

As Passed by the Senate

124th General Assembly

Regular Session

2001-2002

Sub. S. B. No. 115

**SENATORS Hottinger, Coughlin, Blessing, Mead, Mumper, Goodman, Spada,
Oelslager, Robert Gardner**

A B I L L

To amend sections 9.60, 146.01, 146.12, 2743.02, 1
2909.01, 2921.22, 3737.01, 3737.03, 3737.16, 2
3737.21, 3737.22, 3737.26, 3737.27, 3737.28, 3
3737.42, 3737.43, 3737.45, 3737.81, 4506.02, and 4
4765.49, to enact sections 124.1310 and 3737.221 of 5
the Revised Code to revise the laws governing the 6
state's waiver of immunity, to provide certain 7
limited civil immunity for the State Fire Marshal's 8
Office and certain employees of the State Fire 9
Marshal, to provide that the State Fire Marshal's 10
Office is a fire department for purposes of 11
allowing it to assist with local fire suppression 12
and emergencies, to allow the State Fire Marshal's 13
Office, townships, and municipal corporations to 14
appeal a decision of the State Board of Building 15
Appeals to the court of common pleas, to otherwise 16
revise the laws governing the State Fire Marshal's 17
Office, to provide for paid leave for service as a 18
volunteer firefighter or emergency medical services 19
worker, to make changes to the law governing the 20
Volunteer Fire Fighters' Dependents Fund, and to 21
statutorily authorize the State Fire Commission's 22
maintenance of the Ohio Fire Services Hall of Fame, 23
and to amend the version of section 4506.02 of the 24

Revised Code that is scheduled to take effect 25
January 1, 2004, to continue the provisions of this 26
act on and after that effective date. 27

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 9.60, 146.01, 146.12, 2743.02, 28
2909.01, 2921.22, 3737.01, 3737.03, 3737.16, 3737.21, 3737.22, 29
3737.26, 3737.27, 3737.28, 3737.42, 3737.43, 3737.45, 3737.81, 30
4506.02, and 4765.49 be amended and sections 124.1310 and 3737.221 31
of the Revised Code be enacted to read as follows: 32

Sec. 9.60. (A) As used in this section: 33

(1) "Emergency medical service" and "emergency medical 34
service organization" have the same meanings as in section 4765.01 35
of the Revised Code. 36

(2) "Fire protection" means the use of firefighting equipment 37
by the fire department of a firefighting agency or a private fire 38
company, and includes the provision of ambulance, emergency 39
medical, and rescue services by those entities. 40

(3) "Firefighting agency" means a municipal corporation, 41
township, township fire district, joint ambulance district, joint 42
emergency medical services district, or joint fire district and 43
the office of the state fire marshal. 44

(4) "Motor vehicle" has the same meaning as in section 45
4511.01 of the Revised Code. 46

(5) "Private fire company" means a nonprofit group or 47
organization owning and operating firefighting equipment not 48
controlled by a firefighting agency. 49

(B) Any firefighting agency, private fire company, or ~~public~~ 50
~~or private~~ emergency medical service organization may contract 51

with any governmental entity in this state or another jurisdiction 52
to provide fire protection or emergency medical services, as 53
appropriate, whether on a regular basis or only in times of 54
emergency, upon the approval of the governing boards or 55
administrative heads of the entities that are parties to the 56
contract. 57

(C) Any governmental entity in this state may contract with 58
any firefighting agency, private fire company, or ~~public or~~ 59
~~private~~ emergency medical service organization of this state or 60
another jurisdiction to obtain fire protection or emergency 61
medical services, as appropriate, whether on a regular basis or 62
only in times of emergency, upon the approval of the governing 63
boards or administrative heads of the entities that are parties to 64
the contract. 65

(D)(1) Any firefighting agency other than the office of the 66
state fire marshal, private fire company, or ~~public or private~~ 67
emergency medical service organization may provide fire protection 68
or emergency medical services, as appropriate, to any governmental 69
entity in this state or another jurisdiction, without a contract 70
to provide fire protection or emergency medical services, upon the 71
approval of the governing board of the agency, company, or 72
organization and upon authorization by an officer or employee of 73
the agency, company, or organization designated by that 74
individual's title, office, or position pursuant to the 75
authorization of the governing board of the agency, company, or 76
organization. 77

(2) The office of the state fire marshal may provide fire 78
protection or emergency medical services, as appropriate, to any 79
governmental entity, firefighting agency, private fire company, or 80
emergency medical service organization in this state or another 81
jurisdiction, without a contract to provide fire protection or 82
emergency medical services, upon the authorization of the state 83

fire marshal. 84

(E) Chapter 2744. of the Revised Code, insofar as it is 85
applicable to the operation of fire departments or emergency 86
medical service organizations, applies to a political subdivision 87
that is operating a fire department or emergency medical service 88
organization, and to the members of the fire department or 89
emergency medical service organization, when the members are 90
rendering service pursuant to this section outside the boundaries 91
of the political subdivision. 92

Members acting outside the boundaries of the political 93
subdivision that is operating the fire department or emergency 94
medical service organization may participate in any pension or 95
indemnity fund established by the political subdivision to the 96
same extent as while acting within the boundaries of the political 97
subdivision, and are entitled to all the rights and benefits of 98
Chapter 4123. of the Revised Code, to the same extent as while 99
performing service within the boundaries of the political 100
subdivision. 101

(F) A private fire company or private, nonprofit emergency 102
medical service organization providing service pursuant to this 103
section to a governmental entity in this state or another 104
jurisdiction has the same immunities and defenses in a civil 105
action that a political subdivision has under section 2744.02 of 106
the Revised Code. The employees of such a fire company or 107
emergency medical service organization have the same immunities 108
and defenses in a civil action that employees of a political 109
subdivision have under section 2744.03 of the Revised Code. 110

(G)(1) The office of the state fire marshal, when providing 111
services pursuant to this section, is liable for injury, death, or 112
loss to person or property caused by the negligent operation of 113
any motor vehicle by its employees upon the public roads, 114
highways, or streets in the state when the employees are engaged 115

within the scope of their employment and authority, without regard
to the proximity of, that operation to the office of the state
fire marshal. Notwithstanding division (A)(1) of section 2743.02
of the Revised Code, the following are full defenses to that
liability:

(a) An employee providing fire protection was operating a
motor vehicle while engaged in duty at a fire, proceeding toward a
place where a fire is in progress or is believed to be in
progress, or answering any other emergency and the operation of
the vehicle did not constitute willful or wanton misconduct.

(b) An employee providing emergency medical services was
operating a motor vehicle while responding to or completing a call
for emergency medical care or treatment, the employee was holding
a valid driver's license issued under Chapter 4507. of the Revised
Code, the operation of the vehicle did not constitute willful or
wanton misconduct, and the operation complies with the precautions
described in section 4511.03 of the Revised Code.

(2) An employee of the office of the state fire marshal, when
providing services pursuant to this section, is immune from
liability for injury, death, or loss to person or property caused
by the operation of any motor vehicle upon the public roads,
highways, or streets in the state, without regard to the proximity
of that operation to the office of the state fire marshal, unless
one of the following applies:

(a) The operation of the vehicle was manifestly outside the
scope of the employee's employment or official responsibilities.

(b) The operation of the vehicle constituted willful or
wanton misconduct.

Sec. 124.1310. (A) As used in this section:

(1) "Emergency medical service," "EMT-basic," "EMT-I," "first

responder," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

146
147

(2) "Volunteer firefighter" has the same meaning as in section 146.01 of the Revised Code.

148
149

(B) A state employee who is an EMT-basic, EMT-I, first responder, paramedic, or volunteer firefighter shall receive forty hours of leave with pay each calendar year to use during those hours when the employee is absent from work in order to provide emergency medical service or fire-fighting service. An appointing authority shall compensate an employee who uses leave granted under this section at the employee's regular rate of pay for those regular work hours during which the employee is absent from work.

150
151
152
153
154
155
156
157

Sec. 146.01. As used in sections 146.01 to 146.19 of the Revised Code:

158
159

(A) "Fire department" means a volunteer fire department, a fire department of a political subdivision or fire district of this state, or a private volunteer company that has elected to participate in the volunteer fire fighters' dependents fund pursuant to section 146.02 of the Revised Code.

160
161
162
163
164

(B)(1) "Volunteer firefighter" means both of the following, subject to division (B)(2) of this section:

165
166

(a) A duly appointed member of a fire department on either a nonpay or part-pay basis who is ineligible to be a member of the Ohio police and fire pension fund, or whose employment as a firefighter does not in itself qualify any such person for membership in the public employees retirement system, or who has waived membership in the public employees retirement system;

167
168
169
170
171
172

(b) Firefighters drafted, requisitioned, or appointed to serve in an emergency.

