

# AN ACT

To amend sections 307.051, 307.055, 505.37, 505.375, 505.72, 4503.49, 4513.263, 4766.01, 4766.02, 4766.03, 4766.04, 4766.05, 4766.06, 4766.07, 4766.08, 4766.09, 4766.10, 4766.11, 4766.12, 4766.13, and 5503.12 and to enact sections 4766.15, 4766.17, 4766.20, and 5111.151 of the Revised Code to authorize the Ohio Ambulance Licensing Board to license private nonemergency medical service organizations that operate ambulette vehicles for the transportation of persons who require the use of a wheelchair and private air medical service organizations that operate air medical transportation, to add four members to the Board, to rename the Board the Ohio Medical Transportation Board, to codify portions of the Ohio Administrative Code dealing with the treatment of certain trusts for purposes of determining an individual's eligibility for medical assistance reimbursable by the Medicaid Program, and to amend the version of section 4513.263 of the Revised Code that is scheduled to take effect January 1, 2004, to continue the provisions of this act on and after that effective date.

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

SECTION 1. That sections 307.051, 307.055, 505.37, 505.375, 505.72, 4503.49, 4513.263, 4766.01, 4766.02, 4766.03, 4766.04, 4766.05, 4766.06, 4766.07, 4766.08, 4766.09, 4766.10, 4766.11, 4766.12, 4766.13, and 5503.12 be amended and sections 4766.15, 4766.17, 4766.20, and 5111.151 of the Revised Code be enacted to read as follows:

Sec. 307.051. As used in this section, "emergency medical service organization" has the same meaning as in section 4766.01 of the Revised

Code.

A board of county commissioners, by adoption of an appropriate resolution, may choose to have the Ohio ~~ambulance licensing~~ medical transportation board license any emergency medical service organization it operates. If a board adopts such a resolution, Chapter 4766. of the Revised Code, except for sections 4766.06 and 4766.99 of the Revised Code, applies to the county emergency medical service organization. All rules adopted under the applicable sections of that chapter also apply to the organization. A board, by adoption of an appropriate resolution, may remove its emergency medical service organization from the jurisdiction of the Ohio ~~ambulance licensing~~ medical transportation board.

Sec. 307.055. (A) Subject to the terms and conditions of the joint resolution creating it, each joint emergency medical services district may furnish ambulance services and emergency medical services by one of the following methods:

(1) By operating an emergency medical service organization as defined in section 4765.01 of the Revised Code;

(2) By contracting for the operation of one or more facilities pursuant to division (C) or (D) of this section;

(3) By providing necessary services and equipment to the district either directly or under a contract entered into pursuant to division (B) of this section;

(4) By providing service through any combination of methods described in divisions (A)(1) to (3) of this section.

(B) In order to obtain ambulance service, to obtain additional ambulance service in times of emergency, or to obtain emergency medical services, a joint emergency medical services district may enter into a contract, for a period not to exceed three years, with one or more counties, townships, municipal corporations, joint fire districts, other governmental units that provide ambulance service or emergency medical services, nonprofit corporations, or private ambulance owners, regardless of whether the entities contracted with are located within or outside this state, upon such terms as are agreed to, to furnish or receive ambulance services or the interchange of ambulance services or emergency medical services within the several territories of the contracting subdivisions, if the contract is first authorized by all boards of trustees and legislative authorities in the territories to be served.

Such a contract may provide for a fixed annual charge to be paid at the times agreed upon and stipulated in the contract; or for compensation based on a stipulated price for each run, call, or emergency or based on the elapsed

time of service required for each run, call, or emergency, or based on any combination of these.

Expenditures of a district for ambulance service or emergency medical service, whether pursuant to contract or otherwise, are lawful expenditures, regardless of whether the district or the party with which it contracts charges an additional fee to users of the service.

(C) The board of trustees may enter into a contract with any person, municipal corporation, township, or other political subdivision, and any political subdivision may contract with the board, for the operation and maintenance of emergency medical services facilities regardless of whether the facilities used are owned or leased by the district, by another political subdivision, or by the contractor.

(D) The district may purchase, lease, and maintain all materials, buildings, land, and equipment, including vehicles, the board considers necessary for the district.

When the board finds, by resolution, that the district has personal property that is not needed for public use, or is obsolete or unfit for the use for which it was acquired, the board may dispose of the property in the same manner as provided in section 307.12 of the Revised Code.

(E) Any contract entered into by a joint emergency medical services district shall conform to the same bidding requirements that apply to county contracts under sections 307.86 to 307.92 of the Revised Code.

(F) A county participating in a joint district may contribute any of its rights or interests in real or personal property, including money, and may contribute services to the district. Any such contributions shall be made by a written agreement between the contributing county and the district, specifying the contribution as well as the rights of the participating counties in the contributed property. Written agreements shall also be prepared specifying the rights of participating counties in property acquired by the district other than by contribution of a participating county. Written agreements required by this division may be amended only by written agreement of all parties to the original agreement.

(G) A district's board of trustees, by adoption of an appropriate resolution, may choose to have the Ohio ~~ambulance licensing~~ medical transportation board license any emergency medical service organization the district operates. If a board adopts such a resolution, Chapter 4766. of the Revised Code, except for sections 4766.06 and 4766.99 of the Revised Code, applies to the district emergency medical service organization. All rules adopted under the applicable sections of that chapter also apply to the organization. A board, by adoption of an appropriate resolution, may

remove the district emergency medical service organization from the jurisdiction of the Ohio ~~ambulance licensing~~ medical transportation board.

Sec. 505.37. (A) The board of township trustees may establish all necessary rules to guard against the occurrence of fires and to protect the property and lives of the citizens against damage and accidents, and may, with the approval of the specifications by the prosecuting attorney or, if the township has adopted limited home rule government under ~~chapter~~ Chapter 504~~2~~, of the Revised Code, with the approval of the specifications by the township's law director, purchase, lease, lease with an option to purchase, or otherwise provide any fire apparatus, mechanical resuscitators, or other equipment, appliances, materials, fire hydrants, and water supply for fire-fighting purposes that seems advisable to the board. The board shall provide for the care and maintenance of fire equipment, and, for these purposes, may purchase, lease, lease with an option to purchase, or construct and maintain necessary buildings, and it may establish and maintain lines of fire-alarm communications within the limits of the township. The board may employ one or more persons to maintain and operate fire-fighting equipment, or it may enter into an agreement with a volunteer fire company for the use and operation of fire-fighting equipment. The board may compensate the members of a volunteer fire company on any basis and in any amount that it considers equitable.

(B) The boards of township trustees of any two or more townships, or the legislative authorities of any two or more political subdivisions, or any combination thereof, may, through joint action, unite in the joint purchase, lease, lease with an option to purchase, maintenance, use, and operation of fire-fighting equipment, or for any other purpose designated in sections 505.37 to 505.42 of the Revised Code, and may prorate the expense of the joint action on any terms that are mutually agreed upon.

(C) The board of township trustees of any township may, by resolution, whenever it is expedient and necessary to guard against the occurrence of fires or to protect the property and lives of the citizens against damages resulting from their occurrence, create a fire district of any portions of the township that it considers necessary. The board may purchase, lease, lease with an option to purchase, or otherwise provide any fire apparatus, appliances, materials, fire hydrants, and water supply for fire-fighting purposes, or may contract for the fire protection for the fire district as provided in section 9.60 of the Revised Code. The fire district so created shall be given a separate name by which it shall be known.

Additional unincorporated territory of the township may be added to a fire district upon the board's adoption of a resolution authorizing the

addition. A municipal corporation that is within or adjoining the township may be added to a fire district upon the board's adoption of a resolution authorizing the addition and the municipal legislative authority's adoption of a resolution or ordinance requesting the addition of the municipal corporation to the fire district.

If the township fire district imposes a tax, additional unincorporated territory of the township or a municipal corporation that is within or adjoining the township shall become part of the fire district only after all of the following have occurred:

(1) Adoption by the board of township trustees of a resolution approving the expansion of the territorial limits of the district and, if the resolution proposes to add a municipal corporation, adoption by the municipal legislative authority of a resolution or ordinance requesting the addition of the municipal corporation to the district;

(2) Adoption by the board of township trustees of a resolution recommending the extension of the tax to the additional territory;

(3) Approval of the tax by the electors of the territory proposed for addition to the district.

Each resolution of the board adopted under division (C)(2) of this section shall state the name of the fire district, a description of the territory to be added, and the rate and termination date of the tax, which shall be the rate and termination date of the tax currently in effect in the fire district.

The board of trustees shall certify each resolution adopted under division (C)(2) of this section to the board of elections in accordance with section 5705.19 of the Revised Code. The election required under division (C)(3) of this section shall be held, canvassed, and certified in the manner provided for the submission of tax levies under section 5705.25 of the Revised Code, except that the question appearing on the ballot shall read:

"Shall the territory within ..... (description of the proposed territory to be added) be added to ..... (name) fire district, and a property tax at a rate of taxation not exceeding ..... (here insert tax rate) be in effect for ..... (here insert the number of years the tax is to be in effect or "a continuing period of time," as applicable)?"

If the question is approved by at least a majority of the electors voting on it, the joinder shall be effective as of the first day of July of the year following approval, and on that date, the township fire district tax shall be extended to the taxable property within the territory that has been added. If the territory that has been added is a municipal corporation and if it had adopted a tax levy for fire purposes, the levy is terminated on the effective date of the joinder.

Any municipal corporation may withdraw from a township fire district created under division (C) of this section by the adoption by the municipal legislative authority of a resolution or ordinance ordering withdrawal. On the first day of July of the year following the adoption of the resolution or ordinance of withdrawal, the municipal corporation withdrawing ceases to be a part of the district, and the power of the fire district to levy a tax upon taxable property in the withdrawing municipal corporation terminates, except that the fire district shall continue to levy and collect taxes for the payment of indebtedness within the territory of the fire district as it was composed at the time the indebtedness was incurred.

Upon the withdrawal of any municipal corporation from a township fire district created under division (C) of this section, the county auditor shall ascertain, apportion, and order a division of the funds on hand, moneys and taxes in the process of collection except for taxes levied for the payment of indebtedness, credits, and real and personal property, either in money or in kind, on the basis of the valuation of the respective tax duplicates of the withdrawing municipal corporation and the remaining territory of the fire district.

A board of township trustees may remove unincorporated territory of the township from the fire district upon the adoption of a resolution authorizing the removal. On the first day of July of the year following the adoption of the resolution, the unincorporated township territory described in the resolution ceases to be a part of the district, and the power of the fire district to levy a tax upon taxable property in that territory terminates, except that the fire district shall continue to levy and collect taxes for the payment of indebtedness within the territory of the fire district as it was composed at the time the indebtedness was incurred.

