manufacturer shall use to prohibit access to the storage site.

Sec. 3743.05. The fire marshal shall adopt rules in accordance with Chapter 119. of the Revised Code governing the classification of fireworks that are consistent with the classification of fireworks by the United States department of transportation as set forth in Title 49, Code of Federal Regulations, and the manufacture of fireworks and the storage of manufactured fireworks by licensed manufacturers of fireworks. The rules shall be designed to promote the safety and security of employees of manufacturers, members of the public, and the fireworks plant.

The rules shall be consistent with sections 3743.02 to 3743.08 of the Revised Code, shall be substantially equivalent to the most recent versions of chapters 1123, 1124, and 1126 of the most recent national fire protection association standards, and shall apply to, but not be limited to, the following subject matters:

(A) A classification of fireworks by number and letter designation, including, specifically, a 1.4G designation of fireworks. The classes of fireworks established by the fire marshal shall be substantially equivalent to those defined by the United States department of transportation by regulation, except that, if the fire marshal determines that a type of fireworks designated as common fireworks by the United States department of transportation meets the criteria of any class of fireworks, other than 1.4G fireworks, as adopted by the fire marshal pursuant to this section, the fire marshal may include the type of fireworks in the other class instead of 1.4G.

(B) Appropriate standards for the manufacturing of types of fireworks that are consistent with standards adopted by the United States department of transportation and the consumer product safety commission, including, but not limited to, the following:

(1) Permissible amounts of pyrotechnic or explosive composition;

(2) Interior and exterior dimensions;

(3) Structural specifications.

(C) Cleanliness and orderliness in, the heating, lighting, and use of stoves and flame-producing items in, smoking in, the prevention of fire and explosion in, the availability of fire extinguishers or other fire-fighting equipment and their use in, and emergency procedures relative to the buildings and other structures located on the premises of a fireworks plant.

(D) Appropriate uniforms to be worn by employees of manufacturers in the course of the manufacturing, handling, and storing of fireworks, and the use of protective clothing and equipment by the employees.

(E) The manner in which fireworks are to be packed, packaged, and stored.

(F) Required distances between buildings or structures used in the manufacturing, storage, or sale of fireworks and occupied residential and nonresidential buildings or structures, railroads, highways, or any additional buildings or structures located on the licensed premises. The rules adopted pursuant to this division do not apply to factory buildings in fireworks plants that were erected on or before May 30, 1986, and that were legally being used for fireworks activities under authority of a valid license issued by the fire marshal as of December 1, 1990, pursuant to sections 3743.03 and 3743.04 of the Revised Code.

(G) Requirements for the operation of storage locations, including packaging, assembling, and storage of fireworks.

Sec. 3743.06. In addition to conforming to the rules of the fire marshal adopted pursuant to section 3743.05 of the Revised Code, licensed manufacturers of fireworks shall operate their fireworks plants in accordance with the following:

(A) Signs indicating that smoking is generally forbidden and trespassing is prohibited on the premises of a fireworks plant shall be posted on the premises in a manner determined by the fire marshal.

(B) Reasonable precautions shall be taken to protect the premises of a fireworks plant from trespass, loss, theft, or destruction. Only persons employed by the manufacturer, authorized governmental personnel, and persons who have obtained permission from a member of the manufacturer's office to be on the premises, are to be allowed to enter and remain on the premises.

(C) Smoking or the carrying of pipes, cigarettes, or cigars, matches, lighters, other flame-producing items, or open flame on, or the carrying of a concealed source of ignition into, the premises of a fireworks plant is prohibited, except that a manufacturer may permit smoking in specified lunchrooms or restrooms in buildings or other structures in which no manufacturing, handling, sales, or storage of fireworks takes place. "NO SMOKING" signs shall be posted on the premises as required by the fire marshal.

(D) Fire and explosion prevention and other reasonable safety measures and precautions shall be implemented by a manufacturer.

(E) Persons shall not be permitted to have in their possession or under their control, while they are on the premises of the fireworks plant, any intoxicating liquor, beer, or controlled substance, and they shall not be permitted to enter or remain on the premises if they are found to be under the influence of any intoxicating liquor, beer, or controlled substance.

(F) A manufacturer shall conform to all building, safety, and zoning

statutes, ordinances, rules, or other enactments that apply to the premises of its fireworks plant.

(G) ~~No building used in the manufacture, storage, or sale of fireworks shall be situated nearer than one thousand feet to any structure that is not located on the property of and that does not belong to the licensed fireworks manufacturer, or nearer than three hundred feet to any highway or railroad, or nearer than one hundred feet to any building used for the storage of explosives or fireworks, or nearer than fifty feet to any factory building. This division does not apply to factory buildings in fireworks plants that were erected on or before May 30, 1986, and that were legally being used for fireworks activities under authority of a valid license issued by the fire marshal as of December 1, 1990, pursuant to sections 3743.03 and 3743.04 of the Revised Code.~~

~~(H)~~ Each fireworks plant shall have at least one class 1 magazine that is approved by the bureau of alcohol, tobacco, and firearms of the United States department of the treasury and that is otherwise in conformity with federal law. This division does not apply to fireworks plants existing on or before August 3, 1931.

~~(I)~~(H) Awnings, tents, and canopies shall not be used as facilities for the sale or storage of fireworks. This division does not prohibit the use of an awning or canopy attached to a public access showroom for storing nonflammable shopping convenience items such as shopping carts or baskets or providing a shaded area for patrons waiting to enter the public sales area.

~~(J)~~(I) Fireworks may be stored in trailers if the trailers are properly enclosed, secured, and grounded and are separated from any structure to which the public is admitted by a distance that will, in the fire marshal's judgment, allow fire-fighting equipment to have full access to the structures on the licensed premises. Such trailers may be moved into closer proximity to any structure only to accept or discharge cargo for a period not to exceed forty-eight hours. Only two such trailers may be placed in such closer proximity at any one time. At no time may trailers be used for conducting sales of any class of fireworks, nor may members of the public have access to the trailers.

Storage areas for fireworks that are in the same building where fireworks are displayed and sold to the public shall be separated from the areas to which the public has access by an appropriately rated fire wall.

~~(K)~~(J) A fire suppression system as defined in section 3781.108 of the Revised Code may be turned off only for repair, drainage of the system to prevent damage by freezing during the period of time, approved by the fire

marshal, that the facility is closed to all public access during winter months, or maintenance of the system. If any repair or maintenance is necessary during times when the facility is open for public access and business as approved by the fire marshal, the licensed manufacturer shall notify in advance the appropriate insurance company and fire chief or fire prevention officer regarding the nature of the maintenance or repair and the time when it will be performed.

~~(L)~~(K) If any fireworks item is removed from its original package or is manufactured with any fuse other than a safety fuse approved by the consumer product safety commission, then the item shall be covered completely by repackaging or bagging or it shall otherwise be covered so as to prevent ignition prior to sale.

~~(M)~~(L) A safety officer shall be present during regular business hours at a building open to the public during the period commencing fourteen days before, and ending two days after, each fourth day of July. The officer shall be highly visible, enforce this chapter and any applicable building codes to the extent the officer is authorized by law, and be one of the following:

(1) A deputy sheriff;

(2) A law enforcement officer of a municipal corporation, township, or township or joint township police district;

(3) A private uniformed security guard registered under section 4749.06 of the Revised Code.

~~(N)~~(M) All doors of all buildings on the licensed premises shall swing outward.

~~(O)~~(N) All wholesale and commercial sales of fireworks shall be packaged, shipped, placarded, and transported in accordance with United States department of transportation regulations applicable to the transportation, and the offering for transportation, of hazardous materials. For purposes of this division, "wholesale and commercial sales" includes all sales for resale and any nonretail sale made in furtherance of a commercial enterprise. For purposes of enforcement of these regulations under section 4905.83 of the Revised Code, any sales transaction exceeding one thousand pounds shall be rebuttably presumed to be a wholesale or commercial sale.

Sec. 3743.15. (A) Except as provided in division (C) of this section, any person who wishes to be a wholesaler of fireworks in this state shall submit to the fire marshal an application for licensure as a wholesaler of fireworks before the first day of October of each year. The application shall be submitted prior to commencement of business operations, shall be on a form prescribed by the fire marshal, shall contain all information requested by the fire marshal, and shall be accompanied by the license fee, fingerprints, and

proof of insurance coverage described in division (B) of this section.

The fire marshal shall prescribe a form for applications for licensure as a wholesaler of fireworks and make a copy of the form available, upon request, to persons who seek that licensure.

(B) An applicant for licensure as a wholesaler of fireworks shall submit with the application all of the following:

(1) A license fee of two thousand seven hundred fifty dollars, which the fire marshal shall use to pay for fireworks safety education, training programs, and inspections~~;~~. If the applicant has any storage locations approved in accordance with division (G) of section 3743.17 of the Revised Code, the applicant also shall submit a fee of one hundred dollars per storage location for the inspection of each storage location.

(2) Proof of comprehensive general liability insurance coverage, specifically including fire and smoke casualty on premises, in an amount not less than one million dollars for each occurrence for bodily injury liability and wrongful death liability at its business location. Proof of such insurance coverage shall be submitted together with proof of coverage for products liability on all inventory located at the business location. All applicants shall submit evidence of comprehensive general liability insurance coverage verified by the insurer and certified as to its provision of the minimum coverage required under this division.

(3) One complete set of the applicant's fingerprints and a complete set of fingerprints of any individual holding, owning, or controlling a five per cent or greater beneficial or equity interest in the applicant for the license.

(C) A licensed manufacturer of fireworks is not required to apply for and obtain a wholesaler of fireworks license in order to engage in the wholesale sale of fireworks as authorized by division (C)(2) of section 3743.04 of the Revised Code. A business which is not a licensed manufacturer of fireworks may engage in the wholesale and retail sale of fireworks in the same manner as a licensed manufacturer of fireworks is authorized to do under this chapter without the necessity of applying for and obtaining a license pursuant to this section, but only if the business sells the fireworks on the premises of a fireworks plant covered by a license issued under section 3743.03 of the Revised Code and the holder of that license owns at least a majority interest in that business. However, if a licensed manufacturer of fireworks wishes to engage in the wholesale sale of fireworks in this state at a location other than the premises of the fireworks plant described in its application for licensure as a manufacturer or in a notification submitted under division (B) of section 3743.04 of the Revised Code, the manufacturer shall first apply for and obtain a wholesaler of

fireworks license before engaging in wholesale sales of fireworks at the other location.

(D) A separate application for licensure as a wholesaler of fireworks shall be submitted for each location at which a person wishes to engage in wholesale sales of fireworks.

Sec. 3743.17. (A) The license of a wholesaler of fireworks is effective for one year beginning on the first day of December. The fire marshal shall issue or renew a license only on that date and at no other time. If a wholesaler of fireworks wishes to continue engaging in the wholesale sale of fireworks at the particular location after its then effective license expires, it shall apply not later than the first day of October for a new license pursuant to section 3743.15 of the Revised Code. The fire marshal shall send a written notice of the expiration of its license to a licensed wholesaler at least three months before the expiration date.

(B) If, during the effective period of its licensure, a licensed wholesaler of fireworks wishes to perform any construction, or make any structural change or renovation, on the premises on which the fireworks are sold, the wholesaler shall notify the fire marshal in writing. The fire marshal may require a licensed wholesaler also to submit documentation, including, but not limited to, plans covering the proposed construction or structural change or renovation, if the fire marshal determines the documentation is necessary for evaluation purposes in light of the proposed construction or structural change or renovation.

Upon receipt of the notification and additional documentation required by the fire marshal, the fire marshal shall inspect the premises on which the fireworks are sold to determine if the proposed construction or structural change or renovation conforms to sections 3743.15 to 3743.21 of the Revised Code and the rules adopted by the fire marshal pursuant to section 3743.18 of the Revised Code. The fire marshal shall issue a written authorization to the wholesaler for the construction or structural change or renovation if the fire marshal determines, upon the inspection and a review of submitted documentation, that the construction or structural change or renovation conforms to those sections and rules.

(C) The license of a wholesaler of fireworks authorizes the wholesaler to engage only in the following activities:

(1) Possess for sale at wholesale and sell at wholesale fireworks to persons who are licensed wholesalers of fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of

this state to them by the wholesaler. The possession for sale shall be at the location described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of a licensed building and from no structure or device outside a licensed building. At no time shall a licensed wholesaler sell any class of fireworks outside a licensed building.

(2) Possess for sale at retail and sell at retail fireworks, other than 1.4G fireworks as designated by the fire marshal in rules adopted pursuant to division (A) of section 3743.05 of the Revised Code, to licensed exhibitors in accordance with sections 3743.50 to 3743.55 of the Revised Code, and possess for sale at retail and sell at retail fireworks, including 1.4G fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the wholesaler. The possession for sale shall be at the location described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of the licensed building and from no other structure or device outside this licensed building. At no time shall a licensed wholesaler sell any class of fireworks outside a licensed building.

A licensed wholesaler of fireworks shall sell under division (C) of this section only fireworks that meet the standards set by the consumer product safety commission or by the American fireworks standard laboratories or that have received an EX number from the United States department of transportation.

(D)~~(1)~~ The license of a wholesaler of fireworks shall be protected under glass and posted in a conspicuous place at the location described in the application for licensure or in the notification submitted under division (B) of this section. Except as otherwise provided in this ~~division~~ section, the license is not transferable or assignable. A license may be transferred to another person for the same location for which the license was issued if the assets of the wholesaler are transferred to that person by inheritance or by a sale approved by the fire marshal. The license is subject to revocation in accordance with section 3743.21 of the Revised Code.

~~(2)~~(E) The fire marshal shall adopt rules for the expansion or contraction of a licensed premises and for the approval of an expansion or contraction. The boundaries of a licensed premises, including any geographic expansion or contraction of those boundaries, shall be approved by the fire marshal in accordance with rules the fire marshal adopts. If the

licensed premises of a licensed wholesaler from which the wholesaler operates consists of more than one parcel of real estate, those parcels must be contiguous, unless an exception is allowed pursuant to division (G) of this section.

(F)(1) Upon application by a licensed wholesaler of fireworks, a wholesaler license may be transferred from one geographic location to another within the same municipal corporation or within the unincorporated area of the same township, but only if all of the following apply:

(a) The identity of the holder of the license remains the same in the new location.

(b) The former location is closed prior to the opening of the new location and no fireworks business of any kind is conducted at the former location after the transfer of the license.

(c) The new location has received a local certificate of zoning compliance and a local certificate of occupancy, and otherwise is in compliance with all local building regulations.

(d) The transfer of the license is requested by the licensee because the existing facility poses an immediate hazard to the public.

(e) ~~Any~~ Every building or structure at the new location is ~~situated no closer than one thousand feet to any property line or structure that does not belong to the licensee requesting the transfer, no closer than three hundred feet to any highway or railroad, no closer than one hundred feet to any building used for the storage of explosives or fireworks by the licensee, no closer than fifty feet to any factory building owned or used by the licensee, and no closer than two thousand feet to any building used for the sale, storage, or manufacturing of fireworks that does not belong to the licensee~~ separated from occupied residential and nonresidential buildings or structures, railroads, highways, or any other buildings or structures located on the licensed premises in accordance with the distances specified in the rules adopted by the fire marshal pursuant to section 3743.18 of the Revised Code. If the licensee fails to comply with the requirements of division ~~(D)(2)(e)~~(F)(1)(e) of this section by the licensee's own act, the license at the new location is forfeited.

(f) Neither the licensee nor any person holding, owning, or controlling a five per cent or greater beneficial or equity interest in the licensee has been convicted of or has pleaded guilty to a felony under the laws of this state, any other state, or the United States after ~~the effective date of this amendment~~ June 30, 1997.

(g) The fire marshal approves the request for the transfer.

(2) The new location shall comply with the requirements specified in

divisions (A)(1) and (2) of section 3743.25 of the Revised Code whether or not the fireworks showroom at the new location is constructed, expanded, or first begins operating on and after ~~the effective date of this amendment~~ June 30, 1997.

~~(E)~~(G)(1) A licensed wholesaler may expand its licensed premises within this state to include not more than two storage locations that are located upon one or more real estate parcels that are noncontiguous to the licensed premises as that licensed premises exists on the date a licensee submits an application as described below, if all of the following apply:

(a) The licensee submits an application to the fire marshal requesting the expansion and an application fee of one hundred dollars per storage location for which the licensee is requesting approval.

(b) The identity of the holder of the license remains the same at the storage location.

(c) The storage location has received a valid certificate of zoning compliance, as applicable, and a valid certificate of occupancy for each building or structure at the storage location issued by the authority having jurisdiction to issue the certificate for the storage location, and those certificates permit the distribution and storage of fireworks regulated under this chapter at the storage location and in the buildings or structures. The storage location shall be in compliance with all other applicable federal, state, and local laws and regulations.

(d) Every building or structure located upon the storage location is separated from occupied residential and nonresidential buildings or structures, railroads, highways, and any other buildings or structures on the licensed premises in accordance with the distances specified in the rules adopted by the fire marshal pursuant to section 3743.18 of the Revised Code.

(e) Neither the licensee nor any person holding, owning, or controlling a five per cent or greater beneficial or equity interest in the licensee has been convicted of or pleaded guilty to a felony under the laws of this state, any other state, or the United States, after the effective date of this amendment.

(f) The fire marshal approves the application for expansion.

(2) The fire marshal shall approve an application for expansion requested under division (G)(1) of this section if the fire marshal receives the application fee and proof that the requirements of divisions (G)(1)(b) to (e) of this section are satisfied. The storage location shall be considered part of the original licensed premises and shall use the same distinct number assigned to the original licensed premises with any additional designations as the fire marshal deems necessary in accordance with section 3743.16 of

the Revised Code.

(H)(1) A licensee who obtains approval for use of a storage location in accordance with division (G) of this section shall use the site exclusively for the following activities, in accordance with division (C)(1) of this section:

(a) Packaging, assembling, or storing fireworks, which shall occur only in buildings approved for such hazardous uses by the building code official having jurisdiction for the storage location and shall be in accordance with the rules adopted by the fire marshal under division (B)(4) of section 3743.18 of the Revised Code for the packaging, assembling, and storage of fireworks.

(b) Distributing fireworks to other parcels of real estate located on the wholesaler's licensed premises, to licensed manufacturers or other licensed wholesalers in this state or to similarly licensed persons located in another state or country;

(c) Distributing fireworks to a licensed exhibitor of fireworks pursuant to a properly issued permit in accordance with section 3743.54 of the Revised Code.

(2) A licensed wholesaler shall not engage in any sales activity, including the retail sale of fireworks otherwise permitted under division (C)(2) of this section or pursuant to section 3743.44 or 3743.45 of the Revised Code, at a storage location approved under this section.

(I) A licensee shall prohibit public access to all storage locations it uses. The fire marshal shall adopt rules establishing acceptable measures a wholesaler shall use to prohibit access to storage sites.

(J) The fire marshal shall not place the license of a wholesaler of fireworks in temporarily inactive status while the holder of the license is attempting to qualify to retain the license.

~~(F)~~(K) Each licensed wholesaler of fireworks or a designee of the wholesaler, whose identity is provided to the fire marshal by the wholesaler, annually shall attend a continuing education program consisting of not less than eight hours of instruction. The fire marshal shall develop the program and the fire marshal or a person or public agency approved by the fire marshal shall conduct it. A licensed wholesaler or the wholesaler's designee who attends a program as required under this division, within one year after attending the program, shall conduct in-service training for other employees of the licensed wholesaler regarding the information obtained in the program. A licensed wholesaler shall provide the fire marshal with notice of the date, time, and place of all in-service training not less than thirty days prior to an in-service training event.

~~(G)~~(L) A licensed wholesaler shall maintain comprehensive general

liability insurance coverage in the amount and type specified under division (B)(2) of section 3743.15 of the Revised Code at all times. Each policy of insurance required under this division shall contain a provision requiring the insurer to give not less than fifteen days' prior written notice to the fire marshal before termination, lapse, or cancellation of the policy, or any change in the policy that reduces the coverage below the minimum required under this division. Prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division, a licensed wholesaler shall secure supplemental insurance in an amount and type that satisfies the requirements of this division so that no lapse in coverage occurs at any time. A licensed wholesaler who secures supplemental insurance shall file evidence of the supplemental insurance with the fire marshal prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division.

Sec. 3743.18. (A) The fire marshal shall adopt rules pursuant to Chapter 119. of the Revised Code governing the storage of fireworks by and the business operations of licensed wholesalers of fireworks. These rules shall be designed to promote the safety and security of employees of wholesalers, members of the public, and the premises upon which fireworks are sold.

(B) The rules shall be consistent with sections 3743.15 to 3743.21 of the Revised Code, shall be substantially equivalent to the most recent versions of chapters 1123, 1124, and 1126 of the most recent national fire protection association standards, and shall apply to, but not be limited to, the following subject matters:

~~(A)~~(1) Cleanliness and orderliness in, the heating, lighting, and use of stoves and flame-producing items in, smoking in, the prevention of fire and explosion in, the availability of fire extinguishers or other fire-fighting equipment and their use in, and emergency procedures relative to the buildings and other structures on a wholesaler's premises~~.~~;

~~(B)~~(2) Appropriate uniforms to be worn by employees of wholesalers in the course of handling and storing of fireworks, and the use of protective clothing and equipment by the employees~~.~~;

~~(C)~~(3) The manner in which fireworks are to be stored;

(4) Required distances between buildings or structures used in the manufacturing, storage, or sale of fireworks and occupied residential and nonresidential buildings or structures, railroads, highways, or any additional buildings or structures on a licensed premises.

(5) Requirements for the operation of storage locations, including packaging, assembling, and storage of fireworks.

(C) Rules adopted pursuant to division (B)(4) of this section do not apply to buildings that were erected on or before May 30, 1986, and that were legally being used for fireworks activities under authority of a valid license issued by the fire marshal as of December 1, 1990, pursuant to sections 3743.16 and 3743.17 of the Revised Code.

Sec. 3743.19. In addition to conforming to the rules of the fire marshal adopted pursuant to section 3743.18 of the Revised Code, licensed wholesalers of fireworks shall conduct their business operations in accordance with the following:

(A) A wholesaler shall conduct its business operations from the location described in its application for licensure or in a notification submitted under division (B) of section 3743.17 of the Revised Code.

(B) Signs indicating that smoking is generally forbidden and trespassing is prohibited on the premises of a wholesaler shall be posted on the premises as determined by the fire marshal.

(C) Reasonable precautions shall be taken to protect the premises of a wholesaler from trespass, loss, theft, or destruction.

(D) Smoking or the carrying of pipes, cigarettes, or cigars, matches, lighters, other flame-producing items, or open flame on, or the carrying of a concealed source of ignition into, the premises of a wholesaler is prohibited, except that a wholesaler may permit smoking in specified lunchrooms or restrooms in buildings or other structures in which no sales, handling, or storage of fireworks takes place. "NO SMOKING" signs shall be posted on the premises as required by the fire marshal.

(E) Fire and explosion prevention and other reasonable safety measures and precautions shall be implemented by a wholesaler.

(F) Persons shall not be permitted to have in their possession or under their control, while they are on the premises of a wholesaler, any intoxicating liquor, beer, or controlled substance, and they shall not be permitted to enter or remain on the premises if they are found to be under the influence of any intoxicating liquor, beer, or controlled substance.

(G) A wholesaler shall conform to all building, safety, and zoning statutes, ordinances, rules, or other enactments that apply to its premises.

(H) ~~No building used in the storage or sale of fireworks shall be situated nearer than one thousand feet to any structure that is not located on the property of and that does not belong to the licensed fireworks wholesaler, nearer than three hundred feet to any highway or railroad, or nearer than one hundred feet to any building used for the storage of explosives or fireworks. This division does not apply to buildings that were erected on or before May 30, 1986, and that were legally being used for fireworks activities under~~

~~authority of a valid license issued by the fire marshal as of December 1, 1990, pursuant to sections 3743.16 and 3743.17 of the Revised Code.~~

~~(H)~~ Each building used in the sale of fireworks shall be kept open to the public for at least four hours each day between the hours of eight a.m. and five p.m., five days of each week, every week of the year. Upon application from a licensed wholesaler, the fire marshal may waive any of the requirements of this division.

~~(J)~~(I) Awnings, tents, or canopies shall not be used as facilities for the storage or sale of fireworks. This division does not prohibit the use of an awning or canopy attached to a public access showroom for storing nonflammable shopping convenience items such as shopping carts or baskets or providing a shaded area for patrons waiting to enter the public sales area.

~~(K)~~(J) Fireworks may be stored in trailers if the trailers are properly enclosed, secured, and grounded and are separated from any structure to which the public is admitted by a distance that will, in the fire marshal's judgment, allow fire-fighting equipment to have full access to the structures on the licensed premises. Such trailers may be moved into closer proximity to any structure only to accept or discharge cargo for a period not to exceed forty-eight hours. Only two such trailers may be placed in such closer proximity at any one time. At no time may trailers be used for conducting sales of any class of fireworks nor may members of the public have access to the trailers.

Storage areas for fireworks that are in the same building where fireworks are displayed and sold to the public shall be separated from the areas to which the public has access by an appropriately rated fire wall.

~~(L)~~(K) A fire suppression system as defined in section 3781.108 of the Revised Code may be turned off only for repair, drainage of the system to prevent damage by freezing during the period of time, approved by the fire marshal under division (I) of this section, that the facility is closed to public access during winter months, or maintenance of the system. If any repair or maintenance is necessary during times when the facility is open for public access and business, the licensed wholesaler shall notify in advance the appropriate insurance company and fire chief or fire prevention officer regarding the nature of the maintenance or repair and the time when it will be performed.

~~(M)~~(L) If any fireworks item is removed from its original package or is manufactured with any fuse other than a fuse approved by the consumer product safety commission, then the item shall be covered completely by repackaging or bagging or it shall otherwise be covered so as to prevent

ignition prior to sale.

~~(N)~~(M) A safety officer shall be present during regular business hours at a building open to the public during the period commencing fourteen days before, and ending two days after, each fourth day of July. The officer shall be highly visible, enforce this chapter and any applicable building codes to the extent the officer is authorized by law, and be one of the following:

(1) A deputy sheriff;

(2) A law enforcement officer of a municipal corporation, township, or township or joint township police district;

(3) A private uniformed security guard registered under section 4749.06 of the Revised Code.

~~(O)~~(N) All doors of all buildings on the licensed premises shall swing outward.

~~(P)~~(O) All wholesale and commercial sales of fireworks shall be packaged, shipped, placarded, and transported in accordance with United States department of transportation regulations applicable to the transportation, and the offering for transportation, of hazardous materials. For purposes of this division, "wholesale and commercial sales" includes all sales for resale and any nonretail sale made in furtherance of a commercial enterprise. For purposes of enforcement of these regulations under section 4905.83 of the Revised Code, any sales transaction exceeding one thousand pounds shall be rebuttably presumed to be a wholesale or commercial sale.

Sec. 3743.57. (A) All fees collected by the fire marshal for licenses or permits issued pursuant to this chapter shall be deposited into the state fire marshal's fund, and interest earned on the amounts in the fund shall be credited by the treasurer of state to the fund.

(B) ~~There is hereby established in the state treasury the fire marshal's fireworks training and education fund. The fire marshal shall deposit all assessments paid under this division into the state treasury to the credit of the fund. Each fireworks manufacturer and fireworks wholesaler licensed under this chapter shall pay assessments to the fire marshal for deposit into the fund as required by this division.~~

~~The fire marshal shall impose an initial assessment upon each licensed fireworks manufacturer and wholesaler in order to establish a fund balance of fifteen thousand dollars. The fund balance shall at no time exceed fifteen thousand dollars, and the fire marshal shall impose no further assessments unless the fund balance is reduced to five thousand dollars or less. If the fund balance is reduced to five thousand dollars or less, the fire marshal shall impose an additional assessment upon each licensed fireworks manufacturer and wholesaler in order to increase the fund balance to fifteen~~

~~thousand dollars. The fire marshal shall determine the amount of the initial assessment on each manufacturer or wholesaler and each additional assessment by dividing the total amount needed to be paid into the fund by the total number of fireworks manufacturers and wholesalers licensed under this chapter. If a licensed fireworks manufacturer or wholesaler fails to pay an assessment required by this division within thirty days after receiving notice of the assessment, the fire marshal, in accordance with Chapter 119. of the Revised Code, may refuse to issue, or may revoke, the appropriate license.~~

The fire marshal shall in the fire marshal's discretion use amounts in the state fire marshal's fund for fireworks training and education purposes, including, but not limited to, the creation of educational and training programs, attendance by the fire marshal and the fire marshal's employees at conferences and seminars, the payment of travel and meal expenses associated with such attendance, participation by the fire marshal and the fire marshal's employees in committee meetings and other meetings related to pyrotechnic codes, and the payment of travel and meal expenses associated with such participation. The use of the fund shall comply with rules of the department of commerce, policies and procedures established by the director of budget and management, and all other applicable laws.

Sec. 3743.59. (A) Upon application by an affected party, the fire marshal may grant variances from the requirements of this chapter or from the requirements of rules adopted pursuant to this chapter if the fire marshal determines that a literal enforcement of the requirement will result in ~~unnecessary hardship~~ practical difficulty in complying with the requirements of this chapter or the rules adopted pursuant to this chapter and that the variance will not be contrary to the public health, safety, or welfare. A variance shall not be granted to a person who is initially licensed as a manufacturer or wholesaler of fireworks after June 14, 1988.

(B) The fire marshal may authorize a variance from the prohibitions in this chapter against the possession and use of pyrotechnic compounds to a person who submits proof that the person is certified and in good standing with the Ohio state board of education, provided that the pyrotechnic compounds are used for educational purposes only, or are used only at an authorized educational function approved by the governing board that exercises authority over the educational function.

(C) The fire marshal may authorize a variance from the prohibitions in this chapter against the possession and use of pyrotechnic compounds to a person who possesses and uses the pyrotechnic compounds for personal and noncommercial purposes as a hobby. The fire marshal may rescind a

variance authorized under this division at any time, exclusively at the fire marshal's discretion.

Sec. 3743.65. (A) No person shall possess fireworks in this state or shall possess for sale or sell fireworks in this state, except a licensed manufacturer of fireworks as authorized by sections 3743.02 to 3743.08 of the Revised Code, a licensed wholesaler of fireworks as authorized by sections 3743.15 to 3743.21 of the Revised Code, a shipping permit holder as authorized by section 3743.40 of the Revised Code, an out-of-state resident as authorized by section 3743.44 of the Revised Code, a resident of this state as authorized by section 3743.45 of the Revised Code, or a licensed exhibitor of fireworks as authorized by sections 3743.50 to 3743.55 of the Revised Code, and except as provided in section 3743.80 of the Revised Code.

(B) Except as provided in section 3743.80 of the Revised Code and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to sections 3743.50 to 3743.55 of the Revised Code, no person shall discharge, ignite, or explode any fireworks in this state.

(C) No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(D) No person shall sell fireworks of any kind to a person under eighteen years of age.

(E) No person shall advertise 1.4G fireworks for sale. A sign located on a seller's premises identifying the seller as a seller of fireworks is not the advertising of fireworks for sale.

(F) No person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder, shall possess 1.3G fireworks in this state.

(G) Except as otherwise provided in division ~~(K)~~(J) of section 3743.06 and division ~~(L)~~(K) of section 3743.19 of the Revised Code, no person shall knowingly disable a fire suppression system as defined in section 3781.108 of the Revised Code on the premises of a fireworks plant of a licensed manufacturer of fireworks or on the premises of the business operations of a licensed wholesaler of fireworks.

Sec. 3743.75. (A) During the period beginning on June 29, 2001, and ending on December 15, 2008, the state fire marshal shall not do any of the following:

(1) Issue a license as a manufacturer of fireworks under sections 3743.02 and 3743.03 of the Revised Code to a person for a particular fireworks plant unless that person possessed such a license for that fireworks plant immediately prior to June 29, 2001;

(2) Issue a license as a wholesaler of fireworks under sections 3743.15 and 3743.16 of the Revised Code to a person for a particular location unless that person possessed such a license for that location immediately prior to June 29, 2001;

(3) Except as provided in division (B) of this section, approve the geographic transfer of a license as a manufacturer or wholesaler of fireworks issued under this chapter to any location other than a location for which a license was issued under this chapter immediately prior to June 29, 2001.

(B) Division (A)(3) of this section does not apply to a transfer that the state fire marshal approves under division ~~(D)(2)~~(F) of section 3743.17 of the Revised Code. ~~Section~~

(C) Notwithstanding section 3743.59 of the Revised Code ~~does not apply to this section~~, the prohibited activities established in divisions (A)(1) and (2) of this section, geographic transfers approved pursuant to division (F) of section 3743.17 of the Revised Code, and storage locations allowed pursuant to division (I) of section 3743.04 of the Revised Code or division (G) of section 3743.17 of the Revised Code are not subject to any variance, waiver, or exclusion.

(D) As used in division (A) of this section:

(1) "Person" includes any person or entity, in whatever form or name, that acquires possession of a manufacturer or wholesaler of fireworks license issued pursuant to this chapter by transfer of possession of a license, whether that transfer occurs by purchase, assignment, inheritance, bequest, stock transfer, or any other type of transfer, on the condition that the transfer is in accordance with division (D) of section 3743.04 of the Revised Code or division (D) of section 3743.17 of the Revised Code and is approved by the fire marshal.

(2) "Particular location" includes a licensed premises and, regardless of when approved, any storage location approved in accordance with section 3743.04 or 3743.17 of the Revised Code.

Sec. 3745.015. There is hereby created in the state treasury the environmental protection fund consisting of money credited to the fund under division (A)(3) of section 3734.57 of the Revised Code. The environmental protection agency shall use money in the fund to pay the agency's costs associated with administering and enforcing, or otherwise conducting activities under, this chapter and Chapters 3704., 3734., 3746., 3747., 3748., 3750., 3751., 3752., 3753., 5709., 6101., 6103., 6105., 6109., 6111., 6112., 6113., 6115., 6117., and 6119. and sections 122.65 and 1521.19 of the Revised Code.

Sec. 3745.11. (A) Applicants for and holders of permits, licenses,

variances, plan approvals, and certifications issued by the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No fee shall be charged for any issuance for which no application has been submitted to the director.

(B) Each person who is issued a permit to install prior to July 1, 2003, pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees specified in the following schedules:

(1) ~~Fuel-Burning Equipment~~ Fuel-burning equipment (boilers)

Input capacity (maximum) (million British thermal units per hour)	Permit to install
Greater than 0, but less than 10	$ 200
10 or more, but less than 100	400
100 or more, but less than 300	800
300 or more, but less than 500	1500
500 or more, but less than 1000	2500
1000 or more, but less than 5000	4000
5000 or more	6000

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half of the applicable amount established in division (F)(1) of this section.

(2) Incinerators

Input capacity (pounds per hour)	Permit to install
0 to 100	$ 100
101 to 500	400
501 to 2000	750
2001 to 20,000	1000
more than 20,000	2500

(3)(a) Process

Process weight rate (pounds per hour)	Permit to install
0 to 1000	$ 200
1001 to 5000	400
5001 to 10,000	600
10,001 to 50,000	800
more than 50,000	1000

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed.

(b) Notwithstanding division (B)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section

3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:

1211 Bituminous coal and lignite mining;

1213 Bituminous coal and lignite mining services;

1411 Dimension stone;

1422 Crushed and broken limestone;

1427 Crushed and broken stone, not elsewhere classified;

1442 Construction sand and gravel;

1446 Industrial sand;

3281 Cut stone and stone products;

3295 Minerals and earth, ground or otherwise treated.

(c) The fees established in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process listed in division (B)(3)(b) of this section:

Process weight rate (pounds per hour)	Permit to install
0 to 1000	$ 200
10,001 to 50,000	300
50,001 to 100,000	400
100,001 to 200,000	500
200,001 to 400,000	600
400,001 or more	700

(4) Storage tanks

Gallons (maximum useful capacity)	Permit to install
0 to 20,000	$ 100
20,001 to 40,000	150
40,001 to 100,000	200
100,001 to 250,000	250
250,001 to 500,000	350
500,001 to 1,000,000	500
1,000,001 or greater	750

(5) Gasoline/fuel dispensing facilities

For each gasoline/fuel dispensing facility	Permit to install $ 100

(6) Dry cleaning facilities

For each dry cleaning facility	Permit to install

(includes all units at the facility)	$ 100

(7) Registration status

For each source covered	Permit to install
by registration status	$ 75

(C)(1) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in division (C)(1) of this section. For the purposes of that division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.

The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:

(a) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;

(b) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;

(c) Twenty-five dollars per ton on the total actual emissions of each such regulated pollutant in calendar year 1995, and each subsequent calendar year, to be collected no sooner than the fifteenth day of April of the year next succeeding the calendar year in which the emissions occurred.

The fees levied under division (C)(1) of this section do not apply to that portion of the emissions of a regulated pollutant at a facility that exceed four thousand tons during a calendar year.

(2) The fees assessed under division (C)(1) of this section are for the purpose of providing funding for the Title V permit program.

(3) The fees assessed under division (C)(1) of this section do not apply to emissions from any electric generating unit designated as a Phase I unit under Title IV of the federal Clean Air Act prior to calendar year 2000. Those fees shall be assessed on the emissions from such a generating unit commencing in calendar year 2001 based upon the total actual emissions from the generating unit during calendar year 2000 and shall continue to be assessed each subsequent calendar year based on the total actual emissions from the generating unit during the preceding calendar year.

(4) The director shall issue invoices to owners or operators of air contaminant sources who are required to pay a fee assessed under division

(C) or (D) of this section. Any such invoice shall be issued no sooner than the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice.

(D)(1) Except as provided in division (D)(3) of this section, from January 1, 1994, through December 31, 2003, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 50	$ 75
50 or more, but less than 100	300
100 or more	700

(2) Except as provided in division (D)(3) of this section, beginning January 1, 2004, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.03 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 10	$ 100
10 or more, but less than 50	200
50 or more, but less than 100	300
100 or more	700

(3)(a) As used in division (D) of this section, "synthetic minor facility" means a facility for which one or more permits to install or permits to

operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under section 3704.036 of the Revised Code.

(b) Beginning January 1, 2000, through June 30, ~~2006~~ 2008, each person who owns or operates a synthetic minor facility shall pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with the following schedule:

Combined total tons per year of all regulated pollutants emitted	Annual fee per facility
Less than 10	$ 170
10 or more, but less than 20	340
20 or more, but less than 30	670
30 or more, but less than 40	1,010
40 or more, but less than 50	1,340
50 or more, but less than 60	1,680
60 or more, but less than 70	2,010
70 or more, but less than 80	2,350
80 or more, but less than 90	2,680
90 or more, but less than 100	3,020
100 or more	3,350

(4) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fees assessed under division (D)(2) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 2005. The fees assessed under division (D)(3) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees prescribed in division (C)(1) of this section by the percentage, if any, by which the

consumer price index for the most recent calendar year ending before the beginning of a year exceeds the consumer price index for calendar year 1989. Upon calculating an increase in fees authorized by division (E)(1) of this section, the director shall compile revised fee schedules for the purposes of division (C)(1) of this section and shall make the revised schedules available to persons required to pay the fees assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of the consumer price index for all urban consumers published by the United States department of labor as of the close of the twelve-month period ending on the thirty-first day of August of that year.

(b) If the 1989 consumer price index is revised, the director shall use the revision of the consumer price index that is most consistent with that for calendar year 1989.

(F) Each person who is issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code on or after July 1, 2003, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)

Input capacity (maximum) (million British thermal units per hour)	Permit to install
Greater than 0, but less than 10	$ 200
10 or more, but less than 100	400
100 or more, but less than 300	1000
300 or more, but less than 500	2250
500 or more, but less than 1000	3750
1000 or more, but less than 5000	6000
5000 or more	9000

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion engines designed to generate electricity

Generating capacity (mega watts)	Permit to install
0 or more, but less than 10	$ 25
10 or more, but less than 25	150
25 or more, but less than 50	300
50 or more, but less than 100	500

100 or more, but less than 250	1000
250 or more	2000

(3) Incinerators

Input capacity (pounds per hour)	Permit to install
0 to 100	$ 100
101 to 500	500
501 to 2000	1000
2001 to 20,000	1500
more than 20,000	3750

(4)(a) Process

Process weight rate (pounds per hour)	Permit to install
0 to 1000	$ 200
1001 to 5000	500
5001 to 10,000	750
10,001 to 50,000	1000
more than 50,000	1250

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed. A boiler, furnace, combustion turbine, stationary internal combustion engine, or process heater designed to provide direct heat or power to a process not designed to generate electricity shall be assessed a fee established in division (F)(4)(a) of this section. A combustion turbine or stationary internal combustion engine designed to generate electricity shall be assessed a fee established in division (F)(2) of this section.

(b) Notwithstanding division (F)~~(3)~~(4)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees set forth in division (F)~~(3)~~(4)(c) of this section for a process used in any of the following industries, as identified by the applicable two-digit, three-digit, or four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, ~~1972~~ 1987, as revised:

~~1211 Bituminous coal and lignite mining;~~

~~1213 Bituminous coal and lignite mining services;~~

~~1411 Dimension stone;~~

~~1422 Crushed and broken limestone;~~

~~1427 Crushed and broken stone, not elsewhere classified;~~

~~1442 Construction sand and gravel;~~

~~1446 Industrial sand;~~ Major group 10, metal mining;

Major group 12, coal mining;

Major group 14, mining and quarrying of nonmetallic minerals;
Industry group 204, grain mill products;
2873 Nitrogen fertilizers;
2874 Phosphatic fertilizers;
3281 Cut stone and stone products;
3295 Minerals and earth, ground or otherwise treated;
4221 Grain elevators (storage only);
5159 Farm related raw materials;
5261 Retail nurseries and lawn and garden supply stores.

(c) The fees set forth in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process identified in division (F)~~(3)~~(4)(b) of this section:

Process weight rate (pounds per hour)	Permit to install
0 to 10,000	$ 200
10,001 to 50,000	400
50,001 to 100,000	500
100,001 to 200,000	600
200,001 to 400,000	750
400,001 or more	900

(5) Storage tanks

Gallons (maximum useful capacity)	Permit to install
0 to 20,000	$ 100
20,001 to 40,000	150
40,001 to 100,000	250
100,001 to 500,000	400
500,001 or greater	750

(6) Gasoline/fuel dispensing facilities

For each gasoline/fuel dispensing facility (includes all units at the facility)	Permit to install $ 100

(7) Dry cleaning facilities

For each dry cleaning facility (includes all units at the facility)	Permit to install $ 100

(8) Registration status

For each source covered by registration status	Permit to install $ 75

(G) An owner or operator who is responsible for an asbestos demolition

or renovation project pursuant to rules adopted under section 3704.03 of the Revised Code shall pay the fees set forth in the following schedule:

Action	Fee
Each notification	$75
Asbestos removal	$3/unit
Asbestos cleanup	$4/cubic yard

For purposes of this division, "unit" means any combination of linear feet or square feet equal to fifty.

(H) A person who is issued an extension of time for a permit to install an air contaminant source pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay a fee equal to one-half the fee originally assessed for the permit to install under this section, except that the fee for such an extension shall not exceed two hundred dollars.

(I) A person who is issued a modification to a permit to install an air contaminant source pursuant to rules adopted under section 3704.03 of the Revised Code shall pay a fee equal to one-half of the fee that would be assessed under this section to obtain a permit to install the source. The fee assessed by this division only applies to modifications that are initiated by the owner or operator of the source and shall not exceed two thousand dollars.

(J) Notwithstanding division (B) or (F) of this section, a person who applies for or obtains a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code after the date actual construction of the source began shall pay a fee for the permit to install that is equal to twice the fee that otherwise would be assessed under the applicable division unless the applicant received authorization to begin construction under division (W) of section 3704.03 of the Revised Code. This division only applies to sources for which actual construction of the source begins on or after July 1, 1993. The imposition or payment of the fee established in this division does not preclude the director from taking any administrative or judicial enforcement action under this chapter, Chapter 3704., 3714., 3734., or 6111. of the Revised Code, or a rule adopted under any of them, in connection with a violation of rules adopted under division (F) of section 3704.03 of the Revised Code.

As used in this division, "actual construction of the source" means the initiation of physical on-site construction activities in connection with improvements to the source that are permanent in nature, including, without limitation, the installation of building supports and foundations and the laying of underground pipework.

(K) Fifty cents per ton of each fee assessed under division (C) of this

section on actual emissions from a source and received by the environmental protection agency pursuant to that division shall be deposited into the state treasury to the credit of the small business assistance fund created in section 3706.19 of the Revised Code. The remainder of the moneys received by the division pursuant to that division and moneys received by the agency pursuant to divisions (D), (F), (G), (H), (I), and (J) of this section shall be deposited in the state treasury to the credit of the clean air fund created in section 3704.035 of the Revised Code.

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) or (c) of this section, a person issued a water discharge permit or renewal of a water discharge permit pursuant to Chapter 6111. of the Revised Code shall pay a fee based on each point source to which the issuance is applicable in accordance with the following schedule:

Design flow discharge (gallons per day)	Fee
0 to 1000	$ 0
1,001 to 5000	100
5,001 to 50,000	200
50,001 to 100,000	300
100,001 to 300,000	525
over 300,000	750

(b) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit that is applicable to coal mining operations regulated under Chapter 1513. of the Revised Code shall be two hundred fifty dollars per mine.

(c) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit for a public discharger identified by I in the third character of the permittee's NPDES permit number shall not exceed seven hundred fifty dollars.

(2) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, ~~2006~~ 2008, and one hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, ~~2006~~ 2008, except that the total fee shall not exceed fifteen thousand dollars through June 30, ~~2006~~ 2008, and five thousand dollars on and after July 1, ~~2006~~ 2008. The fee shall be paid at the time the application is submitted.

(3) A person issued a modification of a water discharge permit shall pay a fee equal to one-half the fee that otherwise would be charged for a water discharge permit, except that the fee for the modification shall not exceed

four hundred dollars.

(4) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(5)(a)(i) Not later than January 30, ~~2004~~ 2006, and January 30, ~~2005~~ 2007, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L)(5)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L)(5)(a)(i) of this section, except for the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, shall be based upon the average daily discharge flow in gallons per day calculated using first day of May through thirty-first day of October flow data for the period two years prior to the date on which the fee is due. In the case of NPDES discharge permits for new sources, the fee shall be calculated using the average daily design flow of the facility until actual average daily discharge flow values are available for the time period specified in division (L)(5)(a)(iii) of this section. The annual discharge fee may be prorated for a new source as described in division (L)(5)(a)(ii) of this section.

(b) An NPDES permit holder that is a public discharger shall pay the fee specified in the following schedule:

Average daily	Fee due by

discharge flow	January 30, ~~2004~~ 2006, and January 30, ~~2005~~ 2007
5,000 to 49,999	$ 200
50,000 to 100,000	500
100,001 to 250,000	1,050
250,001 to 1,000,000	2,600
1,000,001 to 5,000,000	5,200
5,000,001 to 10,000,000	10,350
10,000,001 to 20,000,000	15,550
20,000,001 to 50,000,000	25,900
50,000,001 to 100,000,000	41,400
100,000,001 or more	62,100

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, ~~2004~~ 2006, and January 30, ~~2005~~ 2007
5,000 to 49,999	$ 250
50,000 to 250,000	1,200
250,001 to 1,000,000	2,950
1,000,001 to 5,000,000	5,850
5,000,001 to 10,000,000	8,800
10,000,001 to 20,000,000	11,700
20,000,001 to 100,000,000	14,050
100,000,001 to 250,000,000	16,400
250,000,001 or more	18,700

In addition to the fee specified in the above schedule, an NPDES permit

holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, ~~2004~~ 2006, and not later than January 30, ~~2005~~ 2007. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, ~~2004~~ 2006, and not later than January 30, ~~2005~~ 2007. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water discharge fee of one hundred dollars per square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth day of January of each year thereafter. Any person who fails to pay the fee on the date specified in division (L)(6) of this section shall pay an additional amount per year equal to ten per cent of the annual fee that is unpaid.

(7) The director shall transmit all moneys collected under division (L) of this section to the treasurer of state for deposit into the state treasury to the credit of the surface water protection fund created in section 6111.038 of the Revised Code.

(8) As used in division (L) of this section:

(a) "NPDES" means the federally approved national pollutant discharge elimination system program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and rules adopted under it.

(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director.

(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director.

(d) "Major discharger" means any holder of an NPDES permit classified

as major by the regional administrator of the United States environmental protection agency in conjunction with the director.

(M) Through June 30, ~~2006~~ 2008, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

Except as provided in division (M)(4) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under division (A)(1) of section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of the Revised Code, and for each license renewal required for such a system prior to January 31, ~~2006~~ 2008, the fee is:

Number of service connections	Fee amount
Not more than 49	$ 112
50 to 99	176
Number of service connections	**Average cost per connection**
100 to 2,499	$ 1.92
2,500 to 4,999	1.48
5,000 to 7,499	1.42
7,500 to 9,999	1.34
10,000 to 14,999	1.16
15,000 to 24,999	1.10
25,000 to 49,999	1.04
50,000 to 99,999	.92
100,000 to 149,999	.86
150,000 to 199,999	.80
200,000 or more	.76

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under division (A)(2) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, ~~2006~~ 2008, the fee is:

Population served	Fee amount
Fewer than 150	$ 112
150 to 299	176
300 to 749	384
750 to 1,499	628
1,500 to 2,999	1,268
3,000 to 7,499	2,816
7,500 to 14,999	5,510
15,000 to 22,499	9,048
22,500 to 29,999	12,430
30,000 or more	16,820

As used in division (M)(2) of this section, "population served" means the total number of individuals receiving water from the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under division (A)(3) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, ~~2006~~ 2008, the fee is:

Number of wells supplying system	Fee amount
1	$112
2	112
3	176
4	278
5	568
System designated as using a surface water source	792

As used in division (M)(3) of this section, "number of wells supplying system" means those wells that are physically connected to the plumbing system serving the public water system.

(4) A public water system designated as using a surface water source shall pay a fee of seven hundred ninety-two dollars or the amount calculated under division (M)(1) or (2) of this section, whichever is greater.

