

AN ACT

To amend section 4167.19 of the Revised Code to eliminate the biennial safety inspection required for a public employer that is exempt from the Public Employment Risk Reduction Program and substitute an optional inspection and to maintain the provisions of this act on and after July 1, 2000, by amending the version of section 4167.19 of the Revised Code that takes effect on that date.

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

SECTION 1. That section 4167.19 of the Revised Code be amended to read as follows:

Sec. 4167.19. (A) A public employer, other than a state agency, may apply to the administrator of the bureau of employment services for an order exempting the public employer from compliance with this chapter, except as provided in division (K) of this section, if the public employer satisfies both of the following criteria:

(1) The public employer is a member of a group that qualifies for a group rating plan pursuant to division (A)(4) of section 4123.29 of the Revised Code or the public employer's premium rate is at least fifty per cent less than the base rate for its workers' compensation premiums;

(2) The public employer establishes and maintains a safety committee with both public employees and representatives of the public employer as members if the public employer does not qualify for a group rating plan. A public employer that employs five or fewer public employees need not have a safety committee.

(B) The application shall be on a form prescribed by the administrator and shall be transmitted to the administrator by certified mail, return receipt requested. The application shall contain a certification of all of the following:

(1) The public employer has adopted an ordinance or resolution requesting an exemption from this chapter;

(2) At least ten working days prior to passage of an ordinance or resolution described in division (B)(1) of this section, the public employer has informed its public employees of the application by giving a copy of the application to the public employee representative, if any;

(3) The public employer has informed its public employees by posting a statement for thirty consecutive days giving a summary of the application and specifying where a copy of the application may be examined at the place or places where notices to public employees are normally posted, and by any other appropriate means of public employee notification;

(4) The public employer has informed its public employees of their rights to a hearing under section 4167.15 of the Revised Code.

The certification also shall contain a description of how public employees have been informed of the application and of their rights to a hearing.

(C) Except as provided in this section, the administrator shall issue an order providing for an exemption if the public employer meets the requirements of division (A) of this section and files an application that meets the requirements of division (B) of this section.

(D) The administrator shall not grant an exemption under division (C) of this section until after the superintendent of the division of safety and hygiene in the bureau of workers' compensation conducts an employment risk reduction inspection of the public employer's place of employment to determine the presence of any hazardous or unsafe conditions. The administrator shall not cite the public employer for a violation of this chapter during this inspection.

(E) The superintendent shall provide a copy of the report of the inspection conducted pursuant to division (D) of this section and any findings to the public employer. Within six months after receipt of the report, the public employer shall submit the report to the administrator, if the public employer wishes to proceed with the exemption request. If the report does not contain a description of any hazardous or unsafe conditions, the administrator shall grant the public employer an exemption from this chapter, except as provided in division (K) of this section. If the report contains a description of any hazardous or unsafe conditions, the public employer shall submit to the administrator a plan that describes how it intends to remedy, within a one-year period of time, the hazardous or unsafe conditions.

Within thirty days after receipt of the plan from the public employer, the administrator may approve or disapprove the plan as submitted. If the administrator approves the plan as submitted, the administrator shall grant

the public employer an exemption from this chapter, except as provided in division (K) of this section.

If the administrator disapproves the plan, the administrator shall return it and the reasons for its rejection to the public employer. The public employer may submit a revised plan, which corrects the deficiencies for which the original plan was rejected, within thirty days after receipt of the disapproved plan from the administrator. The administrator has thirty days after receipt of the revised plan to review it, and if it remedies the administrator's objections, to approve it and grant the exemption. The public employer shall be exempted from this chapter, except as provided in division (K) of this section, if the administrator fails to act within the thirty-day period.

(F) Within ten working days after completing implementation of the plan, the public employer shall certify to the administrator, by certified mail, return receipt requested, that the hazardous or unsafe conditions have been abated.

If a public employer fails to complete the plan within the one-year period of time, the administrator may do either of the following:

- (1) Terminate the exemption;
- (2) Grant to the public employer a sixty-day extension to the one-year period of time, provided that the administrator determines that the public employer is making significant progress in completing implementation of the plan.

The administrator shall terminate the exemption of a public employer who does not complete implementation of the plan within the sixty-day extension granted by the administrator under division (F)(2) of this section.

(G) The administrator shall inspect a public employer's place of employment immediately after either of the following occur:

- (1) A public employee of the public employer is killed due to an incident that is related to the public employee's employment;
- (2) Three or more public employees of the public employer are hospitalized due to an incident that is related to the public employees' employment.

