

# AN ACT

To amend sections 121.04, 901.08, 901.43, 911.02, 913.02, 913.23, 915.14, 915.24, 917.01, 917.08, 917.16, 917.99, 3707.33, 3715.02, 3715.25, 3715.59, 3715.60, 3715.69, 3715.99, 3732.01, 3732.07, 4736.01, and 4745.01, to enact new sections 917.02, 917.03, 917.04, 917.05, 917.06, 917.07, 917.09, 917.10, 917.11, 917.18, 917.19, 917.20, 917.21, 917.22, 917.23, 3715.24, and 3715.27 and sections 917.031, 917.032, 917.091, 3715.21, and 3715.211 and to repeal sections 917.02, 917.03, 917.04, 917.05, 917.06, 917.07, 917.09, 917.10, 917.11, 917.18, 917.19, 917.20, 917.21, 917.22, 917.23, 3707.34, 3715.24, 3715.26, 3715.27, 3715.58, 3717.01, 3717.02, 3717.021, 3717.03, 3717.06, 3717.07, 3717.08, 3717.09, 3717.10, 3717.11, 3717.12, 3717.13, 3717.16, 3717.17, 3717.18, 3717.20, 3717.21, 3717.24, 3717.25, 3717.26, 3717.27, 3717.28, 3717.29, 3717.30, 3717.31, 3717.32, 3717.33, 3717.34, 3717.35, 3717.37, 3717.40, 3717.41, 3717.42, 3717.43, 3717.45, 3717.47, 3717.48, 3717.49, 3717.50, 3717.51, 3717.52, 3717.53, 3717.54, 3717.55, 3717.61, 3717.611, 3717.62, 3717.63, 3717.64, 3717.65, 3717.66, 3717.67, 3717.68, 3717.69, and 3717.99 of the Revised Code to revise the law governing dairies, dairy products, maple syrup, and cider.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 121.04, 901.08, 901.43, 911.02, 913.02, 913.23, 915.14, 915.24, 917.01, 917.08, 917.16, 917.99, 3707.33, 3715.02, 3715.25, 3715.59, 3715.60, 3715.69, 3715.99, 3732.01, 3732.07, 4736.01,

and 4745.01 be amended and new sections 917.02, 917.03, 917.04, 917.05, 917.06, 917.07, 917.09, 917.10, 917.11, 917.18, 917.19, 917.20, 917.21, 917.22, 917.23, 3715.24, and 3715.27 and sections 917.031, 917.032, 917.091, 3715.21, and 3715.211 of the Revised Code be enacted to read as follows:

Sec. 121.04. Offices are created within the several departments as follows:

In the department of commerce:

- Commissioner of securities;
- Superintendent of real estate;
- Superintendent of financial institutions;
- Fire marshal;
- Beginning on July 1, 1997,
- Superintendent of liquor control;
- Superintendent of industrial compliance.

In the department of administrative services:

- State architect and engineer;
- Equal employment opportunity coordinator.

In the department of agriculture:

Chiefs of divisions as follows:

- Administration;
- Animal industry;
- Dairy ~~marketing~~;
- Food, ~~dairies, and drugs~~ safety;
- Plant industry;
- Markets;
- Meat ~~inspections~~ inspection;
- Consumer analytical ~~laboratories~~ laboratory;
- Amusement ride safety;
- Enforcement;
- Weights and measures.

In the department of natural resources:

Chiefs of divisions as follows:

- Water;
- Mines and Reclamation;
- Forestry;
- Natural areas and preserves;
- Wildlife;
- Geological survey;
- Parks and recreation;

Watercraft;  
Oil and gas;  
Recycling and litter prevention;  
Civilian conservation;  
Soil and water conservation;  
Real estate and land management;  
Engineering.

Until July 1, 1997, in the department of liquor control:

Chiefs of divisions as follows:

Accounting and finance;  
Store management;  
Personnel;  
Beer.

In the department of insurance:

Deputy superintendent of insurance;  
Assistant superintendent of insurance, technical;  
Assistant superintendent of insurance, administrative;  
Assistant superintendent of insurance, research.

Sec. 901.08. The director of agriculture shall appoint a chief of the division of administration, a chief of the division of animal industry, a chief of the division of dairy ~~marketing~~, a chief of the division of food, ~~dairies,~~ ~~and drugs safety~~, a chief of the division of markets, a chief of the division of plant industry, a chief of the division of weights and measures, a chief of the division of meat ~~inspections~~ inspection, a chief of the division of consumer analytical ~~laboratories~~ laboratory, a chief of the division of enforcement, and a chief of the division of amusement ride safety.

Sec. 901.43. (A) The director of agriculture may authorize any department of agriculture laboratory to perform a laboratory service for any person, organization, political subdivision, state agency, federal agency, or other entity, whether public or private, and may charge a reasonable fee for performance of the laboratory service.

(B) The director shall adopt and enforce rules to provide for the rendering of a laboratory service and may publish a list of laboratory services offered, together with the fee for such each service, ~~and to determine whether a fee is generated by a laboratory service related to the diseases of animals.~~

(C) The director may enter into a contract with any person, organization, political subdivision, state agency, federal agency, or other entity for the provision of a laboratory service.

(D) ~~Ne~~ (1) The director may adopt rules specifying what constitutes an

official sample.

~~(2) The director shall not charge a fee shall be charged for a laboratory service performed on an official sample acquired, but may charge a fee for any other sample taken or laboratory service performed by the department to determine compliance with a state law or a rule adopted by the director.~~

~~(E)(1) The director may adopt rules establishing standards for accreditation of laboratories and laboratory services and in doing so may adopt by reference existing or recognized standards or practices.~~

~~(2) The director may inspect and accredit laboratories and laboratory services, and may charge a reasonable fee for the inspections and accreditation.~~

~~(F)(1) All moneys collected by the director under this section that are from fees generated by a laboratory service performed by the department and related to the diseases of animals, and all moneys so collected that are from fees generated for the inspection and accreditation of laboratories and laboratory services related to the diseases of animals, shall be deposited in the animal industry laboratory fund, which is hereby created in the state treasury. The director shall use the moneys in the animal industry laboratory fund to purchase supplies and equipment for the laboratory that provides laboratory services related to the diseases of animals. All other~~

~~(2) All moneys collected by the director under this section that are from fees generated by a laboratory service performed by the consumer analytical laboratory, and all moneys so collected that are from fees generated for the inspection and accreditation of laboratories and laboratory services not related to weights and measures or the diseases of animals, shall be remitted to the treasurer of state for deposit deposited in the general revenue laboratory services fund, which is hereby created in the state treasury. The moneys held in the fund may be used to pay the expenses necessary to operate the consumer analytical laboratory, including the purchase of supplies and equipment.~~

~~(3) All moneys collected by the director under this section that are from fees generated by a laboratory service performed by the weights and measures laboratory, and all moneys so collected that are from fees generated for the inspection and accreditation of laboratories and laboratory services related to weights and measures, shall be deposited in the weights and measures laboratory fund, which is hereby created in the state treasury. The moneys held in the fund may be used to pay the expenses necessary to operate the division of weights and measures, including the purchase of supplies and equipment.~~

Sec. 911.02. Except as provided in division (A) of section 3732.07 of

the Revised Code, each person, firm, partnership, or corporation ~~which that~~ owns or operates a bakery shall register each bakery ~~which that~~ it owns or operates with the director of agriculture. For ~~such the~~ registration, the owner or operator of each bakery shall pay an annual fee of thirty dollars for a production capacity of one thousand pounds of bakery product per hour or less and an annual fee of thirty dollars for each one thousand pounds of bakery product per hour capacity, or part thereof, in excess of one thousand pounds of bakery product per hour.

Any person who owns or operates a home bakery with only one oven, in a stove of ordinary home kitchen design and located in a home, used for the baking of baked goods to be sold, shall pay a sum of ten dollars annually for registration regardless of the capacity of ~~such the~~ home bakery oven. ~~Each such~~ The registration shall be renewed annually by the thirtieth day of September and shall be renewed according to the standard renewal procedure of Chapter 4745. of the Revised Code. The registration of the bakery shall show the location, including municipal corporation, street, and number, the name of the owner, and the name of the operator. The application for registration shall be made on a form prescribed and provided by the director. All moneys received from registration fees and fines collected under sections 911.01 to 911.20 of the Revised Code shall be deposited with the treasurer of state to the credit of the food, ~~dairies, and~~ drugs safety fund created in section 915.24 of the Revised Code. All annual renewal registration fees required by this section shall be paid by the applicant for ~~such the~~ renewal to the treasurer of state for deposit into the food, ~~dairies, and drug~~ safety fund.

No bakery product that is manufactured in an out-of-state bakery shall be sold or offered for sale within this state unless ~~such the~~ bakery is in compliance with sections 911.01 to 911.20 of the Revised Code, and is registered, having paid the annual registration fee.

Registration of out-of-state bakeries is not required if a reciprocal agreement is in effect whereby a bakery located in this state is not subject to a license or registration fee by the receiving state or a political subdivision thereof.

