

As Introduced

**130th General Assembly
Regular Session
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H. B. No. 453

Representative Pelanda

Cosponsors: Representatives Grossman, Buchy, Hackett, Adams, J.

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A B I L L

To amend sections 901.23, 921.12, 941.01, 941.03, 1
941.04, 941.06, 941.07, 941.09, 941.10, 941.11, 2
941.14, 1327.46, 1327.48, 1327.50, 1327.501, 3
1327.61, 1327.99, and 4707.02 and to enact section 4
1327.502 of the Revised Code to include diseases 5
of concern within the scope of the Animal Diseases 6
Law, and to make changes to the laws governing 7
weights and measures and auctioneers, the 8
membership of the Farmland Preservation Advisory 9
Board, and the pesticide licensing renewal 10
process. 11

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

Section 1. That sections 901.23, 921.12, 941.01, 941.03, 12
941.04, 941.06, 941.07, 941.09, 941.10, 941.11, 941.14, 1327.46, 13
1327.48, 1327.50, 1327.501, 1327.61, 1327.99, and 4707.02 be 14
amended and section 1327.502 of the Revised Code be enacted to 15
read as follows: 16

Sec. 901.23. (A) There is hereby created the farmland 17
preservation advisory board consisting of twelve voting members 18
appointed by the director of agriculture as follows: 19

(1) One member who is a county commissioner or a representative of a statewide organization that represents county commissioners;

(2) One member who is a township trustee or a representative of a statewide organization that represents township trustees;

(3) One representative of ~~the~~ an Ohio ~~state~~ university;

(4) One representative of a nonprofit organization dedicated to the preservation of farmland;

(5) One representative each of development, environmental, planning, and soil and water conservation interests;

(6) One farmer from each of the state's four quadrants.

Terms of office shall be staggered and shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed, except that the term of any member who is a county commissioner or township trustee shall end when the member ceases to serve as a county commissioner or township trustee.

Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member was appointed shall serve for the remainder of that term. A member shall continue to serve subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. Members shall serve at the pleasure of the director.

The executive director of the office of farmland preservation in the department of agriculture or another employee of the department who is designated by the director shall serve as the

nonvoting chairperson of the board. The director annually shall 50
designate one member of the board to serve as its 51
vice-chairperson. The board may adopt bylaws governing its 52
operation and shall meet at a time when the director, or the 53
director's designee, considers it appropriate in order for the 54
board to provide advice as required under division (B) of this 55
section. 56

(B) The board shall provide advice to the director regarding 57
all of the following: 58

(1) The design and implementation of an agricultural easement 59
purchase program; 60

(2) The selection of applications that will be awarded 61
matching grants under division (D) of section 901.22 of the 62
Revised Code for the purchase of agricultural easements; 63

(3) The design and implementation of any other statewide 64
farmland protection measures that the director considers 65
appropriate. 66

(C) Serving as a member of the board does not constitute 67
holding a public office or position of employment under the laws 68
of this state and does not constitute grounds for removal of 69
public officers or employees from their offices or positions of 70
employment. 71

(D) A board member shall be reimbursed for actual and 72
necessary expenses incurred in the discharge of duties as a board 73
member. 74

Sec. 921.12. (A) The director of agriculture shall require 75
each applicant for a license under section 921.06 or 921.11 of the 76
Revised Code to be examined on the applicant's knowledge and 77
competency in each of the following: 78

(1) This chapter and rules adopted under it; 79

(2) The proper use, handling, and application of pesticides 80
and, if the applicant is applying for a license under section 81
921.06 of the Revised Code, in the conducting of diagnostic 82
inspections in the pesticide-use categories for which the 83
applicant has applied. 84

(B) Each application for renewal of a license provided for in 85
section 921.06 of the Revised Code shall be filed prior to the 86
deadline established by rule. If filed after the deadline, a 87
penalty of fifty per cent shall be assessed and added to the 88
original fee and shall be paid by the applicant before the renewal 89
license is issued. However, if a license issued under section 90
921.06 or 921.11 of the Revised Code is not renewed within one 91
~~year of~~ hundred eighty days after the date of expiration, the 92
licensee shall be required to take another examination on this 93
chapter and rules adopted under it and on the proper use, 94
handling, and application of pesticides and, if applicable, the 95
proper conducting of diagnostic inspections in the pesticide-use 96
categories for which the licensee has been licensed. 97

(C) A person who fails to pass an examination under division 98
(A) or (B) of this section is not entitled to an adjudication 99
under Chapter 119. of the Revised Code for that failure. 100

(D) The holder of a commercial applicator license may renew 101
the license within one ~~year of~~ hundred eighty days after the date 102
of expiration without re-examination unless the director 103
determines that a new examination is necessary to insure that the 104
holder continues to meet the requirements of changing technology 105
and to assure a continuing level of competence and ability to use 106
pesticides safely and properly. 107

