

**As Passed by the House**

**127th General Assembly  
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**Sub. H. B. No. 500**

**Representative Hughes**

**Cosponsors: Representatives Flowers, Yuko, Letson, Stebelton, Stewart, D.,  
Carmichael, Domenick, Bacon, Batchelder, Brown, Chandler, Collier, Combs,  
Dyer, Evans, Gerberry, Gibbs, Goyal, Harwood, Heard, Hite, Luckie, Lundy,  
McGregor, J., Raussen, Sayre, Schindel, Schneider, Setzer, Slesnick,  
Szollosi, Williams, B., Zehringer**

—

**A B I L L**

To amend section 5703.21 and to enact sections 1  
3739.01 to 3739.18 and 3739.99 of the Revised Code 2  
to establish reduced ignition propensity standards 3  
for cigarettes, to authorize the State Fire 4  
Marshal to monitor and the Attorney General and 5  
the State Fire Marshal to enforce such standards, 6  
and to establish penalties for violations. 7  
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**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 5703.21 be amended and sections 9  
3739.01, 3739.02, 3739.03, 3739.04, 3739.05, 3739.06, 3739.07, 10  
3739.08, 3739.09, 3739.10, 3739.11, 3739.12, 3739.13, 3739.14, 11  
3739.15, 3739.16, 3739.17, 3739.18, and 3739.99 of the Revised 12  
Code be enacted to read as follows: 13

Sec. 3739.01. As used in this chapter: 14

(A) "Agent" means any person licensed by a county auditor or 15

the tax commissioner to purchase and affix adhesive or meter 16  
stamps on packages of cigarettes pursuant to Chapter 5743. of the 17  
Revised Code. 18

(B) "Brand family" means all styles of cigarettes sold under 19  
the same trademark and differentiated from one another by means of 20  
additional modifiers or descriptors, including, but not limited 21  
to, "menthol," "lights," "kings," and "100s." "Brand family" 22  
includes cigarettes sold under a brand name, whether that name is 23  
used alone or in conjunction with any other word, trademark, logo, 24  
symbol, motto, selling message, recognizable pattern of colors, or 25  
other indicia of product identification identical or similar to, 26  
or identifiable with, a previous brand of cigarettes. 27

(C) "Cigarettes" and "sale" have the same meanings as in 28  
section 5743.01 of the Revised Code. 29

(D) "Manufacturer" means either of the following: 30

(1) Any entity or the entity's successor that, in any 31  
location, manufactures or otherwise produces cigarettes, or causes 32  
cigarettes to be manufactured or produced, that the entity intends 33  
to be sold in this state, including, but not limited to, 34  
cigarettes intended to be sold in the United States through an 35  
importer; 36

(2) Any entity or the entity's successor that meets both of 37  
the following criteria: 38

(a) Purchases cigarettes, in any location, from a second 39  
entity that manufactures or otherwise produces cigarettes in any 40  
location when that second entity does not intend that the 41  
cigarettes it manufactures be sold in the United States; 42

(b) Intends to resell the cigarettes described in division 43  
(D)(2)(a) of this section in the United States. 44

(E) "Repeatability" means the range of values within which 45

ninety-five per cent of the results of cigarette test trials from 46  
a single laboratory will fall. 47

(F) "Retail dealer" has the same meaning as in division 48  
(C)(1) of section 5743.01 of the Revised Code. 49

(G) "Quality control and quality assurance program" means the 50  
procedures a laboratory implements to ensure both of the 51  
following: 52

(1) Operator bias, systematic and nonsystematic 53  
methodological errors, and equipment-related problems do not 54  
affect cigarette test results. 55

(2) Testing repeatability remains within the required 56  
repeatability values for all test trials used by the laboratory to 57  
certify cigarettes in accordance with this chapter and is not 58  
greater than 0.19. 59

(H) "Wholesale dealer" means either of the following persons: 60

(1) A person, other than a manufacturer, who sells cigarettes 61  
to retail dealers or other persons for purposes of resale; 62