Sec. 913.02. No person, firm, or corporation shall engage in the business of operating a cannery without obtaining a license for the operation of each cannery from the director of agriculture.

In order to obtain a license, an application shall be made on a form prescribed by the director and shall be accompanied by a fee of one hundred dollars. The director shall thereupon cause an investigation to be made. If the applicant is supplied with the facilities necessary for complying with

sections 913.01 to 913.05 of the Revised Code and rules adopted under them, a license shall be issued and shall be effective until the thirtieth day of June, and shall become invalid on that date unless renewed. The fee for each renewal is one hundred dollars. License fees and renewal fees shall be deposited to the credit of the food, ~~dairies, and drugs~~ safety fund created in section 915.24 of the Revised Code.

The director may suspend or revoke any license for failure to comply with sections 913.01 to 913.05 of the Revised Code, or any rule or order adopted under those sections. In such event, the cannery immediately shall cease operation.

Sec. 913.23. (A) The director of agriculture may issue licenses as required by sections 913.22 to 913.28 of the Revised Code, may make the inspections and registrations required by ~~such~~ those sections, and may prescribe the form of application to be filed under this section.

(B) No person shall manufacture or bottle for sale within this state any soft drink in closed containers unless ~~he~~ the person has a license issued by the director. Upon receipt of an application for such a license, the director shall examine the products and the place of manufacture where the business is to be conducted, to determine whether the products and place comply with sections 913.22 to 913.28 of the Revised Code. Upon finding there is compliance, and upon payment of a license fee of one hundred dollars, the director shall issue a license authorizing the applicant to manufacture or bottle for sale such soft drinks, subject to sections 913.22 to 913.28 of the Revised Code. ~~Such~~ The license shall expire on the last day of March of each year unless renewed.

(C) No soft drink that is manufactured or bottled out of the state shall be sold or offered for sale within this state unless the soft drink and the plant in which the soft drink is bottled are found by the director to comply with sections 913.22 to 913.28 of the Revised Code, and is registered by ~~him~~ the director, which shall be upon a like application as provided in division (B) of this section.

An annual registration fee of one hundred dollars shall be paid to the director by each applicant under this division. ~~Such~~ The registration shall be renewed annually, and the registration fee paid with the application for annual renewal.

Registration of out-of-state soft drink manufacturers or syrup and extract manufacturers is not required if a reciprocal agreement is in effect whereby a soft drink manufacturer or syrup and extract manufacturer located in this state is not subject to a license or registration fee by another state or a political subdivision thereof.

(D) No person, other than a manufacturer holding a soft drink plant license under this section, shall sell, offer for sale, use, or have in ~~his~~ the person's possession with intent to sell, any soda water syrup or extract or soft drink syrup, to be used in making, drawing, or dispensing soda water or other soft drinks, without first registering ~~his~~ the person's name and address, the name and address of the manufacturer of the syrup or extract, the number and variety of such syrups or extracts intended to be sold, and the trade name or brand of those products, with the director, together with such samples of the ~~same syrups or extracts~~ as the director requests for analysis. ~~Such~~ The person also shall pay to the department of agriculture at the time of making registration a license fee of fifty dollars. No license shall be granted by the director unless ~~he~~ the director determines that the syrup or extract is free from all harmful drugs and other ingredients ~~which~~ that, as used, may be injurious to health. ~~Said~~ The registration shall be renewed annually upon like terms. If any manufacturer, agent, or seller is licensed or has registered ~~his~~ the manufacturer's, agent's, or seller's name and ~~his~~ product as required by this section and has paid ~~his~~ the manufacturer's, agent's, or seller's fee, ~~his~~ the manufacturer's, agent's, or seller's distributor, retail agent, or retail seller using ~~said~~ the products shall not be required to pay that fee. This section does not apply to local sellers of soft drinks as to syrups and extracts made by themselves for their own use exclusively.

(E) All moneys received under sections 913.22 to 913.28 of the Revised Code shall be deposited with the treasurer of state to the credit of the food; ~~dairies, and drugs~~ safety fund created in section 915.24 of the Revised Code.

(F) The director may revoke any license or registration issued under sections 913.22 to 913.28 of the Revised Code, whenever ~~he~~ the director determines that ~~such~~ those sections have been violated. When a license has been revoked, the licensee shall discontinue the manufacture and sale of soft drinks or other products for which the license was issued. When a registration has been revoked, the registrant shall discontinue the sale within this state of ~~his~~ the registrant's products until those sections have been complied with and a new license or registration has been issued. The director may suspend any such license or registration temporarily, pending compliance with such conditions required by ~~such~~ those sections as ~~he~~ the director prescribes.

Sec. 915.14. As used in sections 915.14 to 915.24 of the Revised Code, unless the context otherwise requires:

(A) "Food" means all articles used by humans for food, drink, ice, confectionery, or condiment, whether simple, mixed, or compound, and any substance used as a constituent in the manufacture thereof.

(B) "Establishment" means any business location or building of which any of the following facilities or operations are a part: a frozen food manufacturing facility, slaughterhouse, locker room, locker, chill room, sharp freezing room and facilities, or sharp freezing cabinet.

(C) "Slaughterhouse" means a room or space used to butcher animals for sharp freezing.

(D) "Locker room" means any room in an establishment in which lockers are located and in which space may be provided for the storage of frozen food belonging to and for sale by the operator to the public.

(E) "Locker" means the individual section or compartment, provided with a lock, of a capacity not to exceed twenty-five cubic feet, in the locker room of an establishment, which is rented by a person, firm, or corporation for the purpose of storing frozen food for its use.

(F) "Chill room" means a room or space in an establishment used for the purpose of chilling food in preparation for processing for sharp freezing.

(G) "Sharp freezing" means the reducing of every portion of food placed in a sharp freezer facility to a temperature of ten degrees Fahrenheit or less in five hours or less.

(H) "Sharp freezing room," "sharp freezing cabinet," or "other sharp freezing facilities" means any location, space, or facility in an establishment used for the sharp freezing of food for storage or eventual sale.

(I) "Operator" means any person, firm, or corporation operating or maintaining an establishment.

(J) "Frozen food manufacturing facility" means a room or space in an establishment used to freeze food, other than frozen desserts as defined in section ~~3717.51~~ 917.01 of the Revised Code, for eventual sale in a frozen state.

Sec. 915.24. (A) There is hereby created in the state treasury the food, ~~dairies, and drugs~~ safety fund. All of the following moneys shall be credited to the fund:

(1) Bakery registration fees and fines received under sections 911.02 to 911.20 of the ~~Revised Code~~ Revised Code;

(2) Cannery license fees and renewal fees received under sections 913.01 to 913.05 of the Revised Code;

(3) Moneys received under sections 913.22 to 913.28 of the Revised Code;

(4) License fees, fines, and penalties recovered for the violation of sections 915.01 to 915.12 of the Revised Code;

(5) License fees collected under sections 915.14 to 915.23 and under section 3715.21 of the Revised Code;

~~(6) Moneys received in accordance with section 917.23 of the Revised Code.~~

(B) The director of agriculture shall use the moneys deposited into the food, ~~dairies, and drugs~~ safety fund to administer and enforce the laws pursuant to which the moneys were collected.

Sec. 917.01. As used in ~~sections 917.01 to 917.23, inclusive, of the Revised Code~~ this chapter:

(A) "Person" means any ~~natural~~ individual, government agency, political subdivision, partnership, corporation, affiliated affiliate or subsidiary of a corporation, association, co-operative association, or other business unit.

(B) "~~Co-operative Association~~ association" means any association organized under sections 1729.01 to 1729.27, ~~inclusive,~~ of the Revised Code, or under ~~the federal law known as the Capper-Volstead act~~ "Co-operative Marketing Associations (Capper-Volstead) Act, 7 U.S.C. 291, 292 (1980), as amended, and qualified to do business in Ohio, if the director of agriculture finds ~~such~~ the association has, in good faith, its entire activities under the control of its members and has been and is exercising full authority in the sale of milk or cream for its members.

(C) "~~Market Area~~ area" means any area ~~which~~ that the director finds is a natural marketing area and designates as such.

(D) "~~Handling~~" ~~means the purchase, receipt on consignment or agency contract, or acquiring of milk or cream from the producer thereof or organizations of producers for the purpose of bottling, selling, processing, jobbing, or distributing the same.~~

~~(E)~~ "Dealer" ~~includes every or~~ "milk dealer" means a person who handles purchases or receives milk or cream from a producer for the purpose of bottling, packaging, selling, processing, jobbing, brokering, or distributing the ~~same~~ milk except where ~~such~~ the milk ~~or cream~~ is disposed of in the same container in which it is received, without removal from ~~such~~ the container and without processing in any way except by necessary refrigeration. Any person who buys and distributes milk in containers under ~~his~~ the person's own label is a dealer.

(E) "imitation" means imitation as described in 21 c.f.r. 101.3, as amended.

