

**As Reported by the House State Government Committee**

**124th General Assembly**

**Regular Session**

**2001-2002**

**Sub. S. B. No. 115**

**SENATORS Hottinger, Coughlin, Blessing, Mead, Mumper, Goodman, Spada,**

**Oelslager, Robert Gardner**

**REPRESENTATIVES Flowers, Schaffer, Carmichael**

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**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, and 4765.49 and 4  
to enact sections 124.1310 and 3737.221 of the 5  
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

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

**Section 1.** That sections 9.60, 146.01, 146.12, 2743.02, 24  
2909.01, 2921.22, 3737.01, 3737.03, 3737.16, 3737.21, 3737.22, 25  
3737.26, 3737.27, 3737.28, 3737.42, 3737.43, 3737.45, 3737.81, and 26  
4765.49 be amended and sections 124.1310 and 3737.221 of the 27  
Revised Code be enacted to read as follows: 28

**Sec. 9.60.** (A) As used in this section: 29

(1) "Emergency medical service" and "emergency medical 30  
service organization" have the same meanings as in section 4765.01 31  
of the Revised Code. 32

(2) "Fire protection" means the use of firefighting equipment 33  
by the fire department of a firefighting agency or a private fire 34  
company, and includes the provision of ambulance, emergency 35  
medical, and rescue services by those entities. 36

(3) "Firefighting agency" means a municipal corporation, 37  
township, township fire district, joint ambulance district, joint 38  
emergency medical services district, or joint fire district and 39  
the office of the state fire marshal. 40

(4) "Motor vehicle" has the same meaning as in section 41  
4511.01 of the Revised Code. 42

(5) "Private fire company" means a nonprofit group or 43  
organization owning and operating firefighting equipment not 44  
controlled by a firefighting agency. 45

(B) Any firefighting agency, private fire company, or ~~public~~ 46  
~~or private~~ emergency medical service organization may contract 47  
with any governmental entity in this state or another jurisdiction 48  
to provide fire protection or emergency medical services, as 49  
appropriate, whether on a regular basis or only in times of 50

emergency, upon the approval of the governing boards or 51  
administrative heads of the entities that are parties to the 52  
contract. 53

(C) Any governmental entity in this state may contract with 54  
any firefighting agency, private fire company, or ~~public or~~ 55  
~~private~~ emergency medical service organization of this state or 56  
another jurisdiction to obtain fire protection or emergency 57  
medical services, as appropriate, whether on a regular basis or 58  
only in times of emergency, upon the approval of the governing 59  
boards or administrative heads of the entities that are parties to 60  
the contract. 61

(D)(1) Any firefighting agency other than the office of the 62  
state fire marshal, private fire company, or ~~public or private~~ 63  
emergency medical service organization may provide fire protection 64  
or emergency medical services, as appropriate, to any governmental 65  
entity in this state or another jurisdiction, without a contract 66  
to provide fire protection or emergency medical services, upon the 67  
approval of the governing board of the agency, company, or 68  
organization and upon authorization by an officer or employee of 69  
the agency, company, or organization designated by that 70  
individual's title, office, or position pursuant to the 71  
authorization of the governing board of the agency, company, or 72  
organization. 73

(2) The office of the state fire marshal may provide fire 74  
protection or emergency medical services, as appropriate, to any 75  
governmental entity, firefighting agency, private fire company, or 76  
emergency medical service organization in this state or another 77  
jurisdiction, without a contract to provide fire protection or 78  
emergency medical services, upon the authorization of the state 79  
fire marshal. 80

(E) Chapter 2744. of the Revised Code, insofar as it is 81  
applicable to the operation of fire departments or emergency 82

medical service organizations, applies to a political subdivision  
that is operating a fire department or emergency medical service  
organization, and to the members of the fire department or  
emergency medical service organization, when the members are  
rendering service pursuant to this section outside the boundaries  
of the political subdivision.

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

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

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

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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.

(2) "Volunteer firefighter" has the same meaning as in

section 146.01 of the Revised Code. 145

(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. 146  
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**Sec. 146.01.** As used in sections 146.01 to 146.19 of the Revised Code: 154  
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(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. 156  
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(B)(1) "Volunteer firefighter" means both of the following, subject to division (B)(2) of this section: 161  
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(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; 163  
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(b) Firefighters drafted, requisitioned, or appointed to serve in an emergency. 169  
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(2)(a) 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 divisions (A) and (B) of section 146.12 of the Revised 171  
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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.

**Sec. 146.12.** Benefits shall be paid from the volunteer fire

fighters' dependents fund to or on behalf of the following 205  
persons: 206

(A) To the surviving spouse of a volunteer ~~fire fighter~~ 207  
firefighter killed while discharging the duties of a volunteer 208  
~~fire fighter~~ firefighter or who dies from exposure or injury 209  
received while in the discharge of ~~such~~ those duties, a lump sum 210  
award of one thousand dollars, and, in addition, the sum of ~~two~~ 211  
three hundred dollars per month ~~so long as the surviving spouse~~ 212  
~~does not remarry;~~ 213

(B) To the parent, guardian, or other persons upon whom a 214  
child of a volunteer ~~fire fighter~~ firefighter is dependent for 215  
chief support, the sum of ~~sixty-five~~ one hundred twenty-five 216  
dollars per month for each dependent child ~~of such volunteer fire~~ 217  
~~fighter. Such payments shall continue until the dependent child is~~ 218  
~~eighteen years old~~ under eighteen years of age, or under 219  
twenty-three years of age if the child is attending a 220  
post-secondary educational institution and is completing a program 221  
of instruction each school year that satisfies the equivalent of 222  
at least two-thirds of the full-time curriculum requirements of 223  
the institution. 224

(C) To a volunteer ~~fire fighter~~ firefighter, totally and 225  
permanently disabled while discharging the duties of a volunteer 226  
~~fire fighter~~ firefighter, the sum of ~~two~~ three hundred dollars per 227  
month. No payment shall be made to a volunteer ~~fire fighter~~ 228  
firefighter under full salary during the time of ~~his~~ the volunteer 229  
firefighter's disability. 230