(E) ~~The director shall determine when~~ holder of a private 108
applicator license may renew the license within one hundred eighty 109
days after the date of expiration without re-examination ~~for~~ 110
unless the renewal of licenses for private applicators director 111

determines that a new examination is required necessary to insure 112
that ~~private applicators continue~~ the holder continues to meet the 113
requirements of changing technology and to assure a continuing 114
level of competence and ability to use pesticides safely and 115
properly. 116

(F) Instead of requiring a commercial applicator or private 117
applicator to complete re-examination successfully under division 118
(D) or (E) of this section, the director may require, in 119
accordance with criteria established by rule, the commercial 120
applicator or private applicator to participate in training 121
programs that are designed to foster knowledge of new technology 122
and to ensure a continuing level of competence and ability to use 123
pesticides safely and properly. The director or the director's 124
representative may provide the training or may authorize a third 125
party to do so. In order for such authorization to occur, the 126
third party and its training program shall comply with standards 127
and requirements established by rule. 128

Sec. 941.01. As used in this chapter: 129

(A) "Dangerously contagious or infectious disease" means any 130
disease, including any foreign animal disease, or vector, that the 131
director of agriculture, in ~~his~~ the director's sound discretion, 132
determines to be of harmful effect on the animal or poultry 133
industry or the public health and to be capable of transmission by 134
any means from a carrier animal to a human or to another animal. 135

(B) "Disease of concern" means any disease, including any 136
foreign animal disease, or vector, that the director determines 137
may have an adverse impact on the animal or poultry industry or to 138
the public health in this state, but that is not a disease that is 139
reportable to the United States department of agriculture. 140

(C) "Geographic area" means any county or counties within 141
this state or parts thereof as may be designated by the director. 142

~~(C)~~(D) "Animal" means any animal that is a bird, reptile, 143
amphibian, fish, or mammal, other than humans. 144

~~(D)~~(E) "Domestic animal" includes livestock; other animals 145
that through long association with humans have been bred to a 146
degree resulting in genetic changes affecting the temperament, 147
color, conformation, or other attributes of the species to an 148
extent that makes them different from nondomestic animals of their 149
kind; and other animals as defined by rule by the director. 150

~~(E)~~(F) "Foreign animal disease" means a contagious or 151
infectious disease that is not present in United States domestic 152
or nondomestic species populations and is listed by the United 153
States department of agriculture as a "foreign animal disease." 154

~~(F)~~(G) "Nondomestic animal" means any animal that is not 155
domestic, including at least nonindigenous animals and animals 156
usually not in captivity. 157

~~(G)~~(H) "Poultry" means any domesticated fowl kept in 158
confinement, except for doves and pigeons, that are bred for the 159
primary purpose of producing eggs or meat for human consumption. 160
"Poultry" includes chickens, turkeys, waterfowl, and game birds. 161

~~(H)~~(I) "Vector" means a disease carrier, usually from, but 162
not limited to, the arthropod class, ~~which~~ that transfers an 163
infectious agent that may transmit a dangerously contagious or 164
infectious disease from one host to another. 165

~~(I)~~(J) "Residue" means any poisonous or deleterious pesticide 166
governed by 40 C.F.R. 180, any poisonous or deleterious substance 167
governed by 21 C.F.R. 109.6, or any other substance governed by 21 168
C.F.R. 556. 169

~~(J)~~(K) "Seal" means any band or object made of metal, 170
plastic, or other material placed on a vehicle or other means of 171
conveyance so that when the vehicle or conveyance is opened, the 172
band or object is affected, altered, or broken. 173

Sec. 941.03. (A) The director of agriculture, under Chapter 119. of the Revised Code, may adopt and enforce rules to carry out this chapter, including designating a disease or vector as a dangerously contagious or infectious disease or as a disease of concern.

(B) No person shall fail to comply with the rules adopted by the director under division (A) of this section.

Sec. 941.04. (A) Whenever the director of agriculture or ~~his~~ the director's authorized representative reasonably suspects that any premises or means of conveyance contains an animal that is infected with or has been exposed to a dangerously contagious or infectious disease or a disease of concern or is adulterated with a residue, ~~he~~ the director or the director's authorized representative shall have free access to those premises or that means of conveyance at any reasonable time.

(B) Whenever the director of agriculture or ~~his~~ the director's authorized representative reasonably suspects that any vehicle or means of conveyance traveling into or through the state contains an animal, ~~he~~ the director or the director's authorized representative shall have free access to the vehicle or means of conveyance, including the right to stop ~~such~~ the vehicle or conveyance transporting animals into or through the state. The director or ~~his~~ the director's authorized representative may examine any certificate of veterinary inspection, animal health certificate, waybill, yarding ~~receipt~~ receipt, sale ticket, or other document required by this chapter or rules adopted under it. The director or ~~his~~ the director's authorized representative also may inspect the vehicle or conveyance for the purposes of verifying the presence or existence of any animal for which a document is required by this chapter or rules adopted under it and verifying lawful possession or ownership of the animal. This

division does not apply to animals transported intrastate. 205

Within the parameters of the United States and Ohio 206
constitutions, any person who operates a vehicle or means of 207
conveyance upon a roadway in this state is deemed to have 208
consented to the inspection of the vehicle or conveyance and the 209
documents as described in this section. 210