After reviewing the inspection report, the administrator may require the public employer to submit to the administrator, within a reasonable amount of time as determined by the administrator, a plan that describes how the public employer intends to remedy any conditions described in the report that the administrator determines need to be remedied.

Nothing in this division constitutes the granting of a new exemption for purposes of determining the seven-year expiration date pursuant to division (H) of this section.

(H) Except as provided in division (F), an exemption granted pursuant to this section expires seven years after the date of its issuance. A public employer may apply for a subsequent exemption in the same manner provided in this section for the grant of an original exemption.

(I) Each public employer granted an exemption under this section ~~shall~~ may request the superintendent of the division of safety and hygiene in the bureau of workers' compensation to conduct a safety inspection of the public employer's place of employment ~~two years after the date the public employer is granted the exemption and every two years thereafter~~ any time during the exemption period. Based on this inspection, the superintendent shall note any hazards or unsafe conditions and recommend abatement of these hazards and unsafe conditions. The superintendent shall provide a copy of the report of the inspection conducted pursuant to this division and any resulting recommendations to the public employer. The administrator shall not cite the public employer for a violation of this chapter due to a hazardous or unsafe condition identified by the superintendent pursuant to this inspection.

(J) Notwithstanding any other provision of this chapter, a public employer who meets the requirements of division (A) of this section and files an application that meets the requirements of division (B) of this section is not subject to this chapter, except section 4167.06 of the Revised Code and division (G) of this section, after the date on which the public employer meets the requirements of division (A) of this section and files an application that meets the requirements of division (B) of this section until the administrator determines whether to grant the exemption under this section.

(K) Nothing in this section limits, or shall be construed as limiting, a public employee's rights as provided in section 4167.06 of the Revised Code. Nothing in this section limits, or shall be construed as limiting, a public employer's right to adopt reasonable safety rules and require a public employee's compliance with those rules.

A public employer who is granted an exemption under this section shall not be exempt from divisions (G), (H), and (I) of this section.

SECTION 2. That existing section 4167.19 of the Revised Code is hereby repealed.

SECTION 3. That section 4167.19 of the Revised Code, as scheduled to take effect July 1, 2000, be amended to read as follows:

Sec. 4167.19. (A) A public employer, other than a state agency, may apply to the director of commerce for an order exempting the public employer from compliance with this chapter, except as provided in division (K) of this section, if the public employer satisfies both of the following criteria:

(1) The public employer is a member of a group that qualifies for a group rating plan pursuant to division (A)(4) of section 4123.29 of the Revised Code or the public employer's premium rate is at least fifty per cent less than the base rate for its workers' compensation premiums;

(2) The public employer establishes and maintains a safety committee with both public employees and representatives of the public employer as members if the public employer does not qualify for a group rating plan. A public employer that employs five or fewer public employees need not have a safety committee.

(B) The application shall be on a form prescribed by the director and shall be transmitted to the director by certified mail, return receipt requested. The application shall contain a certification of all of the following:

(1) The public employer has adopted an ordinance or resolution requesting an exemption from this chapter;

(2) At least ten working days prior to passage of an ordinance or resolution described in division (B)(1) of this section, the public employer has informed its public employees of the application by giving a copy of the application to the public employee representative, if any;

(3) The public employer has informed its public employees by posting a statement for thirty consecutive days giving a summary of the application and specifying where a copy of the application may be examined at the place or places where notices to public employees are normally posted, and by any other appropriate means of public employee notification;

(4) The public employer has informed its public employees of their rights to a hearing under section 4167.15 of the Revised Code.

The certification also shall contain a description of how public employees have been informed of the application and of their rights to a hearing.

(C) Except as provided in this section, the director shall issue an order providing for an exemption if the public employer meets the requirements of division (A) of this section and files an application that meets the requirements of division (B) of this section.

(D) The director shall not grant an exemption under division (C) of this section until after the superintendent of the division of safety and hygiene in the bureau of workers' compensation conducts an employment risk

reduction inspection of the public employer's place of employment to determine the presence of any hazardous or unsafe conditions. The director shall not cite the public employer for a violation of this chapter during this inspection.

