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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,
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Szollosi, Williams, B., Zehringer**

Senators Fedor, Miller, R., Padgett, Turner, Goodman, Sawyer, Cates

—

A B I L L

To amend sections 5703.21 and 5743.08 and to enact 1
sections 3739.01 to 3739.18, 3739.99, 4112.31, and 2
4112.32 of the Revised Code to establish reduced 3
ignition propensity standards for cigarettes, to 4
authorize the State Fire Marshal to monitor and 5
the Attorney General and the State Fire Marshal to 6
enforce such standards, to establish penalties for 7
violations of such standards, and to establish a 8
New African Immigrants Commission to advocate for 9
the development and implementation of policies and 10
programs to address the needs of the State's 11
sub-Saharan African population. 12
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5703.21 and 5743.08 be amended and 14
sections 3739.01, 3739.02, 3739.03, 3739.04, 3739.05, 3739.06, 15

3739.07, 3739.08, 3739.09, 3739.10, 3739.11, 3739.12, 3739.13, 16
3739.14, 3739.15, 3739.16, 3739.17, 3739.18, 3739.99, 4112.31, and 17
4112.32 of the Revised Code be enacted to read as follows: 18

Sec. 3739.01. As used in this chapter: 19

(A) "Agent" means any person licensed by a county auditor or 20
the tax commissioner to purchase and affix adhesive or meter 21
stamps on packages of cigarettes pursuant to Chapter 5743. of the 22
Revised Code. 23

(B) "Brand family" means all styles of cigarettes sold under 24
the same trademark and differentiated from one another by means of 25
additional modifiers or descriptors, including, but not limited 26
to, "menthol," "lights," "kings," and "100s." "Brand family" 27
includes cigarettes sold under a brand name, whether that name is 28
used alone or in conjunction with any other word, trademark, logo, 29
symbol, motto, selling message, recognizable pattern of colors, or 30
other indicia of product identification identical or similar to, 31
or identifiable with, a previous brand of cigarettes. 32

(C) "Cigarettes" has the same meaning as in division (D)(1) 33
of section 1346.01 of the Revised Code but does not include 34
"roll-your-own" cigarettes as defined in division (D)(2) of that 35
section. 36

(D) "Manufacturer" means either of the following: 37

(1) Any entity or the entity's successor that, in any 38
location, manufactures or otherwise produces cigarettes, or causes 39
cigarettes to be manufactured or produced, that the entity intends 40
to be sold in this state, including, but not limited to, 41
cigarettes intended to be sold in the United States through an 42
importer; 43

(2) Any entity or the entity's successor that meets both of 44
the following criteria: 45

(a) Purchases cigarettes, in any location, from a second entity that manufactures or otherwise produces cigarettes in any location when that second entity does not intend that the cigarettes it manufactures be sold in the United States; 46
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(b) Intends to resell the cigarettes described in division (D)(2)(a) of this section in the United States. 50
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(E) "Repeatability" means the range of values within which ninety-five per cent of the results of cigarette test trials from a single laboratory will fall. 52
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(F) "Retail dealer" has the same meaning as in division (C)(1) of section 5743.01 of the Revised Code. 55
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(G) "Quality control and quality assurance program" means the procedures a laboratory implements to ensure both of the following: 57
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(1) Operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect cigarette test results. 60
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(2) Testing repeatability remains within the required repeatability values for all test trials used by the laboratory to certify cigarettes in accordance with this chapter and is not greater than 0.19. 63
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(H) "Sale" has the same meaning as in section 5743.01 of the Revised Code. 67
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(I) "Wholesale dealer" means either of the following persons: 69