(N)(1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed twenty thousand dollars through June 30, ~~2006~~ 2008, and fifteen thousand dollars on and after July 1, ~~2006~~ 2008. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, ~~2006~~ 2008, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to Chapter 6109. of the Revised Code for determining the qualitative characteristics of water:

microbiological	
MMO-MUG	$2,000
MF	2,100
MMO-MUG and MF	2,550
organic chemical	5,400
trace metals	5,400
standard chemistry	2,800
limited chemistry	1,550

On and after July 1, ~~2006~~ 2008, the following fee, on a per survey basis, shall be charged any such person:

microbiological	$ 1,650
organic chemicals	3,500
trace metals	3,500
standard chemistry	1,800
limited chemistry	1,000

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, ~~2006~~ 2008, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in

which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

(a) "MF" means microfiltration.

(b) "MMO" means minimal medium ONPG.

(c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any ~~person applying to the director for examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code, at the time the application is submitted, shall pay an application fee of twenty-five dollars through November 30, 2003. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay a fee in accordance with the following schedule through November 30, 2003:~~

~~Class I operator~~	~~$45~~
~~Class II operator~~	~~55~~
~~Class III operator~~	~~65~~
~~Class IV operator~~	~~75~~

~~On and after December 1, 2003, any~~ person applying to the director for examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code, at the time the application is submitted, shall pay an application fee of forty-five dollars through November 30, ~~2006~~ 2008, and twenty-five dollars on and after December 1, ~~2006~~ 2008. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay a fee in accordance with the following schedule through November 30, ~~2006~~ 2008:

Class A operator	$35
Class I operator	60
Class II operator	75
Class III operator	85
Class IV operator	100

On and after December 1, ~~2006~~ 2008, the applicant shall pay a fee in accordance with the following schedule:

Class A operator	$25
Class I operator	$45
Class II operator	55

Class III operator	65
Class IV operator	75

A person shall pay a biennial certification renewal fee for each applicable class of certification in accordance with the following schedule:

Class A operator	$25
Class I operator	35
Class II operator	45
Class III operator	55
Class IV operator	65

If a certification renewal fee is received by the director more than thirty days, but not more than one year after the expiration date of the certification, the person shall pay a certification renewal fee in accordance with the following schedule:

Class A operator	$45
Class I operator	55
Class II operator	65
Class III operator	75
Class IV operator	85

A person who requests a replacement certificate shall pay a fee of twenty-five dollars at the time the request is made.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(P) Any person submitting an application for an industrial water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after ~~the effective date of this amendment~~ June 26, 2003, persons shall file such applications and pay the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of

such an existing facility that includes an increase in the total disposal or treatment capacity of the facility pursuant to Chapter 3734. of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal or treatment capacity, or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars. A person issued a modification of a permit for a solid waste disposal facility or an infectious waste treatment facility that does not involve an increase in the total disposal or treatment capacity of the facility shall pay a fee of one thousand dollars. A person issued a permit to install a new, or modify an existing, solid waste transfer facility under that chapter shall pay a fee of two thousand five hundred dollars. A person issued a permit to install a new or to modify an existing solid waste incineration or composting facility, or an existing infectious waste treatment facility using incineration as its principal method of treatment, under that chapter shall pay a fee of one thousand dollars. The increases in the permit fees under this division resulting from the amendments made by Amended Substitute House Bill 592 of the 117th general assembly do not apply to any person who submitted an application for a permit to install a new, or modify an existing, solid waste disposal facility under that chapter prior to September 1, 1987; any such person shall pay the permit fee established in this division as it existed prior to June 24, 1988. In addition to the applicable permit fee under this division, a person issued a permit to install or modify a solid waste facility or an infectious waste treatment facility under that chapter who fails to pay the permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the permit fee is late.

Permit and late payment fees paid to the director under this division shall be credited to the general revenue fund.

(R)(1) A person issued a registration certificate for a scrap tire collection facility under section 3734.75 of the Revised Code shall pay a fee of two hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(2) A person issued a registration certificate for a new scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of three hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of one thousand dollars,

except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of fifty dollars.

(4) A person issued a permit for a scrap tire monocell or monofill facility under section 3734.77 of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal capacity or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars.

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars.

(7) In addition to the applicable registration certificate or permit fee under divisions (R)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (R)(1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

(S)(1) Except as provided by divisions (L), (M), (N), (O), (P), and (S)(2) of this section, division (A)(2) of section 3734.05 of the Revised Code, section 3734.79 of the Revised Code, and rules adopted under division (T)(1) of this section, any person applying for a registration certificate under section 3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, variance, or plan approval under Chapter 3734. of the Revised Code shall pay a nonrefundable fee of fifteen dollars at the time the application is submitted.

Except as otherwise provided, any person applying for a permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable fee of one hundred dollars at the time the application is submitted through June 30, ~~2006~~ 2008, and a nonrefundable fee of fifteen dollars at the time the application is submitted on and after July 1, ~~2006~~ 2008. Through June 30, ~~2006~~ 2008, any person applying for a national pollutant discharge elimination system permit under Chapter 6111. of the Revised Code shall pay a nonrefundable fee of two hundred dollars at the time of application for the permit. On and after July 1, ~~2006~~ 2008, such a person shall pay a nonrefundable fee of fifteen dollars at the time of

application.

In addition to the application fee established under division (S)(1) of this section, any person applying for a national pollutant discharge elimination system general storm water construction permit shall pay a nonrefundable fee of twenty dollars per acre for each acre that is permitted above five acres at the time the application is submitted. However, the per acreage fee shall not exceed three hundred dollars. In addition, any person applying for a national pollutant discharge elimination system general storm water industrial permit shall pay a nonrefundable fee of one hundred fifty dollars at the time the application is submitted.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

If a registration certificate is issued under section 3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of the application fee paid shall be deducted from the amount of the registration certificate fee due under division (R)(1), (2), or (5) of this section, as applicable.

If a person submits an electronic application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section, the person shall pay the applicable application fee as expeditiously as possible after the submission of the electronic application. An application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section shall not be reviewed or processed until the applicable application fee, and any other fees established under this division, are paid.

(2) Division (S)(1) of this section does not apply to an application for a registration certificate for a scrap tire collection or storage facility submitted under section 3734.75 or 3734.76 of the Revised Code, as applicable, if the owner or operator of the facility or proposed facility is a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code.

(T) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or

authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(2) Exempt the state and political subdivisions thereof, including education facilities or medical facilities owned by the state or a political subdivision, or any person exempted from taxation by section 5709.07 or 5709.12 of the Revised Code, from any fee required by this section;

(3) Provide for the waiver of any fee, or any part thereof, otherwise required by this section whenever the director determines that the imposition of the fee would constitute an unreasonable cost of doing business for any applicant, class of applicants, or other person subject to the fee;

(4) Prescribe measures that the director considers necessary to carry out this section.

(U) When the director reasonably demonstrates that the direct cost to the state associated with the issuance of a permit to install, license, variance, plan approval, or certification exceeds the fee for the issuance or review specified by this section, the director may condition the issuance or review on the payment by the person receiving the issuance or review of, in addition to the fee specified by this section, the amount, or any portion thereof, in excess of the fee specified under this section. The director shall not so condition issuances for which fees are prescribed in divisions (B)(7) and (L)(1)(b) of this section.

(V) Except as provided in divisions (L), (M), and (P) of this section or unless otherwise prescribed by a rule of the director adopted pursuant to Chapter 119. of the Revised Code, all fees required by this section are payable within thirty days after the issuance of an invoice for the fee by the director or the effective date of the issuance of the license, permit, variance, plan approval, or certification. If payment is late, the person responsible for payment of the fee shall pay an additional ten per cent of the amount due for each month that it is late.

(W) As used in this section, "fuel-burning equipment," "fuel-burning equipment input capacity," "incinerator," "incinerator input capacity," "process," "process weight rate," "storage tank," "gasoline dispensing facility," "dry cleaning facility," "design flow discharge," and "new source treatment works" have the meanings ascribed to those terms by applicable rules or standards adopted by the director under Chapter 3704. or 6111. of the Revised Code.

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), and (J) of this section, and in any other provision of this section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code:

(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code.

(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal;

(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;

(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions;

(e) Emission and ambient monitoring;

(f) Modeling, analyses, or demonstrations;

(g) Preparing inventories and tracking emissions;

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge,

including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year preceding the date on which payment of the fee is due.

(2)(a) Except as provided in division (Y)(2)(d) of this section, each sewage sludge facility shall pay a minimum annual sewage sludge fee of one hundred dollars.

(b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be thirty-five per cent less per dry ton of exceptional quality sludge than the fee assessed under division (Y)(1) of this section, subject to the following exceptions:

(i) Except as provided in division (Y)(2)(d) of this section, a sewage sludge facility that treats or disposes of exceptional quality sludge shall pay a minimum annual sewage sludge fee of one hundred dollars.

(ii) A sewage sludge facility that treats or disposes of exceptional quality sludge shall not be required to pay the annual sludge fee for treatment or disposal in this state of exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity.

A thirty-five per cent reduction for exceptional quality sludge applies to the maximum annual fees established under division (Y)(3) of this section.

(c) A sewage sludge facility that transfers sewage sludge to another sewage sludge facility in this state for further treatment prior to disposal in this state shall not be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred. In such a case, the sewage sludge facility that disposes of the sewage sludge shall pay the annual sludge fee. However, the facility transferring the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

In the case of a sewage sludge facility that treats sewage sludge in this state and transfers it out of this state to another entity for disposal, the sewage sludge facility in this state shall be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred.

(d) A sewage sludge facility that generates sewage sludge resulting from an average daily discharge flow of less than five thousand gallons per day is not subject to the fees assessed under division (Y) of this section.

(3) No sewage sludge facility required to pay the annual sludge fee shall

be required to pay more than the maximum annual fee for each disposal method that the sewage sludge facility uses. The maximum annual fee does not include the additional amount that may be charged under division (Y)(5) of this section for late payment of the annual sludge fee. The maximum annual fee for the following methods of disposal of sewage sludge is as follows:

(a) Incineration: five thousand dollars;

(b) Preexisting land reclamation project or disposal in a landfill: five thousand dollars;

(c) Land application, land reclamation, surface disposal, or any other disposal method not specified in division (Y)(3)(a) or (b) of this section: twenty thousand dollars.

(4)(a) In the case of an entity that generates sewage sludge or a sewage sludge facility that treats sewage sludge and transfers the sewage sludge to an incineration facility for disposal, the incineration facility, and not the entity generating the sewage sludge or the sewage sludge facility treating the sewage sludge, shall pay the annual sludge fee for the tons of sewage sludge that are transferred. However, the entity or facility generating or treating the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

(b) In the case of an entity that generates sewage sludge and transfers the sewage sludge to a landfill for disposal or to a sewage sludge facility for land reclamation or surface disposal, the entity generating the sewage sludge, and not the landfill or sewage sludge facility, shall pay the annual sludge fee for the tons of sewage sludge that are transferred.

(5) Not later than the first day of April of the calendar year following March 17, 2000, and each first day of April thereafter, the director shall issue invoices to persons who are required to pay the annual sludge fee. The invoice shall identify the nature and amount of the annual sludge fee assessed and state the first day of May as the deadline for receipt by the director of objections regarding the amount of the fee and the first day of July as the deadline for payment of the fee.

Not later than the first day of May following receipt of an invoice, a person required to pay the annual sludge fee may submit objections to the director concerning the accuracy of information regarding the number of dry tons of sewage sludge used to calculate the amount of the annual sludge fee or regarding whether the sewage sludge qualifies for the exceptional quality sludge discount established in division (Y)(2)(b) of this section. The director may consider the objections and adjust the amount of the fee to ensure that it is accurate.

If the director does not adjust the amount of the annual sludge fee in response to a person's objections, the person may appeal the director's determination in accordance with Chapter 119. of the Revised Code.

Not later than the first day of June, the director shall notify the objecting person regarding whether the director has found the objections to be valid and the reasons for the finding. If the director finds the objections to be valid and adjusts the amount of the annual sludge fee accordingly, the director shall issue with the notification a new invoice to the person identifying the amount of the annual sludge fee assessed and stating the first day of July as the deadline for payment.

Not later than the first day of July, any person who is required to do so shall pay the annual sludge fee. Any person who is required to pay the fee, but who fails to do so on or before that date shall pay an additional amount that equals ten per cent of the required annual sludge fee.

(6) The director shall transmit all moneys collected under division (Y) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. The moneys shall be used to defray the costs of administering and enforcing provisions in Chapter 6111. of the Revised Code and rules adopted under it that govern the use, storage, treatment, or disposal of sewage sludge.

(7) Beginning in fiscal year 2001, and every two years thereafter, the director shall review the total amount of moneys generated by the annual sludge fees to determine if that amount exceeded six hundred thousand dollars in either of the two preceding fiscal years. If the total amount of moneys in the fund exceeded six hundred thousand dollars in either fiscal year, the director, after review of the fee structure and consultation with affected persons, shall issue an order reducing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will not exceed six hundred thousand dollars in any fiscal year.

If, upon review of the fees under division (Y)(7) of this section and after the fees have been reduced, the director determines that the total amount of moneys collected and accumulated is less than six hundred thousand dollars, the director, after review of the fee structure and consultation with affected persons, may issue an order increasing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will be approximately six hundred thousand dollars. Fees shall never be increased to an amount exceeding the amount specified in division (Y)(7) of this section.

Notwithstanding section 119.06 of the Revised Code, the director may

issue an order under division (Y)(7) of this section without the necessity to hold an adjudicatory hearing in connection with the order. The issuance of an order under this division is not an act or action for purposes of section 3745.04 of the Revised Code.

(8) As used in division (Y) of this section:

(a) "Sewage sludge facility" means an entity that performs treatment on or is responsible for the disposal of sewage sludge.

(b) "Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

(c) "Exceptional quality sludge" means sewage sludge that meets all of the following qualifications:

(i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);

(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);

(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;

(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.

(d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge.

(e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator.

(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil.

(g) "Land reclamation" means the returning of disturbed land to productive use.

(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.

(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

(j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway.

(k) "Annual sludge fee" means the fee assessed under division (Y)(1) of this section.

(l) "Landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed under section 3734.05 of the Revised Code.

(m) "Preexisting land reclamation project" means a property-specific land reclamation project that has been in continuous operation for not less than five years pursuant to approval of the activity by the director and includes the implementation of a community outreach program concerning the activity.

Sec. 3745.114. (A) A person that applies for a section 401 water quality certification under Chapter 6111. of the Revised Code and rules adopted under it shall pay an application fee of two hundred dollars at the time of application plus any of the following fees, as applicable:

(1) If the water resource to be impacted is a wetland, a review fee of five hundred dollars per acre of wetland to be impacted;

(2) If the water resource to be impacted is a stream one of the following fees, as applicable:

(a) For an ephemeral stream, a review fee of five dollars per linear foot of stream to be impacted, or two hundred dollars, whichever is greater;

(b) For an intermittent stream, a review fee of ten dollars per linear foot of stream to be impacted, or two hundred dollars, whichever is greater;

(c) For a perennial stream, a review fee of fifteen dollars per linear foot of stream to be impacted, or two hundred dollars, whichever is greater.

(3) If the water resource to be impacted is a lake, a review fee of three dollars per cubic yard of dredged or fill material to be moved.

(B) One-half of all applicable review fees levied under this section shall be due at the time of application for a section 401 water quality certification. The remainder of the fees shall be paid upon the final disposition of the application for a section 401 water quality certification. The total fee to be paid under this section shall not exceed twenty-five thousand dollars per application. However, if the applicant is a county, township, or municipal corporation in this state, the total fee to be paid shall not exceed five

thousand dollars per application.

(C) All money collected under this section shall be transmitted to the treasurer of state for deposit into the state treasury to the credit of the surface water protection fund created in section 6111.038 of the Revised Code.

(D) The fees established under this section do not apply to any state agency as defined in section 119.01 of the Revised Code.

(E) The fees established under this section do not apply to projects that are authorized by the environmental protection agency's general certifications of nationwide permits or general permits issued by the United States army corps of engineers. As used in this division, "general permit" and "nationwide permit" have the same meanings as in rules adopted under Chapter 6111. of the Revised Code.

(F) Coal mining and reclamation operations that are authorized under Chapter 1513. of the Revised Code are exempt from the fees established under this seciton for one year after the effective date of this seciton.

(G) As used in this section:

(1) "Ephemeral stream" means a stream that flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice and that has channel bottom that is always above the local water table.

(2) "Intermittent stream" means a stream that is below the local water table and flows for at least a part of each year and that obtains its flow from both surface runoff and ground water discharge.

(3) "Perennial stream" means a stream or a part of a stream that flows continuously during all of the calendar year as a result of ground water discharge or surface water runoff. "Perennial stream" does not include an intermittent stream or an ephemeral stream.

Sec. 3745.12. (A) There is hereby created in the state treasury the immediate removal fund, which shall be administered by the director of environmental protection. The fund may be used for both of the following purposes:

(1) To pay costs incurred by the environmental protection agency in investigating, mitigating, minimizing, removing, or abating any unauthorized spill, release, or discharge of material into or upon the environment that requires emergency action to protect the public health or safety or the environment;

(2) Conducting remedial actions under section 3752.13 of the Revised Code.

(B) Any person responsible for causing or allowing the unauthorized

spill, release, or discharge is liable to the director for the costs incurred by the agency regardless of whether those costs were paid out of the fund created under division (A) of this section or any other fund of the agency. Upon the request of the director, the attorney general shall bring a civil action against the responsible person to recover those costs. Moneys recovered under this division shall be paid into the state treasury to the credit of the immediate removal fund, except that moneys recovered for costs paid from the hazardous waste clean-up fund created in section 3734.28 of the Revised Code shall be credited to the hazardous waste clean-up fund.

Sec. 3746.04. Within one year after September 28, 1994, the director of environmental protection, in accordance with Chapter 119. of the Revised Code and with the advice of the multidisciplinary council appointed under section 3746.03 of the Revised Code, shall adopt, and subsequently may amend, suspend, or rescind, rules that do both of the following:

(A) Revise the rules adopted under Chapters 3704., 3714., 3734., 6109., and 6111. of the Revised Code to incorporate the provisions necessary to conform those rules to the requirements of this chapter. The amended rules adopted under this division also shall establish response times for all submittals to the environmental protection agency required under this chapter or rules adopted under it.

(B) Establish requirements and procedures that are reasonably necessary for the implementation and administration of this chapter, including, without limitation, all of the following:

(1) Appropriate generic numerical clean-up standards for the treatment or removal of soils, sediments, and water media for hazardous substances and petroleum. The rules shall establish separate generic numerical clean-up standards based upon the intended use of properties after the completion of voluntary actions, including industrial, commercial, and residential uses and such other categories of land use as the director considers to be appropriate. The generic numerical clean-up standards established for each category of land use shall be the concentration of each contaminant that may be present on a property that shall ensure protection of public health and safety and the environment for the reasonable exposure for that category of land use. When developing the standards, the director shall consider such factors as all of the following:

(a) Scientific information, including, without limitation, toxicological information and realistic assumptions regarding human and environmental exposure to hazardous substances or petroleum;

(b) Climatic factors;

(c) Human activity patterns;

(d) Current statistical techniques;

(e) For petroleum at industrial property, alternatives to the use of total petroleum hydrocarbons.

The generic numerical clean-up standards established in the rules adopted under division (B)(1) of this section shall be consistent with and equivalent in scope, content, and coverage to any applicable standard established by federal environmental laws and regulations adopted under them, including, without limitation, the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended; the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; the "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended; the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended; and the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C.A. 300f, as amended.

In order for the rules adopted under division (B)(1) of this section to require that any such federal environmental standard apply to a property, the property shall meet the requirements of the particular federal statute or regulation involved in the manner specified by the statute or regulation.

The generic numerical clean-up standards for petroleum at commercial or residential property shall be the standards established in rules adopted under division (B) of section 3737.882 of the Revised Code.

(2)(a) Procedures for performing property-specific risk assessments that would be performed at a property to demonstrate that the remedy evaluated in a risk assessment results in protection of public health and safety and the environment instead of complying with the generic numerical clean-up standards established in the rules adopted under division (B)(1) of this section. The risk assessment procedures shall describe a methodology to establish, on a property-specific basis, allowable levels of contamination to remain at a property to ensure protection of public health and safety and the environment on the property and off the property when the contamination is emanating off the property, taking into account all of the following:

(i) The implementation of treatment, storage, or disposal, or a combination thereof, of hazardous substances or petroleum;

(ii) The existence of institutional controls or activity and use limitations that eliminate or mitigate exposure to hazardous substances or petroleum through the restriction of access to hazardous substances or petroleum;

(iii) The existence of engineering controls that eliminate or mitigate exposure to hazardous substances or petroleum through containment of,

control of, or restrictions of access to hazardous substances or petroleum, including, without limitation, fences, cap systems, cover systems, and landscaping.

(b) The risk assessment procedures and levels of acceptable risk set forth in the rules adopted under division (B)(2) of this section shall be based upon all of the following:

(i) Scientific information, including, without limitation, toxicological information and actual or proposed human and environmental exposure;

(ii) Locational and climatic factors;

(iii) Surrounding land use and human activities;

(iv) Differing levels of remediation that may be required when an existing land use is continued compared to when a different land use follows the remediation.

(c) Any standards established pursuant to rules adopted under division (B)(2) of this section shall be no more stringent than standards established under the environmental statutes of this state and rules adopted under them for the same contaminant in the same environmental medium that are in effect at the time the risk assessment is conducted.

(3) Minimum standards for phase I property assessments. The standards shall specify the information needed to demonstrate that there is no reason to believe that contamination exists on a property. The rules adopted under division (B)(3) of this section, at a minimum, shall require that a phase I property assessment include all of the following:

(a) A review and analysis of deeds, mortgages, easements of record, and similar documents relating to the chain of title to the property that are publicly available or that are known to and reasonably available to the owner or operator;

(b) A review and analysis of any previous environmental assessments, property assessments, environmental studies, or geologic studies of the property and any land within two thousand feet of the boundaries of the property that are publicly available or that are known to and reasonably available to the owner or operator;

(c) A review of current and past environmental compliance histories of persons who owned or operated the property;

(d) A review of aerial photographs of the property that indicate prior uses of the property;

(e) Interviews with managers of activities conducted at the property who have knowledge of environmental conditions at the property;

(f) Conducting an inspection of the property consisting of a walkover;

(g) Identifying the current and past uses of the property, adjoining tracts

of land, and the area surrounding the property, including, without limitation, interviews with persons who reside or have resided, or who are or were employed, within the area surrounding the property regarding the current and past uses of the property and adjacent tracts of land.

The rules adopted under division (B)(3) of this section shall establish criteria to determine when a phase II property assessment shall be conducted when a phase I property assessment reveals facts that establish a reason to believe that hazardous substances or petroleum have been treated, stored, managed, or disposed of on the property if the person undertaking the phase I property assessment wishes to obtain a covenant not to sue under section 3746.12 of the Revised Code.

(4) Minimum standards for phase II property assessments. The standards shall specify the information needed to demonstrate that any contamination present at the property does not exceed applicable standards or that the remedial activities conducted at the property have achieved compliance with applicable standards. The rules adopted under division (B)(4) of this section, at a minimum, shall require that a phase II property assessment include all of the following:

(a) A review and analysis of all documentation prepared in connection with a phase I property assessment conducted within the one hundred eighty days before the phase II property assessment begins. The rules adopted under division (B)(4)(a) of this section shall require that if a period of more than one hundred eighty days has passed between the time that the phase I assessment of the property was completed and the phase II assessment begins, the phase II assessment shall include a reasonable inquiry into the change in the environmental condition of the property during the intervening period.

(b) Quality assurance objectives for measurements taken in connection with a phase II assessment;

(c) Sampling procedures to ensure the representative sampling of potentially contaminated environmental media;

(d) Quality assurance and quality control requirements for samples collected in connection with phase II assessments;

(e) Analytical and data assessment procedures;

(f) Data objectives to ensure that samples collected in connection with phase II assessments are biased toward areas where information indicates that contamination by hazardous substances or petroleum is likely to exist.

(5) Standards governing the conduct of certified professionals, criteria and procedures for the certification of professionals to issue no further action letters under section 3746.11 of the Revised Code, and criteria for the

suspension and revocation of those certifications. The director shall take an action regarding a certification as a final action. The issuance, denial, renewal, suspension, and revocation of those certifications are subject to Chapter 3745. of the Revised Code, ~~and the director shall take any such action regarding a certification as a final action~~ except that, in lieu of publishing an action regarding a certification in a newspaper of general circulation as required in section 3745.07 of the Revised Code, such an action shall be published on the environmental protection agency's web site and in the agency's weekly review not later than fifteen days after the date of the issuance, denial, renewal, suspension, or revocation of the certification and not later than thirty days before a hearing or public meeting concerning the action.

The rules adopted under division (B)(5) of this section shall do all of the following:

(a) Provide for the certification of environmental professionals to issue no further action letters pertaining to investigations and remedies in accordance with the criteria and procedures set forth in the rules. The rules adopted under division (B)(5)(a) of this section shall do at least all of the following:

(i) Authorize the director to consider such factors as an environmental professional's previous performance record regarding such investigations and remedies and the environmental professional's environmental compliance history when determining whether to certify the environmental professional;

(ii) Ensure that an application for certification is reviewed in a timely manner;

(iii) Require the director to certify any environmental professional who the director determines complies with those criteria;

(iv) Require the director to deny certification for any environmental professional who does not comply with those criteria.

(b) Establish an annual fee to be paid by environmental professionals certified pursuant to the rules adopted under division (B)(5)(a) of this section. The fee shall be established at an amount calculated to defray the costs to the ~~environmental protection~~ agency for the required reviews of the qualifications of environmental professionals for certification and for the issuance of the certifications.

(c) Develop a schedule for and establish requirements governing the review by the director of the credentials of environmental professionals who were deemed to be certified professionals under division (D) of section 3746.07 of the Revised Code in order to determine if they comply with the

criteria established in rules adopted under division (B)(5) of this section. The rules adopted under division (B)(5)(c) of this section shall do at least all of the following:

(i) Ensure that the review is conducted in a timely fashion;

(ii) Require the director to certify any such environmental professional who the director determines complies with those criteria;

(iii) Require any such environmental professional initially to pay the fee established in the rules adopted under division (B)(5)(b) of this section at the time that the environmental professional is so certified by the director;

(iv) Establish a time period within which any such environmental professional who does not comply with those criteria may obtain the credentials that are necessary for certification;

(v) Require the director to deny certification for any such environmental professional who does not comply with those criteria and who fails to obtain the necessary credentials within the established time period.

(d) Require that any information submitted to the director for the purposes of the rules adopted under division (B)(5)(a) or (c) of this section comply with division (A) of section 3746.20 of the Revised Code;

(e) Authorize the director to suspend or revoke the certification of an environmental professional if the director finds that the environmental professional's performance has resulted in the issuance of no further action letters under section 3746.11 of the Revised Code that are not consistent with applicable standards or finds that the certified environmental professional has not substantially complied with section 3746.31 of the Revised Code;

(f) Authorize the director to suspend for a period of not more than five years or to permanently revoke a certified environmental professional's certification for any violation of or failure to comply with an ethical standard established in rules adopted under division (B)(5) of this section.;

(g) Require the director to revoke the certification of an environmental professional if the director finds that the environmental professional falsified any information on the environmental professional's application for certification regarding the environmental professional's credentials or qualifications or any other information generated for the purposes of or use under this chapter or rules adopted under it;

(h) Require the director permanently to revoke the certification of an environmental professional who has violated or is violating division (A) of section 3746.18 of the Revised Code;

(i) Preclude the director from revoking the certification of an environmental professional who only conducts investigations and remedies

at property contaminated solely with petroleum unless the director first consults with the director of commerce.

(6) Criteria and procedures for the certification of laboratories to perform analyses under this chapter and rules adopted under it. The issuance, denial, suspension, and revocation of those certifications are subject to Chapter 3745. of the Revised Code, and the director of environmental protection shall take any such action regarding a certification as a final action.

The rules adopted under division (B)(6) of this section shall do all of the following:

(a) Provide for the certification to perform analyses of laboratories in accordance with the criteria and procedures established in the rules adopted under division (B)(6)(a) of this section and establish an annual fee to be paid by those laboratories. The fee shall be established at an amount calculated to defray the costs to the agency for the review of the qualifications of those laboratories for certification and for the issuance of the certifications. The rules adopted under division (B)(6)(a) of this section may provide for the certification of those laboratories to perform only particular types or categories of analyses, specific test parameters or group of test parameters, or a specific matrix or matrices under this chapter.

(b) Develop a schedule for and establish requirements governing the review by the director of the operations of laboratories that were deemed to be certified laboratories under division (E) of section 3746.07 of the Revised Code in order to determine if they comply with the criteria established in rules adopted under division (B)(6) of this section. The rules adopted under division (B)(6)(b) of this section shall do at least all of the following:

(i) Ensure that the review is conducted in a timely fashion;

(ii) Require the director to certify any such laboratory that the director determines complies with those criteria;

(iii) Require any such laboratory initially to pay the fee established in the rules adopted under division (B)(6)(a) of this section at the time that the laboratory is so certified by the director;

(iv) Establish a time period within which any such laboratory that does not comply with those criteria may make changes in its operations necessary for the performance of analyses under this chapter and rules adopted under it in order to be certified by the director;

(v) Require the director to deny certification for any such laboratory that does not comply with those criteria and that fails to make the necessary changes in its operations within the established time period.

(c) Require that any information submitted to the director for the

purposes of the rules adopted under division (B)(6)(a) or (b) of this section comply with division (A) of section 3746.20 of the Revised Code;

(d) Authorize the director to suspend or revoke the certification of a laboratory if the director finds that the laboratory's performance has resulted in the issuance of no further action letters under section 3746.11 of the Revised Code that are not consistent with applicable standards;

(e) Authorize the director to suspend or revoke the certification of a laboratory if the director finds that the laboratory falsified any information on its application for certification regarding its credentials or qualifications;

(f) Require the director permanently to revoke the certification of a laboratory that has violated or is violating division (A) of section 3746.18 of the Revised Code.

(7) Information to be included in a no further action letter prepared under section 3746.11 of the Revised Code, including, without limitation, all of the following:

(a) A summary of the information required to be submitted to the certified environmental professional preparing the no further action letter under division (C) of section 3746.10 of the Revised Code;

(b) Notification that a risk assessment was performed in accordance with rules adopted under division (B)(2) of this section if such an assessment was used in lieu of generic numerical clean-up standards established in rules adopted under division (B)(1) of this section;

(c) The contaminants addressed at the property, if any, their source, if known, and their levels prior to remediation;

(d) The identity of any other person who performed work to support the request for the no further action letter as provided in division (B)(2) of section 3746.10 of the Revised Code and the nature and scope of the work performed by that person;

(e) A list of the data, information, records, and documents relied upon by the certified environmental professional in preparing the no further action letter.

(8) Methods for determining fees to be paid for the following services provided by the agency under this chapter and rules adopted under it:

(a) Site- or property-specific technical assistance in developing or implementing plans in connection with a voluntary action;

(b) Reviewing applications for and issuing consolidated standards permits under section 3746.15 of the Revised Code and monitoring compliance with those permits;

(c) Negotiating, preparing, and entering into agreements necessary for the implementation and administration of this chapter and rules adopted

under it;

(d) Reviewing no further action letters, issuing covenants not to sue, and monitoring compliance with any terms and conditions of those covenants and with operation and maintenance agreements entered into pursuant to those covenants, including, without limitation, conducting audits of properties where voluntary actions are being or were conducted under this chapter and rules adopted under it.

The fees established pursuant to the rules adopted under division (B)(8) of this section shall be at a level sufficient to defray the direct and indirect costs incurred by the agency for the administration and enforcement of this chapter and rules adopted under it other than the provisions regarding the certification of professionals and laboratories.

(9) Criteria for selecting the no further action letters issued under section 3746.11 of the Revised Code that will be audited under section 3746.17 of the Revised Code, and the scope and procedures for conducting those audits. The rules adopted under division (B)(9) of this section, at a minimum, shall require the director to establish priorities for auditing no further action letters to which any of the following applies:

(a) The letter was prepared by an environmental professional who was deemed to be a certified professional under division (D) of section 3746.07 of the Revised Code, but who does not comply with the criteria established in rules adopted under division (B)(5) of this section as determined pursuant to rules adopted under division (B)(5)(d) of this section.;

(b) The letter was submitted fraudulently.;

(c) The letter was prepared by a certified environmental professional whose certification subsequently was revoked in accordance with rules adopted under division (B)(5) of this section, or analyses were performed for the purposes of the no further action letter by a certified laboratory whose certification subsequently was revoked in accordance with rules adopted under division (B)(6) of this section.;

(d) A covenant not to sue that was issued pursuant to the letter was revoked under this chapter.;

(e) The letter was for a voluntary action that was conducted pursuant to a risk assessment in accordance with rules adopted under division (B)(2) of this section.;

(f) The letter was for a voluntary action that included as remedial activities engineering controls or institutional controls or activity and use limitations authorized under section 3746.05 of the Revised Code.

The rules adopted under division (B)(9) of this section shall provide for random audits of no further action letters to which the rules adopted under

divisions (B)(9)(a) to (f) of this section do not apply.

(10) A classification system to characterize ground water according to its capability to be used for human use and its impact on the environment and a methodology that shall be used to determine when ground water that has become contaminated from sources on a property for which a covenant not to sue is requested under section 3746.11 of the Revised Code shall be remediated to the standards established in the rules adopted under division (B)(1) or (2) of this section.

(a) In adopting rules under division (B)(10) of this section to characterize ground water according to its capability for human use, the director shall consider all of the following:

(i) The presence of legally enforceable, reliable restrictions on the use of ground water, including, without limitation, local rules or ordinances;

(ii) The presence of regional commingled contamination from multiple sources that diminishes the quality of ground water;

(iii) The natural quality of ground water;

(iv) Regional availability of ground water and reasonable alternative sources of drinking water;

(v) The productivity of the aquifer;

(vi) The presence of restrictions on the use of ground water implemented under this chapter and rules adopted under it;

(vii) The existing use of ground water.

(b) In adopting rules under division (B)(10) of this section to characterize ground water according to its impacts on the environment, the director shall consider both of the following:

(i) The risks posed to humans, fauna, surface water, sediments, soil, air, and other resources by the continuing presence of contaminated ground water;

(ii) The availability and feasibility of technology to remedy ground water contamination.

(11) Governing the application for and issuance of variances under section 3746.09 of the Revised Code;

(12)(a) In the case of voluntary actions involving contaminated ground water, specifying the circumstances under which the generic numerical clean-up standards established in rules adopted under division (B)(1) of this section and standards established through a risk assessment conducted pursuant to rules adopted under division (B)(2) of this section shall be inapplicable to the remediation of contaminated ground water and under which the standards for remediating contaminated ground water shall be established on a case-by-case basis prior to the commencement of the

voluntary action pursuant to rules adopted under division (B)(12)(b) of this section;

(b) Criteria and procedures for the case-by-case establishment of standards for the remediation of contaminated ground water under circumstances in which the use of the generic numerical clean-up standards and standards established through a risk assessment are precluded by the rules adopted under division (B)(12)(a) of this section. The rules governing the procedures for the case-by-case development of standards for the remediation of contaminated ground water shall establish application, public participation, adjudication, and appeals requirements and procedures that are equivalent to the requirements and procedures established in section 3746.09 of the Revised Code and rules adopted under division (B)(11) of this section, except that the procedural rules shall not require an applicant to make the demonstrations set forth in divisions (A)(1) to (3) of section 3746.09 of the Revised Code.

(13) A definition of the evidence that constitutes sufficient evidence for the purpose of division (A)(5) of section 3746.02 of the Revised Code.

At least thirty days before filing the proposed rules required to be adopted under this section with the secretary of state, director of the legislative service commission, and joint committee on agency rule review in accordance with divisions (B) and (H) of section 119.03 of the Revised Code, the director of environmental protection shall hold at least one public meeting on the proposed rules in each of the five districts into which the agency has divided the state for administrative purposes.

Sec. 3746.071. (A) As used in this section, "certified professional" means a certified professional deemed to be certified under division (D) of section 3746.07 of the Revised Code.

(B) A certified professional shall do all of the following:

(1) Protect the safety, health, and welfare of the public in the performance of ~~his~~ professional duties. If a circumstance arises where the certified professional faces a situation where the safety, health, or welfare of the public would not be protected, ~~he~~ the certified professional shall do all of the following:

(a) Sever ~~his~~ the relationship with ~~his~~ the certified professional's employer or client;

(b) Refuse to accept responsibility for the design, report, or statement involved;

(c) Notify the director of environmental protection if, in the opinion of the certified professional, the situation is sufficiently important.

(2) Undertake to perform assignments only when ~~he~~ the certified

professional or ~~his~~ the certified professional's consulting support is qualified by training and experience in the specific technical fields involved;

(3) Be completely objective in any professional report, statement, or testimony. ~~He~~ The certified professional shall include all relevant and pertinent information in the report, statement, or testimony when the result of an omission would or reasonably could lead to a fallacious conclusion.

(4) Express an opinion as a technical or expert witness before any court, commission, or other tribunal only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of ~~his~~ the testimony.

(C) A certified professional shall not issue statements, criticisms, or arguments on matters connected with public policy that are inspired or paid for by an interested party, unless ~~he~~ the certified professional has prefaced ~~his~~ the remarks by explicitly identifying ~~himself~~ the certified professional, by disclosing the identity of the parties on whose behalf ~~he~~ the certified professional is speaking, and by revealing the existence of any pecuniary interest ~~he~~ the certified professional may have in the instant matters.

(D)(1) A certified professional shall conscientiously avoid any conflict of interest with ~~his~~ the certified professional's employer or client.

(2) A certified professional promptly shall inform ~~his~~ the certified professional's employer or client of any business association, interests, or circumstances that could influence ~~his~~ the certified professional's judgment or the quality of ~~his~~ the certified professional's service to ~~his~~ the employer or client.

(3) A certified professional shall not accept compensation, financial or otherwise, from more than one party for services on or pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties or their duly authorized agents.

(4) A certified professional shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products.

(5) A certified professional shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing directly with ~~his~~ the certified professional's employer or client in connection with the work for which ~~he~~ the certified professional is responsible.

(E)(1) A certified professional shall not pay, solicit, or offer, directly or indirectly, any bribe or commission for professional employment with the exception of ~~his~~ payment of the usual commission for securing salaried positions through licensed employment agencies.

(2) A certified professional shall seek professional employment on the basis of qualification and competence for proper accomplishment of the work. A certified professional may submit proposed fee information prior to ~~his~~ selection to serve as a certified professional under this chapter and rules adopted under it.

(3) A certified professional shall not falsify or permit misrepresentation of ~~his~~ the certified professional's or ~~his~~ the certified professional's associates' academic or professional qualifications. ~~He~~ The certified professional shall not misrepresent or exaggerate ~~his~~ the certified professional's degree of responsibility in or for the subject matter of prior assignments.

(4) Brochures or other presentations incident to the solicitation of employment by a certified professional shall not misrepresent pertinent facts concerning ~~his~~ the certified professional's employers, employees, associates, or joint ventures, or ~~his or their~~ the past accomplishments of any of them, with the intent and purpose of enhancing ~~his~~ the certified professional's qualifications for ~~his~~ the certified professional's work.

(F)(1) A certified professional shall not sign or seal professional work for which ~~he~~ the certified professional does not have personal professional knowledge and direct supervisory control and responsibility.

(2) A certified professional shall not knowingly associate with, or permit the use of ~~his~~ the certified professional's own name or ~~his firm's~~ the name of the certified professional's firm in, a business venture by any person or firm that ~~he~~ the certified professional knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature.

(3) If a certified professional has knowledge or reason to believe that another person or firm has violated any of the provisions of this chapter or any requirement of this section, ~~he~~ the certified professional shall present the information to the director in writing.

(G) The director, in accordance with ~~Chapter 3745.~~ rules adopted under section 3746.04 of the Revised Code, may suspend for a period of not more than five years or permanently revoke a certified professional's certification for a violation of or failure to comply with any requirement or obligation set forth in this section.

Sec. 3748.07. (A) Every facility that proposes to handle radioactive material or radiation-generating equipment for which licensure or registration, respectively, by its handler is required shall apply in writing to the director of health on forms prescribed and provided by the director for licensure or registration. Terms and conditions of licenses and certificates of registration may be amended in accordance with rules adopted under section

3748.04 of the Revised Code or orders issued by the director pursuant to section 3748.05 of the Revised Code.

(B) Until rules are adopted under section 3748.04 of the Revised Code, an application for a certificate of registration shall be accompanied by a biennial registration fee of two hundred eighteen dollars. On and after the effective date of those rules, an applicant for a license, registration certificate, or renewal of either shall pay the appropriate fee established in those rules.

All fees collected under this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

Any fee required under this section that has not been paid within ninety days after the invoice date shall be assessed at two times the original invoiced fee. Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.

(C) The director shall grant a license or registration to any applicant who has paid the required fee and is in compliance with this chapter and rules adopted under it.

Until rules are adopted under section 3748.04 of the Revised Code, certificates of registration shall be effective for two years from the date of issuance. On and after the effective date of those rules, licenses and certificates of registration shall be effective for the applicable period established in those rules. Licenses and certificates of registration shall be renewed in accordance with the standard renewal procedure established in Chapter 4745. of the Revised Code.

Sec. 3748.13. (A) The director of health shall inspect sources of radiation for which licensure or registration by the handler is required, and the sources' shielding and surroundings, according to the schedule established in rules adopted under division (D) of section 3748.04 of the Revised Code. In accordance with rules adopted under that section, the director shall inspect all records and operating procedures of handlers that install sources of radiation and all sources of radiation for which licensure of radioactive material or registration of radiation-generating equipment by the handler is required. The director may make other inspections upon receiving complaints or other evidence of violation of this chapter or rules adopted under it.

The director shall require any hospital registered under division (A) of section 3701.07 of the Revised Code to develop and maintain a quality

assurance program for all sources of radiation-generating equipment. A certified radiation expert shall conduct oversight and maintenance of the program and shall file a report of audits of the program with the director on forms prescribed by the director. The audit reports shall become part of the inspection record.

(B) Until rules are adopted under division (A)(8) of section 3748.04 of the Revised Code, a facility shall pay inspection fees according to the following schedule and categories:

First dental x-ray tube	$ ~~118.00~~ 129.00
Each additional dental x-ray tube at the same location	$ ~~59.00~~ 64.00
First medical x-ray tube	$ ~~235.00~~ 256.00
Each additional medical x-ray tube at the same location	$ ~~125.00~~ 136.00
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	$ ~~466.00~~ 508.00
First nonionizing radiation-generating equipment of any kind	$ ~~235.00~~ 256.00
Each additional nonionizing radiation-generating equipment of any kind at the same location	$ ~~125.00~~ 136.00
Assembler-maintainer inspection consisting of an inspection of records and operating procedures of handlers that install sources of radiation	$ ~~291.00~~ 317.00

Until rules are adopted under division (A)(8) of section 3748.04 of the Revised Code, the fee for an inspection to determine whether violations cited in a previous inspection have been corrected is fifty per cent of the fee applicable under the schedule in this division. Until those rules are adopted, the fee for the inspection of a facility that is not licensed or registered and for which no license or registration application is pending at the time of inspection is three hundred ~~sixty-three~~ ninety-five dollars plus the fee applicable under the schedule in this division.

The director may conduct a review of shielding plans or the adequacy of shielding on the request of a licensee or registrant or an applicant for licensure or registration or during an inspection when the director considers

a review to be necessary. Until rules are adopted under division (A)(8) of section 3748.04 of the Revised Code, the fee for the review is ~~five~~ six hundred ~~eighty-three~~ thirty-five dollars for each room where a source of radiation is used and is in addition to any other fee applicable under the schedule in this division.

All fees shall be paid to the department of health no later than thirty days after the invoice for the fee is mailed. Fees shall be deposited in the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

Any fee required under this section that has not been paid within ninety days after the invoice date shall be assessed at two times the original invoiced fee. Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.

(C) If the director determines that a board of health of a city or general health district is qualified to conduct inspections of radiation-generating equipment, the director may delegate to the board, by contract, the authority to conduct such inspections. In making a determination of the qualifications of a board of health to conduct those inspections, the director shall evaluate the credentials of the individuals who are to conduct the inspections of radiation-generating equipment and the radiation detection and measuring equipment available to them for that purpose. If a contract is entered into, the board shall have the same authority to make inspections of radiation-generating equipment as the director has under this chapter and rules adopted under it. The contract shall stipulate that only individuals approved by the director as qualified shall be permitted to inspect radiation-generating equipment under the contract's provisions. The contract shall provide for such compensation for services as is agreed to by the director and the board of health of the contracting health district. The director may reevaluate the credentials of the inspection personnel and their radiation detecting and measuring equipment as often as the director considers necessary and may terminate any contract with the board of health of any health district that, in the director's opinion, is not satisfactorily performing the terms of the contract.

(D) The director may enter at all reasonable times upon any public or private property to determine compliance with this chapter and rules adopted under it.

Sec. 3770.061. There is hereby created in the state treasury the charitable gaming oversight fund. The state lottery commission shall credit

to the fund any money it receives from the office of the attorney general under any agreement the commission and the office have entered into under division (I) of section 2915.08 of the Revised Code. The commission shall use money in the fund to provide oversight, licensing, and monitoring of charitable gaming activities in this state in accordance with the agreement and Chapter 2915. of the Revised Code. Not later than the first day of July of each fiscal year, or as soon as possible thereafter, the commission may certify to the office of budget and management any unobligated fund balances not necessary to be used under this section. The commission may request the office of budget and management to transfer these balances to the lottery profits education fund for use in accordance with section 3770.06 of the Revised Code.

Sec. 3773.34. (A) The Ohio athletic commission shall adopt and may amend or rescind rules in accordance with Chapter 119. of the Revised Code, prescribing the conditions under which prize fights and public boxing or wrestling matches or exhibitions may be conducted, classifying professional boxers by weight, and providing for the administration of sections 3773.31 to 3773.57 of the Revised Code. The rules may require that an applicant for a contestant's license to participate in a public boxing match or exhibition take an HIV test, as defined in section 3701.24 of the Revised Code, before being issued the contestant's license and may require that a licensed contestant take such an HIV test before participating in a public boxing match or exhibition. The commission, or the commission's executive director when authorized by the commission, may issue, deny, suspend, or revoke permits to hold prize fights and public boxing or wrestling matches or exhibitions~~, and~~. The commission may issue, deny, suspend, or revoke licenses to persons engaged in any public boxing match or exhibition as authorized by sections 3773.31 to 3773.57 of the Revised Code.

(B) In addition to the duties set forth in this chapter, the Ohio athletic commission shall take action as necessary to carry out the provisions of Chapter 4771. of the Revised Code governing athlete agents.

(C) On or before the thirty-first day of December of each year, the commission shall make a report to the governor of its proceedings for the year ending on the first day of December of that calendar year, and may include in the report any recommendations pertaining to its duties.

Sec. 3773.38. Each person who holds a promoter's license issued under section 3773.36 of the Revised Code who desires to conduct a public boxing or wrestling match or exhibition where one or more contests are to be held shall obtain a permit from the Ohio athletic commission or the commission's executive director when the executive director is authorized by the

commission to issue those types of permits. Application for such a permit shall be made in writing and on forms prescribed by the commission, shall be filed with the commission, and shall be accompanied by the permit fee prescribed in section 3773.43 of the Revised Code.

The application for a permit issued under this section shall include the date and starting time of the match or exhibition, the address of the place where the match or exhibition is to be held, the names of the contestants, the seating capacity of the building or hall where the exhibition is to be held, the admission charge or any other charges, the amount of compensation or the percentage of gate receipts to be paid to each contestant, the name and address of the applicant, a copy of the current official rules that govern the particular sport, and the serial number of the applicant's promoter's license.

The commission, or the commission's executive director when authorized by the commission, may require the applicant to deposit with the commission before a public boxing match or exhibition a cash bond, certified check, bank draft, or surety bond in an amount equal to five per cent of the estimated gross receipts from the match or exhibition.

Sec. 3773.39. (A) Upon receipt of an application for a permit to hold a public boxing or wrestling match or exhibition under section 3773.38 of the Revised Code, the Ohio athletic commission, or the commission's executive director when authorized by the commission, shall determine if the applicant holds a valid promoter's license issued pursuant to section 3773.36 of the Revised Code. Upon receipt of an application for a permit to hold a public boxing match or exhibition, the commission, or the commission's executive director when authorized by the commission, also shall determine if the contestants are evenly and fairly matched according to skill, experience, and weight so as to produce a fair and sportsmanlike contest, and whether the applicant is financially responsible and is able to pay to each contestant the compensation or percentage of the gate receipts named in the application. The commission, or the commission's executive director when authorized by the commission, may, if applicable, require the applicant to deposit with it within forty-eight hours before the match or exhibition the total compensation or estimated portion of gate receipts to be paid all contestants named in the application made under section 3773.38 of the Revised Code.

(B) If the commission, or the commission's executive director when authorized by the commission, determines that the applicant has met all the requirements specified in division (A) of this section, ~~it~~ the commission or executive director shall issue the applicant a permit to conduct the match or exhibition. If the applicant fails to deposit any compensation or portion of gate receipts required by the commission, or executive director before the

first contest of the match or exhibition is held, the commission, or the commission's executive director when authorized by the commission, may revoke the permit and order the applicant not to conduct the match or exhibition described in the permit.

(C) Each permit issued pursuant to this section shall bear the name and post office address of the applicant, the address of the place where the public boxing or wrestling match or exhibition is to be held, the date and starting time of the match or exhibition, and a serial number designated by the commission.

A permit issued under this section shall allow the permit holder to conduct only the match or exhibition named in the permit. A permit is not transferable.

Sec. 3773.40. No person who holds a promoter's license to conduct a public boxing match or exhibition under section 3773.36 of the Revised Code shall:

(A) Hold any match or exhibition at any time or place other than that stated on a permit issued under section 3773.38 of the Revised Code;

(B) Allow any contestant to participate in the match or exhibition unless the contestant is the licensed contestant named in the application for such permit or a licensed contestant authorized to compete as a substitute for such a contestant by the inspector assigned to the facility where the match or exhibition is held for that match or exhibition;

(C) Charge a higher admission price for a match or exhibition than that stated in the application;

(D) Pay a greater compensation or percentage of the gate receipts to any contestant than that stated in the application.

The Ohio athletic commission, or the commission's executive director when authorized by the commission, upon application by a holder of a permit under section 3773.38 of the Revised Code, may allow the permit holder to hold the match or exhibition for which the permit was issued at an alternative site that is within the same municipal corporation or township and that offers substantially similar seating facilities, or allow the permit holder to substitute contestants or seconds, provided that the substitute contestants are evenly matched with their opponents in skill, experience, and weight.