(F) "milk" means the lacteal secretion, substantially free from colostrum, obtained by the complete milking of one or more healthy cows, Goats, sheep, or other animals and intended for either of the following purposes:

(1) to be sold for human consumption or for use in dairy products;

(2) to be used for human consumption or for use in dairy products on the premises of a governmental agency or institution.

"Milk" does not include a blend of the lacteal secretions of different species.

(g) "Grade a milk" means milk produced by a person holding a valid producer license of the grade a milk category issued pursuant to section 917.09 of the Revised Code.

(h) "manufacture milk" means milk produced by a person holding a valid producer license of the manufacture milk category issued pursuant to section 917.09 of the Revised Code.

(I) "producer" or "milk producer" means a grade a milk producer or a manufacture milk producer.

(j) "grade a milk producer" means a person located in this state who sells or offers for sale grade a milk obtained from a cow, goat, sheep, or other animal that the person owns or controls.

(k) "manufacture milk producer" means a person located in this state who sells or offers for sale manufacture milk obtained from a cow, goat, sheep, or other animal that the person owns or controls.

(L) "Grade a milk products" means products derived from grade a milk and having the standard of identity, quality, strength, purity, grade, and, if added, permitted optional ingredients found in the standards of identity established for the products in rules adopted by the director under section 917.02 or 3715.02 of the revised code, and includes:

(1) cottage cheese;

(2) raw, pasteurized, or aseptically processed products derived from milk and described in either of the following:

(a) the most recent published RECOMMENDATIONS of the food and drug administration, public health service, united states department of health and human services;

(b) rules adopted by the director.

(M) "manufactured milk products" means all products, other than raw milk for sale to the ultimate consumer and grade A milk products, that are derived from milk and are for human consumption, including:

(1) Butter;

(2) natural or processed cheese;

(3) evaporated, condensed, and dry products;

(4) frozen desserts;

established for the product in rules adopted by the director under section 917.02 or 3715.02 of the revised code.

(n) "dairy products" means milk, raw milk for sale to the ultimate consumer, grade a milk products, and manufactured milk products.

(O) "frozen desserts" means frozen desserts, including the mixes, described in 21 c.f.r. 135, as amended, unless otherwise specified by the director by rule.

(p) "milk plant" means a grade a milk plant or manufacture milk plant.

(q) "grade a milk plant" means a place, including a governmental operation, where grade a milk or a grade a milk product is collected, handled, controlled, processed, stored, pasteurized, ultra-pasteurized, repasteurized, aseptically processed, bottled, or prepared for distribution, but does not include a place where a grade A milk product is purchased in packaged form and is stored and handled for the sole purpose of sale to the ultimate consumer.

(R) "manufacture milk plant" means a place, including a governmental operation, where manufacture milk or a manufactured milk product is collected, handled, controlled, manufactured, processed, stored, pasteurized, ultra-pasteurized, repasteurized, commercially sterilized, aseptically processed, bottled, or prepared for distribution, but does not include a place where a manufactured milk product is purchased in packaged form and is stored and handled for the sole purpose of sale to the ultimate consumer.

(s) "raw milk for sale to the ultimate consumer" means the raw milk sold or offered for sale by a raw milk retailer.

(T) "Raw milk retailer" means a person who, prior to October 31, 1965, was engaged continuously in the business of selling or offering for sale raw milk directly to ultimate consumers.

(U) "Processor" or "milk processor" means a grade A milk processor or a manufacture milk processor.

(V) "Grade A milk processor" means a person who operates or controls a milk plant that is located in this state or from which grade A milk or grade A milk products are sold or offered for sale for human consumption.

(W) "Manufacture milk processor" means any person who operates or controls a manufacture milk plant that is located in this state or from which manufacture milk or manufactured milk products are sold or offered for sale for human consumption.

(X) "Weigher, sampler, or tester" means a person who, in order to determine volume, weight, or composition for the purpose of determining price, weighs, tests, or samples either of the following:

(1) Milk at a dairy farm;

(2) Milk or cream purchased by a dealer from a milk producer or co-operative association.

(Y) "Hauler" or "milk hauler" means a person who owns or leases a vehicle or conveyance used to transport raw milk, but does not include a producer transporting raw milk that the producer has produced.

(Z) "License" means a license issued under section 917.09 of the Revised Code and includes a registration issued under division (I) of that section.

Sec. 917.02. The director of agriculture may do any of the following:

(A) Adopt rules in accordance with Chapter 119. of the Revised Code regulating all of the following:

(1) The sanitary production, storage, transportation, manufacturing, handling, processing, sampling, testing, examination, and sale of dairy products;

(2) The suspension and revocation of licenses issued under section 917.09 of the Revised Code, provided that the rules are in accordance with and do not conflict with section 917.22 of the Revised Code;

(3) terms and renewal periods, registration requirements, categories, and fees for licenses issued under section 917.09 of the Revised Code, except that the fee for a producer's license shall not exceed fifteen dollars;

(4) Examinations that must be passed prior to issuance of a weigher, sampler, or tester license and inspections that must be passed prior to issuance of any other type of license issued under section 917.09 of the Revised Code;

(5) Procedures for issuing and renewing licenses under section 917.09 of the Revised Code;

(6) Information that an applicant for a license issued under section 917.09 of the Revised Code is required to provide on the application for licensure;

(7) Standards for equipment or materials used for the production, processing, and handling of dairy products;

(8) Records to be kept by persons holding a license issued under this chapter and the inspection and auditing of books and records of those persons;

(9) Security arrangements and evidence of financial responsibility for milk dealers, to ensure prompt payment to milk producers;

(10) Standards of identity, quality, strength, purity, grading, and labeling of dairy products;

(11) The production, processing, and handling of dairy products and the prompt and accurate payment for milk and cream by milk dealers, but not

the establishment or control of the price of milk and cream;

(12) Criteria for the equipment, methods, or materials to be used in performing weighing, volumetric measuring, sampling, and testing of milk and its components when such an operation is used as the basis for determining payment for milk delivered to or purchased by dealers;

(13) The size and placement of labels and of words on labels required by section 917.04 of the Revised Code to be placed on final delivery containers used for the sale of raw milk to ultimate consumers.

The director shall have exclusive authority to administer and enforce rules adopted under division (A) of this section.

(B) Enter into, with the approval of the milk sanitation board, an agreement with a public or private entity that the director determines is properly qualified for the performance of any of the inspections and analyses required by this chapter;

(C) Adopt rules by reference to all or any part of the following recommendations:

(1) The grade A pasteurized milk ordinance, as amended, and the "grade A condensed and dry milk products and condensed and dry whey" supplement I to the grade A pasteurized milk ordinance of the food and drug administration, public health service, of the United States department of health and human services, to the extent those provisions do not conflict with the laws of this state;

(2) The most recent recommendations for milk for manufacturing purposes and its production and processing published in final form in the Federal Register by the United States department of agriculture, to the extent those recommendations do not conflict with the laws of this state.

(D) Administer and enforce this chapter and rules adopted under it and appoint inspectors and other personnel necessary to carry out the provisions of this chapter and those rules;

(E) Embargo a dairy product that the director reasonably suspects, believes, or determines is adulterated as described in section 3715.59 of the Revised Code or is misbranded as described in section 3715.60 of the Revised Code;

(F) Adopt by reference all or any part of the rules governing the dairy industry adopted by the United States food and drug administration and the United States department of agriculture;

(G) Annually, not later than ninety days after the end of the state fiscal year, determine the expense of administering and enforcing this chapter and rules adopted under it during the preceding state fiscal year and report the determinations to the milk sanitation board created in section 917.03 of the

Revised Code.

Sec. 917.03. There is hereby created a milk sanitation board consisting of the director of agriculture or the director's authorized representative, the director of health or the director's authorized representative, and the following members to be appointed by the director of agriculture:

(A) Two grade A milk producers;

(B) One manufacture milk producer;

(C) three milk processors, one of whom shall be a grade a milk processor and one of whom shall be a manufacture milk processor;

(D) One milk hauler.

The three members who are milk producers shall not be members or representatives of the same co-operative association.

The director of agriculture or the director's authorized representative shall serve as chairperson of the board.

Before making the appointments to the board required under this section, the director of agriculture shall consult the respective statewide trade organizations that represent grade a milk producers, manufacture milk producers, milk processors, and milk haulers.

of the initial appointments, one grade a milk producer, one milk processor, and the milk hauler shall serve for a term ending december 31, 1998, one grade a milk producer and the manufacture milk processor shall serve for a term ending december 31, 1999, and the manufacture milk producer and a grade a milk processor shall serve for a term ending december 31, 2000. thereafter, members shall serve three-year terms that expire on the thirty-first day of december.

Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. a member appointed to fill a vacancy OCCURRING prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. a member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or a period of sixty days has elapsed, whichever occurs first. a member shall continue in office for the entirety of the member's term unless removed for misfeasance, malfeasance, or nonfeasance.

the director shall provide the board with the personnel, office space, and incidentals necessary for it to perform its duties and exercise its powers. members shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties. appointed members shall receive compensation in an amount determined pursuant to division (j) of section 124.15 of the revised code.

