

**As Introduced**

**129th General Assembly  
Regular Session  
2011-2012**

**S. B. No. 372**

**Senator Brown**

**Cosponsors: Senators Cafaro, Gentile, Kearney, Lehner, Sawyer, Skindell,  
Smith, Schiavoni, Tavares, Turner**

—

**A B I L L**

To amend sections 3313.813, 3715.52, 3717.22, 1  
3717.42, and 5104.051 and to enact sections 2  
3327.18 and 3717.60 of the Revised Code to require 3  
school districts to allow alternative summer meal 4  
sponsors to use school facilities to provide food 5  
service for summer intervention services 6  
regardless of financial reasons if at least half 7  
of the students are federally eligible for free 8  
lunches, to allow the distribution and consumption 9  
of meals on a school bus, and to create a healthy 10  
food license for child day-care centers and school 11  
child programs. 12

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

**Section 1.** That sections 3313.813, 3715.52, 3717.22, 3717.42, 13  
and 5104.051 be amended and sections 3327.18 and 3717.60 of the 14  
Revised Code be enacted to read as follows: 15

**Sec. 3313.813.** (A) As used in this section: 16

(1) "Outdoor education center" means a public or nonprofit 17  
private entity that provides to pupils enrolled in any public or 18

chartered nonpublic elementary or secondary school an outdoor 19  
educational curriculum that the school considers to be part of its 20  
educational program. 21

(2) "Outside-school-hours care center" has the meaning 22  
established in 7 C.F.R. 226.2. 23

(B) The state board of education shall establish standards 24  
for a school lunch program, school breakfast program, child and 25  
adult care food program, special food service program for 26  
children, summer food service program for children, special milk 27  
program for children, food service equipment assistance program, 28  
and commodity distribution program established under the "National 29  
School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as 30  
amended, and the "Child Nutrition Act of 1966," 80 Stat. 885, 42 31  
U.S.C. 1771, as amended. Any board of education of a school 32  
district, nonprofit private school, outdoor education center, 33  
child care institution, outside-school-hours care center, or 34  
summer camp desiring to participate in such a program or required 35  
to participate under this section shall, if eligible to 36  
participate under the "National School Lunch Act," as amended, or 37  
the "Child Nutrition Act of 1966," as amended, make application to 38  
the state board of education for assistance. The board shall 39  
administer the allocation and distribution of all state and 40  
federal funds for these programs. 41

(C) The state board of education shall require the board of 42  
education of each school district to establish and maintain a 43  
school breakfast, lunch, and summer food service program pursuant 44  
to the "National School Lunch Act" and the "Child Nutrition Act of 45  
1966," as described in divisions (C)(1) to (4) of this section. 46

(1) The state board shall require the board of education in 47  
each school district to establish a breakfast program in every 48  
school where at least one-fifth of the pupils in the school are 49  
eligible under federal requirements for free breakfasts and to 50

establish a lunch program in every school where at least one-fifth of the pupils are eligible for free lunches. The board of education required to establish a breakfast program under this division may make a charge in accordance with federal requirements for each reduced price breakfast or paid breakfast to cover the cost incurred in providing that meal.

(2) The state board shall require the board of education in each school district to establish a breakfast program in every school in which the parents of at least one-half of the children enrolled in the school have requested that the breakfast program be established. The board of education required to establish a program under this division may make a charge in accordance with federal requirements for each meal to cover all or part of the costs incurred in establishing such a program.

(3) The state board shall require the board of education in each school district to establish one of the following for summer intervention services described in division (D) of section 3301.0711 and section 3313.608 of the Revised Code and any other summer intervention program required by law:

(a) An extension of the school breakfast program pursuant to the "National School Lunch Act" and the "Child Nutrition Act of 1966";

(b) An extension of the school lunch program pursuant to those acts;

(c) A summer food service program pursuant to those acts.