173
174

(2)(a) A volunteer firefighter who is a member of the public

175

employees retirement system shall be considered a volunteer
firefighter for purposes of this chapter, and in particular, for
purposes of divisions (A) and (B) of section 146.12 of the Revised
Code until the firefighter has at least one and one-half years of
Ohio service credit for purposes of division (B) of section 145.45
of the Revised Code;

(b) A volunteer firefighter who is a member of the public
employees retirement system shall be considered a volunteer
firefighter for purposes of this chapter and, in particular, for
purposes of division (C) of section 146.12 of the Revised Code
until the firefighter has at least five years of total service
credit for purposes of sections 145.35 and 145.36 or section
145.361 of the Revised Code.

(C) "Private volunteer fire company" means a company of
trained volunteer firefighters having a contract to furnish fire
protection or emergency service or both to a political subdivision
or fire district of this state.

(D) "Member of the fund" includes a political subdivision or
fire district of this state that maintains in whole or in part a
volunteer fire department or employs volunteer firefighters, and a
private volunteer fire company that has elected to participate in
the volunteer fire fighters' dependents fund.

~~(E) "Dependent" means the surviving spouse or child under
eighteen years of age of a volunteer firefighter regardless of
financial status.~~

~~(F)~~ "Volunteer fire fighters' dependents fund" means the fund
established by section 146.07 of the Revised Code.

~~(G)~~(F) "Totally and permanently disabled" means that a
volunteer firefighter is unable to engage in any substantial
gainful employment for a period of not less than twelve months by
reason of a medically determinable physical impairment that is

permanent or presumed to be permanent. 207

Sec. 146.12. Benefits shall be paid from the volunteer fire 208
fighters' dependents fund to or on behalf of the following 209
persons: 210

(A) To the surviving spouse of a volunteer ~~fire fighter~~ 211
firefighter killed while discharging the duties of a volunteer 212
~~fire fighter~~ firefighter or who dies from exposure or injury 213
received while in the discharge of ~~such those~~ duties, a lump sum 214
award of one thousand dollars, and, in addition, the sum of ~~two~~ 215
three hundred dollars per month ~~so long as the surviving spouse~~ 216
~~does not remarry;~~ 217

(B) To the parent, guardian, or other persons upon whom a 218
child of a volunteer ~~fire fighter~~ firefighter is dependent for 219
chief support, the sum of ~~sixty-five~~ one hundred twenty-five 220
dollars per month for each dependent child ~~of such volunteer fire~~ 221
~~fighter. Such payments shall continue until the dependent child is~~ 222
~~eighteen years old~~ under eighteen years of age, or under 223
twenty-three years of age if the child is attending a 224
post-secondary educational institution and is completing a program 225
of instruction each school year that satisfies the equivalent of 226
at least two-thirds of the full-time curriculum requirements of 227
the institution. 228

(C) To a volunteer ~~fire fighter~~ firefighter, totally and 229
permanently disabled while discharging the duties of a volunteer 230
~~fire fighter~~ firefighter, the sum of ~~two~~ three hundred dollars per 231
month. No payment shall be made to a volunteer ~~fire fighter~~ 232
firefighter under full salary during the time of ~~his~~ the volunteer 233
firefighter's disability. 234

Sec. 2743.02. (A)(1) The state hereby waives its immunity 235
from liability, except as provided for the office of the state 236

fire marshal in division (G)(1) of section 9.60 and division (B) 237
of section 3737.221 of the Revised Code, and consents to be sued, 238
and have its liability determined, in the court of claims created 239
in this chapter in accordance with the same rules of law 240
applicable to suits between private parties, except that the 241
determination of liability is subject to the limitations set forth 242
in this chapter and, in the case of state universities or 243
colleges, in section 3345.40 of the Revised Code, and except as 244
provided in division (A)(2) of this section. To the extent that 245
the state has previously consented to be sued, this chapter has no 246
applicability. 247

Except in the case of a civil action filed by the state, 248
filing a civil action in the court of claims results in a complete 249
waiver of any cause of action, based on the same act or omission, 250
which the filing party has against any officer or employee, as 251
defined in section 109.36 of the Revised Code. The waiver shall be 252
void if the court determines that the act or omission was 253
manifestly outside the scope of the officer's or employee's office 254
or employment or that the officer or employee acted with malicious 255
purpose, in bad faith, or in a wanton or reckless manner. 256

(2) If a claimant proves in the court of claims that an 257
officer or employee, as defined in section 109.36 of the Revised 258
Code, would have personal liability for ~~his~~ the officer's or 259
employee's acts or omissions but for the fact that the officer or 260
employee has personal immunity under section 9.86 of the Revised 261
Code, the state shall be held liable in the court of claims in any 262
action that is timely filed pursuant to section 2743.16 of the 263
Revised Code and that is based upon the acts or omissions. 264

(B) The state hereby waives the immunity from liability of 265
all hospitals owned or operated by one or more political 266
subdivisions and consents for them to be sued, and to have their 267
liability determined, in the court of common pleas, in accordance 268

with the same rules of law applicable to suits between private 269
parties, subject to the limitations set forth in this chapter. 270
This division is also applicable to hospitals owned or operated by 271
political subdivisions which have been determined by the supreme 272
court to be subject to suit prior to July 28, 1975. 273

(C) Any hospital, as defined under section 2305.11 of the 274
Revised Code, may purchase liability insurance covering its 275
operations and activities and its agents, employees, nurses, 276
interns, residents, staff, and members of the governing board and 277
committees, and, whether or not such insurance is purchased, may, 278
to such extent as its governing board considers appropriate, 279
indemnify or agree to indemnify and hold harmless any such person 280
against expense, including attorney's fees, damage, loss, or other 281
liability arising out of, or claimed to have arisen out of, the 282
death, disease, or injury of any person as a result of the 283
negligence, malpractice, or other action or inaction of the 284
indemnified person while acting within the scope of ~~his~~ the 285
indemnified person's duties or engaged in activities at the 286
request or direction, or for the benefit, of the hospital. Any 287
hospital electing to indemnify such persons, or to agree to so 288
indemnify, shall reserve such funds as are necessary, in the 289
exercise of sound and prudent actuarial judgment, to cover the 290
potential expense, fees, damage, loss, or other liability. The 291
superintendent of insurance may recommend, or, if such hospital 292
requests ~~him~~ the superintendent to do so, the superintendent shall 293
recommend, a specific amount for any period that, in ~~his~~ the 294
superintendent's opinion, represents such a judgment. This 295
authority is in addition to any authorization otherwise provided 296
or permitted by law. 297

(D) Recoveries against the state shall be reduced by the 298
aggregate of insurance proceeds, disability award, or other 299
collateral recovery received by the claimant. This division does 300

not apply to civil actions in the court of claims against a state
university or college under the circumstances described in section
3345.40 of the Revised Code. The collateral benefits provisions of
division (B)(2) of that section apply under those circumstances.

301
302
303
304
305

(E) The only defendant in original actions in the court of
claims is the state. The state may file a third-party complaint or
counterclaim in any civil action, except a civil action for two
thousand five hundred dollars or less, that is filed in the court
of claims.

306
307
308
309
310

(F) A civil action against an officer or employee, as defined
in section 109.36 of the Revised Code, that alleges that the
officer's or employee's conduct was manifestly outside the scope
of ~~his~~ the officer's or employee's employment or official
responsibilities, or that the officer or employee acted with
malicious purpose, in bad faith, or in a wanton or reckless manner
shall first be filed against the state in the court of claims,
which has exclusive, original jurisdiction to determine,
initially, whether the officer or employee is entitled to personal
immunity under section 9.86 of the Revised Code and whether the
courts of common pleas have jurisdiction over the civil action.

311
312
313
314
315
316
317
318
319
320
321

The filing of a claim against an officer or employee under
this division tolls the running of the applicable statute of
limitations until the court of claims determines whether the
officer or employee is entitled to personal immunity under section
9.86 of the Revised Code.

322
323
324
325
326

(G) Whenever a claim lies against an officer or employee who
is a member of the Ohio national guard, and the officer or
employee was, at the time of the act or omission complained of,
subject to the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28
U.S.C. 2671, et seq., then the Federal Tort Claims Act is the
exclusive remedy of the claimant and the state has no liability

327
328
329
330
331
332

under this section.