Sec. 3773.57. The Ohio athletic commission and the commission's executive director shall not issue a license or permit to conduct public boxing or wrestling matches or exhibitions in a municipal corporation or the unincorporated portion of a township if the commission or the commission's executive director determines that the legislative authority of the municipal

corporation or board of township trustees has in effect an ordinance or resolution prohibiting such matches or exhibitions.

Sec. 3781.07. There is hereby established in the department of commerce a board of building standards consisting of ~~ten~~ eleven members appointed by the governor with the advice and consent of the senate. The board shall appoint a secretary who shall serve in the unclassified civil service for a term of six years at a salary fixed pursuant to Chapter 124. of the Revised Code. The board may employ additional staff in the classified civil service. The secretary may be removed by the board under the rules the board adopts. Terms of office shall be for four years, commencing on the fourteenth day of October and ending on the thirteenth day of October. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any 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. One of the members appointed to the board shall be an attorney at law, admitted to the bar of this state; two shall be registered architects; two shall be professional engineers, one in the field of mechanical and one in the field of structural engineering, each of whom shall be duly licensed to practice such profession in this state; one shall be a person of recognized ability, broad training, and fifteen years experience in problems and practice incidental to the construction and equipment of buildings specified in section 3781.06 of the Revised Code; one shall be a person with recognized ability and experience in the manufacture and construction of industrialized units as defined in section 3781.06 of the Revised Code; one shall be a member of the fire service with recognized ability and broad training in the field of fire protection and suppression; one shall be a person with at least ten years of experience and recognized expertise in building codes and standards and the manufacture of construction materials; ~~and~~ one shall be a general contractor with experience in residential and commercial construction; and one, chosen from a list of three names the Ohio municipal league submits to the governor, shall be the mayor of a municipal corporation in which the Ohio residential and nonresidential building codes are being enforced in the municipal corporation by a certified building department. Each member of the board, not otherwise required to take an oath of office, shall take the oath prescribed by the constitution. Each member shall receive as compensation an amount fixed pursuant to division (J) of section 124.15 of the Revised

Code, and shall receive actual and necessary expenses in the performance of official duties. The amount of such expenses shall be certified by the secretary of the board and paid in the same manner as the expenses of employees of the department of commerce are paid.

Sec. 3781.10. (A)(1) The board of building standards shall formulate and adopt rules governing the erection, construction, repair, alteration, and maintenance of all buildings or classes of buildings specified in section 3781.06 of the Revised Code, including land area incidental to those buildings, the construction of industrialized units, the installation of equipment, and the standards or requirements for materials used in connection with those buildings. The board shall incorporate those rules into separate residential and nonresidential building codes. The standards shall relate to the conservation of energy and the safety and sanitation of those buildings.

(2) The rules governing nonresidential buildings are the lawful minimum requirements specified for those buildings and industrialized units, except that no rule other than as provided in division (C) of section 3781.108 of the Revised Code that specifies a higher requirement than is imposed by any section of the Revised Code is enforceable. The rules governing residential buildings are uniform requirements for residential buildings in any area with a building department certified to enforce the state residential building code. In no case shall any local code or regulation differ from the state residential building code unless that code or regulation addresses subject matter not addressed by the state residential building code or is adopted pursuant to section 3781.01 of the Revised Code.

(3) The rules adopted pursuant to this section are complete, lawful alternatives to any requirements specified for buildings or industrialized units in any section of the Revised Code. The board shall, on its own motion or on application made under sections 3781.12 and 3781.13 of the Revised Code, formulate, propose, adopt, modify, amend, or repeal the rules to the extent necessary or desirable to effectuate the purposes of sections 3781.06 to 3781.18 of the Revised Code.

(B) The board shall report to the general assembly proposals for amendments to existing statutes relating to the purposes declared in section 3781.06 of the Revised Code that public health and safety and the development of the arts require and shall recommend any additional legislation to assist in carrying out fully, in statutory form, the purposes declared in that section. The board shall prepare and submit to the general assembly a summary report of the number, nature, and disposition of the petitions filed under sections 3781.13 and 3781.14 of the Revised Code.

(C) On its own motion or on application made under sections 3781.12 and 3781.13 of the Revised Code, and after thorough testing and evaluation, the board shall determine by rule that any particular fixture, device, material, process of manufacture, manufactured unit or component, method of manufacture, system, or method of construction complies with performance standards adopted pursuant to section 3781.11 of the Revised Code. The board shall make its determination with regard to adaptability for safe and sanitary erection, use, or construction, to that described in any section of the Revised Code, wherever the use of a fixture, device, material, method of manufacture, system, or method of construction described in that section of the Revised Code is permitted by law. The board shall amend or annul any rule or issue an authorization for the use of a new material or manufactured unit on any like application. No department, officer, board, or commission of the state other than the board of building standards or the board of building appeals shall permit the use of any fixture, device, material, method of manufacture, newly designed product, system, or method of construction at variance with what is described in any rule the board of building standards adopts or issues or that is authorized by any section of the Revised Code. Nothing in this section shall be construed as requiring approval, by rule, of plans for an industrialized unit that conforms with the rules the board of building standards adopts pursuant to section 3781.11 of the Revised Code.

(D) The board shall recommend rules, codes, and standards to help carry out the purposes of section 3781.06 of the Revised Code and to help secure uniformity of state administrative rulings and local legislation and administrative action to the bureau of workers' compensation, the director of commerce, any other department, officer, board, or commission of the state, and to legislative authorities and building departments of counties, townships, and municipal corporations, and shall recommend that they audit those recommended rules, codes, and standards by any appropriate action that they are allowed pursuant to law or the constitution.

(E)(1) The board shall certify municipal, township, and county building departments and the personnel of those building departments, and persons and employees of individuals, firms, or corporations as described in division (E)(7) of this section to exercise enforcement authority, to accept and approve plans and specifications, and to make inspections, pursuant to sections 3781.03, 3791.04, and 4104.43 of the Revised Code.

(2) The board shall certify departments, personnel, and persons to enforce the state residential building code, to enforce the nonresidential building code, or to enforce both the residential and the nonresidential

building codes. Any department, personnel, or person may enforce only the type of building code for which certified.

(3) The board shall not require a building department, its personnel, or any persons that it employs to be certified for residential building code enforcement if that building department does not enforce the state residential building code. The board shall specify, in rules adopted pursuant to Chapter 119. of the Revised Code, the requirements for certification for residential and nonresidential building code enforcement, which shall be consistent with this division. The requirements for residential and nonresidential certification may differ. Except as otherwise provided in this division, the requirements shall include, but are not limited to, the satisfactory completion of an initial examination and, to remain certified, the completion of a specified number of hours of continuing building code education within each three-year period following the date of certification which shall be not less than thirty hours. The rules shall provide that continuing education credits and certification issued by the council of American building officials, national model code organizations, and agencies or entities the board recognizes are acceptable for purposes of this division. The rules shall specify requirements that are compatible, to the extent possible, with requirements the council of American building officials and national model code organizations establish.

(4) The board shall establish and collect a certification and renewal fee for building department personnel, and persons and employees of persons, firms, or corporations as described in this section, who are certified pursuant to this division.

(5) Any individual certified pursuant to this division shall complete the number of hours of continuing building code education that the board requires or, for failure to do so, forfeit certification.

(6) This division does not require or authorize the board to certify personnel of municipal, township, and county building departments, and persons and employees of persons, firms, or corporations as described in this section, whose responsibilities do not include the exercise of enforcement authority, the approval of plans and specifications, or making inspections under the state residential and nonresidential building codes.

(7) Enforcement authority for approval of plans and specifications and enforcement authority for inspections may be exercised, and plans and specifications may be approved and inspections may be made on behalf of a municipal corporation, township, or county, by any of the following who the board of building standards certifies:

(a) Officers or employees of the municipal corporation, township, or

county;

(b) Persons, or employees of persons, firms, or corporations, pursuant to a contract to furnish architectural ~~or,~~ engineering, or other services to the municipal corporation, township, or county;

(c) Officers or employees of, and persons under contract with, a municipal corporation, township, county, health district, or other political subdivision, pursuant to a contract to furnish architectural ~~or,~~ engineering, or other services.

(8) Municipal, township, and county building departments have jurisdiction within the meaning of sections 3781.03, 3791.04, and 4104.43 of the Revised Code, only with respect to the types of buildings and subject matters for which they are certified under this section.

(9) Certification shall be granted upon application by the municipal corporation, the board of township trustees, or the board of county commissioners and approval of that application by the board of building standards. The application shall set forth:

(a) Whether the certification is requested for residential or nonresidential buildings, or both;

(b) The number and qualifications of the staff composing the building department;

(c) The names, addresses, and qualifications of persons, firms, or corporations contracting to furnish work or services pursuant to division (E)(7)(b) of this section;

(d) The names of any other municipal corporation, township, county, health district, or political subdivision under contract to furnish work or services pursuant to division (E)(7) of this section;

(e) The proposed budget for the operation of the building department.

(10) The board of building standards shall adopt rules governing all of the following:

(a) The certification of building department personnel and persons and employees of persons, firms, or corporations exercising authority pursuant to division (E)(7) of this section. The rules shall disqualify any employee of the department or person who contracts for services with the department from performing services for the department when that employee or person would have to pass upon, inspect, or otherwise exercise authority over any labor, material, or equipment the employee or person furnishes for the construction, alteration, or maintenance of a building or the preparation of working drawings or specifications for work within the jurisdictional area of the department. The department shall provide other similarly qualified personnel to enforce the residential and nonresidential building codes as

they pertain to that work.

(b) The minimum services to be provided by a certified building department.

(11) The board of building standards may revoke or suspend certification to enforce the residential and nonresidential building codes, on petition to the board by any person affected by that enforcement or approval of plans, or by the board on its own motion. Hearings shall be held and appeals permitted on any proceedings for certification or revocation or suspension of certification in the same manner as provided in section 3781.101 of the Revised Code for other proceedings of the board of building standards.

(12) Upon certification, and until that authority is revoked, any county or township building department shall enforce the residential and nonresidential building codes for which it is certified without regard to limitation upon the authority of boards of county commissioners under Chapter 307. of the Revised Code or boards of township trustees under Chapter 505. of the Revised Code.

(F) In addition to hearings sections 3781.06 to 3781.18 and 3791.04 of the Revised Code require, the board of building standards shall make investigations and tests, and require from other state departments, officers, boards, and commissions information the board considers necessary or desirable to assist it in the discharge of any duty or the exercise of any power mentioned in this section or in sections 3781.06 to 3781.18, 3791.04, and 4104.43 of the Revised Code.

(G) The board shall adopt rules and establish reasonable fees for the review of all applications submitted where the applicant applies for authority to use a new material, assembly, or product of a manufacturing process. The fee shall bear some reasonable relationship to the cost of the review or testing of the materials, assembly, or products and for the notification of approval or disapproval as provided in section 3781.12 of the Revised Code.

(H) The residential construction advisory committee shall provide the board with a proposal for a state residential building code that the committee recommends pursuant to division (C)(1) of section 4740.14 of the Revised Code. Upon receiving a recommendation from the committee that is acceptable to the board, the board shall adopt rules establishing that code as the state residential building code.

(I) The board shall cooperate with the director of job and family services when the director promulgates rules pursuant to section 5104.05 of the Revised Code regarding safety and sanitation in type A family day-care

homes.

(J) The board shall adopt rules to implement the requirements of section 3781.108 of the Revised Code.

Sec. 3781.102. (A) Any county or municipal building department certified pursuant to division (E) of section 3781.10 of the Revised Code as of September 14, 1970, and that, as of that date, was inspecting single-family, two-family, and three-family residences, and any township building department certified pursuant to division (E) of section 3781.10 of the Revised Code, is hereby declared to be certified to inspect single-family, two-family, and three-family residences containing industrialized units, and shall inspect the buildings or classes of buildings subject to division (E) of section 3781.10 of the Revised Code.

(B) Each board of county commissioners may adopt, by resolution, rules establishing standards and providing for the licensing of electrical and heating, ventilating, and air conditioning contractors who are not required to hold a valid and unexpired license pursuant to Chapter 4740. of the Revised Code.

Rules adopted by a board of county commissioners pursuant to this division may be enforced within the unincorporated areas of the county and within any municipal corporation where the legislative authority of the municipal corporation has contracted with the board for the enforcement of the county rules within the municipal corporation pursuant to section 307.15 of the Revised Code. The rules shall not conflict with rules adopted by the board of building standards pursuant to section 3781.10 of the Revised Code or by the department of commerce pursuant to Chapter 3703. of the Revised Code. This division does not impair or restrict the power of municipal corporations under Section 3 of Article XVIII, Ohio Constitution, to adopt rules concerning the erection, construction, repair, alteration, and maintenance of buildings and structures or of establishing standards and providing for the licensing of specialty contractors pursuant to section 715.27 of the Revised Code.

A board of county commissioners, pursuant to this division, may require all electrical contractors and heating, ventilating, and air conditioning contractors, other than those who hold a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code, to successfully complete an examination, test, or demonstration of technical skills, and may impose a fee and additional requirements for a license to engage in their respective occupations within the jurisdiction of the board's rules under this division.

(C) No board of county commissioners shall require any specialty contractor who holds a valid and unexpired license issued pursuant to

Chapter 4740. of the Revised Code to successfully complete an examination, test, or demonstration of technical skills in order to engage in the type of contracting for which the license is held, within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code.

(D) A board may impose a fee for registration of a specialty contractor who holds a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code before that specialty contractor may engage in the type of contracting for which the license is held within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code, provided that the fee is the same for all specialty contractors who wish to engage in that type of contracting. If a board imposes such a fee, the board immediately shall permit a specialty contractor who presents proof of holding a valid and unexpired license and pays the required fee to engage in the type of contracting for which the license is held within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code.

(E) The political subdivision associated with each municipal, township, and county building department the board of building standards certifies pursuant to division (E) of section 3781.10 of the Revised Code may prescribe fees to be paid by persons, political subdivisions, or any department, agency, board, commission, or institution of the state, for the acceptance and approval of plans and specifications, and for the making of inspections, pursuant to sections 3781.03 and 3791.04 of the Revised Code.

(F) Each political subdivision that prescribes fees pursuant to division (E) of this section shall collect, on behalf of the board of building standards, fees equal to the following:

(1) Three per cent of the fees the political subdivision collects in connection with nonresidential buildings;

(2) One per cent of the fees the political subdivision collects in connection with residential buildings.

(G)(1) The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner in which the fee assessed pursuant to division (F) of this section shall be collected and remitted monthly to the

board. The board shall pay the fees into the state treasury to the credit of the industrial compliance operating fund created in section 121.084 of the Revised Code.

(2) All money credited to the industrial compliance operating fund under this division shall be used exclusively for the following:

(a) Operating costs of the board;

(b) Providing services, including educational programs, for the building departments that are certified by the board pursuant to division (E) of section 3781.10 of the Revised Code;

(c) Paying the expenses of the residential construction advisory committee, including the expenses of committee members as provided in section 4740.14 of the Revised Code.

(H) A board of county commissioners that adopts rules providing for the licensing of electrical and heating, ventilating, and air conditioning contractors, pursuant to division (B) of this section, may accept, for purposes of satisfying the requirements of rules adopted under that division, a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code that is held by an electrical or heating, ventilating, and air conditioning contractor, for the construction, replacement, maintenance, or repair of one-family, two-family, or three-family dwelling houses or accessory structures incidental to those dwelling houses.

(I) A board of county commissioners shall not register a specialty contractor who is required to hold a license under Chapter 4740. of the Revised Code but does not hold a valid license issued under that chapter.

(J) As used in this section, "specialty contractor" means a heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor, as those contractors are described in Chapter 4740. of the Revised Code.

Sec. 3781.191. The Ohio board of building appeals has no authority to hear any case based on the Ohio residential building code or to grant any variance to the Ohio residential building code.

Sec. 3793.09. (A) There is hereby created the council on alcohol and drug addiction services which shall consist of the public officials specified in division (B) of this section, or their designees, and thirteen members appointed by the governor with the advice and consent of the senate. The members appointed by the governor shall be representatives of the following: boards of alcohol, drug addiction, and mental health services; the criminal and juvenile justice systems; and alcohol and drug addiction programs. At least four of the appointed members shall be persons who have received or are receiving alcohol or drug addiction services or are parents or

other relatives of such persons; of these at least two shall be women and at least one shall be a member of a minority group.

The governor shall make initial appointments to the council not later than thirty days after October 10, 1989. Of the initial appointments, six shall be for terms ending July 31, 1991, and seven shall be for terms ending July 31, 1992. Thereafter, terms of office shall be two years, with each term ending on the same day of the same month as the term it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the same manner as original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of the term. A member shall continue in office subsequent to the expiration of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(B) The directors of health, public safety, mental health, rehabilitation and correction, and youth services; the superintendents of public instruction and liquor control; the attorney general; the adjutant general; and the executive director of the ~~office~~ division of criminal justice services in the department of public safety shall be voting members of the council, except that any of these officials may designate an individual to serve in the official's place as a voting member of the council. The director of alcohol and drug addiction services shall serve as a nonvoting member of the council.

(C) The governor shall annually appoint a ~~chairman~~ chairperson from among the members of the council. The council shall meet quarterly and at other times the ~~chairman~~ chairperson considers necessary. In addition to other duties specified in this chapter, the council shall review the development of the comprehensive statewide plan for alcohol and drug addiction services, revisions of the plan, and other actions taken to implement the purposes of this chapter by the department of alcohol and drug addiction services and shall act as an advisory council to the director of alcohol and drug addiction services.

(D) Members of the council shall serve without compensation, but shall be paid actual and necessary expenses incurred in the performance of their duties.

Sec. 3901.021. (A) Three-fourths of all appointment and other fees collected under section 3905.10~~,~~ and division (B) of section 3905.20~~, and division (A)(6) of section 3905.40~~ of the Revised Code shall be paid into the

state treasury to the credit of the department of insurance operating fund, which is hereby created. The remaining one-fourth shall be credited to the general revenue fund. ~~All~~ Other revenues collected by the superintendent of insurance, such as registration fees for sponsored seminars or conferences and grants from private entities, shall be paid into the state treasury to the credit of the department of insurance operating fund.

(B) Seven-tenths of all fees collected under divisions (A)(2), (A)(3), and (A)(6) of section 3905.40 of the Revised Code shall be paid into the state treasury to the credit of the department of insurance operating fund. The remaining three-tenths shall be credited to the general revenue fund.

(C) All operating expenses of the department of insurance except those expenses defined under section 3901.07 of the Revised Code shall be paid from the department of insurance operating fund.

Sec. 3901.17. (A) As used in this section:

(1) "Captive insurer" has the meaning defined in section 3905.36 of the Revised Code.

(2) "Insurer" includes, but is not limited to, any person that is an affiliate of or affiliated with the insurer, as defined in division (A) of section 3901.32 of the Revised Code, and any person that is a subsidiary of the insurer as defined in division (F) of section 3901.32 of the Revised Code.

~~(2)~~(3) "Laws of this state relating to insurance" has the meaning defined in division (A)(1) of section 3901.04 of the Revised Code.

~~(3)~~(4) "Person" has the meaning defined in division (A) of section 3901.19 of the Revised Code.

(B) Any of the following acts in this state, effected by mail or otherwise, by any foreign or alien insurer not authorized to transact business within this state, any nonresident person acting on behalf of an insurer, or any nonresident insurance agent subjects the insurer, person, or agent to the exercise of personal jurisdiction over the insurer, person, or agent to the extent permitted by the constitutions of this state and of the United States:

(1) Issuing or delivering contracts of insurance to residents of this state or to corporations authorized to do business therein;

(2) Making or proposing to make any insurance contracts;

(3) Soliciting, taking, or receiving any application for insurance;

(4) Receiving or collecting any premium, commission, membership fee, assessment, dues, or other consideration for any insurance contract or any part thereof;

(5) Disseminating information as to coverage or rates, forwarding applications, inspecting risks, fixing rates, investigating or adjusting claims or losses, transacting any matters subsequent to effecting a contract of

insurance and arising out of it;

(6) Doing any kind of business recognized as constituting the doing of an insurance business under Title XXXIX of the Revised Code or subject to regulation by the superintendent of insurance under the laws of this state relating to insurance.

Any such act shall be considered to be the doing of an insurance business in this state by such insurer, person, or agent and shall be its agreement that service of any lawful subpoena, notice, order, or process is of the same legal force and validity as personal service of the subpoena, notice, order, or process in this state upon the insurer, person, or agent.

(C) Service of process in judicial proceedings shall be as provided by the Rules of Civil Procedure. Service in or out of this state of notice, orders, or subpoenas in administrative proceedings before the superintendent shall be as provided in section 3901.04 of the Revised Code.

(D) Service of any notice, order, subpoena, or process in any such action, suit, or proceeding shall, in addition to the manner provided in division (C) of this section, be valid if served upon any person within this state who, in this state on behalf of such insurer, person, or agent is or has been:

(1) Soliciting, procuring, effecting, or negotiating for insurance;

(2) Making, issuing, or delivering any contract of insurance;

(3) Collecting or receiving any premium, membership fees, assessment, dues, or other consideration for insurance;

(4) Disseminating information as to coverage or rates, forwarding applications, inspecting risks, fixing rates, investigating or adjusting claims or losses, or transacting any matters subsequent to effecting a contract of insurance and arising out of it.

(E) Nothing in this section shall limit or abridge the right to serve any subpoena, order, process, notice, or demand upon any insurer, person, or agent in any other manner permitted by law.

(F) Every person investigating or adjusting any loss or claim under a policy of insurance not excepted under division (I) of this section and issued by any such insurer and covering a subject of insurance that was resident, located, or to be performed in this state at the time of issuance shall immediately report the policy to the superintendent.

(G) Each such insurer that does any of the acts set forth in division (B) of this section in this state by mail or otherwise shall be subject to a tax of five per cent on the gross premiums, membership fees, assessments, dues, and other considerations received on all contracts of insurance covering subjects of insurance resident, located, or to be performed within this state.

Such insurer shall annually, on or before the first day of July, pay such tax to the treasurer of state, as calculated on a form prescribed by the treasurer of state. If the tax is not paid when due, the tax shall be increased by a penalty of twenty-five per cent. An interest charge computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date the tax is due until it is paid. The treasurer of state shall determine and report all claims for penalties and interest accruing under this section to the attorney general for collection.

For purposes of this division, payment is considered made when it is received by the treasurer of state, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed.

(H) No contract of insurance effected in this state by mail or otherwise by any such insurer is enforceable by the insurer.

(I) This section does not apply to:

(1) Insurance obtained pursuant to sections 3905.30 to 3905.36 of the Revised Code;

(2) The transaction of reinsurance by insurers;

(3) Transactions in this state involving a policy solicited, written, and delivered outside this state covering only subjects of insurance not resident, located, or to be performed in this state at the time of issuance, provided such transactions are subsequent to the issuance of the policy;

(4) Transactions in this state involving a policy of group life or group accident and sickness insurance solicited, written, and delivered outside this state;

(5) Transactions involving contracts of insurance independently procured through negotiations occurring entirely outside this state which are reported to the superintendent and with respect to which the tax provided by section 3905.36 of the Revised Code is paid;

(6) An attorney at law acting on behalf of the attorney's clients in the adjustment of claims or losses;

(7) ~~Any~~ Except as provided in division (G) of this section, any insurance company underwriter issuing contracts of insurance to employer insureds or contracts of insurance issued to an employer insured. For purposes of this section, an "employer insured" is an insured to whom all of the following apply:

(a) The insured procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously qualified insurance consultant.

As used in division (I)(7)(a) of this section, a "regularly and continuously qualified insurance consultant" does not include any person licensed under Chapter 3905. of the Revised Code.

(b) The insured's aggregate annual premiums for insurance on all risks total at least twenty-five thousand dollars; and

(c) The insured has at least twenty-five full-time employees.

(8) Ocean marine insurance;

(9) Transactions involving policies issued by a captive insurer.

Sec. 3901.3814. Sections 3901.38 and 3901.381 to 3901.3813 of the Revised Code do not apply to the following:

(A) Policies offering coverage that is regulated under Chapters 3935. and 3937. of the Revised Code;

(B) An employer's self-insurance plan and any of its administrators, as defined in section 3959.01 of the Revised Code, to the extent that federal law supersedes, preempts, prohibits, or otherwise precludes the application of any provisions of those sections to the plan and its administrators;

(C)(1) A third-party payer for coverage provided under the medicare ~~plus choice or medicaid programs~~ advantage program operated under Title XVIII ~~and XIX~~ of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(2) A third-party payer for coverage provided under the medicaid program operated under Title XIX of the Social Security Act, except that if a federal waiver applied for under section 5101.93 of the Revised Code is granted or the director of job and family services determines that this provision can be implemented without a waiver, sections 3901.38 and 3901.381 to 3901.3813 of the Revised Code apply to claims submitted electronically or non-electronically that are made with respect to coverage of medicaid recipients by health insuring corporations licensed under Chapter 1751. of the Revised Code.

(D) A third-party payer for coverage provided under the tricare program offered by the United States department of defense.

Sec. 3901.78. ~~Upon the filing of each of its annual statements, or as soon thereafter as practicable, the superintendent of insurance shall issue to each insurance company or association authorized to do business in this state but not incorporated under the laws of this state a certificate of compliance, an original of which must be published in accordance with section 3901.781 of the Revised Code in every county where the insurance company or association has an agency.~~ Upon request or in any other circumstance that the superintendent of insurance determines to be appropriate, the superintendent may issue ~~other~~ certificates of compliance~~,~~

~~which certificates are not subject to section 3901.781 of the Revised Code,~~ to insurance companies and associations authorized to do business in this state~~. Certificates of compliance either must~~, which shall be on either forms established by the national association of insurance commissioners or on such other forms as the superintendent may prescribe.

Sec. 3903.14. (A) The superintendent of insurance as rehabilitator may appoint one or more special deputies, who shall have all the powers and responsibilities of the rehabilitator granted under this section, and the superintendent may employ such clerks and assistants as considered necessary. The compensation of the special deputies, clerks, and assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the superintendent, with the approval of the court and shall be paid out of the funds or assets of the insurer. The persons appointed under this section shall serve at the pleasure of the superintendent. In the event that the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the superintendent may advance the costs so incurred out of any appropriation for the maintenance of the department of insurance. Any amounts so advanced for expenses of administration shall be repaid to the superintendent for the use of the department out of the first available money of the insurer.

(B) The rehabilitator may take such action as ~~he~~ the rehabilitator considers necessary or appropriate to reform and revitalize the insurer. ~~He~~ The rehabilitator shall have all the powers of the directors, officers, and managers, whose authority shall be suspended, except as they are redelegated by the rehabilitator. ~~He~~ The rehabilitator shall have full power to direct and manage, to hire and discharge employees subject to any contract rights they may have, and to deal with the property and business of the insurer.

(C) If it appears to the rehabilitator that there has been criminal or tortious conduct, or breach of any contractual or fiduciary obligation detrimental to the insurer by any officer, manager, agent, director, trustee, broker, employee, or other person, ~~he~~ the rehabilitator may pursue all appropriate legal remedies on behalf of the insurer.

(D) If the rehabilitator determines that reorganization, consolidation, conversion, reinsurance, merger, or other transformation of the insurer is appropriate, ~~he~~ the rehabilitator shall prepare a plan to effect such changes. Upon application of the rehabilitator for approval of the plan, and after such notice and hearings as the court may prescribe, the court may either approve or disapprove the plan proposed, or may modify it and approve it as modified. Any plan approved under this section shall be, in the judgment of

the court, fair and equitable to all parties concerned. If the plan is approved, the rehabilitator shall carry out the plan. In the case of a life insurer, the plan proposed may include the imposition of liens upon the policies of the company, if all rights of shareholders are first relinquished. A plan for a life insurer may also propose imposition of a moratorium upon loan and cash surrender rights under policies, for such period and to such an extent as may be necessary.

(E) In the case of a medicaid health insuring corporation that has posted a bond or deposited securities in accordance with section 1751.271 of the Revised Code, the plan proposed under division (D) of this section may include the use of the proceeds of the bond or securities to first pay the claims of contracted providers for covered health care services provided to medicaid recipients, then next to pay other claimants with any remaining funds, consistent with the priorities set forth in sections 3903.421 and 3903.42 of the Revised Code.

(F) The rehabilitator shall have the power under sections 3903.26 and 3903.27 of the Revised Code to avoid fraudulent transfers.

(G) As used in this section:

(1) "Contracted provider" means a provider with a contract with a medicaid health insuring corporation to provide covered health care services to medicaid recipients.

(2) "Medicaid recipient" means a person eligible for assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code.

Sec. 3903.42. The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment. No subclasses shall be established within any class. The order of distribution of claims shall be:

(A) Class 1. The costs and expenses of administration, including but not limited to the following:

(1) The actual and necessary costs of preserving or recovering the assets of the insurer;

(2) Compensation for all services rendered in the liquidation;

(3) Any necessary filing fees;

(4) The fees and mileage payable to witnesses;

(5) Reasonable attorney's fees;

(6) The reasonable expenses of a guaranty association or foreign guaranty association in handling claims.

(B) Class 2. All claims under policies for losses incurred, including third

party claims, all claims of contracted providers against a medicaid health insuring corporation for covered health care services provided to medicaid recipients, all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property that are not under policies, and all claims of a guaranty association or foreign guaranty association. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment by an employer to an employee shall be treated as a gratuity. Claims under nonassessable policies for unearned premium or other premium refunds.

(C) Class 3. Claims of the federal government.

(D) Class 4. Debts due to employees for services performed to the extent that they do not exceed one thousand dollars and represent payment for services performed within one year before the filing of the complaint for liquidation. Officers and directors shall not be entitled to the benefit of this priority. Such priority shall be in lieu of any other similar priority that may be authorized by law as to wages or compensation of employees.

(E) Class 5. Claims of general creditors.

(F) Class 6. Claims of any state or local government. Claims, including those of any state or local governmental body for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under division (I) of this section.

(G) Class 7. Claims filed late or any other claims other than claims under divisions (H) and (I) of this section.

(H) Class 8. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies shall be limited in accordance with law.

(I) Class 9. The claims of shareholders or other owners.

If any provision of this section or the application of any provision of this section to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section, and to this end the provisions are severable.

(J) As used in sections 3903.42 and 3903.421 of the Revised Code,

"contracted provider" and "medicaid recipient" have the same meanings as in secion 3903.14 of the Revised Code.

Sec. 3903.421. (A) Notwithstanding section 3903.42 of the Revised Code, both of the following apply to medicaid health insuring corporation performance bonds and securities:

(1) Proceeds from the bond issued or securities held pursuant to section 1751.271 of the Revised Code that have been paid to or deposited with the department of insurance shall be considered special deposits for purposes of satisfying claims of contracted providers for covered health care services provided to medicaid recipients;

(2) Contracted providers that have claims against a health insuring corporation for covered health care services provided to medicaid recipients shall be given first priority against the proceeds of the bond or securities held pursuant to section 1751.27 of the Revised Code, to the exclusion of other creditors, except as provided for in this section.

(B) If the amount of the proceeds of the bond or securities are not sufficient to satisfy all of the allowed claims of contracted providers for covered health care services provided to medicaid recipients, payment shall proceed as follows:

(1) Contracted providers shall share in the proceeds of the bond or securities pro rata based on the allowed amount of the providers' claims against the health insuring corporation for covered health care services provided to medicaid recipients;

(2) After payments are made under division (B)(1) of this section, the net unpaid balance of the claims of contracted providers shall be allowed for payment from the general assets of the estate in accordance with the priorities set forth in section 3903.42 of the Revised Code.

(C) If the amount of the proceeds of the bond or securities exceeds the allowed claims of contracted providers for covered health care services provided to medicaid recipients, the excess amount shall be considered a general asset of the health insuring corporation's estate to be distributed to other claimants in accordance with the priorities set forth in section 3903.42 of the Revised Code.

Sec. 3905.04. (A) Except as otherwise provided in section 3905.041 of the Revised Code, a resident individual applying for an insurance agent license for any of the lines of authority described in division (B) of this section shall take a written examination. The examination shall test the knowledge of the individual with respect to the lines of authority for which application is made, the duties and responsibilities of an insurance agent, and the insurance laws of this state. Before admission to the examination,

each individual shall pay the nonrefundable fee required under division ~~(D)~~(C) of section 3905.40 of the Revised Code.

(B) The examination described in division (A) of this section shall be required for the following lines of authority:

(1) Any of the lines of authority set forth in divisions (B)(1) to (6) of section 3905.06 of the Revised Code;

(2) Title insurance;

(3) Surety bail bonds as provided in sections 3905.83 to 3905.95 of the Revised Code;

(4) Any other line of authority designated by the superintendent of insurance.

(C) An individual shall not be permitted to take the examination described in division (A) of this section unless one or both of the following apply:

(1) The individual has earned a bachelor's or associate's degree in insurance from an accredited institution.

(2) The individual has completed, for each line of authority for which the individual has applied, twenty hours of study in a program of insurance education approved by the superintendent, in consultation with the insurance agent education advisory council, under criteria established by the superintendent. Division (C) of this section does not apply with respect to title insurance or any other line of authority designated by the superintendent.

(D) An individual who fails to appear for an examination as scheduled, or fails to pass an examination, may reapply for the examination if the individual pays the required fee and submits any necessary forms prior to being rescheduled for the examination.

(E)(1) The superintendent may, in accordance with Chapter 119. of the Revised Code, adopt any rule necessary for the implementation of this section.

(2) The superintendent may make any necessary arrangements, including contracting with an outside testing service, for the administration of the examinations and the collection of the fees required by this section.

Sec. 3905.36. ~~Every~~ (A) Except as provided in divisions (B) and (C) of this section, every insured association, company, corporation, or other person that enters, directly or indirectly, into any agreements with any insurance company, association, individual, firm, underwriter, or Lloyd, not authorized to do business in this state, whereby the insured shall procure, continue, or renew contracts of insurance covering subjects of insurance resident, located, or to be performed within this state, with such

unauthorized insurance company, association, individual, firm, underwriter, or Lloyd, for which insurance there is a gross premium, membership fee, assessment, dues, or other consideration charged or collected, shall annually, on or before the thirty-first day of January, return to the superintendent of insurance a statement under oath showing the name and address of the insured, name and address of the insurer, subject of the insurance, general description of the coverage, and amount of gross premium, fee, assessment, dues, or other consideration for such insurance for the preceding twelve-month period and shall at the same time pay to the treasurer of state a tax of five per cent of such gross premium, fee, assessment, dues, or other consideration, after a deduction for return premium, if any, as calculated on a form prescribed by the treasurer of state. All taxes collected under this section by the treasurer of state shall be paid into the general revenue fund. If the tax is not paid when due, the tax shall be increased by a penalty of twenty-five per cent. An interest charge computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date the tax is due until it is paid. For purposes of this section, payment is considered made when it is received by the treasurer of state, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed. ~~This~~

(B) This section does not apply to:

~~(A) Insurance obtained pursuant to sections 3905.30 to 3905.35 of the Revised Code;~~

~~(B)~~(1) Transactions in this state involving a policy solicited, written, and delivered outside this state covering only subjects of insurance not resident, located, or to be performed in this state at the time of issuance, provided such transactions are subsequent to the issuance of the policy;

~~(C)~~(2) Attorneys-at-law acting on behalf of their clients in the adjustment of claims or losses;

~~(D) Any insurance company underwriter issuing contracts of insurance to employer insureds or contracts of insurance issued to an employer insured. For purposes of this section an "employer insured" is an insured:~~

~~(1) Who procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously qualified insurance consultant. As used in division (D)(1) of this section, a "regularly and continuously qualified insurance consultant" does not include any person licensed under Chapter 3905. of the Revised Code.~~

~~(2) Whose aggregate annual premiums for insurance on all risks total at~~

~~least twenty-five thousand dollars; and~~

~~(3) Who has at least twenty-five full-time employees.~~

(3) Transactions involving policies issued by a captive insurer. For this purpose, a "captive insurer" means any of the following:

(a) An insurer owned by one or more individuals or organizations, whose exclusive purpose is to insure risks of one or more of the parent organizations or individual owners and risks of one or more affiliates of the parent organizations or individual owners;

(b) In the case of groups and associations, insurers owned by the group or association whose exclusive purpose is to insure risks of members of the group or association and affiliates of the members;

(c) Other types of insurers, licensed and operated in accordance with the captive insurance laws of their jurisdictions of domicile and operated in a manner so as to self-insure risks of their owners and insureds.

(4) Professional or medical liability insurance procured by a hospital organized under Chapter 3701. of the Revised Code.

~~Each~~ (C) In transactions that are subject to sections 3905.30 to 3905.35 of the Revised Code, each person licensed under section 3905.30 of the Revised Code shall pay to the treasurer of state, on or before the thirty-first day of January of each year, five per cent of the balance of the gross premiums charged for insurance placed or procured under the license after a deduction for return premiums, as reported on a form prescribed by the treasurer of state. The tax shall be collected from the insured by the surplus line broker who placed or procured the policy of insurance at the time the policy is delivered to the insured. No license issued under section 3905.30 of the Revised Code shall be renewed until payment is made. If the tax is not paid when due, the tax shall be increased by a penalty of twenty-five per cent. An interest charge computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date the tax is due until it is paid. For purposes of this section, payment is considered made when it is received by the treasurer of state, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed.

Sec. 3905.40. There shall be paid to the superintendent of insurance the following fees:

(A) Each insurance company doing business in this state shall pay:

(1) For filing a copy of its charter or deed of settlement, two hundred fifty dollars;

(2) For filing each statement, ~~twenty-five~~ one hundred seventy-five

dollars;

(3) For each certificate of authority or license, one hundred seventy-five, and for each certified copy thereof, five dollars;

(4) For each copy of a paper filed in the superintendent's office, twenty cents per page;

(5) For issuing certificates of deposits or certified copies thereof, five dollars for the first certificate or copy and one dollar for each additional certificate or copy;

(6) For issuing certificates of compliance or certified copies thereof, ~~twenty~~ sixty dollars;

(7) For affixing the seal of office and certifying documents, other than those enumerated herein, two dollars.

(B) Each domestic life insurance company doing business in this state shall pay for annual valuation of its policies, one cent on every one thousand dollars of insurance.

(C) ~~Each foreign insurance company doing business in this state shall pay for making and forwarding annually, semiannually, and quarterly the interest checks and coupons accruing upon bonds and securities deposited, fifty dollars each year on each one hundred thousand dollars deposited.~~

~~(D)~~ Each applicant for licensure as an insurance agent shall pay ten dollars before admission to any examination required by the superintendent. Such fee shall not be paid by the appointing insurance company.

~~(E)~~(D) Each domestic mutual life insurance company shall pay for verifying that any amendment to its articles of incorporation was regularly adopted, two hundred fifty dollars with each application for verification. Any such amendment shall be considered to have been regularly adopted when approved by the affirmative vote of two-thirds of the policyholders present in person or by proxy at any annual meeting of policyholders or at a special meeting of policyholders called for that purpose.

Sec. 3923.27. No policy of sickness and accident insurance delivered, issued for delivery, or renewed in this state after ~~the effective date of this section~~ August 26, 1976, including both individual and group policies, that provides hospitalization coverage for mental illness shall exclude such coverage for the reason that the insured is hospitalized in an institution or facility receiving tax support from the state, any municipal corporation, county, or joint county board, whether such institution or facility is deemed charitable or otherwise, provided the institution or facility or portion thereof is fully accredited by the joint commission on accreditation of hospitals or certified under Titles XVIII and XIX of the "Social Security Act of 1935," 79 Stat. 291, 42 U.S.C.A. 1395, as amended. The insurance coverage shall

provide payment amounting to the lesser of either the full amount of the statutory charge for the cost of the services pursuant to ~~division (B)(8) of section 5121.04~~ section 5121.33 of the Revised Code or the benefits payable for the services under the applicable insurance policy. Insurance benefits for the coverage shall be paid so long as patients and their liable relatives retain their statutory liability pursuant to ~~the requirements of sections 5121.01 to 5121.10~~ section 5121.33 of the Revised Code. Only that portion or per cent of the benefits shall be payable that has been assigned, or ordered to be paid, to the state or other appropriate provider for services rendered by the institution or facility.

Sec. 4112.12. (A) There is hereby created the commission on African-American males, which shall consist of not more than forty-one members as follows: the directors or their designees of the departments of health, development, alcohol and drug addiction services, job and family services, rehabilitation and correction, mental health, and youth services; the adjutant general or the adjutant general's designee; the equal employment opportunity officer of the department of administrative services or the equal employment opportunity officer's designee; the executive director or the executive director's designee of the Ohio civil rights commission; the executive director or the executive director's designee of the ~~office~~ division of criminal justice services in the department of public safety; the superintendent of public instruction; the chancellor or the chancellor's designee of the Ohio board of regents; two members of the house of representatives appointed by the speaker of the house of representatives; three members of the senate appointed by the president of the senate; and not more than twenty-three members appointed by the governor. The members appointed by the governor shall include an additional member of the governor's cabinet and at least one representative of each of the following: the national association for the advancement of colored people; the urban league; an organization representing black elected officials; an organization representing black attorneys; the black religious community; the black business community; the nonminority business community; and organized labor; at least one black medical doctor, one black elected member of a school board, and one black educator; and at least two representatives of local private industry councils. The remaining members that may be appointed by the governor shall be selected from elected officials, civic and community leaders, and representatives of the employment, criminal justice, education, and health communities.

(B) Terms of office shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each

member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. 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 as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

The commission annually shall elect a chairperson from among its members.

(C) Members of the commission and members of subcommittees appointed under division (B) of section 4112.13 of the Revised Code shall not be compensated, but shall be reimbursed for their necessary and actual expenses incurred in the performance of their official duties.

(D)(1) The Ohio civil rights commission shall serve as the commission on African-American males' fiscal agent and shall perform all of the following services:

(a) Prepare and process payroll and other personnel documents that the commission on African-American males approves;

(b) Maintain ledgers of accounts and reports of account balances, and monitor budgets and allotment plans in consultation with the commission on African-American males;

(c) Perform other routine support services that the executive director of the Ohio civil rights commission or the executive director's designee and the Commission on African-American males or its designee consider appropriate to achieve efficiency.

(2) The Ohio civil rights commission shall not approve any payroll or other personnel-related documents or any biennial budget, grant, expenditure, audit, or fiscal-related document without the advice and consent of the commission on African-American males.

(3) The Ohio civil rights commission shall determine fees to be charged to the commission on African-American males for services performed under this division, which shall be in proportion to the services performed for the commission on African-American males.

(4) The commission on African-American males or its designee has:

(a) Sole authority to draw funds for any federal program in which the commission is authorized to participate;

(b) Sole authority to expend funds from accounts for programs and any other necessary expenses the commission on African-American males may

incur;

(c) The duty to cooperate with the Ohio civil rights commission to ensure that the Ohio civil rights commission is fully apprised of all financial transactions.

(E) The commission on African-American males shall appoint an executive director, who shall be in the unclassified civil service. The executive director shall supervise the commission's activities and report to the commission on the progress of those activities. The executive director shall do all things necessary for the efficient and effective implementation of the duties of the commission.

The responsibilities assigned to the executive director do not relieve the members of the commission from final responsibility for the proper performance of the requirements of this division.

(F) The commission on African-American males shall:

(1) Employ, promote, supervise, and remove all employees, as needed, in connection with the performance of its duties under this section;

(2) Maintain its office in Columbus;

(3) Acquire facilities, equipment, and supplies necessary to house the commission, its employees, and files and records under its control, and to discharge any duty imposed upon it by law. The expense of these acquisitions shall be audited and paid for in the same manner as other state expenses.

(4) Prepare and submit to the office of budget and management a budget for each biennium in accordance with sections 101.55 and 107.03 of the Revised Code. The budget submitted shall cover the costs of the commission and its staff in the discharge of any duty imposed upon the commission by law. The commission shall pay its own payroll and other operating expenses from appropriation items designated by the general assembly. The commission shall not delegate any authority to obligate funds.

(5) Establish the overall policy and management of the commission in accordance with this chapter;

(6) Follow all state procurement requirements;

(7) Pay fees owed to the Ohio civil rights commission under division (D) of this section from the commission on African-American males' general revenue fund or from any other fund from which the operating expenses of the commission on African-American males are paid. Any amounts set aside for a fiscal year for the payment of such fees shall be used only for the services performed for the commission on African-American males by the Ohio civil rights commission in that fiscal year.

(G) The commission on African-American males may:

(1) Hold sessions at any place within the state;

(2) Establish, change, or abolish positions, and assign and reassign duties and responsibilities of any employee of the commission on African-American males as necessary to achieve the most efficient performance of its functions.

Sec. 4115.32. (A) ~~There~~ Subject to section 4115.36 of the Revised Code, there is hereby created the state committee for the purchase of products and services provided by persons with severe disabilities. The committee shall be composed ex officio of the following persons, or their designees:

(1) The directors of administrative services, mental health, mental retardation and developmental disabilities, transportation, natural resources, and commerce;

(2) The administrators of the rehabilitation services commission and the bureau of workers' compensation;

(3) The secretary of state;

(4) One representative of a purchasing department of a political subdivision who is designated by the governor.

The governor shall appoint two representatives of a qualified nonprofit agency for persons with severe disabilities, and a person with a severe disability to the committee.

(B) Within thirty days after September 29, 1995, the governor shall appoint the representatives of a qualified nonprofit agency for persons with severe disabilities to the committee for a term ending August 31, 1996. Thereafter, terms for such representatives are for three years, each term ending on the same day of the same month of the year as did the term that it succeeds. Each committee member shall serve from the date of the member's appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the same manner provided for original appointments. 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 serve as a member for the remainder of that term. A member shall serve subsequent to the expiration of the member's term and shall continue to serve until the member's successor takes office.

(C) Members of the committee shall serve without compensation. Except as otherwise provided in divisions (C)(1) and (2) of this section, members shall be reimbursed for actual and necessary expenses, including travel expenses, incurred while away from their homes or regular places of business and incurred while performing services for the committee.

(1) The members listed in divisions (A)(1) to (3) of this section, or their designees, shall not be reimbursed for any expenses.

(2) No member of the committee who is entitled to receive reimbursement for the performance of services for the committee from another agency or entity shall receive reimbursement from the committee.

(D) The committee shall elect from among its members a chairperson. The committee may request from any agency of the state, political subdivision, or instrumentality of the state any information necessary to enable it to carry out the intent of sections 4115.31 to 4115.35 of the Revised Code. Upon request of the committee, the agency, subdivision, or instrumentality shall furnish the information to the chairperson of the committee.

(E) The committee shall not later than one hundred eighty days following the close of each fiscal year transmit to the governor, the general assembly, and each qualified nonprofit agency for persons with severe disabilities a report that includes the names of the committee members serving during the preceding fiscal year, the dates of committee meetings in that year, and any recommendations for changes in sections 4115.31 to 4115.35 of the Revised Code that the committee determines are necessary.

(F) The director of ~~mental retardation and developmental disabilities~~ administrative services shall designate a subordinate to act as executive director of the committee and shall furnish other staff and clerical assistance, office space, and supplies required by the committee.

Sec. 4115.34. (A) ~~If~~ Except as provided in section 4115.36 of the Revised Code, if any state agency, political subdivision, or instrumentality of the state intends to procure any product or service, it shall determine whether the product or service is on the procurement list published pursuant to section 4115.33 of the Revised Code; and it shall, in accordance with rules of the state committee for the purchase of products and services provided by persons with severe disabilities, procure such product or service at the fair market price established by the committee from a qualified nonprofit agency for persons with severe disabilities, if the product or service is on the procurement list and is available within the period required by that agency, subdivision, or instrumentality, notwithstanding any law requiring the purchase of products and services on a competitive bid basis. Sections 4115.31 to 4115.35 of the Revised Code do not apply if the products or services are available for procurement from any state agency, political subdivision, or instrumentality of the state and procurement from such agency, subdivision, or instrumentality is required under any law in effect on August 13, 1976.

(B) The committee and any state agency, political subdivision, or instrumentality of the state may enter into contractual agreements, cooperative working relationships, or other arrangements determined necessary for effective coordination and efficient realization of the objectives of sections 4115.31 to 4115.35 of the Revised Code and any other law requiring procurement of products or services from any state agency, political subdivision, or instrumentality of the state.

(C) Notwithstanding any other section of the Revised Code, or any appropriations act, that may require a state agency, political subdivision, or instrumentality of the state to purchase supplies, services, or materials by means of a competitive bid procedure, state agencies, political subdivisions, or instrumentalities of the state need not utilize the required bidding procedures if the supplies, services, or materials are to be purchased from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code.

Sec. 4115.36. Sections 4115.31 to 4115.35 of the Revised Code have no effect after the director of administrative services abolishes the state committee for the purchase of products and services provided by persons with severe disabilities. Upon abolishment of the committee, sections 125.60 to 125.6012 of the Revised Code shall govern the procurement of products and services provided by persons with work-limiting disabilities from qualified nonprofit agencies.

Sec. 4117.03. (A) Public employees have the right to:

(1) Form, join, assist, or participate in, or refrain from forming, joining, assisting, or participating in, except as otherwise provided in Chapter 4117. of the Revised Code, any employee organization of their own choosing;

(2) Engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection;

(3) Representation by an employee organization;

(4) Bargain collectively with their public employers to determine wages, hours, terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, and enter into collective bargaining agreements;

(5) Present grievances and have them adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of the collective bargaining agreement then in effect and as long as the bargaining representatives have the opportunity to be present at the adjustment.

(B) Persons on active duty or acting in any capacity as members of the organized militia do not have collective bargaining rights.

(C) Except as provided in division (D) of this section, nothing in Chapter 4117. of the Revised Code prohibits public employers from electing to engage in collective bargaining, to meet and confer, to hold discussions, or to engage in any other form of collective negotiations with public employees who are not subject to Chapter 4117. of the Revised Code pursuant to division (C) of section 4117.01 of the Revised Code.

(D) A public employer shall not engage in collective bargaining or other forms of collective negotiations with the employees of county boards of elections referred to in division (C)(12) of section 4117.01 of the Revised Code.

(E)(1) Employees of public school may bargain collectively for health care benefits; however, all health care benefits shall be provided through school employees health care board medical plans, in accordance with section 9.901 of the Revised Code. If a school district provides its employees with health care benefits pursuant to collective bargaining, the employees shall be permitted to choose a plan option from among the school employees health care board plans agreed to during collective bargaining.