(C) In the event the owner of the animal or the operator of 211
the vehicle or conveyance fails to present any document required 212
by this chapter and rules adopted under it, or if the documents 213
indicate or the director or ~~his~~ the director's authorized 214
representative reasonably suspects that an animal is infected with 215
or has been exposed to a dangerously contagious or infectious 216
disease or a disease of concern or is adulterated with a residue, 217
the director or ~~his~~ the director's authorized representative shall 218
seal the vehicle or conveyance. A seal shall not be broken or 219
removed from a vehicle or conveyance within this state or any 220
other state except by the director or ~~his~~ the director's 221
authorized representative or by a person holding a similar 222
position in another state, territory, or country. 223

Once the vehicle or conveyance is sealed, its operator shall 224
choose a course of action to be taken under division (D) of 225
section 941.10 of the Revised Code. If the operator fails to 226
choose and the owner of the animal can be contacted, the owner 227
shall make the choice. If the owner cannot be contacted, the 228
director or ~~his~~ the director's authorized representative shall 229
make the choice. Any time that the director or ~~his~~ the director's 230
authorized representative determines that a course of action under 231
division (D) of section 941.10 of the Revised Code is 232
inappropriate, ~~he~~ the director or the director's authorized 233
representative may refuse to allow that course of action to be 234
taken or may limit it. The director or ~~his~~ the director's 235
authorized representative shall issue a permit designating and 236

requiring compliance with the course of action chosen under this 237
division. 238

If the director or ~~his~~ the director's authorized 239
representative reasonably suspects that an animal is stolen or 240
that the operator of the vehicle or conveyance is not in lawful 241
possession of the animal, or while waiting for a search warrant to 242
be issued under section 941.042 of the Revised Code, ~~he~~ the 243
director or the director's authorized representative may detain or 244
impound the vehicle or conveyance or detain the animal. If the 245
director or ~~his~~ the director's authorized representative 246
determines, during any detention or impoundment, that disposal of 247
the animal is necessary, ~~he~~ the director or the director's 248
authorized representative may provide for its disposal in 249
accordance with section 941.043 of the Revised Code. 250

(D) The director or ~~his~~ the director's authorized 251
representative, in performing ~~his~~ official duties under this 252
section, may call on such law enforcement personnel and government 253
officials as are necessary to ~~assist him~~ provide assistance. The 254
director or ~~his~~ the director's authorized representative may 255
detain or follow any vehicle or conveyance until those persons 256
arrive. 257

(E) At the direction of the director and in ~~his~~ the 258
director's discretion, an employee of the animal and plant health 259
inspection service-veterinary services in the United States 260
department of agriculture may be an authorized representative of 261
the director for purposes of this chapter. 262

Sec. 941.06. (A) If any person has reason to suspect the 263
existence of a dangerously contagious or infectious disease, a 264
disease of concern, or a residue, ~~he~~ the person immediately shall 265
give notice of that fact to the director of agriculture or to a 266
licensed veterinarian. 267

(B) If a veterinarian receives notice of the existence or 268
suspected existence of a dangerously contagious or infectious 269
disease, a disease of concern, or a residue as provided in 270
division (A) of this section, ~~he~~ the veterinarian immediately 271
shall communicate that notice to the director. 272

(C) No person shall sell, attempt to sell, keep with intent 273
to sell, or otherwise transfer to another person an animal that ~~he~~ 274
the person knows, or has reason to know, is infected with or 275
exposed to any dangerously contagious or infectious disease or a 276
disease of concern or is adulterated with a residue, except as 277
otherwise provided in this chapter or rules adopted under it. 278

Sec. 941.07. (A) When the director of agriculture is notified 279
by any person of the possibility of the existence of a dangerously 280
contagious or infectious disease, a disease of concern, or a 281
residue, the director immediately shall order an investigation to 282
be made, ~~in.~~ In order to conduct an investigation, the director or 283
~~his~~ the director's designee may quarantine the animal and, if ~~he~~ 284
the director or the director's designee considers it necessary, 285
the geographic area in which the animal was located immediately, 286
so that ~~he~~ the director or the director's designee is able to 287
inspect, examine, and test the animal and other animals within the 288
geographic area. 289

(B) Except as otherwise provided in this chapter, if, as the 290
result of the investigation, an animal is found to be infected 291
with or exposed to a dangerously contagious or infectious disease 292
or a disease of concern or adulterated with a residue, the 293
director or ~~his~~ the director's authorized representative may issue 294
quarantine orders, without a prior hearing, pursuant to this 295
section in order to prevent dangerously contagious or infectious 296
diseases, diseases of concern, or residues from affecting other 297
animals in the state or the public health. No person shall fail to 298

comply with the terms and conditions of the quarantine order. 299

(C) No animal or its means of conveyance shall be brought to 300
or removed from the premises or geographic area disclosed in a 301
quarantine order without written permission from the director or 302
~~his~~ the director's authorized representative. 303

