

As Introduced

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Representative Evans

**Cosponsors: Representatives Huffman, Wagner, Mecklenborg, Stebelton,
Fende**

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A B I L L

To amend sections 3717.05, 3717.45, 3717.47, and 1
3781.10 of the Revised Code to eliminate 2
duplicative fees for inspections of the facility 3
layout and equipment of relocated food service 4
operations. 5

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

Section 1. That sections 3717.05, 3717.45, 3717.47, and 6
3781.10 of the Revised Code be amended to read as follows: 7

Sec. 3717.05. (A) The director of agriculture and the public 8
health council shall adopt rules establishing standards for safe 9
food handling and sanitation in retail food establishments and 10
food service operations. The rules shall be compiled as the Ohio 11
uniform food safety code, which shall be used by the licensors of 12
retail food establishments and food service operations in ensuring 13
the safe handling of food in this state. All scientific provisions 14
of the Ohio uniform food safety code that are relevant to both 15
retail food establishments and food service operations shall be 16
adopted by the director of agriculture and the public health 17
council with each other's concurrence. 18

The Ohio uniform food safety code shall include the following: 19
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(1) Criteria for sanitation in retail food establishments and food service operations; 21
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(2) Criteria for equipment in retail food establishments and food service operations; 23
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(3) Criteria for reviewing the facility layout and equipment specifications of retail food establishments and food service operations, but the criteria shall not be used to disapprove the facility layout and equipment of a food service operation described in division (A)(2) of section 3717.47 of the Revised Code; 25
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(4) A definition of "potentially hazardous" as it pertains to food in retail food establishments and to food in food service operations; 31
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(5) Criteria to be used in evaluating the primary business of a person or government entity for purposes of determining whether the person or entity should be licensed as a retail food establishment or food service operation. 34
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(B)(1) Except as provided in division (B)(2) of this section, if a model food code is established by the United States food and drug administration, the Ohio uniform food safety code shall be based on the most current version of the food and drug administration's model food code. If the food and drug administration adopts, modifies, or rescinds a provision in the model food code, not later than twelve months after the administration's action, the director of agriculture and public health council shall adopt, amend, or rescind provisions in the Ohio uniform food safety code to ensure that it continues to conform with the model food code. 38
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(2) The Ohio uniform food safety code may contain or omit 49

provisions that do not correspond to the food and drug 50
administration's model food code if the director of agriculture or 51
the public health council, with each other's concurrence, 52
determines either of the following: 53

(a) That rules can be adopted under this chapter that provide 54
protection at least as effective as that which would be provided 55
by basing the rules on the model food code; 56

(b) That local conditions warrant the adoption of standards 57
that are different from the model food code. 58

Sec. 3717.45. (A) A licensor may charge fees for issuing and 59
renewing food service operation licenses. Any licensing fee 60
charged shall be used solely for the administration and 61
enforcement of the provisions of this chapter and the rules 62
adopted under it applicable to food service operations. 63

Any licensing fee charged under this section shall be based 64
on the licensor's costs of regulating food service operations, as 65
determined according to the uniform methodologies established 66
under section 3717.07 of the Revised Code. If the licensor is a 67
board of health, a fee may be disapproved by the district advisory 68
council in the case of a general health district or the 69
legislative authority of the city in the case of a city health 70
district. A disapproved fee shall not be charged by the board of 71
health. 72

At least thirty days prior to establishing a licensing fee, 73
the licensor shall hold a public hearing regarding the proposed 74
fee. At least thirty days prior to the public hearing, the 75
licensor shall give written notice of the hearing to each person 76
or government entity holding a food service operation license that 77
may be affected by the proposed fee. The notice shall be mailed to 78
the last known address of the licensee and shall specify the date, 79
time, and place of the hearing and the amount of the proposed fee. 80

On request, the licensor shall provide the completed uniform 81
methodology used in the calculation of the licensor's costs and 82
the proposed fee. 83

(B) In addition to licensing fees, a licensor may charge fees 84
for the following: 85