**Sec. 2743.02.** (A)(1) The state hereby waives its immunity 231  
from liability, except as provided for the office of the state 232  
fire marshal in division (G)(1) of section 9.60 and division (B) 233  
of section 3737.221 of the Revised Code, and consents to be sued, 234  
and have its liability determined, in the court of claims created 235



in this chapter in accordance with the same rules of law 236  
applicable to suits between private parties, except that the 237  
determination of liability is subject to the limitations set forth 238  
in this chapter and, in the case of state universities or 239  
colleges, in section 3345.40 of the Revised Code, and except as 240  
provided in division (A)(2) of this section. To the extent that 241  
the state has previously consented to be sued, this chapter has no 242  
applicability. 243

Except in the case of a civil action filed by the state, 244  
filing a civil action in the court of claims results in a complete 245  
waiver of any cause of action, based on the same act or omission, 246  
which the filing party has against any officer or employee, as 247  
defined in section 109.36 of the Revised Code. The waiver shall be 248  
void if the court determines that the act or omission was 249  
manifestly outside the scope of the officer's or employee's office 250  
or employment or that the officer or employee acted with malicious 251  
purpose, in bad faith, or in a wanton or reckless manner. 252

(2) If a claimant proves in the court of claims that an 253  
officer or employee, as defined in section 109.36 of the Revised 254  
Code, would have personal liability for ~~his~~ the officer's or 255  
employee's acts or omissions but for the fact that the officer or 256  
employee has personal immunity under section 9.86 of the Revised 257  
Code, the state shall be held liable in the court of claims in any 258  
action that is timely filed pursuant to section 2743.16 of the 259  
Revised Code and that is based upon the acts or omissions. 260

(B) The state hereby waives the immunity from liability of 261  
all hospitals owned or operated by one or more political 262  
subdivisions and consents for them to be sued, and to have their 263  
liability determined, in the court of common pleas, in accordance 264  
with the same rules of law applicable to suits between private 265  
parties, subject to the limitations set forth in this chapter. 266  
This division is also applicable to hospitals owned or operated by 267

political subdivisions which have been determined by the supreme 268  
court to be subject to suit prior to July 28, 1975. 269

(C) Any hospital, as defined under section 2305.11 of the 270  
Revised Code, may purchase liability insurance covering its 271  
operations and activities and its agents, employees, nurses, 272  
interns, residents, staff, and members of the governing board and 273  
committees, and, whether or not such insurance is purchased, may, 274  
to such extent as its governing board considers appropriate, 275  
indemnify or agree to indemnify and hold harmless any such person 276  
against expense, including attorney's fees, damage, loss, or other 277  
liability arising out of, or claimed to have arisen out of, the 278  
death, disease, or injury of any person as a result of the 279  
negligence, malpractice, or other action or inaction of the 280  
indemnified person while acting within the scope of ~~his~~ the 281  
indemnified person's duties or engaged in activities at the 282  
request or direction, or for the benefit, of the hospital. Any 283  
hospital electing to indemnify such persons, or to agree to so 284  
indemnify, shall reserve such funds as are necessary, in the 285  
exercise of sound and prudent actuarial judgment, to cover the 286  
potential expense, fees, damage, loss, or other liability. The 287  
superintendent of insurance may recommend, or, if such hospital 288  
requests ~~him~~ the superintendent to do so, the superintendent shall 289  
recommend, a specific amount for any period that, in ~~his~~ the 290  
superintendent's opinion, represents such a judgment. This 291  
authority is in addition to any authorization otherwise provided 292  
or permitted by law. 293

(D) Recoveries against the state shall be reduced by the 294  
aggregate of insurance proceeds, disability award, or other 295  
collateral recovery received by the claimant. This division does 296  
not apply to civil actions in the court of claims against a state 297  
university or college under the circumstances described in section 298  
3345.40 of the Revised Code. The collateral benefits provisions of 299

division (B)(2) of that section apply under those circumstances. 300  
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(E) The only defendant in original actions in the court of 302  
claims is the state. The state may file a third-party complaint or 303  
counterclaim in any civil action, except a civil action for two 304  
thousand five hundred dollars or less, that is filed in the court 305  
of claims. 306

(F) A civil action against an officer or employee, as defined 307  
in section 109.36 of the Revised Code, that alleges that the 308  
officer's or employee's conduct was manifestly outside the scope 309  
of ~~his~~ the officer's or employee's employment or official 310  
responsibilities, or that the officer or employee acted with 311  
malicious purpose, in bad faith, or in a wanton or reckless manner 312  
shall first be filed against the state in the court of claims, 313  
which has exclusive, original jurisdiction to determine, 314  
initially, whether the officer or employee is entitled to personal 315  
immunity under section 9.86 of the Revised Code and whether the 316  
courts of common pleas have jurisdiction over the civil action. 317

The filing of a claim against an officer or employee under 318  
this division tolls the running of the applicable statute of 319  
limitations until the court of claims determines whether the 320  
officer or employee is entitled to personal immunity under section 321  
9.86 of the Revised Code. 322

(G) Whenever a claim lies against an officer or employee who 323  
is a member of the Ohio national guard, and the officer or 324  
employee was, at the time of the act or omission complained of, 325  
subject to the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 326  
U.S.C. 2671, et seq., then the Federal Tort Claims Act is the 327  
exclusive remedy of the claimant and the state has no liability 328  
under this section. 329

**Sec. 2909.01.** As used in sections 2909.01 to 2909.07 of the 330

Revised Code:	331
(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.	332 333 334
(B) "Emergency personnel" means any of the following persons:	335
(1) A peace officer, as defined in section 2935.01 of the Revised Code;	336 337
(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;	338 339 340 341
(3) A member of a private fire company, as defined in section 9.60 of the Revised Code, or a volunteer firefighter;	342 343
(4) A member of a joint ambulance district or joint emergency medical services district;	344 345
(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;	346 347 348 349 350
(6) The state fire marshal, <u>the chief deputy state fire marshal, or an assistant state fire marshal</u> , <del>or an arson investigator of the office of the state fire marshal;</del>	351 352 353
(7) A fire prevention officer of a political subdivision or an arson <del>investigator</del> , <u>fire</u> , or similar <del>inspector</del> <u>investigator</u> of a political subdivision.	354 355 356
(C) "Occupied structure" means any house, building, outbuilding, watercraft, aircraft, railroad car, truck, trailer, tent, or other structure, vehicle, or shelter, or any portion thereof, to which any of the following applies:	357 358 359 360

