

access and the storage portions of the structure.

(K) A fire suppression system as defined in section 3781.108 of the Revised Code may be turned off only for repair, drainage of the system to prevent damage by freezing during the period of time, approved by the fire marshal under division (I) of this section, that the facility is closed to public access during winter months, or maintenance of the system. If any repair or maintenance is necessary during times when the facility is open for public access and business, the licensed wholesaler shall notify in advance the appropriate insurance company and fire chief or fire prevention officer regarding the nature of the maintenance or repair and the time when it will be performed.

(L) If any fireworks item is removed from its original package or is manufactured with any fuse other than a fuse approved by the consumer product safety commission, then the item shall be covered completely by repackaging or bagging or it shall otherwise be covered so as to prevent ignition prior to sale.

(M) A safety officer shall be present during regular business hours at a building open to the public during the period commencing fourteen days before, and ending two days after, each fourth day of July. The officer shall be highly visible, enforce this chapter and any applicable building codes to the extent the officer is authorized by law, and be one of the following:

- (1) A deputy sheriff;
- (2) A law enforcement officer of a municipal corporation, township, or township or joint police district;
- (3) A private uniformed security guard registered under section 4749.06 of the Revised Code.

(N) All doors of all buildings on the licensed premises shall swing outward.

(O) All wholesale and commercial sales of fireworks shall be packaged, shipped, placarded, and transported in accordance with United States department of transportation regulations applicable to the transportation, and the offering for transportation, of hazardous materials. For purposes of this division, "wholesale and commercial sales" includes all sales for resale and any nonretail sale made in furtherance of a commercial enterprise. For purposes of enforcement of these regulations under section ~~4905.83~~ 4923.99 of the Revised Code, any sales transaction exceeding one thousand pounds shall be rebuttably presumed to be a wholesale or commercial sale.

Sec. 3743.25. (A)(1) Except as described in division (A)(2) of this section, all retail sales of 1.4G fireworks by a licensed manufacturer or wholesaler shall only occur from an approved retail sales showroom on a

licensed premises or from a representative sample showroom as described in this section on a licensed premises. For the purposes of this section, a retail sale includes the transfer of the possession of the 1.4G fireworks from the licensed manufacturer or wholesaler to the purchaser of the fireworks.

(2) Sales of 1.4G fireworks to a licensed exhibitor for a properly permitted exhibition shall occur in accordance with the provisions of the Revised Code and rules adopted by the state fire marshal under Chapter 119. of the Revised Code. Such rules shall specify, at a minimum, that the licensed exhibitor holds a license under section 3743.51 of the Revised Code, that the exhibitor possesses a valid exhibition permit issued in accordance with section 3743.54 of the Revised Code, and that the fireworks shipped are to be used at the specifically permitted exhibition.

(B) All wholesale sales of fireworks by a licensed manufacturer or wholesaler shall only occur from a licensed premises to persons who intend to resell the fireworks purchased at wholesale. A wholesale sale by a licensed manufacturer or wholesaler may occur as follows:

(1) The direct sale and shipment of fireworks to a person outside of this state;

(2) From an approved retail sales showroom as described in this section;

(3) From a representative sample showroom as described in this section;

(4) By delivery of wholesale fireworks to a purchaser at a licensed premises outside of a structure or building on that premises. All other portions of the wholesale sales transaction may occur at any location on a licensed premises.

(5) Any other method as described in rules adopted by the state fire marshal under Chapter 119. of the Revised Code.

(C) A licensed manufacturer or wholesaler shall only sell 1.4G fireworks from a representative sample showroom or a retail sales showroom. Each licensed premises shall only contain one sales structure.

A representative sample showroom shall consist of a structure constructed and maintained in accordance with the nonresidential building code adopted under Chapter 3781. of the Revised Code and the fire code adopted under section 3737.82 of the Revised Code for a use and occupancy group that permits mercantile sales. A representative sample showroom shall not contain any pyrotechnics, pyrotechnic materials, fireworks, explosives, explosive materials, or any similar hazardous materials or substances. A representative sample showroom shall be used only for the public viewing of fireworks product representations, including paper materials, packaging materials, catalogs, photographs, or other similar product depictions. The delivery of product to a purchaser of fireworks at a

licensed premises that has a representative sample structure shall not occur inside any structure on a licensed premises. Such product delivery shall occur on the licensed premises in a manner prescribed by rules adopted by the state fire marshal pursuant to Chapter 119. of the Revised Code.

If a manufacturer or wholesaler elects to conduct sales from a retail sales showroom, the showroom structures, to which the public may have any access and in which employees are required to work, on all licensed premises, shall comply with the following safety requirements:

(1) A fireworks showroom that is constructed or upon which expansion is undertaken on and after June 30, 1997, shall be equipped with interlinked fire detection, fire suppression, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of ~~labor~~ industrial compliance in the department of commerce.

(2) A fireworks showroom that first begins to operate on or after June 30, 1997, and to which the public has access for retail purposes shall not exceed five thousand square feet in floor area.

(3) A newly constructed or an existing fireworks showroom structure that exists on September 23, 2008, but that, on or after September 23, 2008, is altered or added to in a manner requiring the submission of plans, drawings, specifications, or data pursuant to section 3791.04 of the Revised Code, shall comply with a graphic floor plan layout that is approved by the state fire marshal and superintendent showing width of aisles, parallel arrangement of aisles to exits, number of exits per wall, maximum occupancy load, evacuation plan for occupants, height of storage or display of merchandise, and other information as may be required by the state fire marshal and superintendent.

(4) A fireworks showroom structure that exists on June 30, 1997, shall be in compliance on or after June 30, 1997, with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the state fire marshal and superintendent, and that are submitted under seal as required by section 3791.04 of the Revised Code.

(D) The safety requirements established in division (C) of this section are not subject to any variance, waiver, or exclusion pursuant to this chapter or any applicable building code.

Sec. 3745.01. There is hereby created the environmental protection agency, headed by the director of environmental protection. The agency, under the supervision of the director, shall administer the laws pertaining to chemical emergency planning, community right-to-know, and toxic chemical release reporting; the cessation of chemical handling operations; the prevention, control, and abatement of air and water pollution; public

water supply; comprehensive water resource management planning; products that contain mercury as defined in section 3734.61 of the Revised Code; and the disposal and treatment of solid wastes, infectious wastes, construction and demolition debris, hazardous waste, sewage, industrial waste, and other wastes. The director may do all of the following:

(A) Provide such methods of administration, appoint such personnel, make such reports, and take such other action as may be necessary to comply with the requirements of the federal laws and regulations pertaining to chemical emergency planning, community right-to-know, and toxic chemical release reporting; air and water pollution control; public water supply; water resource planning; and waste disposal and treatment;

(B) Procure by contract the temporary or intermittent services of experts or consultants, or organizations thereof, when those services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties;

(C) Advise, consult, cooperate, and enter into contracts or agreements, including consensual administrative order agreements, with any other agencies of the state, the federal government, other states, and interstate agencies, and persons and with affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter and Chapters 3704., 3714., 3734., 3751., 3752., 6109., and 6111. of the Revised Code;

(D) Establish advisory boards in accordance with section 121.13 of the Revised Code;

(E) Accept on behalf of the state any grant, gift, or contribution made for toxic chemical release reporting, air or water pollution control, public water supply, water resource planning, waste disposal or treatment, or related purposes, and expend it for those purposes;

(F) Make an annual report to the governor and the general assembly on activities and expenditures as well as recommendations for such additional legislation as the director considers appropriate to carry out the director's duties or accomplish the purposes of this section;

(G) Enter into environmental covenants in accordance with sections 5301.80 to 5301.92 of the Revised Code, and grant or accept easements or sell real property pursuant to section 3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code, as applicable.

The agency shall utilize the laboratory facilities of the department of health and other state institutions and agencies to the maximum extent that the utilization is practicable, economical, and technically satisfactory.

The director shall maintain and keep available for public inspection, at the director's principal office, a current register of all applications filed for

permits, leases, licenses, variances, certificates, and approval of plans and specifications and of publicly owned treatment works pretreatment programs under the director's jurisdiction, hearings pending, the director's final action thereon, and the dates on which the filings, hearings, and final actions occur. The director shall maintain and keep available for public inspection at the director's principal office all plans, reports, and other documents required to be filed with the emergency response commission under Chapter 3750. of the Revised Code and rules adopted under it, and all reports and other documents required to be filed with the director under Chapter 3751. of the Revised Code and rules adopted under it, subject to the requirements of those chapters and rules adopted under them for the protection of trade secrets and confidential business information from disclosure to persons not authorized under those laws to receive trade secret or confidential business information.

Sec. 3745.05. (A) In hearing the appeal, if an adjudication hearing was conducted by the director of environmental protection in accordance with sections 119.09 and 119.10 of the Revised Code or conducted by a board of health, the environmental review appeals commission is confined to the record as certified to it by the director or the board of health, as applicable. The commission may grant a request for the admission of additional evidence when satisfied that such additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the director or the board, as applicable. If no adjudication hearing was conducted in accordance with sections 119.09 and 119.10 of the Revised Code or conducted by a board of health, the commission shall conduct a hearing de novo on the appeal.

For the purpose of conducting a de novo hearing, or where the commission has granted a request for the admission of additional evidence, the commission may require the attendance of witnesses and the production of written or printed materials.

When conducting a de novo hearing, or when a request for the admission of additional evidence has been granted, the commission may, and at the request of any party it shall, issue subpoenas for witnesses or for books, papers, correspondence, memoranda, agreements, or other documents or records relevant or material to the inquiry directed to the sheriff of the counties where the witnesses or documents or records are found, which subpoenas shall be served and returned in the same manner as those allowed by the court of common pleas in criminal cases.

(B) The fees of sheriffs shall be the same as those allowed by the court of common pleas in criminal cases. Witnesses shall be paid the fees and

mileage provided for under section 119.094 of the Revised Code. The fee and mileage expenses incurred at the request of the appellant shall be paid in advance by the appellant, and the remainder of the expenses shall be paid out of funds appropriated for the expenses of the commission.

(C) In case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the court of common pleas of the county in which the disobedience, neglect, or refusal occurs, or any judge thereof, on application of the commission or any member thereof, may compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein.

(D) A witness at any hearing shall testify under oath or affirmation, which any member of the commission may administer. A witness, if the witness requests, shall be permitted to be accompanied, represented, and advised by an attorney, whose participation in the hearing shall be limited to the protection of the rights of the witness, and who may not examine or cross-examine witnesses. A witness shall be advised of the right to counsel before the witness is interrogated.

(E) A ~~stenographic~~ record of the testimony and other evidence submitted shall be taken by an official court ~~shorthand~~ reporter. The record shall include all of the testimony and other evidence and the rulings on the admissibility thereof presented at the hearing. The commission shall pass upon the admissibility of evidence, but any party may at the time object to the admission of any evidence and except to the rulings of the commission thereon, and if the commission refuses to admit evidence the party offering same may make a proffer thereof, and such proffer shall be made a part of the record of such hearing.

Any party may request the ~~stenographic~~ record of the hearing. Promptly after receiving such a request, the commission shall prepare and provide the ~~stenographic~~ record of the hearing to the party who requested it. The commission may charge a fee to the party who requested the ~~stenographic~~ record that does not exceed the cost to the commission for preparing and transcribing or transmitting it.

(F) If, upon completion of the hearing, the commission finds that the action appealed from was lawful and reasonable, it shall make a written order affirming the action, or if the commission finds that the action was unreasonable or unlawful, it shall make a written order vacating or modifying the action appealed from.

The commission shall issue a written order affirming, vacating, or

modifying an action pursuant to the following schedule:

(1) For an appeal that was filed with the commission before April 15, 2008, the commission shall issue a written order not later than December 15, 2009.

(2) For all other appeals that have been filed with the commission as of October 15, 2009, the commission shall issue a written order not later than July 15, 2010.

(3) For an appeal that is filed with the commission after October 15, 2009, the commission shall issue a written order not later than twelve months after the filing of the appeal with the commission.

(G) Every order made by the commission shall contain a written finding by the commission of the facts upon which the order is based. Notice of the making of the order shall be given forthwith to each party to the appeal by mailing a certified copy thereof to each party by certified mail, with a statement of the time and method by which an appeal may be perfected.

(H) The order of the commission is final unless vacated or modified upon judicial review.

Sec. 3745.11. (A) Applicants for and holders of permits, licenses, variances, plan approvals, and certifications issued by the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No fee shall be charged for any issuance for which no application has been submitted to the director.

~~(B) Each person who is issued a permit to install prior to July 1, 2003, pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees specified in the following schedules:~~

~~| (1) Fuel-burning equipment (boilers) | |
|--|-------------------|
| Input capacity (maximum)
(million British thermal units per hour) | Permit to install |
| Greater than 0, but less than 10 | \$ 200 |
| 10 or more, but less than 100 | 400 |
| 100 or more, but less than 300 | 800 |
| 300 or more, but less than 500 | 1500 |
| 500 or more, but less than 1000 | 2500 |
| 1000 or more, but less than 5000 | 4000 |
| 5000 or more | 6000 |~~

~~Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half of the applicable amount established in division (F)(1) of this section.~~

(2) Incinerators

Input capacity (pounds per hour)	Permit to install
0 to 100	\$ 100
101 to 500	400
501 to 2000	750
2001 to 20,000	1000
more than 20,000	2500

(3)(a) Process

Process weight rate (pounds per hour)	Permit to install
0 to 1000	\$ 200
1001 to 5000	400
5001 to 10,000	600
10,001 to 50,000	800
more than 50,000	1000

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed.

(b) Notwithstanding division (B)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:

- 1211 Bituminous coal and lignite mining;
- 1213 Bituminous coal and lignite mining services;
- 1411 Dimension stone;
- 1422 Crushed and broken limestone;
- 1427 Crushed and broken stone, not elsewhere classified;
- 1442 Construction sand and gravel;
- 1446 Industrial sand;
- 3281 Cut stone and stone products;
- 3295 Minerals and earth, ground or otherwise treated.

(c) The fees established in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process listed in division (B)(3)(b) of this section:

Process weight rate (pounds per hour)	Permit to install
0 to 1000	\$ 200
10,001 to 50,000	300

50,001 to 100,000	400
100,001 to 200,000	500
200,001 to 400,000	600
400,001 or more	700
(4) Storage tanks	
Gallons (maximum useful capacity)	Permit to install
0 to 20,000	\$ 100
20,001 to 40,000	150
40,001 to 100,000	200
100,001 to 250,000	250
250,001 to 500,000	350
500,001 to 1,000,000	500
1,000,001 or greater	750
(5) Gasoline/fuel dispensing facilities	
For each gasoline/fuel dispensing facility	Permit to install \$ 100
(6) Dry cleaning facilities	
For each dry cleaning facility (includes all units at the facility)	Permit to install \$ 100
(7) Registration status	
For each source covered by registration status	Permit to install \$ 75

(C)(1) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in this division ~~(C)(1) of this section~~. For the purposes of ~~that~~ this division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.

The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:

(a)(1) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;

(b)(2) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;

(c)(3) Twenty-five dollars per ton on the total actual emissions of each

such regulated pollutant in calendar year 1995, and each subsequent calendar year, to be collected no sooner than the fifteenth day of April of the year next succeeding the calendar year in which the emissions occurred.

The fees levied under this division ~~(C)(1) of this section~~ do not apply to that portion of the emissions of a regulated pollutant at a facility that exceed four thousand tons during a calendar year.

~~(2)(C)(1)~~ The fees assessed under division ~~(C)(1)(B)~~ of this section are for the purpose of providing funding for the Title V permit program.

~~(3)(2)~~ The fees assessed under division ~~(C)(1)(B)~~ of this section do not apply to emissions from any electric generating unit designated as a Phase I unit under Title IV of the federal Clean Air Act prior to calendar year 2000. Those fees shall be assessed on the emissions from such a generating unit commencing in calendar year 2001 based upon the total actual emissions from the generating unit during calendar year 2000 and shall continue to be assessed each subsequent calendar year based on the total actual emissions from the generating unit during the preceding calendar year.

~~(4)(3)~~ The director shall issue invoices to owners or operators of air contaminant sources who are required to pay a fee assessed under division ~~(C)(B)~~ or (D) of this section. Any such invoice shall be issued no sooner than the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice.

(D)(1) Except as provided in division (D)(3) of this section, from January 1, 1994, through December 31, 2003, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 50	\$ 75
50 or more, but less than 100	300
100 or more	700

(2) Except as provided in division (D)(3) of this section, beginning

January 1, 2004, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.03 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 10	\$ 100
10 or more, but less than 50	200
50 or more, but less than 100	300
100 or more	700

(3)(a) As used in division (D) of this section, "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under section 3704.036 of the Revised Code.

(b) Beginning January 1, 2000, through June 30, 2014, each person who owns or operates a synthetic minor facility shall pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with the following schedule:

Combined total tons per year of all regulated pollutants emitted	Annual fee per facility
Less than 10	\$ 170
10 or more, but less than 20	340
20 or more, but less than 30	670
30 or more, but less than 40	1,010
40 or more, but less than 50	1,340
50 or more, but less than 60	1,680
60 or more, but less than 70	2,010
70 or more, but less than 80	2,350
80 or more, but less than 90	2,680
90 or more, but less than 100	3,020

100 or more

3,350

(4) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fees assessed under division (D)(2) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 2005. The fees assessed under division (D)(3) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees prescribed in division ~~(C)(1)(B)~~ of this section by the percentage, if any, by which the consumer price index for the most recent calendar year ending before the beginning of a year exceeds the consumer price index for calendar year 1989. Upon calculating an increase in fees authorized by division (E)(1) of this section, the director shall compile revised fee schedules for the purposes of division ~~(C)(1)(B)~~ of this section and shall make the revised schedules available to persons required to pay the fees assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of the consumer price index for all urban consumers published by the United States department of labor as of the close of the twelve-month period ending on the thirty-first day of August of that year.

(b) If the 1989 consumer price index is revised, the director shall use the revision of the consumer price index that is most consistent with that for calendar year 1989.

(F) Each person who is issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code on or after July 1, 2003, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)

Input capacity (maximum)

(million British thermal units per hour)	Permit to install
Greater than 0, but less than 10	\$ 200
10 or more, but less than 100	400
100 or more, but less than 300	1000
300 or more, but less than 500	2250
500 or more, but less than 1000	3750
1000 or more, but less than 5000	6000
5000 or more	9000

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion engines designed to generate electricity

Generating capacity (mega watts)	Permit to install
0 or more, but less than 10	\$ 25
10 or more, but less than 25	150
25 or more, but less than 50	300
50 or more, but less than 100	500
100 or more, but less than 250	1000
250 or more	2000

(3) Incinerators

Input capacity (pounds per hour)	Permit to install
0 to 100	\$ 100
101 to 500	500
501 to 2000	1000
2001 to 20,000	1500
more than 20,000	3750

(4)(a) Process

Process weight rate (pounds per hour)	Permit to install
0 to 1000	\$ 200
1001 to 5000	500
5001 to 10,000	750
10,001 to 50,000	1000
more than 50,000	1250

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed. A boiler, furnace, combustion turbine, stationary internal combustion engine, or process heater designed to provide direct heat or power to a process not designed to generate electricity shall be assessed a fee established in division (F)(4)(a) of this section. A combustion turbine or stationary internal combustion engine designed to generate

electricity shall be assessed a fee established in division (F)(2) of this section.

(b) Notwithstanding division (F)(4)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees set forth in division (F)(4)(c) of this section for a process used in any of the following industries, as identified by the applicable two-digit, three-digit, or four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1987, as revised:

- Major group 10, metal mining;
- Major group 12, coal mining;
- Major group 14, mining and quarrying of nonmetallic minerals;
- Industry group 204, grain mill products;
- 2873 Nitrogen fertilizers;
- 2874 Phosphatic fertilizers;
- 3281 Cut stone and stone products;
- 3295 Minerals and earth, ground or otherwise treated;
- 4221 Grain elevators (storage only);
- 5159 Farm related raw materials;
- 5261 Retail nurseries and lawn and garden supply stores.

(c) The fees set forth in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process identified in division (F)(4)(b) of this section:

Process weight rate (pounds per hour)	Permit to install
0 to 10,000	\$ 200
10,001 to 50,000	400
50,001 to 100,000	500
100,001 to 200,000	600
200,001 to 400,000	750
400,001 or more	900

(5) Storage tanks

Gallons (maximum useful capacity)	Permit to install
0 to 20,000	\$ 100
20,001 to 40,000	150
40,001 to 100,000	250
100,001 to 500,000	400
500,001 or greater	750

(6) Gasoline/fuel dispensing facilities

For each gasoline/fuel dispensing facility (includes all units at the facility)	Permit to install \$ 100
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(7) Dry cleaning facilities

For each dry cleaning facility (includes all units at the facility)	Permit to install \$ 100
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(8) Registration status

For each source covered by registration status	Permit to install \$ 75
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(G) An owner or operator who is responsible for an asbestos demolition or renovation project pursuant to rules adopted under section 3704.03 of the Revised Code shall pay the fees set forth in the following schedule:

Action	Fee
Each notification	\$75
Asbestos removal	\$3/unit
Asbestos cleanup	\$4/cubic yard

For purposes of this division, "unit" means any combination of linear feet or square feet equal to fifty.

(H) A person who is issued an extension of time for a permit to install an air contaminant source pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay a fee equal to one-half the fee originally assessed for the permit to install under this section, except that the fee for such an extension shall not exceed two hundred dollars.

(I) A person who is issued a modification to a permit to install an air contaminant source pursuant to rules adopted under section 3704.03 of the Revised Code shall pay a fee equal to one-half of the fee that would be assessed under this section to obtain a permit to install the source. The fee assessed by this division only applies to modifications that are initiated by the owner or operator of the source and shall not exceed two thousand dollars.

(J) Notwithstanding division ~~(B)~~ or (F) of this section, a person who applies for or obtains a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code after the date actual construction of the source began shall pay a fee for the permit to install that is equal to twice the fee that otherwise would be assessed under the applicable division unless the applicant received authorization to begin construction under division (W) of section 3704.03 of the Revised Code. This division only applies to sources for which actual construction of the

source begins on or after July 1, 1993. The imposition or payment of the fee established in this division does not preclude the director from taking any administrative or judicial enforcement action under this chapter, Chapter 3704., 3714., 3734., or 6111. of the Revised Code, or a rule adopted under any of them, in connection with a violation of rules adopted under division (F) of section 3704.03 of the Revised Code.

As used in this division, "actual construction of the source" means the initiation of physical on-site construction activities in connection with improvements to the source that are permanent in nature, including, without limitation, the installation of building supports and foundations and the laying of underground pipework.

(K) Fifty (1) Money received under division (B) of this section shall be deposited in the state treasury to the credit of the Title V clean air fund created in section 3704.035 of the Revised Code. Annually, fifty cents per ton of each fee assessed under division (C)(B) of this section on actual emissions from a source and received by the environmental protection agency pursuant to that division shall be deposited into transferred using an interstate transfer voucher to the state treasury to the credit of the small business assistance fund created in section 3706.19 of the Revised Code. The remainder of the moneys In addition, annually, the amount of money necessary for the operation of the office of ombudsperson as determined under division (B) of that section shall be transferred to the state treasury to the credit of the small business ombudsperson fund created by that section.

(2) Money received by the division pursuant to that division and moneys received by the agency pursuant to divisions (D), (F), (G), (H), (I), and (J) of this section shall be deposited in the state treasury to the credit of the non-Title V clean air fund created in section 3704.035 of the Revised Code.

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) or (c) of this section, a person issued a water discharge permit or renewal of a water discharge permit pursuant to Chapter 6111. of the Revised Code shall pay a fee based on each point source to which the issuance is applicable in accordance with the following schedule:

Design flow discharge (gallons per day)	Fee
0 to 1000	\$ 0
1,001 to 5000	100
5,001 to 50,000	200
50,001 to 100,000	300
100,001 to 300,000	525
over 300,000	750

(b) Notwithstanding the fee schedule specified in division (L)(1)(a) of

this section, the fee for a water discharge permit that is applicable to coal mining operations regulated under Chapter 1513. of the Revised Code shall be two hundred fifty dollars per mine.

(c) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit for a public discharger identified by I in the third character of the permittee's NPDES permit number shall not exceed seven hundred fifty dollars.

(2) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, 2014, and one hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, 2014, except that the total fee shall not exceed fifteen thousand dollars through June 30, 2014, and five thousand dollars on and after July 1, 2014. The fee shall be paid at the time the application is submitted.

(3) A person issued a modification of a water discharge permit shall pay a fee equal to one-half the fee that otherwise would be charged for a water discharge permit, except that the fee for the modification shall not exceed four hundred dollars.

(4) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(5)(a)(i) Not later than January 30, 2012, and January 30, 2013, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L)(5)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial

facilities pursuant to division (L)(5)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L)(5)(a)(i) of this section, except for the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, shall be based upon the average daily discharge flow in gallons per day calculated using first day of May through thirty-first day of October flow data for the period two years prior to the date on which the fee is due. In the case of NPDES discharge permits for new sources, the fee shall be calculated using the average daily design flow of the facility until actual average daily discharge flow values are available for the time period specified in division (L)(5)(a)(iii) of this section. The annual discharge fee may be prorated for a new source as described in division (L)(5)(a)(ii) of this section.

(b) An NPDES permit holder that is a public discharger shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2012, and January 30, 2013
5,000 to 49,999	\$ 200
50,000 to 100,000	500
100,001 to 250,000	1,050
250,001 to 1,000,000	2,600
1,000,001 to 5,000,000	5,200
5,000,001 to 10,000,000	10,350
10,000,001 to 20,000,000	15,550
20,000,001 to 50,000,000	25,900
50,000,001 to 100,000,000	41,400
100,000,001 or more	62,100

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2012, and January 30, 2013
5,000 to 49,999	\$ 250
50,000 to 250,000	1,200
250,001 to 1,000,000	2,950
1,000,001 to 5,000,000	5,850
5,000,001 to 10,000,000	8,800
10,000,001 to 20,000,000	11,700
20,000,001 to 100,000,000	14,050
100,000,001 to 250,000,000	16,400
250,000,001 or more	18,700

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, 2012, and not later than January 30, 2013. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, 2012, and not later than January 30, 2013. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water discharge fee of one hundred dollars per square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth day of January of each year thereafter. Any person who fails to pay the fee

on the date specified in division (L)(6) of this section shall pay an additional amount per year equal to ten per cent of the annual fee that is unpaid.

(7) The director shall transmit all moneys collected under division (L) of this section to the treasurer of state for deposit into the state treasury to the credit of the surface water protection fund created in section 6111.038 of the Revised Code.

(8) As used in division (L) of this section:

(a) "NPDES" means the federally approved national pollutant discharge elimination system program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and rules adopted under it.

(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director.

(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director.

(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director.

(M) Through June 30, 2014, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

Except as provided in division (M)(4) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under ~~division (A)(1)~~ of section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of the Revised Code, and for each license renewal required for such a system prior to January 31, 2014, the fee is:

Number of service connections	Fee amount
Not more than 49	\$ 112
50 to 99	176

Number of service connections	Average cost per connection
100 to 2,499	\$ 1.92
2,500 to 4,999	1.48
5,000 to 7,499	1.42
7,500 to 9,999	1.34
10,000 to 14,999	1.16
15,000 to 24,999	1.10
25,000 to 49,999	1.04
50,000 to 99,999	.92
100,000 to 149,999	.86
150,000 to 199,999	.80
200,000 or more	.76

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under ~~division (A)(2)~~ of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, 2014, the fee is:

Population served	Fee amount
Fewer than 150	\$ 112
150 to 299	176
300 to 749	384
750 to 1,499	628
1,500 to 2,999	1,268
3,000 to 7,499	2,816
7,500 to 14,999	5,510
15,000 to 22,499	9,048
22,500 to 29,999	12,430
30,000 or more	16,820

As used in division (M)(2) of this section, "population served" means the total number of individuals having access to the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under ~~division (A)(3)~~ of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, 2014, the fee is:

Number of wells or sources, other than surface water, supplying system	Fee amount
1	\$112
2	112
3	176
4	278
5	568
System designated as using a surface water source	792

As used in division (M)(3) of this section, "number of wells or sources, other than surface water, supplying system" means those wells or sources that are physically connected to the plumbing system serving the public water system.

(4) A public water system designated as using a surface water source shall pay a fee of seven hundred ninety-two dollars or the amount calculated under division (M)(1) or (2) of this section, whichever is greater.

(N)(1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed twenty thousand dollars through June 30, 2014, and fifteen thousand dollars on and after July 1, 2014. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, 2014, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to

Chapter 6109. of the Revised Code for determining the qualitative characteristics of water:

microbiological	
MMO-MUG	\$2,000
MF	2,100
MMO-MUG and MF	2,550
organic chemical	5,400
trace metals	5,400
standard chemistry	2,800
limited chemistry	1,550

On and after July 1, 2014, the following fee, on a per survey basis, shall be charged any such person:

microbiological	\$ 1,650
organic chemicals	3,500
trace metals	3,500
standard chemistry	1,800
limited chemistry	1,000

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, 2014, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

- (a) "MF" means microfiltration.
- (b) "MMO" means minimal medium ONPG.
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director ~~for to take an~~ examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code that is administered by the director, at the time the application is submitted, shall pay ~~an application fee of forty-five dollars through November 30, 2014, and twenty-five dollars on and after December 1, 2014. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay~~ a fee in accordance with the following schedule through November 30, 2014:

Class A operator	\$35 <u>80</u>
Class I operator	60 <u>105</u>
Class II operator	75 <u>120</u>
Class III operator	85 <u>130</u>
Class IV operator	100 <u>145</u>

On and after December 1, 2014, the applicant shall pay a fee in accordance with the following schedule:

Class A operator	\$25 <u>50</u>
Class I operator	\$45 <u>70</u>
Class II operator	55 <u>80</u>
Class III operator	65 <u>90</u>
Class IV operator	75 <u>100</u>

Any person applying to the director for certification as an operator of a water supply system or wastewater system who has passed an examination administered by an examination provider approved by the director shall pay a certification fee of forty-five dollars.

A person shall pay a biennial certification renewal fee for each applicable class of certification in accordance with the following schedule:

Class A operator	\$25
Class I operator	35
Class II operator	45
Class III operator	55
Class IV operator	65

If a certification renewal fee is received by the director more than thirty days, but not more than one year after the expiration date of the certification, the person shall pay a certification renewal fee in accordance with the following schedule:

Class A operator	\$45
Class I operator	55
Class II operator	65
Class III operator	75
Class IV operator	85

A person who requests a replacement certificate shall pay a fee of twenty-five dollars at the time the request is made.

Any person applying to be a water supply system or wastewater treatment system examination provider shall pay an application fee of five hundred dollars. Any person approved by the director as a water supply system or wastewater treatment system examination provider shall pay an annual fee that is equal to ten per cent of the fees that the provider assesses and collects for administering water supply system or wastewater treatment

system certification examinations in this state for the calendar year. The fee shall be paid not later than forty-five days after the end of a calendar year.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(P) Any person submitting an application for an industrial water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after June 26, 2003, persons shall file such applications and pay the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or treatment capacity of the facility pursuant to Chapter 3734. of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal or treatment capacity, or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars. A person issued a modification of a permit for a solid waste disposal facility or an infectious waste treatment facility that does not involve an increase in the total disposal or treatment capacity of the facility shall pay a fee of one thousand dollars. A person issued a permit to install a new, or modify an existing, solid waste transfer facility under that chapter shall pay a fee of two thousand five hundred dollars. A person issued a permit to install a new or to modify an existing solid waste incineration or composting facility, or an existing infectious waste treatment facility using incineration as its principal method of treatment, under that chapter shall pay a fee of one thousand dollars. The increases in the permit fees under this division resulting from the amendments made by Amended Substitute House Bill 592 of the 117th general assembly do not apply to any person who submitted an application for a permit to install a new, or modify an existing, solid waste disposal facility under that chapter prior to September 1, 1987;

any such person shall pay the permit fee established in this division as it existed prior to June 24, 1988. In addition to the applicable permit fee under this division, a person issued a permit to install or modify a solid waste facility or an infectious waste treatment facility under that chapter who fails to pay the permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the permit fee is late.

Permit and late payment fees paid to the director under this division shall be credited to the general revenue fund.

(R)(1) A person issued a registration certificate for a scrap tire collection facility under section 3734.75 of the Revised Code shall pay a fee of two hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(2) A person issued a registration certificate for a new scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of three hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of one thousand dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of fifty dollars.

(4) A person issued a permit for a scrap tire monocell or monofill facility under section 3734.77 of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal capacity or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars.

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars.

(7) In addition to the applicable registration certificate or permit fee under divisions (R)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (R)(1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

(S)(1) Except as provided by divisions (L), (M), (N), (O), (P), and (S)(2) of this section, division (A)(2) of section 3734.05 of the Revised Code, section 3734.79 of the Revised Code, and rules adopted under division (T)(1) of this section, any person applying for a registration certificate under section 3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, variance, or plan approval under Chapter 3734. of the Revised Code shall pay a nonrefundable fee of fifteen dollars at the time the application is submitted.

Except as otherwise provided, any person applying for a permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable fee of one hundred dollars at the time the application is submitted through June 30, 2014, and a nonrefundable fee of fifteen dollars at the time the application is submitted on and after July 1, 2014. Except as provided in division (S)(3) of this section, through June 30, 2014, any person applying for a national pollutant discharge elimination system permit under Chapter 6111. of the Revised Code shall pay a nonrefundable fee of two hundred dollars at the time of application for the permit. On and after July 1, 2014, such a person shall pay a nonrefundable fee of fifteen dollars at the time of application.

In addition to the application fee established under division (S)(1) of this section, any person applying for a national pollutant discharge elimination system general storm water construction permit shall pay a nonrefundable fee of twenty dollars per acre for each acre that is permitted above five acres at the time the application is submitted. However, the per acreage fee shall not exceed three hundred dollars. In addition, any person applying for a national pollutant discharge elimination system general storm water industrial permit shall pay a nonrefundable fee of one hundred fifty dollars at the time the application is submitted.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6111. of the Revised Code and under division (S)(3) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

If a registration certificate is issued under section 3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of the application fee paid shall be deducted from the amount of the registration certificate fee due under division (R)(1), (2), or (5) of this section, as applicable.

If a person submits an electronic application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section, the person shall pay the applicable application fee as expeditiously as possible after the submission of the electronic application. An application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section shall not be reviewed or processed until the applicable application fee, and any other fees established under this division, are paid.

(2) Division (S)(1) of this section does not apply to an application for a registration certificate for a scrap tire collection or storage facility submitted under section 3734.75 or 3734.76 of the Revised Code, as applicable, if the owner or operator of the facility or proposed facility is a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code.

(3) A person applying for coverage under a national pollutant discharge elimination system general discharge permit for household sewage treatment systems shall pay the following fees:

(a) A nonrefundable fee of two hundred dollars at the time of application for initial permit coverage;

(b) A nonrefundable fee of one hundred dollars at the time of application for a renewal of permit coverage.

(T) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6111. of the

Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(2) Exempt the state and political subdivisions thereof, including education facilities or medical facilities owned by the state or a political subdivision, or any person exempted from taxation by section 5709.07 or 5709.12 of the Revised Code, from any fee required by this section;

(3) Provide for the waiver of any fee, or any part thereof, otherwise required by this section whenever the director determines that the imposition of the fee would constitute an unreasonable cost of doing business for any applicant, class of applicants, or other person subject to the fee;

(4) Prescribe measures that the director considers necessary to carry out this section.

(U) When the director reasonably demonstrates that the direct cost to the state associated with the issuance of a permit to install, license, variance, plan approval, or certification exceeds the fee for the issuance or review specified by this section, the director may condition the issuance or review on the payment by the person receiving the issuance or review of, in addition to the fee specified by this section, the amount, or any portion thereof, in excess of the fee specified under this section. The director shall not so condition issuances for which ~~fees are~~ a fee is prescribed in ~~divisions (B)(7) and division (L)(1)(b)~~ of this section.

(V) Except as provided in divisions (L), (M), and (P) of this section or unless otherwise prescribed by a rule of the director adopted pursuant to Chapter 119. of the Revised Code, all fees required by this section are payable within thirty days after the issuance of an invoice for the fee by the director or the effective date of the issuance of the license, permit, variance, plan approval, or certification. If payment is late, the person responsible for payment of the fee shall pay an additional ten per cent of the amount due for each month that it is late.

(W) As used in this section, "fuel-burning equipment," "fuel-burning equipment input capacity," "incinerator," "incinerator input capacity," "process," "process weight rate," "storage tank," "gasoline dispensing facility," "dry cleaning facility," "design flow discharge," and "new source treatment works" have the meanings ascribed to those terms by applicable rules or standards adopted by the director under Chapter 3704. or 6111. of the Revised Code.

(X) As used in divisions (B), ~~(C)~~, (D), (E), (F), (H), (I), and (J) of this section, and in any other provision of this section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code:

(1) "Facility," "federal Clean Air Act," "person," and "Title V permit"

have the same meanings as in section 3704.01 of the Revised Code.

(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal;

(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;

(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions;

(e) Emission and ambient monitoring;

(f) Modeling, analyses, or demonstrations;

(g) Preparing inventories and tracking emissions;

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year preceding the date on which payment of the fee is due.

(2)(a) Except as provided in division (Y)(2)(d) of this section, each sewage sludge facility shall pay a minimum annual sewage sludge fee of one hundred dollars.

(b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be

thirty-five per cent less per dry ton of exceptional quality sludge than the fee assessed under division (Y)(1) of this section, subject to the following exceptions:

(i) Except as provided in division (Y)(2)(d) of this section, a sewage sludge facility that treats or disposes of exceptional quality sludge shall pay a minimum annual sewage sludge fee of one hundred dollars.

(ii) A sewage sludge facility that treats or disposes of exceptional quality sludge shall not be required to pay the annual sludge fee for treatment or disposal in this state of exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity.

A thirty-five per cent reduction for exceptional quality sludge applies to the maximum annual fees established under division (Y)(3) of this section.

(c) A sewage sludge facility that transfers sewage sludge to another sewage sludge facility in this state for further treatment prior to disposal in this state shall not be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred. In such a case, the sewage sludge facility that disposes of the sewage sludge shall pay the annual sludge fee. However, the facility transferring the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

In the case of a sewage sludge facility that treats sewage sludge in this state and transfers it out of this state to another entity for disposal, the sewage sludge facility in this state shall be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred.

(d) A sewage sludge facility that generates sewage sludge resulting from an average daily discharge flow of less than five thousand gallons per day is not subject to the fees assessed under division (Y) of this section.

(3) No sewage sludge facility required to pay the annual sludge fee shall be required to pay more than the maximum annual fee for each disposal method that the sewage sludge facility uses. The maximum annual fee does not include the additional amount that may be charged under division (Y)(5) of this section for late payment of the annual sludge fee. The maximum annual fee for the following methods of disposal of sewage sludge is as follows:

(a) Incineration: five thousand dollars;

(b) Preexisting land reclamation project or disposal in a landfill: five thousand dollars;

(c) Land application, land reclamation, surface disposal, or any other disposal method not specified in division (Y)(3)(a) or (b) of this section:

twenty thousand dollars.

(4)(a) In the case of an entity that generates sewage sludge or a sewage sludge facility that treats sewage sludge and transfers the sewage sludge to an incineration facility for disposal, the incineration facility, and not the entity generating the sewage sludge or the sewage sludge facility treating the sewage sludge, shall pay the annual sludge fee for the tons of sewage sludge that are transferred. However, the entity or facility generating or treating the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

(b) In the case of an entity that generates sewage sludge and transfers the sewage sludge to a landfill for disposal or to a sewage sludge facility for land reclamation or surface disposal, the entity generating the sewage sludge, and not the landfill or sewage sludge facility, shall pay the annual sludge fee for the tons of sewage sludge that are transferred.

(5) Not later than the first day of April of the calendar year following March 17, 2000, and each first day of April thereafter, the director shall issue invoices to persons who are required to pay the annual sludge fee. The invoice shall identify the nature and amount of the annual sludge fee assessed and state the first day of May as the deadline for receipt by the director of objections regarding the amount of the fee and the first day of July as the deadline for payment of the fee.

Not later than the first day of May following receipt of an invoice, a person required to pay the annual sludge fee may submit objections to the director concerning the accuracy of information regarding the number of dry tons of sewage sludge used to calculate the amount of the annual sludge fee or regarding whether the sewage sludge qualifies for the exceptional quality sludge discount established in division (Y)(2)(b) of this section. The director may consider the objections and adjust the amount of the fee to ensure that it is accurate.

If the director does not adjust the amount of the annual sludge fee in response to a person's objections, the person may appeal the director's determination in accordance with Chapter 119. of the Revised Code.

Not later than the first day of June, the director shall notify the objecting person regarding whether the director has found the objections to be valid and the reasons for the finding. If the director finds the objections to be valid and adjusts the amount of the annual sludge fee accordingly, the director shall issue with the notification a new invoice to the person identifying the amount of the annual sludge fee assessed and stating the first day of July as the deadline for payment.

Not later than the first day of July, any person who is required to do so

shall pay the annual sludge fee. Any person who is required to pay the fee, but who fails to do so on or before that date shall pay an additional amount that equals ten per cent of the required annual sludge fee.

(6) The director shall transmit all moneys collected under division (Y) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. The moneys shall be used to defray the costs of administering and enforcing provisions in Chapter 6111. of the Revised Code and rules adopted under it that govern the use, storage, treatment, or disposal of sewage sludge.

(7) Beginning in fiscal year 2001, and every two years thereafter, the director shall review the total amount of moneys generated by the annual sludge fees to determine if that amount exceeded six hundred thousand dollars in either of the two preceding fiscal years. If the total amount of moneys in the fund exceeded six hundred thousand dollars in either fiscal year, the director, after review of the fee structure and consultation with affected persons, shall issue an order reducing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will not exceed six hundred thousand dollars in any fiscal year.

If, upon review of the fees under division (Y)(7) of this section and after the fees have been reduced, the director determines that the total amount of moneys collected and accumulated is less than six hundred thousand dollars, the director, after review of the fee structure and consultation with affected persons, may issue an order increasing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will be approximately six hundred thousand dollars. Fees shall never be increased to an amount exceeding the amount specified in division (Y)(7) of this section.

Notwithstanding section 119.06 of the Revised Code, the director may issue an order under division (Y)(7) of this section without the necessity to hold an adjudicatory hearing in connection with the order. The issuance of an order under this division is not an act or action for purposes of section 3745.04 of the Revised Code.

(8) As used in division (Y) of this section:

(a) "Sewage sludge facility" means an entity that performs treatment on or is responsible for the disposal of sewage sludge.

(b) "Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or

advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

(c) "Exceptional quality sludge" means sewage sludge that meets all of the following qualifications:

- (i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);
- (ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);
- (iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;
- (iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.

(d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge.

(e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator.

(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil.

(g) "Land reclamation" means the returning of disturbed land to productive use.

(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.

(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

(j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway.

(k) "Annual sludge fee" means the fee assessed under division (Y)(1) of this section.

(l) "Landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed under

section 3734.05 of the Revised Code.

(m) "Preexisting land reclamation project" means a property-specific land reclamation project that has been in continuous operation for not less than five years pursuant to approval of the activity by the director and includes the implementation of a community outreach program concerning the activity.

Sec. 3745.112. During the month of August 1997, and biennially thereafter, the director of environmental protection shall enter into a contract for the performance of an independent evaluation of the Title V permit program to be conducted under the supervision of an independent certified public accountant. The evaluation shall review the finances, operations, revenues, costs, and expenditures of the Title V permit program under section 3704.036 of the Revised Code and the Title V clean air fund created in section 3704.035 of the Revised Code. The findings of each such evaluation shall be set forth in a written report that shall include, without limitation, all of the following:

(A) A review and analysis of all expenditures from the Title V clean air fund for the Title V permit program;

(B) A review and analysis of all costs incurred by the environmental protection agency designated by the director to be costs of the Title V permit program;

(C) A review and analysis of all expenditures from the Title V clean air fund for costs not designated by the director as costs of the Title V permit program;

(D) A review and analysis of the adequacy of the fees assessed under division ~~(C)~~(B) of section 3745.11 for meeting the costs of the Title V permit program during the period reviewed by the evaluation.

Upon completion of the written report of each evaluation required by this section, the director shall provide copies of the report to the governor and the general assembly and shall make copies of it available to the public.

The reasonable and necessary expenses for conducting an evaluation required under this section are hereby deemed to be reasonable costs to administer the Title V permit program and shall be paid from moneys credited to the Title V clean air fund arising from the fees assessed under division ~~(C)~~(B) of section 3745.11 of the Revised Code.

Sec. 3748.04. The ~~public~~ director of health ~~council~~, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend or rescind rules doing all of the following:

(A) Listing types of radioactive material for which licensure by its handler is required and types of radiation-generating equipment for which

registration by its handler is required, and establishing requirements governing them. Rules adopted under division (A) of this section shall be compatible with applicable federal regulations and shall establish all of the following, without limitation:

(1) Requirements governing both of the following:

(a) The licensing and inspection of handlers of radioactive material. Standards established in rules adopted under division (A)(1)(a) of this section regarding byproduct material or any activity that results in the production of that material, to the extent practicable, shall be equivalent to or more stringent than applicable standards established by the United States nuclear regulatory commission.

(b) The registration and inspection of handlers of radiation-generating equipment. Standards established in rules adopted under division (A)(1)(b) of this section, to the extent practicable, shall be equivalent to applicable standards established by the food and drug administration in the United States department of health and human services.

(2) Identification of and requirements governing possession and use of specifically licensed and generally licensed quantities of radioactive material as either sealed sources or unsealed sources;

(3) A procedure for the issuance of and the frequency of renewal of the licenses of handlers of radioactive material, other than a license for a facility for the disposal of low-level radioactive waste, and of the certificates of registration of handlers of radiation-generating equipment;

(4) Procedures for suspending and revoking the licenses of handlers of radioactive material and the certificates of registration of handlers of radiation-generating equipment;

(5) Criteria to be used by the director of health in amending the license of a handler of radioactive material or the certificate of registration of a handler of radiation-generating equipment subsequent to its issuance;

(6) Criteria for achieving and maintaining compliance with this chapter and rules adopted under it by licensees and registrants;

(7) Criteria governing environmental monitoring of licensed and registered activities to assess compliance with this chapter and rules adopted under it;

(8) Fees for both of the following:

(a) The licensing of handlers, other than facilities for the disposal of low-level radioactive waste, of radioactive material;

(b) The registration of handlers, other than facilities that are, or are operated by, medical practitioners or medical-practitioner groups, of radiation-generating equipment.

(9) A fee schedule for both of the following that includes fees for reviews, conducted during an inspection, of shielding plans or the adequacy of shielding:

- (a) The inspection of handlers of radioactive material;
- (b) The inspection of handlers, other than facilities that are, or are operated by, medical practitioners or medical-practitioner groups, of radiation-generating equipment.

(B)(1) Identifying sources of radiation, circumstances of possession, use, or disposal of sources of radiation, and levels of radiation that constitute an unreasonable or unnecessary risk to human health or the environment;

(2) Establishing requirements for the achievement and maintenance of compliance with standards for the receipt, possession, use, storage, installation, transfer, servicing, and disposal of sources of radiation to prevent levels of radiation that constitute an unreasonable or unnecessary risk to human health or the environment;

(3) Requiring the maintenance of records on the receipt, use, storage, transfer, and disposal of radioactive material and on the radiological safety aspects of the use and maintenance of radiation-generating equipment.

In adopting rules under divisions (A) and (B) of this section, the ~~council~~ director shall use standards no less stringent than the "suggested state regulations for control of radiation" prepared by the conference of radiation control program directors, inc., and regulations adopted by the United States nuclear regulatory commission, the United States environmental protection agency, and the United States department of health and human services and shall consider reports of the national council on radiation protection and measurement and the relevant standards of the American national standards institute.

(C) Establishing fees, procedures, and requirements for certification as a radiation expert, including all of the following, without limitation:

- (1) Minimum training and experience requirements;
- (2) Procedures for applying for certification;
- (3) Procedures for review of applications and issuance of certificates;
- (4) Procedures for suspending and revoking certification.

(D) Establishing a schedule for inspection of sources of radiation and their shielding and surroundings;

(E) Establishing the responsibilities of a radiation expert;

(F) Establishing criteria for quality assurance programs for licensees of radioactive material and registrants of radiation-generating equipment;

(G) Establishing fees to be paid by any facility that, on September 8, 1995, holds a license from the United States nuclear regulatory commission

in order to provide moneys necessary for the transfer of licensing and other regulatory authority from the commission to the state pursuant to section 3748.03 of the Revised Code. Rules adopted under this division shall stipulate that fees so established do not apply to any functions dealing specifically with a facility for the disposal of low-level radioactive waste. Fees collected under this division shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

(H) Establishing fees to be collected annually from generators of low-level radioactive waste, which shall be based upon the volume and radioactivity of the waste generated and the costs of administering low-level radioactive waste management activities under this chapter and rules adopted under it. All fees collected under this division shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it. Any fee required under this division that ~~has not been paid within ninety days~~ remains unpaid on the ninety-first day after the original invoice date shall be assessed ~~at two times an additional amount equal to ten per cent of the original invoiced fee.~~ Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.

(I) Establishing requirements governing closure, decontamination, decommissioning, reclamation, and long-term surveillance and care of a facility licensed under this chapter and rules adopted under it. Rules adopted under division (I) of this section shall include, without limitation, all of the following:

(1) Standards and procedures to ensure that a licensee prepares a decommissioning funding plan that provides an adequate financial guaranty to permit the completion of all requirements governing the closure, decontamination, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with a licensed activity;

(2) For licensed activities where radioactive material that will require surveillance or care is likely to remain at the site after the licensed activities cease, as indicated in the application for the license submitted under section 3748.07 of the Revised Code, standards and procedures to ensure that the licensee prepares an additional decommissioning funding plan for long-term surveillance and care, before termination of the license, that provides an additional adequate financial guaranty as necessary to provide for that

surveillance and care;

(3) For the purposes of the decommissioning funding plans required in rules adopted under divisions (I)(1) and (2) of this section, the types of acceptable financial guaranties, which shall include bonds issued by fidelity or surety companies authorized to do business in the state, certificates of deposit, deposits of government securities, irrevocable letters or lines of credit, trust funds, escrow accounts, or other similar types of arrangements, but shall not include any arrangement that constitutes self-insurance;

(4) A requirement that the decommissioning funding plans required in rules adopted under divisions (I)(1) and (2) of this section contain financial guaranties in amounts sufficient to ensure compliance with any standards established by the United States nuclear regulatory commission, or by the state if it has become an agreement state pursuant to section 3748.03 of the Revised Code, pertaining to closure, decontamination, decommissioning, reclamation, and long-term surveillance and care of licensed activities and sites of licensees.