(D) The director, if possible, shall notify any person owning 304
or having custody of a quarantined animal either in person or by 305
certified mail, return receipt requested. Evidence of the 306
notification of a quarantine order shall be proved by affidavit or 307
by the certified mail return receipt. The director also may post 308
the quarantine order at two conspicuous places on the quarantined 309
premises. 310

(E) A quarantine order shall contain all of the following 311
information: 312

(1) The name and address of the person owning and having 313
custody of the quarantined animal, if known; 314

(2) A description of the quarantined animal; 315

(3) A description of the premises and means of conveyance 316
affected by the quarantine; 317

(4) The reason for the quarantine; 318

(5) The terms and conditions applicable to the quarantine; 319

(6) A notice to the effect that persons adversely affected by 320
the quarantine order may request a hearing to review the order. 321

(F) A person adversely affected by a quarantine order, within 322
thirty days after the order is issued, may request in writing a 323
hearing in accordance with Chapter 119. of the Revised Code. A 324
request for a hearing does not stay a quarantine order. 325

(G) A quarantine order shall remain in effect until a written 326
notice of release is issued by the department of agriculture, or 327
until ordered to be removed after a hearing under division (F) of 328

this section. 329

(H) All necessary and proper expenses incurred by the 330
director in the quarantine of an animal shall be paid by the 331
state. However, such expenses shall not include the maintenance, 332
feeding, and quartering of the animal while in quarantine. 333

(I) A copy of the results of any tests or method of detection 334
for a dangerously contagious or infectious disease or a disease of 335
concern, conducted by a person authorized by the department of 336
agriculture, shall be admitted in any court as prima-facie proof 337
of ~~such~~ those results when ~~such~~ the results are certified by the 338
department or authorized person. 339

Sec. 941.09. (A) The director of agriculture may adopt and 340
enforce rules in accordance with Chapter 119. of the Revised Code 341
governing the identification of an animal tested for, vaccinated 342
against, or infected with a dangerously contagious or infectious 343
disease or a disease of concern or adulterated with a residue and 344
the importation, use, dispensation, and reporting of the use of 345
vaccines for mitigating dangerously contagious or infectious 346
diseases or diseases of concern or other treatments for residues. 347

(B) No person shall remove, alter, or replace an 348
identification that is required by federal or state law and is 349
placed upon an animal by a person authorized by the director. 350

Sec. 941.10. (A) The director of agriculture may adopt and 351
enforce rules to govern the importation and movement of animals. 352

(B) Whenever the governor upon receipt of information from 353
the director believes that any condition or disease, including a 354
dangerously contagious or infectious disease or a disease of 355
concern present in any other state, territory, or country, may 356
endanger the health of livestock, animals, or persons of this 357
state, ~~he~~ the governor may prohibit or regulate by proclamation, 358

the importation from ~~such~~ that other state, territory, or country, 359
of animals of a kind that could carry that disease or condition 360
into this state. 361

(C) No person shall import, move, sell, or dispose of any 362
animal contrary to a proclamation issued by the governor under 363
division (B) of this section, without first obtaining written 364
permission from the director. 365

(D) When an animal is moved into the state in violation of 366
any applicable federal or state law, the director or ~~his~~ the 367
director's authorized representative, without prior hearing, may 368
take whichever of the following courses of action regarding the 369
animal as ~~he~~ the director or the director's authorized 370
representative determines is most appropriate: 371

(1) Quarantine the animal until it is brought into 372
compliance; 373

(2) Order the animal returned to the point of origin; 374

(3) Order the animal moved to slaughter. 375

Sec. 941.11. (A) Except as otherwise provided in this 376
chapter, the director of agriculture, without prior hearing, may 377
order the destruction of any domestic or nondomestic animal found 378
to be adulterated with residues, infected with or exposed to a 379
dangerously contagious or infectious disease, infected with or 380
exposed to a disease of concern, or determined to endanger the 381
health or well-being of animal populations or public health in the 382
state. If the director determines that seizure and destruction of 383
a nondomestic animal is necessary, ~~he~~ the director shall 384
coordinate the seizure and destruction of that animal with the 385
department of natural resources. 386

(B) No person shall fail to comply with the director's order 387
to destroy an animal found to be infected with or exposed to a 388

dangerously contagious or infectious disease or a disease of 389
concern or adulterated with residues. 390

(C) The director, if possible, shall notify any person owning 391
or having custody of an animal ordered destroyed, either in person 392
or by certified mail, return receipt requested, prior to 393
destruction. Evidence of the notification of a destruction order 394
shall be proved by an affidavit or by the certified mail return 395
receipt. 396

(D) A destruction order shall contain all of the following 397
information: 398

(1) The name and address of the person owning and having 399
custody of the animal, if known; 400

(2) A description of the animal affected by the order; 401

(3) The reason for the order; 402

(4) A reasonable deadline for compliance with the order; 403

(5) A notice to the effect that any person adversely affected 404
by the destruction order may request a hearing to review the 405
order. 406