333

Sec. 2909.01. As used in sections 2909.01 to 2909.07 of the
Revised Code:

334

335

(A) To "create a substantial risk of serious physical harm to
any person" includes the creation of a substantial risk of serious
physical harm to any emergency personnel.

336

337

338

(B) "Emergency personnel" means any of the following persons:

339

(1) A peace officer, as defined in section 2935.01 of the
Revised Code;

340

341

(2) A member of a fire department or other firefighting
agency of a municipal corporation, township, township fire
district, joint fire district, other political subdivision, or
combination of political subdivisions;

342

343

344

345

(3) A member of a private fire company, as defined in section
9.60 of the Revised Code, or a volunteer firefighter;

346

347

(4) A member of a joint ambulance district or joint emergency
medical services district;

348

349

(5) An emergency medical technician-basic, emergency medical
technician-intermediate, emergency medical technician-paramedic,
ambulance operator, or other member of an emergency medical
service that is owned or operated by a political subdivision or a
private entity;

350

351

352

353

354

(6) The state fire marshal, the chief deputy state fire
marshal, or an assistant state fire marshal, ~~or an arson
investigator of the office of the state fire marshal;~~

355

356

357

(7) A fire prevention officer of a political subdivision or
an arson investigator, fire, or similar inspector investigator of
a political subdivision.

358

359

360

(C) "Occupied structure" means any house, building,

361

outbuilding, watercraft, aircraft, railroad car, truck, trailer, 362
tent, or other structure, vehicle, or shelter, or any portion 363
thereof, to which any of the following applies: 364

(1) It is maintained as a permanent or temporary dwelling, 365
even though it is temporarily unoccupied and whether or not any 366
person is actually present. 367

(2) At the time, it is occupied as the permanent or temporary 368
habitation of any person, whether or not any person is actually 369
present. 370

(3) At the time, it is specially adapted for the overnight 371
accommodation of any person, whether or not any person is actually 372
present. 373

(4) At the time, any person is present or likely to be 374
present in it. 375

(D) "Political subdivision" and "state" have the same 376
meanings as in section 2744.01 of the Revised Code. 377

Sec. 2921.22. (A) No person, knowing that a felony has been 378
or is being committed, shall knowingly fail to report such 379
information to law enforcement authorities. 380

(B) Except for conditions that are within the scope of 381
division (E) of this section, no ~~person who is a~~ physician, 382
limited practitioner, nurse, or other person giving aid to a sick 383
or injured person shall negligently fail to report to law 384
enforcement authorities any gunshot or stab wound ~~that the person~~ 385
treated or observed by the physician, limited practitioner, nurse, 386
or person, or any serious physical harm to persons that the 387
physician, limited practitioner, nurse, or person knows or has 388
reasonable cause to believe resulted from an offense of violence. 389

(C) No person who discovers the body or acquires the first 390
knowledge of the death of a person shall fail to report the death 391

immediately to a physician whom the person knows to be treating
the deceased for a condition from which death at such time would
not be unexpected, or to a law enforcement officer, an ambulance
service, an emergency squad, or the coroner in a political
subdivision in which the body is discovered, the death is believed
to have occurred, or knowledge concerning the death is obtained.

(D) No person shall fail to provide upon request of the
person to whom ~~the person~~ a report required by division (C) of
this section was made, or to any law enforcement officer who has
reasonable cause to assert the authority to investigate the
circumstances surrounding the death, any facts within the person's
knowledge that may have a bearing on the investigation of the
death.

(E)(1) As used in this division, "burn injury" means any of
the following:

(a) Second or third degree burns;

(b) Any burns to the upper respiratory tract or laryngeal
edema due to the inhalation of superheated air;

(c) Any burn injury or wound that may result in death;

(d) Any physical harm to persons caused by or as the result
of the use of fireworks, novelties and trick noisemakers, and wire
sparklers, as each is defined by section 3743.01 of the Revised
Code.

(2) No physician, nurse, or limited practitioner who, outside
a hospital, sanitarium, or other medical facility, attends or
treats a person who has sustained a burn injury that is inflicted
by an explosion or other incendiary device, or that shows evidence
of having been inflicted in a violent, malicious, or criminal
manner, shall fail to report the burn injury immediately to the
local arson, or fire and explosion investigation, bureau, if there
is such a bureau of this type in the jurisdiction in which the

392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422

person is attended or treated, or otherwise to local law enforcement authorities.

(3) No manager, superintendent, or other person in charge of a hospital, sanitarium, or other medical facility in which a person is attended or treated for any burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is ~~such~~ a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(4) No person who is required to report any burn injury under division (E)(2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the office of the state fire marshal. The report shall ~~be made on a form provided~~ comply with the uniform standard developed by the state fire marshal pursuant to division (A)(14) of section 3737.22 of the Revised Code.

(5) Anyone participating in the making of reports under division (E) of this section or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding section 4731.22 of the Revised Code, the physician-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted ~~pursuant to~~ under division (E) of this section.

(F)(1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, registered or licensed practical nurse, psychologist, social worker, independent social worker,

social work assistant, professional clinical counselor, or
professional counselor who knows or has reasonable cause to
believe that a patient or client has been the victim of domestic
violence, as defined in section 3113.31 of the Revised Code, shall
note that knowledge or belief and the basis for it in the
patient's or client's records.

455
456
457
458
459
460

(2) Notwithstanding section 4731.22 of the Revised Code, the
doctor-patient privilege shall not be a ground for excluding any
information regarding the report containing the knowledge or
belief noted ~~pursuant to~~ under division (F)(1) of this section,
and the information may be admitted as evidence in accordance with
the Rules of Evidence.

461
462
463
464
465
466

(G) ~~Division~~ Divisions (A) ~~or~~ and (D) of this section ~~does~~ do
not require disclosure of information, when any of the following
applies:

467
468
469

(1) The information is privileged by reason of the
relationship between attorney and client; doctor and patient;
licensed psychologist or licensed school psychologist and client;
member of the clergy, rabbi, minister, or priest and any person
communicating information confidentially to the member of the
clergy ~~clergyman~~, rabbi, minister, or priest for a religious
counseling purpose ~~the~~ of a professional character ~~of the member~~
~~of the clergy, rabbi, minister, or priest~~; husband and wife; or a
communications assistant and those who are a party to a
telecommunications relay service call.

470
471
472
473
474
475
476
477
478
479

(2) The information would tend to incriminate a member of the
actor's immediate family.

480
481

(3) Disclosure of the information would amount to revealing a
news source, privileged under section 2739.04 or 2739.12 of the
Revised Code.

482
483
484

(4) Disclosure of the information would amount to disclosure

485

by a member of the ordained clergy of an organized religious body 486
of a confidential communication made to that member of the clergy 487
~~the clergyman~~ in that member's a capacity as a ~~clergyman~~ member of 488
the clergy by a person seeking the aid or counsel of that member 489
of the clergy. 490

(5) Disclosure would amount to revealing information acquired 491
by the actor in the course of the actor's duties in connection 492
with a bona fide program of treatment or services for drug 493
dependent persons or persons in danger of drug dependence, which 494
program is maintained or conducted by a hospital, clinic, person, 495
agency, or organization certified pursuant to section 3793.06 of 496
the Revised Code. 497

(6) Disclosure would amount to revealing information acquired 498
by the actor in the course of the actor's duties in connection 499
with a bona fide program for providing counseling services to 500
victims of crimes that are violations of section 2907.02 or 501
2907.05 of the Revised Code or to victims of felonious sexual 502
penetration in violation of former section 2907.12 of the Revised 503
Code. As used in this division, "counseling services" include 504
services provided in an informal setting by a person who, by 505
education or experience, is competent to provide ~~such~~ those 506
services. 507

(H) No disclosure of information pursuant to this section 508
gives rise to any liability or recrimination for a breach of 509
privilege or confidence. 510

(I) Whoever violates division (A) or (B) of this section is 511
guilty of failure to report a crime. Violation of division (A) of 512
this section is a misdemeanor of the fourth degree. Violation of 513
division (B) of this section is a misdemeanor of the second 514
degree. 515

(J) Whoever violates division (C) or (D) of this section is 516

guilty of failure to report knowledge of a death, a misdemeanor of 517
the fourth degree. 518

(K)(1) Whoever negligently violates division (E) of this 519
section is guilty of a minor misdemeanor. 520

(2) Whoever knowingly violates division (E) of this section 521
is guilty of a misdemeanor of the second degree. 522

Sec. 3737.01. As used in this chapter: 523

(A) "Assistant fire marshal" means any person ~~directly who is~~ 524
employed by the fire marshal and who is involved in carries out 525
specific duties assigned by the fire marshal, including, but not 526
limited to, enforcement of Chapters 3731., 3737., and 3743. of the 527
Revised Code, fire inspection, fire code enforcement, fire 528
investigation, fire prevention, ~~hazardous materials incidents,~~ or 529
the regulation of underground storage tank systems as ~~that term is~~ 530
defined in section 3737.87 of the Revised Code. 531

(B) "Consumer goods" means any item sold, leased, or rented 532
primarily for personal or household use. 533

(C) "Fire agency" means any state or local fire service or 534
agency whose function is to examine the property of another person 535
for the purpose of identifying fire safety hazards. 536

(D) "Fire safety inspector" means any person who is a member 537
of the civil service, as defined in section 124.01 of the Revised 538
Code, or who is employed by or voluntarily serves a village or 539
township, and who examines the property of another person for the 540
purpose of identifying fire safety hazards. 541

(E) "Person," in addition to the meaning in section 1.59 of 542
the Revised Code, means the state and any political subdivision of 543
the state, and any other entity, public or private. 544

(F) "Responsible person" means the person responsible for 545

compliance with the state fire code, including, but not limited
to, the owner, lessee, agent, operator, or occupant of a building,
premises, or vehicle.