(2) A person who owns, operates, or maintains one or more 63  
cigarette vending machines upon premises owned or occupied by any 64  
other person. 65

**Sec. 3739.02.** Except as otherwise permitted in section 66  
3739.12 of the Revised Code, no person shall sell or offer to sell 67  
cigarettes in this state or sell or offer to sell cigarettes to 68  
persons located in this state unless all of the following 69  
requirements are met: 70

(A) The manufacturer of the cigarettes has the cigarettes 71  
tested in accordance with the testing method specified in section 72  
3739.03 of the Revised Code or the testing method approved by the 73  
state fire marshal under section 3739.04 of the Revised Code. 74

(B) The cigarettes meet the performance standard specified 75  
under division (B) of section 3739.03 of the Revised Code or the 76  
performance standard approved by the state fire marshal under 77  
section 3739.04 of the Revised Code. 78

(C) The manufacturer has marked the packaging of the 79  
cigarettes as required in section 3739.06 of the Revised Code. 80

(D) The manufacturer files a written certification with the 81  
state fire marshal as required under section 3739.07 of the 82  
Revised Code. 83

**Sec. 3739.03.** (A) A manufacturer shall have a laboratory 84  
conduct the testing required under division (B) of this section. 85  
The laboratory that the manufacturer uses for the testing shall be 86  
accredited pursuant to the international organization for 87  
standardization and international electrotechnical commission 88  
standard 17025 of the international organization for 89  
standardization, or another comparable accreditation standard 90  
required by the state fire marshal. The laboratory shall implement 91  
a quality control and quality assurance program and shall use that 92  
program when conducting the testing required under division (B) of 93  
this section. 94

(B) A manufacturer shall have the laboratory described in 95  
division (A) of this section test the manufacturer's cigarettes in 96  
accordance with all of the following requirements: 97

(1) The laboratory shall test the cigarettes in accordance 98  
with the American society of testing and materials standard 99  
E2187-04, titled "standard test method for measuring ignition 100  
strength of cigarettes" or any subsequent standard adopted by the 101  
state fire marshal in accordance with division (E) of this 102  
section. 103

(2) The laboratory shall test the cigarettes on ten layers of 104

filter paper. 105

(3) Not more than twenty-five per cent of the cigarettes 106  
tested in a test trial shall exhibit full-length burns. 107

(C) The performance standard required under division (B)(3) 108  
of this section shall apply only to a complete test trial. For 109  
purposes of this division and division (B)(3) of this section, 110  
"test trial" means forty replicate tests for each type of 111  
cigarette tested. 112

(D) The requirements described in division (B) of this 113  
section shall not be construed to require additional cigarette 114  
testing if a manufacturer tests cigarettes in accordance with the 115  
requirements listed in that division for any other purposes other 116  
than the purposes specified in that division. 117

(E) The state fire marshal may adopt any American society of 118  
testing and materials standard used to measure the ignition 119  
strength of cigarettes that takes effect after the effective date 120  
of this section if the state fire marshal determines that that 121  
subsequent standard does not result in a change in the percentage 122  
of full-length burns exhibited by any tested cigarette when 123  
compared to the percentage of full-length burns the same cigarette 124  
would exhibit when tested using the American society of testing 125  
and materials standard E2187-04 referenced in division (B)(1) of 126  
this section and the performance standard specified in division 127  
(B)(3) of this section. 128

**Sec. 3739.04.** (A) If a manufacturer manufactures a cigarette 129  
that the state fire marshal determines cannot be tested in 130  
accordance with division (B) of section 3739.03 of the Revised 131  
Code, the state fire marshal shall require the manufacturer to 132  
propose and submit a test method and performance standard for the 133  
cigarette to the state fire marshal for approval. If the state 134  
fire marshal determines that the test method and performance 135

standard proposed by the manufacturer are equivalent to the test 136  
method and performance standard prescribed in division (B) of 137  
section 3739.03 of the Revised Code, the state fire marshal shall 138  
approve the proposed test method and performance standard, and the 139  
manufacturer may use that test method and performance standard to 140  
certify the cigarettes pursuant to section 3739.07 of the Revised 141  
Code. 142