(1) It is maintained as a permanent or temporary dwelling, 361  
even though it is temporarily unoccupied and whether or not any 362  
person is actually present. 363

(2) At the time, it is occupied as the permanent or temporary 364  
habitation of any person, whether or not any person is actually 365  
present. 366

(3) At the time, it is specially adapted for the overnight 367  
accommodation of any person, whether or not any person is actually 368  
present. 369

(4) At the time, any person is present or likely to be 370  
present in it. 371

(D) "Political subdivision" and "state" have the same 372  
meanings as in section 2744.01 of the Revised Code. 373

**Sec. 2921.22.** (A) No person, knowing that a felony has been 374  
or is being committed, shall knowingly fail to report such 375  
information to law enforcement authorities. 376

(B) Except for conditions that are within the scope of 377  
division (E) of this section, no ~~person who is a~~ physician, 378  
limited practitioner, nurse, or other person giving aid to a sick 379  
or injured person shall negligently fail to report to law 380  
enforcement authorities any gunshot or stab wound ~~that the person~~ 381  
treated or observed by the physician, limited practitioner, nurse, 382  
or person, or any serious physical harm to persons that the 383  
physician, limited practitioner, nurse, or person knows or has 384  
reasonable cause to believe resulted from an offense of violence. 385

(C) No person who discovers the body or acquires the first 386  
knowledge of the death of a person shall fail to report the death 387  
immediately to a physician whom the person knows to be treating 388  
the deceased for a condition from which death at such time would 389  
not be unexpected, or to a law enforcement officer, an ambulance 390

service, an emergency squad, or the coroner in a political 391  
subdivision in which the body is discovered, the death is believed 392  
to have occurred, or knowledge concerning the death is obtained. 393

(D) No person shall fail to provide upon request of the 394  
person to whom ~~the person~~ a report required by division (C) of 395  
this section was made, or to any law enforcement officer who has 396  
reasonable cause to assert the authority to investigate the 397  
circumstances surrounding the death, any facts within the person's 398  
knowledge that may have a bearing on the investigation of the 399  
death. 400

(E)(1) As used in this division, "burn injury" means any of 401  
the following: 402

(a) Second or third degree burns; 403

(b) Any burns to the upper respiratory tract or laryngeal 404  
edema due to the inhalation of superheated air; 405

(c) Any burn injury or wound that may result in death; 406

(d) Any physical harm to persons caused by or as the result 407  
of the use of fireworks, novelties and trick noisemakers, and wire 408  
sparklers, as each is defined by section 3743.01 of the Revised 409  
Code. 410

(2) No physician, nurse, or limited practitioner who, outside 411  
a hospital, sanitarium, or other medical facility, attends or 412  
treats a person who has sustained a burn injury that is inflicted 413  
by an explosion or other incendiary device, or that shows evidence 414  
of having been inflicted in a violent, malicious, or criminal 415  
manner, shall fail to report the burn injury immediately to the 416  
local arson, or fire and explosion investigation, bureau, if there 417  
is such a bureau of this type in the jurisdiction in which the 418  
person is attended or treated, or otherwise to local law 419  
enforcement authorities. 420

(3) No manager, superintendent, or other person in charge of 421

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.

(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.

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

(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.

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

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

(4) Disclosure of the information would amount to disclosure  
by a member of the ordained clergy of an organized religious body  
of a confidential communication made to that member of the clergy  
~~the clergyman~~ in that member's a capacity as a ~~clergyman~~ member of

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the clergy by a person seeking the aid or counsel of that member 485  
of the clergy. 486

(5) Disclosure would amount to revealing information acquired 487  
by the actor in the course of the actor's duties in connection 488  
with a bona fide program of treatment or services for drug 489  
dependent persons or persons in danger of drug dependence, which 490  
program is maintained or conducted by a hospital, clinic, person, 491  
agency, or organization certified pursuant to section 3793.06 of 492  
the Revised Code. 493

(6) Disclosure would amount to revealing information acquired 494  
by the actor in the course of the actor's duties in connection 495  
with a bona fide program for providing counseling services to 496  
victims of crimes that are violations of section 2907.02 or 497  
2907.05 of the Revised Code or to victims of felonious sexual 498  
penetration in violation of former section 2907.12 of the Revised 499  
Code. As used in this division, "counseling services" include 500  
services provided in an informal setting by a person who, by 501  
education or experience, is competent to provide ~~such~~ those 502  
services. 503

(H) No disclosure of information pursuant to this section 504  
gives rise to any liability or recrimination for a breach of 505  
privilege or confidence. 506

(I) Whoever violates division (A) or (B) of this section is 507  
guilty of failure to report a crime. Violation of division (A) of 508  
this section is a misdemeanor of the fourth degree. Violation of 509  
division (B) of this section is a misdemeanor of the second 510  
degree. 511

(J) Whoever violates division (C) or (D) of this section is 512  
guilty of failure to report knowledge of a death, a misdemeanor of 513  
the fourth degree. 514

(K)(1) Whoever negligently violates division (E) of this 515

section is guilty of a minor misdemeanor. 516

(2) Whoever knowingly violates division (E) of this section 517  
is guilty of a misdemeanor of the second degree. 518

**Sec. 3737.01.** As used in this chapter: 519

(A) "Assistant fire marshal" means any person ~~directly who is~~ 520  
employed by the fire marshal and who is involved in carries out 521  
specific duties assigned by the fire marshal, including, but not 522  
limited to, enforcement of Chapters 3731., 3737., and 3743. of the 523  
Revised Code, fire inspection, fire code enforcement, fire 524  
investigation, fire prevention, ~~hazardous materials incidents,~~ 525  
the regulation of underground storage tank systems as ~~that term is~~ 526  
defined in section 3737.87 of the Revised Code. 527