(4)(a) If the board of education of a school district determines that, for financial reasons, it cannot comply with division (C)(1) or (3) of this section, the district board may choose not to comply with either or both divisions, except as provided in ~~division~~ divisions (C)(4)(b) and (c) of this section. The district board publicly shall communicate to the residents of

the district, in the manner it determines appropriate, its 82  
decision not to comply. 83

(b) If a district board chooses not to comply with division 84  
(C)(1) of this section, the state board nevertheless shall require 85  
the district board to establish a breakfast program in every 86  
school where at least one-third of the pupils in the school are 87  
eligible under federal requirements for free breakfasts and to 88  
establish a lunch program in every school where at least one-third 89  
of the pupils are eligible for free lunches. The district board 90  
may make a charge in accordance with federal requirements for each 91  
reduced price breakfast or paid breakfast to cover the cost 92  
incurred in providing that meal. 93

(c) If the board of education of a school district chooses 94  
not to comply with division (C)(3) of this section, the state 95  
board nevertheless shall require the district board to permit an 96  
alternative summer meal sponsor to use school facilities located 97  
in a school building attendance area where at least one-half of 98  
the pupils are eligible for free lunches. 99

The state board shall provide each district with a list of 100  
approved alternative summer meal sponsors that may use school 101  
facilities under this division. 102

Subject to the provisions of sections 3313.75 and 3313.77 of 103  
the Revised Code, a school district may charge the summer meal 104  
sponsor a reasonable fee for the use of school facilities that may 105  
include the actual cost of custodial services and a prorated share 106  
of the utility costs as determined by the district. A school 107  
district also may require the summer meal sponsor to indemnify and 108  
hold harmless the district from any potential liability resulting 109  
from the operation of an alternative summer meal program under 110  
this division. 111

(d) If a school district cannot for good cause comply with 112

the requirements of division (C)(2) or (4)(b) or (c) of this 113  
section at the time the state board determines that a district is 114  
subject to these requirements, the state board shall grant a 115  
reasonable extension of time. Good cause for an extension of time 116  
shall include, but need not be limited to, economic impossibility 117  
of compliance with the requirements at the time the state board 118  
determines that a district is subject to them. 119

(D)(1) The state board shall accept the application of any 120  
outdoor education center in the state making application for 121  
participation in a program pursuant to division (B) of this 122  
section. 123

(2) For purposes of participation in any program pursuant to 124  
this section, the board shall certify any outdoor education center 125  
making application as an educational unit that is part of the 126  
educational system of the state, if the center: 127

(a) Meets the definition of an outdoor education center; 128

(b) Provides its outdoor education curriculum to pupils on an 129  
overnight basis so that pupils are in residence at the center for 130  
more than twenty-four consecutive hours; 131

(c) Operates under public or nonprofit private ownership in a 132  
single building or complex of buildings. 133

(3) The board shall approve any outdoor education center 134  
certified under this division for participation in the program for 135  
which the center is making application on the same basis as any 136  
other applicant for that program. 137

(E) Any school district board of education or chartered 138  
nonpublic school that participates in a breakfast program pursuant 139  
to this section may offer breakfast to pupils in their classrooms 140  
during the school day. 141

(F) Notwithstanding anything in this section to the contrary, 142

in each fiscal year in which the general assembly appropriates 143  
funds for purposes of this division, the board of education of 144  
each school district and each chartered nonpublic school that 145  
participates in a breakfast program pursuant to this section shall 146  
provide a breakfast free of charge to each pupil who is eligible 147  
under federal requirements for a reduced price breakfast. 148

Sec. 3327.18. To the extent permitted by federal law, a 149  
school district that elects to provide a summer food service 150  
program under the "National School Lunch Act," 60 Stat. 230 151  
(1946), 42 U.S.C. 1751, as amended, and the "Child Nutrition Act 152  
of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended, may do any of 153  
the following: 154

(A) Use a school bus to transport children to summer meal 155  
service sites; 156

(B) Use a school bus to transport meals to summer meal 157  
service sites; 158

(C) Permit the serving and consumption of meals while 159  
children are seated in the school bus, as long as the bus is 160  
parked and not in motion and the district complies with section 161  
3313.815 of the Revised Code. 162

**Sec. 3715.52.** (A) The following acts and causing them are 163  
prohibited: 164

(1) The manufacture, sale, or delivery, holding or offering 165  
for sale of any food, drug, device, or cosmetic that is 166  
adulterated or misbranded; 167

(2) The adulteration or misbranding of any food, drug, 168  
device, or cosmetic; 169