(1) Review of facility layout and equipment specifications 86
pertaining to food service operations, other than mobile and 87
temporary food service operations, or similar reviews conducted 88
for vending machine locations, but a licensor may not charge a fee 89
for inspecting or reviewing the facility layout and equipment of a 90
food service operation described in division (A)(2) of section 91
3717.47 of the Revised Code; 92

(2) Any necessary collection and bacteriological examination 93
of samples from food service operations, or similar services 94
specified in rules adopted under this chapter by the public health 95
council; 96

(3) Attendance at a course of study offered by the licensor 97
in food protection as it pertains to food service operations, if 98
the course is approved under section 3717.09 of the Revised Code. 99

(C) The public health council may determine by rule an amount 100
to be collected from applicants for food service operation 101
licenses for use by the director of health in administering and 102
enforcing the provisions of this chapter and the rules adopted 103
under it applicable to food service operations. Licensors shall 104
collect the amount prior to issuing an applicant's new or renewed 105
license. If a licensing fee is charged under this section, the 106
licensor shall collect the amount at the same time the fee is 107
collected. Licensors are not required to provide notice or hold 108
public hearings regarding amounts collected under this division. 109

Not later than sixty days after the last day of the month in 110
which a license is issued, the licensor shall certify the amount 111

collected under this division and transmit the amount to the 112
treasurer of state. All amounts received shall be deposited into 113
the general operations fund created in section 3701.83 of the 114
Revised Code. The director shall use the amounts solely for the 115
administration and enforcement of the provisions of this chapter 116
and the rules adopted under it applicable to food service 117
operations. 118

The director may submit recommendations to the public health 119
council regarding the amounts collected under this division. When 120
making recommendations, the director shall submit a report stating 121
the current and projected expenses of administering and enforcing 122
the provisions of this chapter and the rules adopted under it 123
applicable to food service operations and the total of all amounts 124
that have been deposited in the general operations fund pursuant 125
to this division. The director may include in the report any 126
recommendations for modifying the department's administration and 127
enforcement of the provisions of this chapter and the rules 128
adopted under it applicable to food service operations. 129

Sec. 3717.47. (A)(1) All inspections of food service 130
operations conducted by a licensor under this chapter shall be 131
conducted according to the procedures and schedule of frequency 132
specified in rules adopted under section 3717.51 of the Revised 133
Code. An inspection may be performed only by an individual 134
registered as a sanitarian or sanitarian-in-training under Chapter 135
4736. of the Revised Code. Each inspection shall be recorded on a 136
form prescribed and furnished by the director of health or a form 137
approved by the director that has been prescribed by a board of 138
health acting as licensor. With the assistance of the director, a 139
board acting as licensor, to the extent practicable, shall 140
computerize the inspection process and shall standardize the 141
manner in which its inspections are conducted. 142

(2) If a licensor inspects the facility layout and equipment of a food service operation that has been relocated, the food service operation license of which has been transferred and the business objectives of which at the new location are not different from the business objectives of which at the former location, the licensor shall do so in accordance with the rules adopted under division (A)(1) of section 3781.10 of the Revised Code, and may not charge a fee for the inspection.

(B) A person or government entity holding a food service operation license shall permit the licensor to inspect the food service operation for purposes of determining compliance with this chapter and the rules adopted under it or investigating a complaint regarding foodborne disease. On request of the licensor, the license holder shall permit the licensor to examine the records of the food service operation to obtain information about the purchase, receipt, or use of food, supplies, and equipment.

A licensor may inspect any mobile food service operation or catering food service operation being operated within the licensor's district. If an inspection of a mobile or catering food service operation is conducted by a licensor other than the licensor that issued the license for the operation, a report of the inspection shall be sent to the issuing licensor. The issuing licensor may use the inspection report to suspend or revoke the license under section 3717.49 of the Revised Code.

(C) An inspection may include an investigation to determine the identity and source of a particular food.