(2) During collective bargaining, employees of public schools may agree to pay a higher percentage of the premium for health benefit coverage under the plans designed by the school employees health care board pursuant to section 9.901 of the Revised Code than the percentage designated as the employees' contribution level by the board. A collective bargaining agreement, however, shall not permit the employees to contribute a lesser percentage of the premium than that set as the employees' contribution level by the school employees health care board, unless, in so doing, the participating school board is able to remain in compliance with the aggregate goal set pursuant to division (G)(3) of section 9.901 of the Revised Code.

Sec. 4117.08. (A) All matters pertaining to wages, hours, or terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement are subject to collective bargaining between the public employer and the exclusive representative, except as otherwise specified in this section and division (E) of section 4117.03 of the Revised Code.

(B) The conduct and grading of civil service examinations, the rating of candidates, the establishment of eligible lists from the examinations, and the original appointments from the eligible lists are not appropriate subjects for collective bargaining.

(C) Unless a public employer agrees otherwise in a collective bargaining agreement, nothing in Chapter 4117. of the Revised Code

impairs the right and responsibility of each public employer to:

(1) Determine matters of inherent managerial policy which include, but are not limited to areas of discretion or policy such as the functions and programs of the public employer, standards of services, its overall budget, utilization of technology, and organizational structure;

(2) Direct, supervise, evaluate, or hire employees;

(3) Maintain and improve the efficiency and effectiveness of governmental operations;

(4) Determine the overall methods, process, means, or personnel by which governmental operations are to be conducted;

(5) Suspend, discipline, demote, or discharge for just cause, or lay off, transfer, assign, schedule, promote, or retain employees;

(6) Determine the adequacy of the work force;

(7) Determine the overall mission of the employer as a unit of government;

(8) Effectively manage the work force;

(9) Take actions to carry out the mission of the public employer as a governmental unit.

The employer is not required to bargain on subjects reserved to the management and direction of the governmental unit except as affect wages, hours, terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement. A public employee or exclusive representative may raise a legitimate complaint or file a grievance based on the collective bargaining agreement.

Sec. 4117.10. (A) An agreement between a public employer and an exclusive representative entered into pursuant to this chapter governs the wages, hours, and terms and conditions of public employment covered by the agreement. If the agreement provides for a final and binding arbitration of grievances, public employers, employees, and employee organizations are subject solely to that grievance procedure and the state personnel board of review or civil service commissions have no jurisdiction to receive and determine any appeals relating to matters that were the subject of a final and binding grievance procedure. Where no agreement exists or where an agreement makes no specification about a matter, the public employer and public employees are subject to all applicable state or local laws or ordinances pertaining to the wages, hours, and terms and conditions of employment for public employees. Laws pertaining to civil rights, affirmative action, unemployment compensation, workers' compensation, the retirement of public employees, and residency requirements, the

minimum educational requirements contained in the Revised Code pertaining to public education including the requirement of a certificate by the fiscal officer of a school district pursuant to section 5705.41 of the Revised Code, the provisions of division (A) of section 124.34 of the Revised Code governing the disciplining of officers and employees who have been convicted of a felony, and the minimum standards promulgated by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code prevail over conflicting provisions of agreements between employee organizations and public employers. The law pertaining to the leave of absence and compensation provided under section 5923.05 of the Revised Code prevails over any conflicting provisions of such agreements if the terms of the agreement contain benefits which are less than those contained in that section or the agreement contains no such terms and the public authority is the state or any agency, authority, commission, or board of the state or if the public authority is another entity listed in division (B) of section 4117.01 of the Revised Code that elects to provide leave of absence and compensation as provided in section 5923.05 of the Revised Code. Except for sections 306.08, 306.12, 306.35, and 4981.22 of the Revised Code and arrangements entered into thereunder, and section 4981.21 of the Revised Code as necessary to comply with section 13(c) of the "Urban Mass Transportation Act of 1964," 87 Stat. 295, 49 U.S.C.A. 1609(c), as amended, and arrangements entered into thereunder, this chapter prevails over any and all other conflicting laws, resolutions, provisions, present or future, except as otherwise specified in this chapter or as otherwise specified by the general assembly. Nothing in this section prohibits or shall be construed to invalidate the provisions of an agreement establishing supplemental workers' compensation or unemployment compensation benefits or exceeding minimum requirements contained in the Revised Code pertaining to public education or the minimum standards promulgated by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(B) The public employer shall submit a request for funds necessary to implement an agreement and for approval of any other matter requiring the approval of the appropriate legislative body to the legislative body within fourteen days of the date on which the parties finalize the agreement, unless otherwise specified, but if the appropriate legislative body is not in session at the time, then within fourteen days after it convenes. The legislative body must approve or reject the submission as a whole, and the submission is deemed approved if the legislative body fails to act within thirty days after the public employer submits the agreement. The parties may specify that

those provisions of the agreement not requiring action by a legislative body are effective and operative in accordance with the terms of the agreement, provided there has been compliance with division (C) of this section. If the legislative body rejects the submission of the public employer, either party may reopen all or part of the entire agreement.

As used in this section, "legislative body" includes ~~the general assembly,~~ the governing board of a municipal corporation, school district, college or university, village, township, or board of county commissioners or any other body that has authority to approve the budget of their public jurisdiction and, with regard to the state, "legislative body" means the controlling board.

(C) The chief executive officer, or the chief executive officer's representative, of each municipal corporation, the designated representative of the board of education of each school district, college or university, or any other body that has authority to approve the budget of their public jurisdiction, the designated representative of the board of county commissioners and of each elected officeholder of the county whose employees are covered by the collective negotiations, and the designated representative of the village or the board of township trustees of each township is responsible for negotiations in the collective bargaining process; except that the legislative body may accept or reject a proposed collective bargaining agreement. When the matters about which there is agreement are reduced to writing and approved by the employee organization and the legislative body, the agreement is binding upon the legislative body, the employer, and the employee organization and employees covered by the agreement.

(D) There is hereby established an office of collective bargaining in the department of administrative services for the purpose of negotiating with and entering into written agreements between state agencies, departments, boards, and commissions and the exclusive representative on matters of wages, hours, terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement. Nothing in any provision of law to the contrary shall be interpreted as excluding the bureau of workers' compensation and the industrial commission from the preceding sentence. This office shall not negotiate on behalf of other statewide elected officials or boards of trustees of state institutions of higher education who shall be considered as separate public employers for the purposes of this chapter; however, the office may negotiate on behalf of these officials or trustees where authorized by the officials or trustees. The staff of the office of

collective bargaining are in the unclassified service. The director of administrative services shall fix the compensation of the staff.

The office of collective bargaining shall:

(1) Assist the director in formulating management's philosophy for public collective bargaining as well as planning bargaining strategies;

(2) Conduct negotiations with the exclusive representatives of each employee organization;

(3) Coordinate the state's resources in all mediation, fact-finding, and arbitration cases as well as in all labor disputes;

(4) Conduct systematic reviews of collective bargaining agreements for the purpose of contract negotiations;

(5) Coordinate the systematic compilation of data by all agencies that is required for negotiating purposes;

(6) Prepare and submit an annual report and other reports as requested to the governor and the general assembly on the implementation of this chapter and its impact upon state government.

Sec. 4117.103. Notwithstanding any provision of section 4117.08 or 4117.10 of the Revised Code to the contrary, no agreement entered into under this chapter on or after the effective date of this section shall prohibit a school district board of education from utilizing volunteers to assist the district and its schools in performing any of their functions, other than functions for which a license, permit, or certificate issued by the state board of education under section 3301.074 or Chapter 3319. of the Revised Code or a certificate issued under division (A) or (B) of section 3327.10 of the Revised Code is required.

Sec. 4117.24. The training ~~and,~~ publications, and grants fund is hereby created in the state treasury. The state employment relations board shall deposit into the training ~~and,~~ publications, and grants fund all ~~payments~~ moneys received from the following sources:

(A) Payments received by the board for copies of documents, rulebooks, and other publications; ~~fees~~

(B) Fees received from seminar participants; ~~and receipts~~

(C) Receipts from the sale of clearinghouse data;

(D) Moneys received from grants, donations, awards, bequests, gifts, reimbursements, and similar funds;

(E) Reimbursement received for professional services and expenses related to professional services;

(F) Funds received to support the development of labor relations services and programs. The state employment relations board shall use all moneys deposited into the training ~~and,~~ publications, and grants fund to

defray the costs of furnishing and making available copies of documents, rulebooks, and other publications; the costs of planning, organizing, and conducting training seminars; the costs associated with grant projects, innovative labor-management cooperation programs, research projects related to these grants and programs, and the advancement in professionalism of public sector relations; the professional development of board employees; and the costs of compiling clearinghouse data.

The board may seek, solicit, apply for, receive, and accept grants, gifts, and contributions of money, property, labor, and other things of value to be held for, used for, and applied to only the purpose for which the grants, gifts, and contributions are made, from individuals, private and public corporations, the United States or any agency thereof, the state or any agency thereof, and any political subdivision of the state, and may enter into any contract with any such public or private source in connection therewith to be held for, used for, and applied to only the purposes for which such grants are made and contracts are entered into, all subject to and in accordance with the purposes of this chapter. Any money received from the grants, gifts, contributions, or contracts shall be deposited into the training, publications, and grants fund.

Sec. 4121.12. (A) There is hereby created the workers' compensation oversight commission consisting of ~~nine~~ eleven members, of which members the governor shall appoint five with the advice and consent of the senate. Of the five members the governor appoints, two shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representative of employees, at least one of whom is representative of employees who are members of an employee organization; two shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representative of employers, one of whom represents self-insuring employers and one of whom has experience as an employer in compliance with section 4123.35 of the Revised Code other than a self-insuring employer, and one of those two representatives also shall represent employers whose employees are not members of an employee organization; and one shall represent the public and also be an individual who, on account of the individual's previous vocation, employment, or affiliations, cannot be classed as either predominantly representative of employees or of employers. The governor shall select the chairperson of the commission who shall serve as chairperson at the pleasure of the governor. No more than three members appointed by the governor shall belong to or be affiliated with the same political party.

Each of these five members shall have at least three years' experience in the field of insurance, finance, workers' compensation, law, accounting, actuarial, personnel, investments, or data processing, or in the management of an organization whose size is commensurate with that of the bureau of workers' compensation. At least one of these five members shall be an attorney licensed under Chapter 4705. of the Revised Code to practice law in this state.

(B) Of the initial appointments made to the commission, the governor shall appoint one member who represents employees to a term ending one year after September 1, 1995, one member who represents employers to a term ending two years after September 1, 1995, the member who represents the public to a term ending three years after September 1, 1995, one member who represents employees to a term ending four years after September 1, 1995, and one member who represents employers to a term ending five years after September 1, 1995. Thereafter, terms of office shall be for ~~five~~ three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed.

The governor shall not appoint any person to more than two full terms of office on the commission. This restriction does not prevent the governor from appointing a person to fill a vacancy caused by the death, resignation, or removal of a commission member and also appointing that person twice to full terms on the commission, or from appointing a person previously appointed to fill less than a full term twice to full terms on the commission. 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 as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until a successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(C) In making appointments to the commission, the governor shall select the members from the list of names submitted by the workers' compensation oversight commission nominating committee pursuant to this division. Within fourteen days after the governor calls the initial meeting of the nominating committee pursuant to division (C) of section 4121.123 of the Revised Code, the nominating committee shall submit to the governor, for the initial appointments, a list containing four separate names for each of the members on the commission. Within fourteen days after the submission of the list, the governor shall appoint individuals from the list.

For the appointment of the member who is representative of employees who are members of an employee organization, both for initial appointments and for the filling of vacancies, the list of four names submitted by the nominating committee shall be comprised of four individuals who are members of the executive committee of the largest statewide labor federation.

Thereafter, within sixty days after a vacancy occurring as a result of the expiration of a term and within thirty days after other vacancies occurring on the commission, the nominating committee shall submit a list containing four names for each vacancy. Within fourteen days after the submission of the list, the governor shall appoint individuals from the list. With respect to the filling of vacancies, the nominating committee shall provide the governor with a list of four individuals who are, in the judgment of the nominating committee, the most fully qualified to accede to membership on the commission. The nominating committee shall not include the name of an individual upon the list for the filling of vacancies if the appointment of that individual by the governor would result in more than three members of the commission belonging to or being affiliated with the same political party. The committee shall include on the list for the filling of vacancies only the names of attorneys admitted to practice law in this state if, to fulfill the requirement of division (A) of section 4121.12 of the Revised Code, the vacancy must be filled by an attorney.

In order for the name of an individual to be submitted to the governor under this division, the nominating committee shall approve the individual by an affirmative vote of a majority of its members.

(D) The commission shall also consist of two members, known as the investment expert members. One investment expert member shall be appointed by the treasurer of state and one investment expert member shall be jointly appointed by the speaker of the house of representatives and the president of the senate. Each investment expert member shall have the following qualifications:

(1) Be a resident of this state:

(2) Within the three years immediately preceding the appointment, not have been employed by the bureau of workers' compensation or by any person, partnership, or corporation that has provided to the bureau services of a financial or investment nature, including the management, analysis, supervision, or investment of assets;

(3) Have direct experience in the management, analysis, supervision, or investment of assets.

Terms of office of the investment expert members shall be for three

years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office for the date of the member's appointment until the end of the term for which the member was appointed. The president, speaker, and treasurer shall not appoint any person to more than two full terms of office on the commission. This restriction does not prevent the president, speaker, and treasurer from appointing a person to fill a vacancy caused by the death, resignation, or removal of a commission member and also appointing that person twice to full terms on the commission, or from appointing a person previously appointed to fill less than a full term twice to full terms on the commission. Any investment expert member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office until the end of that term. The 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.

The investment expert members of the oversight commission shall vote only on investment matters.

(E) The remaining four members of the commission shall be the chairperson and ranking minority member of the standing committees of the house of representatives and of the senate to which legislation concerning this chapter and Chapters 4123., 4127., and 4131. of the Revised Code normally are referred, or a designee of the chairperson or ranking minority member, provided that the designee is a member of the standing committee. Legislative members shall serve during the session of the general assembly to which they are elected and for as long as they are members of the general assembly. Legislative members shall serve in an advisory capacity to the commission and shall have no voting rights on matters coming before the commission. Membership on the commission by legislative members shall not be deemed as holding a public office.

~~(E)~~(F) All members of the commission shall receive their reasonable and necessary expenses pursuant to section 126.31 of the Revised Code while engaged in the performance of their duties as members. ~~Legislative members also shall receive fifty dollars per meeting that they attend.~~ Members appointed by the governor and the investment expert members also shall receive an annual salary ~~as follows:~~

~~(1) On and before August 31, 1998, not to exceed six thousand dollars payable at the rate of five hundred dollars per month. A member shall receive the monthly five hundred dollar salary only if the member has attended at least one meeting of the commission during that month. A~~

~~member may receive no more than the monthly five hundred dollar salary regardless of the number of meetings held by the commission during a month or the number of meetings in excess of one within a month that the member attends.~~

~~(2) After August 31, 1998,~~ not to exceed eighteen thousand dollars payable on the following basis:

~~(a)~~(1) Except as provided in division ~~(E)~~(F)(2)~~(b)~~ of this section, a member shall receive two thousand dollars during a month in which the member attends one or more meetings of the commission and shall receive no payment during a month in which the member attends no meeting of the commission.

~~(b)~~(2) A member may receive no more than the annual eighteen thousand dollar salary regardless of the number of meetings held by the commission during a year or the number of meetings in excess of nine within a year that the member attends.

The chairperson of the commission shall set the meeting dates of the commission as necessary to perform the duties of the commission under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code. The commission shall meet at least nine times during the period commencing on the first day of September and ending on the thirty-first day of August of the following year. The administrator of workers' compensation shall provide professional and clerical assistance to the commission, as the commission considers appropriate.

~~(F)~~(G) The commission shall:

(1) Review progress of the bureau in meeting its cost and quality objectives and in complying with this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;

(2) Issue an annual report on the cost and quality objectives of the bureau to the president of the senate, the speaker of the house of representatives, and the governor;

(3) Review all independent financial audits of the bureau. The administrator shall provide access to records of the bureau to facilitate the review required under this division.

(4) Study issues as requested by the administrator or the governor;

(5) Contract with an independent actuarial firm to assist the commission in making recommendations to the administrator regarding premium rates;

(6) Establish objectives, policies, and criteria for the administration of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines, and monitor the administrator's progress

in implementing the objectives, policies, and criteria on a quarterly basis. The commission shall review and publish the objectives, policies, and criteria no less than annually and shall make copies available to interested parties. The commission shall prohibit, on a prospective basis, any specific investment ~~activity~~ it finds to be contrary to its investment objectives, policies, and criteria.

~~The investment policy in existence on March 7, 1997, shall continue until the commission approves objectives, policies, and criteria for the administration of the investment program pursuant to this section.~~

The objectives, policies, and criteria adopted by the commission for the operation of the investment program shall prohibit investing assets of funds, directly or indirectly, in vehicles that target any of the following:

(a) Coins;

(b) Artwork;

(c) Horses;

(d) Jewelry or gems;

(e) Stamps;

(f) Antiques;

(g) Artifacts;

(h) Collectibles;

(i) Memorabilia;

(j) Similar unregulated investments that are not commonly part of an institutional portfolio, that lack liquidity, and that lack readily determinable valuation.

(7) Specify in the objectives, policies, and criteria for the investment program that the administrator is permitted to invest in an investment class only if the commission, by a majority vote, opens that class. After the commission opens a class but prior to the administrator investing in that class, the commission shall adopt rules establishing due diligence standards for employees' of the bureau to follow when investing in that class and shall establish policies and procedures to review and monitor the performance and value of each investment class. The commission shall submit a report annually on the performance and value of each investment class to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The commission may vote to close any investment class.

(8) Advise and consent on all of the following:

(a) Administrative rules the administrator submits to it pursuant to division (B)(5) of section 4121.121 of the Revised Code for the classification of occupations or industries, for premium rates and

contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating;

(b) The overall policy of the bureau of workers' compensation as set by the administrator;

(c) The duties and authority conferred upon the administrator pursuant to section 4121.37 of the Revised Code;

(d) Rules the administrator adopts for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code;

(e) Rules the administrator submits to it pursuant to Chapter 4167. of the Revised Code regarding the public employment risk reduction program and the protection of public health care workers from exposure incidents.

As used in this division, "public health care worker" and "exposure incident" have the same meanings as in section 4167.25 of the Revised Code.

~~(8)~~(9) Perform all duties required under section 4121.125 of the Revised Code.

~~(G)~~(H) The office of a member of the commission who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be deemed vacant. The vacancy shall be filled in the same manner as the original appointment. A person who has pleaded guilty to or been convicted of an offense of that nature is ineligible to be a member of the commission. A member who receives a bill of indictment for any of the offenses specified in this section shall be automatically suspended from the commission pending resolution of the criminal matter.

(I) As used in this section, "employee organization" means any labor or bona fide organization in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, hours, terms and other conditions of employment.

Sec. 4121.121. (A) There is hereby created the bureau of workers' compensation, which shall be administered by the administrator of workers' compensation. A person appointed to the position of administrator shall possess significant management experience in effectively managing an organization or organizations of substantial size and complexity. The governor shall appoint the administrator as provided in section 121.03 of the Revised Code, and the administrator shall serve at the pleasure of the governor. The governor shall fix the administrator's salary on the basis of

the administrator's experience and the administrator's responsibilities and duties under this chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised Code. The governor shall not appoint to the position of administrator any person who has, or whose spouse has, given a contribution to the campaign committee of the governor in an amount greater than one thousand dollars during the two-year period immediately preceding the date of the appointment of the administrator.

The administrator shall hold no other public office and shall devote full time to the duties of administrator. Before entering upon the duties of the office, the administrator shall take an oath of office as required by sections 3.22 and 3.23 of the Revised Code, and shall file in the office of the secretary of state, a bond signed by the administrator and by surety approved by the governor, for the sum of fifty thousand dollars payable to the state, conditioned upon the faithful performance of the administrator's duties.

(B) The administrator is responsible for the management of the bureau of workers' compensation and for the discharge of all administrative duties imposed upon the administrator in this chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised Code, and in the discharge thereof shall do all of the following:

(1) Establish the overall administrative policy of the bureau for the purposes of this chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised Code, and perform all acts and exercise all authorities and powers, discretionary and otherwise that are required of or vested in the bureau or any of its employees in this chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised Code, except the acts and the exercise of authority and power that is required of and vested in the oversight commission or the industrial commission pursuant to those chapters. The treasurer of state shall honor all warrants signed by the administrator, or by one or more of the administrator's employees, authorized by the administrator in writing, or bearing the facsimile signature of the administrator or such employee under sections 4123.42 and 4123.44 of the Revised Code.

(2) Employ, direct, and supervise all employees required in connection with the performance of the duties assigned to the bureau by this chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised Code, and may establish job classification plans and compensation for all employees of the bureau provided that this grant of authority shall not be construed as affecting any employee for whom the state employment relations board has established an appropriate bargaining unit under section 4117.06 of the Revised Code. All positions of employment in the bureau are in the classified civil service except those employees the administrator may

appoint to serve at the administrator's pleasure in the unclassified civil service pursuant to section 124.11 of the Revised Code. The administrator shall fix the salaries of employees the administrator appoints to serve at the administrator's pleasure, including the chief operating officer, staff physicians, and other senior management personnel of the bureau and shall establish the compensation of staff attorneys of the bureau's legal section and their immediate supervisors, and take whatever steps are necessary to provide adequate compensation for other staff attorneys.

The administrator may appoint a person holding a certified position in the classified service to any state position in the unclassified service of the bureau of workers' compensation. A person so appointed shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment in the unclassified service. If the position the person previously held has been filled or placed in the unclassified service, or is otherwise unavailable, the person shall be appointed to a position in the classified service within the bureau that the department of administrative services certifies is comparable in compensation to the position the person previously held. Reinstatement to a position in the classified service shall be to a position substantially equal to that held previously, as certified by the department of administrative services. Service in the position in the unclassified service shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment in the unclassified service. When a person is reinstated to a position in the classified service as provided in this section, the person is entitled to all rights, status, and benefits accruing to the position during the person's time of service in the position in the unclassified service.

(3) Reorganize the work of the bureau, its sections, departments, and offices to the extent necessary to achieve the most efficient performance of its functions and to that end may establish, change, or abolish positions and assign and reassign duties and responsibilities of every employee of the bureau. All persons employed by the commission in positions that, after November 3, 1989, are supervised and directed by the administrator under this section are transferred to the bureau in their respective classifications but subject to reassignment and reclassification of position and compensation as the administrator determines to be in the interest of efficient administration. The civil service status of any person employed by the commission is not affected by this section. Personnel employed by the bureau or the commission who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that

chapter as it presently exists or is hereafter amended and nothing in this chapter or Chapter 4123. of the Revised Code shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code or the rights and benefits conferred under that chapter to public employees or to any bargaining unit.

(4) Provide offices, equipment, supplies, and other facilities for the bureau.

(5) Prepare and submit to the oversight commission information the administrator considers pertinent or the oversight commission requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the oversight commission, for classifications of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating. The administrator shall obtain, prepare, and submit any other information the oversight commission requires for the prompt and efficient discharge of its duties.

(6) Keep the accounts required by division (A) of section 4123.34 of the Revised Code and all other accounts and records necessary to the collection, administration, and distribution of the workers' compensation funds and shall obtain the statistical and other information required by section 4123.19 of the Revised Code.

(7) Exercise the investment powers vested in the administrator by section 4123.44 of the Revised Code in accordance with the investment objectives, policies, and criteria established by the oversight commission pursuant to section 4121.12 of the Revised Code and in consultation with the chief investment officer of the bureau of workers' compensation. The administrator shall not engage in any prohibited investment activity specified by the oversight commission pursuant to division ~~(F)~~(G)(6) of section 4121.12 of the Revised Code and shall not invest in any type of investment specified in division (G)(6)(a) to (j) of that section. All business shall be transacted, all funds invested, all warrants for money drawn and payments made, and all cash and securities and other property held, in the name of the bureau, or in the name of its nominee, provided that nominees are authorized by the administrator solely for the purpose of facilitating the transfer of securities, and restricted to the administrator and designated employees.

(8) Make contracts for and supervise the construction of any project or improvement or the construction or repair of buildings under the control of the bureau.

(9) Purchase supplies, materials, equipment, and services; make contracts for, operate, and superintend the telephone, other telecommunication, and computer services for the use of the bureau; and make contracts in connection with office reproduction, forms management, printing, and other services. Notwithstanding sections 125.12 to 125.14 of the Revised Code, the administrator may transfer surplus computers and computer equipment directly to an accredited public school within the state. The computers and computer equipment may be repaired or refurbished prior to the transfer.

(10) Separately from the budget the industrial commission submits, prepare and submit to the director of budget and management a budget for each biennium. The budget submitted shall include estimates of the costs and necessary expenditures of the bureau in the discharge of any duty imposed by law.

(11) As promptly as possible in the course of efficient administration, decentralize and relocate such of the personnel and activities of the bureau as is appropriate to the end that the receipt, investigation, determination, and payment of claims may be undertaken at or near the place of injury or the residence of the claimant and for that purpose establish regional offices, in such places as the administrator considers proper, capable of discharging as many of the functions of the bureau as is practicable so as to promote prompt and efficient administration in the processing of claims. All active and inactive lost-time claims files shall be held at the service office responsible for the claim. A claimant, at the claimant's request, shall be provided with information by telephone as to the location of the file pertaining to the claimant's claim. The administrator shall ensure that all service office employees report directly to the director for their service office.

(12) Provide a written binder on new coverage where the administrator considers it to be in the best interest of the risk. The administrator, or any other person authorized by the administrator, shall grant the binder upon submission of a request for coverage by the employer. A binder is effective for a period of thirty days from date of issuance and is nonrenewable. Payroll reports and premium charges shall coincide with the effective date of the binder.

(13) Set standards for the reasonable and maximum handling time of claims payment functions, ensure, by rules, the impartial and prompt treatment of all claims and employer risk accounts, and establish a secure, accurate method of time stamping all incoming mail and documents hand delivered to bureau employees.

(14) Ensure that all employees of the bureau follow the orders and rules of the commission as such orders and rules relate to the commission's overall adjudicatory policy-making and management duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code.

(15) Manage and operate a data processing system with a common data base for the use of both the bureau and the commission and, in consultation with the commission, using electronic data processing equipment, shall develop a claims tracking system that is sufficient to monitor the status of a claim at any time and that lists appeals that have been filed and orders or determinations that have been issued pursuant to section 4123.511 or 4123.512 of the Revised Code, including the dates of such filings and issuances.

(16) Establish and maintain a medical section within the bureau. The medical section shall do all of the following:

(a) Assist the administrator in establishing standard medical fees, approving medical procedures, and determining eligibility and reasonableness of the compensation payments for medical, hospital, and nursing services, and in establishing guidelines for payment policies which recognize usual, customary, and reasonable methods of payment for covered services;

(b) Provide a resource to respond to questions from claims examiners for employees of the bureau;

(c) Audit fee bill payments;

(d) Implement a program to utilize, to the maximum extent possible, electronic data processing equipment for storage of information to facilitate authorizations of compensation payments for medical, hospital, drug, and nursing services;

(e) Perform other duties assigned to it by the administrator.

(17) Appoint, as the administrator determines necessary, panels to review and advise the administrator on disputes arising over a determination that a health care service or supply provided to a claimant is not covered under this chapter or Chapter 4123. of the Revised Code or is medically unnecessary. If an individual health care provider is involved in the dispute, the panel shall consist of individuals licensed pursuant to the same section of the Revised Code as such health care provider.

(18) Pursuant to section 4123.65 of the Revised Code, approve applications for the final settlement of claims for compensation or benefits under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as the administrator determines appropriate, except in regard to the applications of self-insuring employers and their employees.

(19) Comply with section 3517.13 of the Revised Code, and except in regard to contracts entered into pursuant to the authority contained in section 4121.44 of the Revised Code, comply with the competitive bidding procedures set forth in the Revised Code for all contracts into which the administrator enters provided that those contracts fall within the type of contracts and dollar amounts specified in the Revised Code for competitive bidding and further provided that those contracts are not otherwise specifically exempt from the competitive bidding procedures contained in the Revised Code.

(20) Adopt, with the advice and consent of the oversight commission, rules for the operation of the bureau.

(21) Prepare and submit to the oversight commission information the administrator considers pertinent or the oversight commission requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the oversight commission, for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code.

(C) The administrator, with the advice and consent of the senate, shall appoint a chief operating officer who has significant experience in the field of workers' compensation insurance or other similar insurance industry experience if the administrator does not possess such experience. The chief operating officer shall not commence the chief operating officer's duties until after the senate consents to the chief operating officer's appointment. The chief operating officer shall serve in the unclassified civil service of the state.

Sec. 4121.125. (A) The workers' compensation oversight commission may contract with one or more outside actuarial firms and other professional persons, as the oversight commission determines necessary, to assist the oversight commission in measuring the performance of Ohio's workers' compensation system and in comparing Ohio's workers' compensation system to other state and private workers' compensation systems. The oversight commission, actuarial firm or firms, and professional persons shall make such measurements and comparisons using accepted insurance industry standards, including, but not limited to, standards promulgated by the National Council on Compensation Insurance.

(B) The oversight commission may contract with one or more outside firms to conduct management and financial audits of the workers' compensation system, including audits of the reserve fund belonging to the state insurance fund, and to establish objective quality management

principles and methods by which to review the performance of the workers' compensation system.

(C) The administrator and the industrial commission shall compile information and provide access to records of the bureau and the industrial commission to the oversight commission to the extent necessary for fulfillment of both of the following requirements:

(1) Conduct of the measurements and comparisons described in division (A) of this section;

(2) Conduct of the management and financial audits and establishment of the principles and methods described in division (B) of this section.

(D) The oversight commission shall have an independent auditor, at least once every ten years, conduct a fiduciary performance audit of the investment program of the bureau of workers' compensation. That audit shall include an audit of the investment policies of the oversight commission and investment procedures of the bureau. The oversight commission shall submit a copy of that audit to the auditor of state.

(E) The bureau of workers' compensation, with the advice and consent of the oversight commission, shall employ an internal auditor who shall report directly to the oversight commission on investment matters. The oversight commission may request and review internal audits conducted by the internal auditor.

(F) The administrator shall pay the expenses incurred by the oversight commission to effectively fulfill its duties and exercise its powers under this section as the administrator pays other operating expenses of the bureau.

Sec. 4121.126. Except as provided in this chapter, no member of the workers' compensation oversight commission or employee of the bureau of workers' compensation shall have any direct or indirect interest in the gains or profits of any investment made by the administrator of workers' compensation or shall receive directly or indirectly any pay or emolument for the member's or employee's services. No member or person connected with the bureau directly or indirectly, for self or as an agent or partner of others, shall borrow any of its funds or deposits or in any manner use the funds or deposits except to make current and necessary payments that are authorized by the administrator. No member of the oversight commission or employee of the bureau shall become an indorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the bureau.

The administrator shall make no investments through or purchases from, or otherwise do any business with, any individual who is, or any partnership, association, or corporation that is owned or controlled by, a person who within the preceding three years was employed by the bureau, a board

member of, or an officer of the oversight commission, or a person who within the preceding three years was employed by or was an officer holding a fiduciary, administrative, supervisory, or trust position, or any other position in which such person would be involved, on behalf of the person's employer, in decisions or recommendations affecting the investment policy of the bureau, and in which such person would benefit by any monetary gain.

Sec. 4121.127. (A) Except as provided in division (B) of this section, a fiduciary shall not cause the bureau of workers' compensation to engage in a transaction, if the fiduciary knows or should know that such transaction constitutes any of the following, whether directly or indirectly:

(1) The sale, exchange, or leasing of any property between the bureau and a party in interest;

(2) Lending of money or other extension of credit between the bureau and a party in interest;

(3) Furnishing of goods, services, or facilities between the bureau and a party in interest;

(4) Transfer to, or use by or for the benefit of a party in interest, of any assets of the bureau;

(5) Acquisition, on behalf of the bureau, of any employer security or employer real property.

(B) Nothing in this section shall prohibit any transaction between the bureau and any fiduciary or party in interest if both of the following occur:

(1) All the terms and conditions of the transaction are comparable to the terms and conditions that might reasonably be expected in a similar transaction between similar parties who are not parties in interest.

(2) The transaction is consistent with fiduciary duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code.

(C) A fiduciary shall not do any of the following:

(1) Deal with the assets of the bureau in the fiduciary's own interest or for the fiduciary's own account;

(2) In the fiduciary's individual capacity or in any other capacity, act in any transaction involving the bureau on behalf of a party, or represent a party, whose interests are adverse to the interests of the bureau or to the injured employees served by the bureau;

(3) Receive any consideration for the fiduciary's own personal account from any party dealing with the bureau in connection with a transaction involving the assets of the bureau.

(D) In addition to any liability that a fiduciary may have under any other provision, a fiduciary, with respect to bureau, shall be liable for a breach of

fiduciary responsibility in any the following circumstances:

(1) If the fiduciary knowingly participates in or knowingly undertakes to conceal an act or omission of another fiduciary, knowing such act or omission is a breach;

(2) If, by the fiduciary's failure to comply with this chapter or Chapter 4123., 4127., or 4131. of the Revised Code, the fiduciary has enabled another fiduciary to commit a breach;

(3) If the fiduciary has knowledge of a breach by another fiduciary of that fiduciary's duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code, unless the fiduciary makes reasonable efforts under the circumstances to remedy the breach.

(E) Every fiduciary of the bureau shall be bonded or insured for an amount of not less than one million dollars for loss by reason of acts of fraud or dishonesty.

(F) As used in this section, "fiduciary" means a person who does any of the following:

(1) Exercises discretionary authority or control with respect to the management of the bureau or with respect to the management or disposition of its assets;

(2) Renders investment advice for a fee, directly or indirectly, with respect to money or property of the bureau;

(3) Has discretionary authority or responsibility in the administration of the bureau.

Sec. 4121.128. The attorney general shall be the legal adviser of the workers' compensation oversight commission.

Sec. 4123.27. Information contained in the annual statement provided for in section 4123.26 of the Revised Code, and such other information as may be furnished to the bureau of workers' compensation by employers in pursuance of that section, is for the exclusive use and information of the bureau in the discharge of its official duties, and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless the bureau is a party to the action or proceeding; but the information contained in the statement may be tabulated and published by the bureau in statistical form for the use and information of other state departments and the public. No person in the employ of the bureau, except those who are authorized by the administrator of workers' compensation, shall divulge any information secured by the person while in the employ of the bureau in respect to the transactions, property, claim files, records, or papers of the bureau or in respect to the business or mechanical, chemical, or other industrial process of any company, firm, corporation, person, association,

partnership, or public utility to any person other than the administrator or to the superior of such employee of the bureau.

Notwithstanding the restrictions imposed by this section, the governor, select or standing committees of the general assembly, the auditor of state, the attorney general, or their designees, pursuant to the authority granted in this chapter and Chapter 4121. of the Revised Code, may examine any records, claim files, or papers in possession of the industrial commission or the bureau. They also are bound by the privilege that attaches to these papers.

The administrator shall report to the director of job and family services or to the county director of job and family services the name, address, and social security number or other identification number of any person receiving workers' compensation whose name or social security number or other identification number is the same as that of a person required by a court or child support enforcement agency to provide support payments to a recipient or participant of public assistance, and whose name is submitted to the administrator by the director under section 5101.36 of the Revised Code. The administrator also shall inform the director of the amount of workers' compensation paid to the person during such period as the director specifies.

Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients or participants of public assistance pursuant to section 5101.181 of the Revised Code, the administrator shall inform the auditor of state of the name, current or most recent address, and social security number of each person receiving workers' compensation pursuant to this chapter whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The administrator also shall inform the auditor of state of the amount of workers' compensation paid to the person during such period as the director specifies.

The bureau and its employees, except for purposes of furnishing the auditor of state with information required by this section, shall preserve the confidentiality of recipients or participants of public assistance in compliance with division (A) of section 5101.181 of the Revised Code.

For the purposes of this section, "public assistance" means medical assistance provided through the medical assistance program established under section 5111.01 of the Revised Code, Ohio works first provided under Chapter 5107. of the Revised Code, prevention, retention, and contingency benefits and services provided under Chapter 5108. of the Revised Code, or disability financial assistance provided under Chapter 5115. of the Revised Code~~, or disability medical assistance provided under Chapter 5115. of the~~

~~Revised Code~~.

Sec. 4123.44. The voting members of the workers' compensation oversight commission, the administrator of workers' compensation, and the bureau of workers' compensation chief investment officer are the trustees of the state insurance fund. The administrator of workers' compensation, in accordance with sections 4121.126 and 4121.127 of the Revised Code and the investment objectives, policies, and criteria established by the workers' compensation oversight commission pursuant to section 4121.12 of the Revised Code, and in consultation with the bureau of workers' compensation chief investment officer, may invest any of the surplus or reserve belonging to the state insurance fund.

The administrator shall not invest in any type of investment specified in divisions (G)(6)(a) to (j) of section 4121.12 of the Revised Code.

The administrator and other fiduciaries shall discharge their duties with respect to the funds with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and by diversifying the investments of the assets of the funds so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

To facilitate investment of the funds, the administrator may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as amended, or any other legal entity authorized to transact business in this state.

When reporting on the performance of investments, the administrator shall comply with the performance presentation standards established by the association for investment management and research.

All investments shall be purchased at current market prices and the evidences of title to the investments shall be placed in the custody of the treasurer of state, who is hereby designated as custodian, or in the custody of the treasurer of state's authorized agent. Evidences of title of the investments so purchased may be deposited by the treasurer of state for safekeeping with an authorized agent selected by the treasurer of state who is a qualified trustee under section 135.18 of the Revised Code. The treasurer of state or the agent shall collect the principal, dividends, distributions, and interest as they become due and payable and place them when collected into the state insurance fund.

The treasurer of state shall pay for investments purchased by the administrator on receipt of written or electronic instructions from the

administrator or the administrator's designated agent authorizing the purchase, and pending receipt of the evidence of title of the investment by the treasurer of state or the treasurer of state's authorized agent. The administrator may sell investments held by the administrator, and the treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment to the purchaser, on receipt of written or electronic instructions from the administrator or the administrator's designated agent authorizing the sale, and pending receipt of the moneys for the investments. The amount received shall be placed in the state insurance fund. The administrator and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investments.

No purchase or sale of any investment shall be made under this section, except as authorized by the administrator.

Any statement of financial position distributed by the administrator shall include the fair value, as of the statement date, of all investments held by the administrator under this section.

When in the judgment of the administrator it is necessary to provide available funds for the payment of compensation or benefits under this chapter, the administrator may borrow money from any available source and pledge as security a sufficient amount of bonds or other securities in which the state insurance fund is invested. The aggregate unpaid amount of loans existing at any one time for money so borrowed shall not exceed ten million dollars. The bonds or other securities so pledged as security for such loans to the administrator shall be the sole security for the payment of the principal and interest of any such loan. The administrator shall not be personally liable for the payment of the principal or the interest of any such loan. No such loan shall be made for a longer period of time than one year. Such loans may be renewed but no one renewal shall be for a period in excess of one year. Such loans shall bear such rate of interest as the administrator determines and in negotiating the loans, the administrator shall endeavor to secure as favorable interest rates and terms as circumstances will permit.

The treasurer of state may deliver to the person or governmental agency making such loan, the bonds or other securities which are to be pledged by the administrator as security for such loan, upon receipt by the treasurer of state of an order of the administrator authorizing such loan. Upon payment of any such loan by the administrator, the bonds or other securities pledged as security therefor shall be returned to the treasurer of state as custodian of

such bonds.

The administrator may pledge with the treasurer of state such amount of bonds or other securities in which the state insurance fund is invested as is reasonably necessary as security for any certificates issued, or paid out, by the treasurer of state upon any warrants drawn by the administrator.

The administrator may secure investment information services, consulting services, and other like services to facilitate investment of the surplus and reserve belonging to the state insurance fund. The administrator shall pay the expense of securing such services from the state insurance fund.

Sec. 4123.441. (A) The bureau of workers' compensation, with the advice and consent of the workers' compensation oversight commission shall employ a person or designate an employee of the bureau who is designated as a chartered financial analyst by the CFA institute and who is licensed by the division of securities in the department of commerce as a bureau of workers' compensation chief investment officer to be the chief investment officer for the bureau of workers' compensation. After ninety days after the effective date of this section, the bureau of workers' compensation may not employ a bureau of workers' compensation chief investment officer, as defined in section 1707.01 of the Revised Code, who does not hold a valid bureau of workers' compensation chief investment officer license issued by the division of securities in the department of commerce. The oversight commission shall notify the division of securities of the department of commerce in writing of its designation and of any change in its designation within ten calendar days after the designation or change.

(B) The bureau of workers' compensation chief investment officer shall reasonably supervise employees of the bureau who handle investment of assets of funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code with a view toward preventing violations of Chapter 1707. of the Revised Code, the "Commodity Exchange Act," 42 Stat. 998, 7 U.S.C. 1, the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 77a, the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, and the rules and regulations adopted under those statutes. This duty of reasonable supervision shall include the adoption, implementation, and enforcement of written policies and procedures reasonably designed to prevent employees of the bureau who handle investment of assets of the funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code, from misusing material, nonpublic information in violation of those laws, rules, and regulations.

For purposes of this division, no bureau of workers' compensation chief investment officer shall be considered to have failed to satisfy the officer's duty of reasonable supervision if the officer has done all of the following:

(1) Adopted and implemented written procedures, and a system for applying the procedures, that would reasonably be expected to prevent and detect, insofar as practicable, any violation by employees handling investments of assets of the funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code;

(2) Reasonably discharged the duties and obligations incumbent on the bureau of workers' compensation chief investment officer by reason of the established procedures and the system for applying the procedures when the officer had no reasonable cause to believe that there was a failure to comply with the procedures and systems;

(3) Reviewed, at least annually, the adequacy of the policies and procedures established pursuant to this section and the effectiveness of their implementation.

(C) The bureau of workers' compensation chief investment officer shall establish and maintain a policy to monitor and evaluate the effectiveness of securities transactions executed on behalf of the bureau.

Sec. 4123.444. (A) As used in this section and section 4123.445 of the Revised Code:

(1) "Bureau of workers' compensation funds" means any fund specified in Chapter 4121., 4123., 4127., or 4131. of the Revised Code that the administrator of workers' compensation has the authority to invest, in accordance with the administrator's investment authority under section 4123.44 of the Revised Code.

(2) "Investment manager" means any person with whom the administrator of workers' compensation contracts pursuant to section 4123.44 of the Revised Code to facilitate the investment of assets of bureau of workers' compensation funds.

(3) "Business entity" means any person with whom an investment manager contracts for the investment of assets of bureau of workers' compensation funds.

(4) "Financial or investment crime" means any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, drug trafficking, or any criminal offense involving money or securities, as set forth in Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of the Revised Code or other law of this state, or the laws of any other state or the United States that are substantially equivalent to those offenses.

(B)(1) Before entering into a contract with an investment manager to invest bureau of workers' compensation funds, the administrator shall do both of the following:

(a) Request from any investment manager with whom the administrator wishes to contract for those investments a list of all employees who will be investing assets of bureau of workers' compensation funds. The list shall specify each employee's state of residence for the five years prior to the date of the administrator's request.

(b) Request that the superintendent of the bureau of criminal investigation and identification conduct a criminal records check in accordance with this section and section 109.579 of the Revised Code with respect to every employee the investment manager names in that list.

(2) After an investment manager enters into a contract with the administrator to invest bureau of workers' compensation funds and before an investment manager enters into a contract with a business entity to facilitate those investments, the investment manager shall request from any business entity with whom the investment manager wishes to contract to make those investments a list of all employees who will be investing assets of the bureau of workers' compensation funds. The list shall specify each employee's state of residence for the five years prior to the investment manager's request. The investment manager shall forward to the administrator the list received from the business entity. The administrator shall request the superintendent to conduct a criminal records check in accordance with this section and section 109.579 of the Revised Code with respect to every employee the business entity names in that list. Upon receipt of the results of the criminal records check, the administrator shall forward a copy of those results to the investment manager.

(3) If, after a contract has been entered into between the administrator and an investment manager or between an investment manager and a business entity for the investment of assets of bureau of workers' compensation funds, the investment manager or business entity wishes to have an employee who was not the subject of a criminal records check under division (B)(1) or (B)(2) of this section invest assets of the bureau of workers' compensation funds, that employee shall be the subject of a criminal records check pursuant to this section and section 109.579 of the Revised Code prior to handling the investment of assets of those funds. The investment manager shall submit to the administrator the name of that employee along with the employee's state of residence for the five years prior to the date in which the administrator requests the criminal records check. The administrator shall request that the superintendent conduct a

criminal records check on that employee pursuant to this section and section 109.579 of the Revised Code.

(C)(1) If an employee who is the subject of a criminal records check pursuant to division (B) of this section has not been a resident of this state for the five-year period immediately prior to the time the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the employee from the federal bureau of investigation in a criminal records check, the administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the employee. If the employee has been a resident of this state for at least that five-year period, the administrator may, but is not required to, request that the superintendent request and include in the criminal records check information about that employee from the federal bureau of investigation.

(2) The administrator shall provide to an investment manager a copy of the form prescribed pursuant to division (C)(1) of section 109.579 of the Revised Code and a standard impression sheet for each employee for whom a criminal records check must be performed, to obtain fingerprint impressions as prescribed pursuant to division (C)(2) of section 109.579 of the Revised Code. The investment manager shall obtain the completed form and impression sheet either directly from each employee or from a business entity and shall forward the completed form and sheet to the administrator, who shall forward these forms and sheets to the superintendent.

(3) Any employee who receives a copy of the form and the impression sheet pursuant to division (C)(2) of this section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall complete the impression sheets in the manner prescribed in division (C)(2) of section 109.579 of the Revised Code.

(D) For each criminal records check the administrator requests under this section, at the time the administrator makes a request the administrator shall pay to the superintendent the fee the superintendent prescribes pursuant to division (E) of section 109.579 of the Revised Code.

Sec. 4123.445. (A) The administrator of workers' compensation shall not enter into a contract with an investment manager for the investment of assets of the bureau of workers' compensation funds if any employee of that investment manager who will be investing assets of bureau of workers' compensation funds has been convicted of or pleaded guilty to a financial or investment crime.

(B) An investment manager who has entered into a contract with the

bureau of workers' compensation for the investment of assets of bureau of workers' compensation funds shall not contract with a business entity for the investment of those assets if any employee of that business manager who will be investing assets of bureau of workers' compensation funds has been convicted of or pleaded guilty to a financial or investment crime.

(C) The administrator shall not enter into a contract with an investment manager who refuses to submit the list of the investment manager's employees required under division (B) of section 4123.444 of the Revised Code. An investment manager shall not enter into a contract with a business entity who refuses to submit the list of the business entity's employees required under division (B) of section 4123.444 of the Revised Code.

(D) If, after a contract has been awarded to an investment manager or business entity for the investment of assets of bureau of workers' compensation funds, the investment manager or business entity discovers that an employee who is handling the investment of those assets has been convicted of or pleaded guilty to a financial or investment crime, the investment manager or business entity immediately shall notify the administrator.

Sec. 4123.47. (A) The administrator of workers' compensation shall have actuarial audits of the state insurance fund and all other funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code made at least once ~~every two years~~ each year. The audits shall be made and certified by recognized insurance actuaries who shall be selected as the administrator determines. The audits shall cover the premium rates, classifications, and all other matters involving the administration of the state insurance fund and all other funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code. The expense of the audits shall be paid from the state insurance fund. The administrator shall make copies of the audits available to the public at cost.

(B) The auditor of state annually shall conduct an audit of the administration of this chapter by the industrial commission and the bureau of workers' compensation and the safety and hygiene fund. The cost of the audit shall be charged to the administrative costs of the bureau as defined in section 4123.341 of the Revised Code. The audit shall include audits of all fiscal activities, claims processing and handling, and employer premium collections. The auditor shall prepare a report of the audit together with recommendations and transmit copies of the report to the industrial commission the workers' compensation oversight commission, the administrator, the governor, and to the general assembly. The auditor shall make copies of the report available to the public at cost.

(C) The administrator may retain the services of a recognized actuary on a consulting basis for the purpose of evaluating the actuarial soundness of premium rates and classifications and all other matters involving the administration of the state insurance fund. The expense of services provided by the actuary shall be paid from the state insurance fund.

Sec. 4301.10. (A) The division of liquor control shall do all of the following:

(1) Control the traffic in beer and intoxicating liquor in this state, including the manufacture, importation, and sale of beer and intoxicating liquor;

(2) Grant or refuse permits for the manufacture, distribution, transportation, and sale of beer and intoxicating liquor and the sale of alcohol, as authorized or required by this chapter and Chapter 4303. of the Revised Code. A certificate, signed by the superintendent of liquor control and to which is affixed the official seal of the division, stating that it appears from the records of the division that no permit has been issued to the person specified in the certificate, or that a permit, if issued, has been revoked, canceled, or suspended, shall be received as prima-facie evidence of the facts recited in the certificate in any court or before any officer of this state.

(3) Put into operation, manage, and control a system of state liquor stores for the sale of spirituous liquor at retail and to holders of permits authorizing the sale of spirituous liquor; however, the division shall not establish any drive-in state liquor stores; and by means of those types of stores, and any manufacturing plants, distributing and bottling plants, warehouses, and other facilities that it considers expedient, establish and maintain a state monopoly of the distribution of spirituous liquor and its sale in packages or containers; and for that purpose, manufacture, buy, import, possess, and sell spirituous liquors as provided in this chapter and Chapter 4303. of the Revised Code, and in the rules promulgated by the superintendent of liquor control pursuant to those chapters; lease or in any manner acquire the use of any land or building required for any of those purposes; purchase any equipment that is required; and borrow money to carry on its business, and issue, sign, endorse, and accept notes, checks, and bills of exchange; but all obligations of the division created under authority of this division shall be a charge only upon the moneys received by the division from the sale of spirituous liquor and its other business transactions in connection with the sale of spirituous liquor, and shall not be general obligations of the state;

(4) Enforce the administrative provisions of this chapter and Chapter 4303. of the Revised Code, and the rules and orders of the liquor control

commission and the superintendent relating to the manufacture, importation, transportation, distribution, and sale of beer ~~and~~ or intoxicating ~~liquors~~ liquor. The attorney general, any prosecuting attorney, and any prosecuting officer of a municipal corporation or a municipal court shall, at the request of the division of liquor control or the department of public safety, prosecute any person charged with the violation of any provision in those chapters or of any section of the Revised Code relating to the manufacture, importation, transportation, distribution, and sale of beer ~~and~~ or intoxicating liquor.