(B) If the state fire marshal determines that another state 143  
has enacted reduced cigarette ignition propensity standards that 144  
include a test method and performance standard that are the same 145  
as those specified in section 3739.03 of the Revised Code and that 146  
the officials responsible for implementing those standards have 147  
determined that the alternative test method and performance 148  
standard for a particular cigarette proposed by the manufacturer 149  
under division (A) of this section satisfies the standards for 150  
that state's law or regulation under a statute or regulation that 151  
is comparable to this section, the state fire marshal shall 152  
authorize the manufacturer to use that alternative test method and 153  
performance standard to certify the manufacturer's cigarettes for 154  
sale in this state. The state fire marshal is not required to 155  
approve an alternative test method and performance standard 156  
approved in another state if the state fire marshal demonstrates a 157  
reasonable basis for why that alternative test method and 158  
performance standard should not be approved under this section. 159

All other applicable requirements of this chapter apply to a 160  
manufacturer authorized to use an alternative test method and 161  
performance standard under this section. 162

**Sec. 3739.05.** (A) Each manufacturer shall maintain copies of 163  
the reports of all tests conducted on all cigarettes offered for 164  
sale in this state for a period of three years after a test is 165  
concluded, and shall make copies of these reports available to the 166

state fire marshal and the attorney general upon receipt of a 167  
written request from the state fire marshal or attorney general. 168

(B) No manufacturer shall fail to make these copies available 169  
to the state fire marshal or attorney general within sixty days 170  
after receiving such a request from the state fire marshal or the 171  
attorney general. 172

**Sec. 3739.06.** (A) A manufacturer, prior to submitting the 173  
written certification required under section 3739.07 of the 174  
Revised Code, shall submit a marking that the manufacturer shall 175  
place on each package of cigarettes that the manufacturer intends 176  
to certify under that section. The marking shall be in eight-point 177  
type or larger and include at least one of the following: 178

(1) Modification of the product universal product code to 179  
include a visible mark printed at or around the area of the code 180  
that consists of an alphanumeric or symbolic character permanently 181  
stamped, engraved, embossed, or printed in conjunction with the 182  
product's code; 183

(2) Any visible combination of alphanumeric or symbolic 184  
characters permanently stamped, engraved, or embossed upon the 185  
cigarette package or cellophane wrap; 186

(3) Printed, stamped, engraved, or embossed text that 187  
indicates that the cigarettes meet the standards specified in 188  
section 3739.03 of the Revised Code or approved under section 189  
3739.04 of the Revised Code. 190

(B)(1) The manufacturer shall notify the state fire marshal 191  
of the marking that the manufacturer selects and request approval 192  
of that marking from the state fire marshal. Upon receipt of the 193  
request, the state fire marshal shall approve or disapprove the 194  
marking offered by the manufacturer. If a manufacturer elects to 195  
submit either of the following markings, the state fire marshal 196

shall automatically approve that marking: 197

(a) Any marking used for cigarettes approved for sale in the 198  
state of New York pursuant to the New York fire safety standards 199  
for cigarettes; 200

(b) A marking consisting of only the letters "FSC", which 201  
shall signify "fire standards compliant." 202

(2) If the state fire marshal fails to act within ten 203  
business days after receiving a request for approval, the proposed 204  
marking is considered approved. A manufacturer shall not modify 205  
the marking approved by the state fire marshal unless the 206  
modification has been approved in accordance with this division. 207

(C) A manufacturer shall include the approved mark on each 208  
package of cigarettes that is certified under section 3739.07 of 209  
the Revised Code to indicate compliance with the requirements of 210  
this chapter. A manufacturer shall use only one marking for all of 211  
the cigarettes the manufacturer sells and shall apply this marking 212  
uniformly to all packages, including, but not limited to, packs, 213  
cartons, cases, and brands sold by that manufacturer. 214