(E) The superintendent shall provide a copy of the report of the inspection conducted pursuant to division (D) of this section and any findings to the public employer. Within six months after receipt of the report, the public employer shall submit the report to the director, if the public employer wishes to proceed with the exemption request. If the report does not contain a description of any hazardous or unsafe conditions, the director shall grant the public employer an exemption from this chapter, except as provided in division (K) of this section. If the report contains a description of any hazardous or unsafe conditions, the public employer shall submit to the director a plan that describes how it intends to remedy, within a one-year period of time, the hazardous or unsafe conditions.

Within thirty days after receipt of the plan from the public employer, the director may approve or disapprove the plan as submitted. If the director approves the plan as submitted, the director shall grant the public employer an exemption from this chapter, except as provided in division (K) of this section.

If the director disapproves the plan, the director shall return it and the reasons for its rejection to the public employer. The public employer may submit a revised plan, which corrects the deficiencies for which the original plan was rejected, within thirty days after receipt of the disapproved plan from the director. The director has thirty days after receipt of the revised plan to review it, and if it remedies the director's objections, to approve it and grant the exemption. The public employer shall be exempted from this chapter, except as provided in division (K) of this section, if the director fails to act within the thirty-day period.

(F) Within ten working days after completing implementation of the plan, the public employer shall certify to the director, by certified mail, return receipt requested, that the hazardous or unsafe conditions have been abated.

If a public employer fails to complete the plan within the one-year period of time, the director may do either of the following:

- (1) Terminate the exemption;
- (2) Grant to the public employer a sixty-day extension to the one-year period of time, provided that the director determines that the public employer is making significant progress in completing implementation of the plan.

The director shall terminate the exemption of a public employer who does not complete implementation of the plan within the sixty-day extension granted by the director under division (F)(2) of this section.

(G) The director shall inspect a public employer's place of employment immediately after either of the following occur:

(1) A public employee of the public employer is killed due to an incident that is related to the public employee's employment;

(2) Three or more public employees of the public employer are hospitalized due to an incident that is related to the public employees' employment.

After reviewing the inspection report, the director may require the public employer to submit to the director, within a reasonable amount of time as determined by the director, a plan that describes how the public employer intends to remedy any conditions described in the report that the director determines need to be remedied.

Nothing in this division constitutes the granting of a new exemption for purposes of determining the seven-year expiration date pursuant to division (H) of this section.

(H) Except as provided in division (F), an exemption granted pursuant to this section expires seven years after the date of its issuance. A public employer may apply for a subsequent exemption in the same manner provided in this section for the grant of an original exemption.

(I) Each public employer granted an exemption under this section ~~shall~~ may request the superintendent of the division of safety and hygiene in the bureau of workers' compensation to conduct a safety inspection of the public employer's place of employment ~~two years after the date the public employer is granted the exemption and every two years thereafter~~ any time during the exemption period. Based on this inspection, the superintendent shall note any hazards or unsafe conditions and recommend abatement of these hazards and unsafe conditions. The superintendent shall provide a copy of the report of the inspection conducted pursuant to this division and any resulting recommendations to the public employer. The director shall not cite the public employer for a violation of this chapter due to a hazardous or unsafe condition identified by the superintendent pursuant to this inspection.

(J) Notwithstanding any other provision of this chapter, a public employer who meets the requirements of division (A) of this section and files an application that meets the requirements of division (B) of this section is not subject to this chapter, except section 4167.06 of the Revised Code and division (G) of this section, after the date on which the public

employer meets the requirements of division (A) of this section and files an application that meets the requirements of division (B) of this section until the director determines whether to grant the exemption under this section.

(K) Nothing in this section limits, or shall be construed as limiting, a public employee's rights as provided in section 4167.06 of the Revised Code. Nothing in this section limits, or shall be construed as limiting, a public employer's right to adopt reasonable safety rules and require a public employee's compliance with those rules.

A public employer who is granted an exemption under this section shall not be exempt from divisions (G), (H), and (I) of this section.

SECTION 4. That all existing versions of section 4167.19 of the Revised Code, as scheduled to take effect July 1, 2000, are hereby repealed.

SECTION 5. Sections 3 and 4 of this act shall take effect July 1, 2000.

SECTION 6. The Director of Commerce and Administrator of Workers' Compensation shall jointly submit a report to the President of the Senate, the Speaker of the House of Representatives, and the Chairpersons of the Senate and House committees to which legislation that is the subject of this act is normally referred, on or before four years after the effective date of this act. The report shall indicate statistics regarding the effect of this act on workplace safety in the workplaces to which Chapter 4167. of the Revised Code applies.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 169

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

Director, Legislative Service Commission.

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

Secretary of State.

File No. _____ Effective Date _____