(5) Determine the locations of all state liquor stores and manufacturing, distributing, and bottling plants required in connection with those stores, subject to this chapter and Chapter 4303. of the Revised Code;

(6) Conduct inspections of liquor permit premises to determine compliance with the administrative provisions of this chapter and Chapter 4303. of the Revised Code and the rules adopted under those provisions by the liquor control commission.

Except as otherwise provided in division (A)(6) of this section, those inspections may be conducted only during those hours in which the permit holder is open for business and only by authorized agents or employees of the division or by any peace officer, as defined in section 2935.01 of the Revised Code. Inspections may be conducted at other hours only to determine compliance with laws or commission rules that regulate the hours of sale of beer ~~and~~ or intoxicating liquor and only if the investigator has reasonable cause to believe that those laws or rules are being violated. Any inspection conducted pursuant to division (A)(6) of this section is subject to all of the following requirements:

(a) The only property that may be confiscated is contraband, as defined in section 2901.01 of the Revised Code, or property that is otherwise necessary for evidentiary purposes.

(b) A complete inventory of all property confiscated from the premises shall be given to the permit holder or the permit holder's agent or employee by the confiscating agent or officer at the conclusion of the inspection. At that time, the inventory shall be signed by the confiscating agent or officer, and the agent or officer shall give the permit holder or the permit holder's agent or employee the opportunity to sign the inventory.

(c) Inspections conducted pursuant to division (A)(6) of this section shall be conducted in a reasonable manner. A finding by any court of competent jurisdiction that ~~the~~ an inspection was not conducted in a reasonable manner in accordance with this section or any rules ~~promulgated~~ adopted by the commission may be considered grounds for suppression of evidence. A finding by the ~~liquor control~~ commission that ~~the~~ an inspection

was not conducted in a reasonable manner in accordance with this section or any rules ~~promulgated~~ adopted by ~~the commission~~ it may be considered grounds for dismissal of the commission case.

If any court of competent jurisdiction finds that property confiscated as the result of an administrative inspection is not necessary for evidentiary purposes and is not contraband, as defined in section 2901.01 of the Revised Code, the court shall order the immediate return of the confiscated property, provided that property is not otherwise subject to forfeiture, to the permit holder. However, the return of this property is not grounds for dismissal of the case. The commission likewise may order the return of confiscated property if no criminal prosecution is pending or anticipated.

(7) Delegate to any of its agents or employees any power of investigation that the division possesses with respect to the enforcement of any of the administrative laws relating to beer ~~and~~ or intoxicating liquor, provided that this division does not authorize the division to designate any agent or employee to serve as an enforcement agent. The employment and designation of enforcement agents shall be within the exclusive authority of the director of public safety pursuant to sections 5502.13 to 5502.19 of the Revised Code.

(8) Collect the following fees:

(a) A biennial ~~fifty-dollar~~ fifty-dollar registration fee for each agent, solicitor, or salesperson, registered pursuant to section 4303.25 of the Revised Code, of a beer or intoxicating liquor manufacturer, supplier, broker, or wholesale distributor doing business in this state;

(b) A fifty-dollar product registration fee for each new beer or intoxicating liquor product sold in this state. The product registration fee shall be accompanied by a copy of the federal label and product approval for the new product.

(c) An annual three-hundred-dollar supplier registration fee from each manufacturer or supplier that produces and ships into this state, or ships into this state, intoxicating liquor or beer, in addition to an initial application fee of one hundred dollars.

Each supplier, agent, solicitor, or salesperson registration issued under this division shall authorize the person named to carry on the activity specified in the registration. Each agent, solicitor, or salesperson registration is valid for two years or for the unexpired portion of a two-year registration period. Each supplier registration is valid for one year or for the unexpired portion of a one-year registration period. Registrations shall end on their respective uniform expiration date, which shall be designated by the division, and are subject to suspension, revocation, cancellation, or fine as

authorized by this chapter and Chapter 4303. of the Revised Code.

(9) Establish a system of electronic data interchange within the division and regulate the electronic transfer of information and funds among persons and governmental entities engaged in the manufacture, distribution, and retail sale of alcoholic beverages;

(10) Exercise all other powers expressly or by necessary implication conferred upon the division by this chapter and Chapter 4303. of the Revised Code, and all powers necessary for the exercise or discharge of any power, duty, or function expressly conferred or imposed upon the division by those chapters.

(B) The division may do all of the following:

(1) Sue, but may be sued only in connection with the execution of leases of real estate and the purchases and contracts necessary for the operation of the state liquor stores that are made under this chapter and Chapter 4303. of the Revised Code;

(2) Enter into leases and contracts of all descriptions and acquire and transfer title to personal property with regard to the sale, distribution, and storage of spirituous liquor within the state;

(3) Terminate at will any lease entered into pursuant to division (B)(2) of this section upon first giving ninety days' notice in writing to the lessor of its intention to do so;

(4) Fix the wholesale and retail prices at which the various classes, varieties, and brands of spirituous liquor shall be sold by the division. Those retail prices shall be the same at all state liquor stores, except to the extent that a price differential is required to collect a county sales tax levied pursuant to section 5739.021 of the Revised Code and for which tax the tax commissioner has authorized prepayment pursuant to section 5739.05 of the Revised Code. In fixing selling prices, the division shall compute an anticipated gross profit at least sufficient to provide in each calendar year all costs and expenses of the division and also an adequate working capital reserve for the division. The gross profit shall not exceed forty per cent of the retail selling price based on costs of the division, and in addition the sum required by section 4301.12 of the Revised Code to be paid into the state treasury. An amount equal to one and one-half per cent of that gross profit shall be paid into the statewide treatment and prevention fund created by section 4301.30 of the Revised Code and be appropriated by the general assembly from the fund to the department of alcohol and drug addiction services as provided in section 4301.30 of the Revised Code.

On spirituous liquor manufactured in this state from the juice of grapes or fruits grown in this state, the division shall compute an anticipated gross

profit of not to exceed ten per cent. ~~The~~

The wholesale prices fixed under this division shall be at a discount of not less than ~~twelve and one-half~~ six per cent of the retail selling prices as determined by the division in accordance with this section.

(C) The division may approve the expansion or diminution of a premises to which a liquor permit has been issued and may adopt standards governing such an expansion or diminution.

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of the Revised Code:

(1) "Gallon" or "wine gallon" means one hundred twenty-eight fluid ounces.

(2) "Sale" or "sell" includes exchange, barter, gift, distribution, and, except with respect to A-4 permit holders, offer for sale.

(B) For the purposes of providing revenues for the support of the state and encouraging the grape industries in the state, a tax is hereby levied on the sale or distribution of wine in Ohio, except for known sacramental purposes, at the rate of thirty cents per wine gallon for wine containing not less than four per cent of alcohol by volume and not more than fourteen per cent of alcohol by volume, ninety-eight cents per wine gallon for wine containing more than fourteen per cent but not more than twenty-one per cent of alcohol by volume, one dollar and eight cents per wine gallon for vermouth, and one dollar and forty-eight cents per wine gallon for sparkling and carbonated wine and champagne, the tax to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing wine upon which no tax has been paid. From the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to one cent per gallon for each gallon upon which the tax is paid.

(C) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on prepared and bottled highballs, cocktails, cordials, and other mixed beverages at the rate of one dollar and twenty cents per wine gallon to be paid by holders of A-4 permits or by any other person selling or distributing those products upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of tax due. The tax on mixed beverages to be paid by holders of A-4 permits under this section shall not attach until the ownership of the mixed beverage is transferred for valuable consideration to a wholesaler or retailer, and no payment of the tax shall be required prior to that time.

(D) During the period of July 1, ~~2003~~ 2005, through June 30, ~~2005~~

2007, from the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to two cents per gallon upon which the tax is paid. The amount credited under this division is in addition to the amount credited to the Ohio grape industries fund under division (B) of this section.

(E) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on cider at the rate of twenty-four cents per wine gallon to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing cider upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of the tax due.

Sec. 4303.182. (A) Except as otherwise provided in divisions (B) to (G) of this section, permit D-6 shall be issued to the holder of an A-1-A, A-2, C-2, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit to allow sale under that permit between the hours of ten a.m. and midnight, or between the hours of one p.m. and midnight, on Sunday, as applicable, if that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code and under the restrictions of that authorization.

(B) Permit D-6 shall be issued to the holder of any permit, including a D-4a and D-5d permit, authorizing the sale of intoxicating liquor issued for a premises located at any publicly owned airport, as defined in section 4563.01 of the Revised Code, at which commercial airline companies operate regularly scheduled flights on which space is available to the public, to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(C) Permit D-6 shall be issued to the holder of a D-5a permit, and to the holder of a D-3 or D-3a permit who is the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests, and that has on its premises a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and is affiliated with the hotel or motel and within or contiguous to the hotel or motel and serving food within the hotel or motel, to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(D) The holder of a D-6 permit that is issued to a sports facility may make sales under the permit between the hours of eleven a.m. and midnight on any Sunday on which a professional baseball, basketball, football, hockey, or soccer game is being played at the sports facility. As used in this division, "sports facility" means a stadium or arena that has a seating capacity of at least four thousand and that is owned or leased by a professional baseball, basketball, football, hockey, or soccer franchise or any combination of those franchises.

(E) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a premises located in or at the Ohio historical society area or the state fairgrounds, as defined in division (B) of section 4301.40 of the Revised Code, to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(F) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of intoxicating liquor and that is issued to an outdoor performing arts center to allow sale under that permit between the hours of one p.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361 of the Revised Code. A D-6 permit issued under this division is subject to the results of an election, held after the D-6 permit is issued, on question (B)(4) as set forth in section 4301.351 of the Revised Code. Following the end of the period during which an election may be held on question (B)(4) as set forth in that section, sales of intoxicating liquor may continue at an outdoor performing arts center under a D-6 permit issued under this division, unless an election on that question is held during the permitted period and a majority of the voters voting in the precinct on that question vote "no."

As used in this division, "outdoor performing arts center" means an outdoor performing arts center that is located on not less than eight hundred acres of land and that is open for performances from the first day of April to the last day of October of each year.

(G) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a golf course owned by the state, a conservancy district, a park district created under Chapter 1545. of the Revised Code, or another political subdivision to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(H) Permit D-6 shall be issued to the holder of a D-5g permit to allow

sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(I) Permit D-6 shall be issued to the holder of any D permit for a premises that is licensed under Chapter 3717. of the Revised Code and that is located at a ski area to allow sale under the D-6 permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

As used in this division, "ski area" means a ski area as defined in section 4169.01 of the Revised Code, provided that the passenger tramway operator at that area is registered under section 4169.03 of the Revised Code.

(J) If the restriction to licensed premises where the sale of food and other goods and services exceeds fifty per cent of the total gross receipts of the permit holder at the premises is applicable, the division of liquor control may accept an affidavit from the permit holder to show the proportion of the permit holder's gross receipts derived from the sale of food and other goods and services. If the liquor control commission determines that affidavit to have been false, it shall revoke the permits of the permit holder at the premises concerned.

~~(J)~~(K) The fee for the D-6 permit is five hundred dollars when it is issued to the holder of an A-1-A, A-2, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit. The fee for the D-6 permit is four hundred dollars when it is issued to the holder of a C-2 permit.

Sec. 4501.01. As used in this chapter and Chapters 4503., 4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the Revised Code, and in the penal laws, except as otherwise provided:

(A) "Vehicles" means everything on wheels or runners, including motorized bicycles, but does not mean electric personal assistive mobility devices, vehicles that are operated exclusively on rails or tracks or from overhead electric trolley wires, and vehicles that belong to any police department, municipal fire department, or volunteer fire department, or that are used by such a department in the discharge of its functions.

(B) "Motor vehicle" means any vehicle, including mobile homes and recreational vehicles, that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires. "Motor vehicle" does not include utility vehicles as defined in division (VV) of this section, motorized bicycles, road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work and

not designed for or employed in general highway transportation, well-drilling machinery, ditch-digging machinery, farm machinery, trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed of twenty-five miles per hour or less, threshing machinery, hay-baling machinery, corn sheller, hammermill and agricultural tractors, machinery used in the production of horticultural, agricultural, and vegetable products, and trailers that are designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.

(C) "Agricultural tractor" and "traction engine" mean any self-propelling vehicle that is designed or used for drawing other vehicles or wheeled machinery, but has no provisions for carrying loads independently of such other vehicles, and that is used principally for agricultural purposes.

(D) "Commercial tractor," except as defined in division (C) of this section, means any motor vehicle that has motive power and either is designed or used for drawing other motor vehicles, or is designed or used for drawing another motor vehicle while carrying a portion of the other motor vehicle or its load, or both.

(E) "Passenger car" means any motor vehicle that is designed and used for carrying not more than nine persons and includes any motor vehicle that is designed and used for carrying not more than fifteen persons in a ridesharing arrangement.

(F) "Collector's vehicle" means any motor vehicle or agricultural tractor or traction engine that is of special interest, that has a fair market value of one hundred dollars or more, whether operable or not, and that is owned, operated, collected, preserved, restored, maintained, or used essentially as a collector's item, leisure pursuit, or investment, but not as the owner's principal means of transportation. "Licensed collector's vehicle" means a collector's vehicle, other than an agricultural tractor or traction engine, that displays current, valid license tags issued under section 4503.45 of the Revised Code, or a similar type of motor vehicle that displays current, valid license tags issued under substantially equivalent provisions in the laws of other states.

(G) "Historical motor vehicle" means any motor vehicle that is over twenty-five years old and is owned solely as a collector's item and for participation in club activities, exhibitions, tours, parades, and similar uses, but that in no event is used for general transportation.

(H) "Noncommercial motor vehicle" means any motor vehicle, including a farm truck as defined in section 4503.04 of the Revised Code, that is designed by the manufacturer to carry a load of no more than one ton and is used exclusively for purposes other than engaging in business for profit.

(I) "Bus" means any motor vehicle that has motor power and is designed and used for carrying more than nine passengers, except any motor vehicle that is designed and used for carrying not more than fifteen passengers in a ridesharing arrangement.

(J) "Commercial car" or "truck" means any motor vehicle that has motor power and is designed and used for carrying merchandise or freight, or that is used as a commercial tractor.

(K) "Bicycle" means every device, other than a tricycle that is designed solely for use as a play vehicle by a child, that is propelled solely by human power upon which any person may ride, and that has either two tandem wheels, or one wheel in front and two wheels in the rear, any of which is more than fourteen inches in diameter.

(L) "Motorized bicycle" means any vehicle that either has two tandem wheels or one wheel in the front and two wheels in the rear, that is capable of being pedaled, and that is equipped with a helper motor of not more than fifty cubic centimeters piston displacement that produces no more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface.

(M) "Trailer" means any vehicle without motive power that is designed or used for carrying property or persons wholly on its own structure and for being drawn by a motor vehicle, and includes any such vehicle that is formed by or operated as a combination of a semitrailer and a vehicle of the dolly type such as that commonly known as a trailer dolly, a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed greater than twenty-five miles per hour, and a vehicle that is designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of more than ten miles or at a speed of more than twenty-five miles per hour. "Trailer" does not include a manufactured home or travel trailer.

(N) "Noncommercial trailer" means any trailer, except a travel trailer or trailer that is used to transport a boat as described in division (B) of this section, but, where applicable, includes a vehicle that is used to transport a boat as described in division (M) of this section, that has a gross weight of

no more than three thousand pounds, and that is used exclusively for purposes other than engaging in business for a profit.

(O) "Mobile home" means a building unit or assembly of closed construction that is fabricated in an off-site facility, is more than thirty-five body feet in length or, when erected on site, is three hundred twenty or more square feet, is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code or as an industrialized unit as defined in division (C)(3) of section 3781.06 of the Revised Code.

(P) "Semitrailer" means any vehicle of the trailer type that does not have motive power and is so designed or used with another and separate motor vehicle that in operation a part of its own weight or that of its load, or both, rests upon and is carried by the other vehicle furnishing the motive power for propelling itself and the vehicle referred to in this division, and includes, for the purpose only of registration and taxation under those chapters, any vehicle of the dolly type, such as a trailer dolly, that is designed or used for the conversion of a semitrailer into a trailer.

(Q) "Recreational vehicle" means a vehicular portable structure that meets all of the following conditions:

(1) It is designed for the sole purpose of recreational travel.

(2) It is not used for the purpose of engaging in business for profit.

(3) It is not used for the purpose of engaging in intrastate commerce.

(4) It is not used for the purpose of commerce as defined in 49 C.F.R. 383.5, as amended.

(5) It is not regulated by the public utilities commission pursuant to Chapter 4919., 4921., or 4923. of the Revised Code.

(6) It is classed as one of the following:

(a) "Travel trailer" means a nonself-propelled recreational vehicle that does not exceed an overall length of thirty-five feet, exclusive of bumper and tongue or coupling, and contains less than three hundred twenty square feet of space when erected on site. "Travel trailer" includes a tent-type fold-out camping trailer as defined in section 4517.01 of the Revised Code.

(b) "Motor home" means a self-propelled recreational vehicle that has no fifth wheel and is constructed with permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping.

(c) "Truck camper" means a nonself-propelled recreational vehicle that does not have wheels for road use and is designed to be placed upon and attached to a motor vehicle. "Truck camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

(d) "Fifth wheel trailer" means a vehicle that is of such size and weight as to be movable without a special highway permit, that has a gross trailer area of four hundred square feet or less, that is constructed with a raised forward section that allows a bi-level floor plan, and that is designed to be towed by a vehicle equipped with a fifth-wheel hitch ordinarily installed in the bed of a truck.

(e) "Park trailer" means a vehicle that is commonly known as a park model recreational vehicle, meets the American national standard institute standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances.

(R) "Pneumatic tires" means tires of rubber and fabric or tires of similar material, that are inflated with air.

(S) "Solid tires" means tires of rubber or similar elastic material that are not dependent upon confined air for support of the load.

(T) "Solid tire vehicle" means any vehicle that is equipped with two or more solid tires.

(U) "Farm machinery" means all machines and tools that are used in the production, harvesting, and care of farm products, and includes trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed of twenty-five miles per hour or less.

(V) "Owner" includes any person or firm, other than a manufacturer or dealer, that has title to a motor vehicle, except that, in sections 4505.01 to 4505.19 of the Revised Code, "owner" includes in addition manufacturers and dealers.

(W) "Manufacturer" and "dealer" include all persons and firms that are regularly engaged in the business of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles, at an established place of business that is used exclusively for the purpose of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles. A place of business that is used for manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles shall be deemed to be used exclusively for those purposes even though snowmobiles or all-purpose vehicles are sold or displayed for sale thereat, even though farm machinery is sold or displayed for sale thereat, or even though repair, accessory, gasoline and oil, storage, parts, service, or paint departments are maintained thereat, or, in any county having a population of less than seventy-five thousand at the last federal

census, even though a department in a place of business is used to dismantle, salvage, or rebuild motor vehicles by means of used parts, if such departments are operated for the purpose of furthering and assisting in the business of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles. Places of business or departments in a place of business used to dismantle, salvage, or rebuild motor vehicles by means of using used parts are not considered as being maintained for the purpose of assisting or furthering the manufacturing, selling, displaying, and offering for sale or dealing in motor vehicles.

(X) "Operator" includes any person who drives or operates a motor vehicle upon the public highways.

(Y) "Chauffeur" means any operator who operates a motor vehicle, other than a taxicab, as an employee for hire; or any operator whether or not the owner of a motor vehicle, other than a taxicab, who operates such vehicle for transporting, for gain, compensation, or profit, either persons or property owned by another. Any operator of a motor vehicle who is voluntarily involved in a ridesharing arrangement is not considered an employee for hire or operating such vehicle for gain, compensation, or profit.

(Z) "State" includes the territories and federal districts of the United States, and the provinces of Canada.

(AA) "Public roads and highways" for vehicles includes all public thoroughfares, bridges, and culverts.

(BB) "Manufacturer's number" means the manufacturer's original serial number that is affixed to or imprinted upon the chassis or other part of the motor vehicle.

(CC) "Motor number" means the manufacturer's original number that is affixed to or imprinted upon the engine or motor of the vehicle.

(DD) "Distributor" means any person who is authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed motor vehicle dealers at an established place of business that is used exclusively for the purpose of distributing new motor vehicles to licensed motor vehicle dealers, except when the distributor also is a new motor vehicle dealer, in which case the distributor may distribute at the location of the distributor's licensed dealership.

(EE) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of a volunteer driver and includes ridesharing arrangements known as carpools, vanpools, and buspools.

(FF) "Apportionable vehicle" means any vehicle that is used or intended

for use in two or more international registration plan member jurisdictions that allocate or proportionally register vehicles, that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and that meets any of the following qualifications:

(1) Is a power unit having a gross vehicle weight in excess of twenty-six thousand pounds;

(2) Is a power unit having three or more axles, regardless of the gross vehicle weight;

(3) Is a combination vehicle with a gross vehicle weight in excess of twenty-six thousand pounds.

"Apportionable vehicle" does not include recreational vehicles, vehicles displaying restricted plates, city pick-up and delivery vehicles, buses used for the transportation of chartered parties, or vehicles owned and operated by the United States, this state, or any political subdivisions thereof.

(GG) "Chartered party" means a group of persons who contract as a group to acquire the exclusive use of a passenger-carrying motor vehicle at a fixed charge for the vehicle in accordance with the carrier's tariff, lawfully on file with the United States department of transportation, for the purpose of group travel to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after having left the place of origin.

(HH) "International registration plan" means a reciprocal agreement of member jurisdictions that is endorsed by the American association of motor vehicle administrators, and that promotes and encourages the fullest possible use of the highway system by authorizing apportioned registration of fleets of vehicles and recognizing registration of vehicles apportioned in member jurisdictions.

(II) "Restricted plate" means a license plate that has a restriction of time, geographic area, mileage, or commodity, and includes license plates issued to farm trucks under division (J) of section 4503.04 of the Revised Code.

(JJ) "Gross vehicle weight," with regard to any commercial car, trailer, semitrailer, or bus that is taxed at the rates established under section 4503.042 of the Revised Code, means the unladen weight of the vehicle fully equipped plus the maximum weight of the load to be carried on the vehicle.

(KK) "Combined gross vehicle weight" with regard to any combination of a commercial car, trailer, and semitrailer, that is taxed at the rates established under section 4503.042 of the Revised Code, means the total unladen weight of the combination of vehicles fully equipped plus the

maximum weight of the load to be carried on that combination of vehicles.

(LL) "Chauffeured limousine" means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire on an hourly basis pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an agreement, made in advance of boarding, to provide transportation from a specific location in a chauffeured limousine at a fixed rate per hour or trip. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing.

(MM) "Manufactured home" has the same meaning as in division (C)(4) of section 3781.06 of the Revised Code.

(NN) "Acquired situs," with respect to a manufactured home or a mobile home, means to become located in this state by the placement of the home on real property, but does not include the placement of a manufactured home or a mobile home in the inventory of a new motor vehicle dealer or the inventory of a manufacturer, remanufacturer, or distributor of manufactured or mobile homes.

(OO) "Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.

(PP) "Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

(QQ) "Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record.

(RR) "Financial transaction device" has the same meaning as in division (A) of section 113.40 of the Revised Code.

(SS) "Electronic motor vehicle dealer" means a motor vehicle dealer licensed under Chapter 4517. of the Revised Code whom the registrar of motor vehicles determines meets the criteria designated in section 4503.035 of the Revised Code for electronic motor vehicle dealers and designates as an electronic motor vehicle dealer under that section.

(TT) "Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface by an operator who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour.

(UU) "Limited driving privileges" means the privilege to operate a

motor vehicle that a court grants under section 4510.021 of the Revised Code to a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended.

(VV) "Utility vehicle" means a self-propelled vehicle designed with a bed, principally for the purpose of transporting material or cargo in connection with construction, agricultural, forestry, grounds maintenance, lawn and garden, materials handling, or similar activities.

Sec. 4501.37. (A) No court may reverse, suspend, or delay any order made by the registrar of motor vehicles, or enjoin, restrain, or interfere with the registrar or a deputy registrar in the performance of official duties, except as provided in this chapter and Chapter 4507. or 4510. of the Revised Code.

(B) A court shall not order the bureau of motor vehicles to delete a record of conviction unless the court finds that deletion of the record of conviction is necessary to correct an error. The bureau shall not comply with a court order that directs the deletion of a record of conviction unless the order states that the record of conviction is being deleted in order to correct an error.

Sec. 4503.103. (A)(1)(a)(i) The registrar of motor vehicles may adopt rules to permit any person or lessee, other than a person receiving an apportioned license plate under the international registration plan, who owns or leases one or more motor vehicles to file a written application for registration for no more than five succeeding registration years. The rules adopted by the registrar may designate the classes of motor vehicles that are eligible for such registration. At the time of application, all annual taxes and fees shall be paid for each year for which the person is registering.

(ii) The registrar shall adopt rules to permit any person or lessee who owns or leases two or more trailers or semitrailers that are subject to the tax rates prescribed in section 4503.042 of the Revised Code for such trailers or semitrailers to file a written application for registration for not more than five succeeding registration years. At the time of application, all annual taxes and fees shall be paid for each year for which the person is registering.

(b)(i) Except as provided in division (A)(1)(b)(ii) of this section, the registrar shall adopt rules to permit any person who owns a motor vehicle to file an application for registration for the next two succeeding registration years. At the time of application, the person shall pay the annual taxes and fees for each registration year, calculated in accordance with division (C) of section 4503.11 of the Revised Code. A person who is registering a vehicle under division (A)(1)(b) of this section shall pay for each year of registration the additional fee established under division (C)(1) of section

4503.10 of the Revised Code. The person shall also pay one and one-half times the amount of the deputy registrar service fee specified in division (D) of section 4503.10 of the Revised Code or the bureau of motor vehicles service fee specified in division (G) of that section, as applicable.

(ii) Division (A)(1)(b)(i) of this section does not apply to a person receiving an apportioned license plate under the international registration plan, or the owner of a commercial car used solely in intrastate commerce, or the owner of a bus as defined in section 4513.50 of the Revised Code.

(2) No person applying for a multi-year registration under division (A)(1) of this section is entitled to a refund of any taxes or fees paid.

(3) The registrar shall not issue to any applicant who has been issued a final, nonappealable order under division (B) of this section a multi-year registration or renewal thereof under this division or rules adopted under it for any motor vehicle that is required to be inspected under section 3704.14 of the Revised Code the district of registration of which, as determined under section 4503.10 of the Revised Code, is or is located in the county named in the order.

(B) Upon receipt from the director of environmental protection of a notice issued under ~~division (J) of~~ rules adopted under section 3704.14 of the Revised Code indicating that an owner of a motor vehicle that is required to be inspected under that section who obtained a multi-year registration for the vehicle under division (A) of this section or rules adopted under that division has not obtained ~~an~~ a required inspection certificate for the vehicle ~~in accordance with that section in a year intervening between the years of issuance and expiration of the multi-year registration in which the owner is required to have the vehicle inspected and obtain an inspection certificate for it under division (F)(1)(a) of that section~~, the registrar in accordance with Chapter 119. of the Revised Code shall issue an order to the owner impounding the certificate of registration and identification license plates for the vehicle. The order also shall prohibit the owner from obtaining or renewing a multi-year registration for any vehicle that is required to be inspected under that section, the district of registration of which is or is located in the same county as the county named in the order during the number of years after expiration of the current multi-year registration that equals the number of years for which the current multi-year registration was issued.

An order issued under this division shall require the owner to surrender to the registrar the certificate of registration and license plates for the vehicle named in the order within five days after its issuance. If the owner fails to do so within that time, the registrar shall certify that fact to the

county sheriff or local police officials who shall recover the certificate of registration and license plates for the vehicle.

(C) Upon the occurrence of either of the following circumstances, the registrar in accordance with Chapter 119. of the Revised Code shall issue to the owner a modified order rescinding the provisions of the order issued under division (B) of this section impounding the certificate of registration and license plates for the vehicle named in that original order:

(1) Receipt from the director of environmental protection of a subsequent notice under ~~division (J) of~~ rules adopted under section 3704.14 of the Revised Code that the owner has obtained the inspection certificate for the vehicle as required under ~~division (F)(1)(a) of that section~~ those rules;

(2) Presentation to the registrar by the owner of the required inspection certificate for the vehicle.

(D) The owner of a motor vehicle for which the certificate of registration and license plates have been impounded pursuant to an order issued under division (B) of this section, upon issuance of a modified order under division (C) of this section, may apply to the registrar for their return. A fee of two dollars and fifty cents shall be charged for the return of the certificate of registration and license plates for each vehicle named in the application.

Sec. 4503.471. (A) Any person who is a member in good standing of the international association of firefighters may apply to the registrar of motor vehicles for the registration of any passenger car, noncommercial vehicle, ~~motor home~~ recreational vehicle, or other vehicle of a class approved by the registrar that the person owns or leases and the issuance of international association of firefighters license plates. The application shall be accompanied by the written evidence that the registrar may require by rule showing that the person is a member in good standing of the international association of firefighters. The application for international association of firefighters license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code.

Upon receipt of an application for registration of a vehicle under this section and presentation of satisfactory evidence showing that the person is a member in good standing of the international association of firefighters, the registrar shall issue to the applicant the appropriate vehicle registrations, sets of license plates and validation stickers, or validation stickers alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on the license

plates, international association of firefighters license plates shall be inscribed with a Maltese cross emblem designed by the international association of firefighters and approved by the registrar. International association of firefighters license plates shall bear county identification stickers that identify the county of registration by name or number.

The license plates and validation stickers shall be issued upon payment of the regular license fee as prescribed under section 4503.04 of the Revised Code, payment of any local motor vehicle tax levied under Chapter 4504. of the Revised Code, and payment of an additional fee of ten dollars for the purpose of compensating the bureau of motor vehicles for additional services required in the issuing of license plates under this section. If the application for international association of firefighters license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plate and validation sticker shall be issued upon payment of the fees and taxes contained in this division and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code. The registrar shall deposit the additional fee of ten dollars in the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

Whenever a person no longer is eligible to be issued international association of firefighters license plates, the person shall surrender the international association of firefighters license plates to the bureau in exchange for license plates without the Maltese cross emblem described in this section. A fee of five dollars shall be charged for the services required in the issuing of replacement plates when a person no longer is eligible to be issued international association of firefighters license plates.

A person may make application for international association of firefighters license plates at any time of year, and the registrar shall issue international association of firefighters license plates and replacement plates at any time of year.

(B) No person who is not a member in good standing of the international association of firefighters shall willfully and falsely represent that the person is a member in good standing of the international association of firefighters for the purpose of obtaining international association of firefighters license plates under this section. No person shall own or lease a vehicle bearing international association of firefighters license plates unless the person is eligible to be issued international association of firefighters license plates.

(C) Whoever violates division (B) of this section is guilty of a misdemeanor of the fourth degree.

Sec. 4503.48. Any person who is a member of the Ohio national guard or the reserves of the armed forces of the United States may apply to the registrar of motor vehicles for the registration of any passenger car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or other vehicle of a class approved by the registrar that the person owns or leases. The application shall be accompanied by such written evidence that the person is a member of the Ohio national guard or of the reserves as the registrar requires by rule.

Upon receipt of an application for registration of a motor vehicle under this section, presentation of satisfactory evidence of membership in the Ohio national guard or the reserves, and payment of the regular license fees as prescribed under section 4503.04 of the Revised Code and any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, the registrar shall issue to the applicant the appropriate motor vehicle registration and a set of license plates and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code. In addition to the letters and numbers ordinarily inscribed thereon, the license plates shall be inscribed with identifying words or markings designed by the department of public safety. The license plates shall bear county identification stickers that identify the county of registration by name or number.

Sec. 4503.50. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of future farmers of America license plates. The application for future farmers of America license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance with division (B) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of future farmers of America license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on the license plates, future farmers of America license plates shall be inscribed with identifying words or markings representing the future farmers of America and approved by the registrar. Future farmers of America license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) The future farmers of America license plates and validation sticker

shall be issued upon receipt of a contribution as provided in division (C) of this section and upon payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, a fee of ten dollars for the purpose of compensating the bureau of motor vehicles for additional services required in the issuing of the future farmers of America license plates, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for future farmers of America license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plate and validation sticker shall be issued upon payment of the contribution, fees, and taxes referred to or established in this division and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

(C) For each application for registration and registration renewal the registrar receives under this section, the registrar shall collect a contribution of fifteen dollars. The registrar shall transmit this contribution to the treasurer of state for deposit in the license plate contribution fund created in section 4501.21 of the Revised Code.

The registrar shall deposit the additional fee of ten dollars specified in division (B) of this section that the applicant for registration pays for the purpose of compensating the bureau for the additional services required in the issuing of the applicant's future farmers of America license plates in the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

Sec. 4503.53. Any person who served in the armed forces of the United States in Saudi Arabia or Kuwait during Operation Desert Storm or Operation Desert Shield, in Panama during the invasion, in Grenada during the invasion, in Lebanon during the invasion, during the Vietnam conflict, during the Korean conflict, during World War II, or during World War I, and who is on active duty or is an honorably discharged veteran may apply to the registrar of motor vehicles for the registration of any passenger car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or other vehicle of a class approved by the registrar the person owns or leases. The application shall be accompanied by such written evidence of the applicant's service as the registrar requires by rule. In the case of an honorably discharged veteran, the written evidence shall include a copy of the applicant's DD-214 form or an equivalent document.

Upon receipt of an application for registration of a motor vehicle under this section, presentation of satisfactory evidence of military service in Saudi Arabia or Kuwait during Operation Desert Storm or Operation Desert

Shield, in Panama during the invasion, in Grenada during the invasion, in Lebanon during the invasion, during the Vietnam conflict, during the Korean conflict, during World War II, or during World War I, and payment of the regular license tax as prescribed under section 4503.04 of the Revised Code and any applicable local tax levied under Chapter 4504. of the Revised Code, the registrar shall issue to the applicant the appropriate motor vehicle registration and a set of license plates and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code. In accordance with rules adopted by the registrar, each license plate shall be inscribed with identifying letters or numerals and the word "VETERAN"; in addition, each license plate shall be inscribed with a design and words indicating service in Saudi Arabia, Kuwait, Panama, Grenada, or Lebanon, or during the Vietnam conflict, the Korean conflict, World War II, or World War I.

Sec. 4503.571. Any person who has been awarded the purple heart may apply to the registrar of motor vehicles for the registration of any passenger car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or other vehicle of a class approved by the registrar that the person owns or leases. The application shall be accompanied by such documentary evidence in support of the award as the registrar may require. The application may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code.

Upon receipt of an application for registration of a motor vehicle under this section and the required taxes and fees, and upon presentation of the required supporting evidence of the award of the purple heart, the registrar shall issue to the applicant the appropriate motor vehicle registration and a set of license plates and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on the license plates, the license plates shall be inscribed with the words "PURPLE HEART." The license plates shall bear county identification stickers that identify the county of registration by name or number.

The license plates and validation stickers shall be issued upon payment of the regular license fee required by section 4503.04 of the Revised Code, payment of any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the fees and taxes referred to in this section and the

additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

No person who is not a recipient of the purple heart shall willfully and falsely represent that the person is a recipient of a purple heart for the purpose of obtaining license plates under this section. No person shall own a motor vehicle bearing license plates under this section unless the person is eligible to be issued those license plates.

Sec. 4503.59. The owner or lessee of any passenger car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles who is certified by the Pearl Harbor survivors association as having survived the attack on Pearl Harbor may apply to the registrar for the registration of the vehicle and issuance of Pearl Harbor license plates. The application for Pearl Harbor license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application, presentation by the applicant of documentation issued by the Pearl Harbor survivors association certifying that the applicant survived the attack on Pearl Harbor, and compliance by the applicant with this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of Pearl Harbor license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed thereon, Pearl Harbor license plates shall be inscribed with the words "Pearl Harbor" and a symbol or logo designed by the Pearl Harbor survivors association and approved by the registrar. Pearl Harbor license plates shall bear county identification stickers that identify the county of registration by name or number.

Pearl Harbor license plates and validation stickers shall be issued upon payment of the regular license fee required by section 4503.04 of the Revised Code, payment of any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for Pearl Harbor license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the fees and taxes contained in this section and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

Sec. 4503.73. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or other

vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of "the leader in flight" license plates. The application for "the leader in flight" license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance with division (B) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of "the leader in flight" license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed thereon, "the leader in flight" license plates shall be inscribed with the words "the leader in flight" and illustrations of a space shuttle in a vertical position and the Wright "B" airplane. "The leader in flight" license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) "The leader in flight" license plates and validation sticker shall be issued upon receipt of a contribution as provided in division (C) of this section and payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, a fee of ten dollars for the purpose of compensating the bureau of motor vehicles for additional services required in the issuing of "the leader in flight" license plates, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for "the leader in flight" license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plate and validation sticker shall be issued upon payment of the fees and taxes referred to or established in this division and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

(C) For each application for registration and registration renewal received under this section, the registrar shall collect a contribution of fifteen dollars. The registrar shall transmit this contribution to the treasurer of state for deposit in the license plate contribution fund created in section 4501.21 of the Revised Code.

The registrar shall deposit the additional fee of ten dollars specified in division (B) of this section that the applicant for registration voluntarily pays for the purpose of compensating the bureau for the additional services required in the issuing of the applicant's "the leader in flight" license plates in the state bureau of motor vehicles fund created in section 4501.25 of the

Revised Code.

Sec. 4503.85. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of "Fish Lake Erie" license plates. The application for "Fish Lake Erie" license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance with division (B) of this section, the registrar shall issue to the applicant the appropriate vehicle registration, a set of "Fish Lake Erie" license plates, and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on the license plates, "Fish Lake Erie" license plates shall be inscribed with identifying words or markings designed by the Ohio sea grant college program and approved by the registrar. "Fish Lake Erie" license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) "Fish Lake Erie" license plates and a validation sticker or, when applicable, a validation sticker alone shall be issued upon receipt of an application for registration of a motor vehicle submitted under this section and a contribution as provided in division (C) of this section, payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, and an additional fee of ten dollars, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for "Fish Lake Erie" license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker or validation sticker alone shall be issued upon payment of the fees and taxes referred to or established in this division plus the additional fee prescribed in section 4503.40 or 4503.42 of the Revised Code.

(C) For each application for registration and registration renewal that the registrar receives under this section, the registrar shall collect a contribution of fifteen dollars. The registrar shall deposit this contribution into the state treasury to the credit of the license plate contribution fund created in section 4501.21 of the Revised Code.

The additional fee of ten dollars described in division (B) of this section shall be for the purpose of compensating the bureau of motor vehicles for additional services required in issuing license plates under this section. The

registrar shall deposit that fee into the state treasury to the credit of the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

Sec. 4503.91. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of "choose life" license plates. The application for "choose life" license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance with divisions (B) and (C) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of "choose life" license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on license plates, "choose life" license plates shall be inscribed with the words "choose life" and a marking designed by "choose life, inc.," a private, nonprofit corporation incorporated in the state of Florida. The registrar shall review the design and approve it if the design is feasible. If the design is not feasible, the registrar shall notify "choose life, inc," and the organization may resubmit designs until a feasible one is approved. "Choose life" license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) "Choose life" license plates and a validation sticker, or a validation sticker alone, shall be issued upon receipt of a contribution as provided in division (C) of this section and upon payment of the regular license tax prescribed in section 4503.04 of the Revised Code, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, any applicable additional fee prescribed by section 4503.40 or 4503.42 of the Revised Code, a fee of ten dollars for the purpose of compensating the bureau of motor vehicles for additional services required in the issuing of "choose life" license plates, and compliance with all other applicable laws relating to the registration of motor vehicles.

(C)(1) For each application for registration and registration renewal received under this section, the registrar shall collect a contribution of twenty dollars. The registrar shall transmit this contribution to the treasurer of state for deposit in the "choose life" fund created in section 3701.65 of the Revised Code.

(2) The registrar shall deposit the additional fee of ten dollars specified in division (B) of this section for the purpose of compensating the bureau for

the additional services required in issuing "choose life" license plates in the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

Sec. 4505.06. (A)(1) Application for a certificate of title shall be made in a form prescribed by the registrar of motor vehicles and shall be sworn to before a notary public or other officer empowered to administer oaths. The application shall be filed with the clerk of any court of common pleas. An application for a certificate of title may be filed electronically by any electronic means approved by the registrar in any county with the clerk of the court of common pleas of that county. Any payments required by this chapter shall be considered as accompanying any electronically transmitted application when payment actually is received by the clerk. Payment of any fee or taxes may be made by electronic transfer of funds.

(2) The application for a certificate of title shall be accompanied by the fee prescribed in section 4505.09 of the Revised Code. The fee shall be retained by the clerk who issues the certificate of title and shall be distributed in accordance with that section. If a clerk of a court of common pleas, other than the clerk of the court of common pleas of an applicant's county of residence, issues a certificate of title to the applicant, the clerk shall transmit data related to the transaction to the automated title processing system.

(3) If a certificate of title previously has been issued for a motor vehicle in this state, the application for a certificate of title also shall be accompanied by that certificate of title duly assigned, unless otherwise provided in this chapter. If a certificate of title previously has not been issued for the motor vehicle in this state, the application, unless otherwise provided in this chapter, shall be accompanied by a manufacturer's or importer's certificate or by a certificate of title of another state from which the motor vehicle was brought into this state. If the application refers to a motor vehicle last previously registered in another state, the application also shall be accompanied by the physical inspection certificate required by section 4505.061 of the Revised Code. If the application is made by two persons regarding a motor vehicle in which they wish to establish joint ownership with right of survivorship, they may do so as provided in section 2131.12 of the Revised Code. If the applicant requests a designation of the motor vehicle in beneficiary form so that upon the death of the owner of the motor vehicle, ownership of the motor vehicle will pass to a designated transfer-on-death beneficiary or beneficiaries, the applicant may do so as provided in section 2131.13 of the Revised Code. A person who establishes ownership of a motor vehicle that is transferable on death in accordance

with section 2131.13 of the Revised Code may terminate that type of ownership or change the designation of the transfer-on-death beneficiary or beneficiaries by applying for a certificate of title pursuant to this section. The clerk shall retain the evidence of title presented by the applicant and on which the certificate of title is issued, except that, if an application for a certificate of title is filed electronically by an electronic motor vehicle dealer on behalf of the purchaser of a motor vehicle, the clerk shall retain the completed electronic record to which the dealer converted the certificate of title application and other required documents. The registrar, after consultation with the attorney general, shall adopt rules that govern the location at which, and the manner in which, are stored the actual application and all other documents relating to the sale of a motor vehicle when an electronic motor vehicle dealer files the application for a certificate of title electronically on behalf of the purchaser.

The clerk shall use reasonable diligence in ascertaining whether or not the facts in the application for a certificate of title are true by checking the application and documents accompanying it or the electronic record to which a dealer converted the application and accompanying documents with the records of motor vehicles in the clerk's office. If the clerk is satisfied that the applicant is the owner of the motor vehicle and that the application is in the proper form, the clerk, within five business days after the application is filed and except as provided in section 4505.021 of the Revised Code, shall issue a physical certificate of title over the clerk's signature and sealed with the clerk's seal, unless the applicant specifically requests the clerk not to issue a physical certificate of title and instead to issue an electronic certificate of title. For purposes of the transfer of a certificate of title, if the clerk is satisfied that the secured party has duly discharged a lien notation but has not canceled the lien notation with a clerk, the clerk may cancel the lien notation on the automated title processing system and notify the clerk of the county of origin.

(4) In the case of the sale of a motor vehicle to a general buyer or user by a dealer, by a motor vehicle leasing dealer selling the motor vehicle to the lessee or, in a case in which the leasing dealer subleased the motor vehicle, the sublessee, at the end of the lease agreement or sublease agreement, or by a manufactured home broker, the certificate of title shall be obtained in the name of the buyer by the dealer, leasing dealer, or manufactured home broker, as the case may be, upon application signed by the buyer. The certificate of title shall be issued, or the process of entering the certificate of title application information into the automated title processing system if a physical certificate of title is not to be issued shall be

completed, within five business days after the application for title is filed with the clerk. If the buyer of the motor vehicle previously leased the motor vehicle and is buying the motor vehicle at the end of the lease pursuant to that lease, the certificate of title shall be obtained in the name of the buyer by the motor vehicle leasing dealer who previously leased the motor vehicle to the buyer or by the motor vehicle leasing dealer who subleased the motor vehicle to the buyer under a sublease agreement.

In all other cases, except as provided in section 4505.032 and division (D)(2) of section 4505.11 of the Revised Code, such certificates shall be obtained by the buyer.

(5)(a)(i) If the certificate of title is being obtained in the name of the buyer by a motor vehicle dealer or motor vehicle leasing dealer and there is a security interest to be noted on the certificate of title, the dealer or leasing dealer shall submit the application for the certificate of title and payment of the applicable tax to a clerk within seven business days after the later of the delivery of the motor vehicle to the buyer or the date the dealer or leasing dealer obtains the manufacturer's or importer's certificate, or certificate of title issued in the name of the dealer or leasing dealer, for the motor vehicle. Submission of the application for the certificate of title and payment of the applicable tax within the required seven business days may be indicated by postmark or receipt by a clerk within that period.

(ii) Upon receipt of the certificate of title with the security interest noted on its face, the dealer or leasing dealer shall forward the certificate of title to the secured party at the location noted in the financing documents or otherwise specified by the secured party.

(iii) A motor vehicle dealer or motor vehicle leasing dealer is liable to a secured party for a late fee of ten dollars per day for each certificate of title application and payment of the applicable tax that is submitted to a clerk more than seven business days but less than twenty-one days after the later of the delivery of the motor vehicle to the buyer or the date the dealer or leasing dealer obtains the manufacturer's or importer's certificate, or certificate of title issued in the name of the dealer or leasing dealer, for the motor vehicle and, from then on, twenty-five dollars per day until the application and applicable tax are submitted to a clerk.

(b) In all cases of transfer of a motor vehicle, the application for certificate of title shall be filed within thirty days after the assignment or delivery of the motor vehicle. If an application for a certificate of title is not filed within the period specified in division (A)(5)(b) of this section, the clerk shall collect a fee of five dollars for the issuance of the certificate, except that no such fee shall be required from a motor vehicle salvage

dealer, as defined in division (A) of section 4738.01 of the Revised Code, who immediately surrenders the certificate of title for cancellation. The fee shall be in addition to all other fees established by this chapter, and shall be retained by the clerk. The registrar shall provide, on the certificate of title form prescribed by section 4505.07 of the Revised Code, language necessary to give evidence of the date on which the assignment or delivery of the motor vehicle was made.

(6) As used in division (A) of this section, "lease agreement," "lessee," and "sublease agreement" have the same meanings as in section 4505.04 of the Revised Code.

(B)(1) The clerk, except as provided in this section, shall refuse to accept for filing any application for a certificate of title and shall refuse to issue a certificate of title unless the dealer or manufactured home broker or the applicant, in cases in which the certificate shall be obtained by the buyer, submits with the application payment of the tax levied by or pursuant to Chapters 5739. and 5741. of the Revised Code based on the purchaser's county of residence. Upon payment of the tax in accordance with division (E) of this section, the clerk shall issue a receipt prescribed by the registrar and agreed upon by the tax commissioner showing payment of the tax or a receipt issued by the commissioner showing the payment of the tax. When submitting payment of the tax to the clerk, a dealer shall retain any discount to which the dealer is entitled under section 5739.12 of the Revised Code.

(2) For receiving and disbursing such taxes paid to the clerk by a resident of the clerk's county, the clerk may retain a poundage fee of one and one one-hundredth per cent, and the clerk shall pay the poundage fee into the certificate of title administration fund created by section 325.33 of the Revised Code. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county. The registrar, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first clerk's county.

(3) In the case of casual sales of motor vehicles, as defined in section 4517.01 of the Revised Code, the price for the purpose of determining the tax shall be the purchase price on the assigned certificate of title executed by

the seller and filed with the clerk by the buyer on a form to be prescribed by the registrar, which shall be prima-facie evidence of the amount for the determination of the tax.

(4) Each county clerk shall forward to the treasurer of state all sales and use tax collections resulting from sales of motor vehicles, off-highway motorcycles, and all-purpose vehicles during a calendar week on or before the Friday following the close of that week. If, on any Friday, the offices of the clerk of courts or the state are not open for business, the tax shall be forwarded to the treasurer of state on or before the next day on which the offices are open. Every remittance of tax under division (B)(4) of this section shall be accompanied by a remittance report in such form as the tax commissioner prescribes. Upon receipt of a tax remittance and remittance report, the treasurer of state shall date stamp the report and forward it to the tax commissioner. If the tax due for any week is not remitted by a clerk of courts as required under division (B)(4) of this section, the commissioner may require the clerk to forfeit the poundage fees for the sales made during that week. The treasurer of state may require the clerks of courts to transmit tax collections and remittance reports electronically.

(C)(1) If the transferor indicates on the certificate of title that the odometer reflects mileage in excess of the designed mechanical limit of the odometer, the clerk shall enter the phrase "exceeds mechanical limits" following the mileage designation. If the transferor indicates on the certificate of title that the odometer reading is not the actual mileage, the clerk shall enter the phrase "nonactual: warning - odometer discrepancy" following the mileage designation. The clerk shall use reasonable care in transferring the information supplied by the transferor, but is not liable for any errors or omissions of the clerk or those of the clerk's deputies in the performance of the clerk's duties created by this chapter.

The registrar shall prescribe an affidavit in which the transferor shall swear to the true selling price and, except as provided in this division, the true odometer reading of the motor vehicle. The registrar may prescribe an affidavit in which the seller and buyer provide information pertaining to the odometer reading of the motor vehicle in addition to that required by this section, as such information may be required by the United States secretary of transportation by rule prescribed under authority of subchapter IV of the "Motor Vehicle Information and Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981.