(1) A person, other than a manufacturer, who sells cigarettes to retail dealers or other persons for purposes of resale; 70
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(2) A person who owns, operates, or maintains one or more cigarette vending machines upon premises owned or occupied by any other person. 72
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Sec. 3739.02. Except as otherwise permitted in section 3739.12 of the Revised Code, no person shall sell or offer to sell cigarettes in this state or sell or offer to sell cigarettes to persons located in this state unless all of the following requirements are met: 75
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(A) The manufacturer of the cigarettes has the cigarettes tested in accordance with the testing method specified in section 3739.03 of the Revised Code or the testing method approved by the state fire marshal under section 3739.04 of the Revised Code. 80
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(B) The cigarettes meet the performance standard specified under division (B) of section 3739.03 of the Revised Code or the performance standard approved by the state fire marshal under section 3739.04 of the Revised Code. 84
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(C) The manufacturer has marked the packaging of the cigarettes as required in section 3739.06 of the Revised Code. 88
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(D) The manufacturer files a written certification with the state fire marshal as required under section 3739.07 of the Revised Code. 90
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Sec. 3739.03. (A) A manufacturer shall have a laboratory conduct the testing required under division (B) of this section. The laboratory that the manufacturer uses for the testing shall be accredited pursuant to the international organization for standardization and international electrotechnical commission standard 17025 of the international organization for standardization, or another comparable accreditation standard required by the state fire marshal. The laboratory shall implement a quality control and quality assurance program and shall use that program when conducting the testing required under division (B) of this section. 93
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(B) A manufacturer shall have the laboratory described in 104

division (A) of this section test the manufacturer's cigarettes in 105
accordance with all of the following requirements: 106

(1) The laboratory shall test the cigarettes in accordance 107
with the American society of testing and materials standard 108
E2187-04, titled "standard test method for measuring ignition 109
strength of cigarettes" or any subsequent standard adopted by the 110
state fire marshal in accordance with division (E) of this 111
section. 112

(2) The laboratory shall test the cigarettes on ten layers of 113
filter paper. 114

(3) Not more than twenty-five per cent of the cigarettes 115
tested in a test trial shall exhibit full-length burns. 116

(C) The performance standard required under division (B)(3) 117
of this section shall apply only to a complete test trial. For 118
purposes of this division and division (B)(3) of this section, 119
"test trial" means forty replicate tests for each type of 120
cigarette tested. 121

(D) The requirements described in division (B) of this 122
section shall not be construed to require additional cigarette 123
testing if a manufacturer tests cigarettes in accordance with the 124
requirements listed in that division for any other purposes other 125
than the purposes specified in that division. 126

(E) The state fire marshal may adopt any American society of 127
testing and materials standard used to measure the ignition 128
strength of cigarettes that takes effect after the effective date 129
of this section if the state fire marshal determines that that 130
subsequent standard does not result in a change in the percentage 131
of full-length burns exhibited by any tested cigarette when 132
compared to the percentage of full-length burns the same cigarette 133
would exhibit when tested using the American society of testing 134
and materials standard E2187-04 referenced in division (B)(1) of 135

this section and the performance standard specified in division 136
(B)(3) of this section. 137

Sec. 3739.04. (A) If a manufacturer manufactures a cigarette 138
that the state fire marshal determines cannot be tested in 139
accordance with division (B) of section 3739.03 of the Revised 140
Code, the state fire marshal shall require the manufacturer to 141
propose and submit a test method and performance standard for the 142
cigarette to the state fire marshal for approval. If the state 143
fire marshal determines that the test method and performance 144
standard proposed by the manufacturer are equivalent to the test 145
method and performance standard prescribed in division (B) of 146
section 3739.03 of the Revised Code, the state fire marshal shall 147
approve the proposed test method and performance standard, and the 148
manufacturer may use that test method and performance standard to 149
certify the cigarettes pursuant to section 3739.07 of the Revised 150
Code. 151

(B) If the state fire marshal determines that another state 152
has enacted reduced cigarette ignition propensity standards that 153
include a test method and performance standard that are the same 154
as those specified in section 3739.03 of the Revised Code and that 155
the officials responsible for implementing those standards have 156
determined that the alternative test method and performance 157
standard for a particular cigarette proposed by the manufacturer 158
under division (A) of this section satisfies the standards for 159
that state's law or regulation under a statute or regulation that 160
is comparable to this section, the state fire marshal shall 161
authorize the manufacturer to use that alternative test method and 162
performance standard to certify the manufacturer's cigarettes for 163
sale in this state. The state fire marshal is not required to 164
approve an alternative test method and performance standard 165
approved in another state if the state fire marshal demonstrates a 166
reasonable basis for why that alternative test method and 167

performance standard should not be approved under this section. 168

All other applicable requirements of this chapter apply to a 169
manufacturer authorized to use an alternative test method and 170
performance standard under this section. 171

Sec. 3739.05. (A) Each manufacturer shall maintain copies of 172
the reports of all tests conducted on all cigarettes offered for 173
sale in this state for a period of three years after a test is 174
concluded, and shall make copies of these reports available to the 175
state fire marshal and the attorney general upon receipt of a 176
written request from the state fire marshal or attorney general. 177