(B) "Consumer goods" means any item sold, leased, or rented 528  
primarily for personal or household use. 529

(C) "Fire agency" means any state or local fire service or 530  
agency whose function is to examine the property of another person 531  
for the purpose of identifying fire safety hazards. 532

(D) "Fire safety inspector" means any person who is a member 533  
of the civil service, as defined in section 124.01 of the Revised 534  
Code, or who is employed by or voluntarily serves a village or 535  
township, and who examines the property of another person for the 536  
purpose of identifying fire safety hazards. 537

(E) "Person," in addition to the meaning in section 1.59 of 538  
the Revised Code, means the state and any political subdivision of 539  
the state, and any other entity, public or private. 540

(F) "Responsible person" means the person responsible for 541  
compliance with the state fire code, including, but not limited 542  
to, the owner, lessee, agent, operator, or occupant of a building, 543  
premises, or vehicle. 544

Sec. 3737.03. The state fire commission may do all of the 545  
following: 546

(A) Conduct research, make and publish reports on fire 547  
safety, and recommend to the governor, the general assembly, the 548  
board of building standards, and other state agencies, any needed 549  
changes in the laws, rules, or administrative policies relating to 550  
fire safety; 551

(B) Recommend revisions in the rules included in the state 552  
fire code adopted by the fire marshal. The recommendations may 553  
propose the adoption of new rules or the amendment or repeal of 554  
existing rules. The commission shall file its recommendations in 555  
the office of the fire marshal, and, within sixty days after the 556  
recommendations are filed, the fire marshal shall file with the 557  
~~chairman~~ chairperson of the commission ~~his~~ the fire marshal's 558  
comments on, and proposed action in response to, the 559  
recommendations. 560

(C) Maintain the Ohio fire service hall of fame. In 561  
maintaining the hall of fame, the commission shall keep official 562  
commendations that recognize and commemorate exemplary 563  
accomplishments and acts of heroism by firefighters and other 564  
persons at fire-related incidents or similar events occurring in 565  
the state. The commission may adopt criteria and guidelines for 566  
selecting individuals for that recognition and commemoration. The 567  
recognition and commemoration of individuals may occur annually 568  
and include an annual awards ceremony. The expenses associated 569  
with the recognition and commemoration of individuals shall be 570  
paid in accordance with division (F) of section 3737.81 of the 571  
Revised Code. 572

Sec. 3737.16. (A) The fire marshal, any assistant fire 573  
marshal, the chief ~~or any deputy~~ of the ~~arson~~ fire and explosion 574

investigation bureau established pursuant to section 3737.22 of 575  
the Revised Code, the chief of a fire department of any municipal 576  
corporation or township where a fire department is established, 577  
the fire prevention officer of any municipal corporation or 578  
township where no fire department exists, any federal, state, or 579  
local law enforcement agency, or the prosecuting attorney of any 580  
county may request any insurance company that has investigated or 581  
is investigating a fire loss or potential fire loss of real or 582  
personal property to release any information in its possession 583  
relative to that loss or potential loss. The company shall release 584  
the information and cooperate with any official authorized to 585  
request ~~such the~~ information pursuant to under this section. The 586  
information shall include, but is not limited to, the following: 587  
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(1) Any insurance policy relevant to a fire loss under 589  
investigation and any application for such a policy; 590

(2) Policy premium payment records; 591

(3) History of previous claims made by the insured or 592  
previous insureds for fire loss; 593

(4) Material relating to the investigation of the loss or 594  
potential loss, including statements of any person, proof of loss, 595  
and any other relevant evidence. 596

(B) If an insurance company has reason to suspect that a fire 597  
loss to its insured's real or personal property was caused by 598  
incendiary means, the company shall notify the fire marshal and 599  
the prosecuting attorney of the county in which the loss occurred, 600  
and furnish them with all relevant material acquired during its 601  
investigation of the fire loss, cooperate with and take such 602  
action as may be requested of it by any federal, state, or local 603  
law enforcement agency, and permit any other person ordered by a 604  
court to inspect any of its records pertaining to the policy and 605  
the loss. 606

(C) If an agency, official, or officer mentioned in division 607  
(A) or (B) of this section has received information ~~pursuant to~~ 608  
under those divisions from an insurance company that has 609  
investigated or is investigating a fire loss of real or personal 610  
property, the agency, official, or officer may release to, and 611  
share with, the insurance company any information in ~~his~~ the 612  
agency's, official's, or officer's possession relative to ~~such~~ the 613  
loss, upon the request of the insurance company. 614

(D) In the absence of fraud or malice, no insurance company, 615  
or person who furnishes information on its behalf, is liable ~~for~~ 616  
in damages in any civil action, including any action brought 617  
pursuant to section 1347.10 of the Revised Code, or subject to 618  
criminal prosecution for any oral or written statement made or any 619  
other action taken that is necessary to supply information 620  
required ~~pursuant to~~ under this section. 621

(E) Except as otherwise provided in division (C) of this 622  
section, the officials and departmental and agency personnel 623  
receiving any information furnished ~~pursuant to~~ under this section 624  
shall hold the information in confidence until such time as its 625  
release is required pursuant to a criminal or civil proceeding. 626

(F) Any official referred to in division (A) of this section 627  
may testify as to any information in ~~his~~ the official's possession 628  
regarding the fire loss of real or personal property in any civil 629  
action in which any person seeks recovery under a policy against 630  
an insurance company for the fire loss. 631

(G) As used in this section, "insurance company" includes the 632  
Ohio fair plan underwriting association as established in section 633  
3929.43 of the Revised Code. 634