546
547
548

Sec. 3737.03. The state fire commission may do all of the
following:

549
550

(A) Conduct research, make and publish reports on fire
safety, and recommend to the governor, the general assembly, the
board of building standards, and other state agencies, any needed
changes in the laws, rules, or administrative policies relating to
fire safety;

551
552
553
554
555

(B) Recommend revisions in the rules included in the state
fire code adopted by the fire marshal. The recommendations may
propose the adoption of new rules or the amendment or repeal of
existing rules. The commission shall file its recommendations in
the office of the fire marshal, and, within sixty days after the
recommendations are filed, the fire marshal shall file with the
~~chairman~~ chairperson of the commission ~~his~~ the fire marshal's
comments on, and proposed action in response to, the
recommendations.

556
557
558
559
560
561
562
563
564

(C) Maintain the Ohio fire service hall of fame. In
maintaining the hall of fame, the commission shall keep official
commendations that recognize and commemorate exemplary
accomplishments and acts of heroism by firefighters and other
persons at fire-related incidents or similar events occurring in
the state. The commission may adopt criteria and guidelines for
selecting individuals for that recognition and commemoration. The
recognition and commemoration of individuals may occur annually
and include an annual awards ceremony. The expenses associated
with the recognition and commemoration of individuals shall be
paid in accordance with division (F) of section 3737.81 of the
Revised Code.

565
566
567
568
569
570
571
572
573
574
575
576

Sec. 3737.16. (A) The fire marshal, any assistant fire 577
marshal, the chief ~~or any deputy~~ of the ~~arson fire and explosion~~ 578
investigation bureau established pursuant to section 3737.22 of 579
the Revised Code, the chief of a fire department of any municipal 580
corporation or township where a fire department is established, 581
the fire prevention officer of any municipal corporation or 582
township where no fire department exists, any federal, state, or 583
local law enforcement agency, or the prosecuting attorney of any 584
county may request any insurance company that has investigated or 585
is investigating a fire loss or potential fire loss of real or 586
personal property to release any information in its possession 587
relative to that loss or potential loss. The company shall release 588
the information and cooperate with any official authorized to 589
request ~~such the~~ information ~~pursuant to~~ under this section. The 590
information shall include, but is not limited to, the following: 591

(1) Any insurance policy relevant to a fire loss under 593
investigation and any application for such a policy; 594

(2) Policy premium payment records; 595

(3) History of previous claims made by the insured or 596
previous insureds for fire loss; 597

(4) Material relating to the investigation of the loss or 598
potential loss, including statements of any person, proof of loss, 599
and any other relevant evidence. 600

(B) If an insurance company has reason to suspect that a fire 601
loss to its insured's real or personal property was caused by 602
incendiary means, the company shall notify the fire marshal and 603
the prosecuting attorney of the county in which the loss occurred, 604
and furnish them with all relevant material acquired during its 605
investigation of the fire loss, cooperate with and take such 606
action as may be requested of it by any federal, state, or local 607

law enforcement agency, and permit any other person ordered by a
court to inspect any of its records pertaining to the policy and
the loss.

608
609
610

(C) If an agency, official, or officer mentioned in division
(A) or (B) of this section has received information ~~pursuant to~~
under those divisions from an insurance company that has
investigated or is investigating a fire loss of real or personal
property, the agency, official, or officer may release to, and
share with, the insurance company any information in ~~his~~ the
agency's, official's, or officer's possession relative to ~~such~~ the
loss, upon the request of the insurance company.

611
612
613
614
615
616
617
618

(D) In the absence of fraud or malice, no insurance company,
or person who furnishes information on its behalf, is liable ~~for~~
in damages in any civil action, including any action brought
pursuant to section 1347.10 of the Revised Code, or subject to
criminal prosecution for any oral or written statement made or any
other action taken that is necessary to supply information
required ~~pursuant to~~ under this section.

619
620
621
622
623
624
625

(E) Except as otherwise provided in division (C) of this
section, the officials and departmental and agency personnel
receiving any information furnished ~~pursuant to~~ under this section
shall hold the information in confidence until such time as its
release is required pursuant to a criminal or civil proceeding.

626
627
628
629
630

(F) Any official referred to in division (A) of this section
may testify as to any information in ~~his~~ the official's possession
regarding the fire loss of real or personal property in any civil
action in which any person seeks recovery under a policy against
an insurance company for the fire loss.

631
632
633
634
635

(G) As used in this section, "insurance company" includes the
Ohio fair plan underwriting association as established in section
3929.43 of the Revised Code.

636
637
638

(H)(1) No person shall purposely refuse to release any 639
information requested, pursuant to division (A) of this section, 640
by an agency, official, or officer authorized to request ~~such~~ the 641
information by that division. 642

(2) No person shall purposely refuse to notify the fire 643
marshal and prosecuting attorney of a fire loss required to be 644
reported ~~pursuant to~~ under division (B) of this section. 645

(3) No person shall purposely refuse to supply the fire 646
marshal and prosecuting attorney with pertinent information 647
required to be furnished ~~pursuant to~~ under division (B) of this 648
section. 649

(4) No person shall purposely fail to hold in confidence 650
information required to be held in confidence by division (E) of 651
this section. 652

Sec. 3737.21. (A) The director of the department of commerce 653
shall appoint, from names submitted to ~~him~~ the director by the 654
state fire commission, a fire marshal, who shall serve at the 655
pleasure of the director and shall possess the following 656
qualifications: 657

(1) A degree from an accredited college or university with 658
specialized study in either the field of fire protection or fire 659
protection engineering, or the equivalent qualifications 660
determined from ~~his~~ training, experience, and duties in a fire 661
service; 662

(2) Five years of recent, progressively more responsible 663
experience in fire inspection, fire code enforcement, fire 664
investigation, fire protection engineering, teaching of fire 665
safety engineering, or fire fighting. 666

(B) When a vacancy occurs in the position of fire marshal, 667
the director shall notify the state fire commission. The 668

commission shall communicate the fact of the vacancy by regular
mail to all fire chiefs and fire protection engineers known to the
commission, or whose identity may be ascertained by the commission
by the exercise of due diligence. The commission ~~shall~~, no earlier
than thirty days after mailing the notification, shall compile a
list of all applicants for the position of fire marshal who are
qualified under this section. The commission shall submit the
names of at least three persons on the list to the director. The
director shall appoint the fire marshal from the list of at least
three names or may request the commission to submit additional
names.

