



Aida S. Montano

*Bill Analysis*  
Legislative Service Commission

## **H.B. 246**

127th General Assembly  
(As Introduced)

**Rep. J. Stewart**

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### **BILL SUMMARY**

- Requires any owner or operator of a licensed concession, any owner or operator of a licensed amusement ride, and any person licensed to operate a food establishment to provide the name and address of all of the owner's, operator's, or person's employees employed at that concession, amusement ride, or food establishment, whichever is applicable, within 48 hours of a request for that information by the chief of police of the municipal corporation or township in which the concession, amusement ride, or food establishment is located or, if not located within a municipal corporation or township that has a chief of police, by the sheriff of the county in which the concession, amusement ride, or food establishment is located.

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### **CONTENT AND OPERATION**

#### **Existing law**

The Agricultural Corporation Law prohibits any person from operating any "concession" (see **COMMENT 1** for the definition) at any fair or exposition conducted by a county or independent agricultural society or by the Ohio Expositions Commission without first obtaining from the Director of Agriculture a license to do so under that Law, and prohibits any officer, agent, or employee of a county or independent agricultural society or of the Ohio Expositions Commission from granting a privilege or concession to any person to do so, unless the person holds a license (R.C. 1711.11(A)).

The Amusement Rides Law prohibits any person from operating an "amusement ride" (see **COMMENT 2** for the definition) within Ohio without a permit issued by the Director of Agriculture under that Law (R.C. 1711.53(A)(1)).

The Retail Food Establishments and Food Service Operations Law, with specified exclusions and exemptions, prohibits any person or government entity from operating a "retail food establishment" or a "food service operation" without a license issued by an appropriate "licensor" under that Law (see **COMMENT 3** and 4 for definitions of terms in quotation marks). A separate license is required for each retail food establishment or each food service operation that a person or government entity operates. (R.C. 3717.21 and 3717.41.)

The above laws specify the procedures for applying for the respective licenses or permit, including fees; provide for the inspections of concessions, amusement rides, retail food establishments, and food service operations, as applicable; provide for the enforcement of the respective laws; and generally regulate the operation of concessions, amusement rides, retail food establishments, and food service operations, as applicable.

### **Operation of the bill**

The bill requires any owner or operator of a "concession" licensed pursuant to the Agricultural Corporation Law, any owner or operator of an "amusement ride" licensed pursuant to the Amusement Rides Law (see **COMMENT 1** and 2 for the definitions of the above terms in quotation marks), and any person licensed to operate a "food establishment" (defined in the following paragraph) pursuant to the Retail Food Establishments and Food Service Operations Law to provide the name and address of all of the owner's, operator's, or person's employees employed at that concession, amusement ride, or food establishment, whichever is applicable, within 48 hours of a request for that information by the chief of police of the municipal corporation or township in which the owner's, operator's, or person's concession, amusement ride, or food establishment, as applicable, is located or, if the concession, amusement ride, or food establishment is not located within a municipal corporation or township that has a chief of police, by the sheriff of the county in which the concession, amusement ride, or food establishment is located. (R.C. 1711.11(I), 1711.53(I), and 3717.14.)

For purposes of the above provision as it pertains to a food establishment, the bill defines "food establishment" as a seasonal retail food establishment, temporary retail food establishment, mobile retail food establishment, seasonal food service operation, temporary food service operation, or mobile food service operation (see **COMMENT 3** for definitions of those terms) (R.C. 3717.14).

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## **COMMENT**

1. R.C. 1711.11(A) defines "concession" as any show, amusement other than an amusement ride as defined in R.C. 1711.50 (see **COMMENT 2**), game, or

novelty stand operation at a fair or exposition, but does not include food or drink operations.

2. R.C. 1711.50(A) (not in the bill) defines "amusement ride" as any mechanical device, aquatic device, or combination of devices that carries or conveys passengers on, along, around, over, or through a fixed or restricted course or within a defined area for the purpose of giving its passengers amusement, pleasure, or excitement. "Amusement ride" includes carnival rides, bungee jumping facilities, and fair rides but does not include passenger tramways as defined in R.C. 4169.01 or amusement rides operated solely at trade shows for a limited period of time. For purposes of this exclusion, "trade show" means a place of exhibition not open to the general public where amusement ride manufacturers display, promote, operate, and sell amusement rides to prospective purchasers.

3. R.C. 3717.01 (not in the bill) defines the following terms (R.C. 3717.01(C), (D), (E), (F), (I), (J), (K), and (Q)):

"Retail food establishment" means a premises or part of a premises where food is stored, processed, prepared, manufactured, or otherwise held or handled for retail sale. Except when expressly provided otherwise, "retail food establishment" includes a "mobile retail food establishment," "seasonal retail food establishment," and "temporary retail food establishment" (see below). As used in this provision: "retail" means the sale of food to a person who is the ultimate consumer and "prepared" means any action that affects a food, including receiving and maintaining it at the temperature at which it was received.

"Mobile retail food establishment" means a retail food establishment that is operated from a movable vehicle or other portable structure, and that routinely changes location, except that if the establishment operates from any one location for more than 40 consecutive days, the establishment is no longer a mobile retail food establishment.

"Seasonal retail food establishment" means a retail food establishment, other than a mobile retail food establishment, that is operated for not more than six months in a licensing period.

"Temporary retail food establishment" means a retail food establishment that is operated at an event for not more than five consecutive days, except when operated for more than five consecutive days pursuant to R.C. 3717.23(E)(2).

"Food service operation" means a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation. As used in this provision, "served" means a response made to an order for one or more individual portions of food in a form that is

edible without washing, cooking, or additional preparation and "prepared" means any action that affects a food other than receiving or maintaining it at the temperature at which it was received. Except when expressly provided otherwise, "food service operation" includes a catering food service operation, food delivery sales operation, "mobile food service operation," "seasonal food service operation," "temporary food service operation" (see below), and vending machine location.

"Mobile food service operation" means a food service operation that is operated from a movable vehicle, portable structure, or watercraft and that routinely changes location, except that if the operation remains at any one location for more than 40 consecutive days, the operation is no longer a mobile food service operation. "Mobile food service operation" includes a food service operation that does not remain at any one location for more than 40 consecutive days and serves, in a manner consistent with the preceding paragraph, only frozen desserts; beverages, nuts, popcorn, candy, or similar confections; bakery products identified in R.C. 911.01; or any combination of those items.

"Seasonal food service operation" means a food service operation, other than a mobile food service operation, that is operated for not more than six months in a licensing period.

"Temporary food service operation" means a food service operation that is operated at an event for not more than five consecutive days, except when operated for more than five consecutive days pursuant to R.C. 3717.43(E)(2).

4. R.C. 3717.01(O) (not in the bill) defines "licensor" as one of the following: a board of health approved under R.C. 3717.11; the Director of Agriculture acting pursuant to R.C. 3717.11 with respect to the licensing of retail food establishments; or the Director of Health acting pursuant to R.C. 3717.11 with respect to the licensing of food service operations.

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## HISTORY

ACTION	DATE
Introduced	05-30-07

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