(B) No manufacturer shall fail to make these copies available 178
to the state fire marshal or attorney general within sixty days 179
after receiving such a request from the state fire marshal or the 180
attorney general. 181

Sec. 3739.06. (A) A manufacturer, shall place a marking on 182
each package of cigarettes that is certified under section 3739.07 183
of the Revised Code. The marking shall be in eight-point type or 184
larger, permanently printed, stamped, engraved, or embossed upon 185
the cigarette package or cellophane wrap at or near the UPC code 186
on the package, and consist of only the letters "FSC" that shall 187
signify "fire standards compliant." 188

(B) A manufacturer shall include the approved mark on each 189
package of cigarettes that is certified under section 3739.07 of 190
the Revised Code to indicate compliance with the requirements of 191
this chapter. A manufacturer shall use such marking for all of the 192
cigarettes the manufacturer sells and shall apply the marking 193
uniformly to all packages, including, but not limited to, packs, 194
cartons, cases, and brands sold by that manufacturer. 195

Sec. 3739.07. (A) Each manufacturer shall submit to the state 196

fire marshal a written certification that each type of cigarette 197
listed in the certification has been tested in accordance with 198
division (B) of section 3739.03 or section 3739.04 of the Revised 199
Code and each type of cigarette listed in the certification meets 200
the performance standard set forth in division (B) of section 201
3739.03 of the Revised Code or approved under section 3739.04 of 202
the Revised Code. 203

(B) A manufacturer shall include in the written certification 204
the manufacturer submits under division (A) of this section all of 205
the following information for each type of cigarette listed in the 206
certification: 207

(1) The brand or trade name on the cigarette package; 208

(2) The style of cigarette; 209

(3) The length of the cigarette in millimeters; 210

(4) The circumference of the cigarette in millimeters; 211

(5) The flavor of the cigarette, if applicable; 212

(6) Whether the cigarette is filter or nonfilter; 213

(7) A description of the package; 214

(8) The marking the manufacturer uses that the state fire 215
marshal approved in accordance with section 3739.06 of the Revised 216
Code; 217

(9) The name, address, and telephone number of the 218
laboratory, if different than the manufacturer, that conducted the 219
test of the cigarette; 220

(10) The date that the testing of the cigarette occurred. 221

(C) A manufacturer shall make the written certification 222
required under division (A) of this section available to the 223
attorney general and the tax commissioner for the purposes of 224
ensuring compliance with this chapter. 225

(D) No manufacturer shall submit a false certification to the 226
state fire marshal. 227

Sec. 3739.08. Each cigarette a manufacturer lists in a 228
certification submitted pursuant to section 3739.07 of the Revised 229
Code for which the manufacturer uses lowered permeability bands in 230
the cigarette paper to comply with the testing requirements 231
described in division (B) of section 3739.03 of the Revised Code 232
shall have either of the following bands surrounding the tobacco 233
column: 234

(A) For cigarettes on which bands are not positioned by 235
design, at least two nominally identical bands, one of which shall 236
be located at least fifteen millimeters from the lighting end of 237
the cigarette; 238

(B) For cigarettes on which bands are positioned by design, 239
at least two bands, one of which is located at least fifteen 240
millimeters from the lighting end of the cigarette and the other 241
of which is located in either of following places: 242

(1) For filtered cigarettes, ten millimeters from the filter 243
end of the tobacco column; 244

(2) For nonfiltered cigarettes, ten millimeters from the 245
labeled end of the tobacco column. 246

Sec. 3739.09. A manufacturer shall recertify each cigarette 247
the manufacturer certifies pursuant to section 3739.07 of the 248
Revised Code every three years. A manufacturer that certifies a 249
cigarette in accordance with that section and that subsequently 250
makes any change to that cigarette that alters the cigarette in 251
such a way that the manufacturer knows that the cigarette is 252
likely to no longer meet the standard specified in section 3739.03 253
of the Revised Code or the standard approved under section 3739.04 254
of the Revised Code shall not sell or offer to sell that cigarette 255

in this state until the manufacturer retests the cigarette in 256
accordance with the testing standards specified in section 3739.03 257
of the Revised Code or approved under section 3739.04 of the 258
Revised Code. The manufacturer shall maintain records of that 259
retesting in the same manner as the manufacturer maintains records 260
under section 3739.05 of the Revised Code. A manufacturer shall 261
not sell in this state any altered cigarette that does not meet 262
either the performance standard set forth in division (B)(3) of 263
section 3739.03 of the Revised Code or the performance standard 264
approved under section 3739.04 of the Revised Code. 265