Standards established in rules adopted under division (I) of this section regarding any activity that resulted in the production of byproduct material, as defined in division (A)(2) of section 3748.01 of the Revised Code, to the extent practicable, shall be equivalent to or more stringent than standards established by the United States nuclear regulatory commission for sites at which ores were processed primarily for their source material content and at which byproduct material, as defined in division (A)(2) of section 3748.01 of the Revised Code, is deposited.

(J) Establishing criteria governing inspections of a facility for the disposal of low-level radioactive waste, including, without limitation, the establishment of a resident inspector program at such a facility;

(K) Establishing requirements and procedures governing the filing of complaints under section 3748.16 of the Revised Code, including, without limitation, those governing intervention in a hearing held under division (B)(3) of that section.

Sec. 3748.05. (A) The director of health shall do all of the following:

(1) Administer and enforce this chapter and the rules adopted under it;

(2) Collect and make available information relating to sources of radiation;

(3) Ensure the review of plans and specifications, submitted in accordance with rules adopted by the ~~public health council~~ director, for the control of radiation that constitutes an unreasonable or unnecessary risk to human health or the environment;

(4) Review reports of quality assurance audits performed by certified

radiation experts under this chapter and the rules adopted under it;

(5) Ensure that programs for the control of sources of radiation are developed with due regard for compatibility with federal programs for the regulation of byproduct, source, and special nuclear materials;

(6) In accordance with Chapter 119. of the Revised Code, adopt, and subsequently may amend and rescind, rules providing for the administrative assessment and collection of monetary penalties for failure by any facility licensed under this chapter and rules adopted under it to comply with this chapter and those rules. The director may require the submission of compliance schedules and other related information. Any orders issued or payments or other requirements imposed pursuant to rules adopted under division (A)(6) of this section shall not affect any civil or criminal enforcement proceeding brought under this chapter or any other provision of state or local law. Moneys collected as administrative penalties imposed pursuant to rules adopted under division (A)(6) of this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The moneys shall be used solely to administer and enforce this chapter and the rules adopted under it.

(7) Maintain files of both of the following:

(a) All license and registration applications, issuances, denials, amendments, renewals, suspensions, and revocations and any administrative or judicial action pertaining to them;

(b) All rules adopted under this chapter, or proposed to be adopted, relating to the regulation of sources of radiation and proceedings on them.

(B) The director may do any or all of the following:

(1) Advise, consult, and cooperate with other agencies of the state, the federal government, other states, interstate agencies, political subdivisions, industries, and other affected groups in furtherance of the purposes of this chapter and the rules adopted under it;

(2) Accept and administer grants from the federal government and from other sources, public or private, for carrying out any of the director's functions under this chapter and the rules adopted under it;

(3) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to the detection and control of radiation that constitutes an unreasonable or unnecessary risk to human health or the environment, the measurement of radiation, the evaluation of potential effects on health of cumulative or acute exposure to radiation, the development and improvement of methods to limit and reduce the generation of radioactive waste, and related problems as the director considers necessary or advisable;

(4) In accordance with Chapter 119. of the Revised Code, adopt rules establishing criteria under which other agencies of the state or private entities may perform inspections of x-ray equipment at registered dental facilities at the request of the facility or pursuant to contract with the department;

(5) Exercise all incidental powers necessary to carry out the purposes of this chapter and the rules adopted under it, including, without limitation, the issuance of orders.

Sec. 3748.07. (A) Every facility that proposes to handle radioactive material or radiation-generating equipment for which licensure or registration, respectively, by its handler is required shall apply in writing to the director of health on forms prescribed and provided by the director for licensure or registration. Terms and conditions of licenses and certificates of registration may be amended in accordance with rules adopted under section 3748.04 of the Revised Code or orders issued by the director pursuant to section 3748.05 of the Revised Code.

(B)(1) An applicant proposing to handle radioactive material shall pay for a license or renewal of a license the appropriate fee specified in rules adopted under section 3748.04 of the Revised Code and listed on an invoice provided by the director. The applicant shall pay the fee on receipt of the invoice.

(2)(a) Except as provided in division (B)(2)(b) of this section, until fees are established in rules adopted under division (A)(8)(b) of section 3748.04 of the Revised Code, an applicant proposing to handle radiation-generating equipment shall pay for a certificate of registration or renewal of a certificate a biennial registration fee of two hundred sixty-two dollars.

Except as provided in division (B)(2)(b) of this section, on and after the effective date of the rules in which fees are established under division (A)(8)(b) of section 3748.04 of the Revised Code, an applicant proposing to handle radiation-generating equipment shall pay for a certificate of registration or renewal of a certificate the appropriate fee established in those rules.

The applicant shall pay the fees described in division (B)(2)(a) of this section at the time of applying for a certificate of registration or renewal of a certificate.

(b) An applicant that is, or is operated by, a medical practitioner or medical-practitioner group and proposes to handle radiation-generating equipment shall pay for a certificate of registration or renewal of a certificate a biennial registration fee of two hundred sixty-two dollars. The applicant shall pay the fee at the time of applying for a certificate of

registration or renewal of the certificate.

(C) All fees collected under this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

(D) Any fee required under this section that ~~has not been paid within ninety days~~ remains unpaid on the ninety-first day after the original invoice date shall be assessed ~~at two times~~ an additional amount equal to ten per cent of the original invoiced fee. ~~Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.~~

(E) The director shall grant a license or registration to any applicant who has paid the required fee and is in compliance with this chapter and rules adopted under it.

(F) Except as provided in division (B)(2) of this section, licenses and certificates of registration shall be effective for the applicable period established in rules adopted under section 3748.04 of the Revised Code. Licenses and certificates of registration shall be renewed in accordance with the renewal procedure established in rules adopted under section 3748.04 of the Revised Code.

Sec. 3748.10. (A) As used in this section, "person" means any legal entity defined as a person under section 1.59 of the Revised Code, the state or any agency of the state, any political subdivision or agency of a political subdivision, and the United States or any agency or instrumentality of the United States other than the United States department of energy or the United States nuclear regulatory commission where state regulation of the treatment, recycling, storage, or disposal of low-level radioactive waste by either of those agencies is prohibited by federal law.

(B) No person shall treat, recycle, store, or dispose of any low-level radioactive waste except at a facility that is licensed for treatment, recycling, storage, or disposal of that waste by the director of health under this chapter and rules adopted under it or, until the state becomes an agreement state pursuant to section 3748.03 of the Revised Code, by the United States nuclear regulatory commission under the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted under it regardless of whether the waste has been reclassified as "below regulatory concern" by the United States nuclear regulatory commission pursuant to any rule or standard adopted after January 1, 1990.

(C) Division (B) of this section does not apply to either of the following:

(1) Any low-level radioactive waste that on or before January 1, 1990,

was authorized under the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted under it to be treated, recycled, stored, or disposed of at a facility that has not been licensed under that act and regulations adopted under it;

(2) Any low-level radioactive waste that has received an exemption from the director of health under division (C)(2) of this section. If the United States nuclear regulatory commission declares its intent to institute a policy regarding the reclassification of waste as "below regulatory concern," the ~~public health council~~ director, in consultation with the environmental protection agency, shall adopt rules in accordance with Chapter 119. of the Revised Code that govern the granting of such exemptions and that do at least all of the following:

(a) Establish an application procedure to be followed by the generator of a low-level radioactive waste who wishes to obtain an exemption for that waste under division (C)(2) of this section;

(b) Require that in order to receive an exemption, a low-level radioactive waste shall have been reclassified as "below regulatory concern" by the United States nuclear regulatory commission after August 19, 1992. The rules adopted under division (C)(2)(b) of this section shall stipulate that such a reclassification does not automatically qualify a low-level radioactive waste for an exemption under division (C)(2) of this section.

(c) Require an applicant to demonstrate with clear and convincing evidence that the low-level radioactive waste that is the subject of the application does not present a higher radioactive hazard than any low-level radioactive waste to which division (C)(1) of this section applies and that treatment, recycling, storage, or disposal of the waste at a facility that has not been licensed by the director under this chapter and rules adopted under it or, until the state becomes an agreement state pursuant to section 3748.03 of the Revised Code, by the United States nuclear regulatory commission under the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted under it, will not harm public health or safety or the environment;

(d) Establish public notification procedures to be followed by the director for any public hearing held ~~by him~~ under division (C)(2) of this section.

The director shall review an application submitted ~~to him~~ under division (C)(2) of this section and shall hold a public hearing concerning the application before granting or denying the exemption requested. The director may grant an exemption to the low-level radioactive waste that is the subject of the application ~~if he determines~~ after determining that the

generator has complied with the rules adopted under division (C)(2)(a) of this section and that the waste satisfies the requirements established in the rules adopted under divisions (C)(2)(b) and (c) of this section. The director shall maintain a list of all low-level radioactive wastes to which ~~he~~ the director has granted such an exemption.

Division (C)(2) of this section does not apply to any low-level radioactive waste generated at a nuclear power station.

Sec. 3748.12. The director of health shall certify radiation experts pursuant to rules adopted under division (C) of section 3748.04 of the Revised Code. The director shall issue a certificate to each person certified under this section. An individual certified by the director is qualified to develop, provide periodic review of, and conduct audits of the quality assurance program for sources of radiation for which such a program is required under division (A) of section 3748.13 of the Revised Code.

The ~~public health council~~ director shall establish an application fee for applying for certification and a biennial certification renewal fee in rules adopted under division (C) of section 3748.04 of the Revised Code. A certificate issued under this section shall expire two years after the date of its issuance. To maintain certification, a radiation expert shall apply to the director for renewal of certification in accordance with the standard renewal procedures established in Chapter 4745. of the Revised Code. The certification renewal fee is not required for initial certification, but shall be paid for every renewal of certification. Fees collected under this section shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it. Any fee required under this section that ~~has not been paid within ninety days~~ remains unpaid on the ninety-first day after the original invoice date shall be assessed ~~at two times~~ an additional amount equal to ten per cent of the original invoiced fee. ~~Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.~~

Sec. 3748.13. (A) The director of health shall inspect sources of radiation for which licensure or registration by the handler is required, and the sources' shielding and surroundings, according to the schedule established in rules adopted under division (D) of section 3748.04 of the Revised Code. In accordance with rules adopted under section 3748.04 of the Revised Code, the director shall inspect all records and operating procedures of handlers that install or service sources of radiation and all sources of radiation for which licensure of radioactive material or

registration of radiation-generating equipment by the handler is required. The director may make other inspections upon receiving complaints or other evidence of a violation of this chapter or rules adopted under it.

The director shall require any hospital registered under division (A) of section 3701.07 of the Revised Code to develop and maintain a quality assurance program for all sources of radiation-generating equipment. A certified radiation expert shall conduct oversight and maintenance of the program and shall file a report of audits of the program with the director on forms prescribed by the director. The audit reports shall become part of the inspection record.

(B)(1) Except as provided in division (B)(2) of this section, a facility shall pay inspection fees for radioactive material and radiation-generating equipment according to the schedule and categories established in rules adopted under division (A)(9) of section 3748.04 of the Revised Code.

(2) A facility that is, or is operated by, a medical practitioner or medical-practitioner group shall pay inspection fees for radiation-generating equipment according to the following schedule and categories:

First dental x-ray tube	\$ 155.00
Each additional dental x-ray tube at the same location	\$ 77.00
First medical x-ray tube	\$ 307.00
Each additional medical x-ray tube at the same location	\$ 163.00
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	\$ 610.00
First nonionizing radiation-generating equipment of any kind	\$ 307.00
Each additional nonionizing radiation-generating equipment of any kind at the same location	\$ 163.00

(C)(1) Except as provided in division (C)(2) of this section, the fee for the inspection of a facility that proposes to handle radioactive material or radiation-generating equipment and is not licensed or registered, and for which no license or registration application is pending at the time of inspection, is four hundred seventy-four dollars plus the applicable fee specified in rules adopted under division (A)(9) of section 3748.04 of the Revised Code.

(2) For a facility that is, or is operated by, a medical practitioner or medical-practitioner group and proposes to handle radiation-generating equipment, the fee for an inspection if the facility is not licensed or registered, and no license or registration is pending at the time of inspection, is four hundred seventy-four dollars plus the fee applicable under the schedule in division (B)(2) of this section.

(D)(1) Except as provided in division (D)(2) of this section, for a facility that handles radioactive material or radiation-generating equipment, the fee for an inspection to determine whether violations cited in a previous inspection have been corrected is the amount specified in rules adopted under division (A)(9) of section 3748.04 of the Revised Code.

(2) For a facility that is, or is operated by, a medical practitioner or medical-practitioner group and handles radiation-generating equipment, the fee for an inspection to determine whether violations cited in a previous inspection have been corrected is fifty per cent of the applicable fee under the schedule in division (B)(2) of this section.

(E) The director may conduct a review of shielding plans or the adequacy of shielding on the request of a licensee or registrant or an applicant for licensure or registration or during an inspection when the director considers a review to be necessary.

(1) Except as provided in division (E)(2) of this section, the fee for the review is the applicable amount specified in rules adopted under division (A)(9) of section 3748.04 of the Revised Code.

(2) For a facility that is, or is operated by, a medical practitioner or medical-practitioner group and handles or proposes to handle radiation-generating equipment, the fee for the review is seven hundred sixty-two dollars for each room where a source of radiation is used and is in addition to any other fee applicable under the schedule in division (B)(2) of this section.

(F) All fees shall be paid to the department of health no later than thirty days after the invoice for the fee is mailed. Fees shall be deposited in the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

(G) Any fee required under this section that ~~has not been paid within ninety days~~ remains unpaid on the ninety-first day after the original invoice date shall be assessed at two times an additional amount equal to ten per cent of the original invoiced fee. ~~Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.~~

(H) If the director determines that a board of health of a city or general health district is qualified to conduct inspections of radiation-generating equipment, the director may delegate to the board, by contract, the authority to conduct such inspections. In making a determination of the qualifications of a board of health to conduct those inspections, the director shall evaluate the credentials of the individuals who are to conduct the inspections of radiation-generating equipment and the radiation detection and measuring equipment available to them for that purpose. If a contract is entered into, the board shall have the same authority to make inspections of radiation-generating equipment as the director has under this chapter and rules adopted under it. The contract shall stipulate that only individuals approved by the director as qualified shall be permitted to inspect radiation-generating equipment under the contract's provisions. The contract shall provide for such compensation for services as is agreed to by the director and the board of health of the contracting health district. The director may reevaluate the credentials of the inspection personnel and their radiation detecting and measuring equipment as often as the director considers necessary and may terminate any contract with the board of health of any health district that, in the director's opinion, is not satisfactorily performing the terms of the contract.

(I) The director may enter at all reasonable times upon any public or private property to determine compliance with this chapter and rules adopted under it.

Sec. 3748.15. No facility shall violate or fail to comply with any duty imposed by this chapter, fail to pay any administrative penalty assessed in accordance with rules adopted under division (A)(6) of section 3748.05 of the Revised Code, or violate or fail to comply with any valid order of issued or rule adopted by the director of health issued or rule of the public health council adopted under this chapter. Each day a violation continues is a separate offense.

Sec. 3748.20. (A) The governor, with the advice and consent of the senate, shall appoint a radiation advisory council, which shall consist of the following members:

- (1) One individual who has recognized ability and credentials in the field of medical radiation physics;
- (2) One individual who has recognized ability and credentials in the field of health physics;
- (3) One individual holding the degree of doctor of medicine or doctor of osteopathy and licensed to practice medicine or surgery or osteopathic medicine and surgery, as applicable, under Chapter 4731. of the Revised

Code who has recognized ability and credentials in the practice of radiology;

(4) One individual who is licensed to practice dentistry under Chapter 4715. of the Revised Code;

(5) One individual holding the degree of doctor of medicine and licensed to practice medicine or surgery under Chapter 4731. of the Revised Code who has recognized ability and credentials in the field of nuclear medicine;

(6) One individual who has recognized ability and credentials in the field of public health or environmental science;

(7) One individual licensed as a podiatrist under Chapter 4731. of the Revised Code;

(8) One individual licensed as a chiropractor under Chapter 4734. of the Revised Code;

(9) One individual who is a qualified radiation safety officer or radiation protection manager from a facility in this state that is licensed for the use of radiation materials;

(10) One individual who has recognized ability and credentials in the field of radon measurement, mitigation, or health risk management;

(11) One individual who is a member of a statewide consumer or environmental advocacy organization;

(12) One individual representing the public;

(13) One individual who has recognized ability and experience in the administration and enforcement of federal radiation protection regulations, who shall be a nonvoting member.

The governor shall make the initial appointments to the council not later than December 7, 1995. Of the initial appointments, four shall be for a term of office of three years, four shall be for a term of office of four years, and four shall be for a term of office of five years. Thereafter, terms of office for the members of the council shall be five 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 the member's appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration of the member's term or until a period of sixty days has elapsed, whichever occurs first.

The council shall hold four regular quarterly meetings each year. Special meetings may be held at the request of the chairperson of the council

or the director of health. The chairperson shall be selected annually by members of the council during the first meeting of the calendar year. Following each meeting, the chairperson shall submit a report to the director summarizing the activities, discussion, and recommendations of the council. Seven voting members of the council constitute a quorum.

Members of the radiation advisory council shall receive a per diem compensation in an amount approved by the director and also shall be reimbursed for actual expenses incurred in the performance of their official duties.

The department of health shall provide the council the administrative support necessary to execute its duties.

(B) The radiation advisory council shall do all of the following:

(1) Advise and consult with the ~~public health council~~ director in the development of rules ~~proposed for adoption~~ to be adopted under section 3748.04 of the Revised Code;

(2) Advise and consult with the director concerning the administration, implementation, and enforcement of this chapter, including the implementation of the specific responsibilities delineated in section 3748.05 of the Revised Code;

(3) Advise and consult with the director in the development of inspection criteria, procedures, and guidelines to be used in the radiation control program established under this chapter and rules adopted under it;

(4) Prepare and submit to the director an annual report evaluating the department's administration of the radiation control program.

(C) The council shall establish committees to focus on specific components of the radiation control program established under this chapter and rules adopted under it. Chairpersons of the committees shall be appointed by the chairperson of the council and shall be members of the council. Other members of the committees shall be appointed by the chairperson of the council and may include individuals who are not members of the council.

The membership and responsibilities of each committee established under this division shall be subject to the approval of the director. Members of the committees shall be reimbursed for actual expenses incurred in the performance of their official duties.

Committee reports shall be presented to the council at each regular meeting of the council.

Sec. 3749.02. The ~~public~~ director of health ~~council~~ shall, subject to Chapter 119. of the Revised Code, adopt rules of general application throughout the state governing the issuance of licenses, approval of plans,

layout, construction, sanitation, safety, and operation of public swimming pools, public spas, and special use pools. Such rules shall not be applied to the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable when the building or structure is either integral to or appurtenant to a public swimming pool, a public spa, or a special use pool.

Sec. 3749.03. (A) No person shall construct or install, or renovate or otherwise substantially alter, a public swimming pool, public spa, or ~~special-use~~ special use pool after September 10, 1987, until the plans for the pool or spa have been submitted to and approved by the director of health. Within thirty days of receipt of the plans, the director shall approve or disapprove them. The plans and approval required under this division do not apply to repairs or ordinary maintenance that does not substantially affect the manner of water recirculation or basic design of the public swimming pool, public spa, or ~~special-use~~ special use pool.

Any person aggrieved by the director's disapproval of plans under this division may, within thirty days following receipt of the director's notice of disapproval, request a hearing on the matter. The hearing shall be held in accordance with Chapter 119. of the Revised Code and may be appealed in the manner provided in that chapter.

(B) Prior to the issuance of a license to operate a newly constructed or altered public swimming pool, public spa, or ~~special-use~~ special use pool, the director or a licensor authorized by the director shall verify that the construction or alterations are consistent with the plans submitted and approved under division (A) of this section. The director or licensor authorized by the director shall have two working days from the time notification is received that a public swimming pool, public spa, or ~~special-use~~ special use pool is ready for an inspection to verify the construction or alterations.

(C) ~~The~~ (1) Except as provided in division (C)(2) of this section, the fees for the approval of plans are as follows:

~~(1)(a)~~ Five per cent of the total cost of the equipment and installation not to exceed two hundred seventy-five dollars for a public swimming pool, public spa, or ~~special-use~~ special use pool, or a combination thereof, that has less than two thousand square feet of surface area;

~~(2)(b)~~ Five per cent of the total cost of the equipment and installation not to exceed five hundred fifty dollars for a public swimming pool, public spa, ~~special-use~~ special use pool, or a combination thereof, that has two thousand or more square feet of surface area.

~~After December 31, 1992, the public health council~~ (2) The director

may, by rule adopted in accordance with Chapter 119. of the Revised Code, increase the fees established by this section.

(D) All plan approval fees shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. The fees shall be administered by the director and shall be used solely for the administration and enforcement of this chapter and the rules adopted thereunder.

(E) Plan approvals issued under this section shall not constitute an exemption from the land use and building requirements of the political subdivision in which the public swimming pool, public spa, or ~~special-use~~ special use pool is or is to be located.

Sec. 3749.04. (A) No person shall operate or maintain a public swimming pool, public spa, or ~~special-use~~ special use pool without a license issued by the licensor having jurisdiction.

(B) Every person who intends to operate or maintain an existing public swimming pool, public spa, or ~~special-use~~ special use pool shall, during the month of April of each year, apply to the licensor having jurisdiction for a license to operate the pool or spa. Any person proposing to operate or maintain a new or otherwise unlicensed public swimming pool, public spa, or ~~special-use~~ special use pool shall apply to the licensor having jurisdiction at least thirty days prior to the intended start of operation of the pool or spa. Within thirty days of receipt of an application for licensure of a public swimming pool, public spa, or ~~special-use~~ special use pool, the licensor shall process the application and either issue a license or otherwise respond to the applicant regarding the application.

(C) Each license issued shall be effective from the date of issuance until the last day of May of the following year.

(D) Each licensor administering and enforcing sections 3749.01 to 3749.09 of the Revised Code and the rules adopted thereunder may establish licensing and inspection fees in accordance with section 3709.09 of the Revised Code, which shall not exceed the cost of licensing and inspecting public swimming pools, public spas, and ~~special-use~~ special use pools.

(E) Except as provided in division (F) of this section and in division (B) of section 3749.07 of the Revised Code, all license fees collected by a licensor shall be deposited into a swimming pool fund, which is hereby created in each health district. The fees shall be used by the licensor solely for the purpose of administering and enforcing this chapter and the rules adopted under this chapter.

(F) An annual license fee established under division (D) of this section shall include any additional amount determined by rule of the ~~public~~ director

~~of health council~~, which the board of health shall collect and transmit to the director ~~of health~~ pursuant to section 3709.092 of the Revised Code. The amounts collected under this division shall be administered by the director of health and shall be used solely for the administration and enforcement of this chapter and the rules adopted under this chapter.

Sec. 3752.06. (A) Unless the owner or operator of a reporting facility has submitted to the director of environmental protection in connection with the facility a notice of the temporary discontinuation of all regulated operations at the facility in compliance with division (A)(1) of section 3752.09 of the Revised Code, has submitted an application for a waiver in compliance with or been issued a waiver under division (A) of section 3752.10 of the Revised Code, or, pursuant to division (B) of this section, has been granted an extension of time for compliance with divisions (A)(4) to (6) of this section, and except as provided in division (C) of this section, the owner or operator, not later than ninety days after the cessation of all regulated operations at the facility, shall do all of the following:

(1) Submit to the director a copy of the most recent emergency and hazardous chemical inventory form for the facility submitted to the emergency response commission in accordance with section 3750.08 of the Revised Code accompanied by a statement indicating whether any asbestos-containing materials are present at the facility;

(2) Submit to the director a copy of the current hazardous chemical list, or of each of the material safety data sheets, that the owner or operator is required to have on file with the commission under section 3750.07 of the Revised Code in connection with the facility;

(3) Submit to the director a list of every stationary tank, vat, electrical transformer, and vessel of any type that contains or is contaminated with regulated substances and that is to remain at the facility; a precise description of the location of each; and an identification of the regulated substances that are in or contaminate each;

(4) Drain or remove all regulated substances from each stationary vat, tank, electrical transformer, and vessel, and from all piping, that is to remain at the facility and do any or a combination of the following:

(a) Transfer the regulated substances to another facility owned or operated by the owner or operator. If any regulated substances are transferred to another facility of the owner or operator located within this state, they shall be transferred to a facility that is operating. If any regulated substances are transferred to another facility of the owner or operator located outside this state, they shall be transferred in compliance with the applicable laws governing the receiving facility of the state in which the

receiving facility is located.

(b) Lawfully transfer ownership of the regulated substances to another person through sale or otherwise;

(c) Cause the regulated substances to be transported off the premises of the facility and managed in compliance with the applicable provisions of Chapter 3734. of the Revised Code and rules adopted under that chapter; the "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended, and regulations adopted under it; or the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and regulations adopted under it; or, if transported out of state, to be managed in compliance with the waste management laws of the state to which the regulated substances are transported.

In the case of any regulated substance that also is a hazardous material identified or listed in regulations adopted under the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as amended, and that is to be transported off the premises of the facility, the owner or operator of the facility shall transport the regulated substance, or cause it to be transported, in compliance with the applicable rules adopted under ~~division (A) of section 4919.85, division (E) of section 4921.04, division (C) of section 4923.03, or division (C) of section 4923.20~~ Chapters 4905., 4921., and 4923. of the Revised Code.

(5) Remove from the facility all debris, nonstationary equipment and furnishings, nonstationary containers, and motor vehicles and rolling stock that contain or are contaminated with a regulated substance and do any or a combination of the following:

(a) Transfer the debris, equipment, furnishings, containers, and motor vehicles and rolling stock to another facility owned or operated by the owner or operator. If any such debris, equipment, furnishings, containers, or motor vehicles and rolling stock is transferred to another facility of the owner or operator located in this state, it shall be transferred to a facility that is operating. If any such debris, equipment, furnishings, containers, or motor vehicles and rolling stock is transferred to another facility of the owner or operator located outside this state, it only shall be transferred in compliance with the applicable laws governing the receiving facility of the state in which the receiving facility is located.

(b) Lawfully transfer ownership of the debris, equipment, furnishings, containers, and motor vehicles and rolling stock to another person through sale or otherwise;

(c) Cause the debris, equipment, furnishings, and containers to be transported off the premises of the facility and managed in compliance with

the applicable provisions of Chapter 3734. of the Revised Code and rules adopted under that chapter; the "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended, and regulations adopted under it; or the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and regulations adopted under it; or, if transported out of state, to be managed in compliance with the waste management laws of the state to which the debris, equipment, furnishings, and containers are transported.

(6) Make a written certification to the director that the actions required by divisions (A)(4) and (5) of this section have been completed in compliance with those divisions and any applicable rules adopted under section 3752.03 of the Revised Code. The certification shall be made on a form prescribed by the director and, in addition to the information required in division (A) of this section, shall include, without limitation, the owner's or operator's name and the address of the owner's or operator's principal office.

(B) Upon the written request of the owner or operator of a facility who is subject to division (A) of this section, the director, at ~~his~~ the director's discretion, may extend the length of time required for compliance with divisions (A)(4) to (6) of this section for any period of time the director considers reasonable and necessary if the director finds from the request that either of the following applies:

(1) The inability of the owner or operator to complete the required actions within the time prescribed in that division is due to circumstances that are temporary in nature and are beyond the control of the owner or operator;

(2) The owner or operator, exercising reasonable diligence, is unable to complete the required actions within the time prescribed in that division due to facility size, operational complexity, or other such relevant factors.

Upon making a decision on a request submitted under division (B) of this section, the director shall mail notice of ~~his~~ the decision to the owner or operator by certified mail, return receipt requested, and, if the request was approved, notice of the length of the extension.

(C) An owner or operator of a reporting facility who is subject to this section is not required to perform the removal actions required by it or to make the certification required by division (A)(6) of this section with respect to hazardous waste stored, treated, or disposed of at the facility, or portion of the facility, for which the owner holds a valid hazardous waste facility installation and operation permit or renewal permit issued under section 3734.05 of the Revised Code or has obtained a generator

identification number pursuant to rules adopted under section 3734.12 of the Revised Code. Instead, the owner shall comply with the applicable closure and post-closure care requirements established in rules adopted under section 3734.12 of the Revised Code.

(D) No person shall fail to comply with any provision of division (A) of this section within the time required by that division and any extension of that time granted under division (B) of this section, as appropriate.

Sec. 3770.06. (A) There is hereby created the state lottery gross revenue fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. All gross revenues received from sales of lottery tickets, fines, fees, and related proceeds in connection with the statewide lottery and all gross proceeds from statewide joint lottery games shall be deposited into the fund. The treasurer of state shall invest any portion of the fund not needed for immediate use in the same manner as, and subject to all provisions of law with respect to the investment of, state funds. The treasurer of state shall disburse money from the fund on order of the director of the state lottery commission or the director's designee.

Except for gross proceeds from statewide joint lottery games, all revenues of the state lottery gross revenue fund that are not paid to holders of winning lottery tickets, that are not required to meet short-term prize liabilities, that are not credited to lottery sales agents in the form of bonuses, commissions, or reimbursements, that are not paid to financial institutions to reimburse those institutions for sales agent nonsufficient funds, and that are collected from sales agents for remittance to insurers under contract to provide sales agent bonding services shall be transferred to the state lottery fund, which is hereby created in the state treasury. In addition, all revenues of the state lottery gross revenue fund that represent the gross proceeds from the statewide joint lottery games and that are not paid to holders of winning lottery tickets, that are not required to meet short-term prize liabilities, that are not credited to lottery sales agents in the form of bonuses, commissions, or reimbursements, and that are not necessary to cover operating expenses associated with those games or to otherwise comply with the agreements signed by the governor that the director enters into under division (J) of section 3770.02 of the Revised Code or the rules the commission adopts under division (B)(5) of section 3770.03 of the Revised Code shall be transferred to the state lottery fund. All investment earnings of the fund shall be credited to the fund. Moneys shall be disbursed from the fund pursuant to vouchers approved by the director. Total disbursements for monetary prize awards to holders of winning lottery tickets in connection with the statewide lottery and purchases of goods and services awarded as prizes to holders of

winning lottery tickets shall be of an amount equal to at least fifty per cent of the total revenue accruing from the sale of lottery tickets.

(B) Pursuant to Section 6 of Article XV, Ohio Constitution, there is hereby established in the state treasury the lottery profits education fund. Whenever, in the judgment of the director of ~~budget and management~~ the state lottery commission, the amount to the credit of the state lottery fund that does not represent proceeds from statewide joint lottery games is in excess of that needed to meet the maturing obligations of the commission and as working capital for its further operations, the director of the state lottery commission shall recommend the amount of the excess to be transferred to the lottery profits education fund, and the director of budget and management may transfer the excess to the lottery profits education fund in connection with the statewide lottery. In addition, whenever, in the judgment of the director of ~~budget and management~~ the state lottery commission, the amount to the credit of the state lottery fund that represents proceeds from statewide joint lottery games equals the entire net proceeds of those games as described in division (B)(5) of section 3770.03 of the Revised Code and the rules adopted under that division, the director of the state lottery commission shall recommend the amount of the proceeds to be transferred to the lottery profits education fund, and the director of budget and management may transfer those proceeds to the lottery profits education fund. ~~There shall also be credited to the fund any repayments of moneys loaned from the educational excellence investment fund.~~ Investment earnings of the lottery profits education fund shall be credited to the fund.

The lottery profits education fund shall be used solely for the support of elementary, secondary, vocational, and special education programs as determined in appropriations made by the general assembly, or as provided in applicable bond proceedings for the payment of debt service on obligations issued to pay costs of capital facilities, including those for a system of common schools throughout the state pursuant to section 2n of Article VIII, Ohio Constitution. When determining the availability of money in the lottery profits education fund, the director of budget and management may consider all balances and estimated revenues of the fund.

(C) There is hereby established in the state treasury the deferred prizes trust fund. With the approval of the director of budget and management, an amount sufficient to fund annuity prizes shall be transferred from the state lottery fund and credited to the trust fund. The treasurer of state shall credit all earnings arising from investments purchased under this division to the trust fund. Within sixty days after the end of each fiscal year, the treasurer of state shall certify to the director of budget and management whether the

actuarial amount of the trust fund is sufficient over the fund's life for continued funding of all remaining deferred prize liabilities as of the last day of the fiscal year just ended. Also, within that sixty days, the director of budget and management shall certify the amount of investment earnings necessary to have been credited to the trust fund during the fiscal year just ending to provide for such continued funding of deferred prizes. Any earnings credited in excess of the latter certified amount shall be transferred to the lottery profits education fund.

To provide all or a part of the amounts necessary to fund deferred prizes awarded by the commission in connection with the statewide lottery, the treasurer of state, in consultation with the commission, may invest moneys contained in the deferred prizes trust fund which represents proceeds from the statewide lottery in obligations of the type permitted for the investment of state funds but whose maturities are thirty years or less. Notwithstanding the requirements of any other section of the Revised Code, to provide all or part of the amounts necessary to fund deferred prizes awarded by the commission in connection with statewide joint lottery games, the treasurer of state, in consultation with the commission, may invest moneys in the trust fund which represent proceeds derived from the statewide joint lottery games in accordance with the rules the commission adopts under division (B)(5) of section 3770.03 of the Revised Code. Investments of the trust fund are not subject to the provisions of division (A)(10) of section 135.143 of the Revised Code limiting to twenty-five per cent the amount of the state's total average portfolio that may be invested in debt interests and limiting to one-half of one per cent the amount that may be invested in debt interests of a single issuer.

All purchases made under this division shall be effected on a delivery versus payment method and shall be in the custody of the treasurer of state.

The treasurer of state may retain an investment advisor, if necessary. The commission shall pay any costs incurred by the treasurer of state in retaining an investment advisor.

(D) The auditor of state shall conduct annual audits of all funds and any other audits as the auditor of state or the general assembly considers necessary. The auditor of state may examine all records, files, and other documents of the commission, and records of lottery sales agents that pertain to their activities as agents, for purposes of conducting authorized audits.

The state lottery commission shall establish an internal audit program before the beginning of each fiscal year, subject to the approval of the auditor of state. At the end of each fiscal year, the commission shall prepare

and submit an annual report to the auditor of state for the auditor of state's review and approval, specifying the internal audit work completed by the end of that fiscal year and reporting on compliance with the annual internal audit program. The form and content of the report shall be prescribed by the auditor of state under division (C) of section 117.20 of the Revised Code.

(E) Whenever, in the judgment of the director of budget and management, an amount of net state lottery proceeds is necessary to be applied to the payment of debt service on obligations, all as defined in sections 151.01 and 151.03 of the Revised Code, the director shall transfer that amount directly from the state lottery fund or from the lottery profits education fund to the bond service fund defined in those sections. The provisions of this division are subject to any prior pledges or obligation of those amounts to the payment of bond service charges as defined in division (C) of section 3318.21 of the Revised Code, as referred to in division (B) of this section.

Sec. 3781.03. (A) The state fire marshal, the fire chief of a municipal corporation that has a fire department, or the fire chief of a township that has a fire department shall enforce the provisions of this chapter and Chapter 3791. of the Revised Code that relate to fire prevention.

(B) The superintendent of ~~labor~~ industrial compliance, or the building inspector or commissioner of buildings in a municipal corporation, county, or township in which the building department is certified by the board of building standards under section 3781.10 of the Revised Code shall enforce in the jurisdiction of each entity all the provisions in this chapter and Chapter 3791. of the Revised Code and any rules adopted pursuant to those chapters that relate to the construction, arrangement, and erection of all buildings or parts of buildings, as defined in section 3781.06 of the Revised Code, including the sanitary condition of those buildings in relation to heating and ventilation.

(C) The division of ~~labor~~ industrial compliance in the department of commerce, boards of health of health districts, certified departments of building inspection of municipal corporations, and county building departments that have authority to perform inspections pursuant to a contract under division (C)(1) of section 3703.01 of the Revised Code, subject to Chapter 3703. of the Revised Code, shall enforce this chapter and Chapter 3791. of the Revised Code and the rules adopted pursuant to those chapters that relate to plumbing. Building drains are considered plumbing for the purposes of enforcement of those chapters.

(D)(1) In accordance with Chapter 3703. of the Revised Code, the department of the city engineer, in cities having such departments, the

boards of health of health districts, or the sewer purveyor, as appropriate, shall have complete authority to supervise and regulate the entire sewerage and drainage system in the jurisdiction in which it is exercising the authority described in this division, including the building sewer and all laterals draining into the street sewers.

(2) In accordance with Chapter 3703. of the Revised Code, the department of the city engineer, the boards of health of health districts, or the sewer purveyor, as appropriate, shall control and supervise the installation and construction of all drains and sewers that become a part of the sewerage system and shall issue all the necessary permits and licenses for the construction and installation of all building sewers and of all other lateral drains that empty into the main sewers. The department of the city engineer, the boards of health of health districts, and the sewer purveyor, as appropriate, shall keep a permanent record of the installation and location of every drain and sewer of the drainage and sewerage system of the jurisdiction in which it has exercised the authority described in this division.

(E) This section does not exempt any officer or department from the obligation to enforce this chapter and Chapter 3791. of the Revised Code.

Sec. 3781.06. (A)(1) Any building that may be used as a place of resort, assembly, education, entertainment, lodging, dwelling, trade, manufacture, repair, storage, traffic, or occupancy by the public, any residential building, and all other buildings or parts and appurtenances of those buildings erected within this state, shall be so constructed, erected, equipped, and maintained that they shall be safe and sanitary for their intended use and occupancy.

(2) Nothing in sections 3781.06 to 3781.18 and 3791.04 of the Revised Code shall be construed to limit the power of the ~~public health council~~ manufactured homes commission to adopt rules of uniform application governing manufactured home parks pursuant to section ~~3733.02~~ 4781.26 of the Revised Code.

(B) Sections 3781.06 to 3781.18 and 3791.04 of the Revised Code do not apply to either of the following:

(1) Buildings or structures that are incident to the use for agricultural purposes of the land on which the buildings or structures are located, provided those buildings or structures are not used in the business of retail trade. For purposes of this division, a building or structure is not considered used in the business of retail trade if fifty per cent or more of the gross income received from sales of products in the building or structure by the owner or operator is from sales of products produced or raised in a normal crop year on farms owned or operated by the seller.

(2) Existing single-family, two-family, and three-family detached

dwelling houses for which applications have been submitted to the director of job and family services pursuant to section 5104.03 of the Revised Code for the purposes of operating type A family day-care homes as defined in section 5104.01 of the Revised Code.

(C) As used in sections 3781.06 to 3781.18 and 3791.04 of the Revised Code:

(1) "Agricultural purposes" include agriculture, farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, and animal and poultry husbandry.

(2) "Building" means any structure consisting of foundations, walls, columns, girders, beams, floors, and roof, or a combination of any number of these parts, with or without other parts or appurtenances.

(3) "Industrialized unit" means a building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. "Industrialized unit" includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. "Industrialized unit" does not include a manufactured home as defined by division (C)(4) of this section or a mobile home as defined by division (O) of section 4501.01 of the Revised Code.

(4) "Manufactured home" means a building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the secretary of housing and urban development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403, and that has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards.

(5) "Permanent foundation" means permanent masonry, concrete, or a footing or foundation approved by the manufactured homes commission pursuant to Chapter 4781. of the Revised Code, to which a manufactured or mobile home may be affixed.

(6) "Permanently sited manufactured home" means a manufactured home that meets all of the following criteria:

(a) The structure is affixed to a permanent foundation and is connected to appropriate facilities;

(b) The structure, excluding any addition, has a width of at least twenty-two feet at one point, a length of at least twenty-two feet at one point, and a total living area, excluding garages, porches, or attachments, of

at least nine hundred square feet;

(c) The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six-inch minimum eave overhang, including appropriate guttering;

(d) The structure was manufactured after January 1, 1995;

(e) The structure is not located in a manufactured home park as defined by section ~~3733.01~~ 4781.01 of the Revised Code.

(7) "Safe," with respect to a building, means it is free from danger or hazard to the life, safety, health, or welfare of persons occupying or frequenting it, or of the public and from danger of settlement, movement, disintegration, or collapse, whether such danger arises from the methods or materials of its construction or from equipment installed therein, for the purpose of lighting, heating, the transmission or utilization of electric current, or from its location or otherwise.

(8) "Sanitary," with respect to a building, means it is free from danger or hazard to the health of persons occupying or frequenting it or to that of the public, if such danger arises from the method or materials of its construction or from any equipment installed therein, for the purpose of lighting, heating, ventilating, or plumbing.

(9) "Residential building" means a one-family, two-family, or three-family dwelling house, and any accessory structure incidental to that dwelling house. "Residential building" includes a one-family, two-family, or three-family dwelling house that is used as a model to promote the sale of a similar dwelling house. "Residential building" does not include an industrialized unit as defined by division (C)(3) of this section, a manufactured home as defined by division (C)(4) of this section, or a mobile home as defined by division (O) of section 4501.01 of the Revised Code.

(10) "Nonresidential building" means any building that is not a residential building or a manufactured or mobile home.

(11) "Accessory structure" means a structure that is attached to a residential building and serves the principal use of the residential building. "Accessory structure" includes, but is not limited to, a garage, porch, or screened-in patio.

Sec. 3781.102. (A) Any county or municipal building department certified pursuant to division (E) of section 3781.10 of the Revised Code as of September 14, 1970, and that, as of that date, was inspecting single-family, two-family, and three-family residences, and any township building department certified pursuant to division (E) of section 3781.10 of the Revised Code, is hereby declared to be certified to inspect single-family, two-family, and three-family residences containing industrialized units, and

shall inspect the buildings or classes of buildings subject to division (E) of section 3781.10 of the Revised Code.

(B) Each board of county commissioners may adopt, by resolution, rules establishing standards and providing for the licensing of electrical and heating, ventilating, and air conditioning contractors who are not required to hold a valid and unexpired license pursuant to Chapter 4740. of the Revised Code.

Rules adopted by a board of county commissioners pursuant to this division may be enforced within the unincorporated areas of the county and within any municipal corporation where the legislative authority of the municipal corporation has contracted with the board for the enforcement of the county rules within the municipal corporation pursuant to section 307.15 of the Revised Code. The rules shall not conflict with rules adopted by the board of building standards pursuant to section 3781.10 of the Revised Code or by the department of commerce pursuant to Chapter 3703. of the Revised Code. This division does not impair or restrict the power of municipal corporations under Section 3 of Article XVIII, Ohio Constitution, to adopt rules concerning the erection, construction, repair, alteration, and maintenance of buildings and structures or of establishing standards and providing for the licensing of specialty contractors pursuant to section 715.27 of the Revised Code.

A board of county commissioners, pursuant to this division, may require all electrical contractors and heating, ventilating, and air conditioning contractors, other than those who hold a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code, to successfully complete an examination, test, or demonstration of technical skills, and may impose a fee and additional requirements for a license to engage in their respective occupations within the jurisdiction of the board's rules under this division.

(C) No board of county commissioners shall require any specialty contractor who holds a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code to successfully complete an examination, test, or demonstration of technical skills in order to engage in the type of contracting for which the license is held, within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code.

(D) A board may impose a fee for registration of a specialty contractor who holds a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code before that specialty contractor may engage in the type of

contracting for which the license is held within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code, provided that the fee is the same for all specialty contractors who wish to engage in that type of contracting. If a board imposes such a fee, the board immediately shall permit a specialty contractor who presents proof of holding a valid and unexpired license and pays the required fee to engage in the type of contracting for which the license is held within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code.

(E) The political subdivision associated with each municipal, township, and county building department the board of building standards certifies pursuant to division (E) of section 3781.10 of the Revised Code may prescribe fees to be paid by persons, political subdivisions, or any department, agency, board, commission, or institution of the state, for the acceptance and approval of plans and specifications, and for the making of inspections, pursuant to sections 3781.03 and 3791.04 of the Revised Code.

(F) Each political subdivision that prescribes fees pursuant to division (E) of this section shall collect, on behalf of the board of building standards, fees equal to the following:

(1) Three per cent of the fees the political subdivision collects in connection with nonresidential buildings;

(2) One per cent of the fees the political subdivision collects in connection with residential buildings.

(G)(1) The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner in which the fee assessed pursuant to division (F) of this section shall be collected and remitted monthly to the board. The board shall pay the fees into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

(2) All money credited to the ~~labor~~ industrial compliance operating fund under this division shall be used exclusively for the following:

(a) Operating costs of the board;

(b) Providing services, including educational programs, for the building departments that are certified by the board pursuant to division (E) of section 3781.10 of the Revised Code;

(c) Paying the expenses of the residential construction advisory

committee, including the expenses of committee members as provided in section 4740.14 of the Revised Code.

(H) A board of county commissioners that adopts rules providing for the licensing of electrical and heating, ventilating, and air conditioning contractors, pursuant to division (B) of this section, may accept, for purposes of satisfying the requirements of rules adopted under that division, a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code that is held by an electrical or heating, ventilating, and air conditioning contractor, for the construction, replacement, maintenance, or repair of one-family, two-family, or three-family dwelling houses or accessory structures incidental to those dwelling houses.

(I) A board of county commissioners shall not register a specialty contractor who is required to hold a license under Chapter 4740. of the Revised Code but does not hold a valid license issued under that chapter.

(J) As used in this section, "specialty contractor" means a heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor, as those contractors are described in Chapter 4740. of the Revised Code.

Sec. 3781.11. (A) The rules of the board of building standards shall:

(1) For nonresidential buildings, provide uniform minimum standards and requirements, and for residential buildings, provide standards and requirements that are uniform throughout the state, for construction and construction materials, including construction of industrialized units, to make residential and nonresidential buildings safe and sanitary as defined in section 3781.06 of the Revised Code;

(2) Formulate such standards and requirements, so far as may be practicable, in terms of performance objectives, so as to make adequate performance for the use intended the test of acceptability;

(3) Permit, to the fullest extent feasible, the use of materials and technical methods, devices, and improvements, including the use of industrialized units which tend to reduce the cost of construction and erection without affecting minimum requirements for the health, safety, and security of the occupants or users of buildings or industrialized units and without preferential treatment of types or classes of materials or products or methods of construction;

(4) Encourage, so far as may be practicable, the standardization of construction practices, methods, equipment, material, and techniques, including methods employed to produce industrialized units;

(5) Not require any alteration or repair of any part of a school building owned by a chartered nonpublic school or a city, local, exempted village, or

joint vocational school district and operated in conjunction with any primary or secondary school program that is not being altered or repaired if all of the following apply:

(a) The school building meets all of the applicable building code requirements in existence at the time of the construction of the building.

(b) The school building otherwise satisfies the requirements of section 3781.06 of the Revised Code.

(c) The part of the school building altered or repaired conforms to all rules of the board existing on the date of the repair or alteration.

(6) Not require any alteration or repair to any part of a workshop or factory that is not otherwise being altered, repaired, or added to if all of the following apply:

(a) The workshop or factory otherwise satisfies the requirements of section 3781.06 of the Revised Code.

(b) The part of the workshop or factory altered, repaired, or added conforms to all rules of the board existing on the date of plan approval of the repair, alteration, or addition.

(B) The rules of the board shall supersede and govern any order, standard, or rule of the division of ~~labor~~ industrial compliance in the department of commerce, division of the state fire marshal, the department of health, and of counties and townships, in all cases where such orders, standards, or rules are in conflict with the rules of the board, except that rules adopted and orders issued by the state fire marshal pursuant to Chapter 3743. of the Revised Code prevail in the event of a conflict.

(C) The construction, alteration, erection, and repair of buildings including industrialized units, and the materials and devices of any kind used in connection with them and the heating and ventilating of them and the plumbing and electric wiring in them shall conform to the statutes of this state or the rules adopted and promulgated by the board, and to provisions of local ordinances not inconsistent therewith. Any building, structure, or part thereof, constructed, erected, altered, manufactured, or repaired not in accordance with the statutes of this state or with the rules of the board, and any building, structure, or part thereof in which there is installed, altered, or repaired any fixture, device, and material, or plumbing, heating, or ventilating system, or electric wiring not in accordance with such statutes or rules is a public nuisance.

(D) As used in this section:

(1) "Nonpublic school" means a chartered school for which minimum standards are prescribed by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(2) "Workshop or factory" includes manufacturing, mechanical, electrical, mercantile, art, and laundering establishments, printing, telegraph, and telephone offices, railroad depots, and memorial buildings, but does not include hotels and tenement and apartment houses.

Sec. 3781.112. (A) As used in this section, "secured facility" means any of the following:

(1) A maternity ~~boardinghouse or lying-in hospital unit, newborn care nursery, or maternity home~~ licensed under ~~section 3711.02~~ Chapter 3711, of the Revised Code;

(2) A pediatric intensive care unit subject to rules adopted by the director of health pursuant to section 3702.11 of the Revised Code;

(3) A children's hospital, as defined in section ~~3702.51~~ 3727.01 of the Revised Code;

(4) A hospital that is licensed under section 5119.20 of the Revised Code to receive mentally ill persons;

(5) The portion of a nursing home licensed under section 3721.02 of the Revised Code or in accordance with section 3721.09 of the Revised Code in which specialized care is provided to residents of the nursing home who have physical or mental conditions that require a resident to be restricted in the resident's freedom of movement for the health and safety of the resident, the staff attending the resident, or the general public.

(B) A secured facility may take reasonable steps in accordance with rules the board of building standards adopts under division (A) of section 3781.10 of the Revised Code and in accordance with the state fire code the fire marshal adopts under section 3737.82 of the Revised Code, to deny egress to confine and protect patients or residents of the secured facility who are not capable of self-preservation. A secured facility that wishes to deny egress to those patients or residents may use delayed-egress doors and electronically coded doors to deny egress, on the condition that those doors are installed and used in accordance with rules the board of building standards adopts under division (A) of section 3781.10 of the Revised Code and in accordance with the state fire code the fire marshal adopts under section 3737.82 of the Revised Code. A secured facility also may install controlled-egress locks, in compliance with rules the board of building standards adopts under division (A) section 3781.10 of the Revised Code and in compliance with the state fire code the fire marshal adopts under section 3737.82 of the Revised Code, in areas of the secured facility where patients or residents who have physical or mental conditions that would endanger the patients or residents, the staff attending the patients or residents, or the general public if those patients or residents are not restricted

in their freedom of movement. A secured facility that uses delayed-egress doors and electronically coded doors, controlled-egress locks, or both, shall do both of the following:

(1) Provide continuous, twenty-four-hour custodial care to the patients or residents of the facility;

(2) Establish a system to evacuate patients or residents in the event of fire or other emergency.