(2) Division (C)(1) of this section does not require the giving of information concerning the odometer and odometer reading of a motor vehicle when ownership of a motor vehicle is being transferred as a result of

a bequest, under the laws of intestate succession, to a survivor pursuant to section 2106.18, 2131.12, or 4505.10 of the Revised Code, to a transfer-on-death beneficiary or beneficiaries pursuant to section 2131.13 of the Revised Code, in connection with the creation of a security interest or for a vehicle with a gross vehicle weight rating of more than sixteen thousand pounds.

(D) When the transfer to the applicant was made in some other state or in interstate commerce, the clerk, except as provided in this section, shall refuse to issue any certificate of title unless the tax imposed by or pursuant to Chapter 5741. of the Revised Code based on the purchaser's county of residence has been paid as evidenced by a receipt issued by the tax commissioner, or unless the applicant submits with the application payment of the tax. Upon payment of the tax in accordance with division (E) of this section, the clerk shall issue a receipt prescribed by the registrar and agreed upon by the tax commissioner, showing payment of the tax.

For receiving and disbursing such taxes paid to the clerk by a resident of the clerk's county, the clerk may retain a poundage fee of one and one one-hundredth per cent. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county. The registrar, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first clerk's county.

When the vendor is not regularly engaged in the business of selling motor vehicles, the vendor shall not be required to purchase a vendor's license or make reports concerning those sales.

(E) The clerk shall accept any payment of a tax in cash, or by cashier's check, certified check, draft, money order, or teller check issued by any insured financial institution payable to the clerk and submitted with an application for a certificate of title under division (B) or (D) of this section. The clerk also may accept payment of the tax by corporate, business, or personal check, credit card, electronic transfer or wire transfer, debit card, or any other accepted form of payment made payable to the clerk. The clerk may require bonds, guarantees, or letters of credit to ensure the collection of corporate, business, or personal checks. Any service fee charged by a third

party to a clerk for the use of any form of payment may be paid by the clerk from the certificate of title administration fund created in section 325.33 of the Revised Code, or may be assessed by the clerk upon the applicant as an additional fee. Upon collection, the additional fees shall be paid by the clerk into that certificate of title administration fund.

The clerk shall make a good faith effort to collect any payment of taxes due but not made because the payment was returned or dishonored, but the clerk is not personally liable for the payment of uncollected taxes or uncollected fees. The clerk shall notify the tax commissioner of any such payment of taxes that is due but not made and shall furnish the information to the commissioner that the commissioner requires. The clerk shall deduct the amount of taxes due but not paid from the clerk's periodic remittance of tax payments, in accordance with procedures agreed upon by the tax commissioner. The commissioner may collect taxes due by assessment in the manner provided in section 5739.13 of the Revised Code.

Any person who presents payment that is returned or dishonored for any reason is liable to the clerk for payment of a penalty over and above the amount of the taxes due. The clerk shall determine the amount of the penalty, and the penalty shall be no greater than that amount necessary to compensate the clerk for banking charges, legal fees, or other expenses incurred by the clerk in collecting the returned or dishonored payment. The remedies and procedures provided in this section are in addition to any other available civil or criminal remedies. Subsequently collected penalties, poundage fees, and title fees, less any title fee due the state, from returned or dishonored payments collected by the clerk shall be paid into the certificate of title administration fund. Subsequently collected taxes, less poundage fees, shall be sent by the clerk to the treasurer of state at the next scheduled periodic remittance of tax payments, with information as the commissioner may require. The clerk may abate all or any part of any penalty assessed under this division.

(F) In the following cases, the clerk shall accept for filing an application and shall issue a certificate of title without requiring payment or evidence of payment of the tax:

(1) When the purchaser is this state or any of its political subdivisions, a church, or an organization whose purchases are exempted by section 5739.02 of the Revised Code;

(2) When the transaction in this state is not a retail sale as defined by section 5739.01 of the Revised Code;

(3) When the purchase is outside this state or in interstate commerce and the purpose of the purchaser is not to use, store, or consume within the

meaning of section 5741.01 of the Revised Code;

(4) When the purchaser is the federal government;

(5) When the motor vehicle was purchased outside this state for use outside this state;

(6) When the motor vehicle is purchased by a nonresident of this state for immediate removal from this state, and will be permanently titled and registered in another state, as provided by division (B)(23) of section 5739.02 of the Revised Code, and upon presentation of a copy of the affidavit provided by that section, and a copy of the exemption certificate provided by section 5739.03 of the Revised Code.

~~The clerk shall forward all payments of taxes, less poundage fees, to the treasurer of state in a manner to be prescribed by the tax commissioner and shall furnish information to the commissioner as the commissioner requires.~~

(G) An application, as prescribed by the registrar and agreed to by the tax commissioner, shall be filled out and sworn to by the buyer of a motor vehicle in a casual sale. The application shall contain the following notice in bold lettering: "WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by law to state the true selling price. A false statement is in violation of section 2921.13 of the Revised Code and is punishable by six months' imprisonment or a fine of up to one thousand dollars, or both. All transfers are audited by the department of taxation. The seller and buyer must provide any information requested by the department of taxation. The buyer may be assessed any additional tax found to be due."

(H) For sales of manufactured homes or mobile homes occurring on or after January 1, 2000, the clerk shall accept for filing, pursuant to Chapter 5739. of the Revised Code, an application for a certificate of title for a manufactured home or mobile home without requiring payment of any tax pursuant to section 5739.02, 5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt issued by the tax commissioner showing payment of the tax. For sales of manufactured homes or mobile homes occurring on or after January 1, 2000, the applicant shall pay to the clerk an additional fee of five dollars for each certificate of title issued by the clerk for a manufactured or mobile home pursuant to division (H) of section 4505.11 of the Revised Code and for each certificate of title issued upon transfer of ownership of the home. The clerk shall credit the fee to the county certificate of title administration fund, and the fee shall be used to pay the expenses of archiving those certificates pursuant to division (A) of section 4505.08 and division (H)(3) of section 4505.11 of the Revised Code. The tax commissioner shall administer any tax on a manufactured or mobile

home pursuant to Chapters 5739. and 5741. of the Revised Code.

(I) Every clerk shall have the capability to transact by electronic means all procedures and transactions relating to the issuance of motor vehicle certificates of title that are described in the Revised Code as being accomplished by electronic means.

Sec. 4506.03. (A) Except as provided in divisions (B) and (C) of this section, the following shall apply:

(1) No person shall drive a commercial motor vehicle on a highway in this state unless the person holds, and has in the person's possession, a valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by the registrar of motor vehicles, a valid examiner's commercial driving permit issued under section 4506.13 of the Revised Code, a valid restricted commercial driver's license and waiver for farm-related service industries issued under section 4506.24 of the Revised Code, or a valid commercial driver's license temporary instruction permit issued by the registrar and is accompanied by an authorized state driver's license examiner or tester or a person who has been issued and has in the person's immediate possession a current, valid commercial driver's license with proper endorsements for the motor vehicle being driven.

(2) No person shall be issued a commercial driver's license until the person surrenders to the registrar of motor vehicles all valid licenses issued to the person by another jurisdiction recognized by this state. The registrar shall report the surrender of a license to the issuing authority, together with information that a license is now issued in this state. The registrar shall destroy any such license that is not returned to the issuing authority.

(3) No person who has been a resident of this state for thirty days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

(B) Nothing in division (A) of this section applies to any qualified person when engaged in the operation of any of the following:

(1) A farm truck;

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

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

(4) A recreational vehicle;

(5) A commercial motor vehicle within the boundaries of an eligible unit of local government, if the person is employed by the eligible unit of local government and is operating the commercial motor vehicle for the purpose of removing snow or ice from a roadway by plowing, sanding, or

salting, but only if either the employee who holds a commercial driver's license issued under this chapter and ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle, or the employing eligible unit of local government determines that a snow or ice emergency exists that requires additional assistance;

(6) A vehicle operated for military purposes by any member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio national guard. This exception does not apply to United States reserve technicians.

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

(8) A motor vehicle that is designed primarily for the transportation of goods and not persons, while that motor vehicle is being used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise;

(9) A police SWAT team vehicle.

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

(D) Whoever violates this section is guilty of a misdemeanor of the first degree.

Sec. 4506.07. (A) Every application for a commercial driver's license, restricted commercial driver's license, or a commercial driver's temporary instruction permit, or a duplicate of such a license, shall be made upon a form approved and furnished by the registrar of motor vehicles. Except as provided in section 4506.24 of the Revised Code in regard to a restricted commercial driver's license, the application shall be signed by the applicant and shall contain the following information:

(1) The applicant's name, date of birth, social security account number, sex, general description including height, weight, and color of hair and eyes, current residence, duration of residence in this state, country of citizenship, and occupation;

(2) Whether the applicant previously has been licensed to operate a commercial motor vehicle or any other type of motor vehicle in another state or a foreign jurisdiction and, if so, when, by what state, and whether the license or driving privileges currently are suspended or revoked in any jurisdiction, or the applicant otherwise has been disqualified from operating

a commercial motor vehicle, or is subject to an out-of-service order issued under this chapter or any similar law of another state or a foreign jurisdiction and, if so, the date of, locations involved, and reason for the suspension, revocation, disqualification, or out-of-service order;

(3) Whether the applicant is afflicted with or suffering from any physical or mental disability or disease that prevents the applicant from exercising reasonable and ordinary control over a motor vehicle while operating it upon a highway or is or has been subject to any condition resulting in episodic impairment of consciousness or loss of muscular control and, if so, the nature and extent of the disability, disease, or condition, and the names and addresses of the physicians attending the applicant;

(4) Whether the applicant has obtained a medical examiner's certificate as required by this chapter;

(5) Whether the applicant has pending a citation for violation of any motor vehicle law or ordinance except a parking violation and, if so, a description of the citation, the court having jurisdiction of the offense, and the date when the offense occurred;

(6) Whether the applicant wishes to certify willingness to make an anatomical donation under section 2108.04 of the Revised Code, which shall be given no consideration in the issuance of a license;

(7) On and after May 1, 1993, whether the applicant has executed a valid durable power of attorney for health care pursuant to sections 1337.11 to 1337.17 of the Revised Code or has executed a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment pursuant to sections 2133.01 to 2133.15 of the Revised Code and, if the applicant has executed either type of instrument, whether the applicant wishes the license issued to indicate that the applicant has executed the instrument.

(B) Every applicant shall certify, on a form approved and furnished by the registrar, all of the following:

(1) That the motor vehicle in which the applicant intends to take the driving skills test is representative of the type of motor vehicle that the applicant expects to operate as a driver;

(2) That the applicant is not subject to any disqualification or out-of-service order, or license suspension, revocation, or cancellation, under the laws of this state, of another state, or of a foreign jurisdiction and does not have more than one driver's license issued by this or another state or a foreign jurisdiction;

(3) Any additional information, certification, or evidence that the

registrar requires by rule in order to ensure that the issuance of a commercial driver's license to the applicant is in compliance with the law of this state and with federal law.

(C) Every applicant shall execute a form, approved and furnished by the registrar, under which the applicant consents to the release by the registrar of information from the applicant's driving record.

(D) The registrar or a deputy registrar, in accordance with section 3503.11 of the Revised Code, shall register as an elector any applicant for a commercial driver's license or for a renewal or duplicate of such a license under this chapter, if the applicant is eligible and wishes to be registered as an elector. The decision of an applicant whether to register as an elector shall be given no consideration in the decision of whether to issue the applicant a license or a renewal or duplicate.

(E) The registrar or a deputy registrar, in accordance with section 3503.11 of the Revised Code, shall offer the opportunity of completing a notice of change of residence or change of name to any applicant for a commercial driver's license or for a renewal or duplicate of such a license who is a resident of this state, if the applicant is a registered elector who has changed the applicant's residence or name and has not filed such a notice.

(F) In considering any application submitted pursuant to this section, the bureau of motor vehicles may conduct any inquiries necessary to ensure that issuance or renewal of a commercial driver's license would not violate any provision of the Revised Code or federal law.

Sec. 4506.101. Notwithstanding any provision of the Revised Code, the bureau of motor vehicles shall not issue or renew a commercial driver's license if issuance or renewal of the license would violate federal law.

Sec. 4506.161. No court shall issue an order granting limited driving privileges for operation of a commercial motor vehicle to any person whose driver's license or commercial driver's license has been suspended or who has been disqualified from operating a commercial motor vehicle.

Sec. 4511.191. (A)(1) "Physical control" has the same meaning as in section 4511.194 of the Revised Code.

(2) Any person who operates a vehicle, streetcar, or trackless trolley upon a highway or any public or private property used by the public for vehicular travel or parking within this state or who is in physical control of a vehicle, streetcar, or trackless trolley shall be deemed to have given consent to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine to determine the alcohol, drug, or alcohol and drug content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for a violation of division (A) or (B) of section 4511.19 of the

Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance.

(3) The chemical test or tests under division (A)(2) of this section shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was operating or in physical control of a vehicle, streetcar, or trackless trolley in violation of a division, section, or ordinance identified in division (A)(2) of this section. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(4) Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in division (A)(2) of this section, and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

(B)(1) Upon receipt of the sworn report of a law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person who refused to take the designated chemical test, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and that section and the period of the suspension, as determined under this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension shall be for whichever of the following periods applies:

(a) Except when division (B)(1)(b), (c), or (d) of this section applies and specifies a different class or length of suspension, the suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code.

(b) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused one previous request to consent to a chemical test, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(c) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused two previous requests to consent to a chemical test, the suspension shall be a class A suspension imposed for the period of time specified in division

(B)(1) of section 4510.02 of the Revised Code.

(d) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test, the suspension shall be for five years.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (B)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (B)(1) of this section.

(C)(1) Upon receipt of the sworn report of the law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and section 4511.192 of the Revised Code and the period of the suspension, as determined under divisions (F)(1) to (4) of this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension described in this division does not apply to, and shall not be imposed upon, a person arrested for a violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance who submits to a designated chemical test. The suspension shall be for whichever of the following periods applies:

(a) Except when division (C)(1)(b), (c), or (d) of this section applies and

specifies a different period, the suspension shall be a class E suspension imposed for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code.

(b) The suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code if the person has been convicted of or pleaded guilty to, within six years of the date the test was conducted, one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense.

(c) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(d) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to more than two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (C)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (C)(1) of this section.

(D)(1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in division (B) or (C) of this section is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical

test or tests under division (A) of this section does not affect the suspension.

(2) If a person is arrested for operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance, or for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (B) or (C) of this section or Chapter 4510. of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to section 4511.197 of the Revised Code regarding the issues specified in that division.

(E) When it finally has been determined under the procedures of this section and sections 4511.192 ~~through~~ to 4511.197 of the Revised Code that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(F) At the end of a suspension period under this section, under section 4511.194, section 4511.196, or division (G) of section 4511.19 of the Revised Code, or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, cancellation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the conditions specified in divisions (F)(1) and (2) of this section:

(1) A showing that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Subject to the limitation contained in division (F)(3) of this section, payment by the person to the bureau of motor vehicles of a license reinstatement fee of four hundred twenty-five dollars, which fee shall be deposited in the state treasury and credited as follows:

(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the

Revised Code. The fund shall be used to pay the costs of driver treatment and intervention programs operated pursuant to sections 3793.02 and 3793.10 of the Revised Code. The director of alcohol and drug addiction services shall determine the share of the fund that is to be allocated to alcohol and drug addiction programs authorized by section 3793.02 of the Revised Code, and the share of the fund that is to be allocated to drivers' intervention programs authorized by section 3793.10 of the Revised Code.

(b) Seventy-five dollars shall be credited to the reparations fund created by section 2743.191 of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to the indigent drivers alcohol treatment fund, which is hereby established. Except as otherwise provided in division (F)(2)(c) of this section, moneys in the fund shall be distributed by the department of alcohol and drug addiction services to the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and the municipal indigent drivers alcohol treatment funds that are required to be established by counties and municipal corporations pursuant to this section, and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender or juvenile traffic offender who is ordered to attend an alcohol and drug addiction treatment program by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's attendance at the program or to pay the costs specified in division (H)(4) of this section in accordance with that division. In addition, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund to pay for the cost of the continued use of an electronic continuous alcohol monitoring device as described in divisions (H)(3) and (4) of this section. Moneys in the fund that are not distributed to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund under division (H) of this section because the director of alcohol and drug addiction services does not have the information necessary to identify the county or municipal corporation where the offender or juvenile offender was arrested may be transferred by the director of budget and management to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code, upon certification of the amount by the director of alcohol and drug addiction services.

(d) Seventy-five dollars shall be credited to the Ohio rehabilitation

services commission established by section 3304.12 of the Revised Code, to the services for rehabilitation fund, which is hereby established. The fund shall be used to match available federal matching funds where appropriate, and for any other purpose or program of the commission to rehabilitate people with disabilities to help them become employed and independent.

(e) Seventy-five dollars shall be deposited into the state treasury and credited to the drug abuse resistance education programs fund, which is hereby established, to be used by the attorney general for the purposes specified in division ~~(L)~~(F)(4) of this section.

(f) Thirty dollars shall be credited to the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

(g) Twenty dollars shall be credited to the trauma and emergency medical services grants fund created by section 4513.263 of the Revised Code.

(3) If a person's driver's or commercial driver's license or permit is suspended under this section, under section 4511.196 or division (G) of section 4511.19 of the Revised Code, under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance or under any combination of the suspensions described in division (F)(3) of this section, and if the suspensions arise from a single incident or a single set of facts and circumstances, the person is liable for payment of, and shall be required to pay to the bureau, only one reinstatement fee of four hundred twenty-five dollars. The reinstatement fee shall be distributed by the bureau in accordance with division (F)(2) of this section.

(4) The attorney general shall use amounts in the drug abuse resistance education programs fund to award grants to law enforcement agencies to establish and implement drug abuse resistance education programs in public schools. Grants awarded to a law enforcement agency under this section shall be used by the agency to pay for not more than fifty per cent of the amount of the salaries of law enforcement officers who conduct drug abuse resistance education programs in public schools. The attorney general shall not use more than six per cent of the amounts the attorney general's office receives under division (F)(2)(e) of this section to pay the costs it incurs in administering the grant program established by division (F)(2)(e) of this section and in providing training and materials relating to drug abuse resistance education programs.

The attorney general shall report to the governor and the general assembly each fiscal year on the progress made in establishing and implementing drug abuse resistance education programs. These reports shall include an evaluation of the effectiveness of these programs.

(G) Suspension of a commercial driver's license under division (B) or (C) of this section shall be concurrent with any period of disqualification under section 3123.611 or 4506.16 of the Revised Code or any period of suspension under section 3123.58 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section 4506.16 of the Revised Code shall be issued a driver's license under Chapter 4507. of the Revised Code during the period for which the commercial driver's license was suspended under division (B) or (C) of this section. No person whose commercial driver's license is suspended under division (B) or (C) of this section shall be issued a driver's license under Chapter 4507. of the Revised Code during the period of the suspension.

(H)(1) Each county shall establish an indigent drivers alcohol treatment fund, each county shall establish a juvenile indigent drivers alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers alcohol treatment fund. All revenue that the general assembly appropriates to the indigent drivers alcohol treatment fund for transfer to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of fees that are paid under division ~~(I)~~(F) of this section and that are credited under that division to the indigent drivers alcohol treatment fund in the state treasury for a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, and all portions of fines that are specified for deposit into a county or municipal indigent drivers alcohol treatment fund by section 4511.193 of the Revised Code shall be deposited into that county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund in accordance with division (H)(2) of this section. Additionally, all portions of fines that are paid for a violation of section 4511.19 of the Revised Code or of any prohibition contained in Chapter 4510. of the Revised Code, and that are required under section 4511.19 or any provision of Chapter 4510. of the Revised Code to be deposited into a county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund shall be deposited into the appropriate fund in accordance with the applicable division.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that is credited under that division to the indigent drivers alcohol treatment fund shall be deposited into a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers

alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund as follows:

(a) If the suspension in question was imposed under this section, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person who was charged in a county court with the violation that resulted in the suspension, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension, the portion shall be deposited into the county juvenile indigent drivers alcohol treatment fund established in the county served by the court;

(iii) If the fee is paid by a person who was charged in a municipal court with the violation that resulted in the suspension, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(b) If the suspension in question was imposed under section 4511.19 of the Revised Code or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3) Expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or found to be a juvenile traffic offender by reason of, a violation of division (A) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to pay the cost of attendance at the treatment program or for payment of the costs specified in division (H)(4) of this section in accordance with that division. The alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised

Code and serving the alcohol, drug addiction, and mental health service district in which the court is located shall administer the indigent drivers alcohol treatment program of the court. When a court orders an offender or juvenile traffic offender to attend an alcohol and drug addiction treatment program, the board shall determine which program is suitable to meet the needs of the offender or juvenile traffic offender, and when a suitable program is located and space is available at the program, the offender or juvenile traffic offender shall attend the program designated by the board. A reasonable amount not to exceed five per cent of the amounts credited to and deposited into the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund serving every court whose program is administered by that board shall be paid to the board to cover the costs it incurs in administering those indigent drivers alcohol treatment programs.

In addition, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund to pay for the continued use of an electronic continuous alcohol monitoring device by an offender or juvenile traffic offender, in conjunction with a treatment program approved by the department of alcohol and drug addiction services, when such use is determined clinically necessary by the treatment program and when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring of the device.

(4) If a county, juvenile, or municipal court determines, in consultation with the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health district in which the court is located, that the funds in the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of the court are more than sufficient to satisfy the purpose for which the fund was established, as specified in divisions (H)(1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may expend the amount of the surplus in the fund for ~~alcohol~~:

(a) Alcohol and drug abuse assessment and treatment of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

~~(a)~~(i) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense with which the person is charged.

~~(b)~~(ii) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

(b) All or part of the cost of purchasing electronic continuous alcohol monitoring devices to be used in conjunction with division (H)(3) of this section.

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or trackless trolley upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child, person attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or child attending a program offered by a head start agency, shall stop at least ten feet from the front or rear of the school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed.

It is no defense to a charge under this division that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by division (B) of this section.

(B) Every school bus shall be equipped with amber and red visual signals meeting the requirements of section 4511.771 of the Revised Code, and an automatically extended stop warning sign of a type approved by the state board of education, which shall be actuated by the driver of the bus whenever but only whenever the bus is stopped or stopping on the roadway for the purpose of receiving or discharging school children, persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or children attending programs offered by head start agencies. A school bus driver shall not actuate the visual signals or the stop warning sign in designated school bus loading areas where the bus is entirely off the roadway or at school buildings when children or persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities are loading or unloading at curbside or at buildings when children attending programs offered by head start agencies are loading or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required by rule of the board.

(C) Where a highway has been divided into four or more traffic lanes, a driver of a vehicle, streetcar, or trackless trolley need not stop for a school

bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child, persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or children attending programs offered by head start agencies. The driver of any vehicle, streetcar, or trackless trolley overtaking the school bus shall comply with division (A) of this section.

(D) School buses operating on divided highways or on highways with four or more traffic lanes shall receive and discharge all school children, persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, and children attending programs offered by head start agencies on their residence side of the highway.

(E) No school bus driver shall start the driver's bus until after any child, person attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or child attending a program offered by a head start agency who may have alighted therefrom has reached a place of safety on the child's or person's residence side of the road.

(F)(1) Whoever violates division (A) of this section may be fined an amount not to exceed five hundred dollars. A person who is issued a citation for a violation of division (A) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.

(2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code. When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to the court, and the court or clerk of the court immediately shall forward the license to the registrar of motor vehicles, together with notice of the court's action.

(G) As used in this section:

(1) "Head start agency" has the same meaning as in section ~~3301.31~~ 3301.32 of the Revised Code.

(2) "School bus," as used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a

head start agency, is equipped with an automatically extended stop warning sign of a type approved by the state board of education, is painted the color and displays the markings described in section 4511.77 of the Revised Code, and is equipped with amber and red visual signals meeting the requirements of section 4511.771 of the Revised Code, irrespective of whether or not the bus has fifteen or more children aboard at any time. "School bus" does not include a van owned and operated by a head start agency, irrespective of its color, lights, or markings.

Sec. 4517.01. As used in sections 4517.01 to 4517.65 of the Revised Code:

(A) "Persons" includes individuals, firms, partnerships, associations, joint stock companies, corporations, and any combinations of individuals.

(B) "Motor vehicle" means motor vehicle as defined in section 4501.01 of the Revised Code and also includes "all-purpose vehicle" and "off-highway motorcycle" as those terms are defined in section 4519.01 of the Revised Code and manufactured and mobile homes. <u>"Motor vehicle" does not include a snowmobile as defined in section 4519.01 of the Revised Code.</u>

(C) "New motor vehicle" means a motor vehicle, the legal title to which has never been transferred by a manufacturer, remanufacturer, distributor, or dealer to an ultimate purchaser.

(D) "Ultimate purchaser" means, with respect to any new motor vehicle, the first person, other than a dealer purchasing in the capacity of a dealer, who in good faith purchases such new motor vehicle for purposes other than resale.

(E) "Business" includes any activities engaged in by any person for the object of gain, benefit, or advantage either direct or indirect.

(F) "Engaging in business" means commencing, conducting, or continuing in business, or liquidating a business when the liquidator thereof holds self out to be conducting such business; making a casual sale or otherwise making transfers in the ordinary course of business when the transfers are made in connection with the disposition of all or substantially all of the transferor's assets is not engaging in business.

(G) "Retail sale" or "sale at retail" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to an ultimate purchaser for use as a consumer.

(H) "Retail installment contract" includes any contract in the form of a note, chattel mortgage, conditional sales contract, lease, agreement, or other instrument payable in one or more installments over a period of time and arising out of the retail sale of a motor vehicle.

(I) "Farm machinery" means all machines and tools used in the production, harvesting, and care of farm products.

(J) "Dealer" or "motor vehicle dealer" means any new motor vehicle dealer, any motor vehicle leasing dealer, and any used motor vehicle dealer.

(K) "New motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in new motor vehicles pursuant to a contract or agreement entered into with the manufacturer, remanufacturer, or distributor of the motor vehicles.

(L) "Used motor vehicle dealer" means any person engaged in the business of selling, displaying, offering for sale, or dealing in used motor vehicles, at retail or wholesale, but does not mean any new motor vehicle dealer selling, displaying, offering for sale, or dealing in used motor vehicles incidentally to engaging in the business of selling, displaying, offering for sale, or dealing in new motor vehicles, any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing official duties.

(M) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease, sublease, or other contractual arrangement under which a charge is made for its use at a periodic rate for a term of thirty days or more, and title to the motor vehicle is in and remains in the motor vehicle leasing dealer who originally leases it, irrespective of whether or not the motor vehicle is the subject of a later sublease, and not in the user, but does not mean a manufacturer or its affiliate leasing to its employees or to dealers.

(N) "Salesperson" means any person employed by a dealer or manufactured home broker to sell, display, and offer for sale, or deal in motor vehicles for a commission, compensation, or other valuable consideration, but does not mean any public officer performing official duties.

(O) "Casual sale" means any transfer of a motor vehicle by a person other than a new motor vehicle dealer, used motor vehicle dealer, motor vehicle salvage dealer, as defined in division (A) of section 4738.01 of the Revised Code, salesperson, motor vehicle auction owner, manufacturer, or distributor acting in the capacity of a dealer, salesperson, auction owner, manufacturer, or distributor, to a person who purchases the motor vehicle for use as a consumer.

(P) "Motor vehicle show" means a display of current models of motor vehicles whereby the primary purpose is the exhibition of competitive makes and models in order to provide the general public the opportunity to

review and inspect various makes and models of motor vehicles at a single location.

(Q) "Motor vehicle auction owner" means any person who is engaged wholly or in part in the business of auctioning motor vehicles.

(R) "Manufacturer" means a person who manufactures, assembles, or imports motor vehicles, including motor homes, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.

(S) "Tent-type fold-out camping trailer" means any vehicle intended to be used, when stationary, as a temporary shelter with living and sleeping facilities, and that is subject to the following properties and limitations:

(1) A minimum of twenty-five per cent of the fold-out portion of the top and sidewalls combined must be constructed of canvas, vinyl, or other fabric, and form an integral part of the shelter.

(2) When folded, the unit must not exceed:

(a) Fifteen feet in length, exclusive of bumper and tongue;

(b) Sixty inches in height from the point of contact with the ground;

(c) Eight feet in width;

(d) One ton gross weight at time of sale.

(T) "Distributor" means any person authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed new motor vehicle dealers, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.

(U) "Flea market" means a market place, other than a dealer's location licensed under this chapter, where a space or location is provided for a fee or compensation to a seller to exhibit and offer for sale or trade, motor vehicles to the general public.

(V) "Franchise" means any written agreement, contract, or understanding between any motor vehicle manufacturer or remanufacturer engaged in commerce and any motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to such agreement, contract, or understanding.

(W) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise agreement and who offers, sells, and provides service for such new motor vehicles to the general public.

(X) "Franchisor" means a new motor vehicle manufacturer, remanufacturer, or distributor who supplies new motor vehicles under a franchise agreement to a franchisee.

(Y) "Dealer organization" means a state or local trade association the membership of which is comprised predominantly of new motor vehicle dealers.

(Z) "Factory representative" means a representative employed by a manufacturer, remanufacturer, or by a factory branch primarily for the purpose of promoting the sale of its motor vehicles, parts, or accessories to dealers or for supervising or contacting its dealers or prospective dealers.

(AA) "Administrative or executive management" means those individuals who are not subject to federal wage and hour laws.

(BB) "Good faith" means honesty in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing in the trade as is defined in division (S) of section 1301.01 of the Revised Code, including, but not limited to, the duty to act in a fair and equitable manner so as to guarantee freedom from coercion, intimidation, or threats of coercion or intimidation; provided however, that recommendation, endorsement, exposition, persuasion, urging, or argument shall not be considered to constitute a lack of good faith.

(CC) "Coerce" means to compel or attempt to compel by failing to act in good faith or by threat of economic harm, breach of contract, or other adverse consequences. Coerce does not mean to argue, urge, recommend, or persuade.

(DD) "Relevant market area" means any area within a radius of ten miles from the site of a potential new dealership, except that for manufactured home or recreational vehicle dealerships the radius shall be twenty-five miles. The ten-mile radius shall be measured from the dealer's established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles.

(EE) "Wholesale" or "at wholesale" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to a transferee for the purpose of resale and not for ultimate consumption by that transferee.

(FF) "Motor vehicle wholesaler" means any person licensed as a dealer under the laws of another state and engaged in the business of selling, displaying, or offering for sale used motor vehicles, at wholesale, but does not mean any motor vehicle dealer as defined in this section.

(GG)(1) "Remanufacturer" means a person who assembles or installs passenger seating, walls, a roof elevation, or a body extension on a conversion van with the motor vehicle chassis supplied by a manufacturer or distributor, a person who modifies a truck chassis supplied by a manufacturer or distributor for use as a public safety or public service

vehicle, a person who modifies a motor vehicle chassis supplied by a manufacturer or distributor for use as a limousine or hearse, or a person who modifies an incomplete motor vehicle cab and chassis supplied by a new motor vehicle dealer or distributor for use as a tow truck, but does not mean either of the following:

(a) A person who assembles or installs passenger seating, walls, a roof elevation, or a body extension on a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code, a mobile home as defined in division (O) and referred to in division (B) of section 4501.01 of the Revised Code, or a recreational vehicle as defined in division (Q) and referred to in division (B) of section 4501.01 of the Revised Code;

(b) A person who assembles or installs special equipment or accessories for handicapped persons, as defined in section 4503.44 of the Revised Code, upon a motor vehicle chassis supplied by a manufacturer or distributor.

(2) For the purposes of division (GG)(1) of this section, "public safety vehicle or public service vehicle" means a fire truck, ambulance, school bus, street sweeper, garbage packing truck, or cement mixer, or a mobile self-contained facility vehicle.

(3) For the purposes of division (GG)(1) of this section, "limousine" means a motor vehicle, designed only for the purpose of carrying nine or fewer passengers, that a person modifies by cutting the original chassis, lengthening the wheelbase by forty inches or more, and reinforcing the chassis in such a way that all modifications comply with all applicable federal motor vehicle safety standards. No person shall qualify as or be deemed to be a remanufacturer who produces limousines unless the person has a written agreement with the manufacturer of the chassis the person utilizes to produce the limousines to complete properly the remanufacture of the chassis into limousines.

(4) For the purposes of division (GG)(1) of this section, "hearse" means a motor vehicle, designed only for the purpose of transporting a single casket, that is equipped with a compartment designed specifically to carry a single casket that a person modifies by cutting the original chassis, lengthening the wheelbase by ten inches or more, and reinforcing the chassis in such a way that all modifications comply with all applicable federal motor vehicle safety standards. No person shall qualify as or be deemed to be a remanufacturer who produces hearses unless the person has a written agreement with the manufacturer of the chassis the person utilizes to produce the hearses to complete properly the remanufacture of the chassis into hearses.

(5) For the purposes of division (GG)(1) of this section, "mobile

self-contained facility vehicle" means a mobile classroom vehicle, mobile laboratory vehicle, bookmobile, bloodmobile, testing laboratory, and mobile display vehicle, each of which is designed for purposes other than for passenger transportation and other than the transportation or displacement of cargo, freight, materials, or merchandise. A vehicle is remanufactured into a mobile self-contained facility vehicle in part by the addition of insulation to the body shell, and installation of all of the following: a generator, electrical wiring, plumbing, holding tanks, doors, windows, cabinets, shelving, and heating, ventilating, and air conditioning systems.

(6) For the purposes of division (GG)(1) of this section, "tow truck" means both of the following:

(a) An incomplete cab and chassis that are purchased by a remanufacturer from a new motor vehicle dealer or distributor of the cab and chassis and on which the remanufacturer then installs in a permanent manner a wrecker body it purchases from a manufacturer or distributor of wrecker bodies, installs an emergency flashing light pylon and emergency lights upon the mast of the wrecker body or rooftop, and installs such other related accessories and equipment, including push bumpers, front grille guards with pads and other custom-ordered items such as painting, special lettering, and safety striping so as to create a complete motor vehicle capable of lifting and towing another motor vehicle.

(b) An incomplete cab and chassis that are purchased by a remanufacturer from a new motor vehicle dealer or distributor of the cab and chassis and on which the remanufacturer then installs in a permanent manner a car carrier body it purchases from a manufacturer or distributor of car carrier bodies, installs an emergency flashing light pylon and emergency lights upon the rooftop, and installs such other related accessories and equipment, including push bumpers, front grille guards with pads and other custom-ordered items such as painting, special lettering, and safety striping.

As used in division (GG)(6)(b) of this section, "car carrier body" means a mechanical or hydraulic apparatus capable of lifting and holding a motor vehicle on a flat level surface so that one or more motor vehicles can be transported, once the car carrier is permanently installed upon an incomplete cab and chassis.

(HH) "Operating as a new motor vehicle dealership" means engaging in activities such as displaying, offering for sale, and selling new motor vehicles at retail, operating a service facility to perform repairs and maintenance on motor vehicles, offering for sale and selling motor vehicle parts at retail, and conducting all other acts that are usual and customary to the operation of a new motor vehicle dealership. For the purposes of this

chapter only, possession of either a valid new motor vehicle dealer franchise agreement or a new motor vehicle dealers license, or both of these items, is not evidence that a person is operating as a new motor vehicle dealership.

(II) "Manufactured home broker" means any person acting as a selling agent on behalf of an owner of a manufactured or mobile home that is subject to taxation under section 4503.06 of the Revised Code.

(JJ) "Outdoor power equipment" means garden and small utility tractors, walk-behind and riding mowers, chainsaws, and tillers.

(KK) "Remote service facility" means premises that are separate from a licensed new motor vehicle dealer's sales facility by not more than one mile and that are used by the dealer to perform repairs, warranty work, recall work, and maintenance on motor vehicles pursuant to a franchise agreement entered into with a manufacturer of motor vehicles. A remote service facility shall be deemed to be part of the franchise agreement and is subject to all the rights, duties, obligations, and requirements of Chapter 4517. of the Revised Code that relate to the performance of motor vehicle repairs, warranty work, recall work, and maintenance work by new motor vehicle dealers.

Sec. 4519.01. As used in this chapter:

(A) "Snowmobile" means any self-propelled vehicle designed primarily for use on snow or ice, and steered by skis, runners, or caterpillar treads.

(B) "All-purpose vehicle" means any self-propelled vehicle designed primarily for cross-country travel on land and water, or on more than one type of terrain, and steered by wheels or caterpillar treads, or any combination thereof, including vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all-season vehicles, mini-bikes, and trail bikes~~, but excluding any self-propelled vehicle not principally used for purposes of personal transportation,~~. "All-purpose vehicle" does not include a utility vehicle as defined in section 4501.01 of the Revised Code or any vehicle principally used in playing golf, any motor vehicle or aircraft required to be registered under Chapter 4503. or 4561. of the Revised Code, and any vehicle excepted from definition as a motor vehicle by division (B) of section 4501.01 of the Revised Code.

(C) "Owner" means any person or firm, other than a lienholder or dealer, having title to a snowmobile, off-highway motorcycle, or all-purpose vehicle, or other right to the possession thereof.

(D) "Operator" means any person who operates or is in actual physical control of a snowmobile, off-highway motorcycle, or all-purpose vehicle.

(E) "Dealer" means any person or firm engaged in the business of manufacturing or selling snowmobiles, off-highway motorcycles, or

all-purpose vehicles at wholesale or retail, or who rents, leases, or otherwise furnishes snowmobiles, off-highway motorcycles, or all-purpose vehicles for hire.

(F) "Street or highway" has the same meaning as in section 4511.01 of the Revised Code.

(G) "Limited access highway" and "freeway" have the same meanings as in section 5511.02 of the Revised Code.

(H) "Interstate highway" means any part of the interstate system of highways as defined in subsection (e), 90 Stat. 431 (1976), 23 U.S.C.A. 103, as amended.

(I) "Off-highway motorcycle" means every motorcycle, as defined in section 4511.01 of the Revised Code, that is designed to be operated primarily on lands other than a street or highway.

(J) "Electronic" and "electronic record" have the same meanings as in section 4501.01 of the Revised Code.

(K) "Electronic dealer" means a dealer whom the registrar of motor vehicles designates under section 4519.511 of the Revised Code.

Sec. 4519.02. (A) Except as provided in divisions (B), (C), and (D) of this section, no person shall operate any snowmobile, off-highway motorcycle, or all-purpose vehicle within this state unless the snowmobile, off-highway motorcycle, or all-purpose vehicle is registered and numbered in accordance with sections 4519.03 and 4519.04 of the Revised Code.

(B) No registration is required for a snowmobile, off-highway motorcycle, or all-purpose vehicle that is operated exclusively upon lands owned by the owner of the snowmobile, off-highway motorcycle, or all-purpose vehicle, or on lands to which the owner has a contractual right.

(C) ~~No registration is required for a snowmobile, off-highway motorcycle, or all-purpose vehicle owned and used in this state by a resident of another state whenever that state has in effect a registration law similar to this chapter and the snowmobile, off-highway motorcycle, or all-purpose vehicle is properly registered thereunder.~~ Any snowmobile, off-highway motorcycle, or all-purpose vehicle owned and used in this state by a person who is not a resident of ~~another~~ this state ~~not having such a registration requirement~~ shall comply with section 4519.09 of the Revised Code.

(D) No registration is required for a snowmobile, off-highway motorcycle, or all-purpose vehicle owned and used in this state by the United States, another state, or a political subdivision thereof, but the snowmobile, off-highway motorcycle, or all-purpose vehicle shall display the name of the owner thereon.

(E) The owner or operator of any all-purpose vehicle operated or used

upon the waters in this state shall comply with Chapters 1547. and 1548. of the Revised Code relative to the operation of watercraft.

(F) Except as otherwise provided in this division, whoever violates division (A) of this section shall be fined not more than twenty-five dollars. If the offender previously has been convicted of or pleaded guilty to a violation of division (A) of this section, whoever violates division (A) of this section shall be fined not less than twenty-five nor more than fifty dollars.

Sec. 4519.09. Every owner or operator of a snowmobile, off-highway motorcycle, or all-purpose vehicle who is not a resident of ~~a~~ this state ~~not having a registration law similar to this chapter,~~ and who expects to use the snowmobile, off-highway motorcycle, or all-purpose vehicle in Ohio, shall apply to the registrar of motor vehicles or a deputy registrar for a temporary operating permit. The temporary operating permit shall be issued for a period not to exceed fifteen days from the date of issuance, shall be in such form as the registrar determines, shall include the name and address of the owner and operator of the snowmobile, off-highway motorcycle, or all-purpose vehicle, and any other information as the registrar considers necessary, and shall be issued upon payment of a fee of five dollars. Every owner or operator receiving a temporary operating permit shall display it upon the reasonable request of any law enforcement officer or other person as authorized by sections 4519.42 and 4519.43 of the Revised Code.

Sec. 4561.17. For the purpose of providing revenue for paying the expenses of administering sections 4561.17 to 4561.22 of the Revised Code relative to the registration of aircraft, for the surveying of and the establishment, checking, maintenance, and repair of aviation air marking and of air navigation facilities, for airport capital improvements, for the acquiring, maintaining, and repairing of equipment necessary therefor, and for the cost of the creation and distribution of Ohio aeronautical charts and Ohio airport and landing field directories, an annual license tax is hereby levied upon all aircraft based in this state for which an aircraft worthiness certificate issued by the federal aviation administration is in effect except the following:

(A) Aircraft owned by the United States or any territory thereof;

(B) Aircraft owned by any foreign government;

(C) Aircraft owned by any state or any political subdivision thereof;

(D) Aircraft operated under a certificate of convenience and necessity issued by the civil aeronautics board or any successor thereto;

(E) Aircraft owned by any nonresident of this state whether such owner is an individual, partnership, or corporation, provided such owner has

complied with all the laws in regard to the licensing of aircraft in the state of ~~his~~ the owner's residence;

(F) Aircraft owned by aircraft manufacturers or aircraft engine manufacturers and operated only for purposes of testing, delivery, or demonstration;

(G) Aircraft operated for hire over regularly scheduled routes within the state.

Such license tax shall be at the rates specified in section 4561.18 of the Revised Code, and shall be paid to and collected by the director of transportation at the time of making application as provided in such section.

Sec. 4561.18. Applications for the licensing and registration of aircraft shall be made and signed by the owner thereof upon forms prepared by the department of transportation and shall contain a description of the aircraft, including its federal registration number, and such other information as is required by the department.

Applications shall be filed with the director of transportation during the month of January annually and shall be renewed according to the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code. Application for registration of any aircraft not previously registered in this state, if such aircraft is acquired or becomes subject to such license tax subsequent to the last day of January in any year, shall be made for the balance of the year in which the same is acquired, within forty-eight hours after such acquisition or after becoming subject to such license tax. Each such application shall be accompanied by the proper license tax, which, for all aircraft other than gliders and balloons, shall be at the annual rate of ~~one hundred~~ fifteen dollars per ~~aircraft~~ seat, based on the manufacturer's maximum listed seating capacity. The license tax for gliders and balloons shall be ~~three~~ fifteen dollars annually.

Such taxes are in lieu of all other taxes on or with respect to ownership of such aircraft.

Sec. 4561.21. (A) The director of transportation shall deposit all aircraft transfer fees in the state treasury to the credit of the general fund.

(B) The director shall deposit all aircraft license taxes in the state treasury to the credit of the ~~county~~ airport ~~maintenance~~ assistance fund, which is hereby created. Money in the fund shall be used ~~to assist counties in maintaining the~~ for maintenance and capital improvements to publicly owned airports ~~they own~~, and the director shall distribute the money to ~~counties~~ eligible recipients in accordance with such procedures, guidelines, and criteria as the director shall establish.

Sec. 4703.15. (A) The state board of examiners of architects may by

three concurring votes deny renewal of, revoke, or suspend any certificate of qualification to practice architecture, issued or renewed under sections 4703.10, 4703.13, and 4703.14 of the Revised Code, or any certificate of authorization, issued or renewed under sections 4703.13 and 4703.18 of the Revised Code, if proof satisfactory to the board is presented in any of the following cases:

~~(A)~~(1) In case it is shown that the certificate was obtained by fraud;

~~(B)~~(2) In case the holder of the certificate has been found guilty by the board or by a court of justice of any fraud or deceit in ~~his~~ the holder's professional practice, or has been convicted of a felony by a court of justice;

~~(C)~~(3) In case the holder has been found guilty by the board of gross negligence, incompetency, or misconduct in the performance of ~~his~~ the holder's services as an architect or in the practice of architecture;

~~(D)~~(4) In case the holder of the certificate has been found guilty by the board of signing plans for the construction of a building as a "registered architect" where ~~he~~ the holder is not the actual architect of such building and where ~~he~~ the holder is without prior written consent of the architect originating the design or other documents used in the plans;

~~(E)~~(5) In case the holder of the certificate has been found guilty by the board of aiding and abetting another person or persons not properly registered as required by sections 4703.01 to 4703.19 of the Revised Code, in the performance of activities that in any manner or extent constitute the practice of architecture.

At any time after the expiration of six months from the date of the revocation or suspension of a certificate, the individual, firm, partnership, association, or corporation may apply for reinstatement of the certificate. Upon showing that all loss caused by the individual, firm, partnership, association, or corporation whose certificate has been revoked or suspended has been fully satisfied and that all conditions imposed by the revocation or suspension decision have been complied with, and upon the payment of all costs incurred by the board as a result of the case at issue, the board, at its discretion and upon evidence that in its opinion would so warrant, may restore the certificate.

(B) In addition to disciplinary action the board may take against a certificate holder under division (A) of this section or section 4703.151 of the Revised Code, the board may impose a fine against a certificate holder who obtained a certificate by fraud or who is found guilty of any act specified in divisions (A)(2) to (A)(5) of this section or who violates any rule governing the standards of service, conduct, and practice adopted pursuant to section 4703.02 of the Revised Code. The fine imposed shall be

not more than one thousand dollars for each offense but shall not exceed five thousand dollars regardless of the number of offenses the certificate holder has committed between the time the fine is imposed and the time any previous fine was imposed.

Sec. 4705.09. (A)(1) Any person admitted to the practice of law in this state by order of the supreme court in accordance with its prescribed and published rules, or any law firm or legal professional association, may establish and maintain an interest-bearing trust account, for purposes of depositing client funds held by the attorney, firm, or association that are nominal in amount or are to be held by the attorney, firm, or association for a short period of time, with any bank or savings and loan association that is authorized to do business in this state and is insured by the federal deposit insurance corporation or the successor to that corporation, or any credit union insured by the national credit union administration operating under the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751. Each account established under this division shall be in the name of the attorney, firm, or association that established and is maintaining it and shall be identified as an IOLTA or an interest on lawyer's trust account. The name of the account may contain additional identifying features to distinguish it from other trust accounts established and maintained by the attorney, firm, or association.

(2) Each attorney who receives funds belonging to a client shall do one of the following:

(a) Establish and maintain one or more interest-bearing trust accounts in accordance with division (A)(1) of this section or maintain one or more interest-bearing trust accounts previously established in accordance with that division, and deposit all client funds held that are nominal in amount or are to be held by the attorney for a short period of time in the account or accounts;

(b) If the attorney is affiliated with a law firm or legal professional association, comply with division (A)(2)(a) of this section or deposit all client funds held that are nominal in amount or are to be held by the attorney for a short period of time in one or more interest-bearing trust accounts established and maintained by the firm or association in accordance with division (A)(1) of this section.

(3) No funds belonging to any attorney, firm, or legal professional association shall be deposited in any interest-bearing ~~IOTA~~ IOLTA account established under division (A)(1) or (2) of this section, except that funds sufficient to pay or enable a waiver of depository institution service charges on the account shall be deposited in the account and other funds belonging

to the attorney, firm, or association may be deposited as authorized by the Code of Professional Responsibility adopted by the supreme court. The determinations of whether funds held are nominal or more than nominal in amount and of whether funds are to be held for a short period or longer than a short period of time rests in the sound judgment of the particular attorney. No imputation of professional misconduct shall arise from the attorney's exercise of judgment in these matters.

(B) All interest earned on funds deposited in an interest-bearing trust account established under division (A)(1) or (2) of this section shall be transmitted to the treasurer of state for deposit in the legal aid fund established under section 120.52 of the Revised Code. No part of the interest earned on funds deposited in an interest-bearing trust account established under division (A)(1) or (2) of this section shall be paid to, or inure to the benefit of, the attorney, the attorney's law firm or legal professional association, the client or other person who owns or has a beneficial ownership of the funds deposited, or any other person other than in accordance with this section, section 4705.10, and sections 120.51 to 120.55 of the Revised Code.

(C) No liability arising out of any act or omission by any attorney, law firm, or legal professional association with respect to any interest-bearing trust account established under division (A)(1) or (2) of this section shall be imputed to the depository institution.

(D) The supreme court may adopt and enforce rules of professional conduct that pertain to the use, by attorneys, law firms, or legal professional associations, of interest-bearing trust accounts established under division (A)(1) or (2) of this section, and that pertain to the enforcement of division (A)(2) of this section. Any rules adopted by the supreme court under this authority shall conform to the provisions of this section, section 4705.10, and sections 120.51 to 120.55 of the Revised Code.

Sec. 4709.05. In addition to any other duty imposed on the barber board under this chapter, the board shall do all of the following:

(A) Organize by electing a chairperson from its members to serve a one-year term;

(B) Hold regular meetings, at the times and places as it determines for the purpose of conducting the examinations required under this chapter, and hold additional meetings for the transaction of necessary business;

(C) Provide for suitable quarters, in the city of Columbus, for the conduct of its business and the maintenance of its records;

(D) Adopt a common seal for the authentication of its orders, communications, and records;

(E) Maintain a record of its proceedings and a register of persons licensed as barbers. The register shall include each licensee's name, place of business, residence, and licensure date and number, and a record of all licenses issued, refused, renewed, suspended, or revoked. The records are open to public inspection at all reasonable times.

(F) Annually, on or before the first day of January, make a report to the governor of all its official acts during the preceding year, its receipts and disbursements, recommendations it determines appropriate, and an evaluation of board activities intended to aid or protect consumers of barber services;

(G) Employ an executive director who shall do all things requested by the board for the administration and enforcement of this chapter. The executive director shall employ inspectors, clerks, and other assistants as ~~he~~ the executive director determines necessary.