(D) The board of township trustees of any township, the board of fire district trustees of a fire district created under section 505.371 of the Revised Code, or the legislative authority of any municipal corporation may purchase, lease, or lease with an option to purchase the necessary fire-fighting equipment, buildings, and sites for the township, fire district, or municipal corporation and issue securities for that purpose with maximum maturities as provided in section 133.20 of the Revised Code. The board of township trustees, board of fire district trustees, or legislative authority may also construct any buildings necessary to house fire-fighting equipment and issue securities for that purpose with maximum maturities as provided in section 133.20 of the Revised Code.

The board of township trustees, board of fire district trustees, or legislative authority may issue the securities of the township, fire district, or

municipal corporation, signed by the board or designated officer of the municipal corporation and attested by the signature of the township, fire district, or municipal clerk, covering any deferred payments and payable at the times provided, which securities shall bear interest not to exceed the rate determined as provided in section 9.95 of the Revised Code, and shall not be subject to Chapter 133. of the Revised Code. The legislation authorizing the issuance of the securities shall provide for levying and collecting annually by taxation, amounts sufficient to pay the interest on and principal of the securities. The securities shall be offered for sale on the open market or given to the vendor or contractor if no sale is made.

Section 505.40 of the Revised Code does not apply to any securities issued, or any lease with an option to purchase entered into, in accordance with this division.

(E) A board of township trustees of any township or a board of fire district trustees of a fire district created under section 505.371 of the Revised Code may purchase a policy or policies of liability insurance for the officers, employees, and appointees of the fire department, fire district, or joint fire district governed by the board that includes personal injury liability coverage as to the civil liability of those officers, employees, and appointees for false arrest, detention, or imprisonment, malicious prosecution, libel, slander, defamation or other violation of the right of privacy, wrongful entry or eviction, or other invasion of the right of private occupancy, arising out of the performance of their duties.

When a board of township trustees cannot, by deed of gift or by purchase and upon terms it considers reasonable, procure land for a township fire station that is needed in order to respond in reasonable time to a fire or medical emergency, the board may appropriate land for that purpose under sections 163.01 to 163.22 of the Revised Code. If it is necessary to acquire additional adjacent land for enlarging or improving the fire station, the board may purchase, appropriate, or accept a deed of gift for the land for these purposes.

(F) As used in this division, "emergency medical service organization" has the same meaning as in section 4766.01 of the Revised Code.

A board of township trustees, by adoption of an appropriate resolution, may choose to have the Ohio ~~ambulance licensing~~ medical transportation board license any emergency medical service organization it operates. If the board adopts such a resolution, Chapter 4766. of the Revised Code, except for sections 4766.06 and 4766.99 of the Revised Code, applies to the organization. All rules adopted under the applicable sections of that chapter also apply to the organization. A board of township trustees, by adoption of

an appropriate resolution, may remove its emergency medical service organization from the jurisdiction of the Ohio ~~ambulance licensing~~ medical transportation board.

Sec. 505.375. (A) The board of a joint ambulance district created under section 505.71 of the Revised Code and the board of a joint fire district created under section 505.371 of the Revised Code may negotiate in accordance with this section to combine their two joint districts into a single district, called a fire and ambulance district, for the delivery of both fire and ambulance services, if the geographic area covered by the combining joint districts is exactly the same. Both boards shall adopt a joint resolution ratifying the agreement and setting a date on which the fire and ambulance district shall come into being. On that date, the joint fire district and the joint ambulance district shall cease to exist, and the power of each to levy a tax upon taxable property shall terminate, except that any levy of a tax for the payment of indebtedness within the territory of the joint fire or joint ambulance district as it was composed at the time the indebtedness was incurred shall continue to be collected by the successor fire and ambulance district if the indebtedness remains unpaid.

All funds and other property of the joint districts that combined into the fire and ambulance district shall become the property of the fire and ambulance district, unless otherwise provided in the negotiated agreement. The agreement shall provide for the settlement of all debts and obligations of the joint districts.

(B) The governing body of the fire and ambulance district shall be a board of trustees of at least three but no more than nine members, appointed as provided in the agreement creating the district. Members of the board of trustees may be compensated at a rate not to exceed thirty dollars per meeting for not more than fifteen meetings per year, and may be reimbursed for all necessary expenses incurred, as provided in the agreement creating the district.

The board shall employ a clerk and other employees as it considers best, including a fire chief or fire prevention officers, and shall fix their compensation. Neither this section nor any other section of the Revised Code requires, or shall be construed to require, that the fire chief of a fire and ambulance district be a resident of the district.

Before entering upon the duties of office, the clerk shall execute a bond, in the amount and with surety to be approved by the board, payable to the state, conditioned for the faithful performance of all of the clerk's official duties. The clerk shall deposit the bond with the presiding officer of the board, who shall file a copy of it, certified by the presiding officer, with the

county auditor of the county containing the most territory in the district.

The board shall also provide for the appointment of a fiscal officer for the district. The board may also enter into agreements with volunteer fire companies for the use and operation of fire-fighting equipment. Volunteer firefighters acting under such an agreement are subject to the requirements for volunteer firefighters set forth in division (A) of section 505.38 of the Revised Code.

Employees of the district shall not be removed from office except as provided by sections 733.35 to 733.39 of the Revised Code, except that, to initiate removal proceedings, the board shall designate a private citizen or, if the employee is employed as a firefighter, the board may designate the fire chief, to investigate, conduct the proceedings, and prepare the necessary charges in conformity with sections 733.35 to 733.39 of the Revised Code, and except that the board shall perform the functions and duties specified for the municipal legislative authority under those sections. The board may pay reasonable compensation to any private citizen hired for services rendered in the matter.

No person shall be appointed as a permanent full-time paid member of the district whose duties include fire fighting, or be appointed as a volunteer firefighter, unless that person has received a certificate issued under former section 3303.07 or section 4765.55 of the Revised Code evidencing satisfactory completion of a firefighter training program. The board may send its officers and firefighters to schools of instruction designed to promote the efficiency of firefighters and, if authorized in advance, may pay their necessary expenses from the funds used for the maintenance and operation of the district.

The board may choose, by adoption of an appropriate resolution, to have the Ohio ~~ambulance licensing~~ medical transportation board license any emergency medical service organization it operates. If the board adopts such a resolution, Chapter 4766. of the Revised Code, except for sections 4766.06 and 4766.99 of the Revised Code, applies to the organization. All rules adopted under the applicable sections of that chapter also apply to the organization. The board may likewise, by resolution, remove its emergency medical service organization from the jurisdiction of the Ohio ~~ambulance licensing~~ medical transportation board.

(C) The board may exercise the following powers:

(1) Purchase or otherwise provide any fire apparatus, mechanical resuscitators, or other fire or ambulance equipment, appliances, or materials; fire hydrants; and water supply for fire-fighting purposes that seems advisable to the board;

(2) Provide for the care and maintenance of equipment and, for that purpose, purchase, lease, or construct and maintain necessary buildings;

(3) Establish and maintain lines of fire-alarm communications within the limits of the district;

(4) Appropriate land for a fire station or medical emergency unit needed in order to respond in reasonable time to a fire or medical emergency, in accordance with Chapter 163. of the Revised Code;

(5) Purchase, appropriate, or accept a deed or gift of land to enlarge or improve a fire station or medical emergency unit;

(6) Purchase, lease, maintain, and use all materials, equipment, vehicles, buildings, and land necessary to perform its duties;

(7) Contract for a period not to exceed three years with one or more townships, municipal corporations, counties, joint fire districts, governmental agencies, nonprofit corporations, or private ambulance owners located either within or outside the state, to furnish or receive ambulance services or emergency medical services within the several territories of the contracting parties, if the contract is first authorized by all boards of trustees and legislative authorities concerned;

(8) Establish reasonable charges for the use of ambulance or emergency medical services under the same conditions under which a board of fire district trustees may establish those charges under section 505.371 of the Revised Code;

(9) Establish all necessary rules to guard against the occurrence of fires and to protect property and lives against damage and accidents;

(10) Adopt a standard code pertaining to fire, fire hazards, and fire prevention prepared and promulgated by the state or by a public or private organization that publishes a model or standard code;

(11) Provide for charges for false alarms at commercial establishments in the same manner as joint fire districts are authorized to do under section 505.391 of the Revised Code;

(12) Issue bonds and other evidences of indebtedness, subject to Chapter 133. of the Revised Code, but only after approval by a vote of the electors of the district as provided by section 133.18 of the Revised Code;

(13) To provide the services and equipment it considers necessary, levy a sufficient tax, subject to Chapter 5705. of the Revised Code, on all the taxable property in the district.

(D) Any municipal corporation or township may join an existing fire and ambulance district by its legislative authority's adoption of a resolution requesting the membership and upon approval of the board of the district. Any municipal corporation or township may withdraw from a district by its

legislative authority's adoption of a resolution ordering withdrawal. Upon its withdrawal, the municipal corporation or township ceases to be a part of the district, and the district's power to levy a tax on taxable property in the withdrawing township or municipal corporation terminates, except that the district shall continue to levy and collect taxes for the payment of indebtedness within the territory of the district as it was composed at the time the indebtedness was incurred.

Upon the withdrawal of any township or municipal corporation from a district, the county auditor of the county containing the most territory in the district shall ascertain, apportion, and order a division of the funds on hand, including funds in the ambulance and emergency medical services fund, moneys and taxes in the process of collection, except for taxes levied for the payment of indebtedness, credits, and real and personal property on the basis of the valuation of the respective tax duplicates of the withdrawing municipal corporation or township and the remaining territory of the district.

(E) As used in this section:

(1) "Governmental agency" includes all departments, boards, offices, commissions, agencies, colleges, universities, institutions, and other instrumentalities of this or another state.

(2) "Emergency medical service organization" has the same meaning as in section 4766.01 of the Revised Code.

Sec. 505.72. (A) The board of trustees of a joint ambulance district shall provide for the employment of such employees as it considers best, and shall fix their compensation. Such employees shall continue in office until removed as provided by sections 733.35 to 733.39 of the Revised Code. To initiate removal proceedings, and for such purpose, the board shall designate a private citizen to investigate the conduct and prepare the necessary charges in conformity with sections 733.35 to 733.39 of the Revised Code. The board may pay reasonable compensation to such person for the person's services.

In case of the removal of an employee of the district, an appeal may be had from the decision of the board to the court of common pleas of the county in which such district, or part of it, is situated, to determine the sufficiency of the cause of removal. Such appeal from the findings of the board shall be taken within ten days.

(B) As used in this division, "emergency medical service organization" has the same meaning as in section 4765.01 of the Revised Code.