Sec. 3783.05. The board of building standards, in accordance with Chapters 119., 3781., and 3791. of the Revised Code, shall adopt, amend, or repeal such rules as may be reasonably necessary to administer this chapter. All fees collected by the board pursuant to this chapter shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

Sec. 3791.02. No owner, or person having the control as an officer or member of a board or committee or otherwise of any opera house, hall, theater, church, schoolhouse, college, academy, seminary, infirmary, sanitarium, children's home, hospital, medical institute, asylum, memorial building, armory, assembly hall, or other building for the assemblage or betterment of people shall fail to obey any order of the state fire marshal, boards of health of city and general health districts, the building inspector or commissioner in cities having a building inspection department, or the superintendent of ~~labor~~ industrial compliance in the department of commerce under Chapters 3781. and 3791. of the Revised Code or rules or regulations adopted pursuant thereto.

Whoever violates this section shall be fined not more than one thousand dollars.

Sec. 3791.04. (A)(1) Before beginning the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code applies, including all industrialized units, the owner of that building, in addition to any other submission required by law, shall submit plans or drawings, specifications, and data prepared for the construction, erection, equipment, alteration, or addition that indicate the portions that have been approved pursuant to section 3781.12 of the Revised Code and for which no further approval is required, to the municipal, township, or county building department having jurisdiction unless one of the following applies:

(a) If no municipal, township, or county building department certified for nonresidential buildings pursuant to division (E) of section 3781.10 of the Revised Code has jurisdiction, the owner shall make the submissions described in division (A)(1) of this section to the superintendent of ~~labor~~ industrial compliance.

(b) If no certified municipal, township, or county building department certified for residential buildings pursuant to division (E) of section 3781.10 of the Revised Code has jurisdiction, the owner is not required to make the submissions described in division (A)(1) of this section.

(2)(a) The seal of an architect registered under Chapter 4703. of the Revised Code or an engineer registered under Chapter 4733. of the Revised Code is required for any plans, drawings, specifications, or data submitted for approval, unless the plans, drawings, specifications, or data are permitted to be prepared by persons other than registered architects pursuant to division (C) or (D) of section 4703.18 of the Revised Code, or by persons other than registered engineers pursuant to division (C) or (D) of section 4733.18 of the Revised Code.

(b) No seal is required for any plans, drawings, specifications, or data submitted for approval for any residential buildings, as defined in section 3781.06 of the Revised Code, or erected as industrialized one-, two-, or three-family units or structures within the meaning of "industrialized unit" as defined in section 3781.06 of the Revised Code.

(c) No seal is required for approval of the installation of replacement equipment or systems that are similar in type or capacity to the equipment or systems being replaced. No seal is required for approval for any new construction, improvement, alteration, repair, painting, decorating, or other modification of any buildings or structures subject to sections 3781.06 to 3781.18 and 3791.04 of the Revised Code if the proposed work does not involve technical design analysis, as defined by rule adopted by the board of building standards.

(B) No owner shall proceed with the construction, erection, alteration, or equipment of any building until the plans or drawings, specifications, and data have been approved as this section requires, or the industrialized unit inspected at the point of origin. No plans or specifications shall be approved or inspection approval given unless the building represented would, if constructed, repaired, erected, or equipped, comply with Chapters 3781. and 3791. of the Revised Code and any rule made under those chapters.

(C) The approval of plans or drawings and specifications or data pursuant to this section is invalid if construction, erection, alteration, or other work upon the building has not commenced within twelve months of the approval of the plans or drawings and specifications. One extension shall be granted for an additional twelve-month period if the owner requests at least ten days in advance of the expiration of the permit and upon payment of a fee not to exceed one hundred dollars. If in the course of construction, work is delayed or suspended for more than six months, the approval of

plans or drawings and specifications or data is invalid. Two extensions shall be granted for six months each if the owner requests at least ten days in advance of the expiration of the permit and upon payment of a fee for each extension of not more than one hundred dollars. Before any work may continue on the construction, erection, alteration, or equipment of any building for which the approval is invalid, the owner of the building shall resubmit the plans or drawings and specifications for approval pursuant to this section.

(D) Subject to section 3791.042 of the Revised Code, the board of building standards or the legislative authority of a municipal corporation, township, or county, by rule, may regulate the requirements for the submission of plans and specifications to the respective enforcing departments and for processing by those departments. The board of building standards or the legislative authority of a municipal corporation, township, or county may adopt rules to provide for the approval, subject to section 3791.042 of the Revised Code, by the department having jurisdiction of the plans for construction of a foundation or any other part of a building or structure before the complete plans and specifications for the entire building or structure are submitted. When any plans are approved by the department having jurisdiction, the structure and every particular represented by and disclosed in those plans shall, in the absence of fraud or a serious safety or sanitation hazard, be conclusively presumed to comply with Chapters 3781. and 3791. of the Revised Code and any rule issued pursuant to those chapters, if constructed, altered, or repaired in accordance with those plans and any rule in effect at the time of approval.

(E) The approval of plans and specifications, including inspection of industrialized units, under this section is a "license" and the failure to approve plans or specifications as submitted or to inspect the unit at the point of origin within thirty days after the plans or specifications are filed or the request to inspect the industrialized unit is made, the disapproval of plans and specifications, or the refusal to approve an industrialized unit following inspection at the point of origin is "an adjudication order denying the issuance of a license" requiring an "adjudication hearing" as provided by sections 119.07 to 119.13 of the Revised Code and as modified by sections 3781.031 and 3781.19 of the Revised Code. An adjudication order denying the issuance of a license shall specify the reasons for that denial.

(F) The board of building standards shall not require the submission of site preparation plans or plot plans to the division of ~~labor~~ industrial compliance when industrialized units are used exclusively as one-, two-, or three-family dwellings.

(G) Notwithstanding any procedures the board establishes, if the agency having jurisdiction objects to any portion of the plans or specifications, the owner or the owner's representative may request the agency to issue conditional approval to proceed with construction up to the point of the objection. Approval shall be issued only when the objection results from conflicting interpretations of the rules of the board of building standards rather than the application of specific technical requirements of the rules. Approval shall not be issued where the correction of the objection would cause extensive changes in the building design or construction. The giving of conditional approval is a "conditional license" to proceed with construction up to the point where the construction or materials objected to by the agency are to be incorporated into the building. No construction shall proceed beyond that point without the prior approval of the agency or another agency that conducts an adjudication hearing relative to the objection. The agency having jurisdiction shall specify its objections to the plans or specifications, which is an "adjudication order denying the issuance of a license" and may be appealed pursuant to sections 119.07 to 119.13 of the Revised Code and as modified by sections 3781.031 and 3781.19 of the Revised Code.

(H) A certified municipal, township, or county building department having jurisdiction, or the superintendent, as appropriate, shall review any plans, drawings, specifications, or data described in this section that are submitted to it or to the superintendent.

(I) No owner or persons having control as an officer, or as a member of a board or committee, or otherwise, of a building to which section 3781.06 of the Revised Code is applicable, and no architect, designer, engineer, builder, contractor, subcontractor, or any officer or employee of a municipal, township, or county building department shall violate this section.

(J) Whoever violates this section shall be fined not more than five hundred dollars.

Sec. 3791.05. No owner, lessee, agent, factor, architect, or contractor engaged in and having supervision or charge of the building, erection, or construction of a block, building, or structure, shall neglect or refuse to place or have placed upon the joists of each story thereof, as soon as joists are in position, counter floors of such quality and strength as to render perfectly safe the going to and from thereon of all mechanics, laborers, and other persons engaged upon the work of construction or supervision, or in placing materials for such construction.

Whoever violates this section shall be fined not less than twenty-five

nor more than two hundred dollars.

Each day that such person neglects or refuses to have such counter floors so placed, after notice is given by a building inspector, a chief inspector, or deputy inspector of the city building inspection department in cities where such department is organized, or by the superintendent of ~~labor~~ industrial compliance of the state, in cities where such departments are not organized, or from a person whose life or personal safety may be endangered by such neglect or refusal, is a separate offense.

Sec. 3791.07. (A) The board of building standards may establish such reasonable inspection fee schedules as it determines necessary or desirable relating to the inspection of all plans and specifications submitted for approval to the division of ~~labor~~ industrial compliance, and all industrialized units inspected at the point of origin and at the construction site of the building. The inspection fee schedule established shall bear some reasonable relationship to the cost of administering and enforcing the provisions of Chapters 3781. and 3791. of the Revised Code.

(B) In addition to the fee assessed in division (A) of this section, the board shall assess a fee of not more than five dollars for each application for acceptance and approval of plans and specifications and for making inspections pursuant to section 3791.04 of the Revised Code. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner by which the superintendent of ~~labor~~ industrial compliance shall collect and remit to the board the fees assessed under this division and requiring that remittance of the fees be made at least quarterly.

(C) Any person who fails to pay an inspection fee required for any inspection conducted by the department of commerce pursuant to Chapters 3781. and 3791. of the Revised Code, except for fees charged for the inspection of plans and specifications, within forty-five days after the inspection is conducted, shall pay a late payment fee equal to twenty-five per cent of the inspection fee.

(D) The board shall pay the fees assessed under this section into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

Sec. 3791.11. (A) As used in this section and sections 3791.12 and 3791.13 of the Revised Code:

(1) "Service station" means any facility designed and constructed primarily for use in the retail sale of gasoline, other petroleum products, and related accessories; except that "service station" does not include any such facility that has been converted for use for another bona fide business purpose, on and after the date of commencement of such other use.

(2) "Abandoned service station" means any service station that has not been used for the retail sale of gasoline, other petroleum products, and related accessories for a continuous period of six months, whenever failure to reasonably secure station buildings from ready access by unauthorized persons and to reasonably maintain the station's premises has resulted in conditions that endanger the public health, welfare, safety, or morals; provided, that such conditions include, but are not limited to, the presence of defective or deteriorated electrical wiring, heating apparatus, and gas connections, or of unprotected gasoline storage tanks, piping, and valves, or any combination of the foregoing; and provided further that the casual and intermittent use of a service station for the retail sale of any item described in division (A)(1) of this section during such six-month period shall not be held to prevent the station from being determined an abandoned service station if it meets the other qualifications of this division.

(B) No person shall construct, renew operation of, or continue operation of a service station unless, prior to the commencement of construction or renewed operation and during the period of continued operation, a valid bond is on file as provided in division (C) ~~or (D)~~ of this section. The bond shall be obtained by the owner of the property if ~~he~~ the owner is also the owner of the service station. If the owner of the property is not the owner of the service station, then the bond shall be obtained by the lessee of the property; except that such lessee shall be other than any person who leases and operates the service station pursuant to a contract with a supplier of gasoline and petroleum products. The bond shall identify and list the name and address of the property owner and any lessee other than a person who leases and operates the service station pursuant to a contract with a supplier of gasoline and petroleum products.

(C) The bond required by division (B) of this section shall be filed annually with the executive authority of the municipal corporation in which the service station is, or is to be, located, or with the clerk of the board of county commissioners if the service station is not, or is not to be, located within a municipal corporation. The bond shall either be a cash bond or have sufficient sureties approved by the executive authority or clerk with whom it is filed. The bond shall be for a term of one year and shall be renewed annually. The bond shall be in the amount of three thousand dollars for each service station to provide for the repair or removal of the service station and its appurtenances and restoration of the property. The bond shall be conditioned upon the repair or removal of the service station and restoration of the property if the service station is determined to be an abandoned service station as provided in section 3791.12 of the Revised Code. If the

service station is determined to be an abandoned service station, and division (D) or (F) of section 3791.12 of the Revised Code applies, the bond shall be forfeited and the proceeds applied to the costs of repair or removal and restoration as provided in section 3791.13 of the Revised Code. If the amount of the bond exceeds the costs of repair or removal and restoration, the excess shall be returned to the depositor.

~~(D) Whenever a property owner or lessee, other than a person leasing and operating a service station pursuant to a contract with a supplier of gasoline and other petroleum products, owns, leases, or is constructing two or more service stations in this state, such owner or lessee may deposit with the treasurer of state, in lieu of the bond required by division (C) of this section, money or a surety bond approved by the treasurer in the amount of one hundred fifty thousand dollars, or bonds of the United States, this state, or of a political subdivision of this state, having a market value, as determined by the treasurer, of one hundred fifty thousand dollars. The bond or deposit shall cover all service stations owned in the state, being constructed, leased, or operated by the depositor and shall be conditioned upon the repair or removal of any such station and its appurtenances and restoration of the property, if the station is determined to be an abandoned service station as provided in section 3791.12 of the Revised Code. If any such service station is determined to be an abandoned service station, and division (D) or (F) of section 3791.12 of the Revised Code applies, the portion of the bond or deposit required to pay the costs of repair or removal and restoration shall be forfeited and paid to the executive authority of the municipal corporation or to the board of county commissioners of the county, upon request therefor. If the surety refuses to pay the costs of repair or removal and restoration to the treasurer, the treasurer shall forthwith file an action on the bond in the amount certified by the executive authority or board as the costs of repair or removal and restoration, and shall pay to the executive authority or board the proceeds of any judgment. A bond or deposit shall remain valid as long as it is sufficient to cover one hundred thousand dollars of liability. If the bond or deposit is reduced to a lesser amount, it shall be invalid unless sufficient additional bond or deposit is provided to restore the amount of liability covered to one hundred fifty thousand dollars.~~

Sec. 3791.12. (A) The executive authority of each municipal corporation and the board of county commissioners of each county shall designate a suitable person to make inspections, within their respective territorial jurisdictions, of any service stations that are, or appear to be, no longer in use for the purposes described in division (A)(1) of section

3791.11 of the Revised Code, or for any other bona fide business purpose. Inspections of service stations under this section shall be made at the order of the executive authority or board, or upon the complaint of any person claiming to be adversely affected by the condition of a service station. Any inspector designated under this section shall have the right to enter upon and inspect any service station that is, or appears to be, no longer in use as described in this section. No inspector, while in the lawful pursuit of ~~his~~ official duties for such purpose, shall be subject to arrest for trespass while so engaged or for such cause thereafter.

(B) Whenever an inspector, upon inspecting a service station as provided in this section, has reasonable cause to believe that it qualifies as an abandoned service station, ~~he~~ the inspector shall prepare a written report of the condition of the station's buildings and premises. The report shall be filed immediately with the executive authority or board. Upon receipt of the report, the executive authority or board shall fix a place and time, not less than thirty days nor more than sixty days after receipt of the report, for a hearing to determine whether the service station is an abandoned service station. The executive authority or board shall send written notice of the place and date of the hearing, together with a copy of the inspector's report and information that the service station may be ordered repaired or removed if determined to be abandoned, to all persons listed in the bond filed under division (C) ~~or (D)~~ of section 3791.11 of the Revised Code, and to all persons listed in the records of the county recorder or county clerk of courts as holding a lien on the affected property. Such notice shall be sent by certified mail to the address shown on such records.

(C) In hearing the matter and deciding the issue, the executive authority or board shall consider the testimony of any persons appearing pursuant to the notice, or their authorized representatives, the testimony of any witnesses appearing on behalf of such persons, the inspector's report or testimony, or both, and any other evidence pertinent to the matter. If the executive authority or board thereupon determines that the service station is an abandoned service station in such condition as to constitute a danger to the public health, welfare, safety, or morals, it shall order the satisfactory repair, or removal, of the service station and its appurtenances, and restoration of the property, within such period of time, not less than thirty days, as the executive authority or board thereupon determines reasonable. Notice of the findings and order shall be sent to all persons required to be notified by division (B) of this section in the same manner as provided in that division.

(D) If an abandoned service station is not satisfactorily repaired or

removed within the period of time provided in an order made under division (C) of this section, the municipal corporation or county may enter the land and complete the repair, if repair was ordered, or remove the service station and its appurtenances, if removal was ordered, and restore the property.

(E) Any person aggrieved by an order of an executive authority or board made under division (C) of this section, may appeal as provided in Chapter 2506. of the Revised Code within thirty days of the mailing of notice of the order.

(F) In the event that no persons notified as provided in division (B) of this section, or their authorized representatives, appear at the hearing, respond to an order of the executive authority or board, or appeal within thirty days of the mailing of notice of the order as provided in division (E) of this section, the municipal corporation or county may proceed as provided in division (D) of this section.

Sec. 3793.04. The department of alcohol and drug addiction services shall develop, administer, and revise as necessary a comprehensive statewide alcohol and drug addiction services plan for the implementation of this chapter. The plan shall emphasize abstinence from the use of alcohol and drugs of abuse as the primary goal of alcohol and drug addiction services. The council on alcohol ~~and~~ drug, and gambling addiction services shall advise the department in the development and implementation of the plan.

The plan shall provide for the allocation and distribution of funds appropriated to the department by the general assembly for services furnished by alcohol and drug addiction programs under contract with boards of alcohol, drug addiction, and mental health services. The department shall exclude from the allocation and distribution any funds that are transferred to the department of job and family services to pay the nonfederal share of alcohol and drug addiction services covered by the medicaid program.

The plan shall specify the methodology that the department will use for determining how the funds will be allocated and distributed. A portion of the funds shall be allocated on the basis of the ratio of the population of each alcohol, drug addiction, and mental health service district to the total population of the state as determined from the most recent federal census or the most recent official estimate made by the United States census bureau.

The plan shall ensure that alcohol and drug addiction services of a high quality are accessible to, and responsive to the needs of, all persons, especially those who are members of underserved groups, including, but not limited to, African Americans, Hispanics, native Americans, Asians,

juvenile and adult offenders, women, veterans, and persons with special services needs due to age or disability. The plan shall include a program to promote and protect the rights of those who receive services.

To aid in formulating the plan and in evaluating the effectiveness and results of alcohol and drug addiction services, the department, in consultation with the department of mental health, shall establish and maintain an information system or systems. The department of alcohol and drug addiction services shall specify the information that must be provided by boards of alcohol, drug addiction, and mental health services and by alcohol and drug addiction programs for inclusion in the system. The department shall not collect any personal information from the boards except as required or permitted by state or federal law for purposes related to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight.

In consultation with boards, programs, and persons receiving services, the department shall establish guidelines for the use of funds allocated and distributed under this section and for the boards' development of plans for services required by sections 340.033 and 3793.05 of the Revised Code.

In any fiscal year, the department shall spend, or allocate to boards, for methadone maintenance programs or any similar programs not more than eight per cent of the total amount appropriated to the department for the fiscal year.

Sec. 3793.041. The department of alcohol and drug addiction services shall develop, administer, and revise as necessary a comprehensive statewide gambling addiction services plan. The council on alcohol, drug, and gambling addiction services shall advise the department in the development and implementation of the plan.

The plan shall provide for allocation and distribution of funds from the problem casino gambling and addictions fund described in Section 6(C)(3)(g) of Article XV, Ohio Constitution, and any funding to be distributed by the department for problem gambling.

The plan shall specify the methodology that the department will use for determining how the funds will be allocated and distributed. A portion of the funds shall be allocated on the basis of the ratio of the population of each alcohol, drug addiction, and mental health service district to the total population of the state as determined from the most recent federal census or the most recent official estimate made by the United States census bureau.

The plan shall ensure that gambling addiction services of a high quality are accessible to, and responsive to the needs of, all persons, especially those who are members of underserved groups, including, but not limited to,

African Americans, Hispanics, native Americans, Asians, juvenile and adult offenders, women, veterans, and persons with special services needs due to age or disability. The plan shall include a program to promote and protect the rights of those who receive services.

To aid in formulating the plan and in evaluating the effectiveness and results of gambling addiction services, the department, in consultation with the department of mental health, shall establish and maintain an information system or systems. The department of alcohol and drug addiction services shall specify the information that must be provided by boards of alcohol, drug addiction, and mental health services and by gambling addiction programs for inclusion in the system. The department shall not collect any personal information from the boards except as required or permitted by state or federal law for purposes related to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight.

In consultation with boards, programs, and persons receiving services, the department shall establish guidelines for the use of funds allocated and distributed under this section.

Sec. 3793.09. (A) There is hereby created the council on alcohol ~~and~~ drug, ~~and~~ gambling addiction services which shall consist of the public officials specified in division (B) of this section, or their designees, and ~~thirteen~~ fourteen members appointed by the governor with the advice and consent of the senate. The members appointed by the governor shall be representatives of the following: boards of alcohol, drug addiction, and mental health services; the criminal and juvenile justice systems; ~~and~~ alcohol and drug addiction programs; ~~and~~ gambling addiction programs. At least four of the appointed members shall be persons who have received or are receiving alcohol or drug addiction services or are parents or other relatives of such persons; of these at least two shall be women and at least one shall be a member of a minority ~~group~~.

~~The governor shall make initial appointments to the council not later than thirty days after October 10, 1989. Of the initial appointments, six shall be for terms ending July 31, 1991, and seven shall be for terms ending July 31, 1992. Thereafter, terms~~ group. At least one appointed member shall be an individual who has received or is receiving gambling addiction services.

Terms of office shall be two years, with each term ending on the same day of the same month as the term it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the same manner as original appointments. Any

member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of the term. A member shall continue in office subsequent to the expiration of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(B) The directors of health, public safety, mental health, rehabilitation and correction, and youth services; the superintendents of public instruction and liquor control; the attorney general; the adjutant general; ~~and the executive director of the division of criminal justice services in the department of public safety; the executive director of the casino control commission; the executive director of the lottery commission; and the executive director of the state racing commission~~ shall be voting members of the council, except that any of these officials may designate an individual to serve in the official's place as a voting member of the council. The director of alcohol and drug addiction services shall serve as a nonvoting member of the council.

(C) The governor shall annually appoint a chairperson from among the members of the council. The council shall meet quarterly and at other times the chairperson considers necessary. In addition to other duties specified in this chapter, the council shall review the development of the comprehensive statewide plan for alcohol and drug addiction services, the comprehensive statewide plan for gambling addiction services, revisions of ~~the plan~~ those plans, and other actions taken to implement the purposes of this chapter by the department of alcohol and drug addiction services and shall act as an advisory council to the director of alcohol and drug addiction services.

(D) Members of the council shall serve without compensation, but shall be paid actual and necessary expenses incurred in the performance of their duties.

Sec. 3798.01. As used in this chapter:

(A) "Administrative safeguards," "physical safeguards," and "technical safeguards" have the same meanings as in 45 C.F.R. 164.304.

(B) "Approved health information exchange" means a health information exchange that has been approved or reapproved by the director of job and family services pursuant to the approval or reapproval process, as applicable, the director establishes in rules adopted under division (A) of section 3798.15 of the Revised Code or that has been certified by the office of the national coordinator for health information technology in the United States department of health and human services.

(C) "Covered entity," "disclosure," "health care provider," "health

information," "individually identifiable health information," "protected health information," and "use" have the same meanings as in 45 C.F.R. 160.103.

(D) "Designated record set" has the same meaning as in 45 C.F.R. 164.501.

(E) "Direct exchange" means the activity of electronic transmission of health information through a direct connection between the electronic record systems of health care providers without the use of a health information exchange.

(F) "Health care component" and "hybrid entity" have the same meanings as in 45 C.F.R. 164.103.

(G) "Health information exchange" means any person or governmental entity that provides in this state a technical infrastructure to connect computer systems or other electronic devices used by covered entities to facilitate the secure transmission of health information. "Health information exchange" excludes health care providers engaged in direct exchange, including direct exchange through the use of a health information service provider.

(H) "HIPAA privacy rule" means the standards for privacy of individually identifiable health information in 45 C.F.R. part 160 and in 45 C.F.R. part 164, subparts A and E.

(I) "Interoperability" means the capacity of two or more information systems to exchange information in an accurate, effective, secure, and consistent manner.

(J) "Minor" means an unemancipated person under eighteen years of age or a mentally or physically disabled person under twenty-one years of age who meets criteria specified in rules adopted by the director of job and family services under section 3798.13 of the Revised Code.

(K) "More stringent" has the same meaning as in 45 C.F.R. 160.202.

(L) "Office of health transformation" means the office of health transformation created by executive order 2011-02K or a successor governmental entity responsible for health system oversight in this state.

(M) "Personal representative" means a person who has authority under applicable law to make decisions related to health care on behalf of an adult or emancipated minor, or the parent, legal guardian, or other person acting in loco parentis who is authorized under law to make health care decisions on behalf of an unemancipated minor. "Personal representative" does not include the parent or legal guardian of, or another person acting in loco parentis to, a minor who consents to the minor's own receipt of health care or a minor who makes medical decisions on the minor's own behalf pursuant

to law, court approval, or because the minor's parent, legal guardian, or other person acting in loco parentis has assented to an agreement of confidentiality between the provider and the minor.

(N) "Political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state.

(O) "State agency" means any one or more of the following:

(1) The department of aging;

(2) The department of alcohol and drug addiction services;

(3) The department of developmental disabilities;

(4) The department of education;

(5) The department of health;

(6) The department of insurance;

(7) The department of job and family services;

(8) The department of mental health;

(9) The department of rehabilitation and correction;

(10) The department of youth services;

(11) The bureau of workers' compensation;

(12) The rehabilitation services commission;

(13) The office of the attorney general;

(14) A health care licensing board created under Title XLVII of the Revised Code that possesses individually identifiable health information.

Sec. 3798.02. It is the intent of the general assembly in enacting this chapter to make the laws of this state governing the use and disclosure of protected health information by covered entities consistent with, but generally not more stringent than, the HIPAA privacy rule for the purpose of eliminating barriers to the adoption and use of electronic health records and health information exchanges. Therefore, it is also the general assembly's intent in enacting this chapter to supersede any judicial or administrative ruling issued in this state that is inconsistent with the provisions of this chapter.

Sec. 3798.03. (A) Subject to division (B) of this section, a covered entity shall do both of the following:

(1) If an individual's protected health information is maintained by the covered entity in a designated record set, provide the individual or the individual's personal representative with access to that information in a manner consistent with 45 C.F.R. 164.524;

(2) Implement and maintain appropriate administrative, technical, and physical safeguards to protect the privacy of protected health information in a manner consistent with 45 C.F.R. 164.530(c).

(B) If a covered entity is a hybrid entity, this section applies only to the health care component of the covered entity.

Sec. 3798.04. A covered entity shall not do either of the following:

(A) Use or disclose protected health information without an authorization that is valid under 45 C.F.R. 164.508 and, if applicable, 42 C.F.R. part 2, except when the use or disclosure is required or permitted without such authorization by Subchapter C of Subtitle A of Title 45 of the Code of Federal Regulations and, if applicable, 42 C.F.R. part 2;

(B) Use or disclose protected health information in a manner that is not consistent with 45 C.F.R. 164.502.

Sec. 3798.06. Except in the circumstances described in division (A) of section 3798.04 of the Revised Code when a covered entity is permitted to disclose protected health information without an authorization that is valid under 45 C.F.R. 164.508, a covered entity shall not disclose protected health information to a health information exchange without an authorization described in division (A) of section 3798.04 of the Revised Code unless all of the following are true:

(A) The disclosure is to an approved health information exchange.

(B) The covered entity is a party to a valid participation agreement with the approved health information exchange that meets the requirements of rules adopted under section 3798.16 of the Revised Code.

(C) The disclosure is consistent with all procedures established by the approved health information exchange.

(D) Prior to the disclosure, the covered entity furnishes to the individual or individual's personal representative a written notice that complies with rules adopted under division (A)(3) of section 3798.16 of the Revised Code.

Sec. 3798.07. (A) In addition to a covered entity generally being subject to the conditions specified in divisions (A) to (D) of section 3798.06 of the Revised Code when the covered entity discloses protected health information to a health information exchange without a valid authorization, the covered entity shall also be subject to the following conditions when it discloses protected health information to a health information exchange:

(1) The covered entity shall restrict disclosure consistent with all applicable federal laws governing the disclosure;

(2) If the protected health information concerns a minor, the covered entity shall restrict disclosure in a manner that complies with laws of this state pertaining to the circumstances under which a minor may consent to the minor's own receipt of health care or make medical decisions on the minor's own behalf, including sections 2907.29, 3709.241, 3719.012, 5120.172, 5122.04, and 5126.043 of the Revised Code unless the minor

authorizes the disclosure.

(3) The covered entity shall restrict disclosure in a manner that is consistent with a written request from the individual or the individual's personal representative to restrict disclosure of all of the individual's protected health information.

(4) The covered entity shall restrict disclosure in a manner that is consistent with a written request from the individual or the individual's personal representative concerning specific categories of protected health information to the extent that rules adopted pursuant to section 3798.16 of the Revised Code require the covered entity to comply with such a request.

(B) The conditions in division (A) of this section on a covered entity's disclosure of protected health information to a health information exchange do not render unenforceable or restrict in any manner any of the following:

(1) A provision of the Revised Code that on the effective date of this section requires a person or governmental entity to disclose protected health information to a state agency, political subdivision, or other governmental entity;

(2) The confidential status of proceedings and records within the scope of a peer review committee of a health care entity as described in section 2305.252 of the Revised Code;

(3) The confidential status of quality assurance program activities and quality assurance records as described in section 5122.32 of the Revised Code;

(4) The testimonial privilege established by division (B) of section 2317.02 of the Revised Code;

(5) Any of the following items that govern the confidentiality, privacy, security, or privileged status of protected health information in the possession or custody of an agency as defined in section 111.15 of the Revised Code: govern the process for obtaining from a patient consent to the provision of health care or consent for participation in medical or other scientific research; govern the process for determining whether an adult has a physical or mental impairment or an adult's capacity to make health care decisions for purposes of Chapter 5126. of the Revised Code; or govern the process for determining whether a minor has been emancipated:

(a) A section of the Revised Code that is not in this chapter;

(b) A rule as defined in section 119.01 of the Revised Code;

(c) An internal management rule as defined in section 111.15 of the Revised Code;

(d) Guidance issued by an agency as defined in section 111.15 of the Revised Code;

(e) Orders or regulations of a board of health of a city health district made under section 3709.20 of the Revised Code;

(f) Orders or regulations of a board of health of a general health district made under section 3709.21 of the Revised Code;

(g) An ordinance or resolution adopted by a political subdivision;

(h) A professional code of ethics;

(i) When a minor is authorized to consent to the minor's own receipt of health care or make medical decisions on the minor's own behalf, including the circumstances described in sections 2907.29, 3709.241, 3719.012, 5120.172, 5122.04, and 5126.043 of the Revised Code.

Sec. 3798.08. (A) A covered entity that accesses protected health information from or through an approved health information exchange or discloses protected health information to an approved health information exchange in a manner that complies with section 3798.07 of the Revised Code and is not in violation of section 3798.04 or 3798.06 of the Revised Code is not liable in a civil action and is not subject to criminal prosecution or professional disciplinary action arising out of or relating to the access or disclosure.

(B) An approved health information exchange is not liable in a civil action and not subject to criminal prosecution arising out of or relating to either of the following:

(1) A covered entity's having accessed protected health information from or through an approved health information exchange;

(2) A covered entity's disclosure of protected health information to the approved health information exchange if the disclosure complies with section 3798.07 of the Revised Code and is not in violation of section 3798.04 or 3798.06 of the Revised Code.

Sec. 3798.10. (A) Not later than six months after the effective date of this section, the director of job and family services, in consultation with the office of health transformation, shall prescribe by rules adopted in accordance with Chapter 119. of the Revised Code a standard authorization form for the use and disclosure of protected health information by covered entities in this state. The form shall meet all requirements specified in 45 C.F.R. 164.508 and, where applicable, 42 C.F.R. part 2.

(B) If a form the director prescribes under division (A) of this section is properly executed by an individual or the individual's personal representative, it shall be accepted by any person or governmental entity in this state as valid authorization for the use or disclosure of the individual's protected health information to the persons or governmental entities specified in the form.

(C) This section does not preclude a person or governmental entity from accepting as valid authorization for the use or disclosure of protected health information a form other than the form prescribed under division (A) of this section if the other form meets all requirements specified in 45 C.F.R. 164.508 and, if applicable, 42 C.F.R. part 2.

Sec. 3798.12. As used in this section, "agency" has the same meaning as in section 111.15 of the Revised Code.

(A) Except as provided in division (B) of this section, any of the following pertaining to the confidentiality, privacy, security, or privileged status of protected health information transacted, maintained in, or accessed through a health information exchange is unenforceable if it conflicts with this chapter:

(1) A section of the Revised Code that is not in this chapter;

(2) A rule as defined in section 119.01 of the Revised Code;

(3) An internal management rule as defined in section 111.15 of the Revised Code;

(4) Guidance issued by an agency;

(5) Orders or regulations of a board of health of a city health district made under section 3709.20 of the Revised Code;

(6) Orders or regulations of a board of health of a general health district made under section 3709.21 of the Revised Code;

(7) An ordinance or resolution adopted by a political subdivision;

(8) A professional code of ethics.

(B) Division (A) of this section does not render unenforceable or restrict in any manner any of the following:

(1) A provision of the Revised Code that on the effective date of this section requires a person or governmental entity to disclose protected health information to a state agency, political subdivision, or other governmental entity;

(2) The confidential status of proceedings and records within the scope of a peer review committee of a health care entity as described in section 2305.252 of the Revised Code;

(3) The confidential status of quality assurance program activities and quality assurance records as described in section 5122.32 of the Revised Code;

(4) The testimonial privilege established by division (B) of section 2317.02 of the Revised Code;

(5) An item described in divisions (A)(1) to (8) of this section that governs any of the following:

(a) The confidentiality, privacy, security, or privileged status of

protected health information in the possession or custody of an agency:

(b) The process for obtaining from a patient consent to the provision of health care or consent for participation in medical or other scientific research;

(c) The process for determining whether an adult has a physical or mental impairment or an adult's capacity to make health care decisions for purposes of Chapter 5126. of the Revised Code;

(d) The process for determining whether a minor has been emancipated.

(6) When a minor is authorized to consent to the minor's own receipt of health care or make medical decisions on the minor's own behalf, including the circumstances described in sections 2907.29, 3709.241, 3719.012, 5120.172, 5122.04, and 5126.043 of the Revised Code.

Sec. 3798.13. The director of job and family services shall adopt rules for purposes of specifying the criteria a person who is mentally or physically disabled and who is under twenty-one years of age must meet to be considered a minor for purposes of sections 3798.07 and 3798.12 of the Revised Code.

Sec. 3798.14. (A) The director of job and family services, in consultation with the office of health transformation, shall adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of establishing standards the director must use to approve health information exchanges operating in this state. The rules shall not be adopted until the earlier of sixty days following the adoption of a federal certification process for health information exchanges by the office of the national coordinator for health information technology in the United States department of health and human services or January 1, 2013. Subject to division (B) of this section, the rules may include standards and procedures to be followed by a health information exchange regarding the following:

(1) Access to and use and disclosure of protected health information maintained by or on an approved health information exchange;

(2) Demonstration of adequate financial resources to sustain continued operations in compliance with the rules adopted under this section;

(3) Participation in outreach activities for individuals and covered entities;

(4) Conduct of operations in a transparent manner to promote consumer confidence;

(5) Implementation of security breach notification procedures.

(B) The rules the director adopts pursuant to division (A) of this section shall be consistent with certification standards for health information exchanges established in federal statutes and regulations, including

nationally recognized standards for interoperability.

Sec. 3798.15. (A) The director of job and family services, in consultation with the office of health transformation, shall adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of establishing processes for all of the following:

(1) A health information exchange to obtain approval to operate as an approved health information exchange in this state and, at times specified by the director, obtain reapproval of such status;

(2) The director to investigate and resolve concerns and complaints submitted to the director regarding an approved health information exchange;

(3) A health information exchange to apply for reconsideration of a decision the director makes under a process established under division (A)(1) or (2) of this section;

(4) Covered entities and approved health information exchanges to enter into participation agreements and enforce the terms of such agreements.

(B) Any decision the director makes in relation to a request for reconsideration made in accordance with rules adopted under division (A)(3) of this section is not subject to appeal under Chapter 119. of the Revised Code.

Sec. 3798.16. (A) The director of job and family services, in consultation with the office of health transformation, shall adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of specifying the content of agreements governing covered entities' participation in approved health information exchanges. At a minimum, the rules shall require the content of such participation agreements to include all of the following:

(1) Procedures for a covered entity to disclose an individual's protected health information to an approved health information exchange;

(2) Procedures for a covered entity to access an individual's protected health information from an approved health information exchange;

(3) Subject to division (B) of this section, a written notice to be provided by a covered entity to an individual or the individual's personal representative prior to the covered entity's disclosure of the individual's protected health information to an approved health information exchange;

(4) Documentation the covered entity must use to verify that a notice described in division (A)(3) of this section has been provided by the covered entity to an individual or the individual's personal representative prior to the disclosure of the individual's protected health information to an approved health information exchange;

(5) Procedures for an individual or the individual's personal representative to submit to the covered entity a written request to place restrictions on the covered entity's disclosure of protected health information to the approved health information exchange;

(6) The standards a covered entity must use to determine whether, and to what extent, to comply with a written request described in division (A)(5) of this section;

(7) The purposes for which a covered entity may access and use protected health information from the approved health information exchange.

(B) With respect to the written notice described in division (A)(3) of this section, the rules may specify that the notice can be incorporated into the covered entity's notice of privacy practices required by 45 C.F.R. 164.520 and shall specify that the notice include the following statements:

(1) The individual's protected health information will be disclosed to the approved health information exchange to facilitate the provision of health care to the individual.

(2) The approved health information exchange maintains appropriate administrative, physical, and technical safeguards to protect the privacy and security of protected health information.

(3) Only authorized individuals may access and use protected health information from the approved health information exchange.

(4) The individual or the individual's personal representative has the right to request in writing that the covered entity do either or both of the following:

(a) Not disclose any of the individual's protected health information to the approved health information exchange;

(b) Not disclose specific categories of the individual's protected health information to the approved health information exchange.

(5) Any restrictions on the disclosure of protected health information an individual requests as described in either division (B)(4)(a) or (b) of this section may result in a health care provider not having access to information that is necessary for the provider to render appropriate care to the individual.

(6) Any restrictions on the disclosure of protected health information an individual requests as described in division (B)(4)(a) of this section must be honored by the covered entity.

(7) Any restrictions on the disclosure of protected health information an individual requests as described in division (B)(4)(b) of this section must be honored if the restriction is consistent with rules adopted under this chapter.

(C) In adopting standards under division (A)(6) of this section, the

director shall take into consideration the technical capabilities of software available to health information exchanges.

Sec. 3905.36. (A) Every insured association, company, corporation, or other person that enters, directly or indirectly, into any independent procurement or direct placement agreement with any insurance company, association, individual, firm, underwriter, or Lloyd's, not authorized to do business in this state, whereby the insured shall procure, continue, or renew contracts of insurance with such unauthorized insurance company, association, individual, firm, underwriter, or Lloyd's, for which insurance there is a gross premium, shall file the details of the transaction annually, on or before the thirty-first day of March, and shall at the same time pay to the treasurer of state, or to the superintendent of insurance upon the mutual agreement of the superintendent and the treasurer, a tax of five per cent of such gross premium, after a deduction for return premium, if any, as calculated in the prescribed format or in compliance with any requirements of the compact entered into by the superintendent pursuant to division (D) of section 3905.33 of the Revised Code. An insurer may submit the required details of the transaction and remit the tax payment on behalf of an insured.

All taxes collected under this section shall be paid into the general revenue fund. If the tax is not paid when due, the tax shall be increased by a penalty of twenty-five per cent. An interest charge computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date the tax is due until it is paid. For purposes of this section, payment is considered made when it is received by the treasurer or the superintendent, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed.

The superintendent of insurance, in the superintendent's sole discretion, may waive the twenty-five per cent penalty and interest charge thereon for a first-time, inadvertent nonpayment of the tax when due if the nonpayment is reported immediately upon discovery and the outstanding tax is thereafter immediately paid to the superintendent.

(B) Each person licensed under section 3905.30 of the Revised Code shall pay to the treasurer of state, or to the superintendent of insurance upon the mutual agreement of the superintendent and the treasurer, on or before the thirty-first day of March of each year, five per cent of the balance of the gross premiums charged for insurance placed or procured under the license after a deduction for return premiums in the prescribed format or in compliance with any requirements of the compact entered into by the superintendent pursuant to division (D) of section 3905.33 of the Revised

Code. The tax shall be collected from the insured by the surplus lines broker who placed or procured the policy of insurance at the time the policy is delivered to the insured. No license issued under section 3905.30 of the Revised Code shall be renewed until payment is made. If the tax is not paid when due, the tax shall be increased by a penalty of twenty-five per cent. An interest charge computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date the tax is due until it is paid. For purposes of this section, payment is considered made when it is received by the treasurer or the superintendent, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed.

The superintendent, in the superintendent's sole discretion, may waive the twenty-five per cent penalty and interest charge thereon for a first-time, inadvertent nonpayment of the tax when due if the nonpayment is reported immediately upon discovery and the outstanding tax is thereafter immediately paid to the superintendent.

(C) This section does not apply to:

(1) An insured otherwise exempt from the payment of premium or franchise taxes under state or federal law;

(2) Attorneys-at-law acting on behalf of their clients in the adjustment of claims or losses;

(3) Transactions involving policies issued by a captive insurer. For this purpose, a "captive insurer" means any of the following:

(a) An insurer owned by one or more individuals or organizations, whose exclusive purpose is to insure risks of one or more of the parent organizations or individual owners and risks of one or more affiliates of the parent organizations or individual owners;

(b) In the case of groups and associations, insurers owned by the group or association whose exclusive purpose is to insure risks of members of the group or association and affiliates of the members;

(c) Other types of insurers, licensed and operated in accordance with the captive insurance laws of their jurisdictions of domicile and operated in a manner so as to self-insure risks of their owners and insureds.

(4) Professional or medical liability insurance procured by a hospital organized under Chapter 3701. of the Revised Code;

(5) Insurance with an initial policy period of more than three years and that is procured to cover known events related to environmental remediation that occurred prior to the effective date of that insurance;

(6) Insurance procured on behalf of an entity that manufactures,

packages, and sells, as more than fifty per cent of the entity's business, pharmaceutical products for human use where the production, packaging, and sale of such products are subject to regulation by an agency of the United States;

(7) A political subdivision or any combination or consortium of two or more political subdivisions.

(D) As used in this section:

(1) "Political subdivision" means any county; municipal corporation; township; township police district; township fire district; joint fire district; joint ambulance district; joint emergency medical services district; fire and ambulance district; joint recreation district; township waste disposal district; township road district; community college district; technical college district; detention facility district; a district organized under section 2151.65 of the Revised Code; a combined district organized under sections 2151.65 and 2152.41 of the Revised Code; a joint-county alcohol, drug addiction, and mental health service district; a drainage improvement district created under section 6131.52 of the Revised Code; a union cemetery district; a county school financing district; a city, local, exempted village, cooperative education, or joint vocational school district; or a regional student education district created under section 3313.83 of the Revised Code, any public division, district, commission, authority, department, board, officer, or institution of any one or more of those political subdivisions, that is entirely or substantially supported by public tax moneys.

(2) "Municipal corporation" means all municipal corporations, including those that have adopted a charter under Article XVIII, Ohio Constitution.

Sec. 4104.01. As used in sections 4104.01 to 4104.20 and section 4104.99 of the Revised Code:

(A) "Board of building standards" or "board" means the board established by section 3781.07 of the Revised Code.

(B) "Superintendent" means the superintendent of ~~labor~~ industrial compliance created by section 121.04 of the Revised Code.

(C) "Boiler" means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use externally to itself by the direct application of heat from the combustion of fuels, or from electricity or nuclear energy. "Boiler" includes fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves.

(D) "Power boiler" means a boiler in which steam or other vapor (to be used externally to itself) is generated at a pressure of more than fifteen psig.

(E) "High pressure, high temperature water boiler" means a water heating boiler operating at pressures exceeding one hundred sixty psig or temperatures exceeding two hundred fifty degrees Fahrenheit.

(F) "Low pressure boiler" means a steam boiler operating at pressures not exceeding fifteen psig, or a hot water heating boiler operating at pressures not exceeding one hundred sixty psig or temperatures not exceeding two hundred fifty degrees Fahrenheit.

(G) "Pressure vessel" means a container for the containment of pressure, either internal or external. This pressure may be obtained from an external source or by the application of heat from a direct or indirect source or any combination thereof.

(H) "Process boiler" means a boiler to which all of the following apply:

(1) The steam in the boiler is either generated or superheated, or both, under pressure or vacuum for use external to itself.

(2) The source of heat for the boiler is in part or in whole from a process other than the boiler itself.

(3) The boiler is part of a continuous processing unit, such as used in chemical manufacture or petroleum refining, other than a steam-generated process unit.

(I) "Stationary steam engine" means an engine or turbine in which the mechanical force arising from the elasticity and expansion action of steam or from its property of rapid condensation or from a combination of the two is made available as a motive power.

Sec. 4104.02. The board of building standards shall:

(A) Formulate rules for the construction, installation, repair, conservation of energy, and operation of boilers and the construction and repair of pressure vessels and for ascertaining the safe working pressures to be carried on such boilers and pressure vessels and the qualification of inspectors of boilers and pressure vessels;

(B) Prescribe tests, if it is considered necessary, to ascertain the qualities of materials used in the construction of boilers and pressure vessels;

(C) Adopt rules regulating the construction and sizes of safety valves for boilers and pressure vessels of different sizes and pressures, for the construction, use, and location of fusible plugs, appliances for indicating the pressure of steam and level of water in the boiler or pressure vessels, and such other appliances as the board considers necessary to safety in operating boilers;

(D) Establish reasonable fees for the performance of reviews, surveys, or audits of manufacturer's facilities by the division of ~~labor~~ industrial compliance for certification by the American society of mechanical

engineers and the national board of boiler and pressure vessel inspectors;

(E) The definitions and rules adopted by the board for the construction, installation, repair, conservation of energy, and operation of boilers and the construction and repair of pressure vessels and for ascertaining the safe working pressures to be used on such boilers and pressure vessels shall be based upon and follow generally accepted engineering standards, formulae, and practices established and pertaining to boilers and pressure vessel construction, operation, and safety, and the board may, for this purpose, adopt existing published standards as well as amendments thereto subsequently published by the same authority.

When a person desires to manufacture a special type of boiler or pressure vessel, the design of which is not covered by the rules of the board, the person shall submit drawings and specifications of such boiler or pressure vessel to the board for investigation, after which the board may permit its installation.

The provisions of sections 119.03 and 119.11 of the Revised Code in particular, and the applicable provisions of Chapter 119. of the Revised Code in general, shall govern the proceedings of the board of building standards in adopting, amending, or rescinding rules pursuant to this section.

Sec. 4104.06. (A) The inspection of boilers and their appurtenances and pressure vessels shall be made by the inspectors mentioned in sections 4104.07 to 4104.20 of the Revised Code. The superintendent of ~~labor~~ industrial compliance shall administer and enforce such sections and rules adopted by the board of building standards pursuant to section 4104.02 of the Revised Code.

(B) The superintendent shall adopt, amend, and repeal rules exclusively for the issuance, renewal, suspension, and revocation of certificates of competency and certificates of operation, for conducting hearings in accordance with Chapter 119. of the Revised Code related to these actions, and for the inspection of boilers and their appurtenances, and pressure vessels.

(C) Notwithstanding division (B) of this section, the superintendent shall not adopt rules relating to construction, maintenance, or repair of boilers and their appurtenances, or repair of pressure vessels.

(D) The superintendent and each general inspector may enter any premises and any building or room at all reasonable hours to perform an examination or inspection.

Sec. 4104.07. (A) An application for examination as an inspector of boilers and pressure vessels shall be in writing, accompanied by a fee of one hundred fifty dollars, upon a blank to be furnished by the superintendent of

~~labor~~ industrial compliance. Any moneys collected under this section shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

(B) The superintendent shall determine if an applicant meets all the requirements for examination in accordance with rules adopted by the board of building standards under section 4104.02 of the Revised Code. An application shall be rejected which contains any willful falsification, or untruthful statements.

(C) An applicant shall be examined by the superintendent, by a written examination, prescribed by the board, dealing with the construction, installation, operation, maintenance, and repair of boilers and pressure vessels and their appurtenances, and the applicant shall be accepted or rejected on the merits of the applicant's application and examination.

(D) Upon a favorable report by the superintendent of the result of an examination, the superintendent shall immediately issue to the successful applicant a certificate of competency to that effect.

Sec. 4104.08. (A) The director of commerce may appoint from the holders of certificates of competency provided for in section 4104.07 of the Revised Code, general inspectors of boilers and pressure vessels.

(B) Any company authorized to insure boilers and pressure vessels against explosion in this state may designate from holders of certificates of competency issued by the superintendent of ~~labor~~ industrial compliance, or holders of certificates of competency or commissions issued by other states or nations whose examinations for certificates or commissions have been approved by the board of building standards, persons to inspect and stamp boilers and pressure vessels covered by the company's policies, and the superintendent shall issue to such persons commissions authorizing them to act as special inspectors. Special inspectors shall be compensated by the company designating them.

(C) The director shall establish an annual fee to be charged by the superintendent for each certificate of competency or commission the superintendent issues.

(D) The superintendent shall issue to each general or special inspector a commission to the effect that the holder thereof is authorized to inspect boilers and pressure vessels in this state.

(E) No person shall be authorized to act as a general inspector or a special inspector who is directly or indirectly interested in the manufacture or sale of boilers or pressure vessels.

Sec. 4104.09. The certificate of competency issued under section 4104.07 of the Revised Code or the commission provided for in section

4104.08 of the Revised Code may be revoked by the superintendent of ~~labor~~ industrial compliance for the incompetence or untrustworthiness of the holder thereof, or for willful falsification of any matter or statement contained in the holder's application or in a report of any inspection in accordance with Chapter 119. of the Revised Code. If a certificate or commission is lost or destroyed, a new certificate or commission shall be issued in its place without another examination.

Sec. 4104.10. All unfired pressure vessels, except unfired pressure vessels exempt under section 4104.04 of the Revised Code, shall be thoroughly inspected during fabrication and upon completion and shall not be operated until a copy of the manufacturers' data report, properly executed and signed by the inspector is filed in the office of the superintendent of ~~labor~~ industrial compliance. All unfired pressure vessels shall conform in every detail with applicable rules adopted by the board of building standards pursuant to section 4104.02 of the Revised Code.

Sec. 4104.101. (A) No person shall install or make major repairs or modifications to any boiler without first registering to do so with the division of ~~labor~~ industrial compliance.

(B) No person shall make any installation or major repair or modification of any boiler without first obtaining a permit to do so from the division. The permit application form shall provide the name and address of the owner, location of the boiler, and type of repair or modification that will be made. The application permit fee shall be one hundred dollars.

(C) The superintendent of ~~labor~~ industrial compliance shall require annual registration of all contractors who install, make major repairs to, or modify any boiler. The board of building standards shall establish a reasonable fee to cover the cost of processing registrations.