(3) The receipt in commerce of any food, drug, device, or 170  
cosmetic that is adulterated or misbranded, and the delivery or 171

proffered delivery thereof for pay or otherwise;	172
(4) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of section 3715.61 or 3715.65 of the Revised Code;	173 174 175
(5) The dissemination of any false advertisement;	176
(6) The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by section 3715.70 of the Revised Code;	177 178 179
(7) The giving of a guaranty or undertaking that is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in this state from whom the person received in good faith the food, drug, device, or cosmetic;	180 181 182 183 184
(8) The removal or disposal of a detained or embargoed article in violation of section 3715.55 or 3715.551 of the Revised Code;	185 186 187
(9) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if the act is done while the article is held for sale and results in the article being misbranded;	188 189 190 191 192
(10) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by rules adopted pursuant to sections 3715.52 to 3715.72 of the Revised Code;	193 194 195 196 197
(11) The using, on the labeling of any drug or in any advertisement relating to a drug, of any representation or suggestion that any application with respect to the drug is effective under section 3715.65 of the Revised Code or that the	198 199 200 201

drug complies with the provisions of that section; 202

(12) The using by any person to the person's own advantage, 203  
or revealing, other than to the director of agriculture or to the 204  
courts when relevant in any judicial proceeding under sections 205  
3715.52 to 3715.72 of the Revised Code, any information acquired 206  
under authority of sections 3715.01 and 3715.52 to 3715.72 of the 207  
Revised Code, concerning any information that as a trade secret is 208  
entitled to protection; 209

(13) The issuance by the manufacturer, packer, or distributor 210  
of a dangerous drug of any advertisements, catalogues, or price 211  
lists, except those lists specifically designed for disseminating 212  
price change information, that do not contain in clearly legible 213  
form the name and place of business of the manufacturer who mixed 214  
the final ingredients and, if different, the manufacturer who 215  
produced the drug in its finished dosage form and, if different, 216  
the packer or distributor. 217

(B)(1) No person at a flea market shall sell, offer for sale, 218  
or knowingly permit the sale of any of the following products: 219

(a) Baby food, infant formula, or similar products; 220

(b) Any drug, cosmetic, or device; 221

(c) Any product on which is printed or stamped an expiration 222  
date or a date recommended by the manufacturer as either the last 223  
day on which the product should be offered for sale or the last 224  
day on which the product should be used. 225

(2) Division (B)(1) of this section does not apply to a 226  
person who keeps available for public inspection an identification 227  
card identifying the person as an authorized representative of the 228  
manufacturer or distributor of any drug, cosmetic, or device, as 229  
long as the card is not false, fraudulent, or fraudulently 230  
obtained. 231



(3) Division (B)(1)(c) of this section does not apply to a person or governmental entity that is licensed as a retail food establishment or food service operation under Chapter 3717. of the Revised Code or is listed in division (B)~~(9)~~(10) or ~~(12)~~(13) of section 3717.42 of the Revised Code.

(4) As used in division (B)(1) of this section, "flea market" means any location, other than a permanent retail store, at which space is rented or otherwise made available to others for the conduct of business as transient vendors as defined in section 5739.17 of the Revised Code.

**Sec. 3717.22.** (A) The following are not retail food establishments:

(1) A food service operation licensed under this chapter, including a food service operation that provides the services of a retail food establishment pursuant to an endorsement issued under section 3717.44 of the Revised Code;

(2) An entity exempt under divisions (B)(1) to ~~(9)~~(10) or ~~(11)~~(12) to ~~(13)~~(14) of section 3717.42 of the Revised Code from the requirement to be licensed as a food service operation and an entity exempt under division (B)~~(10)~~(11) of that section if the entity is regulated by the department of agriculture as a food processing establishment under section 3715.021 of the Revised Code;

(3) A business or that portion of a business that is regulated by the federal government or the department of agriculture as a food manufacturing or food processing business, including a business or that portion of a business regulated by the department of agriculture under Chapter 911., 913., 915., 917., 918., or 925. of the Revised Code.