(1) In order to obtain the services of ambulance service organizations, to obtain additional services from ambulance service organizations in times of emergency, or to obtain the services of emergency medical service

organizations, a district may enter into a contract, for a period not to exceed three years, with one or more townships, municipal corporations, joint fire districts, nonprofit corporations, any other governmental unit that provides ambulance services or emergency medical services, or with private ambulance owners, regardless of whether such townships, municipal corporations, joint fire districts, nonprofit corporations, governmental unit, or private ambulance owners are located within or without this state, upon such terms as are agreed to, to furnish or receive services from ambulance or emergency medical service organizations or the interchange of services from ambulance or emergency medical service organizations within the several territories of the contracting subdivisions, if such contract is first authorized by all boards of trustees and legislative authorities concerned.

The contract may provide for a fixed annual charge to be paid at the times agreed upon and stipulated in the contract, or for compensation based upon a stipulated price for each run, call, or emergency, or the elapsed time of service required in such run, call, or emergency, or any combination thereof.

(2) Expenditures of a district for the services of ambulance service organizations or emergency medical service organizations, whether pursuant to contract or otherwise, are lawful expenditures, regardless of whether the district or the party with which it contracts charges additional fees to users of the services.

(3) A district's board of trustees, by adoption of an appropriate resolution, may choose to have the Ohio ~~ambulance licensing~~ medical transportation board license any emergency medical service organization the district operates. If a board adopts such a resolution, Chapter 4766. of the Revised Code, except for sections 4766.06 and 4766.99 of the Revised Code, applies to the district emergency medical service organization. All rules adopted under the applicable sections of that chapter also apply to the organization. A board, by adoption of an appropriate resolution, may remove the district emergency medical service organization from the jurisdiction of the Ohio ~~ambulance licensing~~ medical transportation board.

(C) Ambulance services or emergency medical services rendered for a joint ambulance district under this section and section 505.71 of the Revised Code shall be deemed services of the district. These sections do not authorize suits against a district or any township or municipal corporation providing or receiving, or contracting to provide or receive, such services under these sections for damages for injury or loss to persons or property or for wrongful death caused by persons providing such services.

Sec. 4503.49. (A) As used in this section, "ambulance," "ambulette,"

"emergency medical service organization," "nonemergency medical service organization," and "nontransport vehicle" have the same meanings as in section 4766.01 of the Revised Code.

(B) Each private emergency medical service organization and each private nonemergency medical service organization shall apply to the registrar of motor vehicles for the registration of any ambulance, ambulette, or nontransport vehicle it owns or leases. The application shall be accompanied by a copy of the certificate of licensure issued to the organization by the Ohio ~~ambulance licensing~~ medical transportation board and the following fees:

(1) The regular license tax as prescribed under section 4503.04 of the Revised Code;

(2) Any local license tax levied under Chapter 4504. of the Revised Code;

(3) An additional fee of seven dollars and fifty cents. The additional fee shall be for the purpose of compensating the bureau of motor vehicles for additional services required to be performed under this section and shall be transmitted by the registrar to the treasurer of state for deposit in the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

(C) On receipt of a complete application, the registrar shall issue to the applicant the appropriate certificate of registration for the vehicle and do one of the following:

(1) Issue a set of license plates with a validation sticker and a set of stickers to be attached to the plates as an identification of the vehicle's classification as an ambulance, ambulette, or nontransport vehicle;

(2) Issue a validation sticker alone when so required by section 4503.191 of the Revised Code.

Sec. 4513.263. (A) As used in this section and in section 4513.99 of the Revised Code:

(1) "Automobile" means any commercial tractor, passenger car, commercial car, or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States secretary of transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.

(2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness, or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum federal vehicle safety standards established by the United States department of

transportation.

(3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.

(4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as in section 4501.01 of the Revised Code.

(5) "Vehicle" and "motor vehicle," as used in the definitions of the terms set forth in division (A)(4) of this section, have the same meanings as in section 4511.01 of the Revised Code.

(B) No person shall do any of the following:

(1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;

(2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in division (B)(3) of this section is wearing all of the available elements of a properly adjusted occupant restraining device;

(3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;

(4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.

(C) Division (B)(3) of this section does not apply to a person who is required by section 4511.81 of the Revised Code to be secured in a child restraint device. Division (B)(1) of this section does not apply to a person who is an employee of the United States postal service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees. Divisions (B)(1) and (3) of this section do not apply to a person who has an affidavit signed by a physician licensed to practice in this state under Chapter 4731. of the Revised Code or a chiropractor licensed to practice in this state under Chapter 4734. of the Revised Code that states that the person has a physical impairment that makes use of an occupant restraining device impossible or impractical.

(D) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated

on any street or highway to stop the automobile for the sole purpose of determining whether a violation of division (B) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(E) All fines collected for violations of division (B) of this section, or for violations of any ordinance or resolution of a political subdivision that is substantively comparable to that division, shall be forwarded to the treasurer of state for deposit as follows:

(1) Eight per cent shall be deposited into the seat belt education fund, which is hereby created in the state treasury, and shall be used by the department of public safety to establish a seat belt education program.

(2) Eight per cent shall be deposited into the elementary school program fund, which is hereby created in the state treasury, and shall be used by the department of public safety to establish and administer elementary school programs that encourage seat safety belt use.

(3) Two per cent shall be deposited into the Ohio ~~ambulance licensing~~ medical transportation trust fund created by section 4766.05 of the Revised Code.

(4) Twenty-eight per cent shall be deposited into the trauma and emergency medical services fund, which is hereby created in the state treasury, and shall be used by the department of public safety for the administration of the division of emergency medical services and the state board of emergency medical services.

(5) Fifty-four per cent shall be deposited into the trauma and emergency medical services grants fund, which is hereby created in the state treasury, and shall be used by the state board of emergency medical services to make grants, in accordance with section 4765.07 of the Revised Code and rules the board adopts under section 4765.11 of the Revised Code.

(F)(1) Subject to division (F)(2) of this section, the failure of a person to wear all of the available elements of a properly adjusted occupant restraining device or to ensure that each passenger of an automobile being operated by the person is wearing all of the available elements of such a device, in violation of division (B) of this section, shall not be considered or used as evidence of negligence or contributory negligence, shall not diminish recovery for damages in any civil action involving the person

arising from the ownership, maintenance, or operation of an automobile; shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in any civil or criminal action involving the person other than a prosecution for a violation of this section.

(2) If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted, then, consistent with the Rules of Evidence, the fact that the occupant was not wearing the available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted is admissible in evidence in relation to any claim for relief in a tort action to the extent that the claim for relief satisfies all of the following:

(a) It seeks to recover damages for injury or death to the occupant.

(b) The defendant in question is the manufacturer, designer, distributor, or seller of the passenger car.

(c) The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.

(3) As used in division (F)(2) of this section, "tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim that is subject to sections 2307.71 to 2307.80 of the Revised Code, but does not include a civil action for damages for a breach of a contract or another agreement between persons.

Sec. 4766.01. As used in this chapter:

(A) "Advanced life support" means treatment described in section 4765.39 of the Revised Code that a paramedic is certified to perform.

(B) "Air medical service organization" means a person that provides air medical transportation to the public.

(C) "Air medical transportation" is the use of a rotorcraft air ambulance or fixed wing air ambulance to provide transportation and advanced life support to seriously ill, injured, wounded, or otherwise incapacitated or helpless individuals who require use of a stretcher from airport to airport or from an emergency scene to a hospital or other medical care setting.

(D) "Ambulance" means any motor vehicle that is specifically designed, constructed, or modified and equipped and is intended to be used for the to provide basic life support, intermediate life support, advanced life support,

or mobile intensive care unit services and transportation upon the streets or highways of this state of persons who are seriously ill, injured, wounded, or otherwise incapacitated or helpless. "Ambulance" does not include air medical transportation or a vehicle designed and used solely for the transportation of nonstretcher-bound persons, whether hospitalized or handicapped or whether ambulatory or confined to a wheelchair.

~~(C)~~(E) "Ambulette" means a motor vehicle that is specifically designed, constructed, or modified and equipped and is intended to be used for transportation upon the streets or highways of this state of persons who require use of a wheelchair.

(F) "Basic life support" means treatment described in section 4765.37 of the Revised Code that an EMT-basic is certified to perform.

~~(D)~~(G) "Disaster situation" means any condition or situation described by rule of the Ohio ~~ambulance licensing~~ medical transportation board as a mass casualty, major emergency, natural disaster, or national emergency.

~~(E)~~(H) "Emergency medical service organization" means an organization that uses EMTs-basic, EMTs-I, or paramedics, or a combination thereof, to provide medical care to victims of illness or injury. An emergency medical service organization includes, but is not limited to, a commercial ambulance service organization, a hospital, and a funeral home.

~~(F)~~(I) "EMT-basic," "EMT-I," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

~~(G)~~(J) "Fixed wing air ambulance" means a fixed wing aircraft operated as a means of air medical transportation.

(K) "Intermediate life support" means treatment described in section 4765.38 of the Revised Code that an EMT-I is certified to perform.

~~(H)~~(L) "Major emergency" means any emergency event that cannot be resolved through the use of locally available emergency resources.

~~(I)~~(M) "Mass casualty" means an emergency event that results in ten or more persons being injured, incapacitated, made ill, or killed.

~~(J)~~(N) "Medical emergency" means an unforeseen event affecting an individual in such a manner that a need for immediate care is created.

(O)(1) "Nonemergency medical service organization" means a person that does both of the following:

(a) Provides services to the public on a regular basis for the purpose of transporting individuals who require the use of a wheelchair or are confined to a wheelchair to receive health care services at health care facilities or health care practitioners' offices in nonemergency circumstances;

(b) Provides the services for a fee, regardless of whether the fee is paid by the person being transported, a third party payer, as defined in section

3702.51 of the Revised Code, or any other person or government entity.

(2) "Nonemergency medical service organization" does not include a health care facility, as defined in section 1751.01 of the Revised Code, that provides ambulette services only to patients of that facility.

~~(K)~~(P) "Mobile intensive care unit" means an ambulance used only for maintaining specialized or intensive care treatment and used primarily for interhospital transports of patients whose conditions require care beyond the scope of a paramedic as provided in section 4765.39 of the Revised Code.

~~(L)~~(Q) "Nontransport vehicle" means a motor vehicle operated by a licensed emergency medical service organization not as an ambulance, but as a vehicle for providing services in conjunction with the ambulances operated by the organization or other emergency medical service organizations.

~~(M)~~(R) "Patient" means any individual who as a result of illness or injury needs medical attention, whose physical or mental condition is such that there is imminent danger of loss of life or significant health impairment, ~~or~~ who may be otherwise incapacitated or helpless as a result of a physical or mental condition, or whose physical condition requires the use of a wheelchair.