Sec. 4104.12. All boilers, except boilers mentioned in section 4104.04 of the Revised Code, shall be inspected when installed and shall not be operated until an appropriate certificate of operation has been issued by the superintendent of ~~labor~~ industrial compliance. The certificate of operation required by this section shall not be issued for any boiler which has not been thoroughly inspected during construction and upon completion, by either a general or special inspector, and which does not conform in every detail with the rules adopted by the board of building standards and unless, upon completion, such boiler is distinctly stamped under such rules by such inspector.

Sec. 4104.15. (A) All certificates of inspection for boilers, issued prior to October 15, 1965, are valid and effective for the period set forth in such certificates unless sooner withdrawn by the superintendent of ~~labor~~

industrial compliance. The owner or user of any such boiler shall obtain an appropriate certificate of operation for such boiler, and shall not operate such boiler, or permit it to be operated unless a certificate of operation has been obtained in accordance with section 4104.17 of the Revised Code.

(B) If, upon making the internal and external inspection required under sections 4104.11, 4104.12, and 4104.13 of the Revised Code, the inspector finds the boiler to be in safe working order, with the fittings necessary to safety, and properly set up, upon the inspector's report to the superintendent, the superintendent shall issue to the owner or user thereof, or renew, upon application and upon compliance with sections 4104.17 and 4104.18 of the Revised Code, a certificate of operation which shall state the maximum pressure at which the boiler may be operated, as ascertained by the rules of the board of building standards. Such certificates shall also state the name of the owner or user, the location, size, and number of each boiler, and the date of issuance, and shall be so placed as to be easily read in the engine room or boiler room of the plant where the boiler is located, except that the certificate of operation for a portable boiler shall be kept on the premises and shall be accessible at all times.

(C) If an inspector at any inspection finds that the boiler or pressure vessel is not in safe working condition, or is not provided with the fittings necessary to safety, or if the fittings are improperly arranged, the inspector shall immediately notify the owner or user and person in charge of the boiler and shall report the same to the superintendent who may revoke, suspend, or deny the certificate of operation and not renew the same until the boiler or pressure vessel and its fittings are put in condition to insure safety of operation, and the owner or user shall not operate the boiler or pressure vessel, or permit it to be operated until such certificate has been granted or restored.

(D) If the superintendent or a general boiler inspector finds that a pressure vessel or boiler or a part thereof poses an explosion hazard that reasonably can be regarded as posing an imminent danger of death or serious physical harm to persons, the superintendent or the general boiler inspector shall seal the pressure vessel or boiler and order, in writing, the operator or owner of the pressure vessel or boiler to immediately cease the pressure vessel's or boiler's operation. The order shall be effective until the nonconformities are eliminated, corrected, or otherwise remedied, or for a period of seventy-two hours from the time of issuance, whichever occurs first. During the seventy-two-hour period, the superintendent may request that the prosecuting attorney or city attorney of Franklin county or of the county in which the pressure vessel or boiler is located obtain an injunction

restraining the operator or owner of the pressure vessel or boiler from continuing its operation after the seventy-two-hour period expires until the nonconformities are eliminated, corrected, or otherwise remedied.

(E) Each boiler which has been inspected shall be assigned a number by the superintendent, which number shall be stamped on a nonferrous metal tag affixed to the boiler or its fittings by seal or otherwise. No person except an inspector shall deface or remove any such number or tag.

(F) If the owner or user of any pressure vessel or boiler disagrees with the inspector as to the necessity for shutting down a pressure vessel or boiler or for making repairs or alterations in it, or taking any other measures for safety that are requested by an inspector, the owner or user may appeal from the decision of the inspector to the superintendent, who may, after such other inspection by a general inspector or special inspector as the superintendent deems necessary, decide the issue.

(G) Neither sections 4104.01 to 4104.20 of the Revised Code, nor an inspection or report by any inspector, shall relieve the owner or user of a pressure vessel or boiler of the duty of using due care in the inspection, operation, and repair of the pressure vessel or boiler or of any liability for damages for failure to inspect, repair, or operate the pressure vessel or boiler safely.

Sec. 4104.16. The owner or user of any boiler required by sections 4104.01 to 4104.20 of the Revised Code, to be inspected, shall immediately notify the superintendent of ~~labor~~ industrial compliance in case a defect affecting the safety of the boiler is discovered.

The owner or user of any stationary boiler required by such sections to be inspected, who moves the same, shall report to the superintendent the new location of the boiler. Such boiler shall be inspected before it is again operated.

Sec. 4104.17. Certificates of operation issued for boilers subject to inspection under Chapter 4104. of the Revised Code shall be issued and renewed in accordance with and at dates prescribed by rules and regulations adopted by the superintendent of ~~labor~~ industrial compliance.

Sec. 4104.18. (A) The owner or user of a boiler required under section 4104.12 of the Revised Code to be inspected upon installation, and the owner or user of a boiler for which a certificate of inspection has been issued which is replaced with an appropriate certificate of operation, shall pay to the superintendent of ~~labor~~ industrial compliance a fee in the amount of fifty dollars for boilers subject to annual inspections under section 4104.11 of the Revised Code, one hundred dollars for boilers subject to biennial inspection under section 4104.13 of the Revised Code, one hundred

fifty dollars for boilers subject to triennial inspection under section 4104.11 of the Revised Code, or two hundred fifty dollars for boilers subject to quinquennial inspection under section 4104.13 of the Revised Code.

(B) The fee for complete inspection during construction by a general inspector on boilers and pressure vessels manufactured within the state shall be thirty-five dollars per hour. Boiler and pressure vessel manufacturers other than those located in the state may secure inspection by a general inspector on work during construction, upon application to the superintendent, and upon payment of a fee of thirty-five dollars per hour, plus the necessary traveling and hotel expenses incurred by the inspector.

(C) The application fee for applicants for steam engineer, high pressure boiler operator, or low pressure boiler operator licenses is seventy-five dollars. The fee for each original or renewal steam engineer, high pressure boiler operator, or low pressure boiler operator license is fifty dollars.

(D) The director of commerce, subject to the approval of the controlling board, may establish fees in excess of the fees provided in divisions (A), (B), and (C) of this section. Any moneys collected under this section shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

(E) Any person who fails to pay an invoiced renewal fee or an invoiced inspection fee required for any inspection conducted by the division of ~~labor~~ industrial compliance pursuant to this chapter within forty-five days of the invoice date shall pay a late payment fee equal to twenty-five per cent of the invoiced fee.

(F) In addition to the fees assessed in divisions (A) and (B) of this section, the board of building standards shall assess the owner or user a fee of three dollars and twenty-five cents for each certificate of operation or renewal thereof issued under division (A) of this section and for each inspection conducted under division (B) of this section. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner by which the superintendent shall collect and remit to the board the fees assessed under this division and requiring that remittance of the fees be made at least quarterly.

Sec. 4104.19. (A) Any person seeking a license to operate as a steam engineer, high pressure boiler operator, or low pressure boiler operator shall file a written application with the superintendent of ~~labor~~ industrial compliance on a form prescribed by the superintendent with the appropriate application fee as set forth in section 4104.18 of the Revised Code. The application shall contain information satisfactory to the superintendent to demonstrate that the applicant meets the requirements of division (B) of this

section. The application shall be filed with the superintendent not more than sixty days and not less than thirty days before the license examination is offered.

(B) To qualify to take the examination required to obtain a steam engineer, high pressure boiler operator, or low pressure boiler operator license, a person shall meet both of the following requirements:

- (1) Be at least eighteen years of age;
- (2) Have one year of experience in the operation of steam engines, high pressure boilers, or low pressure boilers as applicable to the type of license being sought, or a combination of experience and education for the type of license sought as determined to be acceptable by the superintendent.

(C) No applicant shall qualify to take an examination or to renew a license if the applicant has violated this chapter or if the applicant has obtained or renewed a license issued under this chapter by fraud, misrepresentation, or deception.

(D) The superintendent shall issue a license to each applicant who receives a passing score on the examination, as determined by the superintendent, for the license for which the applicant applied.

(E) The superintendent may select and contract with one or more persons to do all of the following relative to the examinations for a license to operate as a steam engineer, high pressure boiler operator, or low pressure boiler operator:

- (1) Prepare, administer, score, and maintain the confidentiality of the examination;
- (2) Maintain responsibility for all expenses required to fulfill division (E)(1) of this section;
- (3) Charge each applicant a fee for administering the examination, in an amount authorized by the superintendent;
- (4) Design the examination for each type of license to determine an applicant's competence to operate the equipment for which the applicant is seeking licensure.

(F) Each license issued under this chapter expires one year after the date of issue. Each person holding a valid, unexpired license may renew the license, without reexamination, by applying to the superintendent not more than ninety days before the expiration of the license, and submitting with the application the renewal fee established in section 4104.18 of the Revised Code. Upon receipt of the renewal information and fee, the superintendent shall issue the licensee a certificate of renewal.

(G) The superintendent, in accordance with Chapter 119. of the Revised Code, may suspend or revoke any license, or may refuse to issue a license

under this chapter upon finding that a licensee or an applicant for a license has violated or is violating the requirements of this chapter.

Sec. 4104.21. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the superintendent of ~~labor~~ industrial compliance shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate or license issued pursuant to this chapter.

Sec. 4104.33. There is hereby created the historical boilers licensing board consisting of seven members, three of whom shall be appointed by the governor with the advice and consent of the senate. The governor shall make initial appointments to the board within ninety days after October 24, 2002. Of the initial members appointed by the governor, one shall be for a term ending three years after October 24, 2002, one shall be for a term ending four years after October 24, 2002, and one shall be for a term ending five years after October 24, 2002. Thereafter, terms of office shall be for five years, each term ending on the same day of the same month of the year as did the term that it succeeds. Of the three members the governor appoints, one member shall be an employee of the division of boiler inspection in the department of commerce; one member shall be an independent mechanical engineer who is not involved in selling or inspecting historical boilers; and one shall be an active member of an association that represents managers of fairs or festivals.

Two members of the board shall be appointed by the president of the senate and two members of the board shall be appointed by the speaker of the house of representatives. The president and speaker shall make initial appointments to the board within ninety days after October 24, 2002. Of the initial members appointed by the president, one shall be for a term ending four years after October 24, 2002 and one shall be for a term ending five years after October 24, 2002. Of the initial members appointed by the speaker, one shall be for a term ending three years after October 24, 2002 and one shall be for a term ending five years after October 24, 2002. Thereafter, terms of office shall be for five years, each term ending on the same day of the same month of the year as did the term that it succeeds. Of the four members appointed by the president and speaker, each shall own a historical boiler and also have at least ten years of experience in the operation of historical boilers, and each of these four members shall reside in a different region of the state.

Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner

provided for initial appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the successor takes office or until a period of sixty days has elapsed, whichever occurs first.

The members of the board, annually, shall elect, by majority vote, a chairperson from among their members. The board shall meet at least once annually and at other times at the call of the chairperson. Board members shall receive their actual and necessary expenses incurred in the discharge of their duties as board members.

The superintendent of ~~labor~~ industrial compliance shall furnish office space, staff, and supplies to the board as the superintendent determines are necessary for the board to carry out its official duties under sections 4104.33 to 4104.37 of the Revised Code.

Sec. 4104.42. (A) The owner of any power piping or process piping system shall ensure that all of the following are performed in compliance with applicable sections of the B31 standards contained in the code for pressure piping, published by the American society of mechanical engineers:

(1) The design, fabrication, assembly, installation, testing, examination, and inspection of power and process piping systems;

(2) Qualification of personnel and qualification of welding and brazing procedures;

(3) The implementation of an inspection program.

(B) The owner of a power piping or process piping system shall do both of the following:

(1) Maintain for five years complete records documenting the design, examination, and testing of the piping system that include all of the following:

(a) The specific edition of the code for pressure piping used in the design;

(b) The design assumptions;

(c) The calculations, piping material specifications, and construction documents for the piping;

(d) The records of piping alterations;

(e) The piping examination and inspection records.

(2) Disclose the types and quantities of flammable, combustible, or hazardous materials proposed to be used in the facility to the building and fire code enforcement authorities who have inspection authority to enable

those authorities to determine compliance with the rules the board of building standards adopts pursuant to section 3781.10 of the Revised Code and the rules the state fire marshal adopts pursuant to section 3737.82 of the Revised Code.

(C) No person or state agency shall require that the records described in division (B)(1) of this section be submitted to the division of ~~labor~~ industrial compliance in the department of commerce or to a certified building department for approval.

(D) Nothing in this section limits the application of Chapters 4703. and 4733. of the Revised Code.

Sec. 4104.43. (A)(1) The board of building standards shall adopt rules establishing requirements for the design, installation, inspection of and design review procedure for building services piping.

(2) The board of building standards shall adopt rules establishing requirements for the design, installation, inspection of and design review procedure for nonflammable medical gas, medical oxygen, and medical vacuum piping systems.

(B) A municipal, township, or county building department certified under division (E) of section 3781.10 of the Revised Code shall enforce the rules the board adopts pursuant to division (A)(2) of this section if that building department requests and obtains special certification to enforce those rules.

(C) In a health district where no municipal, township, or county building department is specially certified under division (B) of this section, an employee of the health district shall enforce the rules adopted pursuant to division (A)(2) of this section if both of the following conditions are satisfied:

(1) The health district employee requests and obtains special certification by the board to enforce those rules.

(2) The health district notifies the superintendent of the division of ~~labor~~ industrial compliance in the department of commerce that the health district's specially certified employee shall enforce those rules.

(D) In a jurisdiction where enforcement authority as described in divisions (B) and (C) of this section does not exist, the superintendent of ~~labor~~ industrial compliance shall enforce the rules the board adopts pursuant to division (A)(2) of this section.

Sec. 4104.44. All welding and brazing of metallic piping systems shall be performed in accordance with section IX of the boiler and pressure vessel code, published by the American society of mechanical engineers. The owner shall maintain, at the job site, the certified performance qualification

records of all welders and brazers employed at the facility. The owner shall submit copies of all certified welding and brazing procedure specifications, procedure qualification records, and performance qualification records for building services piping for review to the superintendent of ~~labor~~ industrial compliance in the department of commerce in accordance with rules the superintendent adopts. The submission shall be accompanied by the fee the superintendent establishes.

Sec. 4104.48. (A) No person shall violate sections 4104.41 to 4104.48 of the Revised Code, fail to perform any duty lawfully enjoined in connection with those sections, or fail to comply with any order issued by the superintendent of ~~labor~~ industrial compliance or any judgment or decree issued by any court in connection with the enforcement of sections 4104.41 to 4104.48 of the Revised Code.

(B) Every day during which a person violates sections 4104.41 to 4104.48 of the Revised Code, fails to perform any duty lawfully enjoined in connection with those sections, or fails to comply with any order issued by the superintendent or any judgment or decree issued by any court in connection with the enforcement of sections 4104.41 to 4104.48 of the Revised Code constitutes a separate offense.

Sec. 4105.01. As used in this chapter:

(A) "Elevator" means a hoisting and lowering apparatus equipped with a car, cage, or platform which moves on or between permanent rails or guides and serves two or more fixed landings in a building or structure to which section 3781.06 of the Revised Code applies. "Elevator" includes dumb-waiters other than hand-powered dumb-waiters, escalators, ~~peoplelifts~~ manlifts, moving walks, of the endless belt type, other lifting or lowering apparatus permanently installed on or between rails or guides, and all equipment, machinery, and construction related to any elevator; but does not include construction hoists and other similar temporary lifting or lowering apparatuses, ski lifts, traveling, portable amusement rides or devices that are not affixed to a permanent foundation, or nonportable amusement rides or devices that are affixed to a permanent foundation.

(B) "Passenger elevator" means an elevator that is designed to carry persons to its contract capacity.

(C) "Freight elevator" means an elevator normally used for carrying freight and on which only the operator and employees in the pursuit of their duties, by the permission of the employer, are allowed to ride.

(D) "Gravity elevator" means an elevator utilizing gravity to move.

(E) "General inspector" means a state inspector examined and hired to inspect elevators and lifting apparatus for that state.

(F) "Special inspector" means an inspector examined and commissioned by the superintendent of ~~labor~~ industrial compliance to inspect elevators and lifting apparatus in the state.

(G) "Inspector" means either a general or special inspector.

Sec. 4105.02. No person may act, either as a general inspector or as a special inspector, of elevators, unless the person holds a certificate of competency from the division of ~~labor~~ industrial compliance.

Application for examination as an inspector of elevators shall be in writing, accompanied by a fee to be established as provided in section 4105.17 of the Revised Code, and upon a blank to be furnished by the division, stating the school education of the applicant, a list of the applicant's employers, the applicant's period of employment, and the position held with each. An applicant shall also submit a letter from one or more of the applicant's previous employers certifying as to the applicant's character and experience.

Applications shall be rejected which contain any willful falsification or untruthful statements. An applicant, if the division considers the applicant's history and experience sufficient, shall be examined by the superintendent of ~~labor~~ industrial compliance by a written examination dealing with the construction, installation, operation, maintenance, and repair of elevators and their appurtenances, and the applicant shall be accepted or rejected on the merits of the applicant's application and examination.

The superintendent shall issue a certificate of competency in the inspection of elevators to any applicant found competent upon examination. A rejected applicant shall be entitled, after the expiration of ninety days and upon payment of an examination fee to be established as provided in section 4105.17 of the Revised Code, to another examination. Should an applicant fail to pass the prescribed examination on second trial, the applicant will not be permitted to be an applicant for another examination for a period of one year after the second examination.

Sec. 4105.03. The superintendent of ~~labor~~ industrial compliance, with the consent of the director of commerce, shall hire an assistant who has at least ten years of experience in the construction, installation, maintenance, and repair of elevators and their appurtenances.

The superintendent, with the consent of the director, and in compliance with Chapter 124. of the Revised Code, may appoint and hire general inspectors of elevators from the holders of certificates of competency.

Sec. 4105.04. From the holders of certificates of competency in the inspection of elevators, any company that is authorized to insure elevators in the state, may designate persons to inspect elevators covered by such

company's policies, and the department of public safety of any city and the clerk of any village may designate persons to inspect elevators in such city or village. Such persons shall, upon the payment of a fee to be established as provided in section 4105.17 of the Revised Code, have issued to them annually by the division of ~~labor~~ industrial compliance, commissions to serve as special inspectors of elevators in the state.

Sec. 4105.05. A commission to serve as a special inspector may be suspended or revoked by the superintendent of ~~labor~~ industrial compliance, for the incompetence or untrustworthiness of the holder thereof, or for the falsification of any matter or statement contained in the holder's application or in a report of any inspection.

Sec. 4105.06. If a certificate or commission issued under sections 4105.02 and 4105.04 of the Revised Code is lost or destroyed a new one shall be issued in its place by the division of ~~labor~~ industrial compliance without another examination, upon the payment of a fee to be established as provided in section 4105.07 of the Revised Code.

Sec. 4105.09. The owner or user of any elevator shall register, with the division of ~~labor~~ industrial compliance, every elevator operated by the owner or user, giving the type, capacity, and description, name of manufacturer, and purpose for which each is used. Such registration shall be made on a form to be furnished by the division.

Sec. 4105.11. The inspection of elevators shall be made by the inspectors authorized in sections 4105.03 and 4105.04 of the Revised Code, under the supervision of the superintendent of ~~labor~~ industrial compliance, and the superintendent shall enforce this chapter and any rules adopted pursuant thereto.

Every inspector shall forward to the superintendent a full and complete report of each inspection made of any elevator and shall, on the day the inspection is completed, leave a copy of such report with the owner or operator of the elevator, or the owner's or operator's agent or representative. Such report shall indicate the exact condition of the elevator and shall list any and all of the provisions of this chapter and any rules adopted pursuant thereto, with which the elevator does not comply. Before attempting to enforce, by any remedy, civil or criminal, the provisions with which the inspected elevator does not comply, the chief shall issue an adjudication order within the meaning of Chapter 119. of the Revised Code.

The approval of construction plans, or an application of specifications under section 4105.16 of the Revised Code is a license, and the failure to approve such plans or specifications by the chief within sixty days after they are filed is an adjudication order denying the issuance of a license.

Every adjudication order shall specify what appliances, site preparations, additions, repairs, or alterations to any elevators, plans, materials, assemblages, or procedures are necessary for the same to comply with this chapter, or any rules adopted pursuant thereto. Such adjudication order shall be issued pursuant to Chapter 119. of the Revised Code and shall be effective without prior hearing, within thirty days after the receipt of such order, the owner of the elevator specified therein may appeal to the board of building appeals under section 3781.19 of the Revised Code.

Notwithstanding the provisions of Chapter 119. of the Revised Code relating to adjudication hearings, a stenographic or mechanical record of the testimony and other evidence submitted before the board of building appeals shall be taken at the expense of the agency. A party adversely affected by an order issued following such adjudication hearing may appeal to the court of common pleas of the county in which the party is a resident or in which the elevator affected by such order is located. The court in such case shall not be confined to the record as certified to it by the agency, but any party may produce additional evidence and the court shall hear the matter upon such record and such additional evidence as is introduced by any party. The court shall not affirm the order of the agency unless the preponderance of the evidence before it supports the reasonableness and lawfulness of such order, and of any rules upon which the order of the agency is based in its application to the facts involved in the appeal.

Failure to comply with the requirements of any order issued pursuant to this section or the continued operation of any elevator after it has been sealed pursuant to section 4105.21 of the Revised Code is hereby declared a public nuisance.

Sec. 4105.12. (A) The superintendent of ~~labor~~ industrial compliance shall adopt, amend, and repeal rules exclusively for the issuance, renewal, suspension, and revocation of certificates of competency and certificates of operation, for the conduct of hearings related to these actions, and for the inspection of elevators.

(B) Notwithstanding division (A) of this section, the superintendent shall not adopt rules relating to construction, maintenance, and repair of elevators.

Sec. 4105.13. Every elevator shall be constructed, equipped, maintained, and operated, with respect to the supporting members, elevator car, shaftways, guides, cables, doors, and gates, safety stops and mechanism, electrical apparatus and wiring, mechanical apparatus, counterweights, and all other appurtenances, in accordance with state laws and rules as are authorized in respect thereto. Where reasonable safety is obtained without

complying to the literal requirements of such rules as in cases of practical difficulty or unnecessary hardship, the literal requirements of such rules shall not be required. The superintendent of ~~labor~~ industrial compliance may permit the installation of vertical wheelchair lifts in public buildings to provide for handicapped accessibility where such lifts do not meet the literal requirements of the rules adopted by the board of building standards pursuant to section 4105.011 of the Revised Code, provided that reasonable safety may be obtained.

Sec. 4105.15. No certificate of operation for any elevator shall be issued by the director of commerce until such elevator has been inspected as required by this chapter. Certificates of operation shall be renewed by the owner or user of the elevator in accordance with rules adopted by the superintendent of ~~labor~~ industrial compliance pursuant to section 4105.12 of the Revised Code.

Sec. 4105.16. Before any new installation of an elevator of permanent nature is erected or before any existing elevator is removed to and installed in a different location, an application of specifications in duplicate shall be submitted to the division of ~~labor~~ industrial compliance giving such information concerning the construction, installation, and operation of said elevator as the division may require on forms to be furnished by the division, together with complete construction plans in duplicate. In all cases where any changes or repairs are made which alter its construction or classification, grade or rated lifting capacity, except when made pursuant to a report of an inspector, an application of specifications in duplicate shall be submitted to the division, containing such information, or approval, except in those municipal corporations which maintain their own elevator inspection departments, in which event such specifications shall be submitted to the elevator department of the municipal corporation for its approval, and if approved, a permit for the erection or repair of such elevator shall be issued by the municipal corporation. Upon approval of such application and construction plans, the superintendent of ~~labor~~ industrial compliance shall issue a permit for the erection or repair of such elevator. No new elevator shall be operated until completion in accordance with the approved plans and specifications, unless a temporary permit is granted by the division.

The final inspection, before operation, of a permanent, new or repaired elevator shall be made by a general inspector or a special inspector designated by the superintendent.

Sec. 4105.17. (A) The fee for each inspection, or attempted inspection that, due to no fault of a general inspector or the division of ~~labor~~ industrial

compliance, is not successfully completed, by a general inspector before the operation of a permanent new elevator prior to the issuance of a certificate of operation, before operation of an elevator being put back into service after a repair or after an adjudication under section 4105.11 of the Revised Code, or as a result of the operation of section 4105.08 of the Revised Code and is an elevator required to be inspected under this chapter is one hundred twenty dollars plus ten dollars for each floor where the elevator stops. The superintendent of ~~labor~~ industrial compliance may assess an additional fee of one hundred twenty dollars plus ten dollars for each floor where an elevator stops for the reinspection of an elevator when a previous attempt to inspect that elevator has been unsuccessful through no fault of a general inspector or the division of ~~labor~~ industrial compliance.

(B) The fee for each inspection, or attempted inspection, that due to no fault of the general inspector or the division, is not successfully completed by a general inspector before operation of a permanent new escalator or moving walk prior to the issuance of a certificate of operation, before operation of an escalator or moving walk being put back in service after a repair, or as a result of the operation of section 4105.08 of the Revised Code is three hundred dollars. The superintendent may assess an additional fee of one hundred fifty dollars for the reinspection of an escalator or moving walk when a previous attempt to inspect that escalator or moving walk has been unsuccessful through no fault of the general inspector or the division.

(C) The fee for issuing or renewing a certificate of operation under section 4105.15 of the Revised Code for an elevator that is inspected every six months in accordance with division (A) of section 4105.10 of the Revised Code is two hundred twenty dollars plus twelve dollars for each floor where the elevator stops, except where the elevator has been inspected by a special inspector in accordance with section 4105.07 of the Revised Code.

(D) The fee for issuing or renewing a certificate of operation under section 4105.05 of the Revised Code for an elevator that is inspected every twelve months in accordance with division (A) of section 4105.10 of the Revised Code is fifty-five dollars plus ten dollars for each floor where the elevator stops, except where the elevator has been inspected by a special inspector in accordance with section 4105.07 of the Revised Code.

(E) The fee for issuing or renewing a certificate of operation under section 4105.15 of the Revised Code for an escalator or moving walk is three hundred dollars, except where the escalator or moving walk has been inspected by a special inspector in accordance section 4105.07 of the Revised Code.

(F) All other fees to be charged for any examination given or other service performed by the division pursuant to this chapter shall be prescribed by the director of commerce. The fees shall be reasonably related to the costs of such examination or other service.

(G) The director of commerce, subject to the approval of the controlling board, may establish fees in excess of the fees provided in divisions (A), (B), (C), (D), and (E) of this section. Any moneys collected under this section shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

(H) Any person who fails to pay an inspection fee required for any inspection conducted by the division pursuant to this chapter within forty-five days after the inspection is conducted shall pay a late payment fee equal to twenty-five per cent of the inspection fee.

(I) In addition to the fees assessed in divisions (A), (B), (C), (D), and (E) of this section, the board of building standards shall assess a fee of three dollars and twenty-five cents for each certificate of operation or renewal thereof issued under divisions (A), (B), (C), (D), or (E) of this section and for each permit issued under section 4105.16 of the Revised Code. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner by which the superintendent shall collect and remit to the board the fees assessed under this division and requiring that remittance of the fees be made at least quarterly.

(J) For purposes of this section:

(1) "Escalator" means a power driven, inclined, continuous stairway used for raising or lowering passengers.

(2) "Moving walk" means a passenger carrying device on which passengers stand or walk, with a passenger carrying surface that is uninterrupted and remains parallel to its direction of motion.

Sec. 4105.191. Any person owning or operating any elevator subject to this chapter shall file a written report with the superintendent of ~~labor~~ industrial compliance within seventy-two hours after the occurrence of any accident involving such elevator which results in death or bodily injury to any person.

Sec. 4105.20. No person shall violate any law relative to the operation, construction, maintenance, and repair of elevators. All fines collected for violation of this section shall be forwarded to the superintendent of ~~labor~~ industrial compliance, who shall pay them into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

Sec. 4105.21. The superintendent of ~~labor~~ industrial compliance shall enforce this chapter. If the superintendent or a general inspector of elevators finds that an elevator or a part thereof does not afford reasonable safety as required by section 4105.13 of the Revised Code, the superintendent or the general inspector may seal such elevator and post a notice thereon prohibiting further use of the elevator until the changes or alterations set forth in the notice have been made to the satisfaction of the superintendent or the inspector. The notice shall contain a statement that operators or passengers are subject to injury by its continued use, a description of the alteration or other change necessary to be made in order to secure safety of operation, date of such notice, name and signature of the superintendent or inspector issuing the notice.

Sec. 4115.10. (A) No person, firm, corporation, or public authority that constructs a public improvement with its own forces, the total overall project cost of which is fairly estimated to be more than the amounts set forth in division (B) of section 4115.03 of the Revised Code, adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised Code, as appropriate, shall violate the wage provisions of sections 4115.03 to 4115.16 of the Revised Code, or suffer, permit, or require any employee to work for less than the rate of wages so fixed, or violate the provisions of section 4115.07 of the Revised Code. Any employee upon any public improvement, except an employee to whom or on behalf of whom restitution is made pursuant to division (C) of section 4115.13 of the Revised Code, who is paid less than the fixed rate of wages applicable thereto may recover from such person, firm, corporation, or public authority that constructs a public improvement with its own forces the difference between the fixed rate of wages and the amount paid to the employee and in addition thereto a sum equal to twenty-five per cent of that difference. The person, firm, corporation, or public authority who fails to pay the rate of wages so fixed also shall pay a penalty to the director of seventy-five per cent of the difference between the fixed rate of wages and the amount paid to the employees on the public improvement. The director shall deposit all moneys received from penalties paid to the director pursuant to this section into the ~~labor~~ industrial compliance operating fund. The director shall use the fund for the enforcement of sections 4115.03 to 4115.16 of the Revised Code. The employee may file suit for recovery within ninety days of the director's determination of a violation of sections 4115.03 to 4115.16 of the Revised Code or is barred from further action under this division. Where the employee prevails in a suit, the employer shall pay the costs and reasonable attorney's fees allowed by the court.

(B) Any employee upon any public improvement who is paid less than the prevailing rate of wages applicable thereto may file a complaint in writing with the director upon a form furnished by the director. The complaint shall include documented evidence to demonstrate that the employee was paid less than the prevailing wage in violation of this chapter. Upon receipt of a properly completed written complaint of any employee paid less than the prevailing rate of wages applicable, the director shall take an assignment of a claim in trust for the assigning employee and bring any legal action necessary to collect the claim. The employer shall pay the costs and reasonable attorney's fees allowed by the court if the employer is found in violation of sections 4115.03 to 4115.16 of the Revised Code.

(C) If after investigation pursuant to section 4115.13 of the Revised Code, the director determines there is a violation of sections 4115.03 to 4115.16 of the Revised Code and a period of sixty days has elapsed from the date of the determination, and if:

(1) No employee has brought suit pursuant to division (A) of this section;

(2) No employee has requested that the director take an assignment of a wage claim pursuant to division (B) of this section.

The director shall bring any legal action necessary to collect any amounts owed to employees and the director. The director shall pay over to the affected employees the amounts collected to which the affected employees are entitled under division (A) of this section. In any action in which the director prevails, the employer shall pay the costs and reasonable attorney's fees allowed by the court.

(D) Where persons are employed and their rate of wages has been determined as provided in section 4115.04 of the Revised Code, no person, either for self or any other person, shall request, demand, or receive, either before or after the person is engaged, that the person so engaged pay back, return, donate, contribute, or give any part or all of the person's wages, salary, or thing of value, to any person, upon the statement, representation, or understanding that failure to comply with such request or demand will prevent the procuring or retaining of employment, and no person shall, directly or indirectly, aid, request, or authorize any other person to violate this section. This division does not apply to any agent or representative of a duly constituted labor organization acting in the collection of dues or assessments of such organization.

(E) The director shall enforce sections 4115.03 to 4115.16 of the Revised Code.

(F) For the purpose of supplementing existing resources and to assist in

enforcing division (E) of this section, the director may contract with a person registered as a public accountant under Chapter 4701. of the Revised Code to conduct an audit of a person, firm, corporation, or public authority.

(G) No contractor or subcontractor shall be responsible for the payment of the penalties provided in division (A) of this section resulting from a violation of sections 4115.03 to 4115.16 of the Revised Code by its subcontractor, provided that the contractor or subcontractor has made a good faith effort to ensure that its subcontractor complied with the requirements of sections 4115.03 to 4115.16 of the Revised Code.

Sec. 4115.101. There is hereby created the prevailing wage custodial fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. The director of commerce shall deposit to the fund all money paid by employers to the director that are held in trust for employees to whom prevailing wages are due and owing. The director shall make disbursements from the fund in accordance with this chapter to employees affected by violations of this chapter. If the director determines that any funds in the prevailing wage custodial fund are not returnable to employees as required under this section, then the director shall certify to the treasurer of state the amount of the funds that are not returnable. Upon the receipt of a certification from the director in accordance with this section, the treasurer of state shall transfer the certified amount of the funds from the prevailing wage custodial fund to the ~~labor~~ industrial compliance operating fund.

Sec. 4121.123. (A) There is hereby created the workers' compensation board of directors nominating committee consisting of the following:

(1) Three individuals who are members of affiliated employee organizations of the Ohio chapter of the American federation of labor-congress of industrial organizations, who are selected by the Ohio chapter of the American federation of labor-congress of industrial organizations and who, on account of their previous vocation, employment, or affiliations, can be classed as representative of employees who are members of an employee organization. Terms of office shall be for one year, with each term ending on the same day of the same month as did the term that it succeeds.

(2) Two individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representative of employees, one of whom shall be an injured worker with a valid, open, and active workers' compensation claim and at least one of these two representatives also shall represent employees who are not members of an employee organization. The president of the senate and the speaker of the house of

representatives each shall appoint annually one of these members. The member who is an injured worker shall serve for a full term even if the member's workers' compensation claim is invalidated, closed, or inactivated during the member's term.

(3) The chief executive officer, or the equivalent of the chief executive officer, of the Ohio chamber of commerce, the Ohio manufacturers' association, the Ohio self-insurers' association, the Ohio council of retail merchants, the national federation of independent business, and the Ohio farm bureau;

(4) The director of development;

(5) The president of the Ohio township association and the president of the Ohio county commissioners association, or, ~~in~~ if any of the following circumstances apply:

(a) In the event of a vacancy in ~~the~~ either presidency, a designee appointed by the governing body authorized to appoint the president. A designee so appointed shall serve on the nominating committee only until the vacancy in the presidency is filled.

(b) In the event that the president of the Ohio township association is unavailable, a designee selected by the president;

(c) In the event that the president of the Ohio county commissioners association is unavailable, a designee selected by the president.

(B) Each member appointed under divisions (A)(1) and (2) of this section shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Such members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any such member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. Such a member shall continue in office 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.

(C) The nominating committee shall meet at the request of the governor or as the nominating committee determines appropriate in order to make recommendations to the governor for the appointment of members of the bureau of workers' compensation board of directors under section 4121.12 of the Revised Code.

(D) The director of development shall serve as chairperson of the nominating committee and have no voting rights on matters coming before the nominating committee, except that the director may vote in the event of a tie vote of the nominating committee. Annually, the nominating committee

shall select a secretary from among its members. The nominating committee may adopt by-laws governing its proceedings.

(E) Members of the nominating committee shall be paid their reasonable and necessary expenses pursuant to section 126.31 of the Revised Code while engaged in the performance of their duties as members of the nominating committee.

(F) The nominating committee shall:

(1) Review and evaluate possible appointees for the board. In reviewing and evaluating possible appointees for the board, the nominating committee may accept comments from, cooperate with, and request information from any person.

(2) Make recommendations to the governor for the appointment of members to the board as provided in division (C) of section 4121.12 of the Revised Code.

(G) The nominating committee may make recommendations to the general assembly concerning changes in legislation that will assist the nominating committee in the performance of its duties.

Sec. 4121.30. (A) All rules governing the operating procedure of the bureau of workers' compensation and the industrial commission shall be adopted in accordance with Chapter 119. of the Revised Code, except that determinations of the bureau, district hearing officers, staff hearing officers, and the commission, with respect to an individual employee's claim to participate in the state insurance fund are governed only by Chapter 4123. of the Revised Code.

The administrator of workers' compensation and commission shall proceed jointly, in accordance with Chapter 119. of the Revised Code, including a joint hearing, to adopt joint rules governing the operating procedures of the bureau and commission. ~~The bureau shall publish the joint rules in a single publication.~~

(B) Upon submission to the bureau or the commission of a petition containing not less than fifteen hundred signatures of adult residents of the state, any individual may propose a rule for adoption, amendment, or rescission by the bureau or the commission. If, upon investigation, the bureau or commission is satisfied that the signatures upon the petition are valid, it shall proceed, in accordance with Chapter 119. of the Revised Code, to consider adoption, amendment, or rescission of the rule.

(C) The administrator shall ~~publish~~ make available electronically all rules adopted by the bureau and the commission ~~in a single publication~~ and shall make available in a timely manner ~~and at cost copies of~~ all rules adopted by the bureau and the commission that are currently in force. ~~For~~

~~that purpose, the administrator shall maintain a mailing list of all persons requesting copies of the rules.~~

(D) The rule-making authority granted to the administrator under this section does not limit the commission's rule-making authority relative to its overall adjudicatory policy-making and management duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code. The administrator shall not disregard any rule adopted by the commission, provided that the rule is within the commission's rule-making authority.

Sec. 4123.20. The administrator of workers' compensation shall ~~cause to be printed, in proper form for distribution~~ make available electronically to the public, its classifications, rates, rules, and rules of procedure, and shall furnish the same to any person upon application therefor, ~~and the fact that the classifications, rates, rules, and rules of procedure are printed ready for distribution to all who apply for the same is a sufficient publication of the same as required by this chapter request.~~

Sec. 4123.35. (A) Except as provided in this section, every employer mentioned in division (B)(2) of section 4123.01 of the Revised Code, and every publicly owned utility shall pay semiannually in the months of January and July into the state insurance fund the amount of annual premium the administrator of workers' compensation fixes for the employment or occupation of the employer, the amount of which premium to be paid by each employer to be determined by the classifications, rules, and rates made and published by the administrator. The employer shall pay semiannually a further sum of money into the state insurance fund as may be ascertained to be due from the employer by applying the rules of the administrator, and a receipt or certificate certifying that payment has been made, along with a written notice as is required in section 4123.54 of the Revised Code, shall be mailed immediately to the employer by the bureau of workers' compensation. The receipt or certificate is prima-facie evidence of the payment of the premium, and the proper posting of the notice constitutes the employer's compliance with the notice requirement mandated in section 4123.54 of the Revised Code.

The bureau of workers' compensation shall verify with the secretary of state the existence of all corporations and organizations making application for workers' compensation coverage and shall require every such application to include the employer's federal identification number.

An employer as defined in division (B)(2) of section 4123.01 of the Revised Code who has contracted with a subcontractor is liable for the unpaid premium due from any subcontractor with respect to that part of the payroll of the subcontractor that is for work performed pursuant to the

contract with the employer.

Division (A) of this section providing for the payment of premiums semiannually does not apply to any employer who was a subscriber to the state insurance fund prior to January 1, 1914, or who may first become a subscriber to the fund in any month other than January or July. Instead, the semiannual premiums shall be paid by those employers from time to time upon the expiration of the respective periods for which payments into the fund have been made by them.

The administrator shall adopt rules to permit employers to make periodic payments of the semiannual premium due under this division. The rules shall include provisions for the assessment of interest charges, where appropriate, and for the assessment of penalties when an employer fails to make timely premium payments. An employer who timely pays the amounts due under this division is entitled to all of the benefits and protections of this chapter. Upon receipt of payment, the bureau immediately shall mail a receipt or certificate to the employer certifying that payment has been made, which receipt is prima-facie evidence of payment. Workers' compensation coverage under this chapter continues uninterrupted upon timely receipt of payment under this division.

Every public employer, except public employers that are self-insuring employers under this section, shall comply with sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in regard to the contribution of moneys to the public insurance fund.

(B) Employers who will abide by the rules of the administrator and who may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and who do not desire to insure the payment thereof or indemnify themselves against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. The administrator may charge employers who apply for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application.

All employers granted status as self-insuring employers shall

demonstrate sufficient financial and administrative ability to assure that all obligations under this section are promptly met. The administrator shall deny the privilege where the employer is unable to demonstrate the employer's ability to promptly meet all the obligations imposed on the employer by this section.

(1) The administrator shall consider, but is not limited to, the following factors, where applicable, in determining the employer's ability to meet all of the obligations imposed on the employer by this section:

(a) The employer employs a minimum of five hundred employees in this state;

(b) The employer has operated in this state for a minimum of two years, provided that an employer who has purchased, acquired, or otherwise succeeded to the operation of a business, or any part thereof, situated in this state that has operated for at least two years in this state, also shall qualify;

(c) Where the employer previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;

(d) The sufficiency of the employer's assets located in this state to insure the employer's solvency in paying compensation directly;

(e) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the employer's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.

(f) The employer's organizational plan for the administration of the workers' compensation law;

(g) The employer's proposed plan to inform employees of the change from a state fund insurer to a self-insuring employer, the procedures the employer will follow as a self-insuring employer, and the employees' rights to compensation and benefits; and

(h) The employer has either an account in a financial institution in this state, or if the employer maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the employer clearly indicates that payment will be honored by a financial institution in this state.

The administrator may waive the requirements of divisions (B)(1)(a) and (b) of this section and the requirement of division (B)(1)(e) of this section that the financial records, documents, and data be certified by a certified public accountant. The administrator shall adopt rules establishing the criteria that an employer shall meet in order for the administrator to

waive the requirement of division (B)(1)(e) of this section. Such rules may require additional security of that employer pursuant to division (E) of section 4123.351 of the Revised Code.

The administrator shall not grant the status of self-insuring employer to the state, except that the administrator may grant the status of self-insuring employer to a state institution of higher education, ~~excluding~~ including its hospitals, that meets the requirements of division (B)(2) of this section.

(2) When considering the application of a public employer, except for a board of county commissioners described in division (G) of section 4123.01 of the Revised Code, a board of a county hospital, or a publicly owned utility, the administrator shall verify that the public employer satisfies all of the following requirements as the requirements apply to that public employer:

(a) For the two-year period preceding application under this section, the public employer has maintained an unvoted debt capacity equal to at least two times the amount of the current annual premium established by the administrator under this chapter for that public employer for the year immediately preceding the year in which the public employer makes application under this section.

(b) For each of the two fiscal years preceding application under this section, the unreserved and undesignated year-end fund balance in the public employer's general fund is equal to at least five per cent of the public employer's general fund revenues for the fiscal year computed in accordance with generally accepted accounting principles.

(c) For the five-year period preceding application under this section, the public employer, to the extent applicable, has complied fully with the continuing disclosure requirements established in rules adopted by the United States securities and exchange commission under 17 C.F.R. 240.15c 2-12.

(d) For the five-year period preceding application under this section, the public employer has not had its local government fund distribution withheld on account of the public employer being indebted or otherwise obligated to the state.

(e) For the five-year period preceding application under this section, the public employer has not been under a fiscal watch or fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 of the Revised Code.

(f) For the public employer's fiscal year preceding application under this section, the public employer has obtained an annual financial audit as required under section 117.10 of the Revised Code, which has been released by the auditor of state within seven months after the end of the public

employer's fiscal year.

(g) On the date of application, the public employer holds a debt rating of Aa3 or higher according to Moody's investors service, inc., or a comparable rating by an independent rating agency similar to Moody's investors service, inc.

(h) The public employer agrees to generate an annual accumulating book reserve in its financial statements reflecting an actuarially generated reserve adequate to pay projected claims under this chapter for the applicable period of time, as determined by the administrator.

(i) For a public employer that is a hospital, the public employer shall submit audited financial statements showing the hospital's overall liquidity characteristics, and the administrator shall determine, on an individual basis, whether the public employer satisfies liquidity standards equivalent to the liquidity standards of other public employers.

(j) Any additional criteria that the administrator adopts by rule pursuant to division (E) of this section.

The administrator may adopt rules establishing the criteria that a public employer shall satisfy in order for the administrator to waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section. The rules may require additional security from that employer pursuant to division (E) of section 4123.351 of the Revised Code. The administrator shall not waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section for a public employer who does not satisfy the criteria established in the rules the administrator adopts.

(C) A board of county commissioners described in division (G) of section 4123.01 of the Revised Code, as an employer, that will abide by the rules of the administrator and that may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and that does not desire to insure the payment thereof or indemnify itself against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. The administrator may charge a board of county commissioners described in division (G) of section 4123.01 of the Revised

Code that applies for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application. All employers granted such status shall demonstrate sufficient financial and administrative ability to assure that all obligations under this section are promptly met. The administrator shall deny the privilege where the employer is unable to demonstrate the employer's ability to promptly meet all the obligations imposed on the employer by this section. The administrator shall consider, but is not limited to, the following factors, where applicable, in determining the employer's ability to meet all of the obligations imposed on the board as an employer by this section:

(1) The board as an employer employs a minimum of five hundred employees in this state;

(2) The board has operated in this state for a minimum of two years;

(3) Where the board previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;

(4) The sufficiency of the board's assets located in this state to insure the board's solvency in paying compensation directly;

(5) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the board's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.

(6) The board's organizational plan for the administration of the workers' compensation law;

(7) The board's proposed plan to inform employees of the proposed self-insurance, the procedures the board will follow as a self-insuring employer, and the employees' rights to compensation and benefits;

(8) The board has either an account in a financial institution in this state, or if the board maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the board clearly indicates that payment will be honored by a financial institution in this state;

(9) The board shall provide the administrator a surety bond in an amount equal to one hundred twenty-five per cent of the projected losses as determined by the administrator.

(D) The administrator shall require a surety bond from all self-insuring employers, issued pursuant to section 4123.351 of the Revised Code, that is sufficient to compel, or secure to injured employees, or to the dependents of

employees killed, the payment of compensation and expenses, which shall in no event be less than that paid or furnished out of the state insurance fund in similar cases to injured employees or to dependents of killed employees whose employers contribute to the fund, except when an employee of the employer, who has suffered the loss of a hand, arm, foot, leg, or eye prior to the injury for which compensation is to be paid, and thereafter suffers the loss of any other of the members as the result of any injury sustained in the course of and arising out of the employee's employment, the compensation to be paid by the self-insuring employer is limited to the disability suffered in the subsequent injury, additional compensation, if any, to be paid by the bureau out of the surplus created by section 4123.34 of the Revised Code.

(E) In addition to the requirements of this section, the administrator shall make and publish rules governing the manner of making application and the nature and extent of the proof required to justify a finding of fact by the administrator as to granting the status of a self-insuring employer, which rules shall be general in their application, one of which rules shall provide that all self-insuring employers shall pay into the state insurance fund such amounts as are required to be credited to the surplus fund in division (B) of section 4123.34 of the Revised Code. The administrator may adopt rules establishing requirements in addition to the requirements described in division (B)(2) of this section that a public employer shall meet in order to qualify for self-insuring status.

Employers shall secure directly from the bureau central offices application forms upon which the bureau shall stamp a designating number. Prior to submission of an application, an employer shall make available to the bureau, and the bureau shall review, the information described in division (B)(1) of this section, and public employers shall make available, and the bureau shall review, the information necessary to verify whether the public employer meets the requirements listed in division (B)(2) of this section. An employer shall file the completed application forms with an application fee, which shall cover the costs of processing the application, as established by the administrator, by rule, with the bureau at least ninety days prior to the effective date of the employer's new status as a self-insuring employer. The application form is not deemed complete until all the required information is attached thereto. The bureau shall only accept applications that contain the required information.

(F) The bureau shall review completed applications within a reasonable time. If the bureau determines to grant an employer the status as a self-insuring employer, the bureau shall issue a statement, containing its findings of fact, that is prepared by the bureau and signed by the

administrator. If the bureau determines not to grant the status as a self-insuring employer, the bureau shall notify the employer of the determination and require the employer to continue to pay its full premium into the state insurance fund. The administrator also shall adopt rules establishing a minimum level of performance as a criterion for granting and maintaining the status as a self-insuring employer and fixing time limits beyond which failure of the self-insuring employer to provide for the necessary medical examinations and evaluations may not delay a decision on a claim.

(G) The administrator shall adopt rules setting forth procedures for auditing the program of self-insuring employers. The bureau shall conduct the audit upon a random basis or whenever the bureau has grounds for believing that a self-insuring employer is not in full compliance with bureau rules or this chapter.

The administrator shall monitor the programs conducted by self-insuring employers, to ensure compliance with bureau requirements and for that purpose, shall develop and issue to self-insuring employers standardized forms for use by the self-insuring employer in all aspects of the self-insuring employers' direct compensation program and for reporting of information to the bureau.

The bureau shall receive and transmit to the self-insuring employer all complaints concerning any self-insuring employer. In the case of a complaint against a self-insuring employer, the administrator shall handle the complaint through the self-insurance division of the bureau. The bureau shall maintain a file by employer of all complaints received that relate to the employer. The bureau shall evaluate each complaint and take appropriate action.

The administrator shall adopt as a rule a prohibition against any self-insuring employer from harassing, dismissing, or otherwise disciplining any employee making a complaint, which rule shall provide for a financial penalty to be levied by the administrator payable by the offending self-insuring employer.

(H) For the purpose of making determinations as to whether to grant status as a self-insuring employer, the administrator may subscribe to and pay for a credit reporting service that offers financial and other business information about individual employers. The costs in connection with the bureau's subscription or individual reports from the service about an applicant may be included in the application fee charged employers under this section.

(I) The administrator, notwithstanding other provisions of this chapter,

may permit a self-insuring employer to resume payment of premiums to the state insurance fund with appropriate credit modifications to the employer's basic premium rate as such rate is determined pursuant to section 4123.29 of the Revised Code.

(J) On the first day of July of each year, the administrator shall calculate separately each self-insuring employer's assessments for the safety and hygiene fund, administrative costs pursuant to section 4123.342 of the Revised Code, and for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is not used for handicapped reimbursement, on the basis of the paid compensation attributable to the individual self-insuring employer according to the following calculation:

(1) The total assessment against all self-insuring employers as a class for each fund and for the administrative costs for the year that the assessment is being made, as determined by the administrator, divided by the total amount of paid compensation for the previous calendar year attributable to all amenable self-insuring employers;

(2) Multiply the quotient in division (J)(1) of this section by the total amount of paid compensation for the previous calendar year that is attributable to the individual self-insuring employer for whom the assessment is being determined. Each self-insuring employer shall pay the assessment that results from this calculation, unless the assessment resulting from this calculation falls below a minimum assessment, which minimum assessment the administrator shall determine on the first day of July of each year with the advice and consent of the bureau of workers' compensation board of directors, in which event, the self-insuring employer shall pay the minimum assessment.