**Sec. 3739.07.** (A) Each manufacturer shall submit to the state 215  
fire marshal a written certification that each type of cigarette 216  
listed in the certification has been tested in accordance with 217  
division (B) of section 3739.03 or section 3739.04 of the Revised 218  
Code and each type of cigarette listed in the certification meets 219  
the performance standard set forth in division (B) of section 220  
3739.03 of the Revised Code or approved under section 3739.04 of 221  
the Revised Code. 222

(B) A manufacturer shall include in the written certification 223  
the manufacturer submits under division (A) of this section all of 224  
the following information for each type of cigarette listed in the 225  
certification: 226



<u>(1) The brand or trade name on the cigarette package;</u>	227
<u>(2) The style of cigarette;</u>	228
<u>(3) The length of the cigarette in millimeters;</u>	229
<u>(4) The circumference of the cigarette in millimeters;</u>	230
<u>(5) The flavor of the cigarette, if applicable;</u>	231
<u>(6) Whether the cigarette is filter or nonfilter;</u>	232
<u>(7) A description of the package;</u>	233
<u>(8) The marking the manufacturer uses that the state fire</u>	234
<u>marshal approved in accordance with section 3739.06 of the Revised</u>	235
<u>Code;</u>	236
<u>(9) The name, address, and telephone number of the</u>	237
<u>laboratory, if different than the manufacturer, that conducted the</u>	238
<u>test of the cigarette;</u>	239
<u>(10) The date that the testing of the cigarette occurred.</u>	240
<u>(C) A manufacturer shall make the written certification</u>	241
<u>required under division (A) of this section available to the</u>	242
<u>attorney general and the tax commissioner for the purposes of</u>	243
<u>ensuring compliance with this chapter.</u>	244
<u>(D) No manufacturer shall submit a false certification to the</u>	245
<u>state fire marshal.</u>	246
<u>Sec. 3739.08. Each cigarette a manufacturer lists in a</u>	247
<u>certification submitted pursuant to section 3739.07 of the Revised</u>	248
<u>Code for which the manufacturer uses lowered permeability bands in</u>	249
<u>the cigarette paper to comply with the testing requirements</u>	250
<u>described in division (B) of section 3739.03 of the Revised Code</u>	251
<u>shall have either of the following bands surrounding the tobacco</u>	252
<u>column:</u>	253
<u>(A) For cigarettes on which bands are not positioned by</u>	254

design, at least two nominally identical bands, one of which shall 255  
be located at least fifteen millimeters from the lighting end of 256  
the cigarette; 257

(B) For cigarettes on which bands are positioned by design, 258  
at least two bands, one of which is located at least fifteen 259  
millimeters from the lighting end of the cigarette and the other 260  
of which is located in either of following places: 261

(1) For filtered cigarettes, ten millimeters from the filter 262  
end of the tobacco column; 263

(2) For nonfiltered cigarettes, ten millimeters from the 264  
labeled end of the tobacco column. 265

**Sec. 3739.09.** A manufacturer shall recertify each cigarette 266  
the manufacturer certifies pursuant to section 3739.07 of the 267  
Revised Code every three years. A manufacturer that certifies a 268  
cigarette in accordance with that section and that subsequently 269  
makes any change to that cigarette that alters the cigarette in 270  
such a way that the manufacturer knows that the cigarette is 271  
likely to no longer meet the standard specified in section 3739.03 272  
of the Revised Code or the standard approved under section 3739.04 273  
of the Revised Code shall not sell or offer to sell that cigarette 274  
in this state until the manufacturer retests the cigarette in 275  
accordance with the testing standards specified in section 3739.03 276  
of the Revised Code or approved under section 3739.04 of the 277  
Revised Code. The manufacturer shall maintain records of that 278  
retesting in the same manner as the manufacturer maintains records 279  
under section 3739.05 of the Revised Code. A manufacturer shall 280  
not sell in this state any altered cigarette that does not meet 281  
either the performance standard set forth in division (B)(3) of 282  
section 3739.03 of the Revised Code or the performance standard 283  
approved under section 3739.04 of the Revised Code. 284