(S) "Rotorcraft air ambulance" means a helicopter or other aircraft capable of vertical takeoffs, vertical landings, and hovering.

Sec. 4766.02. (A) There is hereby created the Ohio ~~ambulance licensing~~ medical transportation board, consisting of ~~five~~ nine voting members and one nonvoting member who shall be residents of this state and appointed by the governor with the advice and consent of the senate. Except as provided in division (B) of this section, members shall serve terms of two years. One voting member shall be a member of the Ohio ambulance association; two voting members, one of whom shall be a licensed funeral director, shall be owners or operators of private emergency medical service organizations operating in this state; one voting member shall be a consumer of emergency medical services who is not associated with any public or private emergency medical service organization; ~~and~~ one voting member shall be an official with a public emergency medical service organization; two voting members shall be owners or operators of nonemergency medical service organizations that provide ambulette services only, and two voting members shall be members of the Ohio association of critical care transport, one member representing air-based services and the other representing a ground-based mobile intensive care unit organization. A physician who holds a certificate to practice issued under Chapter 4731. of the Revised Code who is a member of the American college of emergency physicians

shall serve as the nonvoting member. The board shall annually select from its membership a chair and a vice-chair to act as chair in the chair's absence.

(B) ~~Of the members initially appointed, three shall be appointed for terms of one year and three for terms of two years.~~ Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Every member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(C) ~~Three voting~~ Five members shall constitute a quorum for the transaction of business, and the affirmative vote of ~~three~~ five members is required for the board to take any official action. The board, after notice and hearing, may remove a member by majority vote for malfeasance, misfeasance, or nonfeasance.

Members of the board shall be reimbursed for actual and necessary expenses incurred in attending meetings of the board and in the performance of their official duties. The board may hire such employees as are necessary to enable it to execute its duties.

(D) The division of emergency medical services within the department of public safety shall provide the board with office space, but the board shall not be a part of the division or the department.

(E) The board is the sole supervisory body regarding the licensing of private ambulance service organizations in this state.

(F) The board is the sole supervisory body regarding the licensing of private nonemergency medical service organizations in this state.

(G) The board is the sole supervisory body regarding the licensing of private air medical service organizations in this state.

Sec. 4766.03. (A) The Ohio ~~ambulance licensing~~ medical transportation board shall adopt rules, in accordance with Chapter 119. of the Revised Code, implementing the requirements of this chapter. The rules shall include provisions relating to the following:

(1) Requirements for an emergency medical service organization to receive a permit for an ambulance or nontransport vehicle;

(2) Requirements for an emergency medical service organization to receive a license as a basic life-support, intermediate life-support, ~~or~~ advanced life-support, or mobile intensive care unit organization;

(3) Requirements for a nonemergency medical service organization to receive a permit for an ambulette vehicle;

(4) Requirements for a nonemergency medical service organization to receive a license for an ambulette service;

(5) Requirements for an air medical service organization to receive a permit for a rotorcraft air ambulance or fixed wing air ambulance;

(6) Requirements for licensure of air medical service organizations;

(7) Forms for applications and renewals of licenses and permits;

(4)(8) Requirements for record keeping of service responses made by licensed emergency medical service organizations;

(5)(9) Fee amounts for licenses and permits, and renewals thereof;

(6)(10) Inspection requirements for licensees' vehicles or aircraft, records, and physical facilities;

(7)(11) Fee amounts for inspections of ambulances, ambulettes, rotorcraft air ambulances, fixed wing air ambulances, and nontransport vehicles;

(8)(12) Requirements for ambulances and nontransport vehicles used by licensed emergency medical service organizations, for ambulette vehicles used by licensed nonemergency medical service organizations, and for rotorcraft air ambulances or fixed wing air ambulances used by licensed air medical service organizations that specify for each type of vehicle or aircraft the types of equipment that must be carried, the communication systems that must be maintained, and the personnel who must staff the vehicle or aircraft;

(9)(13) The level of care each type of emergency medical service organization, nonemergency medical service organization, and air medical service organization is authorized to provide;

(10)(14) Eligibility requirements for employment as an ambulette driver, including grounds for disqualification due to the results of a motor vehicle law violation check, chemical test, or criminal records check. The rule may require that an applicant for employment as an ambulette driver provide a set of fingerprints to law enforcement authorities if the applicant comes under final consideration for employment.

(15) Any other rules that the board determines necessary for the implementation and enforcement of this chapter.

(B) In the rules for ambulances and nontransport vehicles adopted under division (A)~~(8)(12)~~ of this section, the board may establish requirements that vary according to whether the emergency medical service organization using the vehicles is licensed as a basic life-support, intermediate life-support, or advanced life-support, or mobile intensive care unit organization.

(C) A mobile intensive care unit that is not dually certified to provide advanced life-support and meets the requirements of the rules adopted under this section is not required to carry immobilization equipment, including board splint kits, traction splints, backboards, backboard straps, cervical immobilization devices, cervical collars, stairchairs, folding cots, or other

types of immobilization equipment determined by the board to be unnecessary for mobile intensive care units.

A mobile intensive care unit is exempt from the emergency medical technician staffing requirements of division (B) of section 4765.43 of the Revised Code when it is staffed by at least one physician or registered nurse and another person, designated by a physician, who holds a valid license or certificate to practice in a health care profession, and when at least one of the persons staffing the mobile intensive care unit is a registered nurse whose training meets or exceeds the training required for a paramedic.

Sec. 4766.04. (A) Except as otherwise provided in this chapter, no person shall furnish, operate, conduct, maintain, advertise, engage in, or propose or profess to engage in the business or service in this state of transporting persons who are seriously ill, injured, or otherwise incapacitated ~~in this state~~ or who require the use of a wheelchair or are confined to a wheelchair unless the person is licensed pursuant to this section.

(B) To qualify for a license as a basic life-support, intermediate life-support, ~~or advanced life-support service,~~ or mobile intensive care unit organization, an emergency medical service organization shall do all of the following:

(1) Apply for a permit for each ambulance and nontransport vehicle owned or leased as provided in section 4766.07 of the Revised Code;

(2) Meet all requirements established in rules adopted by the Ohio ~~ambulance licensing~~ medical transportation board regarding ambulances and nontransport vehicles, including requirements pertaining to equipment, communications systems, staffing, and level of care the particular organization is permitted to render;

(3) Maintain the appropriate type and amount of insurance ~~or self-insurance~~ as specified in section 4766.06 of the Revised Code;

(4) Meet all other requirements established under rules adopted by the board for the particular license.

(C) To ~~apply~~ qualify for a license to provide ambulette service, a nonemergency medical service organization shall do all of the following:

(1) Apply for a permit for each ambulette owned or leased as provided in section 4766.07 of the Revised Code;

(2) Meet all requirements established in rules adopted by the Ohio medical transportation board regarding ambulettes, including requirements pertaining to equipment, communication systems, staffing, and level of care the organization is permitted to render;

(3) Maintain the appropriate type and amount of insurance as specified

in section 4766.06 of the Revised Code:

(4) Meet all other requirements established under rules adopted by the board for the license.

(D) To qualify for a license to provide air medical transportation, an air medical service organization shall do all of the following:

(1) Apply for a permit for each rotorcraft air ambulance and fixed wing air ambulance owned or leased as provided in section 4766.07 of the Revised Code;

(2) Meet all requirements established in rules adopted by the Ohio medical transportation board regarding rotorcraft air ambulances and fixed air ambulances, including requirements pertaining to equipment, communication systems, staffing, and level of care the organization is permitted to render;

(3) Maintain the appropriate type and amount of insurance as specified in section 4766.06 of the Revised Code;

(4) Meet all other requirements established under rules adopted by the board for the license.

(E) An emergency medical service organization that applies for a license as a basic life-support, intermediate life-support, ~~or~~ advanced life-support service, or mobile intensive care unit organization, ~~an emergency medical service organization;~~ a nonemergency medical service organization that applies for a license to provide ambulette service; or an air medical service organization that applies for a license to provide air medical transportation shall submit a completed application to the board, on a form provided by the board for each particular license, together with the appropriate fees established under section 4766.05 of the Revised Code. The application form shall include all of the following:

(1) The name and business address of the operator of the organization for which licensure is sought;

(2) The name under which the applicant will operate the organization;

(3) A list of the names and addresses of all officers and directors of the organization;

(4) ~~A~~ For emergency medical service organizations and nonemergency medical service organizations, a description of each vehicle to be used, including the make, model, year of manufacture, mileage, vehicle identification number, and the color scheme, insignia, name, monogram, or other distinguishing characteristics to be used to designate the applicant's vehicle;

(5) For air medical service organizations using fixed wing air ambulances, a description of each aircraft to be used, including the make,

model, year of manufacture, and aircraft Hobbs meter hour reading;

(6) For air medical service organizations using rotorcraft air ambulances, a description of each aircraft to be used, including the make, model, year of manufacture, aircraft Hobbs meter hour reading, aircraft identification number, and the color scheme, insignia, name, monogram, or other distinguishing characteristics to be used to designate the applicant's rotorcraft air ambulance;

(7) The location and description of each place from which the organization will operate;

~~(6)~~(8) A description of the geographic area to be served by the applicant;

~~(7)~~(9) Any other information the board, by rule, determines necessary.

~~(D)~~(F) Within sixty days after receiving a completed application for licensure as a basic life-support, intermediate life-support, ~~or~~ advanced life-support ~~service, or mobile intensive care unit~~ organization; an ambulette service; or an air medical service organization, the board shall approve or deny the application. The board shall deny an application if it determines that the applicant does not meet the requirements of this chapter or any rules adopted under it. The board shall send notice of the denial of an application by certified mail to the applicant. The applicant may request a hearing within ten days after receipt of the notice. If the board receives a timely request, it shall hold a hearing in accordance with Chapter 119. of the Revised Code.

~~(E)~~(G) If an applicant or licensee operates or plans to operate an organization in more than one location under the same or different identities, the applicant or licensee shall apply for and meet all requirements for licensure or renewal of a license, other than payment of a license fee or renewal fee, for operating the organization at each separate location. An applicant or licensee that operates or plans to operate under the same organization identity in separate locations shall pay only a single license fee.

~~(F)~~(H) An emergency medical service organization that wishes to provide ambulette services to the public must apply for a separate license under division (C) of this section.