In determining the total amount due for the total assessment against all self-insuring employers as a class for each fund and the administrative assessment, the administrator shall reduce proportionately the total for each fund and assessment by the amount of money in the self-insurance assessment fund as of the date of the computation of the assessment.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is used for handicapped reimbursement in the same manner as set forth in divisions (J)(1) and (2) of this section except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers that retain participation in the handicapped reimbursement program and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in the handicapped

reimbursement program. The administrator, as the administrator determines appropriate, may determine the total assessment for the handicapped portion of the surplus fund in accordance with sound actuarial principles.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that under division (D) of section 4121.66 of the Revised Code is used for rehabilitation costs in the same manner as set forth in divisions (J)(1) and (2) of this section, except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers who have not made the election to make payments directly under division (D) of section 4121.66 of the Revised Code and an individual self-insuring employer's proportion of paid compensation only for those self-insuring employers who have not made that election.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is used for reimbursement to a self-insuring employer under division (H) of section 4123.512 of the Revised Code in the same manner as set forth in divisions (J)(1) and (2) of this section except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers that retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code.

An employer who no longer is a self-insuring employer in this state or who no longer is operating in this state, shall continue to pay assessments for administrative costs and for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is not used for handicapped reimbursement, based upon paid compensation attributable to claims that occurred while the employer was a self-insuring employer within this state.

(K) There is hereby created in the state treasury the self-insurance assessment fund. All investment earnings of the fund shall be deposited in the fund. The administrator shall use the money in the self-insurance assessment fund only for administrative costs as specified in section 4123.341 of the Revised Code.

(L) Every self-insuring employer shall certify, in affidavit form subject to the penalty for perjury, to the bureau the amount of the self-insuring

employer's paid compensation for the previous calendar year. In reporting paid compensation paid for the previous year, a self-insuring employer shall exclude from the total amount of paid compensation any reimbursement the self-insuring employer receives in the previous calendar year from the surplus fund pursuant to section 4123.512 of the Revised Code for any paid compensation. The self-insuring employer also shall exclude from the paid compensation reported any amount recovered under section 4123.931 of the Revised Code and any amount that is determined not to have been payable to or on behalf of a claimant in any final administrative or judicial proceeding. The self-insuring employer shall exclude such amounts from the paid compensation reported in the reporting period subsequent to the date the determination is made. The administrator shall adopt rules, in accordance with Chapter 119. of the Revised Code, that provide for all of the following:

(1) Establishing the date by which self-insuring employers must submit such information and the amount of the assessments provided for in division (J) of this section for employers who have been granted self-insuring status within the last calendar year;

(2) If an employer fails to pay the assessment when due, the administrator may add a late fee penalty of not more than five hundred dollars to the assessment plus an additional penalty amount as follows:

(a) For an assessment from sixty-one to ninety days past due, the prime interest rate, multiplied by the assessment due;

(b) For an assessment from ninety-one to one hundred twenty days past due, the prime interest rate plus two per cent, multiplied by the assessment due;

(c) For an assessment from one hundred twenty-one to one hundred fifty days past due, the prime interest rate plus four per cent, multiplied by the assessment due;

(d) For an assessment from one hundred fifty-one to one hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the assessment due;

(e) For an assessment from one hundred eighty-one to two hundred ten days past due, the prime interest rate plus eight per cent, multiplied by the assessment due;

(f) For each additional thirty-day period or portion thereof that an assessment remains past due after it has remained past due for more than two hundred ten days, the prime interest rate plus eight per cent, multiplied by the assessment due.

(3) An employer may appeal a late fee penalty and penalty assessment

to the administrator.

For purposes of division (L)(2) of this section, "prime interest rate" means the average bank prime rate, and the administrator shall determine the prime interest rate in the same manner as a county auditor determines the average bank prime rate under section 929.02 of the Revised Code.

The administrator shall include any assessment and penalties that remain unpaid for previous assessment periods in the calculation and collection of any assessments due under this division or division (J) of this section.

(M) As used in this section, "paid compensation" means all amounts paid by a self-insuring employer for living maintenance benefits, all amounts for compensation paid pursuant to sections 4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 4123.64 of the Revised Code, all amounts paid as wages in lieu of such compensation, all amounts paid in lieu of such compensation under a nonoccupational accident and sickness program fully funded by the self-insuring employer, and all amounts paid by a self-insuring employer for a violation of a specific safety standard pursuant to Section 35 of Article II, Ohio Constitution and section 4121.47 of the Revised Code.

(N) Should any section of this chapter or Chapter 4121. of the Revised Code providing for self-insuring employers' assessments based upon compensation paid be declared unconstitutional by a final decision of any court, then that section of the Revised Code declared unconstitutional shall revert back to the section in existence prior to November 3, 1989, providing for assessments based upon payroll.

(O) The administrator may grant a self-insuring employer the privilege to self-insure a construction project entered into by the self-insuring employer that is scheduled for completion within six years after the date the project begins, and the total cost of which is estimated to exceed one hundred million dollars or, for employers described in division (R) of this section, if the construction project is estimated to exceed twenty-five million dollars. The administrator may waive such cost and time criteria and grant a self-insuring employer the privilege to self-insure a construction project regardless of the time needed to complete the construction project and provided that the cost of the construction project is estimated to exceed fifty million dollars. A self-insuring employer who desires to self-insure a construction project shall submit to the administrator an application listing the dates the construction project is scheduled to begin and end, the estimated cost of the construction project, the contractors and subcontractors whose employees are to be self-insured by the self-insuring employer, the

provisions of a safety program that is specifically designed for the construction project, and a statement as to whether a collective bargaining agreement governing the rights, duties, and obligations of each of the parties to the agreement with respect to the construction project exists between the self-insuring employer and a labor organization.

A self-insuring employer may apply to self-insure the employees of either of the following:

(1) All contractors and subcontractors who perform labor or work or provide materials for the construction project;

(2) All contractors and, at the administrator's discretion, a substantial number of all the subcontractors who perform labor or work or provide materials for the construction project.

Upon approval of the application, the administrator shall mail a certificate granting the privilege to self-insure the construction project to the self-insuring employer. The certificate shall contain the name of the self-insuring employer and the name, address, and telephone number of the self-insuring employer's representatives who are responsible for administering workers' compensation claims for the construction project. The self-insuring employer shall post the certificate in a conspicuous place at the site of the construction project.

The administrator shall maintain a record of the contractors and subcontractors whose employees are covered under the certificate issued to the self-insured employer. A self-insuring employer immediately shall notify the administrator when any contractor or subcontractor is added or eliminated from inclusion under the certificate.

Upon approval of the application, the self-insuring employer is responsible for the administration and payment of all claims under this chapter and Chapter 4121. of the Revised Code for the employees of the contractor and subcontractors covered under the certificate who receive injuries or are killed in the course of and arising out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project. For purposes of this chapter and Chapter 4121. of the Revised Code, a claim that is administered and paid in accordance with this division is considered a claim against the self-insuring employer listed in the certificate. A contractor or subcontractor included under the certificate shall report to the self-insuring employer listed in the certificate, all claims that arise under this chapter and Chapter 4121. of the Revised Code in connection with the construction project for which the certificate is issued.

A self-insuring employer who complies with this division is entitled to

the protections provided under this chapter and Chapter 4121. of the Revised Code with respect to the employees of the contractors and subcontractors covered under a certificate issued under this division for death or injuries that arise out of, or death, injuries, or occupational diseases that arise in the course of, those employees' employment on that construction project, as if the employees were employees of the self-insuring employer, provided that the self-insuring employer also complies with this section. No employee of the contractors and subcontractors covered under a certificate issued under this division shall be considered the employee of the self-insuring employer listed in that certificate for any purposes other than this chapter and Chapter 4121. of the Revised Code. Nothing in this division gives a self-insuring employer authority to control the means, manner, or method of employment of the employees of the contractors and subcontractors covered under a certificate issued under this division.

The contractors and subcontractors included under a certificate issued under this division are entitled to the protections provided under this chapter and Chapter 4121. of the Revised Code with respect to the contractor's or subcontractor's employees who are employed on the construction project which is the subject of the certificate, for death or injuries that arise out of, or death, injuries, or occupational diseases that arise in the course of, those employees' employment on that construction project.

The contractors and subcontractors included under a certificate issued under this division shall identify in their payroll records the employees who are considered the employees of the self-insuring employer listed in that certificate for purposes of this chapter and Chapter 4121. of the Revised Code, and the amount that those employees earned for employment on the construction project that is the subject of that certificate. Notwithstanding any provision to the contrary under this chapter and Chapter 4121. of the Revised Code, the administrator shall exclude the payroll that is reported for employees who are considered the employees of the self-insuring employer listed in that certificate, and that the employees earned for employment on the construction project that is the subject of that certificate, when determining those contractors' or subcontractors' premiums or assessments required under this chapter and Chapter 4121. of the Revised Code. A self-insuring employer issued a certificate under this division shall include in the amount of paid compensation it reports pursuant to division (L) of this section, the amount of paid compensation the self-insuring employer paid pursuant to this division for the previous calendar year.

Nothing in this division shall be construed as altering the rights of employees under this chapter and Chapter 4121. of the Revised Code as

those rights existed prior to September 17, 1996. Nothing in this division shall be construed as altering the rights devolved under sections 2305.31 and 4123.82 of the Revised Code as those rights existed prior to September 17, 1996.

As used in this division, "privilege to self-insure a construction project" means privilege to pay individually compensation, and to furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees.

(P) A self-insuring employer whose application is granted under division (O) of this section shall designate a safety professional to be responsible for the administration and enforcement of the safety program that is specifically designed for the construction project that is the subject of the application.

A self-insuring employer whose application is granted under division (O) of this section shall employ an ombudsperson for the construction project that is the subject of the application. The ombudsperson shall have experience in workers' compensation or the construction industry, or both. The ombudsperson shall perform all of the following duties:

(1) Communicate with and provide information to employees who are injured in the course of, or whose injury arises out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project;

(2) Investigate the status of a claim upon the request of an employee to do so;

(3) Provide information to claimants, third party administrators, employers, and other persons to assist those persons in protecting their rights under this chapter and Chapter 4121. of the Revised Code.

A self-insuring employer whose application is granted under division (O) of this section shall post the name of the safety professional and the ombudsperson and instructions for contacting the safety professional and the ombudsperson in a conspicuous place at the site of the construction project.

(Q) The administrator may consider all of the following when deciding whether to grant a self-insuring employer the privilege to self-insure a construction project as provided under division (O) of this section:

(1) Whether the self-insuring employer has an organizational plan for the administration of the workers' compensation law;

(2) Whether the safety program that is specifically designed for the construction project provides for the safety of employees employed on the construction project, is applicable to all contractors and subcontractors who perform labor or work or provide materials for the construction project, and

has as a component, a safety training program that complies with standards adopted pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing management and employee involvement;

(3) Whether granting the privilege to self-insure the construction project will reduce the costs of the construction project;

(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;

(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible pursuant to the granting of the privilege to self-insure a construction project under division (O) of this section.

(R) As used in divisions (O), (P), and (Q), "self-insuring employer" includes the following employers, whether or not they have been granted the status of being a self-insuring employer under division (B) of this section:

- (1) A state institution of higher education;
- (2) A school district;
- (3) A county school financing district;
- (4) An educational service center;
- (5) A community school established under Chapter 3314. of the Revised Code;

(6) A municipal power agency as defined in section 3734.058 of the Revised Code.

(S) As used in this section:

(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;

(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.

Sec. 4123.54. (A) Except as otherwise provided in ~~division~~ divisions (I) and (K) of this section, every employee, who is injured or who contracts an occupational disease, and the dependents of each employee who is killed, or dies as the result of an occupational disease contracted in the course of employment, wherever such injury has occurred or occupational disease has been contracted, provided the same were not:

- (1) Purposely self-inflicted; or
- (2) Caused by the employee being intoxicated or under the influence of

a controlled substance not prescribed by a physician where the intoxication or being under the influence of the controlled substance not prescribed by a physician was the proximate cause of the injury, is entitled to receive, either directly from the employee's self-insuring employer as provided in section 4123.35 of the Revised Code, or from the state insurance fund, the compensation for loss sustained on account of the injury, occupational disease, or death, and the medical, nurse, and hospital services and medicines, and the amount of funeral expenses in case of death, as are provided by this chapter.

(B) For the purpose of this section, provided that an employer has posted written notice to employees that the results of, or the employee's refusal to submit to, any chemical test described under this division may affect the employee's eligibility for compensation and benefits pursuant to this chapter and Chapter 4121. of the Revised Code, there is a rebuttable presumption that an employee is intoxicated or under the influence of a controlled substance not prescribed by the employee's physician and that being intoxicated or under the influence of a controlled substance not prescribed by the employee's physician is the proximate cause of an injury under either of the following conditions:

(1) When any one or more of the following is true:

(a) The employee, through a qualifying chemical test administered within eight hours of an injury, is determined to have an alcohol concentration level equal to or in excess of the levels established in divisions (A)(1)(b) to (i) of section 4511.19 of the Revised Code;

(b) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have one of the following controlled substances not prescribed by the employee's physician in the employee's system that tests above the following levels in an enzyme multiplied immunoassay technique screening test and above the levels established in division (B)(1)(c) of this section in a gas chromatography mass spectrometry test:

(i) For amphetamines, one thousand nanograms per milliliter of urine;

(ii) For cannabinoids, fifty nanograms per milliliter of urine;

(iii) For cocaine, including crack cocaine, three hundred nanograms per milliliter of urine;

(iv) For opiates, two thousand nanograms per milliliter of urine;

(v) For phencyclidine, twenty-five nanograms per milliliter of urine.

(c) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have one of the following controlled substances not prescribed by the employee's physician

in the employee's system that tests above the following levels by a gas chromatography mass spectrometry test:

- (i) For amphetamines, five hundred nanograms per milliliter of urine;
- (ii) For cannabinoids, fifteen nanograms per milliliter of urine;
- (iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine;

- (iv) For opiates, two thousand nanograms per milliliter of urine;

- (v) For phencyclidine, twenty-five nanograms per milliliter of urine.

(d) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have barbiturates, benzodiazepines, methadone, or propoxyphene in the employee's system that tests above levels established by laboratories certified by the United States department of health and human services.

(2) When the employee refuses to submit to a requested chemical test, on the condition that that employee is or was given notice that the refusal to submit to any chemical test described in division (B)(1) of this section may affect the employee's eligibility for compensation and benefits under this chapter and Chapter 4121. of the Revised Code.

(C)(1) For purposes of division (B) of this section, a chemical test is a qualifying chemical test if it is administered to an employee after an injury under at least one of the following conditions:

- (a) When the employee's employer had reasonable cause to suspect that the employee may be intoxicated or under the influence of a controlled substance not prescribed by the employee's physician;

- (b) At the request of a police officer pursuant to section 4511.191 of the Revised Code, and not at the request of the employee's employer;

- (c) At the request of a licensed physician who is not employed by the employee's employer, and not at the request of the employee's employer.

(2) As used in division (C)(1)(a) of this section, "reasonable cause" means, but is not limited to, evidence that an employee is or was using alcohol or a controlled substance drawn from specific, objective facts and reasonable inferences drawn from these facts in light of experience and training. These facts and inferences may be based on, but are not limited to, any of the following:

- (a) Observable phenomena, such as direct observation of use, possession, or distribution of alcohol or a controlled substance, or of the physical symptoms of being under the influence of alcohol or a controlled substance, such as but not limited to slurred speech, dilated pupils, odor of alcohol or a controlled substance, changes in affect, or dynamic mood swings;

(b) A pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance such as frequent absenteeism, excessive tardiness, or recurrent accidents, that appears to be related to the use of alcohol or a controlled substance, and does not appear to be attributable to other factors;

(c) The identification of an employee as the focus of a criminal investigation into unauthorized possession, use, or trafficking of a controlled substance;

(d) A report of use of alcohol or a controlled substance provided by a reliable and credible source;

(e) Repeated or flagrant violations of the safety or work rules of the employee's employer, that are determined by the employee's supervisor to pose a substantial risk of physical injury or property damage and that appear to be related to the use of alcohol or a controlled substance and that do not appear attributable to other factors.

(D) Nothing in this section shall be construed to affect the rights of an employer to test employees for alcohol or controlled substance abuse.

(E) For the purpose of this section, laboratories certified by the United States department of health and human services or laboratories that meet or exceed the standards of that department for laboratory certification shall be used for processing the test results of a qualifying chemical test.

(F) The written notice required by division (B) of this section shall be the same size or larger ~~then~~ than the certificate of premium payment notice furnished by the bureau of workers' compensation and shall be posted by the employer in the same location as the certificate of premium payment notice or the certificate of self-insurance.

(G) If a condition that pre-existed an injury is substantially aggravated by the injury, and that substantial aggravation is documented by objective diagnostic findings, objective clinical findings, or objective test results, no compensation or benefits are payable because of the pre-existing condition once that condition has returned to a level that would have existed without the injury.

(H)(1) Whenever, with respect to an employee of an employer who is subject to and has complied with this chapter, there is possibility of conflict with respect to the application of workers' compensation laws because the contract of employment is entered into and all or some portion of the work is or is to be performed in a state or states other than Ohio, the employer and the employee may agree to be bound by the laws of this state or by the laws of some other state in which all or some portion of the work of the employee is to be performed. The agreement shall be in writing and shall be filed with

the bureau of workers' compensation within ten days after it is executed and shall remain in force until terminated or modified by agreement of the parties similarly filed. If the agreement is to be bound by the laws of this state and the employer has complied with this chapter, then the employee is entitled to compensation and benefits regardless of where the injury occurs or the disease is contracted and the rights of the employee and the employee's dependents under the laws of this state are the exclusive remedy against the employer on account of injury, disease, or death in the course of and arising out of the employee's employment. If the agreement is to be bound by the laws of another state and the employer has complied with the laws of that state, the rights of the employee and the employee's dependents under the laws of that state are the exclusive remedy against the employer on account of injury, disease, or death in the course of and arising out of the employee's employment without regard to the place where the injury was sustained or the disease contracted. If an employer and an employee enter into an agreement under this division, the fact that the employer and the employee entered into that agreement shall not be construed to change the status of an employee whose continued employment is subject to the will of the employer or the employee, unless the agreement contains a provision that expressly changes that status.

(2) If any employee or the employee's dependents pursue workers' compensation benefits or recover damages from the employer under the laws of another state, the amount awarded or recovered, whether paid or to be paid in future installments, shall be credited on the amount of any award of compensation or benefits made to the employee or the employee's dependents by the bureau. If an employee or the employee's dependents pursue or receive an award of compensation or benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for the same injury, occupational disease, or death for which the employee or the employee's dependents pursued workers' compensation benefits and received a decision on the merits as defined in section 4123.542 of the Revised Code under the laws of another state or recovered damages under the laws of another state, the administrator or any employer, by any lawful means, may collect the amount of compensation or benefits paid to or on behalf of the employee or the employee's dependents by the administrator or a self-insuring employer pursuant to this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for that award. The administrator or any employer also may collect from the employee or the employee's dependents any costs and attorney's fees the administrator or the employer incurs in collecting that payment and any attorney's fees, penalties, interest, awards, and costs incurred by an

employer in contesting or responding to any claim filed by the employee or the employee's dependents for the same injury, occupational disease, or death that was filed after the original claim for which the employee or the employee's dependents received a decision on the merits as described in section 4123.542 of the Revised Code. If the employee's employer pays premiums into the state insurance fund, the administrator shall not charge the amount of compensation or benefits the administrator collects pursuant to this division to the employer's experience. If the administrator collects any costs, penalties, interest, awards, or attorney's fees incurred by a state fund employer, the administrator shall forward the amount of such costs, penalties, interest, awards, and attorney's fees the administrator collects to that employer. If the employee's employer is a self-insuring employer, the self-insuring employer shall deduct the amount of compensation or benefits the self-insuring employer collects pursuant to this division from the paid compensation the self-insuring employer reports to the administrator under division (L) of section 4123.35 of the Revised Code.

(3) Except as otherwise stipulated in division (H)(4) of this section, if an employee is a resident of a state other than this state and is insured under the workers' compensation law or similar laws of a state other than this state, the employee and the employee's dependents are not entitled to receive compensation or benefits under this chapter, on account of injury, disease, or death arising out of or in the course of employment while temporarily within this state, and the rights of the employee and the employee's dependents under the laws of the other state are the exclusive remedy against the employer on account of the injury, disease, or death.

(4) Division (H)(3) of this section does not apply to an employee described in that division, or the employee's dependents, unless both of the following apply:

(a) The laws of the other state limit the ability of an employee who is a resident of this state and is covered by this chapter and Chapter 4123. of the Revised Code, or the employee's dependents, to receive compensation or benefits under the other state's workers' compensation law on account of injury, disease, or death incurred by the employee that arises out of or in the course of the employee's employment while temporarily within that state in the same manner as specified in division (H)(3) of this section for an employee who is a resident of a state other than this state, or the employee's dependents;

(b) The laws of the other state limit the liability of the employer of the employee who is a resident of this state and who is described in division (H)(4)(a) of this section for that injury, disease, or death, in the same

manner specified in division (H)(3) of this section for the employer of an employee who is a resident of the other state.

(5) An employee, or the dependent of an employee, who elects to receive compensation and benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for a claim may not receive compensation and benefits under the workers' compensation laws of any state other than this state for that same claim. For each claim submitted by or on behalf of an employee, the administrator or, if the employee is employed by a self-insuring employer, the self-insuring employer shall request the employee or the employee's dependent to sign an election that affirms the employee's or employee's dependent's acceptance of electing to receive compensation and benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for that claim that also affirmatively waives and releases the employee's or the employee's dependent's right to file for and receive compensation and benefits under the laws of any state other than this state for that claim. The employee or employee's dependent shall sign the election form within twenty-eight days after the administrator or self-insuring employer submits the request or the administrator or self-insuring employer shall suspend that claim until the administrator or self-insuring employer receives the signed election form.

(I) If an employee who is covered under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., is injured or contracts an occupational disease or dies as a result of an injury or occupational disease, and if that employee's or that employee's dependents' claim for compensation or benefits for that injury, occupational disease, or death is subject to the jurisdiction of that act, the employee or the employee's dependents are not entitled to apply for and shall not receive compensation or benefits under this chapter and Chapter 4121. of the Revised Code. The rights of such an employee and the employee's dependents under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., are the exclusive remedy against the employer for that injury, occupational disease, or death.

(J) Compensation or benefits are not payable to a claimant during the period of confinement of the claimant in any state or federal correctional institution, or in any county jail in lieu of incarceration in a state or federal correctional institution, whether in this or any other state for conviction of violation of any state or federal criminal law.

(K) An employer, upon the approval of the administrator, may provide for workers' compensation coverage for the employer's employees who are professional athletes and coaches by submitting to the administrator proof of

coverage under a league policy issued under the laws of another state under either of the following circumstances:

(1) The employer administers the payroll and workers' compensation insurance for a professional sports team subject to a collective bargaining agreement, and the collective bargaining agreement provides for the uniform administration of workers' compensation benefits and compensation for professional athletes.

(2) The employer is a professional sports league, or is a member team of a professional sports league, and all of the following apply:

(a) The professional sports league operates as a single entity, whereby all of the players and coaches of the sports league are employees of the sports league and not of the individual member teams.

(b) The professional sports league at all times maintains workers' compensation insurance that provides coverage for the players and coaches of the sports league.

(c) Each individual member team of the professional sports league, pursuant to the organizational or operating documents of the sports league, is obligated to the sports league to pay to the sports league any workers' compensation claims that are not covered by the workers' compensation insurance maintained by the sports league.

If the administrator approves the employer's proof of coverage submitted under division (K) of this section, a professional athlete or coach who is an employee of the employer and the dependents of the professional athlete or coach are not entitled to apply for and shall not receive compensation or benefits under this chapter and Chapter 4121. of the Revised Code. The rights of such an athlete or coach and the dependents of such an athlete or coach under the laws of the state where the policy was issued are the exclusive remedy against the employer for the athlete or coach if the athlete or coach suffers an injury or contracts an occupational disease in the course of employment, or for the dependents of the athlete or the coach if the athlete or coach is killed as a result of an injury or dies as a result of an occupational disease, regardless of the location where the injury was suffered or the occupational disease was contracted.

Sec. 4123.57. Partial disability compensation shall be paid as follows.

Except as provided in this section, not earlier than twenty-six weeks after the date of termination of the latest period of payments under section 4123.56 of the Revised Code, or not earlier than twenty-six weeks after the date of the injury or contraction of an occupational disease in the absence of payments under section 4123.56 of the Revised Code, the employee may file an application with the bureau of workers' compensation for the

determination of the percentage of the employee's permanent partial disability resulting from an injury or occupational disease.

Whenever the application is filed, the bureau shall send a copy of the application to the employee's employer or the employer's representative and shall schedule the employee for a medical examination by the bureau medical section. The bureau shall send a copy of the report of the medical examination to the employee, the employer, and their representatives. Thereafter, the administrator of workers' compensation shall review the employee's claim file and make a tentative order as the evidence before the administrator at the time of the making of the order warrants. If the administrator determines that there is a conflict of evidence, the administrator shall send the application, along with the claimant's file, to the district hearing officer who shall set the application for a hearing.

The administrator shall notify the employee, the employer, and their representatives, in writing, of the tentative order and of the parties' right to request a hearing. Unless the employee, the employer, or their representative notifies the administrator, in writing, of an objection to the tentative order within twenty days after receipt of the notice thereof, the tentative order shall go into effect and the employee shall receive the compensation provided in the order. In no event shall there be a reconsideration of a tentative order issued under this division.

If the employee, the employer, or their representatives timely notify the administrator of an objection to the tentative order, the matter shall be referred to a district hearing officer who shall set the application for hearing with written notices to all interested persons. Upon referral to a district hearing officer, the employer may obtain a medical examination of the employee, pursuant to rules of the industrial commission.

(A) The district hearing officer, upon the application, shall determine the percentage of the employee's permanent disability, except as is subject to division (B) of this section, based upon that condition of the employee resulting from the injury or occupational disease and causing permanent impairment evidenced by medical or clinical findings reasonably demonstrable. The employee shall receive sixty-six and two-thirds per cent of the employee's average weekly wage, but not more than a maximum of thirty-three and one-third per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code, per week regardless of the average weekly wage, for the number of weeks which equals the percentage of two hundred weeks. Except on application for reconsideration, review, or modification, which is filed within ten days after the date of receipt of the decision of the district hearing officer, in no

instance shall the former award be modified unless it is found from medical or clinical findings that the condition of the claimant resulting from the injury has so progressed as to have increased the percentage of permanent partial disability. A staff hearing officer shall hear an application for reconsideration filed and the staff hearing officer's decision is final. An employee may file an application for a subsequent determination of the percentage of the employee's permanent disability. If such an application is filed, the bureau shall send a copy of the application to the employer or the employer's representative. No sooner than sixty days from the date of the mailing of the application to the employer or the employer's representative, the administrator shall review the application. The administrator may require a medical examination or medical review of the employee. The administrator shall issue a tentative order based upon the evidence before the administrator, provided that if the administrator requires a medical examination or medical review, the administrator shall not issue the tentative order until the completion of the examination or review.

The employer may obtain a medical examination of the employee and may submit medical evidence at any stage of the process up to a hearing before the district hearing officer, pursuant to rules of the commission. The administrator shall notify the employee, the employer, and their representatives, in writing, of the nature and amount of any tentative order issued on an application requesting a subsequent determination of the percentage of an employee's permanent disability. An employee, employer, or their representatives may object to the tentative order within twenty days after the receipt of the notice thereof. If no timely objection is made, the tentative order shall go into effect. In no event shall there be a reconsideration of a tentative order issued under this division. If an objection is timely made, the application for a subsequent determination shall be referred to a district hearing officer who shall set the application for a hearing with written notice to all interested persons. No application for subsequent percentage determinations on the same claim for injury or occupational disease shall be accepted for review by the district hearing officer unless supported by substantial evidence of new and changed circumstances developing since the time of the hearing on the original or last determination.

No award shall be made under this division based upon a percentage of disability which, when taken with all other percentages of permanent disability, exceeds one hundred per cent. If the percentage of the permanent disability of the employee equals or exceeds ninety per cent, compensation for permanent partial disability shall be paid for two hundred weeks.

Compensation payable under this division accrues and is payable to the employee from the date of last payment of compensation, or, in cases where no previous compensation has been paid, from the date of the injury or the date of the diagnosis of the occupational disease.

When an award under this division has been made prior to the death of an employee, all unpaid installments accrued or to accrue under the provisions of the award are payable to the surviving spouse, or if there is no surviving spouse, to the dependent children of the employee, and if there are no children surviving, then to other dependents as the administrator determines.

(B) ~~In~~ For purposes of this division, "payable per week" means the seven consecutive day period in which compensation is paid in installments according to the schedule associated with the applicable injury as set forth in this division.

Compensation paid in weekly installments according to the schedule described in this division may only be commuted to one or more lump-sum payments pursuant to the procedure set forth in section 4123.64 of the Revised Code.

In cases included in the following schedule the compensation payable per week to the employee is the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code per week and shall continue during the periods provided in be paid in installments according to the following schedule:

For the loss of a first finger, commonly known as a thumb, sixty weeks.

For the loss of a second finger, commonly called index finger, thirty-five weeks.

For the loss of a third finger, thirty weeks.

For the loss of a fourth finger, twenty weeks.

For the loss of a fifth finger, commonly known as the little finger, fifteen weeks.

The loss of a second, or distal, phalange of the thumb is considered equal to the loss of one half of such thumb; the loss of more than one half of such thumb is considered equal to the loss of the whole thumb.

The loss of the third, or distal, phalange of any finger is considered equal to the loss of one-third of the finger.

The loss of the middle, or second, phalange of any finger is considered equal to the loss of two-thirds of the finger.

The loss of more than the middle and distal phalanges of any finger is considered equal to the loss of the whole finger. In no case shall the amount received for more than one finger exceed the amount provided in this

schedule for the loss of a hand.

For the loss of the metacarpal bone (bones of the palm) for the corresponding thumb, or fingers, add ten weeks to the number of weeks under this division.

For ankylosis (total stiffness of) or contractures (due to scars or injuries) which makes any of the fingers, thumbs, or parts of either useless, the same number of weeks apply to the members or parts thereof as given for the loss thereof.

If the claimant has suffered the loss of two or more fingers by amputation or ankylosis and the nature of the claimant's employment in the course of which the claimant was working at the time of the injury or occupational disease is such that the handicap or disability resulting from the loss of fingers, or loss of use of fingers, exceeds the normal handicap or disability resulting from the loss of fingers, or loss of use of fingers, the administrator may take that fact into consideration and increase the award of compensation accordingly, but the award made shall not exceed the amount of compensation for loss of a hand.

For the loss of a hand, one hundred seventy-five weeks.

For the loss of an arm, two hundred twenty-five weeks.

For the loss of a great toe, thirty weeks.

For the loss of one of the toes other than the great toe, ten weeks.

The loss of more than two-thirds of any toe is considered equal to the loss of the whole toe.

The loss of less than two-thirds of any toe is considered no loss, except as to the great toe; the loss of the great toe up to the interphalangeal joint is co-equal to the loss of one-half of the great toe; the loss of the great toe beyond the interphalangeal joint is considered equal to the loss of the whole great toe.

For the loss of a foot, one hundred fifty weeks.

For the loss of a leg, two hundred weeks.

For the loss of the sight of an eye, one hundred twenty-five weeks.

For the permanent partial loss of sight of an eye, the portion of one hundred twenty-five weeks as the administrator in each case determines, based upon the percentage of vision actually lost as a result of the injury or occupational disease, but, in no case shall an award of compensation be made for less than twenty-five per cent loss of uncorrected vision. "Loss of uncorrected vision" means the percentage of vision actually lost as the result of the injury or occupational disease.

For the permanent and total loss of hearing of one ear, twenty-five weeks; but in no case shall an award of compensation be made for less than

permanent and total loss of hearing of one ear.

For the permanent and total loss of hearing, one hundred twenty-five weeks; but, except pursuant to the next preceding paragraph, in no case shall an award of compensation be made for less than permanent and total loss of hearing.

In case an injury or occupational disease results in serious facial or head disfigurement which either impairs or may in the future impair the opportunities to secure or retain employment, the administrator shall make an award of compensation as it deems proper and equitable, in view of the nature of the disfigurement, and not to exceed the sum of ten thousand dollars. For the purpose of making the award, it is not material whether the employee is gainfully employed in any occupation or trade at the time of the administrator's determination.

When an award under this division has been made prior to the death of an employee all unpaid installments accrued or to accrue under the provisions of the award shall be payable to the surviving spouse, or if there is no surviving spouse, to the dependent children of the employee and if there are no such children, then to such dependents as the administrator determines.

When an employee has sustained the loss of a member by severance, but no award has been made on account thereof prior to the employee's death, the administrator shall make an award in accordance with this division for the loss which shall be payable to the surviving spouse, or if there is no surviving spouse, to the dependent children of the employee and if there are no such children, then to such dependents as the administrator determines.

(C) Compensation for partial impairment under divisions (A) and (B) of this section is in addition to the compensation paid the employee pursuant to section 4123.56 of the Revised Code. A claimant may receive compensation under divisions (A) and (B) of this section.

In all cases arising under division (B) of this section, if it is determined by any one of the following: (1) the amputee clinic at University hospital, Ohio state university; (2) the rehabilitation services commission; (3) an amputee clinic or prescribing physician approved by the administrator or the administrator's designee, that an injured or disabled employee is in need of an artificial appliance, or in need of a repair thereof, regardless of whether the appliance or its repair will be serviceable in the vocational rehabilitation of the injured employee, and regardless of whether the employee has returned to or can ever again return to any gainful employment, the bureau shall pay the cost of the artificial appliance or its repair out of the surplus created by division (B) of section 4123.34 of the Revised Code.

In those cases where a rehabilitation services commission recommendation that an injured or disabled employee is in need of an artificial appliance would conflict with their state plan, adopted pursuant to the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 701, the administrator or the administrator's designee or the bureau may obtain a recommendation from an amputee clinic or prescribing physician that they determine appropriate.

(D) If an employee of a state fund employer makes application for a finding and the administrator finds that the employee has contracted silicosis as defined in division (X), or coal miners' pneumoconiosis as defined in division (Y), or asbestosis as defined in division (AA) of section 4123.68 of the Revised Code, and that a change of such employee's occupation is medically advisable in order to decrease substantially further exposure to silica dust, asbestos, or coal dust and if the employee, after the finding, has changed or shall change the employee's occupation to an occupation in which the exposure to silica dust, asbestos, or coal dust is substantially decreased, the administrator shall allow to the employee an amount equal to fifty per cent of the statewide average weekly wage per week for a period of thirty weeks, commencing as of the date of the discontinuance or change, and for a period of one hundred weeks immediately following the expiration of the period of thirty weeks, the employee shall receive sixty-six and two-thirds per cent of the loss of wages resulting directly and solely from the change of occupation but not to exceed a maximum of an amount equal to fifty per cent of the statewide average weekly wage per week. No such employee is entitled to receive more than one allowance on account of discontinuance of employment or change of occupation and benefits shall cease for any period during which the employee is employed in an occupation in which the exposure to silica dust, asbestos, or coal dust is not substantially less than the exposure in the occupation in which the employee was formerly employed or for any period during which the employee may be entitled to receive compensation or benefits under section 4123.68 of the Revised Code on account of disability from silicosis, asbestosis, or coal miners' pneumoconiosis. An award for change of occupation for a coal miner who has contracted coal miners' pneumoconiosis may be granted under this division even though the coal miner continues employment with the same employer, so long as the coal miner's employment subsequent to the change is such that the coal miner's exposure to coal dust is substantially decreased and a change of occupation is certified by the claimant as permanent. The administrator may accord to the employee medical and other benefits in accordance with section 4123.66 of the Revised Code.

(E) If a firefighter or police officer makes application for a finding and the administrator finds that the firefighter or police officer has contracted a cardiovascular and pulmonary disease as defined in division (W) of section 4123.68 of the Revised Code, and that a change of the firefighter's or police officer's occupation is medically advisable in order to decrease substantially further exposure to smoke, toxic gases, chemical fumes, and other toxic vapors, and if the firefighter, or police officer, after the finding, has changed or changes occupation to an occupation in which the exposure to smoke, toxic gases, chemical fumes, and other toxic vapors is substantially decreased, the administrator shall allow to the firefighter or police officer an amount equal to fifty per cent of the statewide average weekly wage per week for a period of thirty weeks, commencing as of the date of the discontinuance or change, and for a period of seventy-five weeks immediately following the expiration of the period of thirty weeks the administrator shall allow the firefighter or police officer sixty-six and two-thirds per cent of the loss of wages resulting directly and solely from the change of occupation but not to exceed a maximum of an amount equal to fifty per cent of the statewide average weekly wage per week. No such firefighter or police officer is entitled to receive more than one allowance on account of discontinuance of employment or change of occupation and benefits shall cease for any period during which the firefighter or police officer is employed in an occupation in which the exposure to smoke, toxic gases, chemical fumes, and other toxic vapors is not substantially less than the exposure in the occupation in which the firefighter or police officer was formerly employed or for any period during which the firefighter or police officer may be entitled to receive compensation or benefits under section 4123.68 of the Revised Code on account of disability from a cardiovascular and pulmonary disease. The administrator may accord to the firefighter or police officer medical and other benefits in accordance with section 4123.66 of the Revised Code.

(F) An order issued under this section is appealable pursuant to section 4123.511 of the Revised Code but is not appealable to court under section 4123.512 of the Revised Code.

Sec. 4141.35. (A) If the director of job and family services finds that any fraudulent misrepresentation has been made by an applicant for or a recipient of benefits with the object of obtaining benefits to which the applicant or recipient was not entitled, and in addition to any other penalty or forfeiture under this chapter, then the director:

(1) Shall within four years after the end of the benefit year in which the fraudulent misrepresentation was made reject or cancel such person's entire

weekly claim for benefits that was fraudulently claimed, or the person's entire benefit rights if the misrepresentation was in connection with the filing of the claimant's application for determination of benefit rights;

(2) Shall by order declare that, for each application for benefit rights and for each weekly claim canceled, such person shall be ineligible for two otherwise valid weekly claims for benefits, claimed within six years subsequent to the discovery of such misrepresentation;

(3) By order shall require that the total amount of benefits rejected or canceled under division (A)(1) of this section be repaid to the director before such person may become eligible for further benefits, and shall withhold such unpaid sums from future benefit payments accruing and otherwise payable to such claimant. Effective with orders issued on or after January 1, 1993, if such benefits are not repaid within thirty days after the director's order becomes final, interest on the amount remaining unpaid shall be charged to the person at a rate and calculated in the same manner as provided under section 4141.23 of the Revised Code. When a person ordered to repay benefits has repaid all overpaid benefits according to a plan approved by the director, the director may cancel the amount of interest that accrued during the period of the repayment plan. The director may take action in ~~the courts~~ any court of this state competent jurisdiction to collect benefits and interest as provided in sections 4141.23 and 4141.27 of the Revised Code, in regard to the collection of unpaid contributions, using the final repayment order as the basis for such action. ~~No~~ Except as otherwise provided in this division, no administrative or legal proceedings for the collection of such benefits or interest due shall be initiated after the expiration of six years from the date on which the director's order requiring repayment became final and the amount of any benefits or interest not recovered at that time, and any liens thereon, shall be canceled as uncollectible. The time limit for instituting proceedings shall be extended by the period of any stay to the collection or by any other time period to which the parties mutually agree.

(4) May take action to collect benefits fraudulently obtained under the unemployment compensation law of any other state or the United States or Canada. Such action may be initiated in the courts of this state in the same manner as provided for unpaid contributions in section 4141.41 of the Revised Code.

(5) May take action to collect benefits that have been fraudulently obtained from the director, interest pursuant to division (A)(3) of this section, and court costs, through attachment proceedings under Chapter 2715. of the Revised Code and garnishment proceedings under Chapter

2716. of the Revised Code.

(B) If the director finds that an applicant for benefits has been credited with a waiting period or paid benefits to which the applicant was not entitled for reasons other than fraudulent misrepresentation, the director shall:

(1)(a) Within six months after the determination under which the claimant was credited with that waiting period or paid benefits becomes final pursuant to section 4141.28 of the Revised Code, or within three years after the end of the benefit year in which such benefits were claimed, whichever is later, by order cancel such waiting period and require that such benefits be repaid to the director or be withheld from any benefits to which such applicant is or may become entitled before any additional benefits are paid, provided that the repayment or withholding shall not be required where the overpayment is the result of the director's correcting a prior decision due to a typographical or clerical error in the director's prior decision, or an error in an employer's report under division (G) of section 4141.28 of the Revised Code.

(b) The limitation specified in division (B)(1)(a) of this section shall not apply to cases involving the retroactive payment of remuneration covering periods for which benefits were previously paid to the claimant. However, in such cases, the director's order requiring repayment shall not be issued unless the director is notified of such retroactive payment within six months from the date the retroactive payment was made to the claimant.

(2) The director may, by reciprocal agreement with the United States secretary of labor or another state, recover overpayment amounts from unemployment benefits otherwise payable to an individual under Chapter 4141. of the Revised Code. Any overpayments made to the individual that have not previously been recovered under an unemployment benefit program of the United States may be recovered in accordance with section 303(g) of the "Social Security Act" and sections 3304(a)(4) and 3306(f) of the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311.

(3) If the amounts required to be repaid under division (B) of this section are not recovered within three years from the date the director's order requiring payment became final, initiate no further action to collect such benefits and the amount of any benefits not recovered at that time shall be canceled as uncollectible, provided that the time limit for collection shall be extended by the period of any stay to the collection or by any other time period to which the parties mutually agree.

(C) The appeal provisions of sections 4141.281 and 4141.282 of the Revised Code shall apply to all orders and determinations issued under this

section, except that an individual's right of appeal under division (B)(2) of this section shall be limited to this state's authority to recover overpayment of benefits.

(D) If an individual makes a full repayment or a repayment that is less than the full amount required by this section, the director shall apply the repayment to the mutualized account under division (B) of section 4141.25 of the Revised Code, except that the director shall credit the repayment to the accounts of the individual's base period employers that previously have not been credited for the amount of improperly paid benefits charged against their accounts based on the proportion of benefits charged against the accounts as determined pursuant to division (D) of section 4141.24 of the Revised Code.

The director shall deposit any repayment collected under this section that the director determines to be payment of interest or court costs into the unemployment compensation special administrative fund established pursuant to section 4141.11 of the Revised Code.

Sec. 4163.07. (A)(1) Prior to transporting any high-level radioactive waste, spent nuclear fuel, transuranic waste, or any quantity of special nuclear material or by-product material that meets or exceeds the highway route controlled quantity, within, into, or through the state, the shipper of the material shall notify the executive director of the emergency management agency established under section 5502.22 of the Revised Code of the shipment. The notice shall be in writing and be sent by certified mail and shall include the name of the shipper; the name of the carrier; the type and quantity of the material; the transportation mode of the shipment; the proposed date and time of shipment of the material within, into, or through the state; and the starting point, termination or exit point, scheduled route, and each alternate route, if any, of the shipment. In order to constitute effective notification under division (A)(1) of this section, notification shall be received by the executive director at least four days prior to shipment within, into, or through the state.

(2) The carrier or shipper of any shipment subject to division (A)(1) of this section shall immediately notify the executive director of any change in the date and time of the shipment or in the route of the shipment within, into, or through the state.

(B) Upon receipt of a notice of any shipment of material that is subject to division (A)(1) of this section within, into, or through the state, the executive director of the emergency management agency shall immediately notify the director of public safety, the director of environmental protection, the director of health, the chairperson of the public utilities commission, and

the county emergency management agency and sheriff of each county along the proposed route, or any alternate route, of the shipment.

(C) The executive director of the emergency management agency shall not disclose to any person other than those persons enumerated in division (B) of this section any information pertaining to any shipment of special nuclear material or by-product material prior to the time that the shipment is completed.

(D) This section does not apply to radioactive materials, other than by-products, shipped by or for the United States department of defense and United States department of energy for military or national defense purposes. Nothing in this section requires the disclosure of any defense information or restricted data as defined in the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C. 2011, as amended.

(E) No person shall transport or cause to be transported within, into, or through the state any material that is subject to division (A)(1) of this section without first providing the notice required in that division.

(F) Whoever violates division (E) of this section, in addition to any penalty imposed under section 4163.99 of the Revised Code, is liable for a civil penalty in an amount not to exceed the following, as applicable:

(1) Twenty-five thousand dollars for a motor carrier, as defined in section 4923.01 of the Revised Code;

(2) Forty-five thousand dollars for the first cask designated for transport by rail and thirty thousand dollars for each additional cask designated for transport by rail that is shipped by the same person or entity in the same shipment.

The attorney general, upon the request of the executive director of the emergency management agency, shall bring a civil action to collect the penalty. Fines collected pursuant to this section shall be deposited into the state treasury to the credit of the ~~radioactive waste~~ public utilities transportation safety fund created in section ~~4905.801~~ 4921.21 of the Revised Code.

Sec. 4169.02. (A) For the purposes of regulating the construction, maintenance, mechanical operation, and inspection of passenger tramways that are associated with ski areas and of registering operators of passenger tramways in this state, there is hereby established in the division of ~~labor~~ industrial compliance in the department of commerce a ski tramway board to be appointed by the governor, with the advice and consent of the senate. The board shall consist of three members, one of whom shall be a public member who is an experienced skier and familiar with ski areas in this state, one of whom shall be a ski area operator actively engaged in the business of

recreational skiing in this state, and one of whom shall be a professional engineer who is knowledgeable in the design or operation of passenger tramways.

Of the initial appointments, one member shall be appointed for a term of one year, one for a term of two years, and one for a term of three years. The member appointed to the term beginning on July 1, 1996, shall be appointed to a term ending on June 30, 1997; the member appointed to a term beginning on July 1, 1997, shall be appointed to a term ending on June 30, 1999; and the member appointed to a term beginning on July 1, 1998, shall be appointed to a term ending on June 30, 2001. Thereafter, each of the members shall be appointed for a term of six years. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. In the event of a vacancy, the governor, with the advice and consent of the senate, shall appoint a successor who shall hold office for the remainder of the term for which the successor's predecessor was appointed. A member shall continue in office 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. The board shall elect a chairperson from its members.

The governor may remove any member of the board at any time for misfeasance, nonfeasance, or malfeasance in office after giving the member a copy of the charges against the member and an opportunity to be heard publicly in person or by counsel in the member's defense. Any such act of removal by the governor is final. A statement of the findings of the governor, the reason for the governor's action, and the answer, if any, of the member shall be filed by the governor with the secretary of state and shall be open to public inspection.

Members of the board shall be paid two hundred fifty dollars for each meeting that the member attends, except that no member shall be paid or receive more than seven hundred fifty dollars for attending meetings during any calendar year. Each member shall be reimbursed for the member's actual and necessary expenses incurred in the performance of official board duties. The chairperson shall be paid two hundred fifty dollars annually in addition to any compensation the chairperson receives under this division for attending meetings and any other compensation the chairperson receives for serving on the board.

The division shall provide the board with such offices and such clerical, professional, and other assistance as may be reasonably necessary for the board to carry on its work. The division shall maintain accurate copies of the board's rules as promulgated in accordance with division (B) of this section

and shall keep all of the board's records, including business records, and inspection reports as well as its own records and reports. The cost of administering the board and conducting inspections shall be included in the budget of the division based on revenues generated by the registration fees established under section 4169.03 of the Revised Code.

(B) In accordance with Chapter 119. of the Revised Code, the board shall adopt and may amend or rescind rules relating to public safety in the construction, maintenance, mechanical operation, and inspection of passenger tramways. The rules shall be in accordance with established standards in the business of ski area operation, if any, and shall not discriminate in their application to ski area operators.

No person shall violate the rules of the board.

(C) The authority of the board shall not extend to any matter relative to the operation of a ski area other than the construction, maintenance, mechanical operation, and inspection of passenger tramways.

(D) A majority of the board constitutes a quorum and may perform and exercise all the duties and powers devolving upon the board.

Sec. 4169.03. (A) Before a passenger tramway operator may operate any passenger tramway in the state, the operator shall apply to the ski tramway board, on forms prepared by it, for registration by the board. The application shall contain an inventory of the passenger tramways that the applicant intends to operate and other information as the board may reasonably require and shall be accompanied by the following annual fees:

- (1) Each aerial passenger tramway, five hundred dollars;
- (2) Each skimobile, two hundred dollars;
- (3) Each chair lift, two hundred dollars;
- (4) Each J bar, T bar, or platter pull, one hundred dollars;
- (5) Each rope tow, fifty dollars;
- (6) Each wire rope tow, seventy-five dollars;
- (7) Each conveyor, one hundred dollars.

When an operator operates an aerial passenger tramway, a skimobile, or a chair lift during both a winter and summer season, the annual fee shall be one and one-half the above amount for the respective passenger tramway.

(B) Upon payment of the appropriate annual fees in accordance with division (A) of this section, the board shall issue a registration certificate to the operator. Each certificate shall remain in force until the thirtieth day of September next ensuing. The board shall renew an operator's certificate in accordance with the standard renewal procedure in Chapter 4745. of the Revised Code upon payment of the appropriate annual fees.

(C) Money received from the registration fees and from the fines

collected pursuant to section 4169.99 of the Revised Code shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

(D) No person shall operate a passenger tramway in this state unless the person has been registered by the board.

Sec. 4169.04. (A) The division of ~~labor~~ industrial compliance in the department of commerce shall make such inspection of the construction, maintenance, and mechanical operation of passenger tramways as the ski tramway board may reasonably require. The division may contract with other qualified engineers to make such inspection or may accept the inspection report by any qualified inspector of an insurance company authorized to insure passenger tramways in this state.

(B) If, as the result of an inspection, an employee of the division or other agent with whom the division has contracted finds that a violation of the board's rules exists or a condition in passenger tramway construction, maintenance, or mechanical operation exists that endangers public safety, the employee or agent shall make an immediate report to the board for appropriate investigation and order.

Sec. 4171.04. (A) Before a person may operate any roller skating rink in the state, the person shall:

(1) Apply to the superintendent of ~~labor~~ industrial compliance in the department of commerce on forms designated by the superintendent for a certificate of registration;

(2) Provide an inventory of all the roller skating rinks that the applicant intends to operate, and any other information the superintendent may reasonably require on the application;

(3) Include with the application a registration fee of twenty-five dollars for each roller skating rink to be operated by the applicant.