Sec. 3739.10. A manufacturer that certifies its cigarettes in accordance with section 3739.07 of the Revised Code shall provide a copy of the certifications to each wholesale dealer and agent to which the manufacturer sells cigarettes and shall provide sufficient copies of an illustration of the package marking used by the manufacturer pursuant to section 3739.06 of the Revised Code for each retail dealer to which the wholesale dealer or agent sells cigarettes. Each wholesale dealer and agent who receives a copy of a manufacturer's certification and copies of the manufacturer's illustration shall provide to each retail dealer to which the wholesale dealer and agent sell the manufacturer's cigarettes a copy of the illustration provided to the wholesale dealer or agent by the manufacturer. A wholesale dealer, agent, or retail dealer shall allow the state fire marshal, the tax commissioner, and the attorney general to inspect the markings of cigarette packaging marked in accordance with section 3739.06 of the Revised Code.

Sec. 3739.11. The state fire marshal may conduct testing on cigarettes certified by a manufacturer pursuant to section 3739.07 of the Revised Code to determine whether the manufacturer complied with the requirements of this chapter. The state fire marshal shall conduct any such testing in accordance with division (B) of section 3739.03 of the Revised Code.

Whenever the state fire marshal or a designee of the state fire marshal discovers any cigarettes that do not include a mark as required under section 3739.06 of the Revised Code, the state fire marshal or the state fire marshal's designee may seize and take possession of such cigarettes and shall give such cigarettes to the tax commissioner, and such cigarettes thereupon shall be forfeited to the state. The tax commissioner shall order the destruction of any cigarettes forfeited pursuant to this section,

but prior to the destruction of any cigarette forfeited pursuant 317  
to this section, the true holder of the trademark rights in the 318  
cigarette brand shall be permitted to inspect the cigarette. 319

Any cigarettes sold or offered for sale that do not comply 320  
with the performance standard required under section 3739.03 of 321  
the Revised Code or approved under section 3739.04 of the Revised 322  
Code are subject to forfeiture pursuant to section 5743.08 of the 323  
Revised Code and shall be destroyed in accordance with that 324  
section, except that prior to the destruction of any cigarette 325  
forfeited pursuant to that section, the true holder of the 326  
trademark rights in the cigarette brand shall be permitted to 327  
inspect the cigarette. 328

In addition to any other remedy provided by law, if the state 329  
fire marshal or attorney general determines that reasonable 330  
evidence exists that a violation of this chapter has occurred, the 331  
state fire marshal or attorney general may file an action in the 332  
court of common pleas in the county where the alleged violation 333  
occurred. The action may include a petition for injunctive relief 334  
or to recover any costs or damages suffered by the state because a 335  
violation of this chapter occurred, including enforcement costs 336  
relating to the specific violation and attorney's fees. Each 337  
violation of this chapter or the rules adopted pursuant to it 338  
constitutes a separate civil violation for which the state fire 339  
marshal or attorney general may obtain relief. 340

To enforce the requirements of this chapter, the attorney 341  
general and the state fire marshal may examine the books, papers, 342  
invoices, and other business records of any person in possession 343  
or control of, or occupying any premises where cigarettes are 344  
placed, stored, sold, or offered for sale, including the stock of 345  
cigarettes on the premises, if the attorney general or state fire 346  
marshal reasonably suspects that a violation of this chapter has 347  
occurred. Every person in the possession or control of, or 348

occupying any premises where cigarettes are placed, sold, or 349  
offered for sale shall give to the attorney general and the state 350  
fire marshal the means, facilities, and opportunity for the 351  
examinations authorized under this section. 352

The tax commissioner, in the regular course of conducting 353  
inspections of wholesale dealers, agents, and retail dealers, as 354  
authorized under section 5743.14 of the Revised Code, may inspect 355  
any cigarette packaging to determine if the package is marked as 356  
required under section 3739.06 of the Revised Code. If a package 357  
containing cigarettes is not marked, the tax commissioner shall 358  
notify the state fire marshal of this fact. 359