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Sec. 3739.10. A manufacturer that certifies its cigarettes in 267
accordance with section 3739.07 of the Revised Code shall provide 268
a copy of the certifications to each wholesale dealer and agent to 269
which the manufacturer sells cigarettes and shall provide 270
sufficient copies of an illustration of the package marking used 271
by the manufacturer pursuant to section 3739.06 of the Revised 272
Code for each retail dealer to which the wholesale dealer or agent 273
sells cigarettes. Each wholesale dealer and agent who receives a 274
copy of a manufacturer's certification and copies of the 275
manufacturer's illustration shall provide to each retail dealer to 276
which the wholesale dealer and agent sell the manufacturer's 277
cigarettes a copy of the illustration provided to the wholesale 278
dealer or agent by the manufacturer. A wholesale dealer, agent, or 279
retail dealer shall allow the state fire marshal, the tax 280
commissioner, and the attorney general to inspect the markings of 281
cigarette packaging marked in accordance with section 3739.06 of 282
the Revised Code. 283

Sec. 3739.11. The state fire marshal may conduct testing on 284
cigarettes certified by a manufacturer pursuant to section 3739.07 285

of the Revised Code to determine whether the manufacturer complied 286
with the requirements of this chapter. The state fire marshal 287
shall conduct any such testing in accordance with division (B) of 288
section 3739.03 of the Revised Code. 289

Whenever the state fire marshal or a designee of the state 290
fire marshal discovers any cigarettes that do not include a mark 291
as required under section 3739.06 of the Revised Code, or for 292
which no certification has been filed in accordance with section 293
3739.07 of the Revised Code, the state fire marshal or the state 294
fire marshal's designee may seize and take possession of such 295
cigarettes and shall give such cigarettes to the tax commissioner, 296
and such cigarettes thereupon shall be forfeited to the state. The 297
tax commissioner shall order the destruction of any cigarettes 298
forfeited pursuant to this section, but prior to the destruction 299
of any cigarette forfeited pursuant to this section, the true 300
holder of the trademark rights in the cigarette brand shall be 301
permitted to inspect the cigarette. 302

In addition to any other remedy provided by law, if the state 303
fire marshal or attorney general determines that reasonable 304
evidence exists that a violation of this chapter has occurred, the 305
state fire marshal or attorney general may file an action in the 306
court of common pleas in the county where the alleged violation 307
occurred. The action may include a petition for preliminary or 308
permanent injunctive relief against any manufacturer, importer, 309
wholesale dealer, retail dealer, agent, or any other person or 310
entity to enjoin such entity from selling, offering to sell, or 311
affixing tax stamps to any cigarette that does not comply with the 312
requirements of this chapter, or a claim to recover any costs or 313
damages suffered by the state because a violation of this chapter 314
occurred, including enforcement costs relating to the specific 315
violation and attorney's fees. Each violation of this chapter or 316
the rules adopted pursuant to it constitutes a separate civil 317

violation for which the state fire marshal may obtain relief. Upon 318
obtaining judgment for injunctive relief under this section, the 319
state fire marshal shall provide a copy of the judgment to all 320
wholesale dealers and agents to which the cigarette has been sold. 321

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To enforce the requirements of this chapter, the state fire 323
marshal may examine the books, papers, invoices, and other 324
business records of any person in possession or control of, or 325
occupying any premises where cigarettes are placed, stored, sold, 326
or offered for sale, including the stock of cigarettes on the 327
premises, if the state fire marshal reasonably suspects that a 328
violation of this chapter has occurred. Every person in the 329
possession or control of, or occupying any premises where 330
cigarettes are placed, sold, or offered for sale shall give to the 331
state fire marshal the means, facilities, and opportunity for the 332
examinations authorized under this section. 333

The tax commissioner, in the regular course of conducting 334
inspections of wholesale dealers, agents, and retail dealers, as 335
authorized under section 5743.14 of the Revised Code, may inspect 336
any cigarette packaging to determine if the package is marked as 337
required under section 3739.06 of the Revised Code. If a package 338
containing cigarettes is not marked, the tax commissioner shall 339
notify the state fire marshal of this fact. 340