Sec. 917.031. the milk sanitation board may do all of the following:

(a) advise and consult with the director of agriculture in the administration and enforcement of this chapter and rules adopted under it;

(b) make recommendations to the director regarding proposed rules;

(c) approve or disapprove agreements between the director and any public or private entity desiring to perform or performing any of the inspections or analyses required under this chapter and rules adopted under it.

the milk sanitation board, after reviewing the director's annual report required under division (g) of section 917.02 of the revised code, shall prescribe inspection fees for milk producers and milk processors, and may prescribe inspection fees for milk haulers, except that No inspection fees shall be prescribed for manufacture milk producers, processors, or haulers until on or after July 1, 1998. the board may modify any fees it has prescribed. the fees prescribed or modified by the board together with the license fees collected pursuant to this chapter shall not exceed sixty-three per cent of the estimated cost of administering and enforcing this chapter, as determined by the board's review of the director's annual report.

Sec. 917.032. the milk sanitation board shall create three standing subcommittees and may create other subcommittees consisting of board members or nonmembers to review and consider any issue relevant to this chapter and to report findings and make recommendations to the board. each of The three standing subcommittees shall consist of eight members. One standing subcommittee shall represent grade a milk production and processing, one shall represent manufacture milk production and manufacturing, and one shall represent frozen dessert manufacturing.

The director of agriculture shall appoint members of the three standing subcommittees after consulting with statewide trade organizations representing Grade a milk producers and processors, manufacture milk producers and manufacturers, and frozen dessert manufacturers, respectively. The director shall appoint at least one member of the milk sanitation board to serve on each standing subcommittee, and the director or the director's authorized representative shall appoint at least one member of the milk sanitation board to serve on each other subcommittee. The director shall appoint all other members of standing subcommittees, and the director or the director's authorized representative shall appoint all other members of the other subcommittees. the director shall determine the length of the term of office of each member of a standing subcommittee or other subcommittee and may remove a member for misfeasance, malfeasance, or nonfeasance.

a standing subcommittee or any other SUBCOMMITTEE may do all of

the following:

(a) advise and consult with the milk sanitation board in the administration and enforcement of this chapter and rules adopted under it;

(b) make recommendations to the milk sanitation board regarding proposed rules;

(c) approve or disapprove agreements between the director and any private or public entity desiring to perform or performing any of the inspections or analyses required under this chapter and rules adopted under it.

Sec. 917.04. no raw milk retailer shall sell, offer for sale, or expose for sale raw milk to the ULTIMATE consumer except a raw milk retailer who, prior to october 31, 1965, was engaged continuously in the business of selling or offering for sale raw milk directly to ultimate consumers, holds a valid raw milk retailer license issued under section 917.09 of the Revised Code, and is subject to the rules regulating the sale of raw milk adopted under this chapter.

No person shall fail to label, in accordance with rules adopted by the director of agriculture under section 917.02 of the Revised Code, all final delivery containers used for the sale of raw milk to ultimate consumers with the words "this product has not been pasteurized and may contain disease-producing organisms."

Sec. 917.05. No person shall do any of the following or cause any of the following to be done:

(a) represent an imitation to be a dairy product;

(b) use a measure, test, or equipment, for the purpose of determining the identity, quality, strength, purity, grade, quantity, or price of a dairy product, that does not comply with standards established by the director of agriculture by rule;

(c) conduct a test to determine the identity, quality, strength, purity, grade, quantity, or price of a dairy product in a manner that is not in accordance with rules adopted by the director;

(d) alter or destroy the results of a test conducted to determine the identity, quality, strength, purity, grade, quantity, or price of a dairy product;

(e) Manufacture, sell, or deliver, hold, or offer for sale a dairy product that is not labeled or represented in accordance with the "nutrition labeling and education act of 1990," 104 Stat. 2353, 21 U.S.C.A. 343, as amended, and regulations adopted under it, and with this chapter and chapter 3715. of the revised code and rules adopted under those chapters;

(F) Manufacture, sell, or deliver, hold, or offer for sale a dairy product that is adulterated as described in section 3715.59 of the revised code or is

misbranded as described in section 3715.60 of the revised code:

(G) use for human consumption goat's milk, sheep's milk, or another animal's milk, except to manufacture dairy products that are described in 21 c.f.r., as amended, or recognized as nonstandardized traditional products normally manufactured from the animal's milk.

Sec. 917.06. (A) As used in this section, "political subdivision" means a county, township, or municipal corporation and any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.

(B) All political subdivisions shall give full faith and credit to the inspections and acts performed and records created in the administration and enforcement of this chapter and the rules adopted under it. No political subdivision shall require a person licensed under section 917.09 of the Revised Code to obtain a license or permit to operate in a manner described in this chapter or rules adopted under it, to submit to an inspection or pay a fee related to this chapter or the rules adopted under it, or to satisfy any other condition except as provided by a statute or rule of this state or the United States.

Sec. 917.07. The dairy industry fund is hereby created in the state treasury. All inspection fees and license fees collected under this chapter shall be deposited into the fund.

The dairy fund is hereby created in the state treasury. All fine moneys received by the treasurer of state pursuant to division (E) of section 917.99 Of the Revised Code and any other moneys collected under this chapter, except for inspection fees and license fees, shall be deposited into the fund.

moneys credited to the dairy industry fund and the dairy fund shall be used to operate and pay expenses of the Division of Dairy in the Department of Agriculture.

Sec. 917.08. ~~The director of agriculture shall administer and enforce sections 917.01 to 917.23, inclusive, of the Revised Code, and after consulting the department of dairy technology of the college of agriculture of the Ohio state university, shall prescribe regulations setting up qualifications of applicants for licenses as weighers, samplers, testers, or bulk tank operators, and governing the form, nature, and subject matter of~~ conduct examinations to be conducted to test such qualifications, and shall provide for holding such examinations of applicants for a weigher, sampler, or tester license issued under section 917.09 Of the Revised Code at such times and in such places as in his the director's opinion will afford all the applicants an opportunity to attend take the examination at reasonable expense, and will provide a sufficient number of qualified persons to be

~~licensed to perform the services required by such sections. The director may designate any officers or employees of the department of agriculture, or may employ one or more persons recommended by the department of dairy technology, to conduct such the examinations and the services of such persons, when approved by the director, shall have the same effect as though such services were personally performed by the director.~~

Sec. 917.09. (A) The director of agriculture may issue the following types of licenses:

- (1) Producer;
- (2) Processor;
- (3) Milk dealer;
- (4) Raw milk retailer;
- (5) Weigher, sampler, or tester;
- (6) Milk hauler.

(B) The director may adopt rules establishing categories for each type of license that are based on the grade or type of dairy product with which the licensee is involved.

(C) Except as provided in section 917.091 of the Revised Code and division (I) of this section, no person shall act as or hold the person's self out as a producer; processor; milk dealer; raw milk retailer; weigher, sampler, or tester; or milk hauler unless the person holds a valid license issued by the director under this section.

(D) Each person desiring a license shall submit to the director a license application on a form prescribed by the director, accompanied by a license fee in an amount specified in rules adopted under section 917.02 of the Revised Code. the applicant shall specify on the application the type of license and category requested and shall include any other information required by rules adopted under section 917.02 of the revised code.

(E) Each applicant for a weigher, sampler, or tester license or registration, prior to issuance of the license or registration, shall pass an examination that is given in accordance with section 917.08 of the Revised Code and rules adopted under section 917.02 of the Revised Code.

Each applicant for any other type of license issued under this section, prior to issuance of the license, shall pass an inspection that is made in accordance with rules adopted under section 917.02 of the Revised Code.

(F) the director shall not issue a license to an applicant unless the director determines, through an inspection or otherwise, that the applicant is in compliance with the requirements set forth in this chapter and the rules adopted under it.

(G) Examinations that must be passed prior to issuance of a weigher,

sampler, or tester license, inspections that must be passed prior to issuance of any other type of license issued under this section, procedures for issuing and renewing licenses, and license terms and renewal periods shall comply with rules adopted under section 917.02 of the revised code.

(H) Suspension and revocation of licenses shall comply with section 917.22 of the Revised Code and rules adopted under section 917.02 of the Revised Code.

(I) a person whose religion prohibits the person from obtaining a license under this section, in place of a license, shall register with the director as a producer; processor; milk dealer; raw milk retailer; weigher, sampler, or tester; or milk hauler.

the person claiming the exemption from licensure shall register on a form prescribed by the director and shall meet any other registration requirements contained in rules adopted under section 917.02 of the revised code. upon receiving the person's registration form and determining that the person has satisfied all requirements for registration, the director shall notify the person that the person is registered to lawfully operate as a producer; processor; milk dealer; raw milk retailer; weigher, sampler, or tester; or milk hauler.

a registrant is subject to all provisions governing licensees, such as provisions concerning testing, sampling, and inspection of dairy products. a registrant is subject to provisions governing issuance of a temporary weigher, sampler, or tester license under section 917.091 of the Revised Code. A registration shall be renewed, suspended, and revoked under the same terms as a license.