(I) Each license issued under this section and each permit issued under section 4766.07 of the Revised Code expires one year after the date of issuance and may be renewed in accordance with the standard renewal procedures of Chapter 4745. of the Revised Code, except that a license or permit issued in 1998 or in 1999 prior to ~~the effective date of this amendment~~ June 30, 1999, shall expire two years after the date of issuance. An application for renewal shall include the license or permit renewal fee

established under section 4766.05 of the Revised Code. An applicant for renewal of a permit also shall submit to the board proof of an annual inspection of the vehicle or aircraft for which permit renewal is sought. The board shall renew a license if the applicant meets the requirements for licensure and shall renew a permit if the applicant and vehicle or aircraft meet the requirements to maintain a permit for that vehicle or aircraft.

~~(G)~~(J) Each licensee shall maintain accurate records of all service responses conducted. The records shall be maintained on forms prescribed by the board and shall contain information as specified by rule by the board.

Sec. 4766.05. (A) The Ohio ~~ambulance licensing~~ medical transportation board shall establish by rule a license fee, a permit fee for each ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, and nontransport vehicle owned or leased by the licensee that is or will be used as provided in section 4766.07 of the Revised Code, and fees for renewals of licenses and permits, taking into consideration the actual costs incurred by the board in carrying out its duties under this chapter. However, the fee for each license and each renewal of a license shall not exceed one hundred dollars, and the fee for each permit and each renewal of a permit shall not exceed one hundred dollars for each ambulance, rotorcraft air ambulance, fixed wing air ambulance, and nontransport vehicle. The fee for each permit and each renewal of a permit shall be twenty-five dollars for each ambulette for one year after the effective date of this amendment. Thereafter, the board shall determine by rule the fee, which shall not exceed fifty dollars, for each permit and each renewal of a permit for each ambulette. For purposes of establishing fees, "actual costs" includes the costs of salaries, expenses, inspection equipment, supervision, and program administration.

(B) The board shall deposit all fees and other moneys collected pursuant to sections 4766.04, 4766.07, and 4766.08 of the Revised Code in the state treasury to the credit of the ~~ambulance licensing~~ Ohio medical transportation trust fund, which is hereby created. All moneys from the fund shall be used solely for the salaries and expenses of the board incurred in implementing and enforcing this chapter.

(C) The board, subject to the approval of the controlling board, may establish fees in excess of the maximum amounts allowed under division (A) of this section, but such fees shall not exceed those maximum amounts by more than fifty per cent.

Sec. 4766.06. (A)(1) Every emergency medical service organization and nonemergency medical service organization licensee under this chapter shall furnish adequate evidence of liability insurance coverage, in an amount of not less than five hundred thousand dollars per occurrence and not less than

five hundred thousand dollars in the aggregate, for any cause for which the licensee would be liable.

~~(2) In lieu of insurance coverage as provided in division (A)(1) of this section, a licensee may furnish a certificate of self-insurance evidencing that he has established a self-insurance plan approved by the superintendent of insurance that is equivalent to or greater than the insurance coverage required in division (A)(1) of this section.~~ Every air medical service organization licensee under this chapter shall furnish adequate evidence of liability insurance coverage, in an amount not less than twenty million dollars per occurrence and not less than twenty million dollars in the aggregate, for any cause for which the licensee would be liable.

~~(B)(1)~~ In addition to the insurance requirements of division (A) of this section, every licensee shall carry bodily injury and property damage insurance with solvent and responsible insurers licensed to do business in this state for any loss or damage resulting from any occurrence arising out of or caused by the operation or use of any ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, or nontransport vehicle. The insurance shall insure each vehicle for the sum of not less than one hundred thousand dollars for bodily injury to or death of any one person arising out of any one accident and the sum of not less than three hundred thousand dollars for bodily injury to or death of more than one person in any one accident and for the sum of fifty thousand dollars for damage to property arising from any one accident.

~~(2) In lieu of the insurance coverage as provided in division (B)(1) of this section, a licensee may furnish a certificate of self-insurance evidencing that he has established a self-insurance plan approved by the superintendent that provides the same or more comprehensive coverage than required in division (B)(1) of this section.~~

(C) Each policy or contract of insurance issued shall provide for the payment and satisfaction of any financial judgment entered against the licensee and any person operating the vehicle and for a thirty-day cancellation notice to the board.

Sec. 4766.07. (A) Each emergency medical service organization, nonemergency medical service organization, and air medical service organization subject to licensure under this chapter shall possess a valid permit for each ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, and nontransport vehicle it owns or leases that is or will be used by the licensee to perform the services permitted by the license. Each licensee and license applicant shall submit the appropriate fee and an application for a permit for each ambulance, ambulette, rotorcraft air

~~ambulance, fixed wing air ambulance,~~ and nontransport vehicle to the Ohio ~~ambulance licensing~~ medical transportation board on forms provided by the board. The application shall include documentation that the vehicle or aircraft meets the appropriate standards set by the board, that the vehicle or aircraft has been inspected pursuant to division (C) of this section, that the permit applicant maintains insurance ~~or self-insurance~~ as provided in section 4766.06 of the Revised Code, and that the vehicle or aircraft and permit applicant meet any other requirements established under rules adopted by the board.

(B)(1) Within sixty days after receiving a completed application for a permit, the board shall issue or deny the permit. The board shall deny an application if it determines that the permit applicant ~~or, vehicle, or aircraft~~ does not meet the requirements of this chapter and the rules adopted under it that apply to permits for ambulances, ~~ambulettes, rotorcraft air ambulances, fixed wing air ambulances,~~ and nontransport vehicles. The board shall send notice of the denial of an application by certified mail to the permit applicant. The permit applicant may request a hearing within ten days after receipt of the notice. If the board receives a timely request, it shall hold a hearing in accordance with Chapter 119. of the Revised Code.

(2) If the board issues the vehicle permit for an ambulance, ambulette, or nontransport vehicle, it also shall issue a decal, in a form prescribed by rule, to be displayed on the rear window of the vehicle. The board shall not issue a decal until all of the requirements for licensure and permit issuance have been met.

(3) If the board issues the aircraft permit for a rotorcraft air ambulance or fixed wing air ambulance, it also shall issue a decal, in a form prescribed by rule, to be displayed on the left fuselage aircraft window in a manner that complies with all applicable federal aviation regulations. The board shall not issue a decal until all of the requirements for licensure and permit issuance have been met.

(C) In addition to any other requirements that the board establishes by rule, a licensee or license applicant applying for an initial vehicle or aircraft permit under division (A) of this section shall submit to ~~the state highway patrol and~~ the board the vehicle or aircraft for which the permit is sought. Thereafter, a licensee shall annually submit to ~~the state highway patrol and~~ the board each vehicle or aircraft for which a permit has been issued.

(1) The ~~state highway patrol~~ board shall conduct a physical inspection of an ambulance, ambulette, or nontransport vehicle to determine its roadworthiness and compliance with standard motor vehicle requirements.

(2) The board shall conduct a physical inspection of the medical

equipment, communication system, and interior of an ambulance to determine the operational condition and safety of the equipment and the ambulance's interior and to determine whether the ambulance is in compliance with the federal requirements for ambulance construction that were in effect at the time the ambulance was manufactured, as specified by the general services administration in the various versions of its publication titled "federal specification for the star-of-life ambulance, KKK-A-1822."

(3) The board shall conduct a physical inspection of the equipment, communication system, and interior of an ambulette to determine the operational condition and safety of the equipment and the ambulette's interior and to determine whether the ambulette is in compliance with state requirements for ambulette construction. The board shall determine by rule requirements for the equipment, communication system, interior, and construction of an ambulette.

(4) The board shall conduct a physical inspection of the medical equipment, communication system, and interior of a rotorcraft air ambulance or fixed wing air ambulance to determine the operational condition and safety of the equipment and the aircraft's interior.

(5) The board ~~and state highway patrol~~ shall issue a certificate to the applicant for each vehicle or aircraft that passes the inspection and may assess a fee for each inspection, as established by the board.

~~(4)(6)~~ The board, ~~in consultation with the state highway patrol,~~ shall adopt rules regarding the implementation and coordination of ~~the state highway patrol and board~~ inspections. The rules may permit the board to contract with a third party to conduct the inspections required of the board under this section.

Sec. 4766.08. (A) The Ohio ~~ambulance licensing~~ medical transportation board may, pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code, suspend or revoke any license or permit or renewal thereof issued under this chapter for any one or combination of the following causes:

- (1) Violation of this chapter or any rule adopted thereunder;
- (2) Refusal to permit the board to inspect a vehicle or aircraft used under the terms of a permit or to inspect the records or physical facilities of a licensee;
- (3) Failure to meet the ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, and nontransport vehicle requirements specified in this chapter or the rules adopted thereunder;
- (4) Violation of an order issued by the board;
- (5) Failure to comply with any of the terms of an agreement entered into

with the board regarding the suspension or revocation of a license or permit or the imposition of a penalty under this section.

(B) If the board determines that the records, ~~recordkeeping~~ record-keeping procedures, or physical facilities of a licensee, or an ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, or nontransport vehicle for which a valid permit has been issued, do not meet the standards specified in this chapter and the rules adopted thereunder, the board shall notify the licensee of any deficiencies within thirty days of finding the deficiencies. If the board determines that the deficiencies exist and they remain uncorrected after thirty days, the board may suspend the license ~~or, vehicle permit, or aircraft permit.~~ The licensee, notwithstanding the suspension under this division, may operate until all appeals have been exhausted.

(C) At the discretion of the board, a licensee whose license has been suspended or revoked under this section may be ineligible to be licensed under this chapter for a period of not more than three years from the date of the violation, provided that the board shall make no determination on a period of ineligibility until all the licensee's appeals relating to the suspension or revocation have been exhausted.

(D) The board may, in addition to any other action taken under this section and after a hearing conducted pursuant to Chapter 119. of the Revised Code, impose a penalty of not more than fifteen hundred dollars for any violation specified in this section. The attorney general shall institute a civil action for the collection of any such penalty imposed.

Sec. 4766.09. This chapter does not apply to any of the following:

(A) A person rendering services with an ambulance in the event of a disaster situation when licensees' vehicles based in the locality of the disaster situation are incapacitated or insufficient in number to render the services needed;

(B) Any person operating an ambulance, ambulette, rotorcraft air ambulance, or fixed wing air ambulance outside this state unless receiving a person within this state for transport to a location within this state;

(C) A publicly owned or operated emergency medical service organization and the vehicles it owns or leases and operates, except as provided in section 307.051, division (G) of section 307.055, division (F) of section 505.37, division (B) of section 505.375, and division (B)(3) of section 505.72 of the Revised Code;

(D) An ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, or nontransport vehicle owned or leased and operated by the federal government;

(E) A publicly owned and operated fire department vehicle;

(F) Emergency vehicles owned by a corporation and operating only on the corporation's premises, for the sole use by that corporation;

(G) An ambulance, nontransport vehicle, or other emergency medical service organization vehicle owned and operated by a municipal corporation;

(H) A motor vehicle titled in the name of a volunteer rescue service organization, as defined in section 4503.172 of the Revised Code;

(I) A public emergency medical service organization;

(J) A fire department, rescue squad, or life squad comprised of volunteers who provide services without expectation of remuneration and do not receive payment for services other than reimbursement for expenses;

(K) A private, nonprofit emergency medical service organization when fifty per cent or more of its personnel are volunteers, as defined in section 4765.01 of the Revised Code;

(L) Emergency medical service personnel who are regulated by the state board of emergency medical services under Chapter 4765. of the Revised Code;

(M) A public nonemergency medical service organization.