Sec. 3737.22. (A) The fire marshal shall do all of the
following:

(1) Adopt the state fire code under sections 3737.82 to
3737.86 of the Revised Code;

(2) Enforce the state fire code;

(3) Appoint assistant fire marshals who are authorized to
enforce the state fire code;

(4) Conduct investigations into the cause, origin, and
circumstances of fires and explosions, and ~~prosecute~~ assist in the
prosecution of persons believed to be guilty of arson or a similar
crime;

(5) Compile statistics concerning loss due to fire and
explosion as the fire marshal considers necessary, and consider
the compatibility of the fire marshal's system of compilation with
the systems of other state and federal agencies and fire marshals
of other states;

(6) Engage in research on the cause and prevention of losses
due to fire and explosion;

(7) Engage in public education and informational activities

which will inform the public of fire safety information; 699

(8) Operate a fire training academy and ~~arson-crime~~ forensic 700
laboratory; 701

(9) Conduct ~~such~~ other fire safety and fire fighting training 702
activities for the public and groups as will further the cause of 703
fire safety; 704

(10) ~~Issue~~ Conduct licensing examinations, and issue permits, 705
licenses, and certificates, as authorized by the Revised Code; 706

(11) ~~Conduct tests of fire protection systems and devices,~~ 707
~~and fire fighting equipment to determine compliance with the state~~ 708
~~fire code, unless a building is insured against the hazard of~~ 709
~~fire, in which case such tests may be performed by the company~~ 710
~~insuring the building;~~ 711

~~(12)~~ Establish and collect fees for conducting licensing 712
examinations and for issuing permits, licenses, and certificates; 713

~~(13)~~(12) Make available for the prosecuting attorney and an 714
assistant prosecuting attorney from each county of this state, in 715
accordance with section 3737.331 of the Revised Code, a seminar 716
program, attendance at which is optional, that is designed to 717
provide current information, data, training, and techniques 718
relative to the prosecution of arson cases; 719

~~(14)~~(13) Administer and enforce Chapter 3743. of the Revised 720
Code; 721

~~(15)~~(14) Develop a ~~form~~ uniform standard for the ~~written~~ 722
~~report~~ reporting of information required to be filed under 723
division (E)(4) of section 2921.22 of the Revised Code, and accept 724
~~such~~ the reports of the information when they are filed. 725

(B) The fire marshal shall appoint a chief deputy fire 726
marshal, and shall employ professional and clerical ~~assistance~~ 727
assistants as the fire marshal considers necessary. The chief 728

deputy shall be a competent former or current member of a fire 729
agency and possess five years of recent, progressively more 730
responsible experience in fire inspection, fire code enforcement, 731
and fire code management. All The chief deputy, with the approval 732
of the director of commerce, shall temporarily assume the duties 733
of the fire marshal when the fire marshal is absent or temporarily 734
unable to carry out the duties of the office. When there is a 735
vacancy in the office of fire marshal, the chief deputy, with the 736
approval of the director of commerce, shall temporarily assume the 737
duties of the fire marshal until a new fire marshal is appointed 738
under section 3737.21 of the Revised Code. 739

All employees, other than the fire marshal; the chief 740
deputy; fire marshal; the superintendent of the Ohio fire 741
academy; the grants administrator; the fiscal officer; the 742
executive secretary to the state fire marshal; legal counsel; the 743
pyrotechnics administrator, the chief of the forensic laboratory; 744
the person appointed by the fire marshal to serve as administrator 745
over functions concerning testing, license examinations, and the 746
issuance of permits and certificates; and the chiefs of the bureau 747
bureaus of fire prevention, the arson bureau, the arson crime 748
laboratory of fire and explosion investigation, of code 749
enforcement, and the bureau of underground storage tanks; shall be 750
in the classified civil service. The fire marshal shall authorize 751
the chief deputy and other employees under the fire marshal's 752
supervision to exercise powers granted to the fire marshal by law 753
as may be necessary to carry out the duties of the fire marshal's 754
office. 755

(C) The fire marshal shall create, in and as a part of the 756
office of fire marshal, an arson a fire and explosion 757
investigation bureau consisting of a chief of the bureau, and ~~such~~ 758
additional assistant fire marshals as the fire marshal determines 759
necessary for the efficient administration of the bureau. The 760

chief shall be experienced in the investigation of the cause, 761
origin, and circumstances of fires, and in administration, 762
including the supervision of subordinates. The chief, among other 763
duties delegated to the chief by the fire marshal, shall be 764
responsible, under the direction of the fire marshal, for the 765
investigation of the cause, origin, and circumstances of ~~each fire~~ 766
fires and explosions in the state, and for assistance in the 767
prosecution of persons believed to be guilty of arson or a similar 768
crime. 769

(D) ~~At the fire marshal's discretion, the~~ (1) The fire 770
marshal shall create, as part of the office of fire marshal, a 771
bureau of code enforcement consisting of a chief of the bureau and 772
additional assistant fire marshals as the fire marshal determines 773
necessary for the efficient administration of the bureau. The 774
chief shall be qualified, by education or experience, in fire 775
inspection, fire code development, fire code enforcement, or any 776
other similar field determined by the fire marshal, and in 777
administration, including the supervision of subordinates. The 778
chief is responsible, under the direction of the fire marshal, for 779
fire inspection, fire code development, fire code enforcement, and 780
any other duties delegated to the chief by the fire marshal. 781

(2) The fire marshal, or the chief deputy under the direction 782
of the fire marshal, the chief of the bureau of code enforcement, 783
or any assistant fire marshal under the direction of the fire 784
marshal, the chief deputy fire marshal, or the chief of the bureau 785
of code enforcement may cause the inspection to be conducted the 786
inspection of all buildings, structures, and other places, the 787
condition of which may be dangerous from a fire safety standpoint 788
to life or property, or to property adjacent ~~thereto~~ to the 789
buildings, structures, or other places. 790

(E) The fire marshal shall create, as a part of the office of 791
fire marshal, a bureau of fire prevention consisting of a chief of 792

the bureau, and ~~such~~ additional assistant fire marshals as the
fire marshal determines necessary for the efficient administration
of the bureau. The chief shall be qualified, by education or
experience, to promote programs for rural and urban fire
prevention and protection. The chief, among other duties delegated
to the chief by the fire marshal, is responsible, under the
direction of the fire marshal, for the promotion of rural and
urban fire prevention and protection through public information
and education programs.

(F) The fire marshal shall cooperate with the director of job
and family services when the director ~~promulgates~~ adopts rules
~~pursuant to~~ under section 5104.052 of the Revised Code regarding
fire prevention and fire safety in certified type B family
day-care homes, as defined in section 5104.01 of the Revised Code,
recommend procedures for inspecting type B homes to determine
whether they are in compliance with those rules, and provide
training and technical assistance to the director and county
directors of job and family services on the procedures for
determining compliance with those rules.

(G) The fire marshal, upon request of a provider of child
day-care in a type B home that is not certified by the county
director of job and family services, as a precondition of approval
by the state board of education ~~pursuant to~~ under section 3313.813
of the Revised Code for receipt of United States department of
agriculture child and adult care food program funds established
under the "National School Lunch Act," 60 Stat. 230 (1946), 42
U.S.C. 1751, as amended, shall inspect the type B home to
determine compliance with rules ~~promulgated pursuant to~~ adopted
under section 5104.052 of the Revised Code regarding fire
prevention and fire safety in certified type B homes. In municipal
corporations and in townships where there is a certified fire
safety inspector, the inspections shall be made by that inspector

under the supervision of the fire marshal, according to rules 825
~~promulgated pursuant to~~ adopted under section 5104.052 of the 826
Revised Code. In townships outside municipal corporations where 827
there is no certified fire safety inspector, inspections shall be 828
made by the fire marshal. 829

(H) The fire marshal may conduct tests of fire protection 830
systems and devices and fire fighting equipment to determine 831
compliance with the state fire code. If a building is insured 832
against the hazard of fire, such tests may be performed by the 833
company insuring the building. 834

Sec. 3737.221. (A) As used in this section, "motor vehicle" 835
has the same meaning as in section 4511.01 of the Revised Code. 836

(B) The office of the fire marshal is liable for injury, 837
death, or loss to person or property caused by the negligent 838
operation of any motor vehicle by its employees upon the public 839
roads, highways, or streets in the state when the employees are 840
engaged within the scope of their employment and authority, 841
without regard to the proximity of that operation to the office of 842
the fire marshal. Notwithstanding division (A)(1) of section 843
2743.02 of the Revised Code, a full defense to that liability is 844
that if the fire marshal, the chief deputy fire marshal, or an 845
assistant fire marshal was operating the motor vehicle, the fire 846
marshal, chief deputy fire marshal, or assistant fire marshal was 847
acting within the scope of division (A)(2), (4), or (13) of 848
section 3737.22, or section 3737.24 or 3737.26, of the Revised 849
Code and the operation of the vehicle did not constitute willful 850
or wanton misconduct. 851

(C) The fire marshal, the chief deputy fire marshal, and any 852
assistant fire marshal is immune from liability for injury, death, 853
or loss to person or property caused by the operation of any motor 854
vehicle upon the public roads, highways, or streets in the state 855

when acting within the scope of division (A)(2), (4), or (13) of section 3737.22, or section 3737.24 or 3737.26, of the Revised Code, without regard to the proximity of that operation to the office of the fire marshal, unless one of the following applies:

856
857
858
859

(1) The operation of the vehicle was manifestly outside the scope of the employee's employment or official responsibilities.