(B) Upon compliance with division (A) of this section, the superintendent shall issue a certificate of registration to the operator for each roller skating rink to be operated by the applicant. Each certificate shall remain in force as follows:

(1) Until the thirty-first day of December next ensuing; or

(2) For sixty days after the dissolution of a partnership.

(C) In case of the dissolution of a partnership by death, the surviving partner or partners may operate a roller skating rink pursuant to the certificate of registration obtained by the partnership in accordance with this chapter for a period of sixty days following dissolution. The heirs or representatives of deceased persons and receivers or trustees in bankruptcy appointed by any competent authority may operate under the certificate of

registration of the person succeeded in possession.

(D) The superintendent shall renew an operator's certificate of registration in accordance with the standard license renewal procedure set forth in Chapter 4745. of the Revised Code upon payment of a renewal fee of twenty-five dollars for each roller skating rink to be operated by the applicant.

(E) Money received from the registration and renewal fees collected pursuant to this chapter shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

Sec. 4301.30. (A) All fees collected by the division of liquor control shall be deposited in the state treasury to the credit of the undivided liquor permit fund, which is hereby created, at the time prescribed under section 4301.12 of the Revised Code. Each payment shall be accompanied by a statement showing separately the amount collected for each class of permits in each municipal corporation and in each township outside the limits of any municipal corporation in such township. ~~At~~

(B)(1) An amount equal to forty-five per cent of the fund shall be paid from the fund into the state liquor regulatory fund, which is hereby created in the state treasury. The state liquor regulatory fund shall be used to pay the operating expenses of the division of liquor control in administering and enforcing Title XLIII of the Revised Code and the operating expenses of the liquor control commission. Investment earnings of the fund shall be credited to the fund.

(2) Whenever, in the judgment of the director of budget and management, the amount of money that is in the state liquor regulatory fund is in excess of the amount that is needed to pay the operating expenses of the division in administering and enforcing Title XLIII of the Revised Code and the operating expenses of the commission, the director shall credit the excess amount to the general revenue fund.

(C) Twenty per cent of the undivided liquor permit fund shall be paid into the statewide treatment and prevention fund, which is hereby created in the state treasury. This amount shall be appropriated by the general assembly, together with an amount equal to one and one-half per cent of the gross profit of the division of liquor control derived under division (B)(4) of section 4301.10 of the Revised Code, to the department of alcohol and drug addiction services. In planning for the allocation of and in allocating these amounts for the purposes of Chapter 3793. of the Revised Code, the department of alcohol and drug addiction services shall comply with the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964,

and any rules adopted under that act.

(D) Thirty-five per cent of the undivided liquor permit fund shall be distributed by the superintendent of liquor control at quarterly calendar periods as follows:

(A)(1) To each municipal corporation, the aggregate amount shown by the statements to have been collected from permits in the municipal corporation, for the use of the general fund of the municipal corporation;

(B)(2) To each township, the aggregate amount shown by the statements to have been collected from permits in its territory, outside the limits of any municipal corporation located in the township, for the use of the general fund of the township, or for fire protection purposes, including buildings and equipment in the township or in an established fire district within the township, to the extent that the funds are derived from liquor permits within the territory comprising such fire district.

(E) For the purpose of the distribution required by this section, E, H, and D permits covering boats or vessels are deemed to have been issued in the municipal corporation or township wherein the owner or operator of the vehicle, boat, vessel, or dining car equipment to which the permit relates has the owner's or operator's principal office or place of business within the state.

(F) If the liquor control commission determines that the police or other officers of any municipal corporation or township entitled to share in ~~such~~ distributions under this section are refusing or culpably neglecting to enforce this chapter and Chapter 4303. of the Revised Code, or the penal laws of this state relating to the manufacture, importation, transportation, distribution, and sale of beer and intoxicating liquors, or if the prosecuting officer of a municipal corporation or a municipal court fails to comply with the request of the commission authorized by division (A)(4) of section 4301.10 of the Revised Code, the commission, by certified mail, may notify the chief executive officer of the municipal corporation or the board of township trustees of the township of the failure and require the immediate cooperation of the responsible officers of the municipal corporation or township with the division of liquor control in the enforcement of those chapters and penal laws. Within thirty days after the notice is served, the commission shall determine whether the requirement has been complied with. If the commission determines that the requirement has not been complied with, it may issue an order to the superintendent to withhold the distributive share of the municipal corporation or township until further order of the commission. This action of the commission is reviewable within thirty days thereafter in the court of common pleas of Franklin county.

(G) All fees collected by the division of liquor control from the issuance or renewal of B-2a and S permits, and paid by B-2a and S permit holders who do not also hold A-2 permits, shall be deposited in the state treasury to the credit of the state liquor control regulatory fund. Once during each fiscal year, an amount equal to fifty per cent of the fees collected shall be paid from the state liquor control regulatory fund into the general revenue fund.

Sec. 4303.181. (A) Permit D-5a may be issued either to the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests or is owned by a state institution of higher education as defined in section 3345.011 of the Revised Code or a private college or university, and that qualifies under the other requirements of this section, or to the owner or operator of a restaurant specified under this section, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to registered guests in their rooms, which may be sold by means of a controlled access alcohol and beverage cabinet in accordance with division (B) of section 4301.21 of the Revised Code; and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. The premises of the hotel or motel shall include a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is affiliated with the hotel or motel and within or contiguous to the hotel or motel, and that serves food within the hotel or motel, but the principal business of the owner or operator of the hotel or motel shall be the accommodation of transient guests. In addition to the privileges authorized in this division, the holder of a D-5a permit may exercise the same privileges as the holder of a D-5 permit.

The owner or operator of a hotel, motel, or restaurant who qualified for and held a D-5a permit on August 4, 1976, may, if the owner or operator held another permit before holding a D-5a permit, either retain a D-5a permit or apply for the permit formerly held, and the division of liquor control shall issue the permit for which the owner or operator applies and formerly held, notwithstanding any quota.

A D-5a permit shall not be transferred to another location. No quota restriction shall be placed on the number of D-5a permits that may be issued.

The fee for this permit is two thousand three hundred forty-four dollars.

(B) Permit D-5b may be issued to the owner, operator, tenant, lessee, or occupant of an enclosed shopping center to sell beer and intoxicating liquor

at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold; and to sell the same products in the same manner and amount not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5b permit may exercise the same privileges as a holder of a D-5 permit.

A D-5b permit shall not be transferred to another location.

One D-5b permit may be issued at an enclosed shopping center containing at least two hundred twenty-five thousand, but less than four hundred thousand, square feet of floor area.

Two D-5b permits may be issued at an enclosed shopping center containing at least four hundred thousand square feet of floor area. No more than one D-5b permit may be issued at an enclosed shopping center for each additional two hundred thousand square feet of floor area or fraction of that floor area, up to a maximum of five D-5b permits for each enclosed shopping center. The number of D-5b permits that may be issued at an enclosed shopping center shall be determined by subtracting the number of D-3 and D-5 permits issued in the enclosed shopping center from the number of D-5b permits that otherwise may be issued at the enclosed shopping center under the formulas provided in this division. Except as provided in this section, no quota shall be placed on the number of D-5b permits that may be issued. Notwithstanding any quota provided in this section, the holder of any D-5b permit first issued in accordance with this section is entitled to its renewal in accordance with section 4303.271 of the Revised Code.

The holder of a D-5b permit issued before April 4, 1984, whose tenancy is terminated for a cause other than nonpayment of rent, may return the D-5b permit to the division of liquor control, and the division shall cancel that permit. Upon cancellation of that permit and upon the permit holder's payment of taxes, contributions, premiums, assessments, and other debts owing or accrued upon the date of cancellation to this state and its political subdivisions and a filing with the division of a certification of that payment, the division shall issue to that person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as that person requests. The division shall issue the D-5 permit, or the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, D-3, or D-5 permits currently issued in the municipal corporation or in the unincorporated area of the township where that person's proposed premises is located equals or exceeds the maximum number of such permits that can be issued in that municipal corporation or in the unincorporated area of that township under the population quota restrictions contained in section

4303.29 of the Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not be transferred to another location. If a D-5b permit is canceled under the provisions of this paragraph, the number of D-5b permits that may be issued at the enclosed shopping center for which the D-5b permit was issued, under the formula provided in this division, shall be reduced by one if the enclosed shopping center was entitled to more than one D-5b permit under the formula.

The fee for this permit is two thousand three hundred forty-four dollars.

(C) Permit D-5c may be issued to the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that qualifies under the other requirements of this section to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5c permit may exercise the same privileges as the holder of a D-5 permit.

To qualify for a D-5c permit, the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter, shall have operated the restaurant at the proposed premises for not less than twenty-four consecutive months immediately preceding the filing of the application for the permit, have applied for a D-5 permit no later than December 31, 1988, and appear on the division's quota waiting list for not less than six months immediately preceding the filing of the application for the permit. In addition to these requirements, the proposed D-5c permit premises shall be located within a municipal corporation and further within an election precinct that, at the time of the application, has no more than twenty-five per cent of its total land area zoned for residential use.

A D-5c permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued.

Any person who has held a D-5c permit for at least two years may apply for a D-5 permit, and the division of liquor control shall issue the D-5 permit notwithstanding the quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission.

The fee for this permit is one thousand five hundred sixty-three dollars.

(D) Permit D-5d may be issued to the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter

and that is located at an airport operated by a board of county commissioners pursuant to section 307.20 of the Revised Code, at an airport operated by a port authority pursuant to Chapter 4582. of the Revised Code, or at an airport operated by a regional airport authority pursuant to Chapter 308. of the Revised Code. The holder of a D-5d permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5d permit may exercise the same privileges as the holder of a D-5 permit.

A D-5d permit shall not be transferred to another location. No quota restrictions shall be placed on the number of such permits that may be issued.

The fee for this permit is two thousand three hundred forty-four dollars.

(E) Permit D-5e may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, or that is a charitable organization under any chapter of the Revised Code, and that owns or operates a riverboat that meets all of the following:

- (1) Is permanently docked at one location;
- (2) Is designated as an historical riverboat by the Ohio historical society;
- (3) Contains not less than fifteen hundred square feet of floor area;
- (4) Has a seating capacity of fifty or more persons.

The holder of a D-5e permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5e permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued. The population quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission shall not apply to this division, and the division shall issue a D-5e permit to any applicant who meets the requirements of this division. However, the division shall not issue a D-5e permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

The fee for this permit is one thousand two hundred nineteen dollars.

(F) Permit D-5f may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of

the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following:

(1) It contains not less than twenty-five hundred square feet of floor area.

(2) It is located on or in, or immediately adjacent to, the shoreline of, a navigable river.

(3) It provides docking space for twenty-five boats.

(4) It provides entertainment and recreation, provided that not less than fifty per cent of the business on the permit premises shall be preparing and serving meals for a consideration.

In addition, each application for a D-5f permit shall be accompanied by a certification from the local legislative authority that the issuance of the D-5f permit is not inconsistent with that political subdivision's comprehensive development plan or other economic development goal as officially established by the local legislative authority.

The holder of a D-5f permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5f permit shall not be transferred to another location.

The division of liquor control shall not issue a D-5f permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

A fee for this permit is two thousand three hundred forty-four dollars.

As used in this division, "navigable river" means a river that is also a "navigable water" as defined in the "Federal Power Act," 94 Stat. 770 (1980), 16 U.S.C. 796.

(G) Permit D-5g may be issued to a nonprofit corporation that is either the owner or the operator of a national professional sports museum. The holder of a D-5g permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5g permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after ~~one~~ two-thirty a.m. A D-5g permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5g permits that may be issued. The fee for this permit is one thousand eight hundred seventy-five dollars.

(H)(1) Permit D-5h may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that owns or operates any of the following:

(a) A fine arts museum, provided that the nonprofit organization has no less than one thousand five hundred bona fide members possessing full membership privileges;

(b) A community arts center. As used in division (H)(1)(b) of this section, "community arts center" means a facility that provides arts programming to the community in more than one arts discipline, including, but not limited to, exhibits of works of art and performances by both professional and amateur artists.

(c) A community theater, provided that the nonprofit organization is a member of the Ohio arts council and the American community theatre association and has been in existence for not less than ten years. As used in division (H)(1)(c) of this section, "community theater" means a facility that contains at least one hundred fifty seats and has a primary function of presenting live theatrical performances and providing recreational opportunities to the community.

(2) The holder of a D-5h permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5h permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m. A D-5h permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5h permits that may be issued.

(3) The fee for a D-5h permit is one thousand eight hundred seventy-five dollars.

(I) Permit D-5i may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following requirements:

(1) It is located in a municipal corporation or a township with a population of one hundred thousand or less.

(2) It has inside seating capacity for at least one hundred forty persons.

(3) It has at least four thousand square feet of floor area.

(4) It offers full-course meals, appetizers, and sandwiches.

(5) Its receipts from beer and liquor sales, excluding wine sales, do not exceed twenty-five per cent of its total gross receipts.

(6) It has at least one of the following characteristics:

(a) The value of its real and personal property exceeds seven hundred twenty-five thousand dollars.

(b) It is located on property that is owned or leased by the state or a state agency, and its owner or operator has authorization from the state or the

state agency that owns or leases the property to obtain a D-5i permit.

The holder of a D-5i permit may sell beer and any intoxicating liquor at retail; only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5i permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after two-thirty a.m. In addition to the privileges authorized in this division, the holder of a D-5i permit may exercise the same privileges as the holder of a D-5 permit.

A D-5i permit shall not be transferred to another location. The division of liquor control shall not renew a D-5i permit unless the retail food establishment or food service operation for which it is issued continues to meet the requirements described in divisions (I)(1) to (6) of this section. No quota restrictions shall be placed on the number of D-5i permits that may be issued. The fee for the D-5i permit is two thousand three hundred forty-four dollars.

(J) Permit D-5j may be issued to the owner or the operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5j permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

The D-5j permit shall be issued only within a community entertainment district that is designated under section 4301.80 of the Revised Code and that meets one of the following qualifications:

(1) It is located in a municipal corporation with a population of at least one hundred thousand.

(2) It is located in a municipal corporation with a population of at least twenty thousand, and either of the following applies:

(a) It contains an amusement park the rides of which have been issued a permit by the department of agriculture under Chapter 1711. of the Revised Code.

(b) Not less than fifty million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

(3) It is located in a township with a population of at least forty

thousand.

(4) It is located in a township with a population of at least twenty thousand, and not less than seventy million dollars will be invested in development and construction in the community entertainment district's area located in the township.

(5) It is located in a municipal corporation with a population between ten thousand and twenty thousand, and both of the following apply:

(a) The municipal corporation was incorporated as a village prior to calendar year 1840 and currently has a historic downtown business district.

(b) The municipal corporation is located in the same county as another municipal corporation with at least one community entertainment district.

(6) It is located in a municipal corporation with a population of at least ten thousand, and not less than seventy million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

(7) It is located in a municipal corporation with a population of at least five thousand, and not less than one hundred million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

The location of a D-5j permit may be transferred only within the geographic boundaries of the community entertainment district in which it was issued and shall not be transferred outside the geographic boundaries of that district.

Not more than one D-5j permit shall be issued within each community entertainment district for each five acres of land located within the district. Not more than fifteen D-5j permits may be issued within a single community entertainment district. Except as otherwise provided in division (J)(4) of this section, no quota restrictions shall be placed upon the number of D-5j permits that may be issued.

The fee for a D-5j permit is two thousand three hundred forty-four dollars.

(K)(1) Permit D-5k may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that is the owner or operator of a botanical garden recognized by the American association of botanical gardens and arboreta, and that has not less than twenty-five hundred bona fide members.

(2) The holder of a D-5k permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, on the premises where sold.

(3) The holder of a D-5k permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m.

(4) A D-5k permit shall not be transferred to another location.

(5) No quota restrictions shall be placed on the number of D-5k permits that may be issued.

(6) The fee for the D-5k permit is one thousand eight hundred seventy-five dollars.

(L)(1) Permit D-5l may be issued to the owner or the operator of a business retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5l permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

(2) The D-5l permit shall be issued only to a premises that has gross annual receipts from the sale of food and meals that constitute not less than seventy-five per cent of its total gross annual receipts, that is located within a revitalization district that is designated under section 4301.81 of the Revised Code, that is located in a municipal corporation or township in which the number of D-5 permits issued equals or exceeds the number of those permits that may be issued in that municipal corporation or township under section 4303.29 of the Revised Code, and that is located in a county with a population of one hundred twenty-five thousand or less according to the population estimates certified by the department of development for calendar year 2006.

(3) The location of a D-5l permit may be transferred only within the geographic boundaries of the revitalization district in which it was issued and shall not be transferred outside the geographic boundaries of that district.

(4) Not more than one D-5l permit shall be issued within each revitalization district for each five acres of land located within the district. Not more than fifteen D-5l permits may be issued within a single revitalization district. Except as otherwise provided in division (L)(4) of this section, no quota restrictions shall be placed upon the number of D-5l permits that may be issued.

(5) No D-5l permit shall be issued to an adult entertainment establishment as defined in section 2907.39 of the Revised Code.

(6) The fee for a D-5l permit is two thousand three hundred forty-four

dollars.

(M) Permit D-5m may be issued to either the owner or the operator of a retail food establishment or food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located in, or affiliated with, a center for the preservation of wild animals as defined in section 4301.404 of the Revised Code, to sell beer and any intoxicating liquor at retail, only by the glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5m permit may exercise the same privileges as the holder of a D-5 permit.

A D-5m permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5m permits that may be issued. The fee for a permit D-5m is two thousand three hundred forty-four dollars.

(N) Permit D-5n shall be issued to either a casino operator or a casino management company licensed under Chapter 3772. of the Revised Code that operates a casino facility under that chapter, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5n permit may exercise the same privileges as the holder of a D-5 permit. A D-5n permit shall not be transferred to another location. Only one D-5n permit may be issued per casino facility and not more than four D-5n permits shall be issued in this state. The fee for a permit D-5n shall be twenty thousand dollars. The holder of a D-5n permit may conduct casino gaming on the permit premises notwithstanding any provision of the Revised Code or Administrative Code.

(O) Permit D-5o may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located within a casino facility for which a D-5n permit has been issued. The holder of a D-5o permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. In addition to the

privileges authorized by this division, the holder of a D-5o permit may exercise the same privileges as the holder of a D-5 permit. A D-5o permit shall not be transferred to another location. No quota restrictions shall be placed on the number of such permits that may be issued. The fee for this permit is two thousand three hundred forty-four dollars.

Sec. 4303.22. Permit H may be issued for a fee of three hundred dollars to a for-hire motor carrier ~~by motor vehicle~~ who also holds a license issued by the public utilities commission to transport beer, intoxicating liquor, and alcohol, or any of them, in this state for delivery or use in this state. This section does not prevent the division of liquor control from contracting with ~~common or contract~~ for-hire motor carriers for the delivery or transportation of liquor for the division, and any ~~contract or common~~ for-hire motor carrier so contracting with the division is eligible for an H permit. Manufacturers or wholesale distributors of beer or intoxicating liquor other than spirituous liquor who transport or deliver their own products to or from their premises licensed under this chapter and Chapter 4301. of the Revised Code by their own trucks as an incident to the purchase or sale of such beverages need not obtain an H permit. Carriers by rail shall receive an H permit upon application for it.

This section does not prevent the division from issuing, upon the payment of the permit fee, an H permit to any person, partnership, firm, or corporation licensed by any other state to engage in the business of manufacturing and brewing or producing beer, wine, and mixed beverages or any person, partnership, firm, or corporation licensed by the United States or any other state to engage in the business of importing beer, wine, and mixed beverages manufactured outside the United States. The manufacturer, brewer, or importer of products manufactured outside the United States, upon the issuance of an H permit, may transport, ship, and deliver only its own products to holders of B-1 or B-5 permits in Ohio in motor trucks and equipment owned and operated by such class H permit holder. No H permit shall be issued by the division to such applicant until the applicant files with the division a liability insurance certificate or policy satisfactory to the division, in a sum of not less than one thousand nor more than five thousand dollars for property damage and for not less than five thousand nor more than fifty thousand dollars for loss sustained by reason of injury or death and with such other terms as the division considers necessary to adequately protect the interest of the public, having due regard for the number of persons and amount of property affected. The certificate or policy shall insure the manufacturer, brewer, or importer of products manufactured outside the United States against loss sustained by reason of the death of or

injury to persons, and for loss of or damage to property, from the negligence of such class H permit holder in the operation of its motor vehicles or equipment in this state.

Sec. 4313.02. (A) The state may transfer to JobsOhio, and JobsOhio may accept the transfer of, all or a portion of the enterprise acquisition project for a transfer price payable by JobsOhio to the state. Any such transfer shall be treated as an absolute conveyance and true sale of the interest in the enterprise acquisition project purported to be conveyed for all purposes, and not as a pledge or other security interest. The characterization of any such transfer as a true sale and absolute conveyance shall not be negated or adversely affected by the acquisition or retention by the state of a residual or reversionary interest in the enterprise acquisition project, the participation of any state officer or employee as a member or officer of, or contracting for staff support to, JobsOhio or any subsidiary of JobsOhio, any regulatory responsibility of an officer or employee of the state, including the authority to collect amounts to be received in connection therewith, the retention of the state of any legal title to or interest in any portion of the enterprise acquisition project for the purpose of regulatory activities, or any characterization of JobsOhio or obligations of JobsOhio under accounting, taxation, or securities regulations, or any other reason whatsoever. An absolute conveyance and true sale or lease shall exist under this section regardless of whether JobsOhio has any recourse against the state or the treatment or characterization of the transfer as a financing for any purpose. Upon and following the transfer, the state shall not have any right, title, or interest in the enterprise acquisition project so transferred other than any residual interest that may be described in the transfer agreement pursuant to the following paragraph and division (D) of this section. Any determination of the fair market value of the enterprise acquisition project reflected in the transfer agreement shall be conclusive and binding on the state and JobsOhio.

Any transfer of the enterprise acquisition project that is a lease or grant of a franchise shall be for a term not to exceed twenty-five years. Any transfer of the enterprise acquisition project that is an assignment and sale, conveyance, or other transfer shall contain a provision that the state shall have the option to have conveyed or transferred back to it, at no cost, the enterprise acquisition project, as it then exists, no later than twenty-five years after the original transfer authorized in the transfer agreement on such other terms as shall be provided in the transfer agreement.

The exercise of the powers granted by this section will be for the benefit of the people of the state. All or any portion of the enterprise acquisition

project transferred pursuant to the transfer agreement that would be exempt from real property taxes or assessments or real property taxes or assessments in the absence of such transfer shall, as it may from time to time exist thereafter, remain exempt from real property taxes or assessments levied by the state and its subdivisions to the same extent as if not transferred. The gross receipts and income of JobsOhio derived from the enterprise acquisition project shall be exempt from taxation levied by the state and its subdivisions, including, but not limited to, the taxes levied pursuant to Chapters 718., 5739., 5741., 5747., and 5751. of the Revised Code. Any transfer from the state to JobsOhio of the enterprise acquisition project, or item included or to be included in the project, shall be exempt from the taxes levied pursuant to Chapters 5739. and 5741. of the Revised Code.

(B) The proceeds of any transfer under division (A) of this section may be expended as provided in the transfer agreement for any one or more of the following purposes:

(1) Funding, payment, or defeasance of outstanding bonds issued pursuant to Chapters 151. and 166. of the Revised Code and secured by pledged liquor profits as defined in section 151.40 of the Revised Code;

(2) Deposit into the general revenue fund;

(3) Deposit into the clean Ohio revitalization fund created pursuant to section 122.658 of the Revised Code, the innovation Ohio loan fund created pursuant to section 166.16 of the Revised Code, the research and development loan fund created pursuant to section 166.20 of the Revised Code, the logistics and distribution infrastructure fund created pursuant to section 166.26 of the Revised Code, the advanced energy research and development fund created pursuant to section 3706.27 of the Revised Code, and the advanced energy research and development taxable fund created pursuant to section 3706.27 of the Revised Code;

(4) Conveyance to JobsOhio for the purposes for which it was created.

(C)(1) The state may covenant, pledge, and agree in the transfer agreement, with and for the benefit of JobsOhio, that it shall maintain statutory authority for the enterprise acquisition project and the revenues of the enterprise acquisition project and not otherwise materially impair any obligations supported by a pledge of revenues of the enterprise acquisition project. The transfer agreement may provide or authorize the manner for determining material impairment of the security for any such outstanding obligations, including by assessing and evaluating the revenues of the enterprise acquisition project.

(2) The director of budget and management, in consultation with the director of commerce, may, without need for any other approval, negotiate

terms of any documents, including the transfer agreement, necessary to effect the transfer and the acceptance of the transfer of the enterprise acquisition project. The director of budget and management and the director of commerce shall execute the transfer agreement on behalf of the state. The director of budget and management may also, without need for any other approval, retain or contract for the services of commercial appraisers, underwriters, investment bankers, and financial advisers, as are necessary in the judgment of the director of budget and management to effect the transfer agreement. Any transfer agreement may contain terms and conditions established by the state to carry out and effectuate the purposes of this section, including, without limitation, covenants binding the state in favor of JobsOhio. Any such transfer agreement shall be sufficient to effectuate the transfer without regard to any other laws governing other property sales or financial transactions by the state. The director of budget and management may create any funds or accounts, within or without the state treasury, as are needed for the transactions and activities authorized by this section.

(3) The transfer agreement may authorize JobsOhio, in the ordinary course of doing business, to convey, lease, release, or otherwise dispose of any regular inventory or tangible personal property. Ownership of the interest in the enterprise acquisition project that is transferred to JobsOhio under this section and the transfer agreement shall be maintained in JobsOhio or a nonprofit entity the sole member of which is JobsOhio until the enterprise acquisition project is transferred back to the state pursuant to the second paragraph of division (A) and division (D) of this section.

(D) The transfer agreement may authorize JobsOhio to fix, alter, and collect rentals and other charges for the use and occupancy of all or any portion of the enterprise acquisition project and to lease any portion of the enterprise acquisition project to the state, and shall include a contract with, or the granting of an option to, the state to have the enterprise acquisition project, as it then exists, transferred back to it without charge in accordance with the terms of the transfer agreement after retirement or redemption, or provision therefor, of all obligations supported by a pledge of spirituous liquor profits.

(E) JobsOhio, the director of budget and management, and the director of commerce shall, subject to approval by the controlling board, enter into a contract, which may be part of the transfer agreement, for the continuing operation by the division of liquor control of spirituous liquor distribution and merchandising subject to standards for performance provided in that contract that may relate to or support division (C)(1) of this section. The contract shall establish other terms and conditions for the assignment of

duties to, and the provision of advice, services, and other assistance by, the division of liquor control, including providing for the necessary staffing and payment by JobsOhio of appropriate compensation to the division for the performance of such duties and the provision of such advice, services, and other assistance. The division of liquor control shall manage and actively supervise the activities required or authorized under sections 4301.10 and 4301.17 of the Revised Code as those sections exist on ~~the effective date of this section~~ September 29, 2011, including, but not limited to, controlling the traffic in intoxicating liquor in this state and fixing the wholesale and retail prices at which the various classes, varieties, and brands of spirituous liquor are sold.

(F) The transfer agreement shall require JobsOhio to pay for the operations of the division of liquor control with regard to the spirituous liquor merchandising operations of the division. The payments from JobsOhio shall be deposited into the state treasury to the credit of the liquor control operating services fund created in section 4301.12 of the Revised Code, which is hereby created in the state treasury. The fund shall be used to pay for the operations of the division specified in this division.

(G) The transaction and transfer provided for under this section shall comply with all applicable provisions of the Ohio Constitution.

Sec. 4501.01. As used in this chapter and Chapters 4503., 4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the Revised Code, and in the penal laws, except as otherwise provided:

(A) "Vehicles" means everything on wheels or runners, including motorized bicycles, but does not mean electric personal assistive mobility devices, vehicles that are operated exclusively on rails or tracks or from overhead electric trolley wires, and vehicles that belong to any police department, municipal fire department, or volunteer fire department, or that are used by such a department in the discharge of its functions.

(B) "Motor vehicle" means any vehicle, including mobile homes and recreational vehicles, that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires. "Motor vehicle" does not include utility vehicles as defined in division (VV) of this section, motorized bicycles, road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work and not designed for or employed in general highway transportation, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers that are designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of no more than ten miles

and at a speed of twenty-five miles per hour or less.

(C) "Agricultural tractor" and "traction engine" mean any self-propelling vehicle that is designed or used for drawing other vehicles or wheeled machinery, but has no provisions for carrying loads independently of such other vehicles, and that is used principally for agricultural purposes.

(D) "Commercial tractor," except as defined in division (C) of this section, means any motor vehicle that has motive power and either is designed or used for drawing other motor vehicles, or is designed or used for drawing another motor vehicle while carrying a portion of the other motor vehicle or its load, or both.

(E) "Passenger car" means any motor vehicle that is designed and used for carrying not more than nine persons and includes any motor vehicle that is designed and used for carrying not more than fifteen persons in a ridesharing arrangement.

(F) "Collector's vehicle" means any motor vehicle or agricultural tractor or traction engine that is of special interest, that has a fair market value of one hundred dollars or more, whether operable or not, and that is owned, operated, collected, preserved, restored, maintained, or used essentially as a collector's item, leisure pursuit, or investment, but not as the owner's principal means of transportation. "Licensed collector's vehicle" means a collector's vehicle, other than an agricultural tractor or traction engine, that displays current, valid license tags issued under section 4503.45 of the Revised Code, or a similar type of motor vehicle that displays current, valid license tags issued under substantially equivalent provisions in the laws of other states.

(G) "Historical motor vehicle" means any motor vehicle that is over twenty-five years old and is owned solely as a collector's item and for participation in club activities, exhibitions, tours, parades, and similar uses, but that in no event is used for general transportation.

(H) "Noncommercial motor vehicle" means any motor vehicle, including a farm truck as defined in section 4503.04 of the Revised Code, that is designed by the manufacturer to carry a load of no more than one ton and is used exclusively for purposes other than engaging in business for profit.

(I) "Bus" means any motor vehicle that has motor power and is designed and used for carrying more than nine passengers, except any motor vehicle that is designed and used for carrying not more than fifteen passengers in a ridesharing arrangement.

(J) "Commercial car" or "truck" means any motor vehicle that has motor power and is designed and used for carrying merchandise or freight, or that

is used as a commercial tractor.

(K) "Bicycle" means every device, other than a tricycle that is designed solely for use as a play vehicle by a child, that is propelled solely by human power upon which any person may ride, and that has two tandem wheels, or one wheel in front and two wheels in the rear, or two wheels in the front and one wheel in the rear, any of which is more than fourteen inches in diameter.

(L) "Motorized bicycle" means any vehicle that either has two tandem wheels or one wheel in the front and two wheels in the rear, that is capable of being pedaled, and that is equipped with a helper motor of not more than fifty cubic centimeters piston displacement that produces no more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface.

(M) "Trailer" means any vehicle without motive power that is designed or used for carrying property or persons wholly on its own structure and for being drawn by a motor vehicle, and includes any such vehicle that is formed by or operated as a combination of a semitrailer and a vehicle of the dolly type such as that commonly known as a trailer dolly, a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed greater than twenty-five miles per hour, and a vehicle that is designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of more than ten miles or at a speed of more than twenty-five miles per hour. "Trailer" does not include a manufactured home or travel trailer.

(N) "Noncommercial trailer" means any trailer, except a travel trailer or trailer that is used to transport a boat as described in division (B) of this section, but, where applicable, includes a vehicle that is used to transport a boat as described in division (M) of this section, that has a gross weight of no more than ten thousand pounds, and that is used exclusively for purposes other than engaging in business for a profit, such as the transportation of personal items for personal or recreational purposes.

(O) "Mobile home" means a building unit or assembly of closed construction that is fabricated in an off-site facility, is more than thirty-five body feet in length or, when erected on site, is three hundred twenty or more square feet, is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code or as an industrialized unit as defined in division (C)(3) of section 3781.06 of the Revised Code.

(P) "Semitrailer" means any vehicle of the trailer type that does not have

motive power and is so designed or used with another and separate motor vehicle that in operation a part of its own weight or that of its load, or both, rests upon and is carried by the other vehicle furnishing the motive power for propelling itself and the vehicle referred to in this division, and includes, for the purpose only of registration and taxation under those chapters, any vehicle of the dolly type, such as a trailer dolly, that is designed or used for the conversion of a semitrailer into a trailer.

(Q) "Recreational vehicle" means a vehicular portable structure that meets all of the following conditions:

- (1) It is designed for the sole purpose of recreational travel.
- (2) It is not used for the purpose of engaging in business for profit.
- (3) It is not used for the purpose of engaging in intrastate commerce.
- (4) It is not used for the purpose of commerce as defined in 49 C.F.R. 383.5, as amended.

(5) It is not regulated by the public utilities commission pursuant to Chapter ~~4919~~ 4905., 4921., or 4923. of the Revised Code.

(6) It is classed as one of the following:

(a) "Travel trailer" means a nonself-propelled recreational vehicle that does not exceed an overall length of thirty-five feet, exclusive of bumper and tongue or coupling, and contains less than three hundred twenty square feet of space when erected on site. "Travel trailer" includes a tent-type fold-out camping trailer as defined in section 4517.01 of the Revised Code.

(b) "Motor home" means a self-propelled recreational vehicle that has no fifth wheel and is constructed with permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping.

(c) "Truck camper" means a nonself-propelled recreational vehicle that does not have wheels for road use and is designed to be placed upon and attached to a motor vehicle. "Truck camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

(d) "Fifth wheel trailer" means a vehicle that is of such size and weight as to be movable without a special highway permit, that has a gross trailer area of four hundred square feet or less, that is constructed with a raised forward section that allows a bi-level floor plan, and that is designed to be towed by a vehicle equipped with a fifth-wheel hitch ordinarily installed in the bed of a truck.

(e) "Park trailer" means a vehicle that is commonly known as a park model recreational vehicle, meets the American national standard institute standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed

for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances.

(R) "Pneumatic tires" means tires of rubber and fabric or tires of similar material, that are inflated with air.

(S) "Solid tires" means tires of rubber or similar elastic material that are not dependent upon confined air for support of the load.

(T) "Solid tire vehicle" means any vehicle that is equipped with two or more solid tires.

(U) "Farm machinery" means all machines and tools that are used in the production, harvesting, and care of farm products, and includes trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm, agricultural tractors, threshing machinery, hay-baling machinery, corn shellers, hammermills, and machinery used in the production of horticultural, agricultural, and vegetable products.

(V) "Owner" includes any person or firm, other than a manufacturer or dealer, that has title to a motor vehicle, except that, in sections 4505.01 to 4505.19 of the Revised Code, "owner" includes in addition manufacturers and dealers.

(W) "Manufacturer" and "dealer" include all persons and firms that are regularly engaged in the business of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles, at an established place of business that is used exclusively for the purpose of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles. A place of business that is used for manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles shall be deemed to be used exclusively for those purposes even though snowmobiles or all-purpose vehicles are sold or displayed for sale thereat, even though farm machinery is sold or displayed for sale thereat, or even though repair, accessory, gasoline and oil, storage, parts, service, or paint departments are maintained thereat, or, in any county having a population of less than seventy-five thousand at the last federal census, even though a department in a place of business is used to dismantle, salvage, or rebuild motor vehicles by means of used parts, if such departments are operated for the purpose of furthering and assisting in the business of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles. Places of business or departments in a place of business used to dismantle, salvage, or rebuild motor vehicles by means of using used parts are not considered as being maintained for the purpose of assisting or furthering the manufacturing, selling, displaying, and offering for sale or dealing in motor vehicles.

(X) "Operator" includes any person who drives or operates a motor vehicle upon the public highways.

(Y) "Chauffeur" means any operator who operates a motor vehicle, other than a taxicab, as an employee for hire; or any operator whether or not the owner of a motor vehicle, other than a taxicab, who operates such vehicle for transporting, for gain, compensation, or profit, either persons or property owned by another. Any operator of a motor vehicle who is voluntarily involved in a ridesharing arrangement is not considered an employee for hire or operating such vehicle for gain, compensation, or profit.

(Z) "State" includes the territories and federal districts of the United States, and the provinces of Canada.

(AA) "Public roads and highways" for vehicles includes all public thoroughfares, bridges, and culverts.

(BB) "Manufacturer's number" means the manufacturer's original serial number that is affixed to or imprinted upon the chassis or other part of the motor vehicle.

(CC) "Motor number" means the manufacturer's original number that is affixed to or imprinted upon the engine or motor of the vehicle.

(DD) "Distributor" means any person who is authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed motor vehicle dealers at an established place of business that is used exclusively for the purpose of distributing new motor vehicles to licensed motor vehicle dealers, except when the distributor also is a new motor vehicle dealer, in which case the distributor may distribute at the location of the distributor's licensed dealership.

(EE) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of a volunteer driver and includes ridesharing arrangements known as carpools, vanpools, and buspools.

(FF) "Apportionable vehicle" means any vehicle that is used or intended for use in two or more international registration plan member jurisdictions that allocate or proportionally register vehicles, that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and that meets any of the following qualifications:

(1) Is a power unit having a gross vehicle weight in excess of twenty-six thousand pounds;

(2) Is a power unit having three or more axles, regardless of the gross vehicle weight;

(3) Is a combination vehicle with a gross vehicle weight in excess of twenty-six thousand pounds.

"Apportionable vehicle" does not include recreational vehicles, vehicles displaying restricted plates, city pick-up and delivery vehicles, buses used for the transportation of chartered parties, or vehicles owned and operated by the United States, this state, or any political subdivisions thereof.

(GG) "Chartered party" means a group of persons who contract as a group to acquire the exclusive use of a passenger-carrying motor vehicle at a fixed charge for the vehicle in accordance with the carrier's tariff, lawfully on file with the United States department of transportation, for the purpose of group travel to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after having left the place of origin.

(HH) "International registration plan" means a reciprocal agreement of member jurisdictions that is endorsed by the American association of motor vehicle administrators, and that promotes and encourages the fullest possible use of the highway system by authorizing apportioned registration of fleets of vehicles and recognizing registration of vehicles apportioned in member jurisdictions.

(II) "Restricted plate" means a license plate that has a restriction of time, geographic area, mileage, or commodity, and includes license plates issued to farm trucks under division (J) of section 4503.04 of the Revised Code.

(JJ) "Gross vehicle weight," with regard to any commercial car, trailer, semitrailer, or bus that is taxed at the rates established under section 4503.042 or 4503.65 of the Revised Code, means the unladen weight of the vehicle fully equipped plus the maximum weight of the load to be carried on the vehicle.

(KK) "Combined gross vehicle weight" with regard to any combination of a commercial car, trailer, and semitrailer, that is taxed at the rates established under section 4503.042 or 4503.65 of the Revised Code, means the total unladen weight of the combination of vehicles fully equipped plus the maximum weight of the load to be carried on that combination of vehicles.

(LL) "Chauffeured limousine" means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire on an hourly basis pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an agreement, made in advance of boarding, to provide transportation from a specific location in a chauffeured limousine at a fixed

rate per hour or trip. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing.

(MM) "Manufactured home" has the same meaning as in division (C)(4) of section 3781.06 of the Revised Code.

(NN) "Acquired situs," with respect to a manufactured home or a mobile home, means to become located in this state by the placement of the home on real property, but does not include the placement of a manufactured home or a mobile home in the inventory of a new motor vehicle dealer or the inventory of a manufacturer, remanufacturer, or distributor of manufactured or mobile homes.

(OO) "Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.

(PP) "Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

(QQ) "Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record.

(RR) "Financial transaction device" has the same meaning as in division (A) of section 113.40 of the Revised Code.

(SS) "Electronic motor vehicle dealer" means a motor vehicle dealer licensed under Chapter 4517. of the Revised Code whom the registrar of motor vehicles determines meets the criteria designated in section 4503.035 of the Revised Code for electronic motor vehicle dealers and designates as an electronic motor vehicle dealer under that section.

(TT) "Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface by an operator who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour.

(UU) "Limited driving privileges" means the privilege to operate a motor vehicle that a court grants under section 4510.021 of the Revised Code to a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended.

(VV) "Utility vehicle" means a self-propelled vehicle designed with a bed, principally for the purpose of transporting material or cargo in connection with construction, agricultural, forestry, grounds maintenance, lawn and garden, materials handling, or similar activities. "Utility vehicle" includes a vehicle with a maximum attainable speed of twenty miles per

hour or less that is used exclusively within the boundaries of state parks by state park employees or volunteers for the operation or maintenance of state park facilities.

Sec. 4501.06. The taxes, fees, and fines levied, charged, or referred to in division (O) of section 4503.04, division (E) of section 4503.042, division (B) of section 4503.07, division (C)(1) of section 4503.10, division (D) of section 4503.182, division (A) of section 4503.19, division (D)(2) of section 4507.24, division (A) of section 4508.06, and sections 4503.40, 4503.42, 4505.11, 4505.111, 4506.08, 4506.09, 4507.23, 4508.05, 4923.12, and 5502.12 of the Revised Code, and the taxes charged in section 4503.65 that are distributed in accordance with division (A)(2) of section 4501.044 of the Revised Code unless otherwise designated by law, shall be deposited in the state treasury to the credit of the state highway safety fund, which is hereby created, and shall, after receipt of certifications from the commissioners of the sinking fund certifying that there are sufficient moneys to the credit of the highway obligations bond retirement fund created by section 5528.32 of the Revised Code to meet in full all payments of interest, principal, and charges for the retirement of highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code due and payable during the current calendar year, be used for the purpose of enforcing and paying the expenses of administering the law relative to the registration and operation of motor vehicles on the public roads or highways. Amounts credited to the fund may also be used to pay the expenses of administering and enforcing the laws under which such fees were collected. All investment earnings of the state highway safety fund shall be credited to the fund.

Sec. 4501.271. (A)(1) A peace officer, correctional employee, or youth services employee may file a written request with the bureau of motor vehicles to do either or both of the following:

(a) Prohibit disclosure of the officer's or employee's residence address as contained in motor vehicle records of the bureau;

(b) Provide a business address to be displayed on the officer's or employee's driver's license or certificate of registration, or both.

(2) The officer or employee shall file the request described in division (A)(1) of this section on a form provided by the registrar of motor vehicles and shall provide any documentary evidence verifying the person's status as a peace officer, correctional employee, or youth services employee and the officer's or employee's business address that the registrar requires pursuant to division (G) of this section.

(B)(1) Except as provided in division (C) of this section, if a peace

officer, correctional employee, or youth services employee has filed a request under division (A) of this section, neither the registrar nor an employee or contractor of the bureau of motor vehicles shall knowingly disclose the residence address of the officer or employee that the bureau obtained in connection with a motor vehicle record.

(2) In accordance with section 149.43 of the Revised Code, the registrar or an employee or contractor of the bureau shall make available for inspection or copying a motor vehicle record of a peace officer, correctional employee, or youth services employee who has filed a request under division (A) of this section if the record is a public record under that section, but shall obliterate the residence address of the officer or employee from the record before making the record available for inspection or copying. The business address of the officer or employee may be made available in response to a valid request under section 149.43 of the Revised Code.

(C) Notwithstanding division (B)(2) of section 4501.27 of the Revised Code, the registrar or an employee or contractor of the bureau may disclose the residence address of a peace officer, correctional employee, or youth services employee who files a request under division (A) of this section only in accordance with division (B)(1) of section 4501.27 of the Revised Code or pursuant to a court order.

(D) If a peace officer, correctional employee, or youth services employee files a request under division (A)(1)(b) of this section, the officer shall still provide a residence address in any application for a driver's license or license renewal and in any application for a motor vehicle registration or registration renewal. In accordance with sections 4503.101 and 4507.09 of the Revised Code, an officer or employee shall notify the registrar of any change in the officer's or employee's residence within ten days after the change occurs.

(E) A certificate of registration issued to a peace officer, correctional employee, or youth services employee who files a request under division (A)(1)(b) of this section shall display the business address of the officer. Notwithstanding section 4507.13 of the Revised Code, a driver's license issued to an officer or employee who files a request under division (A)(1)(b) of this section shall display the business address of the officer or employee.

(F) The registrar may utilize the residence address of a peace officer, correctional employee, or youth services employee who files a request under division (A)(1)(b) of this section in carrying out the functions of the bureau of motor vehicles, including determining the district of registration for any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, determining whether tailpipe emissions inspections are required, and

financial responsibility verification.

(G) The registrar shall adopt rules governing a request for confidentiality of a peace officer's, correctional employee's, or youth services employee's residence address or use of a business address, including the documentary evidence required to verify the person's status as a peace officer, correctional employee, or youth services employee, the length of time that the request will be valid, procedures for ensuring that the bureau of motor vehicles receives notice of any change in a person's status as a peace officer, correctional employee, or youth services employee, and any other procedures the registrar considers necessary. The rules of the registrar may require an officer or employee to surrender any certificate of registration and any driver's license bearing the business address of the officer or employee and, upon payment of any applicable fees, to receive a certificate of registration and license bearing the officer's or employee's residence address, whenever the officer or employee no longer is associated with that business address.

(H) As used in this section:

(1) "Motor vehicle record" has the same meaning as in section 4501.27 of the Revised Code.

(2) "Peace officer" means those persons described in division (A)(1), (2), (4), (5), (6), (9), (10), (12), (13), or (15) of section 109.71 of the Revised Code, an officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority, an investigator of the bureau of criminal identification and investigation as defined in section 2903.11 of the Revised Code, the house sergeant at arms appointed under division (B)(1) of section 101.311 of the Revised Code, ~~and any assistant sergeant at arms appointed under division (C)(1) of section 101.311 of the Revised Code, the senate~~ sergeant at arms, and an assistant senate sergeant at arms. "Peace officer" includes state highway patrol troopers but does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

(3) "Correctional employee" and "youth services employee" have the same meanings as in section 149.43 of the Revised Code.

Sec. 4503.031. (A)(1) If the registrar of motor vehicles determines that space is available at a deputy registrar's office, the clerk of the court of common pleas in the county where the deputy is located shall be given the

opportunity to use the space for the purpose of carrying out the clerk's duties related to the titling of motor vehicles. Each clerk of the court of common pleas using space in a deputy registrar's office shall remit to the deputy a rental fee equal to the percentage of space occupied by the clerk in the deputy's office multiplied by the rental fee or mortgage cost paid for the entire deputy registrar's office plus a pro rata share of all utility costs.

(2) If the clerk of the court of common pleas determines that space is available at any location at which the clerk has an office, the clerk shall inform the registrar of that fact and shall provide the registrar with all pertinent information about the available space. After giving due consideration to the locations of deputy registrar offices existing in the county in which the clerk of the court of common pleas is located, the registrar shall inform the appropriate deputy registrars, if any, of the available space of the clerk of the court of common pleas. Each such deputy registrar shall be given the opportunity to use the space for the purpose of carrying out the deputy registrar's duties. Each deputy registrar using space in the office of the clerk of a court of common pleas shall remit to the clerk a rental fee equal to the percentage of space occupied by the deputy registrar in the clerk's office multiplied by the rental fee or mortgage cost, if any, paid for the entire clerk's office plus a pro rata share of all utility costs.

If no current deputy registrar elects to utilize the available space of the clerk of the court of common pleas, the registrar shall inform all persons who express an interest to the registrar in becoming a deputy registrar in that county of the available space of the clerk if the space in fact continues to be available.

(3) A clerk of the court of common pleas and a deputy registrar may elect to occupy a location at which neither the clerk nor the deputy currently is an occupant. Any such arrangement is subject to the approval of the registrar, who shall give due consideration to all issues and aspects of the proposed arrangement, including security at the location and service to the public.

(B) The When possible, as determined by the director of public safety ~~and the registrar and the superintendent of the state highway patrol shall cooperate to the fullest extent possible in locating,~~ a driver's license examination station shall be located at or near a deputy registrar's office. For each driver's license examination station located at a deputy registrar's office, the ~~superintendent of the state highway patrol~~ director shall remit to the deputy a rental fee equal to the percentage of space occupied for the driver's license examination station multiplied by the rental fee or mortgage cost paid for the entire deputy registrar's office plus a pro rata share of all

utility costs.

(C) During the regular business hours of deputy registrars, the registrar shall keep the central office open and sufficiently staffed to be able to respond to the technical needs of the deputies.

(D) The registrar shall adopt rules to promote public information regarding motor vehicle registration. The rules shall include:

(1) The operation by the registrar, during the regular business hours of deputy registrars, of a toll-free telephone number to give information and receive complaints;

(2) The listing by the registrar, of each deputy registrar, together with the toll-free telephone number required under division (D)(1) of this section, in the local business and advertising telephone directory for the area served by the deputy, under the heading of the bureau of motor vehicles.

Sec. 4503.061. (A) All manufactured and mobile homes shall be listed on either the real property tax list or the manufactured home tax list of the county in which the home has situs. Each owner shall follow the procedures in this section to identify the home to the county auditor of the county containing the taxing district in which the home has situs so that the auditor may place the home on the appropriate tax list.

(B) When a manufactured or mobile home first acquires situs in this state and is subject to real property taxation pursuant to division (B)(1) or (2) of section 4503.06 of the Revised Code, the owner shall present to the auditor of the county containing the taxing district in which the home has its situs the certificate of title for the home, together with proof that all taxes due have been paid and proof that a relocation notice was obtained for the home if required under this section. Upon receiving the certificate of title and the required proofs, the auditor shall place the home on the real property tax list and proceed to treat the home as other properties on that list. After the auditor has placed the home on the tax list of real and public utility property, the auditor shall deliver the certificate of title to the clerk of the court of common pleas that issued it pursuant to section 4505.11 of the Revised Code, and the clerk shall inactivate the certificate of title.

(C)(1) When a manufactured or mobile home subject to a manufactured home tax is relocated to or first acquires situs in any county that has adopted a permanent manufactured home registration system, as provided in division (F) of this section, the owner, within thirty days after the home is relocated or first acquires situs under section 4503.06 of the Revised Code, shall register the home with the county auditor of the county containing the taxing district in which the home has its situs. For the first registration in each county of situs, the owner or vendee in possession shall present to the

county auditor an Ohio certificate of title, certified copy of the certificate of title, or memorandum certificate of title as such are required by law, and proof, as required by the county auditor, that the home, if it has previously been occupied and is being relocated, has been previously registered, that all taxes due and required to be paid under division (H)(1) of this section before a relocation notice may be issued have been paid, and that a relocation notice was obtained for the home if required by division (H) of this section. If the owner or vendee does not possess the Ohio certificate of title, certified copy of the certificate of title, or memorandum certificate of title at the time the owner or vendee first registers the home in a county, the county auditor shall register the home without presentation of the document, but the owner or vendee shall present the certificate of title, certified copy of the certificate of title, or memorandum certificate of title to the county auditor within fourteen days after the owner or vendee obtains possession of the document.