Sec. 4766.10. This chapter does not invalidate any ordinance or resolution adopted by a municipal corporation that establishes standards for the licensure of emergency medical service organizations as basic life-support, intermediate life-support, or advanced life-support service organizations that have their principal places of business located within the limits of the municipal corporation, as long as the licensure standards meet or exceed the standards established in this chapter and the rules adopted thereunder.

Emergency medical service organizations licensed by a municipal corporation are subject to the jurisdiction of the Ohio ~~ambulance-licensing~~ medical transportation board, but the fees they pay to the board for licenses, permits, and renewals thereof shall not exceed fifty per cent of the fee amounts established by the board pursuant to section 4766.03 of the Revised Code. The board may choose to waive the vehicle inspection requirements and inspection fees, but not the permit fees, for the vehicles of organizations licensed by a municipal corporation.

Sec. 4766.11. (A) The Ohio ~~ambulance-licensing~~ medical transportation board may investigate alleged violations of this chapter or the rules adopted under it and may investigate any complaints received regarding alleged violations.

In addition to any other remedies available and regardless of whether an

adequate remedy at law exists, the board may apply to the court of common pleas in the county where a violation of any provision of this chapter or any rule adopted pursuant thereto is occurring for a temporary or permanent injunction restraining a person from continuing to commit that violation. On a showing that a person has committed a violation, the court shall grant the injunction.

In conducting an investigation under this section, the board may issue subpoenas compelling the attendance and testimony of witnesses and the production of books, records, and other documents pertaining to the investigation. If a person fails to obey a subpoena from the board, the board may apply to the court of common pleas in the county where the investigation is being conducted for an order compelling the person to comply with the subpoena. On application by the board, the court shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena from the court or a refusal to testify therein.

(B) The medical transportation board may suspend a license issued under this chapter without a prior hearing if it determines that there is evidence that the license holder is subject to action under this section and that there is clear and convincing evidence that continued operation by the license holder presents a danger of immediate and serious harm to the public. The chairperson and executive director of the board shall make a preliminary determination and describe the evidence on which they made their determination to the board members. The board by resolution may designate another board member to act in place of the chairperson or another employee to act in place of the executive director in the event that the chairperson or executive director is unavailable or unable to act. Upon review of the allegations, the board, by the affirmative vote of at least four of its members, may suspend the license without a hearing.

Any method of communication, including a telephone conference call, may be utilized for describing the evidence to the board members, for reviewing the allegations, and for voting on the suspension.

Immediately following the decision by the board to suspend a license under this division, the board shall issue a written order of suspension and cause it to be delivered in accordance with section 119.07 of the Revised Code. If the license holder subject to the suspension requests an adjudication hearing by the board, the date set for the adjudication shall be within fifteen days but not earlier than seven days after the request unless another date is agreed to by the license holder and the board.

Any summary suspension imposed under this division remains in effect,

unless reversed by the board, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order not less than ninety days after completion of its adjudication hearing. Failure to issue the order by that day shall cause the summary suspension order to end, but such failure shall not affect the validity of any subsequent final adjudication order.

Sec. 4766.12. If a county, township, joint ambulance district, or joint emergency medical services district chooses to have the Ohio ~~ambulance licensing~~ medical transportation board license its emergency medical service organizations and issue permits for its vehicles pursuant to this chapter, except as may be otherwise provided, all provisions of this chapter and all rules adopted by the board thereunder are fully applicable. However, a county, township, joint ambulance district, or joint emergency medical services district is not required to obtain any type of permit from the board for any of its nontransport vehicles.

Sec. 4766.13. The Ohio ~~ambulance licensing~~ medical transportation board, by endorsement, may license and issue vehicle permits to an emergency medical service organization or a nonemergency medical service organization that is regulated by another state. To qualify for a license and vehicle permits by endorsement, an organization must submit evidence satisfactory to the board that it has met standards in another state that are equal to or more stringent than the standards established by this chapter and the rules adopted under it.

Sec. 4766.15. (A) An applicant for employment as an ambulance driver with an organization licensed pursuant to this chapter shall submit proof to the organization of, or give consent to the employer to obtain, all of the following:

(1)(a) A valid driver's license issued pursuant to Chapter 4506. or 4507. of the Revised Code, or its equivalent, if the applicant is a resident of another state;

(b) A recent certified abstract of the applicant's record of convictions for violations of motor vehicle laws provided by the registrar of motor vehicles pursuant to section 4509.05 of the Revised Code, or its equivalent, if the applicant is a resident of another state.

(2)(a) A certificate of completion of a course in first aid techniques offered by the American red cross or an equivalent organization;

(b) A certificate of completion of a course in cardiopulmonary resuscitation, or its equivalent, offered by an organization approved by the Ohio medical transportation board.

(3) The result of a chemical test or tests of the applicant's blood, breath, or urine conducted at a hospital or other institution approved by the board for the purpose of determining the alcohol or drug of abuse content of the applicant's blood, breath, or urine;

(4) The result of a criminal records check conducted by the bureau of criminal identification and investigation.

(B) An organization may employ an applicant on a temporary provisional basis pending the completion of all of the requirements of this section. The length of the provisional period shall be determined by the board.

(C) An organization licensed pursuant to this chapter shall use information received pursuant to this section to determine in accordance with rules adopted by the Ohio medical transportation board under section 4766.03 of the Revised Code whether an applicant is disqualified for employment.

No applicant shall be accepted for permanent employment as an ambulette driver by an organization licensed pursuant to this chapter until all of the requirements of division (A) of this section have been met.

Sec. 4766.17. (A) An air medical service organization licensed under this chapter shall do both of the following:

(1) Use at a minimum both of the following to provide advanced life support to seriously ill, injured, wounded, or otherwise incapacitated or helpless individuals who require use of a stretcher:

(a) A paramedic or registered nurse, both as defined in section 4765.01 of the Revised Code;

(b) One other person, designated by the medical director of the air medical service organization, who holds a current, valid certificate or license to practice a health care profession in this state.

(2) Employ as a medical director an individual who holds a current, valid certificate issued under Chapter 4731. of the Revised Code authorizing the practice of medicine and surgery or osteopathic medicine and surgery.

(B) The medical director employed by a licensed air medical service organization pursuant to division (A)(2) of this section is ultimately responsible for the medical care provided to each patient by the organization.

Sec. 4766.20. The Ohio medical transportation board may create committees to review and make recommendations regarding medical transportation services provided in this state. A committee created under this section may receive information about medical transportation services provided in this state from emergency medical service organizations,

nonemergency medical service organizations, air medical service organizations, experts in the field of medical transportation, and other entities or individuals designated by the board.

A committee created under this section shall meet all of the following requirements:

(A) Be composed of at least one member of the board and any experts in the field of medical transportation designated by the board;

(B) Not exceed a total of six members;

(C) Cease to exist at the pleasure of the board;

(D) Meet any other requirements established by the board.

Sec. 5111.151. (A) This section applies to eligibility determinations for all cases involving medical assistance provided pursuant to this chapter, qualified medicare beneficiaries, specified low-income medicare beneficiaries, qualifying individuals-1, qualifying individuals-2, and medical assistance for covered families and children.

(B) As used in this section:

(1) "Trust" means any arrangement in which a grantor transfers real or personal property to a trust with the intention that it be held, managed, or administered by at least one trustee for the benefit of the grantor or beneficiaries. "Trust" includes any legal instrument or device similar to a trust.

(2) "Legal instrument or device similar to a trust" includes, but is not limited to, escrow accounts, investment accounts, partnerships, contracts, and other similar arrangements that are not called trusts under state law but are similar to a trust and to which all of the following apply:

(a) The property in the trust is held, managed, retained, or administered by a trustee.

(b) The trustee has an equitable, legal, or fiduciary duty to hold, manage, retain, or administer the property for the benefit of the beneficiary.

(c) The trustee holds identifiable property for the beneficiary.

(3) "Grantor" is a person who creates a trust, including all of the following:

(a) An individual;

(b) An individual's spouse;

(c) A person, including a court or administrative body, with legal authority to act in place of or on behalf of an individual or an individual's spouse;

(d) A person, including a court or administrative body, that acts at the direction or on request of an individual or the individual's spouse.

(4) "Beneficiary" is a person or persons, including a grantor, who

benefits in some way from a trust.

(5) "Trustee" is a person who manages a trust's principal and income for the benefit of the beneficiaries.

(6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association.

(7) "Applicant" is an individual who applies for medical assistance benefits or the individual's spouse.

(8) "Recipient" is an individual who receives medical assistance benefits or the individual's spouse.

(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable:

(a) A trust that provides that the trust can be terminated only by a court;

(b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee.

(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor.

(11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property.

(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient.

(13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust.

(C) If an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine what type of trust it is and shall treat the trust in accordance with the appropriate provisions of this section and rules adopted by the department of job and family services governing trusts. The county department of job and family services may determine that the trust or portion of the trust is one of the following:

(1) A countable resource;

(2) Countable income;

(3) A countable resource and countable income;

(4) Not a countable resource or countable income.

(D)(1) A trust or legal instrument or device similar to a trust shall be considered a medicaid qualifying trust if all of the following apply:

(a) The trust was established on or prior to August 10, 1993.

(b) The trust was not established by a will.

(c) The trust was established by an applicant or recipient.

(d) The applicant or recipient is or may become the beneficiary of all or part of the trust.

(e) Payment from the trust is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the applicant or recipient.

(2) If a trust meets the requirement of division (D)(1) of this section, the amount of the trust that is considered by the county department of job and family services as an available resource to the applicant or recipient shall be the maximum amount of payments permitted under the terms of the trust to be distributed to the applicant or recipient, assuming the full exercise of discretion by the trustee or trustees. The maximum amount shall include only amounts that are permitted to be distributed but are not distributed from either the income or principal of the trust.

(3) Amounts that are actually distributed from a Medicaid qualifying trust to a beneficiary for any purpose shall be treated in accordance with rules adopted by the department of job and family services governing income.