(B) All of the following are exempt from the requirement to

be licensed as a retail food establishment:	262
(1) An establishment with commercially prepackaged foods that	263
are not potentially hazardous and contained in displays, the total	264
space of which equals less than two hundred cubic feet;	265
(2) A person at a farmers market that is registered with the	266
director of agriculture pursuant to section 3717.221 of the	267
Revised Code that offers for sale only one or more of the	268
following:	269
(a) Fresh unprocessed fruits or vegetables;	270
(b) Products of a cottage food production operation;	271
(c) Maple syrup, sorghum, or honey that is produced by a	272
maple syrup or sorghum producer or beekeeper described in division	273
(A) of section 3715.021 of the Revised Code;	274
(d) Commercially prepackaged food that is not potentially	275
hazardous, on the condition that the food is contained in	276
displays, the total space of which equals less than one hundred	277
cubic feet on the premises where the person conducts business at	278
the farmers market.	279
(3) A person who offers for sale at a roadside stand only	280
fresh fruits and fresh vegetables that are unprocessed;	281
(4) A nonprofit organization exempt from federal income	282
taxation under section 501(c)(3) of the "Internal Revenue Code of	283
1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, that raises	284
funds by selling foods and that, if required to be licensed, would	285
be classified as risk level one in accordance with rules	286
establishing licensing categories for retail food establishments	287
adopted under section 3717.33 of the Revised Code, if the sales	288
occur inside a building and are for not more than seven	289
consecutive days or more than fifty-two separate days during a	290
licensing period. This exemption extends to any individual or	291

group raising all of its funds during the time periods specified 292  
in division (B)(4) of this section for the benefit of the 293  
nonprofit organization by selling foods under the same conditions. 294

(5) An establishment that offers food contained in displays 295  
of less than five hundred square feet, and if required to be 296  
licensed would be classified as risk level one pursuant to rules 297  
establishing licensing categories for retail food establishments 298  
adopted under section 3717.33 of the Revised Code, on the 299  
condition that the establishment offers the food for sale at 300  
retail not more than six months in each calendar year; 301

(6) A cottage food production operation, on the condition 302  
that the operation offers its products directly to the consumer 303  
from the site where the products are produced; 304

(7) A maple syrup and sorghum processor and beekeeper 305  
described in division (A) of section 3715.021 of the Revised Code, 306  
on the condition that the processor or beekeeper offers only maple 307  
syrup, sorghum, or honey directly to the consumer from the site 308  
where those products are processed; 309

(8) A person who annually maintains five hundred or fewer 310  
birds, on the condition that the person offers the eggs from those 311  
birds directly to the consumer from the location where the eggs 312  
are produced or at a farm product auction to which division 313  
(B)(11) of this section applies; 314

(9) A person who annually raises and slaughters one thousand 315  
or fewer chickens, on the condition that the person offers dressed 316  
chickens directly to the consumer from the location where the 317  
chickens are raised and slaughtered or at a farm product auction 318  
to which division (B)(11) of this section applies; 319

(10) A person who raises, slaughters, and processes the meat 320  
of nonamenable species described in divisions (A) and (B) of 321  
section 918.12 of the Revised Code, on the condition that the 322

person offers the meat directly to the consumer from the location 323  
where the meat is processed or at a farm product auction to which 324  
division (B)(11) of this section applies; 325

(11) A farm product auction, on the condition that it is 326  
registered with the director pursuant to section 3717.221 of the 327  
Revised Code that offers for sale at the farm product auction only 328  
one or more of the following: 329

(a) The products described in divisions (B)(8) to (10) of 330  
this section that are produced, raised, slaughtered, or processed, 331  
as appropriate, by persons described in divisions (B)(8) to (10) 332  
of this section; 333

(b) Fresh unprocessed fruits or vegetables; 334

(c) Products of a cottage food production operation; 335

(d) Maple syrup, sorghum, or honey that is produced by a 336  
maple syrup or sorghum producer or beekeeper described in division 337  
(A) of section 3715.021 of the Revised Code. 338

(12) An establishment that, with respect to offering food for 339  
sale, offers only alcoholic beverages or prepackaged beverages 340  
that are not potentially hazardous; 341

(13) An establishment that, with respect to offering food for 342  
sale, offers only alcoholic beverages, prepackaged beverages that 343  
are not potentially hazardous, or commercially prepackaged food 344  
that is not potentially hazardous, on the condition that the 345  
commercially prepackaged food is contained in displays, the total 346  
space of which equals less than two hundred cubic feet on the 347  
premises of the establishment; 348

(14) An establishment that, with respect to offering food for 349  
sale, offers only fountain beverages that are not potentially 350  
hazardous; 351