Sec. 917.091. the director of agriculture may issue a temporary weigher, sampler, or tester license to an applicant upon determining that the applicant has met all qualifications for licensure under section 917.09 of the revised code except successful completion of an examination. a temporary weigher, sampler, or tester license is effective only until the date of the next examination. an applicant who has not taken an examination for licensure may receive no more than three temporary weigher, sampler, or tester licenses. an applicant who takes and fails an examination for licensure may receive no more than two temporary weigher, sampler, or tester licenses.

if an applicant for a temporary weigher, sampler, or tester license previously held a weigher, sampler, or tester license issued under section 917.09 of the revised code, the following shall apply, as appropriate:

(A) in the case of a license that expired not more than twelve months previously, the applicant shall submit an application and the appropriate fee but is not required to take and pass the examination.

(B) in the case of a license that expired more than twelve months previously, the applicant shall submit an application and the appropriate fee and shall take and pass the examination. the applicant may apply for and receive licenses, both temporary and permanent, to the same extent as a new applicant.

Sec. 917.10. (a) a person who manufactures frozen desserts for sale shall use in the manufacturing only mixtures in which the dairy products, eggs, and any other ingredient specified by the director of agriculture have been pasteurized in accordance with rules governing pasteurization adopted under section 917.02 of the revised code. except as provided in division (b) of this section, pasteurization shall occur at the milk plant where retail packaging occurs. repasteurization is not required at a retail establishment.

(b) the director may adopt rules authorizing pasteurization at a milk plant other than the plant where retail packaging occurs if the director determines that the frozen dessert is handled, transported, and stored in a manner that the director determines to be safe and suitable.

Sec. 917.11. all dairy products shall be identified during processing and all packaged products shall be labeled and branded as required by this chapter and chapter 3715. of the revised code and rules adopted under those chapters, and by the "nutrition labeling and education act of 1990," 104 Stat. 2353, 21 U.S.C.A. 343, as amended and regulations adopted under it.

Sec. 917.16. (A) Sections 917.01 to 917.23, inclusive, of the Revised Code this chapter shall not restrain, limit, prejudice, abrogate, or take from any co-operative association the powers, privileges, and rights it has under sections 1729.01 to 1729.27, inclusive, of the Revised Code.

(B) Specifically, but without limiting division (A) of this section, sections 917.01 to 917.23, inclusive, of the Revised Code, this chapter shall not derogate from or prejudice any rights of any co-operative association, provided such that the association and its employees comply with the licensing requirements.

Sec. 917.18. (A) As used in this section, "family member" means a spouse; person living as a spouse; parent; child; other person related to a milk producer or raw milk retailer by consanguinity or affinity; or parent, child, or other person related to a spouse or a person living as a spouse by consanguinity or affinity, who is residing with a milk producer or raw milk retailer.

(B) Upon becoming aware that a family member or employee who handles or is likely to handle grade A milk, manufacture milk, raw milk for sale to the ultimate consumer, or equipment used in the handling of any such milk, on the milk producer's or raw milk retailer's premises has contracted or

been diagnosed with a dangerous, contagious, or infectious disease, the milk producer or raw milk retailer immediately shall notify the director of agriculture and the health commissioner of the city health district or general health district in which its dairy products are sold or offered for sale, advising both officials of the facts of the case. The director may order that the sale of the dairy products be stopped pending an investigation and for any time thereafter that the director requires. If the director determines that an investigation is called for, the director or the director's authorized representative shall investigate without delay, and the director may place an embargo or make and enforce orders, without a hearing, to prevent the sale of dairy products that constitute adulterated food as described in section 3715.59 of the Revised Code.

Sec. 917.19. the following items shall be subject to inspection by a person designated by the director of agriculture:

(a) milk plant facilities and equipment;

(b) vehicles and containers used by milk haulers;

(c) dairy farms, including dairy animals, stables, milk parlors, milk houses, and milk vessels of milk producers.

the inspector, while in the normal, lawful, and peaceful pursuit of inspection duties, may enter upon, cross over, and remain upon privately owned lands for those purposes and shall not be subject to arrest for trespass.

Sec. 917.20. a test report or document prepared by an analyst who is employed or designated by the Director of agriculture and who tested a sample shall be admissible as evidence in a prosecution for a violation of a statute or rule, provided that the report or document contains a sworn statement, signed by the analyst, that the report or document accurately contains or represents the findings or conclusions of the analyst.

Sec. 917.21. in addition to other remedies provided by law and irrespective of whether an adequate remedy at law exists, the director of agriculture may apply to the court of common pleas of a county in which a violation of this chapter or rules adopted under it occurs for a temporary or permanent injunction or other appropriate relief concerning the violation.

Sec. 917.22. (A)(1) the director of agriculture may deny, suspend, or revoke a license issued under this chapter for a violation of this chapter or the rules adopted under it, except as provided in division (a)(2) of this section, the denial, suspension, or revocation of a license is not effective until the licensee is given written notice of the violation, a reasonable amount of time to correct the violation, and an opportunity for a hearing.

food as described in section 3715.59 of the revised code or exceeds bacterial or chemical standards established by rules adopted under this chapter, or that an emergency exists that presents a clear and present danger to the public health, the director may deny, suspend, or revoke a license, effective immediately without a hearing, provided that an OPPORTUNITY for a hearing shall be afforded thereafter without delay.

(B) All proceedings under this chapter shall comply with Chapter 119. of the Revised Code, except that:

(1) The location of any adjudicatory hearing that the licensee requests shall be the county seat of the county in which is located the licensee's facility that is involved in the alleged violation.

(2) The Director shall notify a licensee by certified mail or personal delivery that the licensee is conditionally entitled to a hearing. The Director shall specify in the notice that, in order to obtain a hearing, the licensee must request the hearing not later than ten days after the date of receipt of the notice.

(3) If the licensee requests a hearing, the date set for the hearing shall be no later than ten days after the date on which the Director receives the request, unless the Director and the licensee agree otherwise.

(4) The Director shall not postpone or continue an adjudication hearing without the consent of the licensee. If the licensee requests a postponement or continuation of an adjudication hearing, the Director shall not grant it unless the licensee demonstrates that an extreme hardship will be incurred in holding the adjudication hearing on that hearing date. If the Director grants a postponement or continuation on the grounds of extreme hardship to the licensee, the record shall document the nature and cause of the extreme hardship.

(5) In lieu of having a hearing and upon the licensee's written request to the Director, the licensee may submit to the director, not later than the date of the hearing set pursuant to division (B)(3) of this section, documents, papers, and other written evidence to support the licensee's claim.

(6) If the Director appoints a referee or examiner to conduct the hearing, the following apply:

(a) A copy of the written adjudication report and recommendations of the referee or examiner shall be served by certified mail upon the Director and the licensee or the licensee's attorney or other representative of record not later than three business days following the conclusion of the hearing.

(b) Not later than three business days after receipt of the report and recommendations, the licensee may file with the Director written objections to the report and recommendations.

(c) The Director shall consider the objections submitted by the licensee before approving, modifying, or disapproving the report and recommendations. The Director shall serve the Director's order upon the licensee or the licensee's attorney or other representative of record by certified mail not later than six business days after receiving the report.

(7) If the Director conducts the hearing, the Director shall serve the Director's decision by certified mail upon the licensee or the licensee's attorney or other representative of record not later than three business days following the close of the hearing.

(8) If no hearing is held, the Director shall issue an order by certified mail to the licensee or the licensee's attorney or other representative of record not later than three business days following the last date possible for a hearing, based on the record that is available.

Sec. 917.23. (A) With respect to cooling and storage of manufacture milk, a manufacture milk producer shall do one of the following:

(1) In the case of manufacture milk that is stored in cans on the manufacture milk producer's farm, cool the milk to and store it at a temperature of sixty degrees Fahrenheit, sixteen degrees Celsius, or lower within two hours after completion of the milking;

(2) In the case of all other manufacture milk that is stored on the manufacture milk producer's farm, cool the milk and store it in accordance with rules adopted by the director of agriculture pursuant to section 917.02 of the Revised Code.

(B) Manufacture milk stored in accordance with division (A)(1) of this section shall be used exclusively in the manufacture of cheese. The by-products created from the manufacture of cheese may be used to manufacture butter and dried whey products.

(C) This section does not apply to raw milk that is delivered to a manufacture milk plant not later than two hours after completion of milking.

Sec. 917.99. (A) Whoever violates ~~division (C) of section 917.17~~ 917.09 of the Revised Code ~~shall be fined not less than one hundred nor more than one thousand dollars~~ is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(B) Whoever violates ~~section 917.18 or 917.20~~ 917.13 or 917.14 of the Revised Code is guilty of a misdemeanor of the ~~fourth~~ first degree on a first offense, a felony of the fifth degree on a second offense, and a felony of the fourth degree on each subsequent offense.

(C) Whoever violates ~~division (A), (B), (C), (D), or (G) of section 917.19~~ 917.05 of the Revised Code is guilty of a ~~minor~~ misdemeanor of the

fourth degree.

