



Ohio Revised Code

Section 5516.04 Orders to remove and take remedial action for violating advertising devices.

Effective: September 16, 2004

Legislation: House Bill 230 - 125th General Assembly

(A) Any advertising device that violates section 5516.02, 5516.06, 5516.061, or 5516.062 of the Revised Code or the rules adopted thereunder, or that is being maintained without a validly issued permit, is a public and private nuisance, and shall be removed. Immediately upon discovering the existence of such a nuisance, the director of transportation shall issue an order to the owner or lessee of the land on which such advertising device is located, and to the owner of such advertising device, if known, to remove the device or to initiate any remedial action specified in the order, within thirty days of the issuance of the order. The order shall be in writing and shall be sent by certified mail. If the owner of the advertising device is unknown, the director shall make a reasonable attempt to ascertain the identity of such owner.

If such owner cannot be determined or the certified mail is not claimed, the director may post a copy of the order in a conspicuous place on the advertising device.

If removal or remediation is not completed within thirty days of the date of the order, the director immediately may remove the sign without further notice or may file for an injunction or other appropriate relief in a civil action for abatement in the court of common pleas of the county in which the advertising device is located. A copy of the complaint shall be served upon the owner or lessee of the land and the owner of the device, if known, in accordance with the Rules of Civil Procedure. If certified mail service, personal service, or residence service of the complaint is refused, or certified mail service is not claimed and the director has made a request for ordinary mail service of the complaint, or has used publication service in accordance with the Rules of Civil Procedure, then a copy of the complaint shall be posted in a conspicuous place on the advertising device.

The court in a civil action for abatement shall conduct a hearing at least twenty-eight days after service of the complaint on the owner of the advertising device and the owner or lessee of the land. If the court finds at the hearing that a violation of sections 5516.02 to 5516.04 of the Revised Code exists as alleged in the complaint and also finds that the owner of the advertising device or the owner



or lessee of the land has been afforded an opportunity to abate the nuisance but has refused or failed to do so, the court may issue an injunction requiring the owner of the advertising device or the owner or lessee of the land to abate the nuisance or may issue any other order that it considers necessary or appropriate to cause the abatement of the public nuisance. If an injunction is issued pursuant to this section, the owner of the advertising device or the owner or lessee of the land shall be given no more than thirty days from the date of the entry of the court's order to comply with the injunction, unless the court, for good cause shown, extends the time for compliance. The judge in any civil action described in this section, or the judge's successor in office, has continuing jurisdiction to review the condition of any advertising device that was determined to be a public nuisance pursuant to this section.

(B) If the department removes an advertising device pursuant to an order of the director, the cost or expense of such removal shall be paid by the director out of any appropriation of the department of transportation available for the establishment, use, maintenance, or repair of highways, and the amount thereof shall be certified to the attorney general for collection by civil action against the device owner or the owner or lessee of the land on which such advertising device is located. Such owners and lessees shall be jointly liable for such costs or expenses.

(C) Employees, agents, or independent contractors of the department of transportation may enter upon private property for the purpose of removing advertising devices in accordance with this section, without incurring any liability for so entering.