(15) A person who offers for sale only one or more of the 352

following foods at a festival or celebration, on the condition	353
that the festival or celebration is organized by a political	354
subdivision of the state and lasts for a period not longer than	355
seven consecutive days:	356
(a) Fresh unprocessed fruits or vegetables;	357
(b) Products of a cottage food production operation;	358
(c) Maple syrup, sorghum, or honey if produced by a maple	359
syrup or sorghum processor or beekeeper as described in division	360
(A) of section 3715.021 of the Revised Code;	361
(d) Commercially prepackaged food that is not potentially	362
hazardous, on the condition that the food is contained in	363
displays, the total space of which equals less than one hundred	364
cubic feet;	365
(e) Fruit butter produced at the festival or celebration and	366
sold from the production site.	367
(16) A farm market on the condition that it is registered	368
with the director pursuant to section 3717.221 of the Revised Code	369
that offers for sale at the farm market only one or more of the	370
following:	371
(a) Fresh unprocessed fruits or vegetables;	372
(b) Products of a cottage food production operation;	373
(c) Maple syrup, sorghum, or honey that is produced by a	374
maple syrup or sorghum producer or beekeeper described in division	375
(A) of section 3715.021 of the Revised Code;	376
(d) Commercially prepackaged food that is not potentially	377
hazardous, on the condition that the food is contained in	378
displays, the total space of which equals less than one hundred	379
cubic feet on the premises where the person conducts business at	380
the farm market;	381
(e) Cider and other juices manufactured on site at the farm	382

market; 383

(f) The products or items described in divisions (B)(8) to 384  
(10) of this section, on the condition that those products or 385  
items were produced by the person offering to sell them, and 386  
further conditioned that, with respect to eggs offered, the person 387  
offering to sell them annually maintains five hundred or fewer 388  
birds, and with respect to dressed chickens offered, the person 389  
annually raises and slaughters one thousand or fewer chickens. 390

**Sec. 3717.42.** (A) The following are not food service 391  
operations: 392

(1) A retail food establishment licensed under this chapter, 393  
including a retail food establishment that provides the services 394  
of a food service operation pursuant to an endorsement issued 395  
under section 3717.24 of the Revised Code; 396

(2) An entity exempt from the requirement to be licensed as a 397  
retail food establishment under division (B) of section 3717.22 of 398  
the Revised Code; 399

(3) A business or that portion of a business that is 400  
regulated by the federal government or the department of 401  
agriculture as a food manufacturing or food processing business, 402  
including a business or that portion of a business regulated by 403  
the department of agriculture under Chapter 911., 913., 915., 404  
917., 918., or 925. of the Revised Code. 405

(B) All of the following are exempt from the requirement to 406  
be licensed as a food service operation: 407

(1) A private home in which individuals related by blood, 408  
marriage, or law reside and in which the food that is prepared or 409  
served is intended only for those individuals and their nonpaying 410  
guests; 411

(2) A private home operated as a bed-and-breakfast that 412

prepares and offers food to guests, if the home is owner-occupied, 413  
the number of available guest bedrooms does not exceed six, 414  
breakfast is the only meal offered, and the number of guests 415  
served does not exceed sixteen; 416

(3) A stand operated on the premises of a private home by one 417  
or more children under the age of twelve, if the food served is 418  
not potentially hazardous; 419

(4) A residential facility that accommodates not more than 420  
sixteen residents; is licensed, certified, registered, or 421  
otherwise regulated by the federal government or by the state or a 422  
political subdivision of the state; and prepares food for or 423  
serves food to only the residents of the facility, the staff of 424  
the facility, and any nonpaying guests of residents or staff; 425

(5) A church, school, fraternal or veterans' organization, 426  
volunteer fire organization, or volunteer emergency medical 427  
service organization preparing or serving food intended for 428  
individual portion service on its premises for not more than seven 429  
consecutive days or not more than fifty-two separate days during a 430  
licensing period. This exemption extends to any individual or 431  
group raising all of its funds during the time periods specified 432  
in division (B)(5) of this section for the benefit of the church, 433  
school, or organization by preparing or serving food intended for 434  
individual portion service under the same conditions. 435

(6) A common carrier that prepares or serves food, if the 436  
carrier is regulated by the federal government; 437

(7) A food service operation serving thirteen or fewer 438  
individuals daily; 439

(8) A type A or type B family day-care home, as defined in 440  
section 5104.01 of the Revised Code, that prepares or serves food 441  
for the children receiving day-care; 442