860
861

(2) The operation of the vehicle constituted willful or wanton misconduct.

862
863

Sec. 3737.26. If the fire marshal or an assistant fire marshal, ~~is of the opinion~~ determines that there is evidence sufficient to charge a person with arson or a similar crime, or with a violation of section 3737.62 of the Revised Code, ~~he shall~~ the marshal or assistant marshal may arrest ~~such the~~ person or cause ~~him~~ the person to be arrested and charged with ~~such the~~ offense. ~~Such~~ The fire marshal or assistant ~~marshall~~ fire marshal shall ~~furnish~~ provide the prosecuting attorney ~~such the~~ evidence, ~~with~~ the names of witnesses, and a copy of material testimony taken in the case.

864
865
866
867
868
869
870
871
872
873

Sec. 3737.27. The fire marshal or an assistant fire marshal may summon and compel the attendance of witnesses to testify in relation to any matter ~~which~~ that is a proper subject of inquiry ~~and or~~ investigation, and may require the production of any book, paper, ~~or~~ document, or record, regardless of physical form or characteristic.

874
875
876
877
878
879

Sec. 3737.28. The fire marshal or an assistant fire marshal may administer an oath to any person appearing as a witness before ~~him~~ the fire marshal or assistant fire marshal. No witness shall refuse to be sworn ~~or,~~ refuse to testify, ~~or~~ disobey an order of the ~~fire~~ marshal, ~~or of~~ an assistant fire marshal, or fail or

880
881
882
883
884

refuse to produce a book, paper, ~~or~~ document, or record, 885
regardless of physical form or characteristic, concerning a matter 886
under examination, or be guilty of contemptuous conduct after 887
being summoned by ~~such officer~~ the fire marshal or an assistant 888
fire marshal to appear before ~~him~~ the fire marshal or assistant 889
fire marshal to give testimony in relation to a matter or subject 890
under investigation. 891

Sec. 3737.42. (A) If, upon inspection or investigation, the 892
fire marshal, an assistant fire marshal, or a certified fire 893
safety inspector believes that the state fire code or an 894
associated order has been violated, ~~he~~ the fire marshal, assistant 895
fire marshal, or certified fire safety inspector shall, with 896
reasonable promptness, issue a citation to the responsible person. 897
Each citation shall be in writing and shall describe with 898
particularity the nature of the violation, including a reference 899
to the provision of the state fire code or associated order 900
alleged to have been violated. In addition, the citation shall fix 901
a reasonable time for the abatement of the violation. When the 902
citation is issued by ~~an officer other than the fire marshal~~ a 903
certified fire safety inspector or an assistant fire marshal, a 904
copy of the citation shall be furnished to the fire marshal. 905

(B) The fire marshal may prescribe procedures for the 906
issuance of a notice in lieu of a citation with respect to de 907
minimis violations ~~which~~ that have no direct or immediate 908
relationship to safety or health. 909

(C) Each citation issued under this section, or a copy or 910
copies ~~thereof~~ of the citation, shall be prominently posted by the 911
responsible person, as prescribed in the state fire code, at or 912
near each place a violation referred to in the citation occurs. 913

Sec. 3737.43. (A) If, after an inspection or investigation, 914
~~an officer~~ the fire marshal, an assistant fire marshal, or a 915

certified fire safety inspector issues a citation under section 916
3737.41 or 3737.42 of the Revised Code, ~~he~~ the issuing authority 917
shall, within a reasonable time after such inspection or 918
investigation and in accordance with Chapter 119. of the Revised 919
Code, notify the responsible person ~~by certified mail~~ of the 920
citation and penalty, if any, proposed to be assessed under 921
section 3737.51 of the Revised Code, and of the responsible 922
person's right to appeal the citation and penalty, under Chapter 923
119. of the Revised Code, to the state board of building appeals 924
established under section 3781.19 of the Revised Code within 925
thirty days after receipt of the notice. 926

(B) If the responsible person is aggrieved by an order of the 927
board, the person may appeal to the court of common pleas where 928
the property that is the subject of the citation is located, 929
within thirty days after the board renders its decision. The 930
issuing authority may appeal an order of the board to the court of 931
common pleas where the property that is the subject of the 932
citation is located or to the court of common pleas of Franklin 933
county, within thirty days after the board renders its decision. 934

(C) As used in this section, "issuing authority" means the 935
office of the fire marshal, in the case of a citation issued by 936
the fire marshal or an assistant fire marshal, or the applicable 937
township or municipal corporation, in the case of a citation 938
issued by a certified fire safety inspector. 939

Sec. 3737.45. If any responsible person fails to comply with 940
an order of the fire marshal, an assistant fire marshal, or a 941
certified fire safety inspector as finally affirmed or modified by 942
the ~~hearing officer pursuant to~~ state board of building appeals 943
under section 3737.43 of the Revised Code, within the time fixed 944
in ~~such~~ the order, then ~~such officer~~ the fire marshal, assistant 945
fire marshal, or certified fire safety inspector may file a 946
complaint in the court of common pleas of the county where the 947

property is located for a court order authorizing ~~him~~ the fire 948
marshal, assistant fire marshal, or certified fire safety 949
inspector to cause the building, structure, or premises to be 950
repaired, or demolished, materials to be removed, and all 951
dangerous conditions to be remedied, if such was the mandate of 952
the order as affirmed or modified by the ~~hearing officer~~ state 953
board of building appeals, at the expense of the responsible 954
person. If the responsible person, within thirty days thereafter, 955
fails, neglects, or refuses to pay the expense that would be 956
incurred in enforcing the ~~court~~ order of the court of common pleas 957
~~court~~ under this section, the court shall order that the real 958
estate upon which the building, structure, or premises is or was 959
situated be sold pursuant to Chapter 2329. of the Revised Code, 960
except as otherwise provided in this section. The proceeds of the 961
sale shall be credited to the fire marshal's fund. The fire 962
marshal shall use the proceeds of the sale to cause the repair or 963
demolition of any building, structure, or premises, the removal of 964
materials, or the remedy of all dangerous conditions unless the 965
purchaser of the real estate enters into an agreement with the 966
court to perform the repair, demolition, removal, or remedy within 967
a time period acceptable to the court. No bid of a prospective 968
purchaser shall be acceptable which is insufficient to pay the 969
expense ~~which~~ that the fire marshal would incur. If the amount 970
received from the sale exceeds the expense ~~which~~ that the fire 971
marshal would incur, the court shall direct the payment of the 972
surplus first to those parties with encumbrances, mortgages, or 973
liens on the real estate in order of their priority, and then to 974
the responsible person or into the court for its use and benefit. 975

Sec. 3737.81. (A) There is hereby created the state fire 976
commission consisting of ten members to be appointed by the 977
governor with the advice and consent of the senate. The fire 978
marshal or ~~his~~ chief deputy fire marshal, a representative 979

designated by the department of public safety who has tenure in 980
fire suppression, and a representative designated by the board of 981
building standards shall be ex officio members. Of the initial 982
appointments made to the commission, two shall be for a term 983
ending one year after ~~the effective date of this section~~ November 984
1, 1978, two shall be for a term ending two years after that date, 985
two shall be for a term ending three years after that date, two 986
shall be for a term ending four years after that date, and two 987
shall be for a term ending five years after that date. Thereafter, 988
terms of office shall be for five years, each term ending on the 989
same day of the same month of the year as did the term which it 990
succeeds. Each member shall hold office from the date of ~~his~~ 991
appointment until the end of the term for which ~~he~~ the member was 992
appointed. Any member appointed to fill a vacancy occurring prior 993
to the expiration of the term for which ~~his~~ the member's 994
predecessor was appointed shall hold office for the remainder of 995
~~such~~ that term. Any member shall continue in office subsequent to 996
the expiration date of ~~his~~ the member's term until ~~his~~ a successor 997
takes office, or until a period of sixty days has elapsed, 998
whichever occurs first. Members shall be qualified by experience 999
and training to deal with the matters that are the responsibility 1000
of the commission. Two members shall be members of paid fire 1001
services, one shall be a member of volunteer fire services, two 1002
shall be mayors, managers, or members of legislative authorities 1003
of ~~municipalities~~ municipal corporations, one shall represent 1004
commerce and industry, one shall be a representative of a fire 1005
insurance company domiciled in this state, one shall represent the 1006
flammable liquids industry, one shall represent the construction 1007
industry, and one shall represent the public. At no time shall 1008
more than six members be members of or associated with the same 1009
political party. Membership on the commission shall not constitute 1010
holding a public office, and no person shall forfeit or otherwise 1011
vacate ~~his~~ the person's office or position of employment because 1012

of membership on the commission. 1013

(B) The ex officio members may not vote, except that the fire 1014
marshal or ~~his~~ chief deputy fire marshal may vote in case of a 1015
tie. 1016