(D) Whoever violates division (E) or (F) of section 917.05 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(E) Each day of violation of a provision described in divisions (A) to (D) of this section constitutes a separate offense.

(F) The court imposing a fine under divisions (A) to (D) of this section shall order that not less than fifty per cent of the fine be disbursed to the treasurer of state for deposit into the Dairy Fund created in section 917.07 of the Revised Code. Subject to that minimum percentage, the court's order shall specify the percentage of the fine that the clerk of the court shall disburse to the treasurer of state. The clerk of the court shall disburse the remainder of the fine to the county treasurer.

Sec. 3707.33. The board of health of a city or general health district may appoint, define the duties of, and fix the compensation of the number of inspectors of shops, wagons, appliances, and meat, and the number of other persons necessary to carry out ~~Chapter 3707. of the Revised Code~~ this chapter and, if applicable, to carry out any duties assumed by the board under an agreement entered into under division (B) of section 3717.63 917.02 of the Revised Code. Inspectors for those purposes may enter any house, vehicle, or yard. The board may authorize the health commissioner to perform the duties of the inspectors.

Sec. 3715.02. (A) The director of agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code that establish standards of quality, when otherwise not established by a law of this state, definitions for a food or class of food and standards for the following items as they pertain to the food or class of food:

(1) Quality, identity, purity, grade, and strength for foods, when those standards are not otherwise established by any law of this state. The;

(2) Packaging and labeling;

(3) Food processing equipment;

(4) Processing procedures;

(5) Fill of containers.

The standards and definitions, where applicable, shall conform to the standards for foods adopted by the United States department of agriculture and the United States food and drug administration. The director shall adopt uniform rules that he considers necessary for the enforcement of the food, drug, dairy, and sanitary laws of this state. The rules, where applicable, shall conform to and be the same as the regulations adopted for the enforcement of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21

U.S.C.A. 301 et seq., as amended.

(B) The Director shall adopt rules in accordance with Chapter 119. of the Revised Code that establish, when otherwise not established by a law of this state, standards for food establishment facilities and sanitation of food establishments.

As used in this division, "food establishment" means a premises or part of a premises, other than a food service operation as defined in section 3732.01 of the Revised Code, where food is prepared, processed, stored, manufactured, transported, or otherwise held or handled for sale or distribution.

(C) In adopting rules that establish definitions and standards of identity for a food or class of food in which only a limited number of optional ingredients are permitted, the Director shall designate the optional ingredients that must be listed on the label.

(D) The director or ~~his~~ the director's designee shall do all of the following:

~~(A)(1) Inspect drugs, butter, cheese, lard, syrup, milk, and other articles of food, or drink made~~ manufactured, stored, or offered for sale in the state;

~~(B)(2) Prosecute or cause to be prosecuted each person, firm, or corporation~~ engaged in the unlawful manufacture or sale of an adulterated drug or article of food or drink, in violation of law;

~~(C)(3) Enforce all laws against fraud, adulteration, or impurities in foods, drinks, or drugs,~~ foods, or drinks and unlawful labeling within the state.

(E) The Director may appoint or contract for one or more qualified persons to enforce the provisions of this chapter.

Sec. 3715.21. (A)(1) Except as provided in division (E) of this section or division (B) of section 3732.07 of the Revised Code, no person regularly shall engage in the business of operating one or more retail frozen dessert freezers for the purpose of freezing, refreezing, or holding frozen any frozen dessert to be sold at retail without first obtaining a license for the operation of all freezers from the Director of Agriculture. Application for the license shall be made to the Director in the manner that the director prescribes.

(2) An application for the upcoming license year filed with the director on or before the thirty-first day of May shall be accompanied by a fee of twenty-five dollars for each freezer. A late application filed with the director after the thirty-first day of May, but on or before the thirtieth day of June, shall be accompanied by a fee of fifty dollars for each freezer. A late application filed with the director after the thirtieth day of June, but on or before the thirty-first day of August, shall be accompanied by a fee of

seventy-five dollars for each freezer. A late application filed with the director after the thirty-first day of August shall be accompanied by a fee of one hundred dollars for each freezer.

(B) Following receipt of the application and the applicable fee, but prior to issuing the initial license, the Director shall inspect the applicant's equipment and facilities to determine their sanitary condition. If the director finds that the sanitary condition of the equipment and facilities complies with the director's rules establishing sanitary standards applicable to retail frozen dessert freezers, the director shall issue a license.

(C) The license shall expire on the thirty-first day of May of each year, unless renewed in accordance with the standard renewal procedures set forth in Chapter 4745. of the Revised Code. The director shall not renew a license unless the applicant for the renewal has submitted a properly completed application and has paid the required renewal fee.

(d) All fees collected under this division shall be deposited to the credit of the Food Safety Fund created in section 915.24 of the Revised Code.

(E) A holder of a valid processor license or registration issued under section 917.09 of the Revised Code who sells frozen desserts at retail on the premises of the milk plant where the frozen desserts are manufactured is not required to obtain a license under division (A) of this section for any of the frozen dessert freezers located on the premises of that milk plant.

(F) This section does not apply to a person who sells frozen desserts at retail in a package labeled for sale to the consumer, provided that the frozen dessert was packaged by a person holding a valid processor license or registration issued under section 917.09 of the Revised Code.

Sec. 3715.211. The director of agriculture, in accordance with Chapter 119. of the Revised Code, may suspend, revoke, or deny a retail frozen dessert freezer license issued under section 3715.21 of the Revised Code or for which an application was submitted under that section after finding that the licensee or applicant has failed to comply with that section or any rules adopted by the director establishing sanitary standards applicable to retail frozen dessert freezers.

Sec. 3715.24. (A) As used in this section and section 3715.25 of the Revised Code:

(1) "Grade" means standards for grades of maple syrup adopted by the United States department of agriculture and accepted by the director of agriculture or grades as defined in rules adopted by the director.

(2) "Maple products" means maple syrup, maple sugar, maple cream, or any other product in which the sugar content is entirely derived from pure maple sap and to which no other sweetener has been added.

(3) "Maple sap" means the unprocessed liquid derived from the maple tree of the acer species.

(4) "Maple sugar" or "maple concrete" means the solid, crystalline products derived from pure maple sap.

(5) "Maple syrup" means the unadulterated liquid food derived by concentration and heat treatment of pure maple sap or by reconstituting maple sugar or maple concrete with water to a density of not less than sixty-six degrees on the brix scale at sixty-eight degrees fahrenheit and any permitted optional ingredients.

(6) "Package" means a container, equal to or less than five gallons in volume, intended to be sold to individuals or commercial businesses for use without further processing or repackaging of the contents.

(B) The Director of Agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code that establish voluntary grades, authorized optional ingredients, standards for fill of containers, and standards of weight for the sale of maple products in this state and that specify the analytical tests to be used for determining compliance with those voluntary grade requirements.

(C) The director shall develop and maintain laboratory facilities, equipment, and procedures sufficient to determine whether maple syrup complies with the requirements relative to standards and grades in this chapter and the rules adopted under it.

Sec. 3715.25. (A) No person shall manufacture ~~for sale~~, offer for sale, have in his possession possess with intent to sell, ~~or sell~~, or deliver, ~~as and for maple syrup or a maple sugar, an adulteration thereof~~ product that is adulterated as described in section 3715.59 of the Revised Code or is misbranded as described in section 3715.60 of the Revised Code.

(B) No person shall offer for sale, possess with intent to sell, sell, or deliver an adulteration of a maple product in a package having the word "maple" or a compound thereof, as the name or part of the name of the contents of the package, or in a package bearing a device or illustration suggestive of a maple product or the manufacture of a maple product.

(C) No person shall sell, deliver, offer for sale, or possess with intent to sell a packaged maple product without a label that complies with rules adopted under section 3715.02 of the Revised Code.

(D) No person shall represent an imitation maple product, as defined in rules adopted under section 3715.02 of the Revised Code, as a maple product.

Sec. 3715.27. (A) As used in this section, "cider" means the unfermented juice, obtained by mechanically expressing the juice from

sound, mature, non-citrus fruit, from which is removed excess pulp and seeds, other than embryonic seeds and small fragments of seeds that cannot be separated by good manufacturing practice. The cider may contain natural or artificial citric acid, preservatives authorized by rules adopted under section 3715.02 of the Revised Code, or a combination thereof.

(B) For the manufacture of apple cider, a mechanical washing and scrubbing device shall be used to remove orchard soil and dirt from the fruit prior to crushing. This device shall be equipped with automatic scrubbing brushes and a means to chlorinate the water used as the washing liquid.

(C) A complete label that complies with rules adopted under section 3715.02 of the Revised Code shall be placed on each package of cider designed for sale to the ultimate consumer.

(D) No person shall fail to comply with division (B) or (C) of this section.

Sec. 3715.59. Food is adulterated within the meaning of sections 3715.01, 3715.02, and 3715.52 to 3715.72, ~~inclusive~~, of the Revised Code, if:

(A) It bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such food shall not be considered adulterated if the quantity of such substance in such food does not ordinarily render it injurious to health.