(H) Ensure that the practice of barbering is conducted only in a licensed barber shop, except when the practice of barbering is performed on a person whose physical or mental disability prevents that person from going to a licensed barber shop;

(I) Conduct or have conducted the examination for applicants to practice as licensed barbers at least four times per year at the times and places the board determines;

(J) Adopt rules, in accordance with Chapter 119. of the Revised Code, to administer and enforce this chapter and which cover all of the following:

(1) Sanitary standards for the operation of barber shops and barber schools that conform to guidelines established by the department of health;

(2) The content of the examination required of an applicant for a barber license. The examination shall include a practical demonstration and a written test, shall relate only to the practice of barbering, and shall require the applicant to demonstrate that the applicant has a thorough knowledge of and competence in the proper techniques in the safe use of chemicals used in the practice of barbering.

(3) Continuing education requirements for persons licensed pursuant to this chapter. The board may impose continuing education requirements upon a licensee for a violation of this chapter or the rules adopted pursuant thereto or if the board determines that the requirements are necessary to preserve the health, safety, or welfare of the public.

(4) Requirements for the licensure of barber schools, barber teachers, and assistant barber teachers;

(5) Requirements for students of barber schools;

(6) Any other area the board determines appropriate to administer or

enforce this chapter.

(K) Annually review the rules adopted pursuant to division (J) of this section in order to compare those rules with the rules adopted by the state board of cosmetology pursuant to section 4713.08 of the Revised Code. If the barber board determines that the rules adopted by the state board of cosmetology, including, but not limited to, rules concerning using career technical schools, would be beneficial to the barbering profession, the barber board shall adopt rules similar to those it determines would be beneficial for barbers.

(L) Prior to adopting any rule under this chapter, indicate at a formal hearing the reasons why the rule is necessary as a protection of the persons who use barber services or as an improvement of the professional standing of barbers in this state;

~~(L)~~(M) Furnish each owner or manager of a barber shop and barber school with a copy of all sanitary rules adopted pursuant to division (J) of this section;

~~(M)~~(N) Conduct such investigations and inspections of persons and establishments licensed or unlicensed pursuant to this chapter and for that purpose, any member of the board or any of its authorized agents may enter and inspect any place of business of a licensee or a person suspected of violating this chapter or the rules adopted pursuant thereto, during normal business hours;

~~(N)~~(O) Upon the written request of an applicant and the payment of the appropriate fee, provide to the applicant licensure information concerning the applicant;

~~(O)~~(P) Do all things necessary for the proper administration and enforcement of this chapter.

Sec. 4713.02. (A) There is hereby created the state board of cosmetology, consisting of all of the following members appointed by the governor, with the advice and consent of the senate:

(1) One person holding a current, valid cosmetologist, managing cosmetologist, or cosmetology instructor license at the time of appointment;

(2) Two persons holding current, valid managing cosmetologist licenses and actively engaged in managing beauty salons at the time of appointment;

(3) One person who holds a current, valid independent contractor license at the time of appointment or the owner or manager of a licensed salon in which at least one person holding a current, valid independent contractor license practices a branch of cosmetology;

(4) One person who represents individuals who teach the theory and practice of a branch of cosmetology at a vocational school;

(5) One owner of a licensed school of cosmetology;

(6) One owner of at least five licensed salons;

(7) One person who is either a certified nurse practitioner or clinical nurse specialist holding a certificate of authority issued under Chapter 4723. of the Revised Code, or a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(8) One person representing the general public.

(B) The superintendent of public instruction shall nominate three persons for the governor to choose from when making an appointment under division (A)(4) of this section.

(C) All members shall be at least twenty-five years of age, residents of the state, and citizens of the United States. No more than two members, at any time, shall be graduates of the same school of cosmetology.

Except for the initial members appointed under divisions (A)(3) and (4) of this section, terms of office are for five years. The term of the initial member appointed under division (A)(3) of this section shall be three years. The term of the initial member appointed under division (A)(4) of this section shall be four years. Terms shall commence on the first day of November and end on the thirty-first day of October. Each member shall hold office from the date of appointment until the end of the term for which appointed. In case of a vacancy occurring on the board, the governor shall, in the same manner prescribed for the regular appointment to the board, fill the vacancy by appointing a member. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any 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. Before entering upon the discharge of the duties of the office of member, each member shall take, and file with the secretary of state, the oath of office required by Section 7 of Article XV, Ohio Constitution.

The members of the board shall receive an amount fixed pursuant to Chapter 124. of the Revised Code per diem for every meeting of the board which they attend, together with their necessary expenses, and mileage for each mile necessarily traveled.

The members of the board shall annually elect, from among their number, a chairperson.

The board shall prescribe the duties of its officers and establish an office ~~at Columbus, Ohio~~ within Franklin County. The board shall keep all records

and files at the office and have the records and files at all reasonable hours open to public inspection. The board also shall adopt a seal.

Sec. 4717.05. (A) Any person who desires to be licensed as an embalmer shall apply to the board of embalmers and funeral directors on a form provided by the board. The applicant shall include with the application an initial license fee as set forth in section 4717.07 of the Revised Code and evidence, verified by oath and satisfactory to the board, that the applicant meets all of the following requirements:

(1) The applicant is at least eighteen years of age and of good moral character.

(2) If the applicant has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the applicant in this state for aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the applicant in another jurisdiction for a substantially equivalent offense, at least five years has elapsed since the applicant was released from incarceration, a community control sanction, a post-release control sanction, parole, or treatment in connection with the offense.

(3) The applicant holds at least a bachelor's degree from a college or university authorized to confer degrees by the Ohio board of regents or the comparable legal agency of another state in which the college or university is located and submits an official transcript from that college or university with the application.

(4) The applicant has satisfactorily completed at least twelve months of instruction in a prescribed course in mortuary science as approved by the board and has presented to the board a certificate showing successful completion of the course. The course of mortuary science college training may be completed either before or after the completion of the educational standard set forth in division (A)(3) of this section.

(5) The applicant has registered with the board prior to beginning an embalmer apprenticeship.

(6) The applicant has satisfactorily completed at least one year of apprenticeship under an embalmer licensed in this state and has assisted that person in embalming at least twenty-five dead human bodies.

(7) The applicant, upon meeting the educational standards provided for in divisions (A)(3) and (4) of this section and completing the apprenticeship

required in division (A)(6) of this section, has completed the examination for an embalmer's license required by the board.

(B) Upon receiving satisfactory evidence verified by oath that the applicant meets all the requirements of division (A) of this section, the board shall issue the applicant an embalmer's license.

(C) Any person who desires to be licensed as a funeral director shall apply to the board on a form provided by the board. The application shall include an initial license fee as set forth in section 4717.07 of the Revised Code and evidence, verified by oath and satisfactory to the board, that the applicant meets all of the following requirements:

(1) Except as otherwise provided in division (D) of this section, the applicant has satisfactorily met all the requirements for an embalmer's license as described in divisions (A)(1) to (4) of this section.

(2) The applicant has registered with the board prior to beginning a funeral director apprenticeship.

(3) The applicant, following mortuary science college training described in division (A)(4) of this section, has ~~served~~ satisfactorily completed a one-year apprenticeship under a licensed funeral director in this state and has assisted that person in directing at least twenty-five funerals.

(4) The applicant has satisfactorily completed the examination for a funeral director's license as required by the board.

(D) In lieu of mortuary science college training required for a funeral director's license under division (C)(1) of this section, the applicant may substitute a satisfactorily completed two-year apprenticeship under a licensed funeral director in this state assisting that person in directing at least fifty funerals.

(E) Upon receiving satisfactory evidence that the applicant meets all the requirements of division (C) of this section, the board shall issue to the applicant a funeral director's license.

(F) As used in this section:

(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(2) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.

Sec. 4723.32. This chapter does not prohibit any of the following:

(A) The practice of nursing by a student currently enrolled in and actively pursuing completion of a prelicensure nursing education program approved by the board of nursing, if the student's practice is under the auspices of the program and the student acts under the supervision of a registered nurse serving for the program as a faculty member, teaching

assistant, or preceptor;

(B) The rendering of medical assistance to a licensed physician, licensed dentist, or licensed podiatrist by a person under the direction, supervision, and control of such licensed physician, dentist, or podiatrist;

(C) The activities of persons employed as nursing aides, attendants, orderlies, or other auxiliary workers in patient homes, nurseries, nursing homes, hospitals, home health agencies, or other similar institutions;

(D) The provision of nursing services to family members or in emergency situations;

(E) The care of the sick when done in connection with the practice of religious tenets of any church and by or for its members;

(F) The practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner by a student currently enrolled in and actively pursuing completion of a program of study leading to initial authorization by the board to practice nursing in the specialty, if both of the following are the case:

(1) The program qualifies the student to sit for the examination of a national certifying organization listed in division (A)(3) of section 4723.41 of the Revised Code or approved by the board under section 4723.46 of the Revised Code or the program prepares the student to receive a master's degree in accordance with division (A)(2) of section 4723.41 of the Revised Code;

(2) The student's practice is under the auspices of the program and the student acts under the supervision of a registered nurse serving for the program as a faculty member, teaching assistant, or preceptor.

(G) The activities of an individual who currently holds a license to practice nursing in another jurisdiction, if the individual's license has not been revoked, the individual is not currently under suspension or on probation, the individual does not represent the individual as being licensed under this chapter, and one of the following is the case:

(1) The individual is engaging in the practice of nursing by discharging official duties while employed by or under contract with the United States government or any agency thereof;

(2) The individual is engaging in the practice of nursing as an employee of an individual, agency, or corporation located in the other jurisdiction in a position with employment responsibilities that include transporting patients into, out of, or through this state, as long as each trip in this state does not exceed seventy-two hours;

(3) The individual is consulting with an individual licensed in this state

to practice any health-related profession;

(4) The individual is engaging in activities associated with teaching in this state as a guest lecturer at or for a nursing education program, continuing nursing education program, or in-service presentation;

(5) The individual is conducting evaluations of nursing care that are undertaken on behalf of an accrediting organization, including the national league for nursing accrediting committee, the joint commission on accreditation of healthcare organizations, or any other nationally recognized accrediting organization;

(6) The individual is providing nursing care to an individual who is in this state on a temporary basis, not to exceed six months in any one calendar year, if the nurse is directly employed by or under contract with the individual or a guardian or other person acting on the individual's behalf;

(7) The individual is providing nursing care during any disaster, natural or otherwise, that has been officially declared to be a disaster by a public announcement issued by an appropriate federal, state, county, or municipal official.

(H) The administration of medication by an individual who holds a valid medication aide certificate issued under this chapter, if the medication is administered to a resident of a nursing home or residential care facility authorized by section 4723.63 or 4723.64 of the Revised Code to use a certified medication aide and the medication is administered in accordance with section 4723.67 of the Revised Code.

Sec. 4723.33. A registered nurse, licensed practical nurse, ~~or~~ dialysis technician, community health worker, or medication aide who in good faith makes a report under this chapter or any other provision of the Revised Code regarding a violation of this chapter or any other provision of the Revised Code, or participates in any investigation, administrative proceeding, or judicial proceeding resulting from the report, has the full protection against retaliatory action provided by sections 4113.51 to 4113.53 of the Revised Code.

Sec. 4723.34. (A) Reports to the board of nursing shall be made as follows:

(1) Every employer of registered nurses, licensed practical nurses, or dialysis technicians shall report to the board of nursing the name of any current or former employee who holds a nursing license or dialysis technician certificate issued under this chapter who has engaged in conduct that would be grounds for disciplinary action by the board under section 4723.28 of the Revised Code. ~~Every~~

Every employer of certified community health workers shall report to

the board the name of any current or former employee who holds a community health worker certificate issued under this chapter who has engaged in conduct that would be grounds for disciplinary action by the board under section 4723.86 of the Revised Code.

Every employer of medication aides shall report to the board the name of any current or former employee who holds a medication aide certificate issued under this chapter who has engaged in conduct that would be grounds for disciplinary action by the board under section 4723.652 of the Revised Code.

(2) Nursing associations shall report to the board the name of any registered nurse or licensed practical nurse and dialysis technician associations shall report to the board the name of any dialysis technician who has been investigated and found to constitute a danger to the public health, safety, and welfare because of conduct that would be grounds for disciplinary action by the board under section 4723.28 of the Revised Code, except that an association is not required to report the individual's name if the individual is maintaining satisfactory participation in a peer support program approved by the board under rules adopted under section 4723.07 of the Revised Code. ~~Community~~

Community health worker associations shall report to the board the name of any certified community health worker who has been investigated and found to constitute a danger to the public health, safety, and welfare because of conduct that would be grounds for disciplinary action by the board under section 4723.86 of the Revised Code, except that an association is not required to report the individual's name if the individual is maintaining satisfactory participation in a peer support program approved by the board under rules adopted under section 4723.07 of the Revised Code.

Medication aide associations shall report to the board the name of any medication aide who has been investigated and found to constitute a danger to the public health, safety, and welfare because of conduct that would be grounds for disciplinary action by the board under section 4723.652 of the Revised Code, except that an association is not required to report the individual's name if the individual is maintaining satisfactory participation in a peer support program approved by the board under rules adopted under section 4723.69 of the Revised Code.

(3) If the prosecutor in a case described in divisions (B)(3) to (5) of section 4723.28 of the Revised Code, or in a case where the trial court issued an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor committed in the course of practice, a felony charge, or a charge of gross immorality or moral turpitude, knows or has

reason to believe that the person charged is licensed under this chapter to practice nursing as a registered nurse or as a licensed practical nurse or holds a certificate issued under this chapter to practice as a dialysis technician, the prosecutor shall notify the board of nursing. With regard to certified community health workers and medication aides, if the prosecutor in a case involving a charge of a misdemeanor committed in the course of employment, a felony charge, or a charge of gross immorality or moral turpitude, including a case dismissed on technical or procedural grounds, knows or has reason to believe that the person charged holds a community health worker or medication aide certificate issued under this chapter, the prosecutor shall notify the board.

Each notification required by this division shall be made on forms prescribed and provided by the board. The report shall include the name and address of the license or certificate holder, the charge, and the certified court documents recording the action.

(B) If any person fails to provide a report required by this section, the board may seek an order from a court of competent jurisdiction compelling submission of the report.

Sec. 4723.341. (A) As used in this section, "person" has the same meaning as in section 1.59 of the Revised Code and also includes the board of nursing and its members and employees; health care facilities, associations, and societies; insurers; and individuals.

(B) In the absence of fraud or bad faith, no person reporting to the board of nursing or testifying in an adjudication conducted under Chapter 119. of the Revised Code with regard to alleged incidents of negligence or malpractice or matters subject to this chapter or sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 ~~of the Revised Code or section~~ of the Revised Code shall be subject to either of the following based on making the report or testifying:

(1) Liability in damages in a civil action for injury, death, or loss to person or property;

(2) Discipline or dismissal by an employer.

(C) An individual who is disciplined or dismissed in violation of division (B)(2) of this section has the same rights and duties accorded an employee under sections 4113.52 and 4113.53 of the Revised Code.

(D) In the absence of fraud or bad faith, no professional association of registered nurses, licensed practical nurses, ~~or~~ dialysis technicians, community health workers, or medication aides that sponsors a committee or program to provide peer assistance to individuals with substance abuse problems, no representative or agent of such a committee or program, and

no member of the board of nursing shall be liable to any person for damages in a civil action by reason of actions taken to refer a nurse ~~or,~~ dialysis technician, community health worker, or medication aide to a treatment provider or actions or omissions of the provider in treating a nurse ~~or,~~ dialysis technician, community health worker, or medication aide.

Sec. 4723.61. As used in this section and in sections 4723.62 to 4723.69 of the Revised Code:

(A) "Medication" means a drug, as defined in section 4729.01 of the Revised Code.

(B) "Medication error" means a failure to follow the prescriber's instructions when administering a prescription medication.

(C) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code.

(D) "Prescription medication" means a medication that may be dispensed only pursuant to a prescription.

(E) "Prescriber" and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

Sec. 4723.62. (A) There is hereby created the medication aide advisory council. The council shall consist of the following members:

(1) A registered nurse working in long-term care, appointed by the governing body of the Ohio nurses association;

(2) A licensed practical nurse working in long-term care, appointed by the governing body of the licensed practical nurse association of Ohio;

(3) A registered nurse with experience in researching gerontology issues, appointed by the governing body of the Ohio nurses association;

(4) An advanced practice nurse with experience in gerontology, appointed by the governing body of the Ohio association of advanced practice nurses;

(5) A representative of the Ohio health care association, appointed by the governing body of the association;

(6) A representative of the association of Ohio philanthropic homes, housing, and services for the aging, appointed by the governing body of the association;

(7) A representative of the Ohio academy of nursing homes, appointed by the governing body of the academy;

(8) A representative of the Ohio assisted living association, appointed by the governing body of the association;

(9) A representative of the Ohio association of long-term care ombudsmen, appointed by the governing body of the association;

(10) A representative of the American association of retired persons,

appointed by the governing body of the association;

(11) A representative of facility residents and families of facility residents, appointed by the board of nursing;

(12) A representative of the senior care pharmacy alliance, appointed by the governing body of the alliance;

(13) A representative of nurse aides, as defined in section 3721.21 of the Revised Code, appointed by the director of health;

(14) A representative of the department of health with expertise in competency evaluation programs, as defined in section 3721.21 of the Revised Code, appointed by the director of health;

(15) A representative of the office of the state long-term care ombudsperson program, appointed by the state long-term care ombudsperson;

(16) A representative of the department of job and family services, appointed by the director of job and family services.

(B) Members of the council shall serve at the pleasure of their appointing authorities. Vacancies shall be filled in the manner provided for original appointments.

(C) Members shall receive no compensation for their service on the council, except to the extent that serving on the council is part of their regular duties of employment.

(D) The board of nursing shall appoint one of its members or a representative of the board to serve as the council's chairperson.

Sec. 4723.621. The medication aide advisory council created under section 4723.62 of the Revised Code shall make recommendations to the board of nursing with respect to all of the following:

(A) The design and operation of the medication aide pilot program conducted under section 4723.63 of the Revised Code, including a method of collecting data through reports submitted by participating nursing homes and residential care facilities;

(B) The content of the course of instruction required to obtain certification as a medication aide, including the examination to be used to evaluate the ability to administer prescription medications safely and the score that must be attained to pass the examination;

(C) Whether medication aides may administer prescription medications through a gastrostomy or jejunostomy tube and the amount and type of training a medication aide needs to be adequately prepared to administer prescription medications through a gastrostomy or jejunostomy tube;

(D) Protection of the health and welfare of the residents of nursing homes and residential care facilities participating in the pilot program and

using medication aides pursuant to section 4723.64 of the Revised Code on or after July 1, 2007;

(E) The board's adoption of rules under section 4723.69 of the Revised Code;

(F) Any other issue the council considers relevant to the use of medication aides in nursing homes and residential care facilities.

Sec. 4723.63. (A) In consultation with the medication aide advisory council established under section 4723.62 of the Revised Code, the board of nursing shall conduct a pilot program for the use of medication aides in nursing homes and residential care facilities. The board shall conduct the pilot program in a manner consistent with human protection and other ethical concerns typically associated with research studies involving live subjects. The pilot program shall be commenced not later than May 1, 2006, and shall be conducted until July 1, 2007.

During the period the pilot program is conducted, a nursing home or residential care facility participating in the pilot program may use one or more medication aides to administer prescription medications to its residents, subject to both of the following conditions:

(1) Each individual used as a medication aide must hold a current, valid medication aide certificate issued by the board of nursing under this chapter.

(2) The nursing home or residential care facility shall ensure that the requirements of section 4723.67 of the Revised Code are met.

(B) The board, in consultation with the medication aide advisory council, shall do all of the following not later than February 1, 2006:

(1) Design the pilot program;

(2) Establish standards to govern medication aides and the nursing homes and residential care facilities participating in the pilot program, including standards for the training of medication aides and the staff of participating nursing homes and residential care facilities;

(3) Establish standards to protect the health and safety of the residents of the nursing homes and residential care facilities participating in the program;

(4) Implement a process for selecting the nursing homes and residential care facilities to participate in the program.

(C)(1) A nursing home or residential care facility may volunteer to participate in the pilot program by submitting an application to the board on a form prescribed and provided by the board. From among the applicants, the board shall select eighty nursing homes and forty residential care facilities to participate in the pilot program.

(2) To be eligible to participate, a nursing home or residential care

facility shall agree to observe the standards established by the board for the use of medication aides. A nursing home is eligible to participate only if the department of health has found in the two most recent surveys or inspections of the home that the home is free from deficiencies related to the administration of medication. A residential care facility is eligible to participate only if the department has found that the facility is free from deficiencies related to the provision of skilled nursing care or the administration of medication.

(D) As a condition of participation in the pilot program, a nursing home and residential care facility selected by the board shall pay the participation fee established in rules adopted under section 4723.69 of the Revised Code. The participation fee is not reimbursable under the medicaid program established under Chapter 5111. of the Revised Code.

(E) On receipt of evidence found credible by the board that continued participation by a nursing home or residential care facility poses an imminent danger, risk of serious harm, or jeopardy to a resident of the home or facility, the board may terminate the authority of the home or facility to participate in the pilot program.

(F)(1) With the assistance of the medication aide advisory council, the board shall conduct an evaluation of the pilot program. In conducting the evaluation, the board shall do all of the following:

(a) Assess whether medication aides are able to administer prescription medications safely to nursing home and residential care facility residents;

(b) Determine the financial implications of using medication aides in nursing homes and residential care facilities;

(c) Consider any other issue the board or council considers relevant to the evaluation.

(2) Not later than March 1, 2007, the board shall prepare a report of its findings and recommendations derived from the evaluation of the pilot program. The board shall submit the report to the governor, president and minority leader of the senate, speaker and minority leader of the house of representatives, and director of health.

Sec. 4723.64. On and after July 1, 2007, any nursing home or residential care facility may use one or more medication aides to administer prescription medications to its residents, subject to both of the following conditions:

(A) Each individual used as a medication aide must hold a current, valid medication aide certificate issued by the board of nursing under this chapter.

(B) The nursing home or residential care facility shall ensure that the requirements of section 4723.67 of the Revised Code are met.

Sec. 4723.65. (A) An individual seeking certification as a medication aide shall apply to the board of nursing on a form prescribed and provided by the board. If the application is submitted on or after July 1, 2007, the application shall be accompanied by the certification fee established in rules adopted under section 4723.69 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, an applicant for a medication aide certificate shall submit a request to the bureau of criminal identification and investigation for a criminal records check. The request shall be on the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and shall be accompanied by a standard impression sheet to obtain fingerprints prescribed pursuant to division (C)(2) of that section. The request shall also be accompanied by the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code. On receipt of the completed form, the completed impression sheet, and the fee, the bureau shall conduct a criminal records check of the applicant. On completion of the criminal records check, the bureau shall send the results of the check to the board. An applicant requesting a criminal records check under this division shall ask the superintendent of the bureau of criminal identification and investigation to also request that the federal bureau of investigation provide the superintendent with any information it has with respect to the applicant.

(2) If a criminal records check of an applicant was completed pursuant to section 3721.121 of the Revised Code not more than five years prior to the date the application is submitted, the applicant may include a certified copy of the criminal records check completed pursuant to that section and is not required to comply with division (B)(1) of this section.

(3) A criminal records check provided to the board in accordance with division (B)(1) or (B)(2) of this section shall not be made available to any person or for any purpose other than the following:

(a) The results may be made available to any person for use in determining whether the individual who is the subject of the check should be issued a medication aide certificate.

(b) The results may be made available to the person who is the subject of the check or a representative of that person.

Sec. 4723.651. (A) To be eligible to receive a medication aide certificate, an applicant shall meet all of the following conditions:

(1) Be at least eighteen years of age;

(2) Have a high school diploma or a high school equivalence diploma as defined in section 5107.40 of the Revised Code;

(3) If the applicant is to practice as a medication aide in a nursing home,

be a nurse aide who satisfies the requirements of division (A)(1), (2), (3), (4), (5), (6), or (8) of section 3721.32 of the Revised Code;

(4) If the applicant is to practice as a medication aide in a residential care facility, be a nurse aide who satisfies the requirements of division (A)(1), (2), (3), (4), (5), (6), or (8) of section 3721.32 of the Revised Code or an individual who has at least one year of direct care experience in a residential care facility;

(5) Successfully complete the course of instruction provided by a training program approved by the board under section 4723.66 of the Revised Code;

(6) Have results on the criminal records check provided to the board under division (B)(1) or (2) of section 4723.65 of the Revised Code indicating that the applicant has not been convicted of, has not pleaded guilty to, and has not had a judicial finding of guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a substantially similar law of another state, the United States, or another country;

(7) Meet all other requirements for a medication aide certificate established in rules adopted under section 4723.69 of the Revised Code.

(B) If an applicant meets the requirement specified in division (A) of this section, the board shall issue a medication aide certificate to the applicant. If a medication aide certificate is issued to an individual on the basis of having at least one year of direct care experience working in a residential care facility, as provided in division (A)(4) of this section, the certificate is valid for use only in a residential care facility. The board shall state the limitation on the certificate issued to the individual.

(C) A medication aide certificate is valid for two years, unless earlier suspended or revoked. The certificate may be renewed in accordance with procedures specified by the board in rules adopted under section 4723.69 of the Revised Code. To be eligible for renewal, an applicant shall pay the renewal fee established in the rules and meet all renewal qualifications specified in the rules.

Sec. 4723.652. (A) The board of nursing, by vote of a quorum, may impose one or more of the following sanctions against any individual who applies for, or holds, a medication aide certificate: deny, revoke, suspend, or place restrictions on the certificate; reprimand or otherwise discipline the holder of a medication aide certificate; or impose a fine of not more than five hundred dollars per violation. The sanctions may be imposed for any of the reasons specified in division (B) of section 4723.28 of the Revised Code, to the extent that those reasons are applicable to medication aides as

specified in rules adopted under section 4723.69 of the Revised Code.

(B) Disciplinary actions taken by the board under this section shall be taken pursuant to an adjudication conducted under Chapter 119. of the Revised Code, except that in lieu of a hearing, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by vote of a quorum, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the agreement shall be of no effect.

(C) In taking actions under this section, the board has the same powers and duties that it has when taking actions under section 4723.28 of the Revised Code. In addition, the board may issue an order to summarily suspend or automatically suspend a medication aide certificate in the same manner that the board is authorized to take those actions under section 4723.281 of the Revised Code.

Sec. 4723.66. (A) A person or government entity seeking approval to provide a medication aide training program shall apply to the board of nursing on a form prescribed and provided by the board. If the application is submitted on or after July 1, 2007, the application shall be accompanied by the fee established in rules adopted under section 4723.69 of the Revised Code.

(B) The board shall approve the applicant to provide a medication aide training program if the content of the course of instruction to be provided by the program meets the standards specified by the board in rules adopted under section 4723.69 of the Revised Code and includes all of the following:

(1) At least seventy clock-hours of instruction, including both classroom instruction on medication administration and at least twenty clock-hours of supervised clinical practice in medication administration;

(2) A mechanism for evaluating whether an individual's reading, writing, and mathematical skills are sufficient for the individual to be able to administer prescription medications safely;

(3) An examination that tests the ability to administer prescription medications safely and that meets the requirements established by the board in rules adopted under section 4723.69 of the Revised Code.

(C) The board may deny, suspend, or revoke the approval granted to the provider of a medication aide training program for reasons specified in rules adopted under section 4723.69 of the Revised Code. All actions taken by the board to deny, suspend, or revoke the approval of a training program shall be taken in accordance with Chapter 119. of the Revised Code.

Sec. 4723.67. (A) Except for the prescription medications specified in division (C) of this section and the methods of medication administration specified in division (D) of this section, a medication aide who holds a current, valid medication aide certificate issued under this chapter may administer prescription medications to the residents of nursing homes and residential care facilities that use medication aides pursuant to section 4723.63 or 4723.64 of the Revised Code. A medication aide shall administer prescription medications only pursuant to the delegation of a registered nurse or a licensed practical nurse acting at the direction of a registered nurse.

Delegation of medication administration to a medication aide shall be carried out in accordance with the rules for nursing delegation adopted under this chapter by the board of nursing. A nurse who has delegated to a medication aide responsibility for the administration of prescription medications to the residents of a nursing home or residential care facility shall not withdraw the delegation on an arbitrary basis or for any purpose other than patient safety.

(B) In exercising the authority to administer prescription medications pursuant to nursing delegation, a medication aide may administer prescription medications in any of the following categories:

(1) Oral medications;

(2) Topical medications;

(3) Medications administered as drops to the eye, ear, or nose;

(4) Rectal and vaginal medications;

(5) Medications prescribed with a designation authorizing or requiring administration on an as-needed basis, but only if a nursing assessment of the patient is completed before the medication is administered.

(C) A medication aide shall not administer prescription medications in either of the following categories:

(1) Medications containing a schedule II controlled substance, as defined in section 3719.01 of the Revised Code;

(2) Medications requiring dosage calculations.

(D) A medication aide shall not administer prescription medications by any of the following methods:

(1) Injection;

(2) Intravenous therapy procedures;

(3) Splitting pills for purposes of changing the dose being given.

(E) A nursing home or residential care facility that uses medication aides shall ensure that medication aides do not have access to any schedule II controlled substances within the home or facility for use by its residents.

Sec. 4723.68. (A) A registered nurse, or licensed practical nurse acting at the direction of a registered nurse, who delegates medication administration to a medication aide who holds a current, valid medication aide certificate issued under this chapter is not liable in damages to any person or government entity in a civil action for injury, death, or loss to person or property that allegedly arises from an action or omission of the medication aide in performing the medication administration, if the delegating nurse delegates the medication administration in accordance with this chapter and the rules adopted under this chapter.

(B) A person employed by a nursing home or residential care facility that uses medication aides pursuant to section 4723.63 or 4723.64 of the Revised Code who reports in good faith a medication error at the nursing home or residential care facility is not subject to disciplinary action by the board of nursing or any other government entity regulating that person's professional practice and is not liable in damages to any person or government entity in a civil action for injury, death, or loss to person or property that allegedly results from reporting the medication error.

Sec. 4723.69. (A) In consultation with the medication aide advisory council created under section 4723.62 of the Revised Code, the board of nursing shall adopt rules to implement sections 4723.61 to 4723.68 of the Revised Code. Initial rules shall be adopted not later than February 1, 2006. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) The rules adopted under this section shall establish or specify all of the following:

(1) Fees, in an amount sufficient to cover the costs the board incurs in implementing sections 4723.61 to 4723.68 of the Revised Code, for participation in the medication aide pilot program, certification as a medication aide, and approval of a medication aide training program;

(2) Requirements to obtain a medication aide certificate that are not otherwise specified in section 4723.651 of the Revised Code;

(3) Procedures for renewal of medication aide certificates;

(4) The extent to which the board determines that the reasons for taking disciplinary actions under section 4723.28 of the Revised Code are applicable reasons for taking disciplinary actions under section 4723.652 of the Revised Code against an applicant for or holder of a medication aide certificate;

(5) Standards for approval of peer support programs for the holders of medication aide certificates;

(6) Standards for medication aide training programs, including the

examination to be administered by the training program to test an individual's ability to administer prescription medications safely;

(7) Reasons for denying, revoking, or suspending approval of a medication aide training program;

(8) Other standards and procedures the board considers necessary to implement sections 4723.61 to 4723.68 of the Revised Code.

Sec. ~~4723.63~~ 4723.91. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the board of nursing shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a nursing license, medication aide certificate, dialysis technician certificate, or community health worker certificate issued pursuant to this chapter.

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the Revised Code:

(A)(1) "Clinical laboratory services" means either of the following:

(a) Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment or for the assessment of health;

(b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.

(2) "Clinical laboratory services" does not include the mere collection or preparation of specimens.

(B) "Designated health services" means any of the following:

(1) Clinical laboratory services;

(2) Home health care services;

(3) Outpatient prescription drugs.

(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and:

(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use;

(2) With respect to a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor if the lessor is a potential source of referrals to the lessee.

(D) "Governmental health care program" means any program providing health care benefits that is administered by the federal government, this state, or a political subdivision of this state, including the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, health care coverage for public employees, health care benefits administered by the bureau of workers'

compensation, or the medical assistance program established under Chapter 5111. of the Revised Code~~, and the disability medical assistance program established under Chapter 5115. of the Revised Code~~.

(E)(1) "Group practice" means a group of two or more holders of certificates under this chapter legally organized as a partnership, professional corporation or association, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar group practice entity, including an organization comprised of a nonprofit medical clinic that contracts with a professional corporation or association of physicians to provide medical services exclusively to patients of the clinic in order to comply with section 1701.03 of the Revised Code and including a corporation, limited liability company, partnership, or professional association described in division (B) of section 4731.226 of the Revised Code formed for the purpose of providing a combination of the professional services of optometrists who are licensed, certificated, or otherwise legally authorized to practice optometry under Chapter 4725. of the Revised Code, chiropractors who are licensed, certificated, or otherwise legally authorized to practice chiropractic under Chapter 4734. of the Revised Code, psychologists who are licensed, certificated, or otherwise legally authorized to practice psychology under Chapter 4732. of the Revised Code, registered or licensed practical nurses who are licensed, certificated, or otherwise legally authorized to practice nursing under Chapter 4723. of the Revised Code, pharmacists who are licensed, certificated, or otherwise legally authorized to practice pharmacy under Chapter 4729. of the Revised Code, physical therapists who are licensed, certificated, or otherwise legally authorized to practice physical therapy under sections 4755.40 to 4755.53 of the Revised Code, mechanotherapists who are licensed, certificated, or otherwise legally authorized to practice mechanotherapy under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are licensed, certificated, or otherwise legally authorized for their respective practices under this chapter, to which all of the following apply:

(a) Each physician who is a member of the group practice provides substantially the full range of services that the physician routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel.

(b) Substantially all of the services of the members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group.

(c) The overhead expenses of and the income from the practice are

distributed in accordance with methods previously determined by members of the group.

(d) The group practice meets any other requirements that the state medical board applies in rules adopted under section 4731.70 of the Revised Code.

(2) In the case of a faculty practice plan associated with a hospital with a medical residency training program in which physician members may provide a variety of specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, the criteria in division (E)(1) of this section apply only with respect to services rendered within the faculty practice plan.

(F) "Home health care services" and "immediate family" have the same meanings as in the rules adopted under section 4731.70 of the Revised Code.

(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(H) A "referral" includes both of the following:

(1) A request by a holder of a certificate under this chapter for an item or service, including a request for a consultation with another physician and any test or procedure ordered by or to be performed by or under the supervision of the other physician;

(2) A request for or establishment of a plan of care by a certificate holder that includes the provision of designated health services.

(I) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

Sec. 4731.71. The auditor of state may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code within governmental health care programs administered by the state. The auditor of state shall report any violation of either section to the state medical board and shall certify to the attorney general in accordance with section 131.02 of the Revised Code the amount of any refund owed to a state-administered governmental health care program under section 4731.69 of the Revised Code as a result of a violation. If a refund is owed to the medical assistance program established under Chapter 5111. of the Revised Code ~~or the disability medical assistance program established under Chapter 5115. of the Revised Code~~, the auditor of state also shall report the amount to the department of commerce.

The state medical board also may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code.

Sec. 4736.11. The state board of sanitarian registration shall issue a

certificate of registration to any applicant whom it registers as a sanitarian or a sanitarian-in-training. Such certificate shall bear:

(A) The name of the person;

(B) The date of issue;

(C) A serial number, designated by the board;

(D) The seal of the board and signature of the ~~chairman~~ chairperson of the board;

(E) The designation "registered sanitarian" or "sanitarian-in-training."

Certificates of registration shall expire annually on the date fixed by the board and become invalid on that date unless renewed pursuant to this section. All registered sanitarians shall be required annually to complete a continuing education program in subjects relating to practices of the profession as a sanitarian to the end that the utilization and application of new techniques, scientific advancements, and research findings will assure comprehensive service to the public. The board shall prescribe by rule a continuing education program for registered sanitarians to meet this requirement. The length of study for this program shall be determined by the board but shall be not less than six nor more than twenty-five hours during the calendar year. At least once annually the board shall ~~mail~~ provide to each registered sanitarian a list of courses approved by the board as satisfying the program prescribed by rule. Upon the request of a registered sanitarian, the secretary shall supply a list of ~~any additional~~ applicable courses that the board has approved ~~since the most recent mailing~~. A certificate may be renewed for a period of one year at any time prior to the date of expiration upon payment of the renewal fee prescribed by section 4736.12 of the Revised Code and upon showing proof of having complied with the continuing education requirements of this section. The state board of sanitarian registration may waive the continuing education requirement in cases of certified illness or disability which prevents the attendance at any qualified educational seminars during the twelve months immediately preceding the annual certificate of registration renewal date. Certificates which expire may be reinstated under rules adopted by the board.

Sec. 4736.12. (A) The state board of sanitarian registration shall charge the following fees:

(1) To apply as a sanitarian-in-training, ~~seventy-five~~ eighty dollars;

(2) For sanitarians-in-training to apply for registration as sanitarians, ~~seventy-five~~ eighty dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.

(3) For persons other than sanitarians-in-training to apply for

registration as sanitarians, including persons meeting the requirements of section 4736.16 of the Revised Code, one hundred ~~fifty~~ sixty dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.

(4) The renewal fee for registered sanitarians shall be ~~sixty-nine~~ seventy-four dollars.

(5) The renewal fee for sanitarians-in-training shall be ~~sixty-nine~~ seventy-four dollars.

(6) For late application for renewal, ~~twenty-five~~ twenty-seven dollars.

The board of sanitarian registration, with the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that such fees do not exceed the amounts permitted by this section by more than fifty per cent.

(B) The board of sanitarian registration shall charge separate fees for examinations as required by section 4736.08 of the Revised Code, provided that the fees are not in excess of the actual cost to the board of conducting the examinations.

(C) The board of sanitarian registration may adopt rules establishing fees for all of the following:

(1) Application for the registration of a training agency approved under rules adopted by the board pursuant to section 4736.11 of the Revised Code and for the annual registration renewal of an approved training agency.

(2) Application for the review of continuing education hours submitted for the board's approval by approved training agencies or by registered sanitarians or sanitarians-in-training.

Sec. 4740.14. (A) There is hereby created within the department of commerce the residential construction advisory committee consisting of ~~eight~~ nine persons the director of commerce appoints. Of the advisory committee's members, three shall be general contractors who have recognized ability and experience in the construction of residential buildings, two shall be building officials who have experience administering and enforcing a residential building code, one, chosen from a list of three names the Ohio fire chief's association submits, shall be from the fire service certified as a fire safety inspector who has at least ten years of experience enforcing fire or building codes, one shall be a residential contractor who has recognized ability and experience in the remodeling and construction of residential buildings, ~~and~~ one shall be an architect registered pursuant to Chapter 4703. of the Revised Code, with recognized ability and experience in the architecture of residential buildings, and one, chosen from

a list of three names the Ohio municipal league submits to the director, shall be a mayor of a municipal corporation in which the Ohio residential building code is being enforced in the municipal corporation by a certified building department.

(B) The director shall make appointments to the advisory committee within ninety days after ~~the effective date of this section~~ May 27, 2005. Terms of office shall be for three years, with each term ending on the date three years after the date of appointment. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. The director shall fill a vacancy in the manner provided for initial appointments. Any member appointed to fill a vacancy in an unexpired term shall hold office for the remainder of that term.

(C) The advisory committee shall do all of the following:

(1) Recommend to the board of building standards a building code for residential buildings. The committee shall recommend a code that it models on a residential building code a national model code organization issues, with adaptations necessary to implement the code in this state. If the board of building standards decides not to adopt a code the committee recommends, the committee shall revise the code and resubmit it until the board adopts a code the committee recommends as the state residential building code;

(2) Advise the board regarding the establishment of standards for certification of building officials who enforce the state residential building code;

(3) Assist the board in providing information and guidance to residential contractors and building officials who enforce the state residential building code;

(4) Advise the board regarding the interpretation of the state residential building code;

(5) Provide other assistance the committee considers necessary.

(D) In making its recommendation to the board pursuant to division (C)(1) of this section, the advisory committee shall consider all of the following:

(1) The impact that the state residential building code may have upon the health, safety, and welfare of the public;

(2) The economic reasonableness of the residential building code;

(3) The technical feasibility of the residential building code;

(4) The financial impact that the residential building code may have on the public's ability to purchase affordable housing.

(E) Members of the advisory committee shall receive no salary for the

performance of their duties as members, but shall receive their actual and necessary expenses incurred in the performance of their duties as members of the advisory committee and shall receive a per diem for each day in attendance at an official meeting of the committee, to be paid from the industrial compliance operating fund in the state treasury, using fees collected in connection with residential buildings pursuant to division (F)(2) of section 3781.102 of the Revised Code and deposited in that fund.

(F) The advisory committee is not subject to divisions (A) and (B) of section 101.84 of the Revised Code.

Sec. 4753.03. There is hereby created the board of speech-language pathology and audiology consisting of eight residents of this state to be appointed by the governor with the advice and consent of the senate. Three members of the board shall be licensed speech-language pathologists, and three members shall be licensed audiologists, who have been licensed and engaged in the practice, teaching, administration, or research in the area of appointment for at least five years prior to the dates of their appointment. Beginning with the first appointment of an audiologist to the board after ~~the effective date of this amendment~~ November 5, 1992, at all times one of the audiologists serving on the board must be an audiologist engaged in the practice of fitting and dispensing hearing aids. At all times, two members shall be representatives of the general public, and neither shall be a speech-language pathologist or audiologist or a person licensed under this chapter. At least one of the members representing the general public shall be at least sixty years of age. ~~Any speech-language pathologists and audiologists among the initial appointees shall have at least a bachelor's degree in speech-language pathology or audiology and shall meet the standards for licensure, other than examination, established by section 4753.06 or 4753.08 of the Revised Code. Any speech-language pathologist or audiologist appointed to the board after the effective date of this amendment, must hold a master's or doctorate degree.~~

Terms of office shall be for three years, each term commencing on the twenty-seventh day of September and ending on the twenty-sixth day of September. Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he was~~ appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. No person shall be appointed to serve consecutively more than two full

terms. The executive council of the Ohio speech and hearing association may recommend, within forty-five days after any vacancy or expiration of a member's term occurs, no more than three persons to fill each position or vacancy on the board, and the governor may make ~~his~~ the appointment from the persons so recommended. If the council fails to make recommendations within the required time, the governor shall make the appointment without its recommendations.

The terms of all speech-language pathology members shall not end in the same year; the terms of all audiology members shall not end in the same year. Upon the first appointment following ~~the effective date of this amendment~~ November 5, 1992, the governor shall appoint speech-language pathology members and audiology members to one-, two-, or three-year terms to prevent the terms of all speech-language pathology members or all audiology members from ending in the same year. Thereafter, all terms shall be for three years.

Sec. 4753.06. No person is eligible for licensure as a speech-language pathologist or audiologist unless:

(A) ~~He~~ The person has obtained a broad general education to serve as a background for ~~his~~ the person's specialized academic training and preparatory professional experience. Such background may include study from among the areas of human psychology, sociology, psychological and physical development, the physical sciences, especially those that pertain to acoustic and biological phenomena, and human anatomy and physiology, including neuroanatomy and neurophysiology.

(B) ~~He~~ If the person seeks licensure as a speech-language pathologist, the person submits to the board of speech-language pathology and audiology an official transcript demonstrating that ~~he~~ the person has at least a master's degree in ~~the area in which licensure is sought~~ speech-language pathology or the equivalent as determined by the board. ~~His~~ The person's academic credit must include course work accumulated in the completion of a well-integrated course of study approved by the board and delineated by rule dealing with the normal aspects of human communication, development and disorders thereof, and clinical techniques for the evaluation and the improvement or eradication of such disorders. The course work must have been completed at colleges or universities accredited by regional or national accrediting organizations recognized by the board.

(C) ~~He~~ If the person seeks licensure as an audiologist, the person submits to the board an official transcript demonstrating that the person has at least a doctor of audiology degree or the equivalent as determined by the board. The person's academic credit must include course work accumulated

in the completion of a well-integrated course of study approved by the board and delineated by rules dealing with the normal aspects of human hearing, balance, and related development and clinical evaluation, audiologic diagnosis, and treatment of disorders of human hearing, balance, and related development. The course work must have been completed in an audiology program that is accredited by an organization recognized by the United States department of education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board.

(D) The person submits to the board evidence of the completion of appropriate, supervised clinical experience in the professional area, speech-language pathology or audiology, for which licensure is requested, dealing with a variety of communication disorders. The appropriateness of the experience shall be determined under rules of the board. This experience shall have been obtained in an accredited college or university, in a cooperating program of an accredited college or university, or in another program approved by the board.

~~(D) He~~ (E) The person submits to the board evidence that the person has passed the examination for licensure to practice speech-language pathology or audiology pursuant to division (B) of section 4753.05 of the Revised Code.

(F) If the person submits to the board an application for licensure as an audiologist before January 1, 2006, and meets the requirements of division (B) of this section regarding a master's degree in audiology as that division existed on December 31, 2005, but not the requirements of division (C) of this section regarding a doctor of audiology degree or if the person seeks licensure as a speech-language pathologist, the person presents to the board written evidence that ~~he~~ the person has obtained professional experience. The professional experience shall be appropriately supervised as determined by board rule. The amount of professional experience shall be determined by board rule and shall be bona fide clinical work that has been accomplished in the major professional area, speech-language pathology or audiology, in which licensure is being sought. ~~This~~ If the person seeks licensure as a speech-language pathologist, this experience shall not begin until the requirements of divisions (B) ~~and (C)~~, (D), and (E) of this section have been completed unless approved by the board. If the person seeks licensure as an audiologist, this experience shall not begin until the requirements of division (B) of this section, as that division existed on December 31, 2005, and divisions (D) and (E) of this section have been completed unless approved by the board. Before beginning the supervised

professional experience pursuant to this section, ~~any~~ the applicant for licensure to practice speech-language pathology or audiology shall ~~meet the requirements for~~ obtain a conditional license pursuant to section 4753.071 of the Revised Code.

~~(E) He submits to the board evidence that he has passed the examination for licensure to practice speech-language pathology or audiology pursuant to division (B) of section 4753.05 of the Revised Code.~~

Sec. 4753.071. A person who is required to meet the supervised professional experience requirement of division (F) of section 4753.06 of the Revised Code shall submit to the board of speech-language pathology and audiology an application for a conditional license. The application shall include a plan for the content of the supervised professional experience on a form the board shall prescribe. The board ~~of speech-language pathology and audiology~~ shall issue ~~a~~ the conditional license to ~~an~~ the applicant ~~who, except for the supervised professional experience:~~

~~(A) Meets~~ if the applicant meets the ~~academic, practicum, and examination~~ requirements of ~~divisions (B), (C), and (E) of~~ section 4753.06 of the Revised Code~~;~~

~~(B) Submits an application to the board, including a plan for the content of the supervised professional experience on a form prescribed by the board~~, other than the requirement to have obtained the supervised professional experience, and pays to the board the appropriate fee for a conditional license. An applicant may not begin employment until the conditional license has been ~~approved~~ issued.

A conditional license authorizes an individual to practice speech-language pathology or audiology while completing the supervised professional experience as required by division ~~(D)~~(F) of section 4753.06 of the Revised Code. A person holding a conditional license may practice speech-language pathology or audiology while working under the supervision of a person fully licensed in accordance with this chapter. A conditional license is valid for eighteen months unless suspended or revoked pursuant to section 3123.47 or 4753.10 of the Revised Code.

A person holding a conditional license may perform services for which reimbursement will be sought under the medicare program established under Title XVIII of the "Social Security Act," ~~49~~ 79 Stat. ~~620~~ 286 (~~1935~~ 1965), 42 U.S.C. ~~301~~ 1395, as amended, or the ~~medical assistance~~ medicaid program established under Chapter 5111. of the Revised Code ~~and Title XIX of the "Social Security Act"~~ but all requests for reimbursement for such services shall be made by the person who supervises the person performing the services.

Sec. 4753.08. The board of speech-language pathology and audiology shall waive the examination, educational, and professional experience requirements for any applicant who meets any of the following requirements:

(A) On September 26, 1975, has at least a bachelor's degree with a major in speech-language pathology or audiology from an accredited college or university, or who has been employed as a speech-language pathologist or audiologist for at least nine months at any time within the three years prior to September 26, 1975, if an application providing bona fide proof of such degree or employment is filed with the board within one year after September 26, 1975, and is accompanied by the application fee as prescribed in division (A) of section 4753.11 of the Revised Code;

(B) Presents proof of current certification or licensure in good standing in the area in which licensure is sought in a state ~~which~~ that has standards at least equal to ~~those~~ the standards for licensure that are in effect in this state at the time the applicant applies for the license;

(C) Presents proof of both of the following:

(1) Having current certification or licensure in good standing in audiology in a state that has standards at least equal to the standards for licensure as an audiologist that were in effect in this state on December 31, 2005;

(2) Having first obtained that certification or licensure not later than December 31, 2007.

(D) Presents proof of a current certificate of clinical competence in speech-language pathology or audiology that is in good standing and received from the American speech-language-hearing association in the area in which licensure is sought.

Sec. 4753.09. Except as provided in this section and in section 4753.10 of the Revised Code, a license issued by the board of speech-language pathology and audiology shall be renewed biennially in accordance with the standard renewal procedure contained in Chapter 4745. of the Revised Code. If the application for renewal is made ~~after~~ one year or longer after the renewal application is due, the person shall apply for licensure as provided in section 4753.06 or division (B) ~~or,~~ (C), or (D) of section 4753.08 of the Revised Code. The board shall not renew a conditional license; however, the board may grant an applicant a second conditional license.

The board shall establish by rule adopted pursuant to Chapter 119. of the Revised Code the qualifications for license renewal. Applicants shall demonstrate continued competence, which may include continuing

education, examination, self-evaluation, peer review, performance appraisal, or practical simulation. The board may establish other requirements as a condition for license renewal as considered appropriate by the board.

The board may renew a license which expires while the license is suspended, but the renewal shall not affect the suspension. The board shall not renew a license which has been revoked. If a revoked license is reinstated under section 4753.10 of the Revised Code after it has expired, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in the amount equal to the renewal fee in effect on the last preceding regular renewal date on which it is reinstated, plus any delinquent fees accrued from the time of the revocation, if such a fee is prescribed by the board by rule. ~~A license shall not be renewed six years after the initial date on which the license was granted for a person initially licensed by exemption until that person presents to the board proof of completion of the following requirements:~~

~~(A) Upon presentation of proof of a bachelor's degree with a major in the area of licensure or successful completion of at least eighteen semester hours of academic credit, or its equivalent as determined by the board by rule for colleges and universities not using semesters, accumulated from accredited colleges and universities. These eighteen semester hours shall be in a variety of courses that provide instruction related to the nature of communication disorders and present information pertaining to and training in the evaluation and management of speech, language, and hearing disorders and shall be in the professional area, speech-language pathology or audiology, for which licensure is requested.~~

~~(B) Successful completion of at least one hundred fifty clock hours of appropriately supervised, as determined by board rule, clinical experience in the professional area, speech-language pathology or audiology, for which licensure is requested, with individuals who present a variety of communication disorders, and the experience shall have been obtained under the supervision of a licensed speech-language pathologist or audiologist, or within another program approved by the board.~~

Sec. 4755.03. There is hereby created the Ohio occupational therapy, physical therapy, and athletic trainers board consisting of sixteen residents of this state, who shall be appointed by the governor with the advice and consent of the senate. The board shall be composed of a physical therapy section, an occupational therapy section, and an athletic trainers section.