(4) Availability of a medicaid qualifying trust shall be considered without regard to any of the following:

(a) Whether or not the trust is irrevocable or was established for purposes other than to enable a grantor to qualify for medicaid, medical assistance for covered families and children, or as a qualified medicare beneficiary, specified low-income medicare beneficiary, qualifying individual-1, or qualifying individual-2;

(b) Whether or not the trustee actually exercises discretion.

(5) If any real or personal property is transferred to a medicaid qualifying trust that is not distributable to the applicant or recipient, the transfer shall be considered an improper transfer of resources and shall be subject to rules adopted by the department of job and family services governing improper transfers of resources.

(6) The baseline date for the look-back period for transfers of assets involving a medicaid qualifying trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medical assistance. The following conditions also apply to look-back periods for transfers of assets involving medicaid qualifying trusts:

(a) If a medicaid qualifying trust is a revocable trust and a portion of the trust is distributed to someone other than the applicant or recipient for the benefit of someone other than the applicant or recipient, the distribution

shall be considered an improper transfer of resources. The look-back period shall be sixty months from the baseline date. The transfer shall be considered to have taken place on the date on which the payment to someone other than the applicant or recipient was made.

(b) If a medicaid qualifying trust is an irrevocable trust and a portion of the trust is not distributable to the applicant or recipient, the trust shall be treated as an improper transfer of resources. The look-back period shall be sixty months from the baseline date. The transfer is considered to have been made as of the later of the date the trust was established or the date on which payment to the applicant or recipient was foreclosed. The value of the assets shall not be reduced by any payments from the trust that may be made from these unavailable assets at a later date.

(c) If a medicaid qualifying trust is an irrevocable trust and a portion or all of the trust may be disbursed to or for the benefit of the applicant or recipient, any payment that is made to another person other than the applicant or recipient shall be considered an improper transfer of resources. The look-back period shall be thirty-six months from the baseline date. The transfer shall be considered to have been made as of the date of payment to the other person.

(E)(1) A trust or legal instrument or device similar to a trust shall be considered a self-settled trust if all of the following apply:

(a) The trust was established on or after August 11, 1993.

(b) The trust was not established by a will.

(c) The trust was established by an applicant or recipient, spouse of an applicant or recipient, or a person, including a court or administrative body, with legal authority to act in place of or on behalf of an applicant, recipient, or spouse, or acting at the direction or on request of an applicant, recipient, or spouse.

(2) A trust that meets the requirements of division (E)(1) of this section and is a revocable trust shall be treated by the county department of job and family services as follows:

(a) The corpus of the trust shall be considered a resource available to the applicant or recipient.

(b) Payments from the trust to or for the benefit of the applicant or recipient shall be considered unearned income of the applicant or recipient.

(c) Any other payments from the trust shall be considered an improper transfer of resources and shall be subject to rules adopted by the department of job and family services governing improper transfers of resources.

(3) A trust that meets the requirements of division (E)(1) of this section and is an irrevocable trust shall be treated by the county department of job

and family services as follows:

(a) If there are any circumstances under which payment from the trust could be made to or for the benefit of the applicant or recipient, including a payment that can be made only in the future, the portion from which payments could be made shall be considered a resource available to the applicant or recipient. The county department of job and family services shall not take into account when payments can be made.

(b) Any payment that is actually made to or for the benefit of the applicant or recipient from either the corpus or income shall be considered unearned income.

(c) If a payment is made to someone other than to the applicant or recipient and the payment is not for the benefit of the applicant or recipient, the payment shall be considered an improper transfer of resources and shall be subject to rules adopted by the department of job and family services governing improper transfers of resources.

(d) The date of the transfer shall be the later of the date of establishment of the trust or the date of the occurrence of the event.

(e) When determining the value of the transferred resource under this provision, the value of the trust shall be its value on the date payment to the applicant or recipient was foreclosed.

(f) Any income earned or other resources added subsequent to the foreclosure date shall be added to the total value of the trust.

(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value.

(h) Any addition of resources after the foreclosure date shall be considered a separate transfer.

(4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted by the department of job and family services governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient.

(5) The availability of a self-settled trust shall be considered without regard to any of the following:

(a) The purpose for which the trust is established;

(b) Whether the trustees have exercised or may exercise discretion under the trust;

(c) Any restrictions on when or whether distributions may be made from the trust;

(d) Any restrictions on the use of distributions from the trust.

(6) The baseline date for the look-back period for transfers of assets involving a self-settled trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medical assistance. The following conditions also apply to look-back periods for transfers of assets involving self-settled trusts:

(a) If a self-settled trust is a revocable trust and a portion of the trust is distributed to someone other than the applicant or recipient for the benefit of someone other than the applicant or recipient, the distribution shall be considered an improper transfer of resources. The look-back period shall be sixty months from the baseline date. The transfer shall be considered to have taken place on the date on which the payment to someone other than the applicant or recipient was made.

(b) If a self-settled trust is an irrevocable trust and a portion of the trust is not distributable to the applicant or recipient, the trust shall be treated as an improper transfer of resources. The look-back period shall be sixty months from the baseline date. The transfer is considered to have been made as of the later of the date the trust was established or the date on which payment to the applicant or recipient was foreclosed. The value of these assets shall not be reduced by any payments from the trust that may be made from these unavailable assets at a later date.

(c) If a self-settled trust is an irrevocable trust and a portion or all of the trust may be disbursed to or for the benefit of the applicant or recipient, any payment that is made to another person other than the applicant or recipient shall be considered an improper transfer of resources. The look-back period shall be thirty-six months from the baseline date. The transfer shall be considered to have been made as of the date of payment to the other person.

(F) The principal or income from any of the following shall be exempt from being counted as a resource by a county department of job and family services:

(1)(a) A special needs trust that meets all of the following requirements:

(i) The trust contains assets of an applicant or recipient under sixty-five years of age and may contain the assets of other individuals.

(ii) The applicant or recipient is disabled as defined in rules adopted by the department of job and family services.

(iii) The trust is established for the benefit of the applicant or recipient by a parent, grandparent, legal guardian, or a court.

(iv) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medical assistance paid on behalf of the applicant or recipient.

(b) If a special needs trust meets the requirements of division (F)(1)(a) of this section and has been established for a disabled applicant or recipient under sixty-five years of age, the exemption for the trust granted pursuant to division (F) of this section shall continue after the disabled applicant or recipient becomes sixty-five years of age if the applicant or recipient continues to be disabled as defined in rules adopted by the department of job and family services. Except for income earned by the trust, the grantor shall not add to or otherwise augment the trust after the applicant or recipient attains sixty-five years of age. An addition or augmentation of the trust by the applicant or recipient with the applicant's own assets after the applicant or recipient attains sixty-five years of age shall be treated as an improper transfer of resources.

(c) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income.

(d) Transfers of assets to a special needs trust shall not be treated as an improper transfer of resources. Assets held prior to the transfer to the trust shall be considered as countable assets or countable income or countable assets and income.

(2)(a) A qualifying income trust that meets all of the following requirements:

(i) The trust is composed only of pension, social security, and other income to the applicant or recipient, including accumulated interest in the trust.

(ii) The income is received by the individual and the right to receive the income is not assigned or transferred to the trust.

(iii) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medical assistance paid on behalf of the applicant or recipient.

(b) No resources shall be used to establish or augment the trust.

(c) If an applicant or recipient has irrevocably transferred or assigned the applicant's or recipient's right to receive income to the trust, the trust shall not be considered a qualifying income trust by the county department of job and family services.

(d) Income placed in a qualifying income trust shall not be counted in determining an applicant's or recipient's eligibility for medical assistance. The recipient of the funds may place any income directly into a qualifying income trust without those funds adversely affecting the applicant's or

recipient's eligibility for medical assistance. Income generated by the trust that remains in the trust shall not be considered as income to the applicant or recipient.

(e) All income placed in a qualifying income trust shall be combined with any countable income not placed in the trust to arrive at a base income figure to be used for spend down calculations.

(f) The base income figure shall be used for post-eligibility deductions, including personal needs allowance, monthly income allowance, family allowance, and medical expenses not subject to third party payment. Any income remaining shall be used toward payment of patient liability. Payments made from a qualifying income trust shall not be combined with the base income figure for post-eligibility calculations.

(g) The base income figure shall be used when determining the spend down budget for the applicant or recipient. Any income remaining after allowable deductions are permitted as provided under rules adopted by the department of job and family services shall be considered the applicant's or recipient's spend down liability.

(3)(a) A pooled trust that meets all of the following requirements:

(i) The trust contains the assets of the applicant or recipient of any age who is disabled as defined in rules adopted by the department of job and family services.

(ii) The trust is established and managed by a nonprofit association.

(iii) A separate account is maintained for each beneficiary of the trust but, for purposes of investment and management of funds, the trust pools the funds in these accounts.

(iv) Accounts in the trust are established by the applicant or recipient, the applicant's or recipient's parent, grandparent, or legal guardian, or a court solely for the benefit of individuals who are disabled.

(v) The trust requires that, to the extent that any amounts remaining in the beneficiary's account on the death of the beneficiary are not retained by the trust, the trust pay to the state the amounts remaining in the trust up to an amount equal to the total amount of medical assistance paid on behalf of the beneficiary.

(b) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income.

(c) Transfers of assets to a pooled trust shall not be treated as an improper transfer of resources. Assets held prior to the transfer to the trust shall be considered as countable assets, countable income, or countable

assets and income.

(4) A supplemental services trust that meets the requirements of section 1339.51 of the Revised Code and to which all of the following apply:

(a) A person may establish a supplemental services trust pursuant to section 1339.51 of the Revised Code only for another person who is eligible to receive services through one of the following agencies:

(i) The department of mental retardation and developmental disabilities;

(ii) A county board of mental retardation and developmental disabilities;

(iii) The department of mental health;

(iv) A board of alcohol, drug addiction, and mental health services.

(b) A county department of job and family services shall not determine eligibility for another agency's program. An applicant or recipient shall do one of the following:

(i) Provide documentation from one of the agencies listed in division (F)(4)(a) of this section that establishes that the applicant or recipient was determined to be eligible for services from the agency at the time of the creation of the trust;

(ii) Provide an order from a court of competent jurisdiction that states that the applicant or recipient was eligible for services from one of the agencies listed in division (F)(4)(a) of this section at the time of the creation of the trust.

(c) At the time the trust is created, the trust principal does not exceed the maximum amount permitted. The maximum amount permitted in calendar year 2002 is two hundred fourteen thousand dollars. Each year thereafter, the maximum amount permitted is the prior year's amount plus two thousand dollars.

(d) A county department of job and family services shall review the trust to determine whether it complies with the provisions of section 1339.51 of the Revised Code.