**Sec. 3739.12.** (A) Nothing in this chapter shall be construed 360  
to prohibit any person or entity from manufacturing or selling 361  
cigarettes that do not meet the requirements specified in this 362  
chapter if the cigarette's packaging is or will be stamped for 363  
sale in another state or is packaged for sale outside of the 364  
United States, and that person or entity has taken reasonable 365  
steps to ensure that those cigarettes will not be sold or offered 366  
for sale to persons located in this state. 367

(B) The requirements of sections 3739.02 to 3739.10 of the 368  
Revised Code shall not prohibit a wholesale dealer or retail 369  
dealer of cigarettes from selling the dealer's inventory of 370  
cigarettes in existence on or after the effective date of this 371  
section if the dealer establishes both of the following: 372

(1) That the state tax stamps were affixed to the cigarettes 373  
prior to the effective date of this section; 374

(2) That the inventory that was purchased prior to the 375  
effective date of this section is comparable in quantity to the 376  
inventory purchased during the same period of the prior year. 377

(C) Nothing in this chapter shall be construed to prohibit 378

the sale of cigarettes solely for the purpose of consumer testing. 379  
For purposes of this division, "consumer testing" means an 380  
assessment of cigarettes that is conducted by a manufacturer or 381  
under the control and direction of a manufacturer for the purpose 382  
of evaluating consumer acceptance of such cigarettes, utilizing 383  
only the quantity of cigarettes that is reasonably necessary for 384  
such assessment. 385

Sec. 3739.13. The implementation and substance of the New 386  
York fire safety standards for cigarettes shall be persuasive 387  
authority in implementing this chapter. The state fire marshal may 388  
adopt rules, pursuant to Chapter 119. of the Revised Code, as 389  
necessary to administer this chapter. 390

Sec. 3739.14. The state fire marshal shall periodically 391  
evaluate the effectiveness of this chapter. The state fire marshal 392  
shall submit a report that consists of the state fire marshal's 393  
findings to the general assembly on the first day of the 394  
forty-ninth month after the effective date of this section, and 395  
every three years after that date. 396

Sec. 3739.15. Notwithstanding any provision of law to the 397  
contrary, no political subdivision of this state may enact or 398  
enforce any ordinance or other local law or regulation that 399  
conflicts with or preempts this chapter or any policy of this 400  
state expressed in this chapter. 401

Sec. 3739.16. No person is required to comply with this 402  
chapter or the rules adopted pursuant to it if a federal reduced 403  
cigarette ignition propensity standard that preempts this chapter 404  
or rules adopted under it is adopted and becomes effective. 405

Sec. 3739.17. In addition to any other immunities, defenses, 406

and exclusions provided under the Revised Code, the state, the 407  
department of taxation, the department of commerce, the division 408  
of the fire marshal within the department of commerce, and any 409  
employees of the state, either department, or the division, are 410  
immune from liability in any civil action or proceeding arising 411  
from the performance or nonperformance of any duties specified in 412  
this chapter that the state, either department, the division, or 413  
any employees of the state, either department, or division are 414  
required to perform. In no event shall the state, either 415  
department, division, or any employees of the state, either 416  
department, or division be liable to any person for any claims for 417  
injury or damages, including, but not limited to, claims for 418  
indirect, consequential, incidental, special, or punitive damages 419  
or claims for lost profits, arising from the performance or 420  
nonperformance of the duties specified in this chapter that the 421  
state, either department, division, or employees of the state, 422  
either department, or division are required to perform. 423

**Sec. 3739.18.** (A) A manufacturer shall pay the state fire 424  
marshal a fee of one thousand dollars or an adjusted fee pursuant 425  
to division (B) of this section for each type of brand family 426  
included in a certification required under division (A) of section 427  
3739.07 of the Revised Code. The fee for each type of brand family 428  
includes any new cigarette certified under this chapter within 429  
that brand family during the three-year certification period 430  
described in section 3739.09 of the Revised Code. 431