(H)(1) No person shall purposely refuse to release any 635  
information requested, pursuant to division (A) of this section, 636  
by an agency, official, or officer authorized to request ~~such~~ the 637

information by that division. 638

(2) No person shall purposely refuse to notify the fire marshal and prosecuting attorney of a fire loss required to be reported ~~pursuant to~~ under division (B) of this section. 639  
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(3) No person shall purposely refuse to supply the fire marshal and prosecuting attorney with pertinent information required to be furnished ~~pursuant to~~ under division (B) of this section. 642  
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(4) No person shall purposely fail to hold in confidence information required to be held in confidence by division (E) of this section. 646  
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**Sec. 3737.21.** (A) The director of the department of commerce shall appoint, from names submitted to ~~him~~ the director by the state fire commission, a fire marshal, who shall serve at the pleasure of the director and shall possess the following qualifications: 649  
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(1) A degree from an accredited college or university with specialized study in either the field of fire protection or fire protection engineering, or the equivalent qualifications determined from ~~his~~ training, experience, and duties in a fire service; 654  
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(2) Five years of recent, progressively more responsible experience in fire inspection, fire code enforcement, fire investigation, fire protection engineering, teaching of fire safety engineering, or fire fighting. 659  
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(B) When a vacancy occurs in the position of fire marshal, the director shall notify the state fire commission. The 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 663  
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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;

(8) Operate a fire training academy and ~~arson-crime~~ forensic

laboratory; 697

(9) Conduct ~~such~~ other fire safety and fire fighting training 698  
activities for the public and groups as will further the cause of 699  
fire safety; 700

(10) ~~Issue~~ Conduct licensing examinations, and issue permits, 701  
licenses, and certificates, as authorized by the Revised Code; 702

(11) ~~Conduct tests of fire protection systems and devices,~~ 703  
~~and fire fighting equipment to determine compliance with the state~~ 704  
~~fire code, unless a building is insured against the hazard of~~ 705  
~~fire, in which case such tests may be performed by the company~~ 706  
~~insuring the building;~~ 707

~~(12)~~ Establish and collect fees for conducting licensing 708  
examinations and for issuing permits, licenses, and certificates; 709

~~(13)~~(12) Make available for the prosecuting attorney and an 710  
assistant prosecuting attorney from each county of this state, in 711  
accordance with section 3737.331 of the Revised Code, a seminar 712  
program, attendance at which is optional, that is designed to 713  
provide current information, data, training, and techniques 714  
relative to the prosecution of arson cases; 715

~~(14)~~(13) Administer and enforce Chapter 3743. of the Revised 716  
Code; 717

~~(15)~~(14) Develop a ~~form~~ uniform standard for the ~~written~~ 718  
~~report~~ reporting of information required to be filed under 719  
division (E)(4) of section 2921.22 of the Revised Code, and accept 720  
~~such~~ the reports of the information when they are filed. 721

(B) The fire marshal shall appoint a chief deputy fire 722  
marshal, and shall employ professional and clerical ~~assistance~~ 723  
assistants as the fire marshal considers necessary. The chief 724  
deputy shall be a competent former or current member of a fire 725  
agency and possess five years of recent, progressively more 726  
responsible experience in fire inspection, fire code enforcement, 727



and fire code management. ~~All~~ The chief deputy, with the approval 728  
of the director of commerce, shall temporarily assume the duties 729  
of the fire marshal when the fire marshal is absent or temporarily 730  
unable to carry out the duties of the office. When there is a 731  
vacancy in the office of fire marshal, the chief deputy, with the 732  
approval of the director of commerce, shall temporarily assume the 733  
duties of the fire marshal until a new fire marshal is appointed 734  
under section 3737.21 of the Revised Code. 735

All employees, other than the fire marshal; ~~i~~ the chief 736  
deputy; fire marshal; the superintendent of the Ohio fire 737  
academy; ~~i~~ the grants administrator; ~~i~~ the fiscal officer; ~~i~~ the 738  
executive secretary to the ~~state~~ fire marshal; legal counsel; the 739  
pyrotechnics administrator, the chief of the forensic laboratory; 740  
the person appointed by the fire marshal to serve as administrator 741  
over functions concerning testing, license examinations, and the 742  
issuance of permits and certificates; and the chiefs of the ~~bureau~~ 743  
~~bureaus~~ of fire prevention, ~~the arson bureau, the arson crime~~ 744  
~~laboratory of fire and explosion investigation, of code~~ 745  
enforcement, and ~~the bureau~~ of underground storage tanks; shall be 746  
in the classified civil service. The fire marshal shall authorize 747  
the chief deputy and other employees under the fire marshal's 748  
supervision to exercise powers granted to the fire marshal by law 749  
as may be necessary to carry out the duties of the fire marshal's 750  
office. 751

(C) The fire marshal shall create, in and as a part of the 752  
office of fire marshal, ~~an arson~~ a fire and explosion 753  
investigation bureau consisting of a chief of the bureau; and ~~such~~ 754  
additional assistant fire marshals as the fire marshal determines 755  
necessary for the efficient administration of the bureau. The 756  
chief shall be experienced in the investigation of the cause, 757  
origin, and circumstances of fires, and in administration, 758  
including the supervision of subordinates. The chief, among other 759

duties delegated to the chief by the fire marshal, shall be 760  
responsible, under the direction of the fire marshal, for the 761  
investigation of the cause, origin, and circumstances of ~~each fire~~ 762  
fires and explosions in the state, and for assistance in the 763  
prosecution of persons believed to be guilty of arson or a similar 764  
crime. 765

(D) ~~At the fire marshal's discretion, the~~ (1) The fire 766  
marshal shall create, as part of the office of fire marshal, a 767  
bureau of code enforcement consisting of a chief of the bureau and 768  
additional assistant fire marshals as the fire marshal determines 769  
necessary for the efficient administration of the bureau. The 770  
chief shall be qualified, by education or experience, in fire 771  
inspection, fire code development, fire code enforcement, or any 772  
other similar field determined by the fire marshal, and in 773  
administration, including the supervision of subordinates. The 774  
chief is responsible, under the direction of the fire marshal, for 775  
fire inspection, fire code development, fire code enforcement, and 776  
any other duties delegated to the chief by the fire marshal. 777