(B) It bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of section 3715.62 of the Revised Code.

(C) It consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food.

(D) It has been produced, processed, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health.

(E) It is the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse.

(F) Its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(G) Any valuable constituent has been, in whole or in part, omitted or abstracted therefrom.

(H) Any substance has been substituted wholly or in part therefor.

(I) Damage or inferiority has been concealed in any manner.

(J) Any substance has been added thereto or mixed or packed therewith

so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is.

(K) It is confectionery, and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one per cent, harmless natural wax not in excess of four-tenths of one per cent, harmless natural gum, and pectin; provided, that this division shall not apply to any confectionery by reason of its containing less than one-half of one per cent by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

(L) It bears or contains a coal-tar color other than one from a batch which has been certified under authority of the "Federal Food, Drug and Cosmetic Act."

Sec. 3715.60. Food is misbranded within the meaning of sections 3715.01, 3715.02, and 3715.52 to 3715.72, ~~inclusive~~, of the Revised Code, if:

(A) Its labeling is false or misleading in any particular.

(B) It is offered for sale under the name of another food.

(C) Its container is so made, formed, or filled as to be misleading.

(D) It is an imitation of another food, unless its label bears in type of uniform size and prominence, the word "imitation," and immediately thereafter the name of the food imitated.

(E) When it is in package form, it does not bear a label containing:

(1) The name and place of business of the manufacturer, packer, or distributor;

(2) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that reasonable variations shall be permitted, and exemptions as to small packages shall be established by ~~regulations prescribed~~ rules adopted by the director of agriculture.

(F) Any word, statement, or other information required by or under authority of sections 3715.01, 3715.02, and 3715.52 to 3715.72, ~~inclusive~~, of the Revised Code, to appear on the label or labeling is not prominently placed thereon with such conspicuousness as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(G) It purports to be, or is represented as, a food for which a definition and standard of identity have been prescribed by ~~law~~ statute, or by any ~~regulation promulgated~~ rule adopted under an existing ~~law~~ statute, or by

~~regulations rule~~ as provided by section ~~3715.58~~ 3715.02 of the Revised Code, unless:

(1) It conforms to such definition and standard;

(2) Its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such ~~law statute~~ or ~~regulations rules~~, the common names of optional ingredients, other than spices, flavoring, and coloring, present in such food.

(H) It purports to be or is represented as:

(1) A food for which a standard of quality has been prescribed by ~~regulations rule~~ as provided by section ~~3715.58~~ 3715.02 of the Revised Code and its quality falls below ~~such the~~ standard unless its label bears, in ~~such the~~ manner and form ~~as such regulations that the rules~~ specify, a statement that it falls below ~~such the~~ standard;

(2) A food for which a standard or standards of fill of container have been prescribed by ~~regulations rule~~ as provided by section ~~3715.58~~ 3715.02 of the Revised Code, and it falls below the standard of fill of container applicable thereto, unless its label bears, in ~~such the~~ manner and form ~~as such regulations that the rules~~ specify, a statement that it falls below ~~such the~~ standard.

(I) It is not subject to the provisions of division (G) of this section, unless it bears labeling clearly giving:

(1) The common or usual name of the food, if any;

(2) In case it is fabricated from two or more ingredients, the common or usual name of each ~~such~~ ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided, that, to the extent that compliance with the requirements of division (I)(2) of this section is impractical or results in deception or unfair competition, exemptions shall be established by ~~regulations promulgated rules adopted~~ by the director; and provided that these requirements shall not apply to any carbonated beverage of which a full and correct statement of the ingredients, to the extent prescribed by division (I)(2) of this section, has been filed under oath with the director.

(J) It purports to be or is represented to be for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as is provided by ~~regulations rules~~ proposed by the director and adopted by the public health council, as necessary, in order to fully inform purchasers as to its value for such uses.

(K) It bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided,

that to the extent that compliance with the requirements of this division is impracticable, exemptions shall be established by ~~regulations~~ rules proposed by the director and adopted by the public health council.

Sec. 3715.69. The authority to adopt ~~regulations~~ rules for the enforcement of section ~~3715.58~~ 3715.02, divisions (E), (G), (H), and (I) of section 3715.60, division (A) (2) of section 3715.64, and section 3715.67 of the Revised Code is vested in the director of agriculture. The authority to adopt ~~regulations~~ rules for the enforcement of sections 3715.01 and 3715.52 to 3715.72, ~~inclusive~~, of the Revised Code, excluding ~~section 3715.58~~, divisions (E), (G), (H), and (I) of section 3715.60, division (A) (2) of section 3715.64, and section 3715.67 of the Revised Code, is vested in the public health council, provided that ~~such regulations~~ the rules are first proposed for adoption by the director or the board of pharmacy. The ~~regulations~~ rules adopted in so far as practicable shall conform with those promulgated under the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301-395(1996)."

Sec. 3715.99. (A) Whoever violates sections 3715.13 to 3715.19, or 3715.38 of the Revised Code is guilty of a minor misdemeanor.

(B) Whoever violates section 3715.21 Of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(C) Whoever violates section 3715.22, 3715.25, ~~3715.26~~, 3715.27, or 3715.34 of the Revised Code is guilty of a misdemeanor of the fourth degree.

~~(C)~~(D) Whoever violates section 3715.23 or 3715.36 of the Revised Code is guilty of a misdemeanor of the second degree.

~~(D)~~(E) Whoever violates section 3715.52 or 3715.65 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the second degree.

~~(E)~~(F) Whoever violates section 3715.521 of the Revised Code is guilty of a minor misdemeanor. A violation of that section occurs on a daily basis, not according to the number of times per day that an expired drug, baby food, or infant formula is sold, offered for sale, or delivered at retail or to the consumer. Each day of violation is a separate offense.

Sec. 3732.01. As used in this chapter:

(A) "Food service operation" means a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation, including mobile food service operations, catering food service operations, temporary food service

operations, seasonal food service operations, vending machine locations, and food delivery sales operations. As used in this division, "served" means a response made to an order for one or more individual portions of food in a form that is edible without washing, cooking, or additional preparation and "prepared" means any action that affects a food other than receiving or maintaining it at the temperature at which it was received.

"Food service operation" does not include any of the following:

(1) A private home in which individuals related by blood, marriage, or law reside and in which the food that is prepared or served is intended only for those individuals and their nonpaying guests;

(2) A residential facility that accommodates not more than sixteen residents; is licensed, certified, registered, or otherwise regulated by the federal government or by the state or a political subdivision of the state; and prepares food for or serves food to only the residents of the facility, the staff of the facility, and any nonpaying guests of residents or staff;

(3) Churches, schools, fraternal or veterans' organizations, volunteer fire organizations, or volunteer emergency medical service organizations preparing or serving food intended for individual portion service on their premises for not more than seven consecutive days or not more than fifty-two separate days during a licensing period;

(4) Common carriers regulated by the federal government;

(5) Food manufacturing or food processing operations regulated by the federal government or a state agency, as defined in section 1.60 of the Revised Code, other than the department of health;

(6) Operations other than mobile food service operations serving only frozen desserts; beverages, nuts, popcorn, candy, or similar confections; bakery products identified in section 911.01 of the Revised Code; or any combination of these items;

(7) Operations serving five or fewer individuals daily;

(8) Type A and type B family day-care homes, as defined in section 5104.01 of the Revised Code;

(9) Vending machine locations where the only vending machines are machines that dispense foods exclusively from one or both of the following categories:

(a) Prepackaged foods that are not potentially hazardous as defined in rules adopted by the public health council under section 3732.02 of the Revised Code;

(b) Nuts, panned or wrapped bulk chewing gum, or panned or wrapped bulk candies.

(10) Places servicing vending machines at vending machine locations

described in division (A)(9) of this section;

(11) Commissaries servicing vending machines dispensing only milk, milk products, or frozen desserts that are under a state or federal inspection and analysis program;

(12) Controlled location vending machine locations. As used in this division, "controlled location vending machine location" means a vending machine location at which all of the following apply:

(a) The vending machines dispense only foods that are not potentially hazardous as defined in rules adopted by the public health council under section 3732.02 of the Revised Code;

(b) The machines are designed to be filled and maintained in a sanitary manner by untrained persons;

(c) Minimal protection is necessary to ensure against contamination of food and equipment.

(B) "Catering food service operation" means a food service operation where food is prepared for serving at a function or event held at an off-premises site, for a charge determined on a per-function or per-event basis.

(C) "Food" means any raw, cooked, or processed edible substance, ice, water, beverage, or ingredient used or intended for use in whole or in part for human consumption.

(D) "Food delivery sales operation" means a food service operation from which individual portions of food are ordered by a customer, prepared at another food service operation, and delivered to the customer by a person other than an employee of the food service operation that prepared the food.

(E) "Frozen desserts" has the same meaning as in section ~~3717.51~~ 917.01 of the Revised Code.