(C) Each member of the commission, other than ex officio 1017
members, shall be paid an amount equal to that payable under pay 1018
range 32 (S)(D) fixed pursuant to division (J) of section 124.15 1019
of the Revised Code, and ~~his~~ the member's actual and necessary 1020
expenses. 1021

(D) The commission shall select a ~~chairman~~ chairperson and a 1022
~~vice-chairman~~ vice-chairperson from among its members. No business 1023
may be transacted in the absence of a quorum. A quorum shall be at 1024
least six members, excluding ex officio members, and shall include 1025
either the ~~chairman~~ chairperson or ~~vice-chairman~~ vice-chairperson. 1026
The commission shall hold regular meetings at least once every two 1027
months and may meet at any other time at the call of the ~~chairman~~ 1028
chairperson. 1029

(E) The fire marshal shall provide the commission with office 1030
space, meeting rooms, staff, and clerical assistance necessary for 1031
the commission to perform its duties. If the commission maintains 1032
the Ohio fire service hall of fame under division (C) of section 1033
3737.03 of the Revised Code, the fire marshal shall preserve, in 1034
an appropriate manner, in the office space or meeting rooms 1035
provided to the commission under this division or in another 1036
location, copies of all official commendations awarded to 1037
individuals recognized and commemorated for their exemplary 1038
accomplishments and acts of heroism at fire-related incidents or 1039
similar events that occurred in this state. 1040
1041

(F) If the commission maintains the Ohio fire service hall of 1042
fame under division (C) of section 3737.03 of the Revised Code, 1043
the expenses incurred for the recognition and commemoration of 1044

individuals for their exemplary accomplishments and acts of 1045
heroism at fire-related incidents or similar events that occurred 1046
in this state, including, but not limited to, expenses for 1047
official commendations and an annual awards ceremony as described 1048
in division (C) of section 3737.03 of the Revised Code, may be 1049
paid from moneys appropriated by the general assembly for purposes 1050
of that recognition and commemoration, from moneys that are 1051
available to the fire marshal under this chapter, or from other 1052
funding sources available to the commission. 1053

Sec. 4506.02. (A) Nothing in this chapter applies to any 1054
person when engaged in the operation of any of the following: 1055

(1) A farm truck; 1056

(2) Fire equipment for a fire department, volunteer or 1057
nonvolunteer fire company, fire district, or joint fire district; 1058

(3) A public safety vehicle used to provide transportation or 1059
emergency medical service for ill or injured persons; 1060

(4) A recreational vehicle; 1061

(5) A commercial motor vehicle within the boundaries of an 1062
eligible unit of local government, if the person is employed by 1063
the eligible unit of local government and is operating the 1064
commercial motor vehicle for the purpose of removing snow or ice 1065
from a roadway by plowing, sanding, or salting, but only if either 1066
the employee who holds a commercial driver's license issued under 1067
this chapter and ordinarily operates a commercial motor vehicle 1068
for these purposes is unable to operate the vehicle, or the 1069
employing eligible unit of local government determines that a snow 1070
or ice emergency exists that requires additional assistance. 1071

Nothing contained in this division shall be construed as 1072
preempting or superseding any law or rule of this state concerning 1073
the safe operation of commercial motor vehicles. 1074

(6) A vehicle owned by the department of defense and operated 1075
by any member or uniformed employee of the armed forces of the 1076
United States or their reserve components, including the Ohio 1077
national guard. This exception does not apply to United States 1078
reserve technicians. 1079

(7) A commercial motor vehicle that is operated for 1080
nonbusiness purposes. "Operated for nonbusiness purposes" means 1081
that the commercial motor vehicle is not used in commerce as 1082
"commerce" is defined in 49 C.F.R. 383.5, as amended, and is not 1083
regulated by the public utilities commission pursuant to Chapter 1084
4919., 4921., or 4923. of the Revised Code. 1085

~~Nothing contained in division (A)(5) of this section shall be 1086
construed as preempting or superseding any law, rule, or 1087
regulation of this state concerning the safe operation of 1088
commercial motor vehicles. 1089~~

(8) A vehicle of the office of the state fire marshal 1090
operated by one of its employees under division (B), (C), or (D) 1091
of section 9.60, division (A)(2), (4), or (13) of section 3737.22, 1092
or section 3737.24 or 3737.26, of the Revised Code. 1093

(B) As used in this section: 1094

(1) "Eligible unit of local government" means a village, 1095
township, or county that has a population of not more than three 1096
thousand persons according to the most recent federal census. 1097

(2) "Farm truck" means a truck controlled and operated by a 1098
farmer for use in the transportation to or from a farm, for a 1099
distance of no more than one hundred fifty miles, of products of 1100
the farm, including livestock and its products, poultry and its 1101
products, floricultural and horticultural products, and in the 1102
transportation to the farm, from a distance of no more than one 1103
hundred fifty miles, of supplies for the farm, including tile, 1104
fence, and every other thing or commodity used in agricultural, 1105

floricultural, horticultural, livestock, and poultry production, 1106
and livestock, poultry, and other animals and things used for 1107
breeding, feeding, or other purposes connected with the operation 1108
of the farm, when the truck is operated in accordance with this 1109
division and is not used in the operations of a motor 1110
transportation company or private motor carrier. 1111

(3) "Public safety vehicle" has the same meaning as in 1112
divisions (E)(1) and (3) of section 4511.01 of the Revised Code. 1113

(4) "Recreational vehicle" includes every vehicle that is 1114
defined as a recreational vehicle in section 4501.01 of the 1115
Revised Code and is used exclusively for purposes other than 1116
engaging in business for profit. 1117

Sec. 4765.49. (A) A first responder, emergency medical 1118
technician-basic, emergency medical technician-intermediate, or 1119
emergency medical technician-paramedic is not liable in damages in 1120
a civil action for injury, death, or loss to person or property 1121
resulting from the individual's administration of emergency 1122
medical services, unless the services are administered in a manner 1123
that constitutes willful or wanton misconduct. A physician or 1124
registered nurse designated by a physician, who is advising or 1125
assisting in the emergency medical services by means of any 1126
communication device or telemetering system, is not liable in 1127
damages in a civil action for injury, death, or loss to person or 1128
property resulting from the individual's advisory communication or 1129
assistance, unless the advisory communication or assistance is 1130
provided in a manner that constitutes willful or wanton 1131
misconduct. Medical directors and members of cooperating physician 1132
advisory boards of emergency medical service organizations are not 1133
liable in damages in a civil action for injury, death, or loss to 1134
person or property resulting from their acts or omissions in the 1135
performance of their duties, unless the act or omission 1136

constitutes willful or wanton misconduct. 1137

(B) A political subdivision, joint ambulance district, joint 1138
emergency medical services district, or other public agency, and 1139
any officer or employee of a public agency or of a private 1140
organization operating under contract or in joint agreement with 1141
one or more political subdivisions, that provides emergency 1142
medical services, or that enters into a joint agreement or a 1143
contract with the state, any political subdivision, joint 1144
ambulance district, or joint emergency medical services district 1145
for the provision of emergency medical services, is not liable in 1146
damages in a civil action for injury, death, or loss to person or 1147
property arising out of any actions taken by a first responder, 1148
EMT-basic, EMT-I, or paramedic working under the officer's or 1149
employee's jurisdiction, or for injury, death, or loss to person 1150
or property arising out of any actions of licensed medical 1151
personnel advising or assisting the first responder, EMT-basic, 1152
EMT-I, or paramedic, unless the services are provided in a manner 1153
that constitutes willful or wanton misconduct. 1154

(C) A student who is enrolled in an emergency medical 1155
services training program accredited under section 4765.17 of the 1156
Revised Code or an emergency medical services continuing education 1157
program approved under that section is not liable in damages in a 1158
civil action for injury, death, or loss to person or property 1159
resulting from either of the following: 1160

(1) The student's administration of emergency medical 1161
services or patient care or treatment, if the services, care, or 1162
treatment is administered while the student is under the direct 1163
supervision and in the immediate presence of an EMT-basic, EMT-I, 1164
paramedic, registered nurse, or physician and while the student is 1165
receiving clinical training that is required by the program, 1166
unless the services, care, or treatment is provided in a manner 1167
that constitutes willful or wanton misconduct; 1168

(2) The student's training as an ambulance driver, unless the driving is done in a manner that constitutes willful or wanton misconduct.