(2) The fire marshal, or the chief deputy under the direction 778  
of the fire marshal, the chief of the bureau of code enforcement, 779  
or any assistant fire marshal under the direction of the fire 780  
marshal, the chief deputy fire marshal, or the chief of the bureau 781  
of code enforcement may cause the inspection to be conducted the 782  
inspection of all buildings, structures, and other places, the 783  
condition of which may be dangerous from a fire safety standpoint 784  
to life or property, or to property adjacent ~~thereto~~ to the 785  
buildings, structures, or other places. 786

(E) The fire marshal shall create, as a part of the office of 787  
fire marshal, a bureau of fire prevention consisting of a chief of 788  
the bureau, and ~~such~~ additional assistant fire marshals as the 789  
fire marshal determines necessary for the efficient administration 790  
of the bureau. The chief shall be qualified, by education or 791

experience, to promote programs for rural and urban fire 792  
prevention and protection. The chief, among other duties delegated 793  
to the chief by the fire marshal, is responsible, under the 794  
direction of the fire marshal, for the promotion of rural and 795  
urban fire prevention and protection through public information 796  
and education programs. 797

(F) The fire marshal shall cooperate with the director of job 798  
and family services when the director ~~promulgates~~ adopts rules 799  
~~pursuant to~~ under section 5104.052 of the Revised Code regarding 800  
fire prevention and fire safety in certified type B family 801  
day-care homes, as defined in section 5104.01 of the Revised Code, 802  
recommend procedures for inspecting type B homes to determine 803  
whether they are in compliance with those rules, and provide 804  
training and technical assistance to the director and county 805  
directors of job and family services on the procedures for 806  
determining compliance with those rules. 807

(G) The fire marshal, upon request of a provider of child 808  
day-care in a type B home that is not certified by the county 809  
director of job and family services, as a precondition of approval 810  
by the state board of education ~~pursuant to~~ under section 3313.813 811  
of the Revised Code for receipt of United States department of 812  
agriculture child and adult care food program funds established 813  
under the "National School Lunch Act," 60 Stat. 230 (1946), 42 814  
U.S.C. 1751, as amended, shall inspect the type B home to 815  
determine compliance with rules ~~promulgated pursuant to~~ adopted 816  
under section 5104.052 of the Revised Code regarding fire 817  
prevention and fire safety in certified type B homes. In municipal 818  
corporations and in townships where there is a certified fire 819  
safety inspector, the inspections shall be made by that inspector 820  
under the supervision of the fire marshal, according to rules 821  
~~promulgated pursuant to~~ adopted under section 5104.052 of the 822  
Revised Code. In townships outside municipal corporations where 823

there is no certified fire safety inspector, inspections shall be 824  
made by the fire marshal. 825

(H) The fire marshal may conduct tests of fire protection 826  
systems and devices and fire fighting equipment to determine 827  
compliance with the state fire code. If a building is insured 828  
against the hazard of fire, such tests may be performed by the 829  
company insuring the building. 830

Sec. 3737.221. (A) As used in this section, "motor vehicle" 831  
has the same meaning as in section 4511.01 of the Revised Code. 832

(B) The office of the fire marshal is liable for injury, 833  
death, or loss to person or property caused by the negligent 834  
operation of any motor vehicle by its employees upon the public 835  
roads, highways, or streets in the state when the employees are 836  
engaged within the scope of their employment and authority, 837  
without regard to the proximity of that operation to the office of 838  
the fire marshal. Notwithstanding division (A)(1) of section 839  
2743.02 of the Revised Code, a full defense to that liability is 840  
that if the fire marshal, the chief deputy fire marshal, or an 841  
assistant fire marshal was operating the motor vehicle, the fire 842  
marshal, chief deputy fire marshal, or assistant fire marshal was 843  
acting within the scope of division (A)(2), (4), or (13) of 844  
section 3737.22, or section 3737.24 or 3737.26, of the Revised 845  
Code and the operation of the vehicle did not constitute willful 846  
or wanton misconduct. 847

(C) The fire marshal, the chief deputy fire marshal, and any 848  
assistant fire marshal is immune from liability for injury, death, 849  
or loss to person or property caused by the operation of any motor 850  
vehicle upon the public roads, highways, or streets in the state 851  
when acting within the scope of division (A)(2), (4), or (13) of 852  
section 3737.22, or section 3737.24 or 3737.26, of the Revised 853  
Code, without regard to the proximity of that operation to the 854

office of the fire marshal, unless one of the following applies:

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

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

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**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.

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**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.

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**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 refuse to produce a book, paper, ~~or~~ document, or record, regardless of physical form or characteristic, concerning a matter under examination, or be guilty of contemptuous conduct after

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being summoned by ~~such officer~~ the fire marshal or an assistant 884  
fire marshal to appear before ~~him~~ the fire marshal or assistant 885  
fire marshal to give testimony in relation to a matter or subject 886  
under investigation. 887

**Sec. 3737.42.** (A) If, upon inspection or investigation, the 888  
fire marshal, an assistant fire marshal, or a certified fire 889  
safety inspector believes that the state fire code or an 890  
associated order has been violated, ~~he~~ the fire marshal, assistant 891  
fire marshal, or certified fire safety inspector shall, with 892  
reasonable promptness, issue a citation to the responsible person. 893  
Each citation shall be in writing and shall describe with 894  
particularity the nature of the violation, including a reference 895  
to the provision of the state fire code or associated order 896  
alleged to have been violated. In addition, the citation shall fix 897  
a reasonable time for the abatement of the violation. When the 898  
citation is issued by ~~an officer other than the fire marshal~~ a 899  
certified fire safety inspector or an assistant fire marshal, a 900  
copy of the citation shall be furnished to the fire marshal. 901

(B) The fire marshal may prescribe procedures for the 902  
issuance of a notice in lieu of a citation with respect to de 903  
minimis violations ~~which~~ that have no direct or immediate 904  
relationship to safety or health. 905

(C) Each citation issued under this section, or a copy or 906  
copies ~~thereof~~ of the citation, shall be prominently posted by the 907  
responsible person, as prescribed in the state fire code, at or 908  
near each place a violation referred to in the citation occurs. 909