(F) "Government entity" means the state, a political subdivision of the state, another state, or a political subdivision or other local body of another state.

(G) "Licensee" means the person or government entity holding a license to operate a food service operation.

(H) "Licensing period" means the period beginning the first day of March and ending the last day of February of the next succeeding year.

(I) "Licensor" means either of the following:

(1) The board of health of a city or general health district, or the authority having the duties of a board of health under section 3709.05 of the Revised Code, approved by the director of health under section 3732.09 of the Revised Code;

(2) The director of health acting pursuant to section 3732.09 of the

Revised Code.

(J) "Mobile food service operation" means a food service operation that is operated from a movable vehicle, portable structure, or watercraft; routinely changes location; and does not remain at any one location for more than forty consecutive days.

(K) "Seasonal food service operation" means a food service operation, other than a mobile food service operation, that is operated for not more than eight months in each licensing period.

(L) "Temporary food service operation" means a food service operation that is operated at a single event for not more than five consecutive days, except when operated for more than five days pursuant to division (E)(2) of section 3732.03 of the Revised Code.

(M) "Vending machine" means a self-service device that, upon insertion of currency, tokens, or similar means, automatically dispenses a predetermined unit serving of food either in bulk or in package and does not require replenishing after each use.

(N) "Vending machine location" means an area or room where one or more vending machines are installed and operated, except that if the machines within an area are separated by more than one hundred fifty feet, each area separated by that distance constitutes a separate vending machine location.

Sec. 3732.07. (A) A licensee whose principal business is a food service operation that includes the preparation and complete baking of pizza is not required to register the operation as a bakery under section 911.02 of the Revised Code.

(B) A licensee whose principal business is a food service operation that includes the sale of frozen desserts is not required to obtain a license under section ~~3717.52~~ 3715.21 of the Revised Code for the ~~sale and manufacture operation of ice cream freezers for the purpose of freezing, refreezing, or holding frozen any~~ frozen desserts to be sold at retail.

Sec. 4736.01. As used in sections 4736.01 to 4736.16 of the Revised Code:

(A) "Environmental health science" means the aspect of public health science that includes, but is not limited to, the following bodies of knowledge: air quality, food quality and protection, hazardous and toxic substances, consumer product safety, housing, institutional health and safety, community noise control, radiation protection, recreational facilities, solid and liquid waste management, vector control, drinking water quality, milk sanitation, and rabies control.

(B) "Sanitarian" means a person who performs for compensation

onal, investigational, technical, or administrative duties requiring specialized knowledge and skills in the field of environmental health science.

(C) "Registered sanitarian" means a person who is registered as a sanitarian in accordance with Chapter 4736. of the Revised Code.

(D) "Sanitarian-in-training" means a person who is registered as a sanitarian-in-training in accordance with Chapter 4736. of the Revised Code.

(E) "Practice of environmental health" means consultation, instruction, investigation, inspection, or evaluation by an employee of a city health district, a general health district, the Ohio environmental protection agency, the department of health, or the department of agriculture requiring specialized knowledge, training, and experience in the field of environmental health science, with the primary purpose of improving or conducting administration or enforcement under any of the following:

(1) Chapter 911., 913., 917., ~~3717.~~, 3721., 3732., or 3733. of the Revised Code;

(2) Chapter 3734. of the Revised Code as it pertains to solid waste;

(3) Section 955.26, 3701.344, 3707.01, or 3707.03, ~~or sections 3707.33 to 3707.99~~, or section 3715.21 of the Revised Code;

(4) Rules adopted under section 3701.34 of the Revised Code pertaining to home sewage, rabies control, or swimming pools.

"Practice of environmental health" does not include sampling, testing, controlling of vectors, reporting of observations, or other duties that do not require application of specialized knowledge and skills in environmental health science performed under the supervision of a registered sanitarian.

The state board of sanitarian registration may further define environmental health science in relation to specific functions in the practice of environmental health through rules adopted by the board under Chapter 119. of the Revised Code.

Sec. 4745.01. (A) "Standard renewal procedure," as used in Chapters 905., 907., 909., 911., 913., 915., ~~917.~~, 918., 921., 923., 927., 942., 943., 953., 1321., 3710., 3713., ~~3717~~ 3715., 3719., 3731., 3742., 3748., 3769., 3783., 3905., 3921., 3951., 4104., 4105., 4143., 4169., 4561., 4701., 4703., 4707., 4709., 4713., 4715., 4717., 4723., 4725., 4727., 4728., 4729., 4731., 4733., 4734., 4735., 4739., 4741., 4747., 4749., 4753., 4755., 4757., 4759., 4761., 4766., and 4773. of the Revised Code, means the license renewal procedures specified in this chapter.

(B) "Licensing agency," as used in this chapter, means any department, division, board, section of a board, or other state governmental unit subject

o the standard renewal procedure, as defined in this section, and authorized by the Revised Code to issue a license to engage in a specific profession, occupation, or occupational activity, or to have charge of and operate certain specified equipment, machinery, or premises.

(C) "License," as used in this chapter, means a license, certificate, permit, card, or other authority issued or conferred by a licensing agency by authority of which the licensee has or claims the privilege to engage in the profession, occupation, or occupational activity, or to have control of and operate certain specific equipment, machinery, or premises, over which the licensing agency has jurisdiction.

(D) "Licensee," as used in this chapter, means either the person to whom the license is issued or renewed by a licensing agency, or the person, partnership, or corporation at whose request the license is issued or renewed.

(E) "Renewal" and "renewed," as used in this chapter and in the chapters of the Revised Code specified in division (A) of this section, includes the continuing licensing procedure provided in Chapter 3748. of the Revised Code and rules adopted under it and in sections 1321.05, 3905.01, 3905.02, 3905.07, 3905.18, and 3921.33 of the Revised Code, and as applied to those continuing licenses any reference in this chapter to the date of expiration of any license shall be construed to mean the due date of the annual or other fee for the continuing license.

SECTION 2. That existing sections 121.04, 901.08, 901.43, 911.02, 913.02, 913.23, 915.14, 915.24, 917.01, 917.08, 917.16, 917.99, 3707.33, 3715.02, 3715.25, 3715.59, 3715.60, 3715.69, 3715.99, 3732.01, 3732.07, 4736.01, and 4745.01 and sections 917.02, 917.03, 917.04, 917.05, 917.06, 917.07, 917.09, 917.10, 917.11, 917.18, 917.19, 917.20, 917.21, 917.22, 917.23, 3707.34, 3715.24, 3715.26, 3715.27, 3715.58, 3717.01, 3717.02, 3717.021, 3717.03, 3717.06, 3717.07, 3717.08, 3717.09, 3717.10, 3717.11, 3717.12, 3717.13, 3717.16, 3717.17, 3717.18, 3717.20, 3717.21, 3717.24, 3717.25, 3717.26, 3717.27, 3717.28, 3717.29, 3717.30, 3717.31, 3717.32, 3717.33, 3717.34, 3717.35, 3717.37, 3717.40, 3717.41, 3717.42, 3717.43, 3717.45, 3717.47, 3717.48, 3717.49, 3717.50, 3717.51, 3717.52, 3717.53, 3717.54, 3717.55, 3717.61, 3717.611, 3717.62, 3717.63, 3717.64, 3717.65, 3717.66, 3717.67, 3717.68, 3717.69, and 3717.99 of the Revised Code are hereby repealed.

SECTION 3. On the effective date of this act, all terms of office of members of the Milk Sanitation Board created under former section 3717.69

of the Revised Code shall expire. Not later than thirty days after the effective date of this act, the Director of Agriculture shall appoint new members to the Milk Sanitation Board created under section 917.03 of the Revised Code as provided by that section.

The Milk Sanitation Board created under section 917.03 of the Revised Code is essentially a continuation of the Milk Sanitation Board created under former section 3717.69 of the Revised Code. If a person who is a member of the Milk Sanitation Board created under former section 3717.69 of the Revised Code meets the qualifications for membership on the Milk Sanitation Board created under section 917.03 of the Revised Code, the Director may reappoint the person as a member of the Milk Sanitation Board created under section 917.03 of the Revised Code.

SECTION 4. Chapters 901:3-9, 901:3-10, 901:3-11, 901:3-13, 901:3-15, 901:3-17, 901:3-19, 901:3-21, 901:3-23, 901:3-25, and 901:3-55 of the Ohio Administrative Code, to the extent that the provisions of those chapters are not in conflict with Chapter 917. of the Revised Code, as amended by this act, shall remain in effect as rules adopted under section 917.02 of the Revised Code, as enacted by this act, until such time as those rules are duly amended or rescinded under that section.

SECTION 5. Chapter 901:3-45 of the Ohio Administrative Code, to the extent that the provisions of that chapter are not in conflict with section 3715.25 of the Revised Code, as amended by this act, shall remain in effect as rules adopted under section 3715.02 of the Revised Code, as amended by this act, until such time as those rules are duly amended or rescinded under that section.

SECTION 6. Section 3715.02 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 152 and Am. Sub. S.B. 134 of the 120th General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the  
\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_