days after the date of the cease-and-desist order, or the cease-and-desist order is terminated. Division (F) of this section applies regarding an action filed as described in this division.

(H) Nothing in this section authorizes a township to enforce any regulation or order adopted under division (B) of this section against a premises to which a D permit has been issued by the division of liquor control if that premises is not located in the unincorporated territory of that township.