(9) A child day-care center or school child program that 443

holds a healthy food license issued under section 3717.60 of the 444  
Revised Code and prepares or serves food, as authorized by the 445  
license, for the children in the center's or program's care; 446

(10) A vending machine location where the only foods 447  
dispensed are foods from one or both of the following categories: 448

(a) Prepackaged foods that are not potentially hazardous; 449

(b) Nuts, panned or wrapped bulk chewing gum, or panned or 450  
wrapped bulk candies. 451

~~(10)~~(11) A place servicing the vending machines at a vending 452  
machine location described in division (B)(9) of this section; 453

~~(11)~~(12) A commissary servicing vending machines that 454  
dispense only milk, milk products, or frozen desserts that are 455  
under a state or federal inspection and analysis program; 456

~~(12)~~(13) A "controlled location vending machine location," 457  
which means a vending machine location at which all of the 458  
following apply: 459

(a) The vending machines dispense only foods that are not 460  
potentially hazardous; 461

(b) The machines are designed to be filled and maintained in 462  
a sanitary manner by untrained persons; 463

(c) Minimal protection is necessary to ensure against 464  
contamination of food and equipment. 465

~~(13)~~(14) A private home that prepares and offers food to 466  
guests, if the home is owner-occupied, meals are served on the 467  
premises of that home, the number of meals served does not exceed 468  
one hundred fifteen per week, and the home displays a notice in a 469  
place conspicuous to all of its guests informing them that the 470  
home is not required to be licensed as a food service operation; 471

~~(14)~~(15) An individual who prepares full meals or meal 472  
components, such as pies or baked goods, in the individual's home 473



to be served off the premises of that home, if the number of meals 474  
or meal components prepared for that purpose does not exceed 475  
twenty in a seven-day period. 476

Sec. 3717.60. (A) As used in this section: 477

(1) "Child day-care center" has the same meaning as in 478  
section 5104.01 of the Revised Code. 479

(2) "Healthy food license" means a license that authorizes a 480  
child day-care center or school child program to receive, serve, 481  
and store any of the following for the children in the center's or 482  
program's care: 483

(a) Fruit; 484

(b) Vegetables; 485

(c) Single-serving dairy products, if included in the 486  
licensing category applicable to the license held by the center or 487  
program. 488

(3) "School child program" has the same meaning as in section 489  
3301.52 of the Revised Code. 490

(B) A child day-care center or school child program seeking a 491  
healthy food license or renewal of a license shall apply to the 492  
entity specified in rules adopted under this section on a form 493  
provided by the entity. The entity shall issue or renew a license 494  
if the applicant meets the requirements established in rules 495  
adopted under this section. 496

A healthy food license remains valid until scheduled to 497  
expire unless earlier suspended or revoked pursuant to rules 498  
adopted under this section. 499

(C) A child day-care center or school child program holding a 500  
healthy food license shall comply with the standards and 501  
procedures established in rules adopted under this section. 502

<u>(D) The director of health shall adopt rules governing</u>	503
<u>healthy food licenses. The rules shall be adopted in accordance</u>	504
<u>with Chapter 119. of the Revised Code. The rules shall include all</u>	505
<u>of the following:</u>	506
<u>(1) Standards and procedures for applying for a license or</u>	507
<u>renewal of a license, including the length of the license;</u>	508
<u>(2) The amount of the fees to be charged for issuing and</u>	509
<u>renewing licenses;</u>	510
<u>(3) Procedures for selecting a local entity to enforce this</u>	511
<u>section;</u>	512
<u>(4) Standards and procedures for reviewing and approving</u>	513
<u>applications for licenses;</u>	514
<u>(5) Standards and procedures for conducting inspections of</u>	515
<u>the child day-care centers and school child programs holding</u>	516
<u>healthy food licenses, including a schedule of frequency for</u>	517
<u>conducting the inspections;</u>	518
<u>(6) Standards and procedures for conducting investigations of</u>	519
<u>complaints pertaining to centers and programs holding healthy food</u>	520
<u>licenses;</u>	521
<u>(7) Specification of the fruits, vegetables, and, if</u>	522
<u>applicable, single-serving dairy products that may be received,</u>	523
<u>stored, and served by the center or program holding a health food</u>	524
<u>license;</u>	525
<u>(8) Specifications regarding the manner in which a child</u>	526
<u>day-care center or school child program may receive, serve, and</u>	527
<u>store fruit, vegetables, and single-serving dairy products, except</u>	528
<u>that the specifications shall not be the same as or more</u>	529
<u>restrictive than the specifications for food service operations</u>	530
<u>governed under this chapter;</u>	531
<u>(9) Licensing categories that apply to healthy food licenses</u>	532

and requirements for each category based on whether the license 533  
authorizes the holder to receive, serve, and store fruit and 534  
vegetables only or authorizes the holder to receive, serve, and 535  
store single-serving dairy products in addition to fruit and 536  
vegetables; 537