Sec. 3739.12. (A) Nothing in this chapter shall be construed 341
to prohibit any person or entity from manufacturing or selling 342
cigarettes that do not meet the requirements specified in this 343
chapter if the cigarette's packaging is or will be stamped for 344
sale in another state or is packaged for sale outside of the 345
United States, and that person or entity has taken reasonable 346
steps to ensure that those cigarettes will not be sold or offered 347
for sale to persons located in this state. 348

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

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

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

(C) Nothing in this chapter shall be construed to prohibit the sale of cigarettes solely for the purpose of consumer testing. For purposes of this division, "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer or under the control and direction of a manufacturer for the purpose of evaluating consumer acceptance of such cigarettes, utilizing only the quantity of cigarettes that is reasonably necessary for such assessment.

Sec. 3739.13. The implementation and substance of the New York fire safety standards for cigarettes shall be persuasive authority in implementing this chapter. The state fire marshal and attorney general may adopt rules, pursuant to Chapter 119. of the Revised Code, as necessary to administer this chapter. The tax commissioner may adopt rules, pursuant to division (M) of section 5703.05 of the Revised Code and section 5703.14 of the Revised Code, as necessary to enforce this chapter.

Sec. 3739.14. The state fire marshal shall periodically evaluate the effectiveness of this chapter. The state fire marshal shall submit a report that consists of the state fire marshal's findings to the general assembly on the first day of the

forty-ninth month after the effective date of this section, and 379
every three years after that date. 380

Sec. 3739.15. Notwithstanding any provision of law to the 381
contrary, no political subdivision of this state may enact or 382
enforce any ordinance or other local law or regulation that 383
conflicts with or preempts this chapter or any policy of this 384
state expressed in this chapter. 385

Sec. 3739.16. No person is required to comply with this 386
chapter or the rules adopted pursuant to it if a federal reduced 387
cigarette ignition propensity standard that preempts this chapter 388
or rules adopted under it is adopted and becomes effective. 389

Sec. 3739.17. In addition to any other immunities, defenses, 390
and exclusions provided under the Revised Code, the state, the 391
department of taxation, the department of commerce, the division 392
of the fire marshal within the department of commerce, and any 393
employees of the state, either department, or the division, are 394
immune from liability in any civil action or proceeding arising 395
from the performance or nonperformance of any duties specified in 396
this chapter that the state, either department, the division, or 397
any employees of the state, either department, or division are 398
required to perform. In no event shall the state, either 399
department, division, or any employees of the state, either 400
department, or division be liable to any person for any claims for 401
injury or damages, including, but not limited to, claims for 402
indirect, consequential, incidental, special, or punitive damages 403
or claims for lost profits, arising from the performance or 404
nonperformance of the duties specified in this chapter that the 405
state, either department, division, or employees of the state, 406
either department, or division are required to perform. 407

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

(B) The state fire marshal may adjust the fee described in division (A) of this section annually to ensure the fee is sufficient to defray the actual costs of processing, testing, enforcing, and overseeing the activities required under this chapter. The fee as adjusted by the state fire marshal pursuant to this division shall not exceed two thousand five hundred dollars for each type of brand family.

(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.

(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. If the department of taxation has expenses for the storage or destruction of cigarettes as required by this chapter,

the state fire marshall also may use the fund to compensate the 439
department of taxation for those expenses. 440

Sec. 3739.99. (A) A manufacturer who violates division (B) of 441
section 3739.05 of the Revised Code shall be subject to a civil 442
penalty not to exceed ten thousand dollars for each day after the 443
sixtieth day that the manufacturer fails to comply with that 444
division. 445

(B) A manufacturer, wholesale dealer, agent, or any other 446
person other than a retail dealer who knowingly sells or offers to 447
sell cigarettes in violation of section 3739.02 of the Revised 448
Code is liable for a civil penalty not to exceed one hundred 449
dollars per each pack of such cigarettes sold or offered for sale, 450
provided that in no case shall the penalty against any such person 451
or entity exceed one hundred thousand dollars during any 452
thirty-day period. 453

(C) A retail dealer who knowingly violates section 3739.02 of 454
the Revised Code is liable for a civil penalty not to exceed one 455
hundred dollars per each pack of cigarettes sold or offered for 456
sale, provided that in no case shall the penalty against any 457
retail dealer exceed twenty-five thousand dollars for sales or 458
offers to sell during any thirty-day period. 459