(2) When a manufactured or mobile home is registered for the first time in a county and when the total tax due has been paid as required by division (F) of section 4503.06 of the Revised Code or divisions (E) and (H) of this section, the county treasurer shall note by writing or by a stamp on the certificate of title, certified copy of certificate of title, or memorandum certificate of title that the home has been registered and that the taxes due, if any, have been paid for the preceding five years and for the current year. The treasurer shall then issue a certificate evidencing registration and a decal to be displayed on the street side of the home. The certificate is valid in any county in this state during the year for which it is issued.

(3) For each year thereafter, the county treasurer shall issue a tax bill stating the amount of tax due under section 4503.06 of the Revised Code, as provided in division (D)(6) of that section. When the total tax due has been paid as required by division (F) of that section, the county treasurer shall issue a certificate evidencing registration that shall be valid in any county in this state during the year for which the certificate is issued.

(4) The permanent decal issued under this division is valid during the period of ownership, except that when a manufactured home is relocated in another county the owner shall apply for a new registration as required by this section and section 4503.06 of the Revised Code.

(D)(1) All owners of manufactured or mobile homes subject to the manufactured home tax being relocated to or having situs in a county that has not adopted a permanent registration system, as provided in division (F) of this section, shall register the home within thirty days after the home is relocated or first acquires situs under section 4503.06 of the Revised Code and thereafter shall annually register the home with the county auditor of the

county containing the taxing district in which the home has its situs.

(2) Upon the annual registration, the county treasurer shall issue a tax bill stating the amount of annual manufactured home tax due under section 4503.06 of the Revised Code, as provided in division (D)(6) of that section. When a manufactured or mobile home is registered and when the tax for the current one-half year has been paid as required by division (F) of that section, the county treasurer shall issue a certificate evidencing registration and a decal. The certificate and decal are valid in any county in this state during the year for which they are issued. The decal shall be displayed on the street side of the home.

(3) For the first annual registration in each county of situs, the county auditor shall require the owner or vendee to present an Ohio certificate of title, certified copy of the certificate of title, or memorandum certificate of title as such are required by law, and proof, as required by the county auditor, that the manufactured or mobile home has been previously registered, if such registration was required, that all taxes due and required to be paid under division (H)(1) of this section before a relocation notice may be issued have been paid, and that a relocation notice was obtained for the home if required by division (H) of this section. If the owner or vendee does not possess the Ohio certificate of title, certified copy of the certificate of title, or memorandum certificate of title at the time the owner or vendee first registers the home in a county, the county auditor shall register the home without presentation of the document, but the owner or vendee shall present the certificate of title, certified copy of the certificate of title, or memorandum certificate of title to the county auditor within fourteen days after the owner or vendee obtains possession of the document. When the county treasurer receives the tax payment, the county treasurer shall note by writing or by a stamp on the certificate of title, certified copy of the certificate of title, or memorandum certificate of title that the home has been registered for the current year and that the manufactured home taxes due, if any, have been paid for the preceding five years and for the current year.

(4) For subsequent annual registrations, the auditor may require the owner or vendee in possession to present an Ohio certificate of title, certified copy of the certificate of title, or memorandum certificate of title to the county treasurer upon payment of the manufactured home tax that is due.

(E)(1) Upon the application to transfer ownership of a manufactured or mobile home for which manufactured home taxes are paid pursuant to division (C) of section 4503.06 of the Revised Code the clerk of the court of common pleas shall not issue any certificate of title that does not contain or have attached both of the following:

(a) An endorsement of the county treasurer stating that the home has been registered for each year of ownership and that all manufactured home taxes imposed pursuant to section 4503.06 of the Revised Code have been paid or that no tax is due;

(b) An endorsement of the county auditor that the manufactured home transfer tax imposed pursuant to section 322.06 of the Revised Code and any fees imposed under division (G) of section 319.54 of the Revised Code have been paid.

(2) If all the taxes have not been paid, the clerk shall notify the vendee to contact the county treasurer of the county containing the taxing district in which the home has its situs at the time of the proposed transfer. The county treasurer shall then collect all the taxes that are due for the year of the transfer and all previous years not exceeding a total of five years. The county treasurer shall distribute that part of the collection owed to the county treasurer of other counties if the home had its situs in another county during a particular year when the unpaid tax became due and payable. The burden to prove the situs of the home in the years that the taxes were not paid is on the transferor of the home. Upon payment of the taxes, the county auditor shall remove all remaining taxes from the manufactured home tax list and the delinquent manufactured home tax list, and the county treasurer shall release all liens for such taxes. The clerk of courts shall issue a certificate of title, free and clear of all liens for manufactured home taxes, to the transferee of the home.

(3) Once the transfer is complete and the certificate of title has been issued, the transferee shall register the manufactured or mobile home pursuant to division (C) or (D) of this section with the county auditor of the county containing the taxing district in which the home remains after the transfer or, if the home is relocated to another county, with the county auditor of the county to which the home is relocated. The transferee need not pay the annual tax for the year of acquisition if the original owner has already paid the annual tax for that year.

(F) The county auditor may adopt a permanent registration system and issue a permanent decal with the first registration as prescribed by the tax commissioner.

(G) When any manufactured or mobile home required to be registered by this section is not registered, the county auditor shall impose a penalty of one hundred dollars upon the owner and deposit the amount to the credit of the county real estate assessment fund to be used to pay the costs of administering this section and section 4503.06 of the Revised Code. If unpaid, the penalty shall constitute a lien on the home and shall be added by

the county auditor to the manufactured home tax list for collection.

(H)(1) Except as otherwise provided in this division, before moving a manufactured or mobile home on public roads from one address within this state to another address within or outside this state, the owner of the home shall obtain a relocation notice, as provided by this section, from the auditor of the county in which the home is located if the home is currently subject to taxation pursuant to section 4503.06 of the Revised Code. The auditor shall charge five dollars for the notice, and deposit the amount to the credit of the county real estate assessment fund to be used to pay the costs of administering this section and section 4503.06 of the Revised Code. The auditor shall not issue a relocation notice unless all taxes owed on the home under section 4503.06 of the Revised Code that were first charged to the home during the period of ownership of the owner seeking the relocation notice have been paid. If the home is being moved by a new owner of the home or by a party taking repossession of the home, the auditor shall not issue a relocation notice unless all of the taxes due for the preceding five years and for the current year have been paid. A relocation notice issued by a county auditor is valid until the last day of December of the year in which it was issued.

If the home is being moved by a sheriff, police officer, constable, bailiff, or manufactured home park operator, as defined in section ~~3733.01~~ 4781.01 of the Revised Code, or any agent of any of these persons, for purposes of removal from a manufactured home park and storage, sale, or destruction under section 1923.14 of the Revised Code, the auditor shall issue a relocation notice without requiring payment of any taxes owed on the home under section 4503.06 of the Revised Code.

(2) If a manufactured or mobile home is not yet subject to taxation under section 4503.06 of the Revised Code, the owner of the home shall obtain a relocation notice from the dealer of the home. Within thirty days after the manufactured or mobile home is purchased, the dealer of the home shall provide the auditor of the county in which the home is to be located written notice of the name of the purchaser of the home, the registration number or vehicle identification number of the home, and the address or location to which the home is to be moved. The county auditor shall provide to each manufactured and mobile home dealer, without charge, a supply of relocation notices to be distributed to purchasers pursuant to this section.

(3) The notice shall be in the form of a one-foot square yellow sign with the words "manufactured home relocation notice" printed prominently on it. The name of the owner of the home, the home's registration number or vehicle identification number, the county and the address or location to

which the home is being moved, and the county in which the notice is issued shall also be entered on the notice.

(4) The relocation notice must be attached to the rear of the home when the home is being moved on a public road. Except as provided in divisions (H)(1) and (5) of this section, no person shall drive a motor vehicle moving a manufactured or mobile home on a public road from one address to another address within this state unless a relocation notice is attached to the rear of the home.

(5) If the county auditor determines that a manufactured or mobile home has been moved without a relocation notice as required under this division, the auditor shall impose a penalty of one hundred dollars upon the owner of the home and upon the person who moved the home and deposit the amount to the credit of the county real estate assessment fund to pay the costs of administering this section and section 4503.06 of the Revised Code. If the home was relocated from one county in this state to another county in this state and the county auditor of the county to which the home was relocated imposes the penalty, that county auditor, upon collection of the penalty, shall cause an amount equal to the penalty to be transmitted from the county real estate assessment fund to the county auditor of the county from which the home was relocated, who shall deposit the amount to the credit of the county real estate assessment fund. If the penalty on the owner is unpaid, the penalty shall constitute a lien on the home and the auditor shall add the penalty to the manufactured home tax list for collection. If the county auditor determines that a dealer that has sold a manufactured or mobile home has failed to timely provide the information required under this division, the auditor shall impose a penalty upon the dealer in the amount of one hundred dollars. The penalty shall be credited to the county real estate assessment fund and used to pay the costs of administering this section and section 4503.06 of the Revised Code.

(I) Whoever violates division (H)(4) of this section is guilty of a minor misdemeanor.

Sec. 4503.062. (A) Every operator of a manufactured home court, or manufactured home park, as defined in section ~~3733.04~~ 4781.01 of the Revised Code, or when there is no operator, every owner of property used for such purposes on which three or more manufactured or mobile homes are located, shall keep a register of all manufactured and mobile homes that make use of the court, park, or property. The register shall contain all of the following:

- (1) The name of the owner and all inhabitants of each home;
- (2) The ages of all inhabitants of each home;

(3) The permanent and temporary post office addresses of all inhabitants of each home;

(4) The license number of each home;

(5) The state issuing each such license;

(6) The date of arrival and of departure of each home;

(7) The make and model of each home, if known and if either of the following applies:

(a) The home enters the court, park, or property on or after January 1, 2003.

(b) Ownership of the home in the court or park, or on the property, is transferred on or after January 1, 2003.

(B) The register shall be open to inspection by the county auditor, the county treasurer, agents of the auditor or treasurer, and all law enforcement agencies at all times.

(C) Any person who fails to comply with this section shall be fined not less than twenty-five nor more than one hundred dollars.

Sec. 4503.81. As used in the bus taxation proration and reciprocity agreement authorized by section 4503.80 of the Revised Code, with reference to Ohio, "administrator" means the registrar of motor vehicles.

The registrar may make such exemptions from the coverage of the agreement as may be appropriate and may make such changes in methods for the reporting of any information required to be furnished to this state pursuant to the agreement as, in ~~his~~ the registrar's judgment, are suitable; provided that any such exemptions or changes shall not be contrary to the purposes set forth in article I of the agreement and shall be made in order to permit the continuance of uniformity of practice among the contracting states with respect to buses. Any such exemption or change shall be made by rule adopted under Chapter 119. of the Revised Code. Unless otherwise provided in any statute withdrawing this state from participation in the agreement, the governor shall be the officer to give notice of withdrawal therefrom.

The fees referred to in article IV (a) of the agreement shall include the fees provided in section 4503.04 of the Revised Code and the annual tax provided in section ~~4921.18~~ 4921.19 of the Revised Code. As to the state of Ohio, article V (d) shall mean that all fleets not subject to this compact shall continue to enjoy that reciprocity and those privileges extended by virtue of other provisions of the Revised Code.

Nothing contained herein shall be construed so as to permit a fleet which is prorating under the laws of another state to avoid proration under this compact.

The registrar of motor vehicles shall collect a fee of two dollars per bus for every bus registered under the provisions of article IV (a) for administration of the agreement, in addition to the fees provided in article IV (a).

The registrar of motor vehicles shall assess the operator of buses registered under the provisions of article IV (a) the actual cost of ~~his~~ the registrar's auditing the accuracy of the fees paid by the operator in accordance with article IV (a).

The registrar of motor vehicles may renounce the participation of this state in the bus taxation proration and reciprocity agreement under article VI of section 4503.80 of the Revised Code, ~~if he finds~~ after finding that further participation in the compact is not in the best interests of the state. The registrar shall set forth ~~his~~ the registrar's reasons in writing and serve notice of intention to renounce the compact upon the owner of each registered fleet. ~~He~~ The registrar shall then certify the renunciation to the governor.

Sec. 4506.01. As used in this chapter:

(A) "Alcohol concentration" means the concentration of alcohol in a person's blood, breath, or urine. When expressed as a percentage, it means grams of alcohol per the following:

(1) One hundred milliliters of whole blood, blood serum, or blood plasma;

(2) Two hundred ten liters of breath;

(3) One hundred milliliters of urine.

(B) "Commercial driver's license" means a license issued in accordance with this chapter that authorizes an individual to drive a commercial motor vehicle.

(C) "Commercial driver's license information system" means the information system established pursuant to the requirements of the "Commercial Motor Vehicle Safety Act of 1986," 100 Stat. 3207-171, 49 U.S.C.A. App. 2701.

(D) Except when used in section 4506.25 of the Revised Code, "commercial motor vehicle" means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:

(1) Any combination of vehicles with a combined gross vehicle weight rating of twenty-six thousand one pounds or more, provided the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of ten thousand pounds;

(2) Any single vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more, or any such vehicle towing a vehicle having a gross vehicle weight rating that is not in excess of ten thousand pounds;

(3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport sixteen or more passengers including the driver;

(4) Any school bus with a gross vehicle weight rating of less than twenty-six thousand one pounds that is designed to transport fewer than sixteen passengers including the driver;

(5) Is transporting hazardous materials for which placarding is required under subpart F of 49 C.F.R. part 172, as amended;

(6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the federal motor carrier safety administration to be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells, and a portable crane.

(E) "Controlled substance" means all of the following:

(1) Any substance classified as a controlled substance under the "Controlled Substances Act," 80 Stat. 1242 (1970), 21 U.S.C.A. 802(6), as amended;

(2) Any substance included in schedules I through V of 21 C.F.R. part 1308, as amended;

(3) Any drug of abuse.

(F) "Conviction" means an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(G) "Disqualification" means any of the following:

(1) The suspension, revocation, or cancellation of a person's privileges to operate a commercial motor vehicle;

(2) Any withdrawal of a person's privileges to operate a commercial motor vehicle as the result of a violation of state or local law relating to motor vehicle traffic control other than parking, vehicle weight, or vehicle defect violations;

(3) A determination by the federal motor carrier safety administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. 391.

(H) "Downgrade" means any of the following, as applicable:

(1) A change in the commercial driver's license holder's self-certified

status as described in division (A)(2) of section 4506.10 of the Revised Code;

(2) A change to a lesser class of vehicle;

(3) Removal of commercial driver's license privileges from the individual's driver's license.

(I) "Drive" means to drive, operate, or be in physical control of a motor vehicle.

(J) "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle or is required to have a commercial driver's license.

(K) "Driver's license" means a license issued by the bureau of motor vehicles that authorizes an individual to drive.

(L) "Drug of abuse" means any controlled substance, dangerous drug as defined in section 4729.01 of the Revised Code, or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes.

(M) "Electronic device" includes a cellular telephone, a personal digital assistant, a pager, a computer, and any other device used to input, write, send, receive, or read text.

(N) "Eligible unit of local government" means a village, township, or county that has a population of not more than three thousand persons according to the most recent federal census.

(O) "Employer" means any person, including the federal government, any state, and a political subdivision of any state, that owns or leases a commercial motor vehicle or assigns a person to drive such a motor vehicle.

(P) "Endorsement" means an authorization on a person's commercial driver's license that is required to permit the person to operate a specified type of commercial motor vehicle.

(Q) "Farm truck" means a truck controlled and operated by a farmer for use in the transportation to or from a farm, for a distance of not more than one hundred fifty miles, of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm, from a distance of not more than one hundred fifty miles, of supplies for the farm, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production, and livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of the farm, when the truck is operated in accordance with this division and is not used in the operations of a ~~motor transportation company or private motor carrier~~, as defined in section 4923.01 of the Revised Code.

(R) "Fatality" means the death of a person as the result of a motor vehicle accident occurring not more than three hundred sixty-five days prior to the date of death.

(S) "Felony" means any offense under federal or state law that is punishable by death or specifically classified as a felony under the law of this state, regardless of the penalty that may be imposed.

(T) "Foreign jurisdiction" means any jurisdiction other than a state.

(U) "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. The gross vehicle weight rating of a combination vehicle is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of each towed unit.

(V) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73, as amended.

(W) "Imminent hazard" means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.

(X) "Medical variance" means one of the following received by a driver from the federal motor carrier safety administration that allows the driver to be issued a medical certificate:

(1) An exemption letter permitting operation of a commercial motor vehicle under 49 C.F.R. 381, subpart C or 49 C.F.R. 391.64;

(2) A skill performance evaluation certificate permitting operation of a commercial motor vehicle pursuant to 49 C.F.R. 391.49.

(Y) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, except that such term does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(Z) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, local, Canadian, or Mexican jurisdiction declaring that a driver, commercial motor vehicle, or commercial motor carrier operation is out of service as defined in 49 C.F.R. 390.5.

(AA) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(BB) "Portable tank" means a liquid or gaseous packaging designed primarily to be loaded onto or temporarily attached to a vehicle and equipped with skids, mountings, or accessories to facilitate handling of the tank by mechanical means.

(CC) "Public safety vehicle" has the same meaning as in divisions (E)(1) and (3) of section 4511.01 of the Revised Code.

(DD) "Recreational vehicle" includes every vehicle that is defined as a recreational vehicle in section 4501.01 of the Revised Code and is used exclusively for purposes other than engaging in business for profit.

(EE) "Residence" means any person's residence determined in accordance with standards prescribed in rules adopted by the registrar.

(FF) "School bus" has the same meaning as in section 4511.01 of the Revised Code.

(GG) "Serious traffic violation" means any of the following:

(1) A conviction arising from a single charge of operating a commercial motor vehicle in violation of any provision of section 4506.03 of the Revised Code;

(2) A violation while operating a commercial motor vehicle of a law of this state, or any municipal ordinance or county or township resolution prohibiting texting while driving, or any other substantially similar law of another state or political subdivision of another state;

(3) A conviction arising from the operation of any motor vehicle that involves any of the following:

(a) A single charge of any speed in excess of the posted speed limit by fifteen miles per hour or more;

(b) Violation of section 4511.20 or 4511.201 of the Revised Code or any similar ordinance or resolution, or of any similar law of another state or political subdivision of another state;

(c) Violation of a law of this state or an ordinance or resolution relating to traffic control, other than a parking violation, or of any similar law of another state or political subdivision of another state, that results in a fatal accident;

(d) Violation of section 4506.03 of the Revised Code or a substantially similar municipal ordinance or county or township resolution, or of any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license with the proper class or endorsement for the specific vehicle group being operated or for the passengers or type of cargo being transported;

(e) Violation of section 4506.03 of the Revised Code or a substantially

similar municipal ordinance or county or township resolution, or of any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license being in the person's possession;

(f) Violation of section 4511.33 or 4511.34 of the Revised Code, or any municipal ordinance or county or township resolution substantially similar to either of those sections, or any substantially similar law of another state or political subdivision of another state;

(g) Violation of any other law of this state or an ordinance or resolution relating to traffic control, other than a parking violation, that is determined to be a serious traffic violation by the United States secretary of transportation and the director designates as such by rule.

(HH) "State" means a state of the United States and includes the District of Columbia.

(II) "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid and has a maximum capacity greater than one hundred nineteen gallons or is designed to transport gaseous materials and has a water capacity greater than one thousand pounds within a tank that is either permanently or temporarily attached to the vehicle or its chassis. "Tank vehicle" does not include any of the following:

(1) Any portable tank having a rated capacity of less than one thousand gallons;

(2) Tanks used exclusively as a fuel tank for the motor vehicle to which it is attached;

(3) An empty storage container tank that is not designed for transportation and that is readily distinguishable from a transportation tank;

(4) Ready-mix concrete mixers.

(JJ) "Tester" means a person or entity acting pursuant to a valid agreement entered into pursuant to division (B) of section 4506.09 of the Revised Code.

(KK) "Texting" means manually entering alphanumeric text into, or reading text from, an electronic device. Texting includes short message service, e-mail, instant messaging, a command or request to access a world wide web page, or engaging in any other form of electronic text retrieval or entry, for present or future communication. Texting does not include the following:

(1) Reading, selecting, or entering a telephone number, an extension number, or voicemail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone call or using voice commands to initiate or receive a telephone call;

(2) Inputting, selecting, or reading information on a global positioning system or navigation system.

(LL) "Texting while driving" means texting while operating a commercial motor vehicle, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays, but does not include operating a commercial motor vehicle with or without the motor running when the driver has moved the vehicle to the side of, or off, a highway and is stopped in a location where the vehicle can safely remain stationary.

(MM) "United States" means the fifty states and the District of Columbia.

(NN) "Upgrade" means a change in the class of vehicles, endorsements, or self-certified status as described in division (A)(2) of section 4506.10 of the Revised Code, that expands the ability of a current commercial driver's license holder to operate commercial motor vehicles under this chapter;

(OO) "Vehicle" has the same meaning as in section 4511.01 of the Revised Code.

Sec. 4506.03. (A) Except as provided in divisions (B) and (C) of this section, the following shall apply:

(1) No person shall drive a commercial motor vehicle on a highway in this state unless the person holds, and has in the person's possession, a valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by the registrar of motor vehicles, a valid examiner's commercial driving permit issued under section 4506.13 of the Revised Code, a valid restricted commercial driver's license and waiver for farm-related service industries issued under section 4506.24 of the Revised Code, or a valid commercial driver's license temporary instruction permit issued by the registrar and is accompanied by an authorized state driver's license examiner or tester or a person who has been issued and has in the person's immediate possession a current, valid commercial driver's license with proper endorsements for the motor vehicle being driven.

(2) No person shall be issued a commercial driver's license until the person surrenders to the registrar of motor vehicles all valid licenses issued to the person by another jurisdiction recognized by this state. The registrar shall report the surrender of a license to the issuing authority, together with information that a license is now issued in this state. The registrar shall destroy any such license that is not returned to the issuing authority.

(3) No person who has been a resident of this state for thirty days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

(B) Nothing in division (A) of this section applies to any qualified person when engaged in the operation of any of the following:

- (1) A farm truck;
- (2) Fire equipment for a fire department, volunteer or nonvolunteer fire company, fire district, or joint fire district;
- (3) A public safety vehicle used to provide transportation or emergency medical service for ill or injured persons;

(4) A recreational vehicle;

(5) A commercial motor vehicle within the boundaries of an eligible unit of local government, if the person is employed by the eligible unit of local government and is operating the commercial motor vehicle for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, but only if either the employee who holds a commercial driver's license issued under this chapter and ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle, or the employing eligible unit of local government determines that a snow or ice emergency exists that requires additional assistance;

(6) A vehicle operated for military purposes by any member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio national guard. This exception does not apply to United States reserve technicians.

(7) A commercial motor vehicle that is operated for nonbusiness purposes. "Operated for nonbusiness purposes" means that the commercial motor vehicle is not used in commerce as "commerce" is defined in 49 C.F.R. 383.5, as amended, and is not regulated by the public utilities commission pursuant to Chapter ~~4919~~ 4905, 4921., or 4923. of the Revised Code.

(8) A motor vehicle that is designed primarily for the transportation of goods and not persons, while that motor vehicle is being used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise;

(9) A police SWAT team vehicle;

(10) A police vehicle used to transport prisoners.

(C) Nothing contained in division (B)(5) of this section shall be construed as preempting or superseding any law, rule, or regulation of this state concerning the safe operation of commercial motor vehicles.

(D) Whoever violates this section is guilty of a misdemeanor of the first degree.

Sec. 4506.22. (A) The director of public safety and the registrar of motor vehicles, subject to approval by the director, may, in accordance with

Chapter 119. of the Revised Code, adopt any rules necessary to carry out this chapter.

(B) The department of public safety may do all of the following:

(1) Enter into or make any agreements, arrangements, or declarations necessary to carry out this chapter;

(2) Charge a fee for all publications that is equal to the cost of printing the publications.

(C) Nothing in this chapter shall be construed to restrict the authority of the public utilities commission specified in Chapters 4905., 4921., and 4923. of the Revised Code regarding safety rules applicable to motor carriers.

Sec. 4506.25. (A) As used in this section, "commercial motor vehicle" means any self-propelled or towed vehicle used on public highways in intrastate or interstate commerce to transport passengers or property that meets any of the following specifications:

(1) The vehicle has a gross vehicle weight rating or gross combination weight rating of ten thousand one pounds or more.

(2) The vehicle is designed to transport sixteen or more passengers, including the driver.

(3) The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under the regulations issued by the United States secretary of transportation under the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as amended.

(B) The registrar of motor vehicles shall disqualify any person from operating a commercial motor vehicle who receives a notice of a conviction for violation of an out-of-service order issued under rules of the public utilities commission adopted pursuant to ~~section 4919.79, 4921.04~~ Chapter 4905., 4921., or 4923.20 4923. of the Revised Code, or a conviction for a violation of the same or similar laws of another state or jurisdiction applicable to vehicles in regulated commerce.

Sec. 4507.01. (A) As used in this chapter, "motor vehicle," "motorized bicycle," "state," "owner," "operator," "chauffeur," and "highways" have the same meanings as in section 4501.01 of the Revised Code.

"Driver's license" means a class D license issued to any person to operate a motor vehicle or motor-driven cycle, other than a commercial motor vehicle, and includes "probationary license," "restricted license," and any operator's or chauffeur's license issued before January 1, 1990.

"Probationary license" means the license issued to any person between sixteen and eighteen years of age to operate a motor vehicle.

"Restricted license" means the license issued to any person to operate a motor vehicle subject to conditions or restrictions imposed by the registrar

of motor vehicles.

"Commercial driver's license" means the license issued to a person under Chapter 4506. of the Revised Code to operate a commercial motor vehicle.

"Commercial motor vehicle" has the same meaning as in section 4506.01 of the Revised Code.

"Motorized bicycle license" means the license issued under section 4511.521 of the Revised Code to any person to operate a motorized bicycle including a "probationary motorized bicycle license."

"Probationary motorized bicycle license" means the license issued under section 4511.521 of the Revised Code to any person between fourteen and sixteen years of age to operate a motorized bicycle.

"Identification card" means a card issued under sections 4507.50 and 4507.51 of the Revised Code.

"Resident" means a person who, in accordance with standards prescribed in rules adopted by the registrar, resides in this state on a permanent basis.

"Temporary resident" means a person who, in accordance with standards prescribed in rules adopted by the registrar, resides in this state on a temporary basis.

(B) In the administration of this chapter and Chapter 4506. of the Revised Code, the registrar has the same authority as is conferred on the registrar by section 4501.02 of the Revised Code. Any act of an authorized deputy registrar of motor vehicles under direction of the registrar is deemed the act of the registrar.

To carry out this chapter, the registrar shall appoint such deputy registrars in each county as are necessary.

The registrar also shall provide at each place where an application for a driver's or commercial driver's license or identification card may be made the necessary equipment to take a color photograph of the applicant for such license or card as required under section 4506.11 or 4507.06 of the Revised Code, and to conduct the vision screenings required by section 4507.12 of the Revised Code, and equipment to laminate licenses, motorized bicycle licenses, and identification cards as required by sections 4507.13, 4507.52, and 4511.521 of the Revised Code.

The registrar shall assign one or more deputy registrars to any driver's license examining station operated under the supervision of the ~~state highway patrol~~ director of public safety, whenever the registrar considers such assignment possible. Space shall be provided in the driver's license examining station for any such deputy registrar so assigned. The deputy

registrars shall not exercise the powers conferred by such sections upon the registrar, unless they are specifically authorized to exercise such powers by such sections.

(C) No agent for any insurance company, writing automobile insurance, shall be appointed deputy registrar, and any such appointment is void. No deputy registrar shall in any manner solicit any form of automobile insurance, nor in any manner advise, suggest, or influence any licensee or applicant for license for or against any kind or type of automobile insurance, insurance company, or agent, nor have the deputy registrar's office directly connected with the office of any automobile insurance agent, nor impart any information furnished by any applicant for a license or identification card to any person, except the registrar. This division shall not apply to any nonprofit corporation appointed deputy registrar.

(D) The registrar shall immediately remove a deputy registrar who violates the requirements of this chapter.

(E) The registrar shall periodically solicit bids and enter into a contract for the provision of laminating equipment and laminating materials to the registrar and all deputy registrars. The registrar shall not consider any bid that does not provide for the supplying of both laminating equipment and laminating materials. The laminating materials selected shall contain a security feature so that any tampering with the laminating material covering a license or identification card is readily apparent. In soliciting bids and entering into a contract for the provision of laminating equipment and laminating materials, the registrar shall observe all procedures required by law.

Sec. 4507.011. (A) Each deputy registrar assigned to a driver's license examining station by the registrar of motor vehicles as provided in section 4507.01 of the Revised Code shall remit to the ~~superintendent~~ director of the ~~state highway patrol~~ public safety a rental fee equal to the percentage of space occupied by the deputy registrar in the driver's license examining station multiplied by the rental fee paid for the entire driver's license examining station plus a pro rata share of all utility costs. All such moneys received by the ~~superintendent~~ director shall be deposited in the state treasury to the credit of the registrar rental fund, which is hereby created. The moneys in the fund shall be used by the ~~state highway patrol~~ department of public safety only to pay the rent and expenses of the driver's license examining stations. All investment earnings of the fund shall be credited to the fund.

(B) Each deputy registrar assigned to a bureau of motor vehicles' location shall reimburse the registrar a monthly building rental fee,

including applicable utility charges. All such moneys received by the registrar shall be deposited into the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

Sec. 4507.12. (A) Except as provided in division (C) of section 4507.10 of the Revised Code, each person applying for the renewal of a driver's license shall submit to a screening of the person's vision before the license may be renewed. The vision screening shall be conducted at the office of the deputy registrar receiving the application for license renewal.

(B) When the results of a vision screening given under division (A) of this section indicate that the vision of the person examined meets the standards required for licensing, the deputy registrar may renew the person's driver's license at that time.

(C) When the results of a vision screening given under division (A) of this section indicate that the vision of the person screened may not meet the standards required for licensing, the deputy registrar shall not renew the person's driver's license at that time but shall refer the person to a driver's license examiner appointed by the ~~superintendent~~ director of the ~~state highway patrol~~ public safety under section ~~5503.21~~ 5502.05 of the Revised Code for a further examination of the person's vision. When a person referred to a driver's license examiner by a deputy registrar does not meet the vision standards required for licensing, the driver's license examiner shall retain the person's operator's or chauffeur's license and shall immediately notify the registrar of motor vehicles of that fact. No driver's license shall be issued to any such person, until the person's vision is corrected to meet the standards required for licensing and the person passes the vision screening required by this section. Any person who operates a motor vehicle on a highway, or on any public or private property used by the public for purposes of vehicular travel or parking, during the time the person's driver's license is held by a driver's license examiner under this division, shall be deemed to be operating a motor vehicle in violation of division (A) of section 4510.12 of the Revised Code.

(D) The registrar shall adopt rules and shall provide any forms necessary to properly conduct vision screenings at the office of a deputy registrar.

(E) No person conducting vision screenings under this section shall be personally liable for damages for injury or loss to persons or property and for death caused by the operation of a motor vehicle by any person whose driver's license was renewed by the deputy registrar under division (B) of this section.

Sec. 4507.51. (A)(1) Every application for an identification card or

duplicate shall be made on a form furnished by the registrar of motor vehicles, shall be signed by the applicant, and by the applicant's parent or guardian if the applicant is under eighteen years of age, and shall contain the following information pertaining to the applicant: name, date of birth, sex, general description including the applicant's height, weight, hair color, and eye color, address, and social security number. The application also shall state whether an applicant wishes to certify willingness to make an anatomical gift under section 2108.05 of the Revised Code and shall include information about the requirements of sections 2108.01 to 2108.29 of the Revised Code that apply to persons who are less than eighteen years of age. The statement regarding willingness to make such a donation shall be given no consideration in the decision of whether to issue an identification card. Each applicant shall be photographed in color at the time of making application.

(2)(a) The application also shall state whether the applicant has executed a valid durable power of attorney for health care pursuant to sections 1337.11 to 1337.17 of the Revised Code or has executed a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment pursuant to sections 2133.01 to 2133.15 of the Revised Code and, if the applicant has executed either type of instrument, whether the applicant wishes the identification card issued to indicate that the applicant has executed the instrument.

(b) On and after October 7, 2009, the application also shall state whether the applicant is a veteran, active duty, or reservist of the armed forces of the United States and, if the applicant is such, whether the applicant wishes the identification card issued to indicate that the applicant is a veteran, active duty, or reservist of the armed forces of the United States by a military designation on the identification card.

(3) The registrar or deputy registrar, in accordance with section 3503.11 of the Revised Code, shall register as an elector any person who applies for an identification card or duplicate if the applicant is eligible and wishes to be registered as an elector. The decision of an applicant whether to register as an elector shall be given no consideration in the decision of whether to issue the applicant an identification card or duplicate.

(B) The application for an identification card or duplicate shall be filed in the office of the registrar or deputy registrar. Each applicant shall present documentary evidence as required by the registrar of the applicant's age and identity, and the applicant shall swear that all information given is true. An identification card issued by the department of rehabilitation and correction under section 5120.59 of the Revised Code or an identification card issued

by the department of youth services under section 5139.511 of the Revised Code shall be sufficient documentary evidence under this division upon verification of the applicant's social security number by the registrar or a deputy registrar. Upon issuing an identification card under this section for a person who has been issued an identification card under section 5120.59 or section 5139.511 of the Revised Code, the registrar or deputy registrar shall destroy the identification card issued under section 5120.59 or section 5139.511 of the Revised Code.

All applications for an identification card or duplicate shall be filed in duplicate, and if submitted to a deputy registrar, a copy shall be forwarded to the registrar. The registrar shall prescribe rules for the manner in which a deputy registrar is to file and maintain applications and other records. The registrar shall maintain a suitable, indexed record of all applications denied and cards issued or canceled.

(C) In addition to any other information it contains, on and after the date that is fifteen months after ~~the effective date of this amendment~~ April 7, 2009, the form furnished by the registrar of motor vehicles for an application for an identification card or duplicate shall inform applicants that the applicant must present a copy of the applicant's DD-214 or an equivalent document in order to qualify to have the card or duplicate indicate that the applicant is an honorably discharged veteran of the armed forces of the United States based on a request made pursuant to division (A)(2)(b) of this section.

Sec. 4508.02. (A)(1) The director of public safety, subject to Chapter 119. of the Revised Code, shall adopt and prescribe such rules concerning the administration and enforcement of this chapter as are necessary to protect the public. The director shall inspect the school facilities and equipment of applicants and licensees and examine applicants for instructor's licenses.

(2) The director shall adopt rules governing online driver education courses that may be completed via the internet to satisfy the classroom instruction under division (C) of this section. The rules shall do all of the following:

(a) Establish standards that an online driver training enterprise must satisfy to be licensed to offer an online driver education course via the internet, including, at a minimum, proven expertise in providing driver education and an acceptable infrastructure capable of providing secure online driver education in accord with advances in internet technology. The rules shall allow an online driver training enterprise to be affiliated with a licensed driver training school offering in-person classroom instruction, but

shall not require such an affiliation.

(b) Establish content requirements that an online driver education course must satisfy to be approved as equivalent to twenty-four hours of in-person classroom instruction;

(c) Establish attendance standards, including a maximum number of course hours that may be completed in a twenty-four-hour period;

(d) Allow an enrolled applicant to begin the required eight hours of actual behind-the-wheel instruction upon completing at least two hours of course instruction and being issued a certificate of enrollment by a licensed online driver training enterprise;

(e) Establish any other requirements necessary to regulate online driver education.

(B) The director shall administer and enforce this chapter.

(C) The rules shall require twenty-four hours of in-person classroom instruction or completion of an approved, equivalent online driver education course offered via the internet by a licensed online driver training enterprise, and eight hours of actual behind-the-wheel instruction conducted on public streets and highways of this state for all beginning drivers of noncommercial motor vehicles who are under age eighteen.

(D) The rules shall state the minimum hours for classroom and behind-the-wheel instruction required for beginning drivers of commercial trucks, commercial cars, buses, and commercial tractors, trailers, and ~~semi-trailers~~ semitrailers.

(E)(1) The department of public safety may charge a fee to each online driver training enterprise in an amount sufficient to pay the actual expenses the department incurs in the regulation of online driver education courses.

(2) The department shall supply to each licensed online driver training enterprise certificates to be used for certifying an applicant's enrollment in an approved online driver education course and a separate certificate to be issued upon successful completion of an approved online driver education course. The certificates shall be numbered serially. The department may charge a fee to each online driver training enterprise per certificate supplied to pay the actual expenses the department incurs in supplying the certificates.

Sec. 4510.037. (A) When the registrar of motor vehicles determines that the total points charged against any person under section 4510.036 of the Revised Code exceed five, the registrar shall send a warning letter to the person at the person's last known address by regular mail. The warning letter shall list the reported violations that are the basis of the points charged, list the number of points charged for each violation, and outline the suspension

provisions of this section.

(B) When the registrar determines that the total points charged against any person under section 4510.036 of the Revised Code within any two-year period beginning on the date of the first conviction within the two-year period is equal to twelve or more, the registrar shall send a written notice to the person at the person's last known address by regular mail. The notice shall list the reported violations that are the basis of the points charged, list the number of points charged for each violation, and state that, because the total number of points charged against the person within the applicable two-year period is equal to twelve or more, the registrar is imposing a class D suspension of the person's driver's or commercial driver's license or permit or nonresident operating privileges for the period of time specified in division (B)(4) of section 4510.02 of the Revised Code. The notice also shall state that the suspension is effective on the twentieth day after the mailing of the notice, unless the person files a petition appealing the determination and suspension in the municipal court, county court, or, if the person is under the age of eighteen, the juvenile division of the court of common pleas in whose jurisdiction the person resides or, if the person is not a resident of this state, in the Franklin county municipal court or juvenile division of the Franklin county court of common pleas. By filing the appeal of the determination and suspension, the person agrees to pay the cost of the proceedings in the appeal of the determination and suspension and alleges that the person can show cause why the person's driver's or commercial driver's license or permit or nonresident operating privileges should not be suspended.

(C)(1) Any person against whom at least two but less than twelve points have been charged under section 4510.036 of the Revised Code may enroll in a course of remedial driving instruction that is approved by the director of public safety. Upon the person's completion of an approved course of remedial driving instruction, the person may apply to the registrar on a form prescribed by the registrar for a credit of two points on the person's driving record. Upon receipt of the application and proof of completion of the approved remedial driving course, the registrar shall approve the two-point credit. The registrar shall not approve any credits for a person who completes an approved course of remedial driving instruction pursuant to a judge's order under section 4510.02 of the Revised Code.

(2) In any three-year period, the registrar shall approve only one two-point credit on a person's driving record under division (C)(1) of this section. The registrar shall approve not more than five two-point credits on a person's driving record under division (C)(1) of this section during that

person's lifetime.

(D) When a judge of a court of record suspends a person's driver's or commercial driver's license or permit or nonresident operating privilege and charges points against the person under section 4510.036 of the Revised Code for the offense that resulted in the suspension, the registrar shall credit that period of suspension against the time of any subsequent suspension imposed under this section for which those points were used to impose the subsequent suspension. When a United States district court that has jurisdiction within this state suspends a person's driver's or commercial driver's license or permit or nonresident operating privileges pursuant to the "Assimilative Crimes Act," 102 Stat. 4381 (1988), 18 U.S.C.A. 13, as amended, the district court prepares an abstract pursuant to section 4510.031 of the Revised Code, and the district court charges points against the person under section 4510.036 of the Revised Code for the offense that resulted in the suspension, the registrar shall credit the period of suspension imposed by the district court against the time of any subsequent suspension imposed under this section for which the points were used to impose the subsequent suspension.

(E) The registrar, upon the written request of a licensee who files a petition under division (B) of this section, shall furnish the licensee a certified copy of the registrar's record of the convictions and bond forfeitures of the person. This record shall include the name, address, and date of birth of the licensee; the name of the court in which each conviction or bail forfeiture took place; the nature of the offense that was the basis of the conviction or bond forfeiture; and any other information that the registrar considers necessary. If the record indicates that twelve points or more have been charged against the person within a two-year period, it is prima-facie evidence that the person is a repeat traffic offender, and the registrar shall suspend the person's driver's or commercial driver's license or permit or nonresident operating privilege pursuant to division (B) of this section.

In hearing the petition and determining whether the person filing the petition has shown cause why the person's driver's or commercial driver's license or permit or nonresident operating privilege should not be suspended, the court shall decide the issue on the record certified by the registrar and any additional relevant, competent, and material evidence that either the registrar or the person whose license is sought to be suspended submits.

(F) If a petition is filed under division (B) of this section in a county court, the prosecuting attorney of the county in which the case is pending

shall represent the registrar in the proceedings, except that, if the petitioner resides in a municipal corporation within the jurisdiction of the county court, the city director of law, village solicitor, or other chief legal officer of the municipal corporation shall represent the registrar in the proceedings. If a petition is filed under division (B) of this section in a municipal court, the registrar shall be represented in the resulting proceedings as provided in section 1901.34 of the Revised Code.

(G) If the court determines from the evidence submitted that a person who filed a petition under division (B) of this section has failed to show cause why the person's driver's or commercial driver's license or permit or nonresident operating privileges should not be suspended, the court shall assess against the person the cost of the proceedings in the appeal of the determination and suspension and shall impose the applicable suspension under this section or suspend all or a portion of the suspension and impose any conditions upon the person that the court considers proper or impose upon the person a community control sanction pursuant to section 2929.15 or 2929.25 of the Revised Code. If the court determines from the evidence submitted that a person who filed a petition under division (B) of this section has shown cause why the person's driver's or commercial driver's license or permit or nonresident operating privileges should not be suspended, the costs of the appeal proceeding shall be paid out of the county treasury of the county in which the proceedings were held.

(H) Any person whose driver's or commercial driver's license or permit or nonresident operating privileges are suspended under this section is not entitled to apply for or receive a new driver's or commercial driver's license or permit or to request or be granted nonresident operating privileges during the effective period of the suspension.

(I) Upon the termination of any suspension or other penalty imposed under this section involving the surrender of license or permit and upon the request of the person whose license or permit was suspended or surrendered, the registrar shall return the license or permit to the person upon determining that the person has complied with all provisions of section 4510.038 of the Revised Code or, if the registrar destroyed the license or permit pursuant to section 4510.52 of the Revised Code, shall reissue the person's license or permit.

(J) Any person whose driver's or commercial driver's license or permit or nonresident operating privileges are suspended as a repeat traffic offender under this section and who, during the suspension, operates any motor vehicle upon any public roads and highways is guilty of driving under a twelve-point suspension, a misdemeanor of the first degree. The court shall

sentence the offender to a minimum term of three days in jail. No court shall suspend the first three days of jail time imposed pursuant to this division.

(K) The registrar, in accordance with specific statutory authority, may suspend the privilege of driving a motor vehicle on the public roads and highways of this state that is granted to nonresidents by section 4507.04 of the Revised Code.

(L) ~~Any (1) Except as provided in division (L)(2) of this section, any~~ course of remedial driving instruction the director of public safety approves under this section shall require its students to attend at least fifty per cent of the course in person. ~~The and the~~ director shall not approve any course of remedial driving instruction that permits its students to take more than fifty per cent of the course in any other manner, including via video teleconferencing or the internet.

(2) The director may approve a course of remedial instruction that permits students to take the entire course via video teleconferencing or the internet. In accordance with division (C) of this section, upon receiving an application with a certificate or other proof of completion of a course approved under this division, the registrar shall approve the two-point reduction.

Sec. 4510.038. (A) Any person whose driver's or commercial driver's license or permit is suspended or who is granted limited driving privileges under section 4510.037, under division (H) of section 4511.19, or under section 4510.07 of the Revised Code for a violation of a municipal ordinance that is substantially equivalent to division (B) of section 4511.19 of the Revised Code is not eligible to retain the license, or to have the driving privileges reinstated, until each of the following has occurred:

(1) The person successfully completes a course of remedial driving instruction approved by the director of public safety. A minimum of twenty-five per cent of the number of hours of instruction included in the course shall be devoted to instruction on driver attitude.

The course also shall devote a number of hours to instruction in the area of alcohol and drugs and the operation of vehicles. The instruction shall include, but not be limited to, a review of the laws governing the operation of a vehicle while under the influence of alcohol, drugs, or a combination of them, the dangers of operating a vehicle while under the influence of alcohol, drugs, or a combination of them, and other information relating to the operation of vehicles and the consumption of alcoholic beverages and use of drugs. The director, in consultation with the director of alcohol and drug addiction services, shall prescribe the content of the instruction. The number of hours devoted to the area of alcohol and drugs and the operation

of vehicles shall comprise a minimum of twenty-five per cent of the number of hours of instruction included in the course.

(2) The person is examined in the manner provided for in section 4507.20 of the Revised Code, and found by the registrar of motor vehicles to be qualified to operate a motor vehicle;

(3) The person gives and maintains proof of financial responsibility, in accordance with section 4509.45 of the Revised Code.

(B) ~~Any~~ (1) Except as provided in division (B)(2) of this section, any course of remedial driving instruction the director of public safety approves under this section shall require its students to attend at least fifty per cent of the course in person. The and the director shall not approve any course of remedial driving instruction that permits its students to take more than fifty per cent of the course in any other manner, including via video teleconferencing or the internet.

(2) The director may approve a course of remedial instruction that permits students to take the entire course via video teleconferencing or the internet.

Sec. 4511.191. (A)(1) As used in this section:

(a) "Physical control" has the same meaning as in section 4511.194 of the Revised Code.

(b) "Alcohol monitoring device" means any device that provides for continuous alcohol monitoring, any ignition interlock device, any immobilizing or disabling device other than an ignition interlock device that is constantly available to monitor the concentration of alcohol in a person's system, or any other device that provides for the automatic testing and periodic reporting of alcohol consumption by a person and that a court orders a person to use as a sanction imposed as a result of the person's conviction of or plea of guilty to an offense.

(2) Any person who operates a vehicle, streetcar, or trackless trolley upon a highway or any public or private property used by the public for vehicular travel or parking within this state or who is in physical control of a vehicle, streetcar, or trackless trolley shall be deemed to have given consent to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance.

(3) The chemical test or tests under division (A)(2) of this section shall

be administered at the request of a law enforcement officer having reasonable grounds to believe the person was operating or in physical control of a vehicle, streetcar, or trackless trolley in violation of a division, section, or ordinance identified in division (A)(2) of this section. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(4) Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in division (A)(2) of this section, and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

(5)(a) If a law enforcement officer arrests a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance and if the person if convicted would be required to be sentenced under division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised Code, the law enforcement officer shall request the person to submit, and the person shall submit, to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person of the consequences of submitting to, or refusing to submit to, the test or tests and is not required to give the person the form described in division (B) of section 4511.192 of the Revised Code, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. The officer shall also advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. Divisions (A)(3) and (4) of this section apply to the administration of a chemical test or tests pursuant to this division.

(b) If a person refuses to submit to a chemical test upon a request made pursuant to division (A)(5)(a) of this section, the law enforcement officer who made the request may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. A law enforcement officer who acts

pursuant to this division to ensure that a person submits to a chemical test of the person's whole blood or blood serum or plasma is immune from criminal and civil liability based upon a claim for assault and battery or any other claim for the acts, unless the officer so acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(B)(1) Upon receipt of the sworn report of a law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance that was completed and sent to the registrar of motor vehicles and a court pursuant to section 4511.192 of the Revised Code in regard to a person who refused to take the designated chemical test, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and that section and the period of the suspension, as determined under this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension shall be for whichever of the following periods applies:

(a) Except when division (B)(1)(b), (c), or (d) of this section applies and specifies a different class or length of suspension, the suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code.

(b) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused one previous request to consent to a chemical test or had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(c) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused two previous requests to consent to a chemical test, had been convicted of or pleaded guilty to two violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused one previous request to consent to a chemical test and also had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, which violation or offense arose from an incident other than the incident that led to the refusal, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(d) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test, had been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused a number of previous requests to consent to a chemical test and also had been convicted of or pleaded guilty to a number of violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses that cumulatively total three or more such refusals, convictions, and guilty pleas, the suspension shall be for five years.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (B)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (B)(1) of this section.

(C)(1) Upon receipt of the sworn report of the law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code or at least the concentration of a listed controlled substance or a listed metabolite of a controlled substance specified in division (A)(1)(j) of section 4511.19 of the Revised Code, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and section 4511.192 of the Revised Code and the period of the suspension, as

determined under divisions (C)(1)(a) to (d) of this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension described in this division does not apply to, and shall not be imposed upon, a person arrested for a violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance who submits to a designated chemical test. The suspension shall be for whichever of the following periods applies:

(a) Except when division (C)(1)(b), (c), or (d) of this section applies and specifies a different period, the suspension shall be a class E suspension imposed for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code.

(b) The suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code if the person has been convicted of or pleaded guilty to, within six years of the date the test was conducted, one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense.

(c) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(d) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to more than two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (C)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a

municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (C)(1) of this section.

(D)(1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in division (B) or (C) of this section is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test or tests under division (A) of this section does not affect the suspension.

(2) If a person is arrested for operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance, or for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (B) or (C) of this section or Chapter 4510. of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to section 4511.197 of the Revised Code regarding the issues specified in that division.

(E) When it finally has been determined under the procedures of this section and sections 4511.192 to 4511.197 of the Revised Code that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(F) At the end of a suspension period under this section, under section 4511.194, section 4511.196, or division (G) of section 4511.19 of the Revised Code, or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, cancellation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the conditions specified in divisions (F)(1) and (2) of this section:

(1) A showing that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at

least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Subject to the limitation contained in division (F)(3) of this section, payment by the person to the registrar or an eligible deputy registrar of a license reinstatement fee of four hundred seventy-five dollars, which fee shall be deposited in the state treasury and credited as follows:

(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code. Money credited to the fund under this section shall be used for purposes identified in the comprehensive statewide alcohol and drug addiction services plan developed under section 3793.04 of the Revised Code.

(b) Seventy-five dollars shall be credited to the reparations fund created by section 2743.191 of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to the indigent drivers alcohol treatment fund, which is hereby established in the state treasury. Except as otherwise provided in division (F)(2)(c) of this section, moneys in the fund shall be distributed by the department of alcohol and drug addiction services to the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and the municipal indigent drivers alcohol treatment funds that are required to be established by counties and municipal corporations pursuant to division (H) of this section, and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender or juvenile traffic offender who is ordered to attend an alcohol and drug addiction treatment program by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's attendance at the program or to pay the costs specified in division (H)(4) of this section in accordance with that division. In addition, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund to pay for the cost of the continued use of an alcohol monitoring device as described in divisions (H)(3) and (4) of this section. Moneys in the fund that are not distributed to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund under division (H) of this section because the director of alcohol and drug addiction services does not have the information necessary to identify the county or municipal corporation where the offender or juvenile offender was arrested

may be transferred by the director of budget and management to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code, upon certification of the amount by the director of alcohol and drug addiction services.