(e) Payments from supplemental services trusts shall be exempt as long as the payments are for supplemental services as defined in rules adopted by the department of job and family services. All supplemental services shall be purchased by the trustee and shall not be purchased through direct cash payments to the beneficiary.

(f) If a trust is represented as a supplemental services trust and a county department of job and family services determines that the trust does not meet the requirements provided in division (F)(4) of this section and section 1339.51 of the Revised Code, the county department of job and family services shall not consider it an exempt trust.

(G)(1) A trust or legal instrument or device similar to a trust shall be

considered a trust established by an individual for the benefit of the applicant or recipient if all of the following apply:

(a) The trust is created by a person other than the applicant or recipient.

(b) The trust names the applicant or recipient as a beneficiary.

(c) The trust is funded with assets or property in which the applicant or recipient has never held an ownership interest prior to the establishment of the trust.

(2) Any portion of a trust that meets the requirements of division (G)(1) of this section shall be an available resource only if the trust permits the trustee to expend principal, corpus, or assets of the trust for the applicant's or recipient's medical care, care, comfort, maintenance, health, welfare, general well being, or any combination of these purposes.

(3) A trust that meets the requirements of division (G)(1) of this section shall be considered an available resource even if the trust contains any of the following types of provisions:

(a) A provision that prohibits the trustee from making payments that would supplant or replace medical assistance or other public assistance;

(b) A provision that prohibits the trustee from making payments that would impact or have an effect on the applicant's or recipient's right, ability, or opportunity to receive medical assistance or other public assistance;

(c) A provision that attempts to prevent the trust or its corpus or principal from being counted as an available resource.

(4) A trust that meets the requirements of division (G)(1) of this section shall not be counted as an available resource if at least one of the following circumstances applies:

(a) If a trust contains a clear statement requiring the trustee to preserve a portion of the trust for another beneficiary or remainderman, that portion of the trust shall not be counted as an available resource. Terms of a trust that grant discretion to preserve a portion of the trust shall not qualify as a clear statement requiring the trustee to preserve a portion of the trust.

(b) If a trust contains a clear statement requiring the trustee to use a portion of the trust for a purpose other than medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, that portion of the trust shall not be counted as an available resource. Terms of a trust that grant discretion to limit the use of a portion of the trust shall not qualify as a clear statement requiring the trustee to use a portion of the trust for a particular purpose.

(c) If a trust contains a clear statement limiting the trustee to making fixed periodic payments, the trust shall not be counted as an available resource and payments shall be treated in accordance with rules adopted by

the department of job and family services governing income. Terms of a trust that grant discretion to limit payments shall not qualify as a clear statement requiring the trustee to make fixed periodic payments.

(d) If a trust contains a clear statement that requires the trustee to terminate the trust if it is counted as an available resource, the trust shall not be counted as an available resource. Terms of a trust that grant discretion to terminate the trust do not qualify as a clear statement requiring the trustee to terminate the trust.

(e) If a person obtains a judgment from a court of competent jurisdiction that expressly prevents the trustee from using part or all of the trust for the medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, the trust or that portion of the trust subject to the court order shall not be counted as a resource.

(f) If a trust is specifically exempt from being counted as an available resource by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as a resource.

(g) If an applicant or recipient presents a final judgment from a court demonstrating that the applicant or recipient was unsuccessful in a civil action against the trustee to compel payments from the trust, the trust shall not be counted as an available resource.

(h) If an applicant or recipient presents a final judgment from a court demonstrating that in a civil action against the trustee the applicant or recipient was only able to compel limited or periodic payments, the trust shall not be counted as an available resource and payments shall be treated in accordance with rules adopted by the department of job and family services governing income.

(i) If an applicant or recipient provides written documentation showing that the cost of a civil action brought to compel payments from the trust would be cost prohibitive, the trust shall not be counted as an available resource.

(5) Any actual payments to the applicant or recipient from a trust that meet the requirements of division (G)(1) of this section, including trusts that are not counted as an available resource, shall be treated as provided in rules adopted by the department of job and family services governing income. Payments to any person other than the applicant or recipient shall not be considered income to the applicant or recipient. Payments from the trust to a person other than the applicant or recipient shall not be considered an improper transfer of assets.

Sec. 5503.12. (A) The superintendent of the state highway patrol, with the approval of the director of public safety, may authorize the registrar of

motor vehicles and designated deputy registrars to collect inspection and testing fees on behalf of the state highway patrol. The superintendent and the registrar jointly shall determine and designate the deputy registrars who shall collect inspection and testing fees under this section.

(B)(1) In addition to collecting the inspection and testing fees, the registrar and each designated deputy registrar may collect and retain a service fee in the amount specified in division (D) of section 4503.10 of the Revised Code for each inspection and testing fee collected on behalf of the state highway patrol.

(2) Each designated deputy registrar, upon receipt of any inspection and testing fee, shall transmit the fees to the registrar in the manner prescribed by the registrar.

(3) The registrar shall deposit the inspection and testing fees collected by and transmitted to the registrar to the credit of the fund specified by law.

(C) The superintendent, with the approval of the director, shall establish appropriate procedures to be used by the registrar and designated deputy registrars for determining proof of payment of inspection and testing fees.

(D) As used in this section, "inspection and testing fees" includes the following:

(1) Fees for vehicle inspections conducted under sections 4505.11, 4505.111, 4513.52, 4513.53, 4519.56, and 4519.61, ~~and 4766.07~~ of the Revised Code;

(2) Fees for testing of commercial driver's license applicants under section 4506.09 of the Revised Code;

(3) Except as may otherwise be specifically provided by law, any statutory fees for similar vehicle inspections or driver testing conducted by the state highway patrol that the superintendent may specify for collection under this section.

SECTION 2. That existing sections 307.051, 307.055, 505.37, 505.375, 505.72, 4503.49, 4513.263, 4766.01, 4766.02, 4766.03, 4766.04, 4766.05, 4766.06, 4766.07, 4766.08, 4766.09, 4766.10, 4766.11, 4766.12, 4766.13, and 5503.12 of the Revised Code are hereby repealed.

SECTION 3. That the version of section 4513.263 of the Revised Code that is scheduled to take effect January 1, 2004, be amended to read as follows:

Sec. 4513.263. (A) As used in this section and in section 4513.99 of the Revised Code:

(1) "Automobile" means any commercial tractor, passenger car, commercial car, or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States secretary of transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.

(2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness, or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum federal vehicle safety standards established by the United States department of transportation.

(3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.

(4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as in section 4501.01 of the Revised Code.

(5) "Vehicle" and "motor vehicle," as used in the definitions of the terms set forth in division (A)(4) of this section, have the same meanings as in section 4511.01 of the Revised Code.

(B) No person shall do any of the following:

(1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;

(2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in division (B)(3) of this section is wearing all of the available elements of a properly adjusted occupant restraining device;

(3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;

(4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.

(C) Division (B)(3) of this section does not apply to a person who is required by section 4511.81 of the Revised Code to be secured in a child restraint device. Division (B)(1) of this section does not apply to a person who is an employee of the United States postal service or of a newspaper

home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees. Divisions (B)(1) and (3) of this section do not apply to a person who has an affidavit signed by a physician licensed to practice in this state under Chapter 4731. of the Revised Code or a chiropractor licensed to practice in this state under Chapter 4734. of the Revised Code that states that the person has a physical impairment that makes use of an occupant restraining device impossible or impractical.

(D) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of division (B) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(E) All fines collected for violations of division (B) of this section, or for violations of any ordinance or resolution of a political subdivision that is substantively comparable to that division, shall be forwarded to the treasurer of state for deposit as follows:

(1) Eight per cent shall be deposited into the seat belt education fund, which is hereby created in the state treasury, and shall be used by the department of public safety to establish a seat belt education program.

(2) Eight per cent shall be deposited into the elementary school program fund, which is hereby created in the state treasury, and shall be used by the department of public safety to establish and administer elementary school programs that encourage seat safety belt use.

(3) Two per cent shall be deposited into the Ohio ~~ambulance licensing~~ medical transportation trust fund created by section 4766.05 of the Revised Code.

(4) Twenty-eight per cent shall be deposited into the trauma and emergency medical services fund, which is hereby created in the state treasury, and shall be used by the department of public safety for the administration of the division of emergency medical services and the state board of emergency medical services.

(5) Fifty-four per cent shall be deposited into the trauma and emergency medical services grants fund, which is hereby created in the state treasury,

and shall be used by the state board of emergency medical services to make grants, in accordance with section 4765.07 of the Revised Code and rules the board adopts under section 4765.11 of the Revised Code.

(F)(1) Subject to division (F)(2) of this section, the failure of a person to wear all of the available elements of a properly adjusted occupant restraining device or to ensure that each passenger of an automobile being operated by the person is wearing all of the available elements of such a device, in violation of division (B) of this section, shall not be considered or used as evidence of negligence or contributory negligence, shall not diminish recovery for damages in any civil action involving the person arising from the ownership, maintenance, or operation of an automobile; shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in any civil or criminal action involving the person other than a prosecution for a violation of this section.

(2) If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted, then, consistent with the Rules of Evidence, the fact that the occupant was not wearing the available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted is admissible in evidence in relation to any claim for relief in a tort action to the extent that the claim for relief satisfies all of the following:

(a) It seeks to recover damages for injury or death to the occupant.

(b) The defendant in question is the manufacturer, designer, distributor, or seller of the passenger car.

(c) The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.

(3) As used in division (F)(2) of this section, "tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim that is subject to sections 2307.71 to 2307.80 of the Revised Code, but does not include a civil action for damages for a breach of a contract or another agreement between persons.

(G)(1) Whoever violates division (B)(1) of this section shall be fined thirty dollars.

(2) Whoever violates division (B)(3) of this section shall be fined

twenty dollars.

(3) Except as otherwise provided in this division, whoever violates division (B)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of division (B)(4) of this section, whoever violates division (B)(4) of this section is guilty of a misdemeanor of the third degree.

SECTION 4. That the existing version of section 4513.263 of the Revised Code that is scheduled to take effect January 1, 2004, is hereby repealed.

SECTION 5. Sections 3 and 4 of this act take effect January 1, 2004.

SECTION 6. Within 60 days after the effective date of this act, the Governor shall appoint the additional members of the Ohio Medical Transportation Board required by section 4766.02 of the Revised Code, as amended by this act. The terms of the first two new members shall expire July 5, 2004, and the terms of the second two new members shall expire on July 5, 2005. Thereafter, the terms of office shall be as specified in section 4766.02 of the Revised Code.

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

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

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

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

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*Governor.*

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

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*Director, Legislative Service Commission.*

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

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*Secretary of State.*

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