(D) A manufacturer that is a corporation, partnership, sole 460
proprietorship, limited partnership, or association who knowingly 461
violates division (D) of section 3739.07 of the Revised Code is 462
liable for a civil penalty of at least seventy-five thousand 463
dollars, not to exceed two hundred fifty thousand dollars for each 464
such violation, in addition to any other penalty prescribed by 465
law. 466

(E) Any person who violates any provision of this chapter 467
other than section 3739.02, division (B) of section 3739.05, and 468
division (D) of section 3739.07 of the Revised Code, for a first 469

offense is liable for a civil penalty not to exceed one thousand 470
dollars for each violation and for a subsequent offense is liable 471
for a civil penalty not to exceed five thousand dollars for each 472
violation. 473

Sec. 4112.31. The new African immigrants commission shall do 474
all of the following: 475

(A) Gather and disseminate information and conduct hearings, 476
conferences, investigations, and special studies on problems and 477
programs concerning sub-Saharan African people; 478

(B) Secure appropriate recognition of the accomplishments and 479
contributions of sub-Saharan African people to this state; 480

(C) Stimulate public awareness of the problems of sub-Saharan 481
African people by conducting a program of public education; 482

(D) Develop, coordinate, and assist other public and private 483
organizations that serve sub-Saharan African people, including the 484
conducting of training programs for community leadership and 485
service project staff; 486

(E) Advise the governor, general assembly, and state 487
departments and agencies of the nature, magnitude, and priorities 488
of the problems of sub-Saharan African people; 489

(F) Advise the governor, general assembly, and state 490
departments and agencies on, and assist in the development and 491
implementation of, comprehensive and coordinated policies, 492
programs, and procedures focusing on the special problems and 493
needs of sub-Saharan African people, especially in the fields of 494
education, employment, energy, health, housing, welfare, and 495
recreation; 496

(G) Propose new programs concerning sub-Saharan African 497
people to public and private agencies and evaluate for such 498
agencies existing programs or prospective legislation concerning 499

<u>sub-Saharan African people;</u>	500
<u>(H) Review and approve grants to be made from federal, state, or private funds that are administered or subcontracted by the commission;</u>	501 502 503
<u>(I) Prepare, review, and approve an annual report;</u>	504
<u>(J) Serve as a clearinghouse to review and comment on all proposals to meet the needs of sub-Saharan African people that are submitted to it by public and private agencies;</u>	505 506 507
<u>(K) Apply for and accept grants and gifts from governmental and private sources to be administered by the commission or subcontracted to local agencies;</u>	508 509 510
<u>(L) Monitor and evaluate all programs subcontracted to local agencies by the commission;</u>	511 512
<u>(M) Endeavor to assure that sub-Saharan African people have access to decision-making bodies in all state and local governmental departments and agencies;</u>	513 514 515
<u>(N) Establish advisory committees on special subjects as needed to facilitate and maximize community participation in the operation of the commission;</u>	516 517 518
<u>(O) Establish with state and local governments and private business and industry relationships that promote and assure equal opportunity for sub-Saharan African people in government, education, and employment.</u>	519 520 521 522
<u>(P) Create an interagency council consisting of the following persons or their authorized representatives: one member of the senate appointed by the president of the senate; one member of the house of representatives appointed by the speaker of the house of representatives; the directors of administrative services, agriculture, education, development, health, highway safety, job and family services, liquor control, mental health, mental</u>	523 524 525 526 527 528 529

retardation and developmental disabilities, natural resources, 530
rehabilitation and correction, youth services, transportation, 531
environmental protection, and budget and management; the 532
chairperson of the Ohio civil rights commission, the 533
administrators of the bureau of workers' compensation and the 534
rehabilitation services commission, and an additional member of 535
the governor's cabinet appointed by the governor. The new African 536
immigrants commission, by rule, may designate other state officers 537
or their representatives to be members of the council. The 538
director of the commission shall be the chairperson of the 539
council. 540

The interagency council shall provide and coordinate the 541
exchange of information relative to the needs of sub-Saharan 542
African people and promote the delivery of state services to such 543
people. The council shall meet at the call of the chairperson. 544