(B) The state fire marshal may adjust the fee described in 432  
division (A) of this section annually to ensure the fee is 433  
sufficient to defray the actual costs of processing, testing, 434  
enforcing, and overseeing the activities required under this 435  
chapter. 436  
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(C) There is hereby created in the state treasury the reduced cigarette ignition propensity and firefighter protection act enforcement fund. The fund shall consist of all certification fees submitted by manufacturers and any other moneys made available to the state fire marshal specifically to support processing certifications, testing, enforcing, and overseeing activities conducted pursuant to this chapter. The state fire marshal shall use the fund only for the activities specified in this division. 438  
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(D) There is hereby created in the state treasury the fire prevention and public safety fund. Moneys collected from penalties assessed under divisions (B) to (E) of section 3739.99 of the Revised Code shall be deposited into the fund. The state fire marshal shall use this fund to support fire safety and prevention programs. 446  
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**Sec. 3739.99.** (A) A manufacturer who violates division (B) of section 3739.05 of the Revised Code shall be subject to a civil penalty not to exceed ten thousand dollars for each day after the sixtieth day that the manufacturer fails to comply with that division. 452  
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(B) A manufacturer, wholesale dealer, agent, or any other person other than a retail dealer who knowingly sells or offers to sell cigarettes in violation of section 3739.02 of the Revised Code is liable for a civil penalty not to exceed one hundred dollars per each pack of such cigarettes sold or offered for sale, provided that in no case shall the penalty against any such person or entity exceed one hundred thousand dollars during any thirty-day period. 457  
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(C) A retail dealer who knowingly violates section 3739.02 of the Revised Code is liable for a civil penalty not to exceed one hundred dollars per each pack of cigarettes sold or offered for sale, provided that in no case shall the penalty against any 465  
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retail dealer exceed twenty-five thousand dollars for sales or 469  
offers to sell during any thirty-day period. 470

(D) A manufacturer that is a corporation, partnership, sole 471  
proprietorship, limited partnership, or association who knowingly 472  
violates division (D) of section 3739.07 of the Revised Code is 473  
liable for a civil penalty of at least seventy-five thousand 474  
dollars, not to exceed two hundred fifty thousand dollars for each 475  
such violation, in addition to any other penalty prescribed by 476  
law. 477

(E) Any person who violates any provision of this chapter 478  
other than section 3739.02, division (B) of section 3739.05, and 479  
division (D) of section 3739.07 of the Revised Code, for a first 480  
offense is liable for a civil penalty not to exceed one thousand 481  
dollars for each violation and for a subsequent offense is liable 482  
for a civil penalty not to exceed five thousand dollars for each 483  
violation. 484

**Sec. 5703.21.** (A) Except as provided in divisions (B) and (C) 485  
of this section, no agent of the department of taxation, except in 486  
the agent's report to the department or when called on to testify 487  
in any court or proceeding, shall divulge any information acquired 488  
by the agent as to the transactions, property, or business of any 489  
person while acting or claiming to act under orders of the 490  
department. Whoever violates this provision shall thereafter be 491  
disqualified from acting as an officer or employee or in any other 492  
capacity under appointment or employment of the department. 493

(B)(1) For purposes of an audit pursuant to section 117.15 of 495  
the Revised Code, or an audit of the department pursuant to 496  
Chapter 117. of the Revised Code, or an audit, pursuant to that 497  
chapter, the objective of which is to express an opinion on a 498  
financial report or statement prepared or issued pursuant to 499

division (A)(7) or (9) of section 126.21 of the Revised Code, the 500  
officers and employees of the auditor of state charged with 501  
conducting the audit shall have access to and the right to examine 502  
any state tax returns and state tax return information in the 503  
possession of the department to the extent that the access and 504  
examination are necessary for purposes of the audit. Any 505  
information acquired as the result of that access and examination 506  
shall not be divulged for any purpose other than as required for 507  
the audit or unless the officers and employees are required to 508  
testify in a court or proceeding under compulsion of legal 509  
process. Whoever violates this provision shall thereafter be 510  
disqualified from acting as an officer or employee or in any other 511  
capacity under appointment or employment of the auditor of state. 512