(E) A person adversely affected by an order may request in 407
writing, within thirty days after receiving the order, a hearing 408
in accordance with Chapter 119. of the Revised Code. 409

Sec. 941.14. (A) The owner shall burn the body of an animal 410
that has died of, or been destroyed because of, a dangerously 411
infectious or contagious disease, bury it not less than four feet 412
under the surface of the ground, dissolve it by alkaline 413
hydrolysis, remove it in a watertight tank to a rendering 414
establishment, or otherwise dispose of it in accordance with 415
section 953.26 or 1511.022 of the Revised Code within twenty-four 416
hours after knowledge thereof or after notice in writing from the 417
department of agriculture. 418

(B) The owner of premises that contain a dead animal shall 419
burn the body of the animal, bury it not less than four feet 420
beneath the surface of the ground, dissolve it by alkaline 421
hydrolysis, remove it in a watertight tank to a rendering 422
establishment, or otherwise dispose of it in accordance with 423
section 953.26 or 1511.022 of the Revised Code within a reasonable 424
time after knowledge thereof or after notice in writing from the 425
department or from the township trustees of the township in which 426
the owner's premises are located. 427

(C) The director of agriculture may adopt rules in accordance 428
with Chapter 119. of the Revised Code establishing requirements 429
and procedures governing the disposal of the body of an animal 430
that has died of, or been destroyed because of, a disease of 431
concern. 432

(D) Notwithstanding division (A) or (B) of this section or 433
rules adopted under division (C) of this section, the director ~~of~~ 434
~~agriculture,~~ in written notice sent to the owner of a dead animal, 435
may require the owner to employ a specific method of disposition 436
of the body, including burning, burying, rendering, composting, or 437
alkaline hydrolysis, when that method does not conflict with any 438
law or rule governing the disposal of infectious wastes and, in 439
the director's judgment, is necessary for purposes of animal 440
disease control. No person shall fail to employ the method of 441
disposition required under this division. 442

~~(D)~~(E) The director, in written notice sent to the owner of a 443
dead animal, may prohibit the owner from transporting the body of 444
the dead animal on any street or highway if that prohibition does 445
not conflict with any law or rule governing the transportation of 446
infectious wastes and, in the director's judgment, is necessary 447
for purposes of animal disease control. No person shall fail to 448
comply with a prohibition issued under this division. 449

~~(E)~~(F) As used in this section, "infectious wastes" has the 450

same meaning as in section 3734.01 of the Revised Code, and 451
"street" or "highway" has the same meaning as in section 4511.01 452
of the Revised Code. 453

Sec. 1327.46. As used in sections 1327.46 to 1327.61 of the 454
Revised Code: 455

(A) "Weights and measures" means all weights and measures of 456
every kind, instruments and devices for weighing and measuring, 457
and any appliances and accessories associated with any such 458
instruments and devices, except that "weights and measures" shall 459
not be construed to include meters for the measurement of 460
electricity, gas, whether natural or manufactured, or water when 461
the same are operated in a public utility system. Such 462
electricity, gas, and water meters, and appliances or accessories 463
associated therewith, are specifically excluded from the purview 464
of the weights and measures laws. 465

(B) "Intrastate commerce" means all commerce or trade that is 466
begun, carried on, and completed wholly within the limits of this 467
state, and "introduced into intrastate commerce" defines the time 468
and place in which the first sale and delivery of a commodity is 469
made within the state, the delivery being made either directly to 470
the purchaser or to a common carrier for shipment to the 471
purchaser. 472

(C) "Package" means any commodity put up or packaged in any 473
manner in advance of sale in units suitable for either wholesale 474
or retail sale. 475

(D) "Consumer package" means a package that is customarily 476
produced or distributed for sale through a retail sales agency for 477
consumption by an individual or use by an individual. 478

(E) "Weight" as used in connection with any commodity means 479
net weight. 480

(F) "Correct" as used in connection with weights and measures 481
means conformity with all applicable requirements of sections 482
1327.46 to 1327.61 of the Revised Code and rules adopted pursuant 483
to those sections. 484

(G) "Primary Reference standards" means the physical 485
standards of the state that serve as the legal reference from 486
which all other standards and weights and measures are derived. 487

(H) "Secondary Working standards" means the physical 488
standards that are traceable to the primary reference standards 489
through comparisons, using acceptable laboratory procedures, and 490
used in the enforcement of weights and measures laws and rules. 491

(I) "Sale from bulk" means the sale of commodities when the 492
quantity is determined at the time of sale. 493

(J) "Net weight" means the weight of a commodity, excluding 494
any materials, substances, or items not considered to be a part of 495
the commodity. Materials, substances, or items not considered to 496
be part of the commodity include, but are not limited to, 497
containers, conveyances, bags, wrappers, packaging materials, 498
labels, individual piece coverings, decorative accompaniments, and 499
coupons. 500

(K) "Random weight package" means a package that is one of a 501
lot, shipment, or delivery of packages of the same commodity with 502
no fixed pattern of weights. 503