Advisory committees shall be composed of persons representing 545
community organizations and charitable institutions, public 546
officials, and such other persons as the commission determines. 547

Sec. 4112.32. There is hereby created the new African 548
immigrants commission consisting of eleven members appointed by 549
the governor with the advice and consent of the senate. The 550
speaker of the house of representatives shall recommend to the 551
governor two persons for appointment to the commission, the 552
president of the senate shall recommend to the governor two such 553
persons, and the minority leaders of the house and senate shall 554
each recommend to the governor one such person. The governor shall 555
make initial appointments to the commission. Of the initial 556
appointments made to the commission, three shall be for a term 557
ending October 7, 2009, four shall be for a term ending October 7, 558
2010, and four shall be for a term ending October 7, 2011. 559
Thereafter, terms of office shall be for three years, each term 560

ending on the same day of the same month of the year as did the 561
term which it succeeds. Each member shall hold office from the 562
date of appointment until the end of the term for which the member 563
was appointed. Vacancies shall be filled in the same manner as the 564
original appointment. Any member appointed to fill a vacancy 565
occurring prior to the expiration of the term for which the 566
member's predecessor was appointed shall hold office for the 567
remainder of such term. Any member shall continue in office 568
subsequent to the expiration date of the member's term until the 569
member's successor takes office, or until a period of sixty days 570
has elapsed, whichever occurs first. At the first organizational 571
meeting of the commission, the original eleven members shall draw 572
lots to determine the length of the term each member shall serve. 573

All members of the commission shall be of sub-Saharan African 574
origin, and shall be American citizens or lawful, permanent, 575
resident aliens. Members shall be from urban, suburban, and rural 576
geographical areas representative of sub-Saharan African people 577
with a numerical and geographical balance of the sub-Saharan 578
African population throughout the state. 579

The commission shall elect a chairperson, vice-chairperson, 580
and other officers from among its members as it considers 581
advisable. Six members constitute a quorum. The commission shall 582
adopt rules governing its procedures. No action of the commission 583
is valid without the concurrence of six members. 584

Members shall not be compensated for work as members of the 585
commission. 586

Sec. 5743.08. Whenever the tax commissioner discovers any 587
cigarettes which are being shipped, or which have been shipped, or 588
transported in violation of section 2927.023 of the Revised Code, 589
or discovers cigarettes, subject to the taxes levied under section 590
5743.02, 5743.021, 5743.024, or 5743.026 of the Revised Code, and 591

upon which the taxes have not been paid or that are held for sale 592
or distribution in violation of any other provision of this 593
chapter, the commissioner may seize and take possession of such 594
cigarettes, which shall thereupon be forfeited to the state, and 595
the commissioner, within a reasonable time thereafter shall sell 596
or destroy the forfeited cigarettes. If the commissioner takes 597
possession of cigarettes seized pursuant to section 3739.11 of 598
the Revised Code, such cigarettes shall be forfeited to the state, 599
and the commissioner shall destroy such cigarettes, except prior 600
to the destruction of any such cigarettes, the true holder of the 601
trademark rights in the cigarette brand shall be permitted to 602
inspect the cigarettes. If the commissioner sells cigarettes under 603
this section, the commissioner shall use proceeds from the sale to 604
pay the costs incurred in the proceedings. Any proceeds remaining 605
after all costs have been paid shall be considered revenue arising 606
from the taxes levied under this chapter. Seizure and sale shall 607
not be deemed to relieve any person from the fine or imprisonment 608
provided for violation of sections 5743.01 to 5743.20 of the 609
Revised Code or from a civil penalty under section 3739.99 of the 610
Revised Code. A sale shall be made where it is most convenient and 611
economical. The tax commissioner may order the destruction of the 612
forfeited cigarettes if the quantity or quality of the cigarettes 613
is not sufficient to warrant their sale. 614

Sec. 5703.21. (A) Except as provided in divisions (B) and (C) 615
of this section, no agent of the department of taxation, except in 616
the agent's report to the department or when called on to testify 617
in any court or proceeding, shall divulge any information acquired 618
by the agent as to the transactions, property, or business of any 619
person while acting or claiming to act under orders of the 620
department. Whoever violates this provision shall thereafter be 621
disqualified from acting as an officer or employee or in any other 622
capacity under appointment or employment of the department. 623