**Sec. 3737.43.** (A) If, after an inspection or investigation, 910  
~~an officer~~ the fire marshal, an assistant fire marshal, or a 911  
certified fire safety inspector issues a citation under section 912  
3737.41 or 3737.42 of the Revised Code, ~~he~~ the issuing authority 913  
shall, within a reasonable time after such inspection or 914

investigation and in accordance with Chapter 119. of the Revised 915  
Code, notify the responsible person ~~by certified mail~~ of the 916  
citation and penalty, if any, proposed to be assessed under 917  
section 3737.51 of the Revised Code, and of the responsible 918  
person's right to appeal the citation and penalty, under Chapter 919  
119. of the Revised Code, to the state board of building appeals 920  
established under section 3781.19 of the Revised Code within 921  
thirty days after receipt of the notice. 922

(B) If the responsible person is aggrieved by an order of the 923  
board, the person may appeal to the court of common pleas where 924  
the property that is the subject of the citation is located, 925  
within thirty days after the board renders its decision. The 926  
issuing authority may appeal an order of the board to the court of 927  
common pleas where the property that is the subject of the 928  
citation is located or to the court of common pleas of Franklin 929  
county, within thirty days after the board renders its decision. 930

(C) As used in this section, "issuing authority" means the 931  
office of the fire marshal, in the case of a citation issued by 932  
the fire marshal or an assistant fire marshal, or the applicable 933  
township or municipal corporation, in the case of a citation 934  
issued by a certified fire safety inspector. 935

**Sec. 3737.45.** If any responsible person fails to comply with 936  
an order of the fire marshal, an assistant fire marshal, or a 937  
certified fire safety inspector as finally affirmed or modified by 938  
the ~~hearing officer pursuant to~~ state board of building appeals 939  
under section 3737.43 of the Revised Code, within the time fixed 940  
in ~~such the~~ order, then ~~such officer~~ the fire marshal, assistant 941  
fire marshal, or certified fire safety inspector may file a 942  
complaint in the court of common pleas of the county where the 943  
property is located for a court order authorizing ~~him~~ the fire 944  
marshal, assistant fire marshal, or certified fire safety 945  
inspector to cause the building, structure, or premises to be 946

repaired, or demolished, materials to be removed, and all 947  
dangerous conditions to be remedied, if such was the mandate of 948  
the order as affirmed or modified by the ~~hearing officer~~ state 949  
board of building appeals, at the expense of the responsible 950  
person. If the responsible person, within thirty days thereafter, 951  
fails, neglects, or refuses to pay the expense that would be 952  
incurred in enforcing the ~~court~~ order of the court of common pleas 953  
~~court~~ under this section, the court shall order that the real 954  
estate upon which the building, structure, or premises is or was 955  
situated be sold pursuant to Chapter 2329. of the Revised Code, 956  
except as otherwise provided in this section. The proceeds of the 957  
sale shall be credited to the fire marshal's fund. The fire 958  
marshal shall use the proceeds of the sale to cause the repair or 959  
demolition of any building, structure, or premises, the removal of 960  
materials, or the remedy of all dangerous conditions unless the 961  
purchaser of the real estate enters into an agreement with the 962  
court to perform the repair, demolition, removal, or remedy within 963  
a time period acceptable to the court. No bid of a prospective 964  
purchaser shall be acceptable which is insufficient to pay the 965  
expense ~~which~~ that the fire marshal would incur. If the amount 966  
received from the sale exceeds the expense ~~which~~ that the fire 967  
marshal would incur, the court shall direct the payment of the 968  
surplus first to those parties with encumbrances, mortgages, or 969  
liens on the real estate in order of their priority, and then to 970  
the responsible person or into the court for its use and benefit. 971

**Sec. 3737.81.** (A) There is hereby created the state fire 972  
commission consisting of ten members to be appointed by the 973  
governor with the advice and consent of the senate. The fire 974  
marshal or ~~his~~ chief deputy fire marshal, a representative 975  
designated by the department of public safety who has tenure in 976  
fire suppression, and a representative designated by the board of 977  
building standards shall be ex officio members. Of the initial 978



appointments made to the commission, two shall be for a term 979  
ending one year after ~~the effective date of this section~~ November 980  
1, 1978, two shall be for a term ending two years after that date, 981  
two shall be for a term ending three years after that date, two 982  
shall be for a term ending four years after that date, and two 983  
shall be for a term ending five years after that date. Thereafter, 984  
terms of office shall be for five years, each term ending on the 985  
same day of the same month of the year as did the term which it 986  
succeeds. Each member shall hold office from the date of ~~his~~ 987  
appointment until the end of the term for which ~~he~~ the member was 988  
appointed. Any member appointed to fill a vacancy occurring prior 989  
to the expiration of the term for which ~~his~~ the member's 990  
predecessor was appointed shall hold office for the remainder of 991  
~~such~~ that term. Any member shall continue in office subsequent to 992  
the expiration date of ~~his~~ the member's term until ~~his~~ a successor 993  
takes office, or until a period of sixty days has elapsed, 994  
whichever occurs first. Members shall be qualified by experience 995  
and training to deal with the matters that are the responsibility 996  
of the commission. Two members shall be members of paid fire 997  
services, one shall be a member of volunteer fire services, two 998  
shall be mayors, managers, or members of legislative authorities 999  
of ~~municipalities~~ municipal corporations, one shall represent 1000  
commerce and industry, one shall be a representative of a fire 1001  
insurance company domiciled in this state, one shall represent the 1002  
flammable liquids industry, one shall represent the construction 1003  
industry, and one shall represent the public. At no time shall 1004  
more than six members be members of or associated with the same 1005  
political party. Membership on the commission shall not constitute 1006  
holding a public office, and no person shall forfeit or otherwise 1007  
vacate ~~his~~ the person's office or position of employment because 1008  
of membership on the commission. 1009

(B) The ex officio members may not vote, except that the fire 1010  
marshal or ~~his~~ chief deputy fire marshal may vote in case of a 1011

tie. 1012

(C) Each member of the commission, other than ex officio 1013  
members, shall be paid an amount equal to that payable under pay 1014  
range 32 (S)(D) fixed pursuant to division (J) of section 124.15 1015  
of the Revised Code, and ~~his~~ the member's actual and necessary 1016  
expenses. 1017