(L) "Sold" includes keeping, offering, or exposing for sale. 504

(M) "Commercially used weighing and measuring device" means a 505
device described in the national institute of standards and 506
technology handbook 44 or its supplements and revisions and any 507
other weighing and measuring device designated by rules adopted 508
under division (C) of section 1327.50 of the Revised Code. 509
"Commercially used weighing and measuring device" includes, but is 510
not limited to, a livestock scale, vehicle scale, railway scale, 511

vehicle tank meter, bulk rack meter, and LPG meter. 512

(N) "Livestock scale" means a scale equipped with stock racks 513
and gates that is adapted to weighing livestock standing on the 514
scale platform. 515

(O) "Vehicle scale" means a scale that is adapted to weighing 516
highway, farm, or other large industrial vehicles other than 517
railroad cars. 518

(P) "Railway scale" means a rail scale that is designed to 519
weigh railroad cars. 520

(Q) "Vehicle tank meter" means a vehicle mounted device that 521
is designed for the measurement and delivery of liquid products 522
from a tank. 523

(R) "Bulk rack meter" means a wholesale device, usually 524
mounted on a rack, that is designed for the measurement and 525
delivery of liquid products. 526

(S) "LPG meter" means a system, including a mechanism or 527
machine of the meter type, that is designed to measure and deliver 528
liquefied petroleum gas in the liquid state by a definite quantity 529
whether installed in a permanent location or mounted on a vehicle. 530

(T) "Service person" means an individual who installs, 531
services, repairs, reconditions, or places into service a 532
commercially used weighing and measuring device for any type of 533
compensation. 534

Sec. 1327.48. Weights and measures that are traceable to the 535
United States prototype standards supplied by the federal 536
government, or approved as being satisfactory by the national 537
institute of standards and technology, shall be the state ~~primary~~ 538
reference standards of weights and measures, and shall be 539
maintained in such calibration as is prescribed by the national 540
institute of standards and technology. All ~~secondary~~ working 541

standards may be prescribed by the director of agriculture and 542
shall be verified upon their initial receipt, and as often as 543
found necessary by the director. 544

Sec. 1327.50. The director of agriculture shall: 545

(A) Maintain traceability of the state standards to those of 546
the ~~national institute of standards and technology~~ international 547
system of units; 548

(B) Enforce sections 1327.46 to 1327.61 of the Revised Code; 549

(C) Issue reasonable rules for the uniform enforcement of 550
sections 1327.46 to 1327.61 of the Revised Code, which rules shall 551
have the force and effect of law; 552

(D) Establish standards of weight, measure, or count, 553
reasonable standards of fill, and standards for the voluntary 554
presentation of cost per unit information for any package; 555

(E) Grant any exemptions from sections 1327.46 to 1327.61 of 556
the Revised Code, or any rules adopted under those sections, when 557
appropriate to the maintenance of good commercial practices in the 558
state; 559

(F) Conduct investigations to ensure compliance with sections 560
1327.46 to 1327.61 of the Revised Code; 561

(G) Delegate to appropriate personnel any of these 562
responsibilities for the proper administration of the director's 563
office; 564

(H) Test as often as is prescribed by rule the standards of 565
weight and measure used by any municipal corporation or county 566
within the state, and approve the same when found to be correct; 567

(I) Inspect and test weights and measures that are sold; 568

(J) Inspect and test to ascertain if they are correct, 569
weights and measures commercially used either: 570

(1) In determining the weight, measure, or count of commodities or things sold on the basis of weight, measure, or count; 571
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(2) In computing the basic charge or payment for goods or services rendered on the basis of weight, measure, or count. 574
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(K) Test all weights and measures used in checking the receipt or disbursement of supplies in every institution, for the maintenance of which funds are appropriated by the general assembly; 576
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(L) Approve for use, and may mark, such weights and measures as the director finds to be correct, and shall reject and mark as rejected such weights and measures as the director finds to be incorrect. Weights and measures that have been rejected may be seized if not corrected within the time specified or if used or disposed of in a manner not specifically authorized, and may be condemned and seized if found to be incorrect and not capable of being made correct. 580
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(M) Weigh, measure, or inspect packaged commodities that are sold or in the process of delivery to determine whether they contain the amounts represented and whether they are sold in accordance with sections 1327.46 to 1327.61 of the Revised Code or rules adopted under those sections. In carrying out this section, the director shall employ recognized sampling procedures, such as those designated in the national institute of standards and technology handbook 133 "checking the net contents of packaged goods." 588
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(N) Prescribe by rule the appropriate term or unit of weight or measure to be used, whenever the director determines in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count, or combination thereof, does not facilitate value comparisons by 597
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consumers, or offers an opportunity for consumer confusion; 602

(O) Allow reasonable variations from the stated quantity of 603
contents, which shall include those caused by unavoidable 604
deviations in good manufacturing practice and by loss or gain of 605
moisture during the course of good distribution practice, only 606
after the commodity has entered intrastate commerce; 607

(P) Provide for the weights and measures training of 608
inspector personnel and establish minimum training requirements, 609
which shall be met by all inspector personnel, whether county, 610
municipal, or state; 611