624

(B)(1) For purposes of an audit pursuant to section 117.15 of 625
the Revised Code, or an audit of the department pursuant to 626
Chapter 117. of the Revised Code, or an audit, pursuant to that 627
chapter, the objective of which is to express an opinion on a 628
financial report or statement prepared or issued pursuant to 629
division (A)(7) or (9) of section 126.21 of the Revised Code, the 630
officers and employees of the auditor of state charged with 631
conducting the audit shall have access to and the right to examine 632
any state tax returns and state tax return information in the 633
possession of the department to the extent that the access and 634
examination are necessary for purposes of the audit. Any 635
information acquired as the result of that access and examination 636
shall not be divulged for any purpose other than as required for 637
the audit or unless the officers and employees are required to 638
testify in a court or proceeding under compulsion of legal 639
process. Whoever violates this provision shall thereafter be 640
disqualified from acting as an officer or employee or in any other 641
capacity under appointment or employment of the auditor of state. 642

(2) For purposes of an internal audit pursuant to section 643
126.45 of the Revised Code, the officers and employees of the 644
office of internal auditing in the office of budget and management 645
charged with conducting the internal audit shall have access to 646
and the right to examine any state tax returns and state tax 647
return information in the possession of the department to the 648
extent that the access and examination are necessary for purposes 649
of the internal audit. Any information acquired as the result of 650
that access and examination shall not be divulged for any purpose 651
other than as required for the internal audit or unless the 652
officers and employees are required to testify in a court or 653
proceeding under compulsion of legal process. Whoever violates 654
this provision shall thereafter be disqualified from acting as an 655

officer or employee or in any other capacity under appointment or 656
employment of the office of internal auditing. 657

(3) As provided by section 6103(d)(2) of the Internal Revenue 658
Code, any federal tax returns or federal tax information that the 659
department has acquired from the internal revenue service, through 660
federal and state statutory authority, may be disclosed to the 661
auditor of state or the office of internal auditing solely for 662
purposes of an audit of the department. 663

(4) For purposes of Chapter 3739. of the Revised Code, an 664
agent of the department of taxation may share information with the 665
division of state fire marshal that the agent finds during the 666
course of an investigation. 667

(C) Division (A) of this section does not prohibit any of the 668
following: 669

(1) Divulging information contained in applications, 670
complaints, and related documents filed with the department under 671
section 5715.27 of the Revised Code or in applications filed with 672
the department under section 5715.39 of the Revised Code; 673

(2) Providing information to the office of child support 674
within the department of job and family services pursuant to 675
section 3125.43 of the Revised Code; 676

(3) Disclosing to the board of motor vehicle collision repair 677
registration any information in the possession of the department 678
that is necessary for the board to verify the existence of an 679
applicant's valid vendor's license and current state tax 680
identification number under section 4775.07 of the Revised Code; 681

(4) Providing information to the administrator of workers' 682
compensation pursuant to sections 4123.271 and 4123.591 of the 683
Revised Code; 684

(5) Providing to the attorney general information the 685

department obtains under division (J) of section 1346.01 of the Revised Code;

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

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

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

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

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

(11) Subject to section 4301.441 of the Revised Code, disclosing to the appropriate state agency information in the possession of the department of taxation that is necessary to verify a permit holder's gallonage or noncompliance with taxes levied under Chapter 4301. or 4305. of the Revised Code.

(12) Disclosing to the department of natural resources information in the possession of the department that is necessary to verify the taxpayer's compliance with division (A)(1), (8), or

(9) of section 5749.02 of the Revised Code. 717

Section 2. That existing sections 5703.21 and 5743.08 of the 718
Revised Code are hereby repealed. 719

Section 3. Division (B) of section 3739.05, division (D) of 720
section 3739.07, and sections 3739.02, 3739.09, 3739.11, 3739.12, 721
and 3739.99 of the Revised Code, as enacted by this act, shall 722
take effect on the first day of the thirteenth month after the 723
effective date of this act. 724

Section 4. Section 5703.21 of the Revised Code is presented 725
in this act as a composite of the section as amended by both Am. 726
Sub. H.B. 562 and Sub. S.B. 150 of the 127th General Assembly. The 727
General Assembly, applying the principle stated in division (B) of 728
section 1.52 of the Revised Code that amendments are to be 729
harmonized if reasonably capable of simultaneous operation, finds 730
that the composite is the resulting version of the section in 731
effect prior to the effective date of the section as presented in 732
this act. 733