(2) For purposes of an internal audit pursuant to section 513  
126.45 of the Revised Code, the officers and employees of the 514  
office of internal auditing in the office of budget and management 515  
charged with conducting the internal audit shall have access to 516  
and the right to examine any state tax returns and state tax 517  
return information in the possession of the department to the 518  
extent that the access and examination are necessary for purposes 519  
of the internal audit. Any information acquired as the result of 520  
that access and examination shall not be divulged for any purpose 521  
other than as required for the internal audit or unless the 522  
officers and employees are required to testify in a court or 523  
proceeding under compulsion of legal process. Whoever violates 524  
this provision shall thereafter be disqualified from acting as an 525  
officer or employee or in any other capacity under appointment or 526  
employment of the office of internal auditing. 527

(3) As provided by section 6103(d)(2) of the Internal Revenue 528  
Code, any federal tax returns or federal tax information that the 529  
department has acquired from the internal revenue service, through 530  
federal and state statutory authority, may be disclosed to the 531

auditor of state or the office of internal auditing solely for 532  
purposes of an audit of the department. 533

(4) For purposes of Chapter 3739. of the Revised Code, an 534  
agent of the department of taxation may share information with the 535  
division of state fire marshal that the agent finds during the 536  
course of an investigation. 537

(C) Division (A) of this section does not prohibit any of the 538  
following: 539

(1) Divulging information contained in applications, 540  
complaints, and related documents filed with the department under 541  
section 5715.27 of the Revised Code or in applications filed with 542  
the department under section 5715.39 of the Revised Code; 543

(2) Providing information to the office of child support 544  
within the department of job and family services pursuant to 545  
section 3125.43 of the Revised Code; 546

(3) Disclosing to the board of motor vehicle collision repair 547  
registration any information in the possession of the department 548  
that is necessary for the board to verify the existence of an 549  
applicant's valid vendor's license and current state tax 550  
identification number under section 4775.07 of the Revised Code; 551

(4) Providing information to the administrator of workers' 552  
compensation pursuant to sections 4123.271 and 4123.591 of the 553  
Revised Code; 554

(5) Providing to the attorney general information the 555  
department obtains under division (J) of section 1346.01 of the 556  
Revised Code; 557

(6) Permitting properly authorized officers, employees, or 558  
agents of a municipal corporation from inspecting reports or 559  
information pursuant to rules adopted under section 5745.16 of the 560  
Revised Code; 561

(7) Providing information regarding the name, account number, 562  
or business address of a holder of a vendor's license issued 563  
pursuant to section 5739.17 of the Revised Code, a holder of a 564  
direct payment permit issued pursuant to section 5739.031 of the 565  
Revised Code, or a seller having a use tax account maintained 566  
pursuant to section 5741.17 of the Revised Code, or information 567  
regarding the active or inactive status of a vendor's license, 568  
direct payment permit, or seller's use tax account; 569

(8) Releasing invoices or invoice information furnished under 570  
section 4301.433 of the Revised Code pursuant to that section; 571

(9) Providing to a county auditor notices or documents 572  
concerning or affecting the taxable value of property in the 573  
county auditor's county. Unless authorized by law to disclose 574  
documents so provided, the county auditor shall not disclose such 575  
documents; 576

(10) Providing to a county auditor sales or use tax return or 577  
audit information under section 333.06 of the Revised Code. 578

**Section 2.** That existing section 5703.21 of the Revised Code 579  
is hereby repealed. 580

**Section 3.** Division (B) of section 3739.05, division (D) of 581  
section 3739.07, and sections 3739.02, 3739.09, 3739.11, 3739.12, 582  
and 3739.99 of the Revised Code, as enacted by this act, shall 583  
take effect on the first day of the thirteenth month after the 584  
effective date of this act. 585