(Q) Prescribe the methods of tests and inspections to be 612
employed in the enforcement of sections 1327.46 to 1327.61 of the 613
Revised Code. The director may prescribe the official test and 614
inspection forms to be used. 615

(R) Provide by rule for ~~voluntary~~ registration with the 616
director of private service persons who are employed by 617
commercially used weighing and measuring device servicing 618
agencies, ~~and personnel~~; 619

(S) In conjunction with the national institute of standards 620
and technology, operate a type evaluation program for 621
certification of weighing and measuring devices as part of the 622
national type evaluation program. The director shall establish a 623
schedule of fees for services rendered by the department of 624
agriculture for type evaluation services. The director may require 625
any weighing or measuring instrument or device to be traceable to 626
a national type evaluation program certificate of conformance 627
prior to use for commercial or law enforcement purposes. 628

(T) Verify advertised prices, price representations, and 629
point-of-sale systems, as necessary, to determine both the 630
accuracy of prices and computations and the correct use of the 631
equipment and the accuracy of prices printed or recalled from a 632

database if a system utilizes scanning or coding in lieu of manual 633
entry. In order to implement this division, the director shall do 634
all of the following: 635

(1) Employ recognized procedures such as those designated in 636
the national institute of standards and technology handbook 130, 637
uniform laws and regulations, "examination procedures for price 638
verification"; 639

(2) Adopt rules establishing requirements governing the 640
accuracy of advertised prices and point-of-sale systems and 641
establishing requirements and procedures for the enforcement of 642
this division; 643

(3) Conduct necessary inspections. 644

Sec. 1327.501. (A) No person shall operate in this state a 645
commercially used weighing and measuring device that provides the 646
~~final~~ quantity ~~and final~~ or cost of a final transaction and for 647
which a fee is established in division (G) of this section unless 648
the operator of the device obtains a permit issued by the director 649
of agriculture or the director's designee. 650

(B) An application for a permit shall be submitted to the 651
director on a form that the director prescribes and provides. The 652
applicant shall include with the application any information that 653
is specified on the application form as well as the application 654
fee established in this section. 655

(C) Upon receipt of a completed application and the required 656
fee from an applicant, the director or the director's designee 657
shall issue or deny the permit to operate the commercially used 658
weighing and measuring device that was the subject of the 659
application. 660

(D) A permit issued under this section expires on the 661
thirtieth day of June of the year following its issuance and may 662

be renewed annually on or before the first day of July of that 663
year upon payment of a permit renewal fee established in this 664
section. 665

(E) If a permit renewal fee is more than sixty days past due, 666
the director may assess a late penalty in an amount established 667
under this section. 668

(F) The director shall do both of the following: 669

(1) Establish procedures and requirements governing the 670
issuance or denial of permits under this section; 671

(2) Establish late penalties to be assessed for the late 672
payment of a permit renewal fee and fees for the replacement of 673
lost or destroyed permits. 674

(G) An applicant for a permit to operate under this section 675
shall pay an application fee in the following applicable amount: 676

(1) Seventy-five dollars for a livestock scale; 677

(2) Seventy-five dollars for a vehicle scale; 678

(3) Seventy-five dollars for a railway scale; 679

(4) Seventy-five dollars for a vehicle tank meter; 680

(5) Seventy-five dollars for a bulk rack meter; 681

(6) Seventy-five dollars for a an LPG meter. 682

A person who is issued a permit under this section and who 683
seeks to renew that permit shall pay an annual permit renewal fee. 684
The amount of a permit renewal fee shall be equal to the 685
application fee for that permit established in this division. 686

(H) All money collected through the payment of fees and the 687
imposition of penalties under this section shall be credited to 688
the metrology and scale certification and device permitting fund 689
created in section 1327.511 of the Revised Code. 690

Sec. 1327.502. A service person who is employed by a 691
commercially used weighing and measuring device servicing agency 692
shall register with the director of agriculture in accordance with 693
rules adopted under section 1327.50 of the Revised Code. 694

Sec. 1327.61. No person shall do any of the following: 695

(A) Use or have in possession for use in commerce any 696
incorrect weight or measure; 697

(B) Wrap, package, label, or advertise any product or service 698
contrary to this chapter, or any rules adopted under it, or sell, 699
offer, hold, or expose for sale any service or product wrapped, 700
packaged, labeled, or offered for sale contrary to this chapter or 701
any rules adopted under it, or misrepresent the quantity or price 702
or service contrary to this chapter, or any rules adopted under 703
it; 704

(C) Remove any tag, seal, or mark from any weight or measure 705
without specific written authorization from the proper authority; 706

(D) Install for use, repair, service, or place into service a 707
commercially used weighing and measuring device unless the 708
installation, repair, service, or placement is performed by one of 709
the following: 710

(1) A department of agriculture division of weights and 711
measures inspector; 712

(2) A service person registered with the department; 713

(3) A county or municipal weights and measures inspector. 714

(E) Hinder or obstruct any weights and measures official in 715
the performance of ~~his~~ official duties; 716