(10) Standards and procedures for suspending or revoking a 538  
license; 539

(11) Any other matter the director considers relevant to the 540  
administration and enforcement of the provisions of this section. 541

**Sec. 5104.051.** (A)(1) The department of commerce is 542  
responsible for the inspections of child day-care centers as 543  
required by division (A)(1) of section 5104.05 of the Revised 544  
Code. Where there is a municipal, township, or county building 545  
department certified under section 3781.10 of the Revised Code to 546  
exercise enforcement authority with respect to the category of 547  
building occupancy which includes day-care centers, all 548  
inspections required under division (A)(1) of section 5104.05 of 549  
the Revised Code shall be made by that department according to the 550  
standards established by the board of building standards. 551  
Inspections in areas of the state where there is no municipal, 552  
township, or county building department certified under section 553  
3781.10 of the Revised Code to exercise enforcement authority with 554  
respect to the category of building occupancy which includes 555  
day-care centers shall be made by personnel of the department of 556  
commerce. Inspections of centers shall be contingent upon payment 557  
of a fee by the applicant to the department having jurisdiction to 558  
inspect. 559

(2) The department of commerce is responsible for the 560  
inspections of type A family day-care homes as required by 561  
division (B)(3) of section 5104.05 of the Revised Code. Where 562  
there is a municipal, township, or county building department 563

certified under section 3781.10 of the Revised Code to exercise 564  
enforcement authority with respect to the category of building 565  
occupancy which includes type A homes, all inspections required 566  
under division (B)(3) of section 5104.05 of the Revised Code shall 567  
be made by that department according to the standards established 568  
by the board of building standards. Inspections in areas of the 569  
state where there is no municipal, township, or county building 570  
department certified under section 3781.10 of the Revised Code to 571  
exercise enforcement authority with respect to the category of 572  
building occupancy which includes type A homes shall be made by 573  
personnel of the department of commerce. Inspections of type A 574  
homes shall be contingent upon payment of a fee by the applicant 575  
to the department having jurisdiction to inspect. 576

(B) The state fire marshal is responsible for the inspections 577  
required by divisions (A)(2) and (B)(1) of section 5104.05 of the 578  
Revised Code. In municipal corporations and in townships outside 579  
municipal corporations where there is a fire prevention official, 580  
the inspections shall be made by the fire chief or the fire 581  
prevention official under the supervision of and according to the 582  
standards established by the state fire marshal. In townships 583  
outside municipal corporations where there is no fire prevention 584  
official, inspections shall be made by the employees of the state 585  
fire marshal. 586

(C) The state fire marshal shall enforce all statutes and 587  
rules pertaining to fire safety and fire prevention in child 588  
day-care centers and type A family day-care homes. In the event of 589  
a dispute between the state fire marshal and any other responsible 590  
officer under sections 5104.05 and 5104.051 of the Revised Code 591  
with respect to the interpretation or application of a specific 592  
fire safety statute or rule, the interpretation of the state fire 593  
marshal shall prevail. 594

(D) As used in this division, "licensor" has the same meaning 595

as in section 3717.01 of the Revised Code. 596

The Except as provided in division (E) of this section, the 597  
licensor for food service operations in the city or general health 598  
district in which the center is located is responsible for the 599  
inspections required ~~under~~ by Chapter 3717. of the Revised Code. 600

(E) The entity specified in rules adopted by the director of 601  
health under section 3717.60 of the Revised Code is responsible 602  
for inspections required by that section. 603

(F) Any moneys collected by the department of commerce under 604  
this section shall be paid into the state treasury to the credit 605  
of the industrial compliance operating fund created in section 606  
121.084 of the Revised Code. 607

**Section 2.** That existing sections 3313.813, 3715.52, 3717.22, 608  
3717.42, and 5104.051 of the Revised Code are hereby repealed. 609