Five members of the board shall be physical therapists who are licensed to practice physical therapy and who have been engaged in or actively associated with the practice of physical therapy in this state for at least five

years immediately preceding appointment. Such members of the board shall sit on the physical therapy section. The physical therapy section also shall consist of four additional members, appointed by the governor with the advice and consent of the senate, who satisfy the same qualifications as the members of the board sitting on the physical therapy section, but who are not members of the board. Such additional members of the physical therapy section are vested with only such powers and shall perform only such duties as relate to the affairs of that section, shall serve for the same terms as do members of the board sitting on the physical therapy section, and shall subscribe to and file with the secretary of state the constitutional oath of office.

~~Five~~ Four members of the board shall be occupational therapists ~~who~~ and one member shall be a licensed occupational therapy assistant, all of whom have been engaged in or actively associated with the practice of occupational therapy or practice as an occupational therapy assistant in this state for at least five years immediately preceding appointment. Such members of the board shall sit on the occupational therapy section.

Four members of the board shall be athletic trainers who have been engaged in the practice of athletic training in Ohio for at least five years immediately preceding appointment. One member of the board shall be a physician licensed to practice medicine and surgery in this state. Such members of the board shall sit on the athletic trainers section.

One member of the board shall represent the public and shall be at least sixty years of age. This member shall sit on the board.

Terms of office are for three years, each term commencing on the twenty-eighth day of August and ending on the twenty-seventh day of August. Each member shall serve subsequent to the expiration of ~~his~~ the member's term until ~~his~~ the member's successor is appointed and qualifies, or until a period of sixty days has elapsed, whichever occurs first. Each member, before entering upon ~~the~~ official duties ~~of his office~~, shall subscribe to and file with the secretary of state the constitutional oath of office. All vacancies shall be filled in the manner prescribed for the regular appointments to the board and are limited to the unexpired terms.

Annually, upon the qualification of the member or members appointed in that year, the board shall organize by selecting from its members a president and secretary. Each section of the board shall organize by selecting from its members a ~~chairman~~ chairperson and secretary.

The majority of the members of the board constitutes a quorum to transact and vote on the business of the board. A majority of the members of each section constitutes a quorum to transact and vote on the affairs of that

section.

Each member of the board and each additional member of the physical therapy section shall receive an amount fixed pursuant to division (J) of section 124.15 of the Revised Code for each day employed in the discharge of ~~his~~ official duties. In addition, each member of the board and each additional member of the physical therapy section shall receive ~~his~~ the member's actual and necessary expenses incurred in the performance of ~~his~~ official duties.

The board of trustees of the Ohio occupational therapy association, inc., may recommend, after any term expires or vacancy occurs in an occupational therapy position, at least three persons to fill each such position or vacancy on the board, and the governor may make ~~his~~ the appointment from the persons so recommended. The executive board of the Ohio chapter, inc., of the American physical therapy association may recommend, after any term expires or vacancy occurs in a physical therapy position, at least three persons to fill each such vacancy on the board, and the governor may make ~~his~~ appointments from the persons so recommended. The Ohio athletic trainers association shall recommend to the governor at least three persons for each of the initial appointments to an athletic trainer's position. The Ohio athletic trainers association shall also recommend to the governor at least three persons when any term expires or any vacancy occurs in such a position. The governor may select one of the association's recommendations in making such an appointment.

The board shall meet as a whole to determine all administrative, personnel, and budgetary matters. The executive director of the board appointed by the board shall not be a physical therapist, an occupational therapist, or an athletic trainer who has been licensed to practice physical therapy, occupational therapy, or as an athletic trainer in this state within three years immediately preceding appointment. The executive director shall serve at the pleasure of the board.

The occupational therapy section of the board shall have the full authority to act on behalf of the board on all matters concerning the practice of occupational therapy and, in particular, the examination, licensure, and suspension or revocation of licensure of applicants, occupational therapists, and occupational therapy assistants. The physical therapy section of the board shall have the full authority to act on behalf of the board on all matters concerning the practice of physical therapy and, in particular, the examination, licensure, and suspension or revocation of licensure of applicants, physical therapists, and physical therapist assistants. The athletic trainers section of the board shall have the full authority to act on behalf of

the board on all matters concerning the practice of athletic training and, in particular, the examination, licensure, and suspension or revocation of licensure of applicants and athletic trainers. All actions taken by any section of the board under this paragraph shall be in accordance with Chapter 119. of the Revised Code.

Sec. 4755.48. (A) No person shall employ fraud or deception in applying for or securing a license to practice physical therapy or to be a physical therapist assistant.

(B) No person shall practice or in any way claim to the public to be able to practice physical therapy, including practice as a physical therapist assistant, unless the person holds a valid license under sections 4755.40 to 4755.56 of the Revised Code or except as provided in section 4755.56 of the Revised Code.

(C) No person shall use the words or letters, physical therapist, physical therapy, physiotherapist, licensed physical therapist, P.T., Ph.T., P.T.T., R.P.T., L.P.T., M.P.T., D.P.T., M.S.P.T., P.T.A., physical therapy assistant, physical therapist assistant, physical therapy technician, licensed physical therapist assistant, L.P.T.A., R.P.T.A., or any other letters, words, abbreviations, or insignia, indicating or implying that the person is a physical therapist or physical therapist assistant without a valid license under sections 4755.40 to 4755.56 of the Revised Code.

(D) No person who practices physical therapy or assists in the provision of physical therapy treatments under the supervision of a physical therapist shall fail to display the person's current license granted under sections 4755.40 to 4755.56 of the Revised Code in a conspicuous location in the place where the person spends the major part of the person's time so engaged.

(E) Nothing in sections 4755.40 to 4755.56 of the Revised Code shall affect or interfere with the performance of the duties of any physical therapist or physical therapist assistant in active service in the army, navy, coast guard, marine corps, air force, public health service, or marine hospital service of the United States, while so serving.

(F) No person shall practice physical therapy other than on the prescription of, or the referral of a patient by, a person who is licensed in this or another state to practice medicine and surgery, chiropractic, dentistry, osteopathic medicine and surgery, podiatric medicine and surgery, or to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, within the scope of such practices, and whose license is in good standing, unless either of the following conditions is met:

(1) The person holds a master's or doctorate degree from a professional physical therapy program that is accredited by a national accreditation agency recognized by the United States department of education and by the Ohio occupational therapy, physical therapy, and athletic trainers board.

(2) On or before December 31, ~~2003~~ 2004, the person has completed at least two years of practical experience as a licensed physical therapist.

(G) In the prosecution of any person for violation of division (B) or (C) of this section, it is not necessary to allege or prove want of a valid license to practice physical therapy or to practice as a physical therapist assistant, but such matters shall be a matter of defense to be established by the accused.

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

~~(A)~~(1) 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)~~(2) 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)~~(3) 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)~~(4) An ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, or nontransport vehicle owned or leased and operated by the federal government;

~~(E)~~(5) A publicly owned and operated fire department vehicle;

~~(F)~~(6) Emergency vehicles owned by a corporation and operating only on the corporation's premises, for the sole use by that corporation;

~~(G)~~(7) An ambulance, nontransport vehicle, or other emergency medical service organization vehicle owned and operated by a municipal corporation;

~~(H)~~(8) A motor vehicle titled in the name of a volunteer rescue service organization, as defined in section 4503.172 of the Revised Code;

~~(I)~~(9) A public emergency medical service organization;

~~(J)~~(10) 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)~~(11) 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)~~(12) Emergency medical service personnel who are regulated by the state board of emergency medical services under Chapter 4765. of the Revised Code;

~~(M)~~(13) A public nonemergency medical service organization.

(B) Except for the requirements specified in section 4766.14 of the Revised Code, this chapter does not apply to an ambulette service provider operating under standards adopted by rule by the department of aging, but only during the period of time on any day that the provider is solely serving the department or the department's designee. This chapter applies to an ambulette service provider at any time that the ambulette service provider is not solely serving the department or the department's designee.

Sec. 4766.14. (A) An ambulette service provider described in division (B) of section 4766.09 of the Revised Code shall do all of the following:

(1) Make available to all its ambulette drivers while operating ambulette vehicles a means of two-way communication using either ambulette vehicle radios or cellular telephones;

(2) Equip every ambulette vehicle with one isolation and biohazard disposal kit that is permanently installed or secured in the vehicle's cabin;

(3) Before hiring an applicant for employment as an ambulette driver, obtain all of the following:

(a) A valid copy of a signed statement from a licensed physician acting within the scope of the physician's practice declaring that the applicant does not have a medical condition or physical condition, including vision impairment that cannot be corrected, that could interfere with safe driving, passenger assistance, and emergency treatment activity or could jeopardize the health and welfare of a client or the general public;

(b) All of the certificates and results required under divisions (A)(2), (3), and (4) of section 4766.15 of the Revised Code.

(B) No ambulette service provider described in division (B) of section 4766.09 of the Revised Code shall employ an applicant as an ambulette driver if the applicant has six or more points on the applicant's driving record pursuant to section 4510.036 of the Revised Code.

(C) The department of aging shall administer and enforce this section.

Sec. 4905.10. (A) For the sole purpose of maintaining and administering the public utilities commission and exercising its supervision and jurisdiction over the railroads and public utilities of this state, an amount equivalent to the appropriation from the public utilities fund created under division (B) of this section to the public utilities commission for railroad and

public utilities regulation in each fiscal year shall be apportioned among and assessed against each railroad and public utility within this state by the commission by first computing an assessment as though it were to be made in proportion to the intrastate gross earnings or receipts, excluding earnings or receipts from sales to other public utilities for resale, of the railroad or public utility for the calendar year next preceding that in which the assessment is made. The commission may include in that first computation any amount of a railroad's or public utility's intrastate gross earnings or receipts that were underreported in a prior year. In addition to whatever penalties apply under the Revised Code to such underreporting, the commission shall assess the railroad or public utility interest at the rate stated in division (A) of section 1343.01 of the Revised Code. The commission shall deposit any interest so collected into the public utilities fund. The commission may exclude from that first computation any such amounts that were overreported in a prior year.

The final computation of the assessment shall consist of imposing upon each railroad and public utility whose assessment under the first computation would have been ~~fifty~~ one hundred dollars or less an assessment of ~~fifty~~ one hundred dollars and recomputing the assessments of the remaining railroads and public utilities by apportioning an amount equal to the appropriation to the public utilities commission for administration of the utilities division in each fiscal year less the total amount to be recovered from those paying the minimum assessment, in proportion to the intrastate gross earnings or receipts of the remaining railroads and public utilities for the calendar year next preceding that in which the assessments are made.

In the case of an assessment based on intrastate gross receipts under this section against a public utility that is an electric utility as defined in section 4928.01 of the Revised Code, or an electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code, such receipts shall be those specified in the utility's, company's, cooperative's, or aggregator's most recent report of intrastate gross receipts and sales of kilowatt hours of electricity, filed with the commission pursuant to division (F) of section 4928.06 of the Revised Code, and verified by the commission.

In the case of an assessment based on intrastate gross receipts under this section against a retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code, such receipts shall be those specified in the supplier's or aggregator's most recent report of intrastate gross receipts and sales of hundred cubic feet of natural gas, filed with the commission pursuant to division (B) of section 4929.23

of the Revised Code, and verified by the commission. However, no such retail natural gas supplier or such governmental aggregator serving or proposing to serve customers of a particular natural gas company, as defined in section 4929.01 of the Revised Code, shall be assessed under this section until after the commission, pursuant to section 4905.26 or 4909.18 of the Revised Code, has removed from the base rates of the natural gas company the amount of assessment under this section that is attributable to the value of commodity sales service, as defined in section 4929.01 of the Revised Code, in the base rates paid by those customers of the company that do not purchase that service from the natural gas company.

(B) ~~On~~ Through calendar year 2005, on or before the first day of October in each year, the commission shall notify each such railroad and public utility of the sum assessed against it, whereupon payment shall be made to the commission, which shall deposit it into the state treasury to the credit of the public utilities fund, which is hereby created. Beginning in calendar year 2006, on or before the fifteenth day of May in each year, the commission shall notify each railroad and public utility that had a sum assessed against it for the current fiscal year of more than one thousand dollars that fifty per cent of that amount shall be paid to the commission by the twentieth day of June of that year as an initial payment of the assessment against the company for the next fiscal year. On or before the first day of October in each year, the commission shall make a final determination of the sum of the assessment against each railroad and public utility and shall notify each railroad and public utility of the sum assessed against it. The commission shall deduct from the assessment for each railroad or public utility any initial payment received. Payment of the assessment shall be made to the commission by the first day of November of that year. The commission shall deposit the payments received into the state treasury to the credit of the public utilities fund. Any such amounts paid into the fund but not expended by the commission shall be credited ratably, after first deducting any deficits accumulated from prior years, by the commission to railroads and public utilities that pay more than the minimum assessment, according to the respective portions of such sum assessable against them for the ensuing ~~calendar~~ fiscal year. The assessments for such ~~calendar~~ fiscal year shall be reduced correspondingly.

(C) Within five days after the beginning of each fiscal year through fiscal year 2006, the director of budget and management shall transfer from the general revenue fund to the public utilities fund an amount sufficient for maintaining and administering the public utilities commission and exercising its supervision and jurisdiction over the railroads and public

utilities of the state during the first four months of the fiscal year. The director shall transfer the same amount back to the general revenue fund from the public utilities fund at such time as the director determines that the balance of the public utilities fund is sufficient to support the appropriations from the fund for the fiscal year. The director may transfer less than that amount if the director determines that the revenues of the public utilities fund during the fiscal year will be insufficient to support the appropriations from the fund for the fiscal year, in which case the amount not paid back to the general revenue fund shall be payable to the general revenue fund in future fiscal years.

(D) For the purpose of this section only, "public utility" includes:

(1) In addition to an electric utility as defined in section 4928.01 of the Revised Code, an electric services company, an electric cooperative, or a governmental aggregator subject to certification under section 4928.08 of the Revised Code, to the extent of the company's, cooperative's, or aggregator's engagement in the business of supplying or arranging for the supply in this state of any retail electric service for which it must be so certified;

(2) In addition to a natural gas company as defined in section 4929.01 of the Revised Code, a retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code, to the extent of the supplier's or aggregator's engagement in the business of supplying or arranging for the supply in this state of any competitive retail natural gas service for which it must be certified.

(E) Each public utilities commissioner shall receive a salary fixed at the level set by pay range 49 under schedule E-2 of section 124.152 of the Revised Code.

Sec. 4905.261. The public utilities commission shall operate a telephone call center for consumer complaints, to receive complaints by any person, firm, or corporation against any public utility. The commission shall expeditiously provide the consumers' counsel with all information concerning residential consumer complaints received by the commission in the operation of the telephone call center and with any materials produced in the operation of the telephone call center by the commission concerning residential consumer complaints. If technology is reasonably available, the commission shall provide the consumers' counsel with real-time access to the commission's residential consumer complaint information.

Sec. 4905.54. Every public utility or railroad and every officer of a public utility or railroad shall comply with every order, direction, and requirement of the public utilities commission made under authority of this

chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code, so long as they remain in force. Except as otherwise specifically provided in sections 4905.83, 4905.95, 4919.99, 4921.99, and 4923.99 of the Revised Code, the public utilities commission may assess a forfeiture of not more than ten thousand dollars for each violation or failure against a public utility or railroad that violates a provision of those chapters or that after due notice fails to comply with an order, direction, or requirement of the commission that was officially promulgated ~~shall forfeit to the state not more than one thousand dollars for each such violation or failure~~. Each day's continuance of the violation or failure is a separate offense. All forfeitures collected under this section shall be credited to the general revenue fund.

Sec. 4905.95. (A) Except as otherwise provided in division (C) of this section:

(1) The public utilities commission, regarding any proceeding under this section, shall provide reasonable notice and the opportunity for a hearing in accordance with rules adopted under section 4901.13 of the Revised Code.

(2) Sections 4903.02 to 4903.082, 4903.09 to 4903.16, and 4903.20 to 4903.23 of the Revised Code apply to all proceedings and orders of the commission under this section and to all operators subject to those proceedings and orders.

(B) If, pursuant to a proceeding it specially initiates or to any other proceeding and after the hearing provided for under division (A) of this section, the commission finds that:

(1) An operator has violated or failed to comply with, or is violating or failing to comply with, sections 4905.90 to 4905.96 of the Revised Code or the pipe-line safety code, the commission by order:

(a) Shall require the operator to comply and to undertake corrective action necessary to protect the public safety;

(b) May assess upon the operator forfeitures of not more than ~~ten~~ one hundred thousand dollars for each day of each violation or noncompliance, except that the aggregate of such forfeitures shall not exceed five hundred thousand dollars for any related series of violations or noncompliances. In determining the amount of any such forfeiture, the commission shall consider all of the following:

(i) The gravity of the violation or noncompliance;

(ii) The operator's history of prior violations or noncompliances;

(iii) The operator's good faith efforts to comply and undertake corrective action;

(iv) The operator's ability to pay the forfeiture;

(v) The effect of the forfeiture on the operator's ability to continue as an operator;

(vi) Such other matters as justice may require.

All forfeitures collected under this division or section 4905.96 of the Revised Code shall be deposited in the state treasury to the credit of the general revenue fund.

(c) May direct the attorney general to seek the remedies provided in section 4905.96 of the Revised Code.

(2) An intrastate pipe-line transportation facility is hazardous to life or property, the commission by order:

(a) Shall require the operator of the facility to take corrective action to remove the hazard. Such corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action.

(b) May direct the attorney general to seek the remedies provided in section 4905.96 of the Revised Code.

(C) If, pursuant to a proceeding it specially initiates or to any other proceeding, the commission finds that an emergency exists due to a condition on an intrastate pipe-line transportation facility posing a clear and immediate danger to life or health or threatening a significant loss of property and requiring immediate corrective action to protect the public safety, the commission may issue, without notice or prior hearing, an order reciting its finding and may direct the attorney general to seek the remedies provided in section 4905.96 of the Revised Code. The order shall remain in effect for not more than forty days after the date of its issuance. The order shall provide for a hearing as soon as possible, but not later than thirty days after the date of its issuance. After the hearing the commission shall continue, revoke, or modify the order and may make findings under and seek appropriate remedies as provided in division (B) of this section.

Sec. 4911.021. The consumers' counsel shall not operate a telephone call center for consumer complaints. Any calls received by the consumers' counsel concerning consumer complaints shall be forwarded to the public utilities commission's call center.

Sec. 4911.18. (A) For the sole purpose of maintaining and administering the office of the consumers' counsel and exercising the powers of the consumers' counsel under this chapter, an amount equal to the appropriation to the office of the consumers' counsel in each fiscal year shall be apportioned among and assessed against each public utility within this state, as defined in section 4911.01 of the Revised Code, by first computing an assessment as though it were to be made in proportion to the intrastate gross

earnings or receipts of the public utility for the calendar year next preceding that in which the assessment is made, excluding earnings or receipts from sales to other public utilities for resale. The office may include in that first computation any amount of a public utility's intrastate gross earnings or receipts underreported in a prior year. In addition to whatever penalties apply under the Revised Code to such underreporting, the office shall assess the public utility interest at the rate stated in division (A) of section 1343.01 of the Revised Code. The office shall deposit any interest so collected into the consumers' counsel operating fund. The office may exclude from that first computation any such amounts that were over-reported in a prior year.

The final computation of the assessment shall consist of imposing upon each public utility whose assessment under the first computation would have been ~~fifty~~ one hundred dollars or less an assessment of ~~fifty~~ one hundred dollars and recomputing the assessment of the remaining companies by apportioning an amount equal to the appropriation to the office of consumers' counsel in each fiscal year less the total amount to be recovered from those paying the minimum assessment, in proportion to the intrastate gross earnings or receipts of the remaining companies for the calendar year next preceding that in which the assessments are made, excluding earnings or receipts from sales to other public utilities for resale.

In the case of an assessment based on intrastate gross receipts under this section against a public utility that is an electric utility as defined in section 4928.01 of the Revised Code, or an electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code, such receipts shall be those specified in the utility's, company's, cooperative's, or aggregator's most recent report of intrastate gross receipts and sales of kilowatt hours of electricity, filed with the public utilities commission pursuant to division (F) of section 4928.06 of the Revised Code, and verified by the commission.

In the case of an assessment based on intrastate gross receipts under this section against a retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code, such receipts shall be those specified in the supplier's or aggregator's most recent report of intrastate gross receipts and sales of hundred cubic feet of natural gas, filed with the commission pursuant to division (B) of section 4929.23 of the Revised Code, and verified by the commission. However, no such retail natural gas supplier or such governmental aggregator serving or proposing to serve customers of a particular natural gas company, as defined in section 4929.01 of the Revised Code, shall be assessed under this section until after the commission, pursuant to section 4905.26 or 4909.18 of the

Revised Code, has removed from the base rates of the natural gas company the amount of assessment under this section that is attributable to the value of commodity sales service, as defined in section 4929.01 of the Revised Code, in the base rates paid by those customers of the company that do not purchase that service from the natural gas company.

(B) ~~On~~ Through calendar year 2005, on or before the first day of October in each year, the office of consumers' counsel shall notify each public utility of the sum assessed against it, whereupon payment shall be made to the counsel, who shall deposit it into the state treasury to the credit of the consumers' counsel operating fund, which is hereby created. Beginning in calendar year 2006, on or before the fifteenth day of May in each year, the consumers' counsel shall notify each public utility that had a sum assessed against it for the current fiscal year of more than one thousand dollars that fifty per cent of that amount shall be paid to the consumers' counsel by the twentieth day of June of that year as an initial payment of the assessment against the company for the next fiscal year. On or before the first day of October in each year, the consumers' counsel shall make a final determination of the sum of the assessment against each public utility and shall notify each public utility of the sum assessed against it. The consumers' counsel shall deduct from the assessment for each public utility any initial payment received. Payment of the assessment shall be made to the consumers' counsel by the first day of November of that year. The consumers' counsel shall deposit the payments received into the state treasury to the credit of the consumers' counsel operating fund. Any such amounts paid into the fund but not expended by the office shall be credited ratably by the office to the public utilities that pay more than the minimum assessment, according to the respective portions of such sum assessable against them for the ensuing ~~calendar~~ fiscal year, after first deducting any deficits accumulated from prior years. The assessments for such ~~calendar~~ fiscal year shall be reduced correspondingly.

(C) Within five days after the beginning of each fiscal year through fiscal year 2006, the director of budget and management shall transfer from the general revenue fund to the consumers' counsel operating fund an amount sufficient for maintaining and administering the office of the consumers' counsel and exercising the powers of the consumers' counsel under this chapter during the first four months of the fiscal year. Not later than the thirty-first day of December of the fiscal year, the same amount shall be transferred back to the general revenue fund from the consumers' counsel operating fund.

(D) As used in this section, "public utility" includes:

(1) In addition to an electric utility as defined in section 4928.01 of the Revised Code, an electric services company, an electric cooperative, or a governmental aggregator subject to certification under section 4928.08 of the Revised Code, to the extent of the company's, cooperative's, or aggregator's engagement in the business of supplying or arranging for the supply in this state of any retail electric service for which it must be so certified;

(2) In addition to a natural gas company as defined in section 4929.01 of the Revised Code, a retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code, to the extent of the supplier's or aggregator's engagement in the business of supplying or arranging for the supply in this state of any competitive retail natural gas service for which it must be certified.

Sec. 4973.171. (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B)(1) The ~~governor~~ secretary of state shall not appoint or commission a person as a police officer for a railroad company under division (B) of section 4973.17 of the Revised Code and shall not appoint or commission a person as a police officer for a hospital under division (D) of section 4973.17 of the Revised Code on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the person previously has been convicted of or has pleaded guilty to a felony.

(2)(a) The ~~governor~~ secretary of state shall revoke the appointment or commission of a person appointed or commissioned as a police officer for a railroad company or as a police officer for a hospital under division (B) or (D) of section 4973.17 of the Revised Code if that person does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the person agrees to surrender the certificate awarded to that person under section 109.77 of the Revised Code.

(b) The ~~governor~~ secretary of state shall suspend the appointment or commission of a person appointed or commissioned as a police officer for a railroad company or as a police officer for a hospital under division (B) or (D) of section 4973.17 of the Revised Code if that person is convicted, after trial, of a felony. If the person files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the person does not file a timely appeal, the ~~governor~~ secretary of state shall revoke the appointment or commission of that person as a police officer for

a railroad company or as a police officer for a hospital. If the person files an appeal that results in that person's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that person, the ~~governor~~ secretary of state shall reinstate the appointment or commission of that person as a police officer for a railroad company or as a police officer for a hospital. A person whose appointment or commission is reinstated under division (B)(2)(b) of this section shall not receive any back pay unless that person's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the person of the felony.

(3) Division (B) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension or revocation of the appointment or commission of a person as a police officer for a railroad company or as a police officer for a hospital under division (B)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

(C)(1) A judge of a municipal court or county court that has territorial jurisdiction over an amusement park shall not appoint or commission a person as a police officer for the amusement park under division (E) of section 4973.17 of the Revised Code on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the person previously has been convicted of or has pleaded guilty to a felony.

(2) The judge shall revoke the appointment or commission of a person appointed or commissioned as a police officer for an amusement park under division (E) of section 4973.17 of the Revised Code if that person does either of the following:

(a) Pleads guilty to a felony;

(b) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the person agrees to surrender the certificate awarded to that person under section 109.77 of the Revised Code.

(3) The judge shall suspend the appointment or commission of a person appointed or commissioned as a police officer for an amusement park under division (E) of section 4973.17 of the Revised Code if that person is convicted, after trial, of a felony. If the person files an appeal from that conviction and that conviction is upheld by the highest court to which the appeal is taken or if the person does not file a timely appeal, the judge shall revoke the appointment or commission of that person as a police officer for an amusement park. If the person files an appeal that results in that person's acquittal of the felony or conviction of a misdemeanor or in the dismissal of

the felony charge against that person, the judge shall reinstate the appointment or commission of that person as a police officer for an amusement park. A person whose appointment or commission is reinstated under division (C)(3) of this section shall not receive any back pay unless that person's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the person of a felony.

(4) Division (C) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(5) The suspension or revocation of the appointment or commission of a person as a police officer for an amusement park under division (C)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

Sec. 5101.07. There is hereby created in the state treasury the support services federal operating fund. The fund shall consist of federal funds the department of job and family services receives and that the director of job and family services determines are appropriate for deposit into the fund. Money in the fund shall be used to pay the federal share of both of the following:

(A) The department's costs for computer projects;

(B) The operating costs of the parts of the department that provide general support services for the department's work units established under section 5101.06 of the Revised Code.

Sec. 5101.071. There is hereby created in the state treasury the support services state operating fund. The fund shall consist of payments made to the fund from other appropriation items by intrastate transfer voucher. Money in the fund shall be used to pay for both of the following:

(A) The department of job and family services' costs for computer projects;

(B) The operating costs of the parts of the department that provide general support services for the department's work units established under section 5101.06 of the Revised Code.

Sec. 5101.16. (A) As used in this section and sections 5101.161 and 5101.162 of the Revised Code:

(1) "Disability financial assistance" means the financial assistance program established under Chapter 5115. of the Revised Code.

(2) "Disability medical assistance" means the medical assistance program established under Chapter 5115. of the Revised Code.

(3) "Food stamps" means the program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code.

(4) "Medicaid" means the medical assistance program established by

Chapter 5111. of the Revised Code, excluding transportation services provided under that chapter.

(5) "Ohio works first" means the program established by Chapter 5107. of the Revised Code.

(6) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.

(7) "Public assistance expenditures" means expenditures for all of the following:

(a) Ohio works first;

(b) County administration of Ohio works first;

(c) Prevention, retention, and contingency;

(d) County administration of prevention, retention, and contingency;

(e) Disability financial assistance;

(f) Disability medical assistance;

(g) County administration of disability financial assistance;

(h) County administration of disability medical assistance;

(i) County administration of food stamps;

(j) County administration of medicaid.

(8) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.

(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:

(1) The amount that is twenty-five per cent of the county's total expenditures for disability financial assistance and disability medical assistance and county administration of those programs during the state fiscal year ending in the previous calendar year that the department of job and family services determines are allowable.

(2) The amount that is ten per cent, or other percentage determined under division (D) of this section, of the county's total expenditures for county administration of food stamps and medicaid during the state fiscal year ending in the previous calendar year that the department determines are allowable, less the amount of federal reimbursement credited to the county under division (E) of this section for the state fiscal year ending in the previous calendar year;

(3) A percentage of the actual amount of the county share of program and administrative expenditures during federal fiscal year 1994 for assistance and services, other than child care, provided under Titles IV-A

and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as those titles existed prior to the enactment of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105. The department of job and family services shall determine the actual amount of the county share from expenditure reports submitted to the United States department of health and human services. The percentage shall be the percentage established in rules adopted under division (F) of this section.

(C)(1) If a county's share of public assistance expenditures determined under division (B) of this section for a state fiscal year exceeds one hundred ten per cent of the county's share for those expenditures for the immediately preceding state fiscal year, the department of job and family services shall reduce the county's share for expenditures under divisions (B)(1) and (2) of this section so that the total of the county's share for expenditures under division (B) of this section equals one hundred ten per cent of the county's share of those expenditures for the immediately preceding state fiscal year.

(2) A county's share of public assistance expenditures determined under division (B) of this section may be increased pursuant to section 5101.163 of the Revised Code and a sanction under section 5101.24 of the Revised Code. An increase made pursuant to section 5101.163 of the Revised Code may cause the county's share to exceed the limit established by division (C)(1) of this section.

(D)(1) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and division (D)(2) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the per capita tax duplicate of the county and the denominator is the per capita tax duplicate of the state as a whole. The department of job and family services shall compute the per capita tax duplicate for the state and for each county by dividing the tax duplicate for the most recent available year by the current estimate of population prepared by the department of development.

(2) If the percentage of families in a county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state and division (D)(1) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the percentage of families in the state with an annual income of less than three thousand dollars a year and the denominator is the percentage of such families in the county. The department of job and family services shall compute the percentage of families with an annual income of less than three

thousand dollars for the state and for each county by multiplying the most recent estimate of such families published by the department of development, by a fraction, the numerator of which is the estimate of average annual personal income published by the bureau of economic analysis of the United States department of commerce for the year on which the census estimate is based and the denominator of which is the most recent such estimate published by the bureau.

(3) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and the percentage of families in the county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state, the percentage to be used for the purpose of division (B)(2) of this section shall be determined as follows:

(a) Multiply ten by the fraction determined under division (D)(1) of this section;

(b) Multiply the product determined under division (D)(3)(a) of this section by the fraction determined under division (D)(2) of this section.

(4) The department of job and family services shall determine, for each county, the percentage to be used for the purpose of division (B)(2) of this section not later than the first day of July of the year preceding the state fiscal year for which the percentage is used.

(E) The department of job and family services shall credit to a county the amount of federal reimbursement the department receives from the United States departments of agriculture and health and human services for the county's expenditures for administration of food stamps and medicaid that the department determines are allowable administrative expenditures.

(F)(1) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code to establish all of the following:

(a) The method the department is to use to change a county's share of public assistance expenditures determined under division (B) of this section as provided in division (C) of this section;

(b) The allocation methodology and formula the department will use to determine the amount of funds to credit to a county under this section;

(c) The method the department will use to change the payment of the county share of public assistance expenditures from a calendar-year basis to a state fiscal year basis;

(d) The percentage to be used for the purpose of division (B)(3) of this section, which shall, except as provided in section 5101.163 of the Revised Code, meet both of the following requirements:

(i) The percentage shall not be less than seventy-five per cent nor more than eighty-two per cent;

(ii) The percentage shall not exceed the percentage that the state's qualified state expenditures is of the state's historic state expenditures as those terms are defined in 42 U.S.C. 609(a)(7).

(e) Other procedures and requirements necessary to implement this section.

(2) The director of job and family services may amend the rule adopted under division (F)(1)(d) of this section to modify the percentage on determination that the amount the general assembly appropriates for Title IV-A programs makes the modification necessary. The rule shall be adopted and amended as if an internal management rule and in consultation with the director of budget and management.

Sec. 5101.163. As used in this section, "maintenance of effort" means qualified state expenditures as defined in 42 U.S.C. 609(a)(7)(B)(i).

The department of job and family services may increase a county's share of public assistance expenditures determined under division (B) of section 5101.16 of the Revised Code if the United States secretary of health and human services requires an increase in the state's maintenance of effort because of one or more failures, resulting from the actions or inactions of one or more county family services agencies, to meet a requirement under Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. The department may so increase a county's share of public assistance expenditures only to the amount the county's county family services agencies are responsible for the increase in the state's maintenance of effort as determined pursuant to rules the director of job and family services shall adopt under section 111.15 of the Revised Code. The department is not required to make the increase in accordance with section 5101.24 of the Revised Code.

Sec. 5101.181. (A) As used in this section and section 5101.182 of the Revised Code, "public assistance" includes, in addition to Ohio works first, all of the following:

(1) Prevention, retention, and contingency;

(2) Medicaid;

(3) Disability financial assistance;

(4) Disability medical assistance provided before October 1, 2005, under former Chapter 5115. of the Revised Code;

(5) General assistance provided prior to July 17, 1995, under former Chapter 5113. of the Revised Code.

(B) As part of the procedure for the determination of overpayment to a

recipient of public assistance under Chapter 5107., 5108., 5111., or 5115. of the Revised Code, the director of job and family services shall furnish quarterly the name and social security number of each individual who receives public assistance to the director of administrative services, the administrator of the bureau of workers' compensation, and each of the state's retirement boards. Within fourteen days after receiving the name and social security number of an individual who receives public assistance, the director of administrative services, administrator, or board shall inform the auditor of state as to whether such individual is receiving wages or benefits, the amount of any wages or benefits being received, the social security number, and the address of the individual. The director of administrative services, administrator, boards, and any agent or employee of those officials and boards shall comply with the rules of the director of job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(C) The auditor of state may enter into a reciprocal agreement with the director of job and family services or comparable officer of any other state for the exchange of names, current or most recent addresses, or social security numbers of persons receiving public assistance under Title IV-A or under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(D)(1) The auditor of state shall retain, for not less than two years, at least one copy of all information received under this section and sections 145.27, 742.41, 3307.20, 3309.22, 4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor shall review the information to determine whether overpayments were made to recipients of public assistance under Chapters 5107., 5108., 5111., and 5115. of the Revised Code. The auditor of state shall initiate action leading to prosecution, where warranted, of recipients who received overpayments by forwarding the name of each recipient who received overpayment, together with other pertinent information, to the director of job and family services and the attorney general, to the district director of job and family services of the district through which public assistance was received, and to the county director of job and family services and county prosecutor of the county through which public assistance was received.

(2) The auditor of state and the attorney general or their designees may examine any records, whether in computer or printed format, in the

possession of the director of job and family services or any county director of job and family services. They shall provide safeguards which restrict access to such records to purposes directly connected with an audit or investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the programs and shall comply with the rules of the director of job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(3) Costs incurred by the auditor of state in carrying out the auditor of state's duties under this division shall be borne by the auditor of state.

Sec. 5101.184. (A) The director of job and family services shall work with the tax commissioner to collect overpayments of assistance under Chapter 5107., 5111., or 5115., former Chapter 5113., or section 5101.54 of the Revised Code from refunds of state income taxes for taxable year 1992 and thereafter that are payable to the recipients of such overpayments.

Any overpayment of assistance, whether obtained by fraud or misrepresentation, as the result of an error by the recipient or by the agency making the payment, or in any other manner, may be collected under this section. Any reduction under section 5747.12 or 5747.121 of the Revised Code to an income tax refund shall be made before a reduction under this section. No reduction shall be made under this section if the amount of the refund is less than twenty-five dollars after any reduction under section 5747.12 of the Revised Code. A reduction under this section shall be made before any part of the refund is contributed under section 5747.113 of the Revised Code ~~to the natural areas and preserves fund or the nongame and endangered wildlife fund~~, or is credited under section 5747.12 of the Revised Code against tax due in any subsequent year.

The director and the tax commissioner, by rules adopted in accordance with Chapter 119. of the Revised Code, shall establish procedures to implement this division. The procedures shall provide for notice to a recipient of assistance and an opportunity for the recipient to be heard before the recipient's income tax refund is reduced.

(B) The director of job and family services may enter into agreements with the federal government to collect overpayments of assistance from refunds of federal income taxes that are payable to recipients of the overpayments.

Sec. 5101.21. (A) As used in this section, "county signer" means all of the following:

(1) A board of county commissioners;

(2) A county children services board appointed under section 5153.03 of the Revised Code if required by division (B) of this section to enter into a fiscal agreement;

(3) A county elected official that is a child support enforcement agency if required by division (B) of this section to enter into a fiscal agreement.

(B) The director of job and family services may enter into one or more written fiscal agreements with boards of county commissioners under which financial assistance is awarded for family services duties included in the agreements. Boards of county commissioners shall select which family services duties to include in a fiscal agreement. If a board of county commissioners elects to include family services duties of a public children services agency and a county children services board appointed under section 5153.03 of the Revised Code serves as the county's public children services agency, the board of county commissioners and county children services board shall jointly enter into the fiscal agreement with the director. If a board of county commissioners elects to include family services duties of a child support enforcement agency and the entity designated under former section 2301.35 of the Revised Code prior to October 1, 1997, or designated under section 307.981 of the Revised Code as the county's child support enforcement agency is an elected official of the county, the board of county commissioners and county elected official shall jointly enter into the fiscal agreement with the director. A fiscal agreement shall do all of the following:

(1) Specify the family services duties included in the agreement and the private and government entities designated under section 307.981 of the Revised Code to serve as the county family services agencies performing the family services duties;

(2) Provide for the department of job and family services to award financial assistance for the family services duties included in the agreement in accordance with a methodology for determining the amount of the award established by rules adopted under division (D) of this section;

(3) Specify the form of the award of financial assistance which may be an allocation, cash draw, reimbursement, property, or, to the extent authorized by an appropriation made by the general assembly and to the extent practicable and not in conflict with a federal or state law, a consolidated funding allocation for two or more family services duties included in the agreement;

(4) Provide that the award of financial assistance is subject to the availability of federal funds and appropriations made by the general

assembly;

(5) Specify annual financial, administrative, or other incentive awards, if any, to be provided in accordance with section 5101.23 of the Revised Code;

(6) Include the assurance of each county signer that the county signer will do all of the following:

(a) Ensure that the financial assistance awarded under the agreement is used, and the family services duties included in the agreement are performed, in accordance with requirements for the duties established by the department, a federal or state law, or any of the following that concern the family services duties included in the fiscal agreement and are published under section 5101.212 of the Revised Code: state plans for receipt of federal financial participation, grant agreements between the department and a federal agency, and executive orders issued by the governor;

(b) Ensure that the board and county family services agencies utilize a financial management system and other accountability mechanisms for the financial assistance awarded under the agreement that meet requirements the department establishes;

(c) Require the county family services agencies to do both of the following:

(i) Monitor all private and government entities that receive a payment from financial assistance awarded under the agreement to ensure that each entity uses the payment in accordance with requirements for the family services duties included in the agreement;

(ii) Take action to recover payments that are not used in accordance with the requirements for the family services duties included in the agreement.

(d) Require county family services agencies to promptly reimburse the department the amount that represents the amount an agency is responsible for, pursuant to action the department takes under division (C) of section 5101.24 of the Revised Code, of funds the department pays to any entity because of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty;

(e) Require county family services agencies to take prompt corrective action, including paying amounts resulting from an adverse finding, sanction, or penalty, if the department, auditor of state, federal agency, or other entity authorized by federal or state law to determine compliance with requirements for a family services duty included in the agreement determines compliance has not been achieved~~;~~

~~(f) If the department establishes a consolidated funding allocation for~~

~~two or more family services duties included in the agreement, require the county family services agencies to use funds available in the consolidated funding allocation only for the purpose for which the funds are appropriated~~.

(7) Provide for the department taking action pursuant to division (C) of section 5101.24 of the Revised Code if authorized by division (B)(1), (2), (3), or (4) of that section;

(8) Provide for timely audits required by federal and state law and require prompt release of audit findings and prompt action to correct problems identified in an audit;

(9) Comply with all of the requirements for the family services duties that are included in the agreement and have been established by the department, federal or state law, or any of the following that concern the family services duties included in the fiscal agreement and are published under section 5101.212 of the Revised Code: state plans for receipt of federal financial participation, grant agreements between the department and a federal agency, and executive orders issued by the governor;

(10) Provide for dispute resolution procedures in accordance with section 5101.24 of the Revised Code;

(11) Establish the method of amending or terminating the agreement and an expedited process for correcting terms or conditions of the agreement that the director and each county signer agree are erroneous;

(12) Except as provided in rules adopted under division (D) of this section, begin on the first day of July of an odd-numbered year and end on the last day of June of the next odd-numbered year.

(C) The department shall make payments authorized by a fiscal agreement on vouchers it prepares and may include any funds appropriated or allocated to it for carrying out family services duties included in the agreement, including funds for personal services and maintenance.

(D)(1) The director shall adopt rules in accordance with section 111.15 of the Revised Code governing fiscal agreements. The director shall adopt the rules as if they were internal management rules. Before adopting the rules, the director shall give the public an opportunity to review and comment on the proposed rules. The rules shall establish methodologies to be used to determine the amount of financial assistance to be awarded under the agreements. The rules also shall establish terms and conditions under which an agreement may be entered into after the first day of July of an odd-numbered year. The rules may do any or all of the following:

(a) ~~Govern the establishment of consolidated funding allocations and specify the time period for which a consolidated funding allocation is to be provided if the effective date of the agreement is after the first day of July of~~

~~an odd-numbered year, which may include a time period before the effective date of the agreement;~~

~~(b)~~ Govern the establishment of ~~other~~ allocations;

~~(c)~~(b) Specify allowable uses of financial assistance awarded under the agreements;

~~(d)~~(c) Establish reporting, cash management, audit, and other requirements the director determines are necessary to provide accountability for the use of financial assistance awarded under the agreements and determine compliance with requirements established by the department, a federal or state law, or any of the following that concern the family services duties included in the agreements and are published under section 5101.212 of the Revised Code: state plans for receipt of federal financial participation, grant agreements between the department and a federal entity, and executive orders issued by the governor.

(2) A requirement of a fiscal agreement established by a rule adopted under this division is applicable to a fiscal agreement without having to be restated in the fiscal agreement.

Sec. 5101.241. (A) As used in this section:

(1) "Local area" and "chief elected official" have the same meaning as in section 5101.20 of the Revised Code.

(2) "Responsible entity" means the chief elected officials of a local area.

(B) The department of job and family services may take action under division (C) of this section against the responsible entity, regardless of who performs the workforce development activity, if the department determines any of the following are the case:

(1) A requirement of a grant agreement entered into under section 5101.20 of the Revised Code that includes the workforce development activity, including a requirement for grant agreements established by rules adopted under that section, is not complied with;

(2) A performance standard for the workforce development activity established by the federal government or the department is not met;

(3) A requirement for the workforce development activity established by the department or any of the following is not complied with: a federal or state law, state plan for receipt of federal financial participation, grant agreement between the department and a federal agency, or executive order;

(4) The responsible entity is solely or partially responsible, as determined by the director of job and family services, for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty regarding the workforce development activity.

(C) The department may take one or more of the following actions against the responsible entity when authorized by division (B)(1), (2), (3), or (4) of this section:

(1) Require the responsible entity to submit to and comply with a corrective action plan, established or approved by the department, pursuant to a time schedule specified by the department;

(2) Require the responsible entity to do one of the following:

(a) Share with the department a final disallowance of federal financial participation or other sanction or penalty;

(b) Reimburse the department the amount the department pays to the federal government or another entity that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;

(c) Pay the federal government or another entity the amount that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;

(d) Pay the department the amount that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, or other sanction or penalty issued by the department.

(3) Impose a financial or administrative sanction or adverse audit finding issued by the department against the responsible entity, which may be increased with each subsequent action taken against the responsible entity.;

(4) Perform or contract with a government or private entity for the entity to perform the workforce development activity until the department is satisfied that the responsible entity ensures that the activity will be performed to the department's satisfaction. If the department performs or contracts with an entity to perform the workforce development activity under division (C)(4) of this section, the department may withhold funds allocated to or reimbursements due to the responsible entity for the activity and use those funds to implement division (C)(4) of this section.

(5) Request the attorney general to bring mandamus proceedings to compel the responsible entity to take or cease the actions listed in division (B) of this section. The attorney general shall bring any mandamus proceedings in the Franklin county court of appeals at the department's

request.

(6) If the department takes action under this division because of division (B)(3) of this section, withhold funds allocated or reimbursement due to the responsible entity until the department determines that the responsible entity is in compliance with the requirement. The department shall release the funds when the department determines that compliance has been achieved.

(7) Issue a notice of intent to revoke approval of all or part of the local plan effected that conflicts with state or federal law and effectuate the revocation.

(D) The department shall notify the responsible entity and the appropriate county auditor when the department proposes to take action under division (C) of this section. The notice shall be in writing and specify the action the department proposes to take. The department shall send the notice by regular United States mail. Except as provided in division (E) of this section, the responsible entity may request an administrative review of a proposed action in accordance with administrative review procedures the department shall establish. The administrative review procedures shall comply with all of the following:

(1) A request for an administrative review shall state specifically all of the following:

(a) The proposed action specified in the notice from the department for which the review is requested;

(b) The reason why the responsible entity believes the proposed action is inappropriate;

(c) All facts and legal arguments that the responsible entity wants the department to consider;

(d) The name of the person who will serve as the responsible entity's representative in the review.

(2) If the department's notice specifies more than one proposed action and the responsible entity does not specify all of the proposed actions in its request pursuant to division (D)(1)(a) of this section, the proposed actions not specified in the request shall not be subject to administrative review and the parts of the notice regarding those proposed actions shall be final and binding on the responsible entity.

(3) ~~In the case of a proposed action under division (C)(1) of this section, the~~ The responsible entity shall have fifteen calendar days after the department mails the notice to the responsible entity to send a written request to the department for an administrative review. ~~If it receives such a request within the required time, the department shall postpone taking action under division (C)(1) of this section for fifteen calendar days following the~~

~~day it receives the request to allow a representative of the department and a representative of the responsible entity an informal opportunity to resolve any dispute during that fifteen-day period.~~ The responsible entity and the department shall attempt to resolve informally any dispute and may develop a written resolution to the dispute at any time prior to submitting the written report described in division (D)(7) of this section to the director.

(4) ~~In the case of a proposed action under division (C)(2), (3), or (4) of this section, the responsible entity shall have thirty calendar days after the department mails the notice to the responsible entity to send a written request to the department for an administrative review. If it receives such a request within the required time, the department shall postpone taking action under division (C)(2), (3), or (4) of this section for thirty calendar days following the day it receives the request to allow a representative of the department and a representative of the responsible entity an informal opportunity to resolve any dispute during that thirty-day period.~~

~~(5)~~ In the case of a proposed action under division (C)(2) of this section, the responsible entity may not include in its request disputes over a finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity other than the department.

~~(6)~~(5) If the responsible entity fails to request an administrative review within the required time, the responsible entity loses the right to request an administrative review of the proposed actions specified in the notice and the notice becomes final and binding on the responsible entity.

~~(7) If the informal opportunity provided in division (D)(3) or (4) of this section does not result in a written resolution to the dispute, the~~ (6) The director of job and family services shall appoint an administrative review panel to conduct the administrative review. The review panel shall consist of department employees who are not involved in the department's proposal to take action against the responsible entity. The review panel shall review the responsible entity's request. The review panel may require that the department or responsible entity submit additional information and schedule and conduct an informal hearing to obtain testimony or additional evidence. A review of a proposal to take action under division (C)(2) of this section shall be limited solely to the issue of the amount the responsible entity shall share with the department, reimburse the department, or pay to the federal government, department, or other entity under division (C)(2) of this section. The review panel is not required to make a stenographic record of its hearing or other proceedings.

~~(8)~~(7) After finishing an administrative review, an administrative review

panel appointed under division (D)~~(7)~~(6) of this section shall submit a written report to the director setting forth its findings of fact, conclusions of law, and recommendations for action. The director may approve, modify, or disapprove the recommendations. ~~If the director modifies or disapproves the recommendations, the director shall state the reasons for the modification or disapproval and the actions to be taken against the responsible entity.~~

~~(9)~~(8) The director's approval, modification, or disapproval under division (D)~~(8)~~(7) of this section shall be final and binding on the responsible entity and shall not be subject to further ~~departmental~~ review.

(E) The responsible entity is not entitled to an administrative review under division (D) of this section for any of the following:

(1) An action taken under division (C)(5) or (6) of this section;

(2) An action taken under section 5101.242 of the Revised Code;

(3) An action taken under division (C)(2) of this section if the federal government, auditor of state, or entity other than the department has identified the responsible entity as being solely or partially responsible for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty;

(4) An adjustment to an allocation, cash draw, advance, or reimbursement to the responsible entity's local area that the department determines necessary for budgetary reasons;

(5) Withholding of a cash draw or reimbursement due to noncompliance with a reporting requirement established in rules adopted under section 5101.243 of the Revised Code.

(F) This section does not apply to other actions the department takes against the responsible entity pursuant to authority granted by another state law unless the other state law requires the department to take the action in accordance with this section.

(G) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.

(H) The governor may decertify a local workforce development board for any of the following reasons in accordance with subsection (e) of section 117 of the "Workforce Investment Act of 1998" 112 Stat. 936, 29 U.S.C. 2801, as amended:

(1) Fraud or abuse;

(2) Failure to carry out the requirements of the federal "Workforce Investment Act," 112 Stat. 936, 29 U.S.C. 2801, as amended, including failure to meet performance standards established by the federal government for two consecutive years.