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 174
equipment, the inspection of the facility layout and equipment of 175
food service operations described in division (A)(2) of section 176
3717.47 of the Revised Code, and the standards or requirements for 177
materials used in connection with those buildings. The board shall 178
incorporate those rules into separate residential and 179
nonresidential building codes. The standards shall relate to the 180
conservation of energy and the safety and sanitation of those 181
buildings. 182

(2) The rules governing nonresidential buildings are the 183
lawful minimum requirements specified for those buildings and 184
industrialized units, except that no rule other than as provided 185
in division (C) of section 3781.108 of the Revised Code that 186
specifies a higher requirement than is imposed by any section of 187
the Revised Code is enforceable. The rules governing residential 188
buildings are uniform requirements for residential buildings in 189
any area with a building department certified to enforce the state 190
residential building code. In no case shall any local code or 191
regulation differ from the state residential building code unless 192
that code or regulation addresses subject matter not addressed by 193
the state residential building code or is adopted pursuant to 194
section 3781.01 of the Revised Code. 195

(3) The rules adopted pursuant to this section are complete, 196
lawful alternatives to any requirements specified for buildings or 197
industrialized units in any section of the Revised Code. The board 198
shall, on its own motion or on application made under sections 199
3781.12 and 3781.13 of the Revised Code, formulate, propose, 200
adopt, modify, amend, or repeal the rules to the extent necessary 201
or desirable to effectuate the purposes of sections 3781.06 to 202
3781.18 of the Revised Code. 203

(B) The board shall report to the general assembly proposals 204
for amendments to existing statutes relating to the purposes 205

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. Those certified to make inspections shall inspect the facility layout and equipment of food service operations described in division (A)(2) of section 3717.47 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 271
and nonresidential building code enforcement, which shall be 272
consistent with this division. The requirements for residential 273
and nonresidential certification may differ. Except as otherwise 274
provided in this division, the requirements shall include, but are 275
not limited to, the satisfactory completion of an initial 276
examination and, to remain certified, the completion of a 277
specified number of hours of continuing building code education 278
within each three-year period following the date of certification 279
which shall be not less than thirty hours. The rules shall provide 280
that continuing education credits and certification issued by the 281
council of American building officials, national model code 282
organizations, and agencies or entities the board recognizes are 283
acceptable for purposes of this division. The rules shall specify 284
requirements that are compatible, to the extent possible, with 285
requirements the council of American building officials and 286
national model code organizations establish. 287

(4) The board shall establish and collect a certification and 288
renewal fee for building department personnel, and persons and 289
employees of persons, firms, or corporations as described in this 290
section, who are certified pursuant to this division. 291

(5) Any individual certified pursuant to this division shall 292
complete the number of hours of continuing building code education 293
that the board requires or, for failure to do so, forfeit 294
certification. 295

(6) This division does not require or authorize the board to 296
certify personnel of municipal, township, and county building 297
departments, and persons and employees of persons, firms, or 298
corporations as described in this section, whose responsibilities 299
do not include the exercise of enforcement authority, the approval 300
of plans and specifications, or making inspections under the state 301
residential and nonresidential building codes. 302

(7) Enforcement authority for approval of plans and 303
specifications and enforcement authority for inspections may be 304
exercised, and plans and specifications may be approved and 305
inspections may be made on behalf of a municipal corporation, 306
township, or county, by any of the following who the board of 307
building standards certifies: 308

(a) Officers or employees of the municipal corporation, 309
township, or county; 310

(b) Persons, or employees of persons, firms, or corporations, 311
pursuant to a contract to furnish architectural, engineering, or 312
other services to the municipal corporation, township, or county; 313

(c) Officers or employees of, and persons under contract 314
with, a municipal corporation, township, county, health district, 315
or other political subdivision, pursuant to a contract to furnish 316
architectural, engineering, or other services. 317

(8) Municipal, township, and county building departments have 318
jurisdiction within the meaning of sections 3781.03, 3791.04, and 319
4104.43 of the Revised Code, only with respect to the types of 320
buildings and subject matters for which they are certified under 321
this section. 322