~~(E)~~(F) Sell or offer for use in commerce any incorrect weight 717
or measure. 718

Sec. 1327.99. Whoever violates section 1327.501 or 1327.54 or 719
division (A), (B), (C), (D), or ~~(D)~~(E) of section 1327.61 of the 720
Revised Code or a rule adopted under sections 1327.46 to 1327.61 721
of the Revised Code is guilty of a misdemeanor of the second 722
degree on a first offense; on each subsequent offense within seven 723
years after the first offense, ~~such~~ the person is guilty of a 724
misdemeanor of the first degree. 725

Sec. 4707.02. (A) No person shall act as an auction firm, 726
auctioneer, apprentice auctioneer, or special auctioneer within 727
this state without a license issued by the department of 728
agriculture. No auction shall be conducted in this state except by 729
an auctioneer licensed by the department. 730

The department shall not issue or renew a license if the 731
applicant or licensee has been convicted of a felony or crime 732
involving fraud or theft in this or another state at any time 733
during the ten years immediately preceding application or renewal. 734

(B) Division (A) of this section does not apply to any of the 735
following: 736

(1) Sales at auction that either are required by law to be at 737
auction, other than sales pursuant to a judicial order or decree, 738
or are conducted by or under the direction of a public authority; 739

(2) The owner of any real or personal property desiring to 740
sell the property at auction, provided that the property was not 741
acquired for the purpose of resale; 742

(3) An auction mediation company; 743

(4) An auction that is conducted in a course of study for 744
auctioneers that is approved by the state auctioneers commission 745
created under section 4707.03 of the Revised Code for purposes of 746
student training and is supervised by a licensed auctioneer; 747

(5)(a) An auction that is sponsored by a nonprofit or 748
charitable organization that is registered in this state under 749
Chapter 1702. or Chapter 1716. of the Revised Code, respectively, 750
if the auction only involves the property of the members of the 751
organization and the auction is part of a fair that is organized 752
by an agricultural society under Chapter 1711. of the Revised Code 753
or by the Ohio expositions commission under Chapter 991. of the 754
Revised Code at which an auctioneer who is licensed under this 755
chapter physically conducts the auction; or 756

(b) Sales at an auction sponsored by a charitable, religious, 757
or civic organization that is tax exempt under subsection 758
501(c)(3) of the Internal Revenue Code, or by a public school, 759
chartered nonpublic school, or community school, if no person in 760
the business of organizing, arranging, or conducting an auction 761
for compensation and no consignor of consigned items sold at the 762
auction, except such organization or school, receives compensation 763
from the proceeds of the auction. As used in division (B)(5)(b) of 764
this section, "compensation" means money, a thing of value other 765
than participation in a charitable event, or a financial benefit. 766

(6) A person licensed as a livestock dealer under Chapter 767
943. of the Revised Code who exclusively sells livestock and uses 768
an auctioneer who is licensed under this chapter to conduct the 769
auction; 770

(7) A person licensed as a motor vehicle auction owner under 771
Chapter 4517. of the Revised Code who exclusively sells motor 772
vehicles to a person licensed under Chapter 4517. of the Revised 773
Code and who uses an auctioneer who is licensed under this chapter 774
to conduct the auction; 775

(8) ~~A person who sells~~ Sales of real or personal property 776
conducted by means of the internet, provided that they are not 777
conducted in conjunction with a live auction; 778

(9) A bid calling contest that is approved by the commission 779
and that is conducted for the purposes of the advancement or 780
promotion of the auction profession in this state, provided that 781
no compensation is paid to the sponsor of or participants in the 782
contest other than a prize or award for winning the contest; 783

(10) An auction at which the champion of a national or 784
international bid calling contest appears, provided that both of 785
the following apply: 786

(a) The champion is not paid a commission. 787

(b) The auction is conducted under the direct supervision of 788
an auctioneer licensed under this chapter in order to ensure that 789
the champion complies with this chapter and rules adopted under 790
it. 791

(C)(1) No person shall advertise or hold oneself out as an 792
auction firm, auctioneer, apprentice auctioneer, or special 793
auctioneer without a license issued by the department of 794
agriculture. 795

(2) Division (C)(1) of this section does not apply to an 796
individual who is the subject of an advertisement regarding an 797
auction conducted under division (B)(5)(b) of this section. 798

Section 2. That existing sections 901.23, 921.12, 941.01, 799
941.03, 941.04, 941.06, 941.07, 941.09, 941.10, 941.11, 941.14, 800
1327.46, 1327.48, 1327.50, 1327.501, 1327.61, 1327.99, and 4707.02 801
of the Revised Code are hereby repealed. 802

Section 3. The member who is serving on the Farmland 803
Preservation Advisory Board on the effective date of this section 804
who was appointed under division (A)(3) of section 901.23 of the 805
Revised Code as that section existed prior to its amendment by 806
this act shall continue serving on the Board until the end of the 807
term for which the member was appointed. The Director of 808

Agriculture then shall appoint a member of the Board under
division (A)(3) of that section as amended by this act.

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