(D) The commission shall select a ~~chairman~~ chairperson and a 1018  
~~vice-chairman~~ vice-chairperson from among its members. No business 1019  
may be transacted in the absence of a quorum. A quorum shall be at 1020  
least six members, excluding ex officio members, and shall include 1021  
either the ~~chairman~~ chairperson or ~~vice-chairman~~ vice-chairperson. 1022  
The commission shall hold regular meetings at least once every two 1023  
months and may meet at any other time at the call of the ~~chairman~~ 1024  
chairperson. 1025

(E) The fire marshal shall provide the commission with office 1026  
space, meeting rooms, staff, and clerical assistance necessary for 1027  
the commission to perform its duties. If the commission maintains 1028  
the Ohio fire service hall of fame under division (C) of section 1029  
3737.03 of the Revised Code, the fire marshal shall preserve, in 1030  
an appropriate manner, in the office space or meeting rooms 1031  
provided to the commission under this division or in another 1032  
location, copies of all official commendations awarded to 1033  
individuals recognized and commemorated for their exemplary 1034  
accomplishments and acts of heroism at fire-related incidents or 1035  
similar events that occurred in this state. 1036  
1037

(F) If the commission maintains the Ohio fire service hall of 1038  
fame under division (C) of section 3737.03 of the Revised Code, 1039  
the expenses incurred for the recognition and commemoration of 1040  
individuals for their exemplary accomplishments and acts of 1041  
heroism at fire-related incidents or similar events that occurred 1042  
in this state, including, but not limited to, expenses for 1043

official commendations and an annual awards ceremony as described 1044  
in division (C) of section 3737.03 of the Revised Code, may be 1045  
paid from moneys appropriated by the general assembly for purposes 1046  
of that recognition and commemoration, from moneys that are 1047  
available to the fire marshal under this chapter, or from other 1048  
funding sources available to the commission. 1049

**Sec. 4765.49.** (A) A first responder, emergency medical 1050  
technician-basic, emergency medical technician-intermediate, or 1051  
emergency medical technician-paramedic is not liable in damages in 1052  
a civil action for injury, death, or loss to person or property 1053  
resulting from the individual's administration of emergency 1054  
medical services, unless the services are administered in a manner 1055  
that constitutes willful or wanton misconduct. A physician or 1056  
registered nurse designated by a physician, who is advising or 1057  
assisting in the emergency medical services by means of any 1058  
communication device or telemetering system, is not liable in 1059  
damages in a civil action for injury, death, or loss to person or 1060  
property resulting from the individual's advisory communication or 1061  
assistance, unless the advisory communication or assistance is 1062  
provided in a manner that constitutes willful or wanton 1063  
misconduct. Medical directors and members of cooperating physician 1064  
advisory boards of emergency medical service organizations are not 1065  
liable in damages in a civil action for injury, death, or loss to 1066  
person or property resulting from their acts or omissions in the 1067  
performance of their duties, unless the act or omission 1068  
constitutes willful or wanton misconduct. 1069

(B) A political subdivision, joint ambulance district, joint 1070  
emergency medical services district, or other public agency, and 1071  
any officer or employee of a public agency or of a private 1072  
organization operating under contract or in joint agreement with 1073  
one or more political subdivisions, that provides emergency 1074  
medical services, or that enters into a joint agreement or a 1075

contract with the state, any political subdivision, joint  
ambulance district, or joint emergency medical services district  
for the provision of emergency medical services, is not liable in  
damages in a civil action for injury, death, or loss to person or  
property arising out of any actions taken by a first responder,  
EMT-basic, EMT-I, or paramedic working under the officer's or  
employee's jurisdiction, or for injury, death, or loss to person  
or property arising out of any actions of licensed medical  
personnel advising or assisting the first responder, EMT-basic,  
EMT-I, or paramedic, unless the services are provided in a manner  
that constitutes willful or wanton misconduct.

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

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

(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  
misconduct.

(F) A person who is performing the functions of a first  
responder, EMT-basic, EMT-I, or paramedic under the authority of  
the laws of a state that borders this state and who provides  
emergency medical services to or transportation of a patient in  
this state is not liable in damages in a civil action for injury,

death, or loss to person or property resulting from the person's 1140  
administration of emergency medical services, unless the services 1141  
are administered in a manner that constitutes willful or wanton 1142  
misconduct. A physician or registered nurse designated by a 1143  
physician, who is licensed to practice in the adjoining state and 1144  
who is advising or assisting in the emergency medical services by 1145  
means of any communication device or telemetering system is not 1146  
liable in damages in a civil action for injury, death, or loss to 1147  
person or property resulting from the person's advisory 1148  
communication or assistance, unless the advisory communication or 1149  
assistance is provided in a manner that constitutes willful or 1150  
wanton misconduct. 1151

(G) A person certified under section 4765.23 of the Revised 1152  
Code to teach in an emergency medical services training program or 1153  
emergency medical services continuing education program, and a 1154  
person who teaches at the Ohio fire academy established under 1155  
section 3737.33 of the Revised Code or in a fire service training 1156  
program described in division (B) of section 4765.55 of the 1157  
Revised Code, is not liable in damages in a civil action for 1158  
injury, death, or loss to person or property resulting from the 1159  
person's acts or omissions in the performance of the person's 1160  
duties, unless an act or omission constitutes willful or wanton 1161  
misconduct. 1162

(H) In the accreditation of emergency medical services 1163  
training programs or approval of emergency medical services 1164  
continuing education programs, the state board of emergency 1165  
medical services and any person or entity authorized by the board 1166  
to evaluate applications for accreditation or approval are not 1167  
liable in damages in a civil action for injury, death, or loss to 1168  
person or property resulting from their acts or omissions in the 1169  
performance of their duties, unless an act or omission constitutes 1170  
willful or wanton misconduct. 1171

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

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

**Section 3.** This act shall be known as the "Fire Marshal Modernization Act."

**Section 4.** Section 2921.22 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 445 and Sub. S.B. 223 of the 121st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.