(9) Certification shall be granted upon application by the 323
municipal corporation, the board of township trustees, or the 324
board of county commissioners and approval of that application by 325
the board of building standards. The application shall set forth: 326

(a) Whether the certification is requested for residential or 327
nonresidential buildings, or both; 328

(b) The number and qualifications of the staff composing the 329
building department; 330

(c) The names, addresses, and qualifications of persons, 331
firms, or corporations contracting to furnish work or services 332

pursuant to division (E)(7)(b) of this section; 333

(d) The names of any other municipal corporation, township, 334
county, health district, or political subdivision under contract 335
to furnish work or services pursuant to division (E)(7) of this 336
section; 337

(e) The proposed budget for the operation of the building 338
department. 339

(10) The board of building standards shall adopt rules 340
governing all of the following: 341

(a) The certification of building department personnel and 342
persons and employees of persons, firms, or corporations 343
exercising authority pursuant to division (E)(7) of this section. 344
The rules shall disqualify any employee of the department or 345
person who contracts for services with the department from 346
performing services for the department when that employee or 347
person would have to pass upon, inspect, or otherwise exercise 348
authority over any labor, material, or equipment the employee or 349
person furnishes for the construction, alteration, or maintenance 350
of a building or the preparation of working drawings or 351
specifications for work within the jurisdictional area of the 352
department. The department shall provide other similarly qualified 353
personnel to enforce the residential and nonresidential building 354
codes as they pertain to that work. 355

(b) The minimum services to be provided by a certified 356
building department. 357

(11) The board of building standards may revoke or suspend 358
certification to enforce the residential and nonresidential 359
building codes, on petition to the board by any person affected by 360
that enforcement or approval of plans, or by the board on its own 361
motion. Hearings shall be held and appeals permitted on any 362
proceedings for certification or revocation or suspension of 363

certification in the same manner as provided in section 3781.101 364
of the Revised Code for other proceedings of the board of building 365
standards. 366

(12) Upon certification, and until that authority is revoked, 367
any county or township building department shall enforce the 368
residential and nonresidential building codes for which it is 369
certified without regard to limitation upon the authority of 370
boards of county commissioners under Chapter 307. of the Revised 371
Code or boards of township trustees under Chapter 505. of the 372
Revised Code. 373

(F) In addition to hearings sections 3781.06 to 3781.18 and 374
3791.04 of the Revised Code require, the board of building 375
standards shall make investigations and tests, and require from 376
other state departments, officers, boards, and commissions 377
information the board considers necessary or desirable to assist 378
it in the discharge of any duty or the exercise of any power 379
mentioned in this section or in sections 3781.06 to 3781.18, 380
3791.04, and 4104.43 of the Revised Code. 381

(G) The board shall adopt rules and establish reasonable fees 382
for the review of all applications submitted where the applicant 383
applies for authority to use a new material, assembly, or product 384
of a manufacturing process. The fee shall bear some reasonable 385
relationship to the cost of the review or testing of the 386
materials, assembly, or products and for the notification of 387
approval or disapproval as provided in section 3781.12 of the 388
Revised Code. 389

(H) The residential construction advisory committee shall 390
provide the board with a proposal for a state residential building 391
code that the committee recommends pursuant to division (C)(1) of 392
section 4740.14 of the Revised Code. Upon receiving a 393
recommendation from the committee that is acceptable to the board, 394
the board shall adopt rules establishing that code as the state 395

residential building code. 396

(I) The board shall cooperate with the director of job and 397
family services when the director promulgates rules pursuant to 398
section 5104.05 of the Revised Code regarding safety and 399
sanitation in type A family day-care homes. 400

(J) The board shall adopt rules to implement the requirements 401
of section 3781.108 of the Revised Code. 402

Section 2. That existing sections 3717.05, 3717.45, 3717.47, 403
and 3781.10 of the Revised Code are hereby repealed. 404