(D) An EMT-basic, EMT-I, paramedic, or other operator, who holds a valid commercial driver's license issued pursuant to Chapter 4506. of the Revised Code or driver's license issued pursuant to Chapter 4507. of the Revised Code and who is employed by an emergency medical service organization that is not owned or operated by a political subdivision as defined in section 2744.01 of the Revised Code, is not liable in damages in a civil action for injury, death, or loss to person or property that is caused by the operation of an ambulance by the EMT-basic, EMT-I, paramedic, or other operator while responding to or completing a call for emergency medical services, unless the operation constitutes willful or wanton misconduct or does not comply with the precautions of section 4511.03 of the Revised Code. An emergency medical service organization is not liable in damages in a civil action for any injury, death, or loss to person or property that is caused by the operation of an ambulance by its employee or agent, if this division grants the employee or agent immunity from civil liability for the injury, death, or loss.

(E) An employee or agent of an emergency medical service organization who receives requests for emergency medical services that are directed to the organization, dispatches first responders, EMTs-basic, EMTs-I, or paramedics in response to ~~such~~ those requests, communicates ~~such~~ those requests to those employees or agents of the organization who are authorized to dispatch first responders, EMTs-basic, EMTs-I, or paramedics, or performs any combination of these functions for the organization, is not liable in damages in a civil action for injury, death, or loss to person or property resulting from the individual's acts or omissions in the performance of those duties for the organization,

unless an act or omission constitutes willful or wanton 1201
misconduct. 1202

(F) A person who is performing the functions of a first 1203
responder, EMT-basic, EMT-I, or paramedic under the authority of 1204
the laws of a state that borders this state and who provides 1205
emergency medical services to or transportation of a patient in 1206
this state is not liable in damages in a civil action for injury, 1207
death, or loss to person or property resulting from the person's 1208
administration of emergency medical services, unless the services 1209
are administered in a manner that constitutes willful or wanton 1210
misconduct. A physician or registered nurse designated by a 1211
physician, who is licensed to practice in the adjoining state and 1212
who is advising or assisting in the emergency medical services by 1213
means of any communication device or telemetering system is not 1214
liable in damages in a civil action for injury, death, or loss to 1215
person or property resulting from the person's advisory 1216
communication or assistance, unless the advisory communication or 1217
assistance is provided in a manner that constitutes willful or 1218
wanton misconduct. 1219

(G) A person certified under section 4765.23 of the Revised 1220
Code to teach in an emergency medical services training program or 1221
emergency medical services continuing education program, and a 1222
person who teaches at the Ohio fire academy established under 1223
section 3737.33 of the Revised Code or in a fire service training 1224
program described in division (B) of section 4765.55 of the 1225
Revised Code, is not liable in damages in a civil action for 1226
injury, death, or loss to person or property resulting from the 1227
person's acts or omissions in the performance of the person's 1228
duties, unless an act or omission constitutes willful or wanton 1229
misconduct. 1230

(H) In the accreditation of emergency medical services 1231
training programs or approval of emergency medical services 1232

continuing education programs, the state board of emergency 1233
medical services and any person or entity authorized by the board 1234
to evaluate applications for accreditation or approval are not 1235
liable in damages in a civil action for injury, death, or loss to 1236
person or property resulting from their acts or omissions in the 1237
performance of their duties, unless an act or omission constitutes 1238
willful or wanton misconduct. 1239

(I) A person authorized by an emergency medical service 1240
organization to review the performance of first responders, 1241
EMTs-basic, EMTs-I, and paramedics or to administer quality 1242
assurance programs is not liable in damages in a civil action for 1243
injury, death, or loss to person or property resulting from the 1244
person's acts or omissions in the performance of the person's 1245
duties, unless an act or omission constitutes willful or wanton 1246
misconduct. 1247

Section 2. That existing sections 9.60, 146.01, 146.12, 1248
2743.02, 2909.01, 2921.22, 3737.01, 3737.03, 3737.16, 3737.21, 1249
3737.22, 3737.26, 3737.27, 3737.28, 3737.42, 3737.43, 3737.45, 1250
3737.81, 4506.02, and 4765.49 of the Revised Code are hereby 1251
repealed. 1252

Section 3. That the version of section 4506.02 of the Revised 1253
Code that is scheduled to take effect January 1, 2004, be amended 1254
to read as follows: 1255

Sec. 4506.02. (A) Nothing in this chapter applies to any 1256
person when engaged in the operation of any of the following: 1257

(1) A farm truck; 1258

(2) Fire equipment for a fire department, volunteer or 1259
nonvolunteer fire company, fire district, or joint fire district; 1260

(3) A public safety vehicle used to provide transportation or 1261

emergency medical service for ill or injured persons;	1262
(4) A recreational vehicle;	1263
(5) A commercial motor vehicle within the boundaries of an eligible unit of local government, if the person is employed by the eligible unit of local government and is operating the commercial motor vehicle for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, but only if either the employee who holds a commercial driver's license issued under this chapter and ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle, or the employing eligible unit of local government determines that a snow or ice emergency exists that requires additional assistance;	1264 1265 1266 1267 1268 1269 1270 1271 1272 1273
(6) A vehicle owned by the department of defense and operated by any member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio national guard. This exception does not apply to United States reserve technicians.	1274 1275 1276 1277 1278
(7) A commercial motor vehicle that is operated for nonbusiness purposes. "Operated for nonbusiness purposes" means that the commercial motor vehicle is not used in commerce as "commerce" is defined in 49 C.F.R. 383.5, as amended, and is not regulated by the public utilities commission pursuant to Chapter 4919., 4921., or 4923. of the Revised Code.	1279 1280 1281 1282 1283 1284
(8) A motor vehicle that is designed primarily for the transportation of goods and not persons, while that motor vehicle is being used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise;	1285 1286 1287 1288 1289
<u>(9) A vehicle of the office of the state fire marshal operated by one of its employees under division (B), (C), or (D) of section 9.60, division (A)(2), (4), or (13) of section 3737.22,</u>	1290 1291 1292

or section 3737.24 or 3737.26, of the Revised Code. 1293

(B) Nothing contained in division (A)(5) of this section 1294
shall be construed as preempting or superseding any law, or rule, 1295
~~or regulation~~ of this state concerning the safe operation of 1296
commercial motor vehicles. 1297

(C) As used in this section: 1298

(1) "Eligible unit of local government" means a village, 1299
township, or county that has a population of not more than three 1300
thousand persons according to the most recent federal census. 1301

(2) "Farm truck" means a truck controlled and operated by a 1302
farmer for use in the transportation to or from a farm, for a 1303
distance of no more than one hundred fifty miles, of products of 1304
the farm, including livestock and its products, poultry and its 1305
products, floricultural and horticultural products, and in the 1306
transportation to the farm, from a distance of no more than one 1307
hundred fifty miles, of supplies for the farm, including tile, 1308
fence, and every other thing or commodity used in agricultural, 1309
floricultural, horticultural, livestock, and poultry production, 1310
and livestock, poultry, and other animals and things used for 1311
breeding, feeding, or other purposes connected with the operation 1312
of the farm, when the truck is operated in accordance with this 1313
division and is not used in the operations of a motor 1314
transportation company or private motor carrier. 1315

(3) "Public safety vehicle" has the same meaning as in 1316
divisions (E)(1) and (3) of section 4511.01 of the Revised Code. 1317

(4) "Recreational vehicle" includes every vehicle that is 1318
defined as a recreational vehicle in section 4501.01 of the 1319
Revised Code and is used exclusively for purposes other than 1320
engaging in business for profit. 1321

Section 4. That the existing version of section 4506.02 of 1322

the Revised Code that is scheduled to take effect January 1, 2004, 1323
is hereby repealed. 1324

Section 5. Sections 3 and 4 of this act shall take effect 1325
January 1, 2004. 1326

Section 6. This act shall be known as the "Fire Marshal 1327
Modernization Act." 1328

Section 7. Section 2921.22 of the Revised Code is presented 1329
in this act as a composite of the section as amended by both Am. 1330
Sub. H.B. 445 and Sub. S.B. 223 of the 121st General Assembly. The 1331
General Assembly, applying the principle stated in division (B) of 1332
section 1.52 of the Revised Code that amendments are to be 1333
harmonized if reasonably capable of simultaneous operation, finds 1334
that the composite is the resulting version of the section in 1335
effect prior to the effective date of the section as presented in 1336
this act. 1337