(d) Seventy-five dollars shall be credited to the Ohio rehabilitation services commission established by section 3304.12 of the Revised Code, to the services for rehabilitation fund, which is hereby established. The fund shall be used to match available federal matching funds where appropriate, and for any other purpose or program of the commission to rehabilitate people with disabilities to help them become employed and independent.

(e) Seventy-five dollars shall be deposited into the state treasury and credited to the drug abuse resistance education programs fund, which is hereby established, to be used by the attorney general for the purposes specified in division (F)(4) of this section.

(f) Thirty dollars shall be credited to the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

(g) Twenty dollars shall be credited to the trauma and emergency medical services ~~grants~~ fund created by section 4513.263 of the Revised Code.

(h) Fifty dollars shall be credited to the indigent drivers interlock and alcohol monitoring fund, which is hereby established in the state treasury. Moneys in the fund shall be distributed by the department of public safety to the county indigent drivers interlock and alcohol monitoring funds, the county juvenile indigent drivers interlock and alcohol monitoring funds, and the municipal indigent drivers interlock and alcohol monitoring funds that are required to be established by counties and municipal corporations pursuant to this section, and shall be used only to pay the cost of an immobilizing or disabling device, including a certified ignition interlock device, or an alcohol monitoring device used by an offender or juvenile offender who is ordered to use the device by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's use of the device.

(3) If a person's driver's or commercial driver's license or permit is suspended under this section, under section 4511.196 or division (G) of section 4511.19 of the Revised Code, under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance or under any combination of the suspensions described in division (F)(3) of this section, and if the suspensions arise from a single incident or a single set of facts and circumstances, the person is liable for payment of, and shall be required to pay to the registrar or an eligible deputy registrar, only one reinstatement fee

of four hundred seventy-five dollars. The reinstatement fee shall be distributed by the bureau in accordance with division (F)(2) of this section.

(4) The attorney general shall use amounts in the drug abuse resistance education programs fund to award grants to law enforcement agencies to establish and implement drug abuse resistance education programs in public schools. Grants awarded to a law enforcement agency under this section shall be used by the agency to pay for not more than fifty per cent of the amount of the salaries of law enforcement officers who conduct drug abuse resistance education programs in public schools. The attorney general shall not use more than six per cent of the amounts the attorney general's office receives under division (F)(2)(e) of this section to pay the costs it incurs in administering the grant program established by division (F)(2)(e) of this section and in providing training and materials relating to drug abuse resistance education programs.

The attorney general shall report to the governor and the general assembly each fiscal year on the progress made in establishing and implementing drug abuse resistance education programs. These reports shall include an evaluation of the effectiveness of these programs.

(5) In addition to the reinstatement fee under this section, if the person pays the reinstatement fee to a deputy registrar, the deputy registrar shall collect a service fee of ten dollars to compensate the deputy registrar for services performed under this section. The deputy registrar shall retain eight dollars of the service fee and shall transmit the reinstatement fee, plus two dollars of the service fee, to the registrar in the manner the registrar shall determine.

(G) Suspension of a commercial driver's license under division (B) or (C) of this section shall be concurrent with any period of disqualification under section 3123.611 or 4506.16 of the Revised Code or any period of suspension under section 3123.58 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section 4506.16 of the Revised Code shall be issued a driver's license under Chapter 4507. of the Revised Code during the period for which the commercial driver's license was suspended under division (B) or (C) of this section. No person whose commercial driver's license is suspended under division (B) or (C) of this section shall be issued a driver's license under Chapter 4507. of the Revised Code during the period of the suspension.

(H)(1) Each county shall establish an indigent drivers alcohol treatment fund, each county shall establish a juvenile indigent drivers alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers alcohol treatment fund.

All revenue that the general assembly appropriates to the indigent drivers alcohol treatment fund for transfer to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of fees that are paid under division (F) of this section and that are credited under that division to the indigent drivers alcohol treatment fund in the state treasury for a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of additional costs imposed under section 2949.094 of the Revised Code that are specified for deposit into a county, county juvenile, or municipal indigent drivers alcohol treatment fund by that section, and all portions of fines that are specified for deposit into a county or municipal indigent drivers alcohol treatment fund by section 4511.193 of the Revised Code shall be deposited into that county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund. The portions of the fees paid under division (F) of this section that are to be so deposited shall be determined in accordance with division (H)(2) of this section. Additionally, all portions of fines that are paid for a violation of section 4511.19 of the Revised Code or of any prohibition contained in Chapter 4510. of the Revised Code, and that are required under section 4511.19 or any provision of Chapter 4510. of the Revised Code to be deposited into a county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund shall be deposited into the appropriate fund in accordance with the applicable division of the section or provision.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that is credited under that division to the indigent drivers alcohol treatment fund shall be deposited into a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund as follows:

(a) Regarding a suspension imposed under this section, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person who was charged in a county court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension or in the imposition of the

court costs, the portion shall be deposited into the county juvenile indigent drivers alcohol treatment fund established in the county served by the court;

(iii) If the fee is paid by a person who was charged in a municipal court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(b) Regarding a suspension imposed under section 4511.19 of the Revised Code or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3) Expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of an assessment or the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or found to be a juvenile traffic offender by reason of, a violation of division (A) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to pay the cost of the assessment or the cost of attendance at the treatment program or for payment of the costs specified in division (H)(4) of this section in accordance with that division. The alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health service district in which the court is located shall administer the indigent drivers alcohol treatment program of the court. When a court orders an offender or juvenile traffic offender to obtain an assessment or attend an alcohol and drug addiction treatment program, the board shall determine which program is suitable to meet the needs of the offender or juvenile traffic offender, and when a suitable program is located and space is available at the program, the offender or juvenile traffic offender shall attend the program designated by the board. A reasonable amount not to exceed five per cent of the amounts

credited to and deposited into the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund serving every court whose program is administered by that board shall be paid to the board to cover the costs it incurs in administering those indigent drivers alcohol treatment programs.

In addition, upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund in the following manners:

(a) If the source of the moneys was an appropriation of the general assembly, a portion of a fee that was paid under division (F) of this section, a portion of a fine that was specified for deposit into the fund by section 4511.193 of the Revised Code, or a portion of a fine that was paid for a violation of section 4511.19 of the Revised Code or of a provision contained in Chapter 4510. of the Revised Code that was required to be deposited into the fund, to pay for the continued use of an alcohol monitoring device by an offender or juvenile traffic offender, in conjunction with a treatment program approved by the department of alcohol and drug addiction services, when such use is determined clinically necessary by the treatment program and when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring or cost of the device;

(b) If the source of the moneys was a portion of an additional court cost imposed under section 2949.094 of the Revised Code, to pay for the continued use of an alcohol monitoring device by an offender or juvenile traffic offender when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring or cost of the device. The moneys may be used for a device as described in this division if the use of the device is in conjunction with a treatment program approved by the department of alcohol and drug addiction services, when the use of the device is determined clinically necessary by the treatment program, but the use of a device is not required to be in conjunction with a treatment program approved by the department in order for the moneys to be used for the device as described in this division.

(4) If a county, juvenile, or municipal court determines, in consultation with the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug

addiction, and mental health district in which the court is located, that the funds in the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of the court are more than sufficient to satisfy the purpose for which the fund was established, as specified in divisions (H)(1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may expend the amount of the surplus in the fund for:

(a) Alcohol and drug abuse assessment and treatment of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

(i) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense with which the person is charged.

(ii) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

(b) All or part of the cost of purchasing alcohol monitoring devices to be used in conjunction with division (H)(3) of this section, upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device.

(5) For the purpose of determining as described in division (F)(2)(c) of this section whether an offender does not have the means to pay for the offender's attendance at an alcohol and drug addiction treatment program or whether an alleged offender or delinquent child is unable to pay the costs specified in division (H)(4) of this section, the court shall use the indigent client eligibility guidelines and the standards of indigency established by the state public defender to make the determination.

(6) The court shall identify and refer any alcohol and drug addiction program that is not certified under section 3793.06 of the Revised Code and that is interested in receiving amounts from the surplus in the fund declared under division (H)(4) of this section to the department of alcohol and drug addiction services in order for the program to become a certified alcohol and drug addiction program. The department shall keep a record of applicant referrals received pursuant to this division and shall submit a report on the referrals each year to the general assembly. If a program interested in becoming certified makes an application to become certified pursuant to section 3793.06 of the Revised Code, the program is eligible to receive surplus funds as long as the application is pending with the department. The

department of alcohol and drug addiction services must offer technical assistance to the applicant. If the interested program withdraws the certification application, the department must notify the court, and the court shall not provide the interested program with any further surplus funds.

(7)(a) Each alcohol and drug addiction services board and board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code shall submit to the department of alcohol and drug addiction services an annual report for each indigent drivers alcohol treatment fund in that board's area.

(b) The report, which shall be submitted not later than sixty days after the end of the state fiscal year, shall provide the total payment that was made from the fund, including the number of indigent consumers that received treatment services and the number of indigent consumers that received an alcohol monitoring device. The report shall identify the treatment program and expenditure for an alcohol monitoring device for which that payment was made. The report shall include the fiscal year balance of each indigent drivers alcohol treatment fund located in that board's area. In the event that a surplus is declared in the fund pursuant to division (H)(4) of this section, the report also shall provide the total payment that was made from the surplus moneys and identify the treatment program and expenditure for an alcohol monitoring device for which that payment was made. The department may require additional information necessary to complete the comprehensive statewide alcohol and drug addiction services plan as required by section 3793.04 of the Revised Code.

(c) If a board is unable to obtain adequate information to develop the report to submit to the department for a particular indigent drivers alcohol treatment fund, the board shall submit a report detailing the effort made in obtaining the information.

(I)(1) Each county shall establish an indigent drivers interlock and alcohol monitoring fund and a juvenile indigent drivers interlock and alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers interlock and alcohol monitoring fund. All revenue that the general assembly appropriates to the indigent drivers interlock and alcohol monitoring fund for transfer to a county indigent drivers interlock and alcohol monitoring fund, a county juvenile indigent drivers interlock and alcohol monitoring fund, or a municipal indigent drivers interlock and alcohol monitoring fund, all portions of license reinstatement fees that are paid under division (F)(2) of this section and that are credited under that division to the indigent drivers interlock and alcohol monitoring fund in the state treasury, and all portions

of fines that are paid under division (G) of section 4511.19 of the Revised Code and that are credited by division (G)(5)(e) of that section to the indigent drivers interlock and alcohol monitoring fund in the state treasury shall be deposited in the appropriate fund in accordance with division (I)(2) of this section.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that portion of the fine paid under division (G) of section 4511.19 of the Revised Code and that is credited under either division to the indigent drivers interlock and alcohol monitoring fund shall be deposited into a county indigent drivers interlock and alcohol monitoring fund, a county juvenile indigent drivers interlock and alcohol monitoring fund, or a municipal indigent drivers interlock and alcohol monitoring fund as follows:

(a) If the fee or fine is paid by a person who was charged in a county court with the violation that resulted in the suspension or fine, the portion shall be deposited into the county indigent drivers interlock and alcohol monitoring fund under the control of that court.

(b) If the fee or fine is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension or fine, the portion shall be deposited into the county juvenile indigent drivers interlock and alcohol monitoring fund established in the county served by the court.

(c) If the fee or fine is paid by a person who was charged in a municipal court with the violation that resulted in the suspension, the portion shall be deposited into the municipal indigent drivers interlock and alcohol monitoring fund under the control of that court.

Sec. 4511.78. (A) As used in this section:

(1) "Mass transit system" means any county transit system, regional transit authority, regional transit commission, municipally owned transportation system, mass transit company operating exclusively within the territorial limits of a municipal corporation, or within such limits and the territorial limits of municipal corporations immediately contiguous to such municipal corporation, and any common passenger carrier ~~certified by the public utilities commission~~, that provides transportation for children to or from a school session or a school function.

(2) "Bus" means every motor vehicle designed for carrying more than nine passengers and used for the transportation of persons, but does not mean any school bus as defined in section 4511.01 of the Revised Code.

(B) Whenever a mass transit system transports children to or from a school session or school function, the mass transit system shall provide for:

(1) Periodic safety inspections of all buses used to provide

transportation service. The inspections shall be based on rules adopted by the public utilities commission under Chapters 4921. and 4923. of the Revised Code to ensure the safety of operation of ~~motor transportation companies and private~~ motor carriers.

(2) The safety training of all drivers operating buses used to provide transportation service;

(3) The equipping of every bus with outside rear-view mirrors meeting the motor carrier regulations for bus equipment adopted by the federal highway administration. No exclusions from this requirement granted under the federal regulations shall be considered exclusions for the purposes of this division.

(C) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

Sec. 4511.98. The director of transportation may establish speed limits within construction zones that vary based on the type of work being conducted, the time of day, or any other criteria the director may consider appropriate. The director, board of county commissioners, or board of township trustees shall cause signs to be erected advising motorists that increased penalties apply for certain traffic violations occurring on streets or highways in a construction zone. The increased penalties shall be effective only when signs are erected in accordance with the guidelines and design specifications established by the director under section 5501.27 of the Revised Code, and when a violation occurs during hours of actual work within the construction zone.

Sec. 4513.18. (A) The director of transportation shall adopt standards and specifications applicable to headlights, clearance lights, identification, and other lights, on snow removal equipment when operated on the highways, and on vehicles operating under special permits pursuant to section 4513.34 of the Revised Code, in lieu of the lights otherwise required on motor vehicles. Such standards and specifications may permit the use of flashing colored lights, other than blue or red in color, for purposes of identification on snow removal equipment, and oversize vehicles when in service upon the highways. The standards and specifications for lights referred to in this section shall correlate with and, so far as possible,

conform with those approved by the American association of state highway officials.

It is unlawful to operate snow removal equipment on a highway unless the lights thereon comply with and are lighted when and as required by the standards and specifications adopted as provided in this section.

(B) Whoever violates this section is guilty of a minor misdemeanor.

Sec. 4513.263. (A) As used in this section and in section 4513.99 of the Revised Code:

(1) "Automobile" means any commercial tractor, passenger car, commercial car, or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States secretary of transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.

(2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness, or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum federal vehicle safety standards established by the United States department of transportation.

(3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.

(4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as in section 4501.01 of the Revised Code.

(5) "Vehicle" and "motor vehicle," as used in the definitions of the terms set forth in division (A)(4) of this section, have the same meanings as in section 4511.01 of the Revised Code.

(6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in section 2307.71 of the Revised Code, and an asbestos claim, as defined in section 2307.91 of the Revised Code, but does not include a civil action for damages for breach of contract or another agreement between persons.

(B) No person shall do any of the following:

(1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;

(2) Operate an automobile on any street or highway unless each

passenger in the automobile who is subject to the requirement set forth in division (B)(3) of this section is wearing all of the available elements of a properly adjusted occupant restraining device;

(3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;

(4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.

(C) Division (B)(3) of this section does not apply to a person who is required by section 4511.81 of the Revised Code to be secured in a child restraint device or booster seat. Division (B)(1) of this section does not apply to a person who is an employee of the United States postal service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees. Divisions (B)(1) and (3) of this section do not apply to a person who has an affidavit signed by a physician licensed to practice in this state under Chapter 4731. of the Revised Code or a chiropractor licensed to practice in this state under Chapter 4734. of the Revised Code that states that the person has a physical impairment that makes use of an occupant restraining device impossible or impractical.

(D) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of division (B) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(E) All fines collected for violations of division (B) of this section, or for violations of any ordinance or resolution of a political subdivision that is substantively comparable to that division, shall be forwarded to the treasurer of state for deposit as follows:

~~(1) Eight per cent shall be deposited into the elementary school program fund, which is hereby created in the state treasury, and shall be used by the department of public safety to establish and administer elementary school~~

~~programs that encourage seat safety belt use.~~

~~(2) Two per cent shall be deposited into the occupational licensing and regulatory fund created by section 4743.05 of the Revised Code.~~

~~(3) Thirty-six per cent, plus into the state treasury to the credit of the trauma and emergency medical services fund, which is hereby created. In addition, sixty cents of each fee collected under sections 4501.34, 4503.26, 4505.14, 4506.08, and 4509.05, plus on and after October 1, 2009, sixty cents of each fee collected under sections 4505.14 and 4519.63 of the Revised Code as specified in those sections, plus the portion of the driver's license reinstatement fee described in division (F)(2)(g) of section 4511.191 of the Revised Code, plus all fees collected under section 4765.11 of the Revised Code, plus all fines imposed under section 4765.55 of the Revised Code, and plus five per cent of fines and moneys arising from bail forfeitures as directed by section 5503.04 of the Revised Code, also shall be deposited into the trauma and emergency medical services fund, which is hereby created in the state treasury, and. All money deposited into the trauma and emergency medical services fund shall be used by the department of public safety for the administration and operation of the division of emergency medical services and the state board of emergency medical services, except that the and by the state board of emergency medical services to make grants, in accordance with section 4765.07 of the Revised Code and rules the board adopts under section 4765.11 of the Revised Code. The director of budget and management may transfer excess money from the trauma and emergency medical services fund to the state highway safety fund if the director of public safety determines that the amount of money in the trauma and emergency medical services fund exceeds the amount required to cover such costs incurred by the emergency medical services agency and the grants made by the state board of emergency medical services and requests the director of budget and management to make the transfer.~~

~~(4) Fifty-four per cent shall be deposited into the trauma and emergency medical services grants fund, which is hereby created in the state treasury, and shall be used by the state board of emergency medical services to make grants, in accordance with section 4765.07 of the Revised Code and rules the board adopts under section 4765.11 of the Revised Code.~~

(F)(1) Subject to division (F)(2) of this section, the failure of a person to wear all of the available elements of a properly adjusted occupant restraining device in violation of division (B)(1) or (3) of this section or the failure of a person to ensure that each minor who is a passenger of an automobile being operated by that person is wearing all of the available

elements of a properly adjusted occupant restraining device in violation of division (B)(2) of this section shall not be considered or used by the trier of fact in a tort action as evidence of negligence or contributory negligence. But, the trier of fact may determine based on evidence admitted consistent with the Ohio Rules of Evidence that the failure contributed to the harm alleged in the tort action and may diminish a recovery of compensatory damages that represents noneconomic loss, as defined in section 2307.011 of the Revised Code, in a tort action that could have been recovered but for the plaintiff's failure to wear all of the available elements of a properly adjusted occupant restraining device. Evidence of that failure shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in a criminal action involving the person other than a prosecution for a violation of this section.

(2) If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted, then, consistent with the Rules of Evidence, the fact that the occupant was not wearing the available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted is admissible in evidence in relation to any claim for relief in a tort action to the extent that the claim for relief satisfies all of the following:

- (a) It seeks to recover damages for injury or death to the occupant.
- (b) The defendant in question is the manufacturer, designer, distributor, or seller of the passenger car.
- (c) The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.

(G)(1) Whoever violates division (B)(1) of this section shall be fined thirty dollars.

(2) Whoever violates division (B)(3) of this section shall be fined twenty dollars.

(3) Except as otherwise provided in this division, whoever violates division (B)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of division (B)(4) of this section, whoever violates division (B)(4) of this section is guilty of a misdemeanor of the third degree.

Sec. 4513.50. As used in sections 4513.50 to 4513.53 of the Revised Code:

(A)(1) "Bus" means any vehicle used for the transportation of passengers that meets at least one of the following:

(a) Was originally designed by the manufacturer to transport more than fifteen passengers, including the driver;

(b) Either the gross vehicle weight rating or the gross vehicle weight exceeds ten thousand pounds.

(2) "Bus" does not include a church bus as defined in section 4503.07 of the Revised Code or a school bus unless the church bus or school bus is used in the transportation of passengers ~~for hire by a motor transportation company or a common carrier by motor vehicle or by a private motor carrier or contract carrier by motor vehicle.~~

(3) "Bus" also does not include any of the following:

(a) Any vehicle operated exclusively on a rail or rails;

(b) A trolley bus operated by electric power derived from a fixed overhead wire furnishing local passenger transportation similar to street-railway service;

(c) Vehicles owned or leased by government agencies or political subdivisions.

(B)(1) ~~"Motor transportation company" and "common carrier by motor vehicle"~~ have has the same meanings meaning as in section 4921.02 4923.01 of the Revised Code.

~~(2) "Private motor carrier" and "contract carrier by motor vehicle" have the same meanings as in section 4923.02 of the Revised Code.~~

Sec. 4712.01. As used in sections 4712.01 to 4712.14 of the Revised Code:

(A) "Buyer" means an individual who is solicited to purchase or who purchases the services of a credit services organization for purposes other than obtaining a business loan as described in division (B)(6) of section 1343.01 of the Revised Code.

(B) "Consumer reporting agency" has the same meaning as in the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as amended.

(C)(1) "Credit services organization" means any person that, in return for the payment of money or other valuable consideration readily convertible into money for the following services, sells, provides, or performs, or represents that the person can or will sell, provide, or perform, one or more of the following services:

(a) Improving a buyer's credit record, history, or rating;

(b) Obtaining an extension of credit by others for a buyer;

(c) Providing advice or assistance to a buyer in connection with division (C)(1)(a) or (b) of this section;

(d) Removing adverse credit information that is accurate and not obsolete from the buyer's credit record, history, or rating;

(e) Altering the buyer's identification to prevent the display of the buyer's credit record, history, or rating.

(2) "Credit services organization" does not include any of the following:

(a) A person that makes or collects loans, to the extent these activities are subject to licensure or registration by this state;

(b) A mortgage broker, as defined in section 1322.01 of the Revised Code, that holds a valid certificate of registration under sections 1322.01 to 1322.12 of the Revised Code;

(c) A lender approved by the United States secretary of housing and urban development for participation in a mortgage insurance program under the "National Housing Act," 48 Stat. 1246 (1934), 12 U.S.C.A. 1701, as amended;

(d) A bank, savings bank, or savings and loan association, or a subsidiary or an affiliate of a bank, savings bank, or savings and loan association. For purposes of division (C)(2)(d) of this section, "affiliate" has the same meaning as in division (A) of section 1101.01 of the Revised Code and "bank," as used in division (A) of section 1101.01 of the Revised Code, is deemed to include a savings bank or savings and loan association.

(e) A credit union organized and qualified under Chapter 1733. of the Revised Code or the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751, as amended;

(f) A budget and debt counseling service, as defined in division (D) of section 2716.03 of the Revised Code, provided that the service is a nonprofit organization exempt from taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is in compliance with Chapter 4710. of the Revised Code;

(g) A consumer reporting agency that is in substantial compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as amended.

(h) A mortgage banker;

(i) Any political subdivision, or any governmental or other public entity, corporation, or agency, in or of the United States or any state of the United States;

(j) A college or university, or controlled entity of a college or university, as defined in section 1713.05 of the Revised Code;

(k) A motor vehicle dealer licensed pursuant to Chapter 4517. of the

Revised Code acting within the scope and authority of that license or a motor vehicle auction owner licensed pursuant to Chapters 4517. and 4707. of the Revised Code acting within the scope and authority of that license;

(I) An attorney at law admitted to the practice of law in this state who offers, provides, or performs a legal service that is privileged by reason of the attorney-client relationship, provided that the service is not a service described in division (C)(1)(b) or (e) of this section.

(D) "Extension of credit" means the right to defer payment of debt, or to incur debt and defer its payment, offered or granted primarily for personal, family, or household purposes. "Extension of credit" does not include a mortgage.

(E) "Mortgage" means any indebtedness secured by a deed of trust, security deed, or other lien on real property.

(F) "Mortgage banker" means any person that makes, services, or buys and sells mortgage loans and is approved by the United States department of housing and urban development, the United States department of veterans affairs, the federal national mortgage association, or the federal home loan mortgage corporation.

(G) "Superintendent of financial institutions" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code.

Sec. 4723.481. This section establishes standards and conditions regarding the authority of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to prescribe drugs and therapeutic devices under a certificate to prescribe issued under section 4723.481 of the Revised Code.

(A) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not prescribe any drug or therapeutic device that is not included in the types of drugs and devices listed on the formulary established in rules adopted under section 4723.50 of the Revised Code.

(B) The prescriptive authority of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not exceed the prescriptive authority of the collaborating physician or podiatrist, including the collaborating physician's authority to treat chronic pain with controlled substances and products containing tramadol as described in section 4731.052 of the Revised Code.

(C)(1) Except as provided in division (C)(2) or (3) of this section, a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may prescribe to a patient a schedule II controlled substance only if all of the following are the case:

(a) The patient has a terminal condition, as defined in section 2133.01 of the Revised Code.

(b) The collaborating physician of the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner initially prescribed the substance for the patient.

(c) The prescription is for an amount that does not exceed the amount necessary for the patient's use in a single, twenty-four hour period.

(2) The restrictions on prescriptive authority in division (C)(1) of this section do not apply if a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner issues the prescription to the patient from any of the following locations:

(a) A hospital registered under section 3701.07 of the Revised Code;

(b) An entity owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals;

(c) A health care facility operated by the department of mental health or the department of developmental disabilities;

(d) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;

(e) A county home or district home operated under Chapter 5155. of the Revised Code that is certified under the medicare or medicaid program;

(f) A hospice care program, as defined in section 3712.01 of the Revised Code;

(g) A community mental health agency, as defined in section 5122.01 of the Revised Code;

(h) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code;

(i) A freestanding birthing center, as defined in section 3702.51 of the Revised Code;

(j) A federally qualified health center, as defined in section 3701.047 of the Revised Code;

(k) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;

(l) A health care office or facility operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;

(m) A site where a medical practice is operated, but only if the practice is comprised of one or more physicians who also are owners of the practice; the practice is organized to provide direct patient care; and the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner providing

services at the site has a standard care arrangement and collaborates with at least one of the physician owners who practices primarily at that site.

(3) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not issue to a patient a prescription for a schedule II controlled substance from a convenience care clinic even if the clinic is owned or operated by an entity specified in division (C)(2) of this section.

(D) A pharmacist who acts in good faith reliance on a prescription issued by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner under division (C)(2) of this section is not liable for or subject to any of the following for relying on the prescription: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action by the state board of pharmacy under Chapter 4729. of the Revised Code.

(E) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may personally furnish to a patient a sample of any drug or therapeutic device included in the types of drugs and devices listed on the formulary, except that all of the following conditions apply:

(1) The amount of the sample furnished shall not exceed a seventy-two-hour supply, except when the minimum available quantity of the sample is packaged in an amount that is greater than a seventy-two-hour supply, in which case the packaged amount may be furnished.

(2) No charge may be imposed for the sample or for furnishing it.

(3) Samples of controlled substances may not be personally furnished.

(F) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may personally furnish to a patient a complete or partial supply of a drug or therapeutic device included in the types of drugs and devices listed on the formulary, except that all of the following conditions apply:

(1) The clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall personally furnish only antibiotics, antifungals, scabicides, contraceptives, prenatal vitamins, antihypertensives, drugs and devices used in the treatment of diabetes, drugs and devices used in the treatment of asthma, and drugs used in the treatment of dyslipidemia.

(2) The clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not furnish the drugs and devices in locations other than a health department operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code, a federally funded comprehensive primary care clinic, or a nonprofit health care clinic or program.

(3) The clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall comply with all safety standards for personally

furnishing supplies of drugs and devices, as established in rules adopted under section 4723.50 of the Revised Code.

Sec. 4730.42. (A) In granting physician-delegated prescriptive authority to a particular physician assistant who holds a certificate to prescribe issued under this chapter, the supervising physician is subject to all of the following:

(1) The supervising physician shall not grant physician-delegated prescriptive authority for any drug or therapeutic device that is not listed on the formulary established in rules adopted under section 4730.39 of the Revised Code as a drug or therapeutic device that may be included in the physician-delegated prescriptive authority granted to a physician assistant.

(2) The supervising physician shall not grant physician-delegated prescriptive authority for any drug or device that may be used to perform or induce an abortion.

(3) The supervising physician shall not grant physician-delegated prescriptive authority in a manner that exceeds the supervising physician's prescriptive authority, including the physician's authority to treat chronic pain with controlled substances and products containing tramadol as described in section 4731.052 of the Revised Code.

(4) The supervising physician shall supervise the physician assistant in accordance with all of the following:

(a) The supervision requirements specified in section 4730.21 of the Revised Code and, in the case of supervision provided during a provisional period of physician-delegated prescriptive authority, the supervision requirements specified in section 4730.45 of the Revised Code;

(b) The physician supervisory plan approved for the supervising physician or the policies of the health care facility in which the physician and physician assistant are practicing;

(c) The supervision agreement approved under section 4730.19 of the Revised Code that applies to the supervising physician and the physician assistant.

(B)(1) The supervising physician of a physician assistant may place conditions on the physician-delegated prescriptive authority granted to the physician assistant. If conditions are placed on that authority, the supervising physician shall maintain a written record of the conditions and make the record available to the state medical board on request.

(2) The conditions that a supervising physician may place on the physician-delegated prescriptive authority granted to a physician assistant include the following:

(a) Identification by class and specific generic nomenclature of drugs

and therapeutic devices that the physician chooses not to permit the physician assistant to prescribe;

(b) Limitations on the dosage units or refills that the physician assistant is authorized to prescribe;

(c) Specification of circumstances under which the physician assistant is required to refer patients to the supervising physician or another physician when exercising physician-delegated prescriptive authority;

(d) Responsibilities to be fulfilled by the physician in supervising the physician assistant that are not otherwise specified in the physician supervisory plan or otherwise required by this chapter.

Sec. 4731.052. (A) As used in this section:

(1) ~~"Dangerous drug" has the same meaning as in section 4729.01 of the Revised Code.~~

(2) "Chronic pain" means pain that has persisted after reasonable medical efforts have been made to relieve the pain or cure its cause and that has continued, either continuously or episodically, for longer than three continuous months. "Chronic pain" does not include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.

(2) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(3) "Physician" means an individual authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery.

(B) The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish standards and procedures to be followed by physicians in the diagnosis and treatment of chronic pain, including standards for a physician's consultation with one or more other physicians who specialize in the treatment of the area, system, or organ of the body perceived as the source of pain and managing chronic pain by prescribing, personally furnishing, or administering dangerous drugs in amounts or combinations that may not be appropriate when treating other medical conditions. In developing the rules, the board shall consult with and permit review by physicians who are experienced in the diagnosis and treatment of chronic pain controlled substances or products containing tramadol.

(C) When a physician diagnoses ~~an individual~~ a patient as having chronic pain, the physician may, subject to division (D) of this section, treat the pain by managing it with ~~dangerous drugs in amounts or combinations that may not be appropriate when treating other medical conditions~~ controlled substances and products containing tramadol. The physician's

diagnosis and treatment decisions shall be made after having the individual according to accepted and prevailing standards for medical care. For the purpose of assisting with the diagnosis of chronic pain, the physician shall obtain and review all available medical records or detailed written summaries of the patient's treatment for chronic pain or the condition causing the chronic pain. It is recommended that the physician also consider having the patient evaluated by one or more other physicians who specialize in the treatment of the area, system, or organ of the body perceived as the source of the pain. The physician's diagnosis and treatment decisions shall be made according to accepted and prevailing standards for medical care. The

(D) For each patient a physician diagnoses as having chronic pain, the physician shall maintain a written record of all of the following:

(1) Medical history and physical examination of the individual patient;
(2) The diagnosis of chronic pain, including signs, symptoms, and causes;

(3) The plan of treatment proposed, the patient's response to treatment, and any modification to the plan of treatment, including all of the following:

(a) Documentation that other medically reasonable treatments for relief of the patient's chronic pain have been offered or attempted without adequate or reasonable success;

(b) Periodic assessment and documentation of the patient's functional status, including the ability to engage in work or other purposeful activities, the pain intensity and its interference with activities of daily living, quality of family life and social activities, and physical activity of the patient;

(c) Periodic assessment and documentation of the patient's progress toward treatment objectives, including the intended role of controlled substances or products containing tramadol within the overall plan of treatment;

(d) Periodic assessment and documentation for indicators of possible addiction, drug abuse, or drug diversion;

(e) Notation of any adverse drug effects.

(4) The dates on which dangerous drugs controlled substances or products containing tramadol were prescribed, furnished, or administered, the name and address of the individual patient to or for whom the dangerous drugs controlled substances or products containing tramadol were prescribed, dispensed furnished, or administered, and the amounts and dosage forms for the dangerous drugs controlled substances or products containing tramadol prescribed, furnished, or administered;

(5) A copy of the any record or report made by the another physician or the physician to whom referral for evaluation was made under this division that was used or consulted for the purpose of diagnosing the patient's chronic pain or treating the patient for chronic pain.

(E) A physician shall not prescribe, personally furnish, or administer to a patient a controlled substance or product containing tramadol without taking into account the potential for abuse of the controlled substance or product, the possibility the controlled substance or product may lead to dependence, the possibility the patient will obtain the controlled substance or product for a nontherapeutic use or distribute it to other persons, and the potential existence of an illicit market for the controlled substance or product. In addition, the physician shall address with the patient the risks associated with protracted treatment with controlled substances or products containing tramadol, including informing the patient of the potential for dependence, tolerance, and addiction and the clinical or monitoring tools the physician may use if signs of addiction, drug abuse, or drug diversion are present.

~~(D)~~(F) A physician who treats chronic pain by managing it with dangerous drugs controlled substances or products containing tramadol is not subject to disciplinary action by the board under section 4731.22 of the Revised Code solely because the physician treated the chronic pain with dangerous drugs controlled substances or products containing tramadol.

Sec. 4731.22. (A) The state medical board, by an affirmative vote of not fewer than six of its members, may revoke or may refuse to grant a certificate to a person found by the board to have committed fraud during the administration of the examination for a certificate to practice or to have committed fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board.

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

(1) Permitting one's name or one's certificate to practice or certificate of registration to be used by a person, group, or corporation when the individual concerned is not actually directing the treatment given;

(2) Failure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease;

(3) Selling, giving away, personally furnishing, prescribing, or

administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug;

(4) Willfully betraying a professional confidence.

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports to a child fatality review board under sections 307.621 to 307.629 of the Revised Code and does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;

(7) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;

(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

(9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;

(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(14) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(15) Violation of the conditions of limitation placed by the board upon a certificate to practice;

(16) Failure to pay license renewal fees specified in this chapter;

(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business;

(18) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The individual whose certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not appropriate to the individual's profession.

For purposes of this division, a "provision of a code of ethics of a national professional organization" does not include any provision that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33

of the Revised Code.

(19) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.

In enforcing this division, the board, upon a showing of a possible violation, may compel any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's certificate. For the purpose of this division, any individual who applies for or receives a certificate to practice under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(20) Except when civil penalties are imposed under section 4731.225 or 4731.281 of the Revised Code, and subject to section 4731.226 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board.

This division does not apply to a violation or attempted violation of, assisting in or abetting the violation of, or a conspiracy to violate, any provision of this chapter or any rule adopted by the board that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in

division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(21) The violation of section 3701.79 of the Revised Code or of any abortion rule adopted by the ~~public~~ director of health ~~council~~ pursuant to section 3701.341 of the Revised Code;

(22) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(23) The violation of section 2919.12 of the Revised Code or the performance or inducement of an abortion upon a pregnant woman with actual knowledge that the conditions specified in division (B) of section 2317.56 of the Revised Code have not been satisfied or with a heedless indifference as to whether those conditions have been satisfied, unless an affirmative defense as specified in division (H)(2) of that section would apply in a civil action authorized by division (H)(1) of that section;

(24) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice;

(25) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that also would constitute a violation of division (B)(2), (3), (6), (8), or (19) of this section;

(26) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.

For the purposes of this division, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a certificate to practice under this chapter, an individual shall be deemed to have given

consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for certification to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is chosen by the board.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed certification to practice, to submit to treatment.

Before being eligible to apply for reinstatement of a certificate suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the practitioner's certificate. The demonstration shall include, but shall not be limited to, the following:

(a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(b) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

The board may reinstate a certificate suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

When the impaired practitioner resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety.

(27) A second or subsequent violation of section 4731.66 or 4731.69 of the Revised Code;

(28) Except as provided in division (N) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that individual;

(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay.

(29) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;

(30) Failure to provide notice to, and receive acknowledgment of the notice from, a patient when required by section 4731.143 of the Revised Code prior to providing nonemergency professional services, or failure to maintain that notice in the patient's file;

(31) Failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730. of the Revised Code and the rules adopted under that chapter;

(32) Failure of a physician or podiatrist to enter into a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration pursuant to section 4731.27 of the Revised Code or failure to fulfill the responsibilities of collaboration after entering into a standard care arrangement;

(33) Failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code;

(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories,

except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for supervision of an acupuncturist;

(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;

(37) Assisting suicide as defined in section 3795.01 of the Revised Code;

(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;

(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;

(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;

(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;

(42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;

(43) Failure to comply with the requirements of section 4729.79 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;

~~(41)~~(44) Failure to comply with the requirements of section 2919.171 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 of the Revised Code.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the

matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an individual's certificate to practice. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code.

If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the disciplinary action shall consist of a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's certificate to practice. Any consent agreement entered into under this division with an individual that pertains to a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of that section shall provide for a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's certificate to practice.

(D) For purposes of divisions (B)(10), (12), and (14) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the individual committed the act. The board does not have jurisdiction under those divisions if the trial court renders a final judgment in the individual's favor and that judgment is based upon an adjudication on the merits. The board has jurisdiction under those divisions if the trial court issues an order of dismissal upon technical or procedural grounds.

(E) The sealing of conviction records by any court shall have no effect upon a prior board order entered under this section or upon the board's jurisdiction to take action under this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F)(1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any

person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board.

(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4731.39 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.

(3) In investigating a possible violation of this chapter or any rule adopted under this chapter, the board may administer oaths, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board. Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is a person whose practice is authorized by this chapter, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for under section 119.094 of the Revised Code.

(4) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(5) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given or, in the case of a patient, a waiver of the patient privilege exists under division (B) of section 2317.02 of the Revised Code, except that consent or a waiver of that nature is not required if the board possesses reliable and substantial evidence that no bona fide physician-patient relationship exists.

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(6) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

(a) The case number assigned to the complaint or alleged violation;

(b) The type of certificate to practice, if any, held by the individual against whom the complaint is directed;

(c) A description of the allegations contained in the complaint;

(d) The disposition of the case.

The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.

(G) If the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's certificate to practice without a prior hearing:

(1) That there is clear and convincing evidence that an individual has violated division (B) of this section;

(2) That the individual's continued practice presents a danger of immediate and serious harm to the public.

Written allegations shall be prepared for consideration by the board. The board, upon review of those allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the individual subject to the summary suspension requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the individual requests the hearing, unless otherwise agreed to by both the board and the individual.

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within seventy-five days after completion of its hearing. A failure to issue the order within seventy-five days shall result in dissolution of the summary suspension order but shall not invalidate any subsequent, final adjudicative order.

(H) If the board takes action under division (B)(9), (11), or (13) of this section and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal,

upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition of that nature and supporting court documents, the board shall reinstate the individual's certificate to practice. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act or if no hearing is requested, the board may order any of the sanctions identified under division (B) of this section.

(I) The certificate to practice issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date of the individual's second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, or the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after suspension shall be considered practicing without a certificate.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate is automatically suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall do whichever of the following is applicable:

(1) If the automatic suspension under this division is for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the board shall enter an order suspending the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, imposing a more serious sanction involving the individual's certificate to practice.

(2) In all circumstances in which division (I)(1) of this section does not apply, enter a final order permanently revoking the individual's certificate to practice.

(J) If the board is required by Chapter 119. of the Revised Code to give

notice of an opportunity for a hearing and if the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In that final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

(K) Any action taken by the board under division (B) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's certificate to practice may be reinstated. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(L) When the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a certificate issued under this chapter shall not be effective unless or until accepted by the board. A telephone conference call may be utilized for acceptance of the surrender of an individual's certificate to practice. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. Reinstatement of a certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application for a certificate made under the provisions of this chapter may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a certificate of registration in accordance with this chapter shall not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.

(N) Sanctions shall not be imposed under division (B)(28) of this section against any person who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows such

a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

(2) For professional services rendered to any other person authorized to practice pursuant to this chapter, to the extent allowed by this chapter and rules adopted by the board.

(O) Under the board's investigative duties described in this section and subject to division (F) of this section, the board shall develop and implement a quality intervention program designed to improve through remedial education the clinical and communication skills of individuals authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, and podiatric medicine and surgery. In developing and implementing the quality intervention program, the board may do all of the following:

(1) Offer in appropriate cases as determined by the board an educational and assessment program pursuant to an investigation the board conducts under this section;

(2) Select providers of educational and assessment services, including a quality intervention program panel of case reviewers;

(3) Make referrals to educational and assessment service providers and approve individual educational programs recommended by those providers. The board shall monitor the progress of each individual undertaking a recommended individual educational program.

(4) Determine what constitutes successful completion of an individual educational program and require further monitoring of the individual who completed the program or other action that the board determines to be appropriate;

(5) Adopt rules in accordance with Chapter 119. of the Revised Code to further implement the quality intervention program.

An individual who participates in an individual educational program pursuant to this division shall pay the financial obligations arising from that educational program.

Sec. 4731.297. (A) As used in this section:

(1) "Academic medical center" means a medical school and its affiliated teaching hospitals and clinics partnering to do all of the following:

(a) Provide the highest quality of patient care from expert physicians;

(b) Conduct groundbreaking research leading to medical advancements for current and future patients;

(c) Provide medical education and graduate medical education to

educate and train physicians.

(2) "Affiliated physician group practice" means a medical practice that consists of one or more physicians authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery and that is affiliated with an academic medical center to further the objectives described in divisions (A)(1)(a) to (c) of this section.

(B) The state medical board shall issue, without examination, to an applicant who meets the requirements of this section a certificate of conceded eminence authorizing the practice of medicine and surgery or osteopathic medicine and surgery as part of the applicant's employment with an academic medical center in this state or affiliated physician group practice in this state.

(C) To be eligible for a certificate of conceded eminence, an applicant shall provide to the board all of the following:

(1) Evidence satisfactory to the board of all of the following:

(a) That the applicant is an international medical graduate who holds a medical degree from an educational institution listed in the international medical education directory;

(b) That the applicant has been appointed to serve in this state as a full-time faculty member of a medical school accredited by the liaison committee on medical education or an osteopathic medical school accredited by the American osteopathic association;

(c) That the applicant has accepted an offer of employment with an academic medical center in this state or affiliated physician group practice in this state;

(d) That the applicant holds a license in good standing in another state or country authorizing the practice of medicine and surgery or osteopathic medicine and surgery;

(e) That the applicant has unique talents and extraordinary abilities not generally found within the applicant's specialty, as demonstrated by satisfying at least four of the following:

(i) The applicant has achieved educational qualifications beyond those that are required for entry into the applicant's specialty, including advanced degrees, special certifications, or other academic credentials.

(ii) The applicant has written multiple articles in journals listed in the index medicus or an equivalent scholarly publication acceptable to the board.

(iii) The applicant has a sustained record of excellence in original research, at least some of which involves serving as the principal investigator or co-principal investigator for a research project.

(iv) The applicant has received nationally or internationally recognized prizes or awards for excellence.

(v) The applicant has participated in peer review in a field of specialization that is the same as or similar to the applicant's specialty.

(vi) The applicant has developed new procedures or treatments for complex medical problems that are recognized by peers as a significant advancement in the applicable field of medicine.

(vii) The applicant has held previous academic appointments with or been employed by a health care organization that has a distinguished national or international reputation.

(viii) The applicant has been the recipient of a national institutes of health or other competitive grant award.

(f) That the applicant has received staff membership or professional privileges from the academic medical center pursuant to standards adopted under section 3701.351 of the Revised Code on a basis that requires the applicant's medical education and graduate medical education to be at least equivalent to that of a physician educated and trained in the United States;

(g) That the applicant has sufficient written and oral English skills to communicate effectively and reliably with patients, their families, and other medical professionals;

(h) That the applicant will have professional liability insurance through the applicant's employment with the academic medical center or affiliated physician group practice.

(2) An affidavit from the applicant agreeing to practice only within the clinical setting of the academic medical center or for the affiliated physician group practice;

(3) Three letters of reference from distinguished experts in the applicant's specialty attesting to the unique capabilities of the applicant, at least one of which must be from outside the academic medical center or affiliated physician group practice;

(4) An affidavit from the dean of the medical school where the applicant has been appointed to serve as a faculty member stating that the applicant meets all of the requirements of division (C)(1) of this section and that the letters of reference submitted under division (C)(3) of this section are from distinguished experts in the applicant's specialty, and documentation to support the affidavit;

(5) A fee of one thousand dollars for the certificate.

(D)(1) The holder of a certificate of conceded eminence may practice medicine and surgery or osteopathic medicine and surgery only within the clinical setting of the academic medical center with which the certificate

holder is employed or for the affiliated physician group practice with which the certificate holder is employed.

(2) A certificate holder may supervise medical students, physicians participating in graduate medical education, advanced practice nurses, and physician assistants when performing clinical services in the certificate holder's area of specialty.

(E) The board may revoke a certificate issued under this section on receiving proof satisfactory to the board that the certificate holder has engaged in practice in this state outside the scope of the certificate or that there are grounds for action against the certificate holder under section 4731.22 of the Revised Code.

(F) A certificate of conceded eminence is valid for the shorter of two years or the duration of the certificate holder's employment with the academic medical center or affiliated physician group practice. The certificate ceases to be valid if the holder resigns or is otherwise terminated from the academic medical center or affiliated physician group practice.

(G) A certificate of conceded eminence may be renewed for an additional two-year period. There is no limit on the number of times a certificate may be renewed. A person seeking renewal of a certificate shall apply to the board and is eligible for renewal if the applicant does all of the following:

(1) Pays the renewal fee of one thousand dollars;

(2) Provides to the board an affidavit and supporting documentation from the academic medical center or affiliated physician group practice of all of the following:

(a) That the applicant's initial appointment to the medical faculty is still valid or has been renewed;

(b) That the applicant's clinical practice is consistent with the established standards in the field;

(c) That the applicant has demonstrated continued scholarly achievement;

(d) That the applicant has demonstrated continued professional achievement consistent with the academic medical center's requirements, established pursuant to standards adopted under section 3701.351 of the Revised Code, for physicians with staff membership or professional privileges with the academic medical center.

(3) Satisfies the same continuing medical education requirements set forth in section 4731.281 of the Revised Code that apply to a person who holds a certificate to practice medicine and surgery or osteopathic medicine and surgery issued under this chapter.

(4) Complies with any other requirements established by the board.

(H) The board may adopt any rules it considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4735.01. As used in this chapter:

(A) "Real estate broker" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration does any of the following:

(1) Sells, exchanges, purchases, rents, or leases, or negotiates the sale, exchange, purchase, rental, or leasing of any real estate;

(2) Offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of any real estate;

(3) Lists, or offers, attempts, or agrees to list, or auctions, or offers, attempts, or agrees to auction, any real estate;

(4) Buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate;

(5) Operates, manages, or rents, or offers or attempts to operate, manage, or rent, other than as custodian, caretaker, or janitor, any building or portions of buildings to the public as tenants;

(6) Advertises or holds self out as engaged in the business of selling, exchanging, purchasing, renting, or leasing real estate;

(7) Directs or assists in the procuring of prospects or the negotiation of any transaction, other than mortgage financing, which does or is calculated to result in the sale, exchange, leasing, or renting of any real estate;

(8) Is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the broker undertakes primarily to promote the sale, exchange, purchase, rental, or leasing of real estate through its listing in a publication issued primarily for such purpose, or for referral of information concerning such real estate to brokers, or both, except that this division does not apply to a publisher of listings or compilations of sales of real estate by their owners;

(9) Collects rental information for purposes of referring prospective tenants to rental units or locations of such units and charges the prospective tenants a fee.

(B) "Real estate" includes leaseholds as well as any and every interest or estate in land situated in this state, whether corporeal or incorporeal,

whether freehold or nonfreehold, and the improvements on the land, but does not include cemetery interment rights.

(C) "Real estate salesperson" means any person associated with a licensed real estate broker to do or to deal in any acts or transactions set out or comprehended by the definition of a real estate broker, for compensation or otherwise.

(D) "Institution of higher education" means either of the following:

(1) A nonprofit institution as defined in section 1713.01 of the Revised Code that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school;

(2) An institution operated for profit that otherwise qualifies under the definition of an institution in section 1713.01 of the Revised Code and that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school.

(E) "Foreign real estate" means real estate not situated in this state and any interest in real estate not situated in this state.

(F) "Foreign real estate dealer" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, does or deals in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate.

(G) "Foreign real estate salesperson" means any person associated with a licensed foreign real estate dealer to do or deal in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate, for compensation or otherwise.

(H) Any person, partnership, association, limited liability company, limited liability partnership, or corporation, who, for another, in consideration of compensation, by fee, commission, salary, or otherwise, or with the intention, in the expectation, or upon the promise of receiving or collecting a fee, does, or offers, attempts, or agrees to engage in, any single act or transaction contained in the definition of a real estate broker, whether an act is an incidental part of a transaction, or the entire transaction, shall be constituted a real estate broker or real estate salesperson under this chapter.

(I)(1) The terms "real estate broker," "real estate salesperson," "foreign real estate dealer," and "foreign real estate salesperson" do not include a person, partnership, association, limited liability company, limited liability

partnership, or corporation, or the regular employees thereof, who perform any of the acts or transactions specified or comprehended in division (A) of this section, whether or not for, or with the intention, in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration:

(a) With reference to real estate situated in this state owned by such person, partnership, association, limited liability company, limited liability partnership, or corporation, or acquired on its own account in the regular course of, or as an incident to the management of the property and the investment in it;

(b) As receiver or trustee in bankruptcy, as guardian, executor, administrator, trustee, assignee, commissioner, or any person doing the things mentioned in this section, under authority or appointment of, or incident to a proceeding in, any court, or as a bona fide public officer, or as executor, trustee, or other bona fide fiduciary under any trust agreement, deed of trust, will, or other instrument that has been executed in good faith creating a like bona fide fiduciary obligation;

(c) As a public officer while performing the officer's official duties;

(d) As an attorney at law in the performance of the attorney's duties;

(e) As a person who engages in the brokering of the sale of business assets, not including the sale, lease, exchange, or assignment of any interest in real estate;

(f) As a person who engages in the sale of manufactured homes as defined in division (C)(4) of section 3781.06 of the Revised Code, or of mobile homes as defined in division (O) of section 4501.01 of the Revised Code, provided the sale does not include the negotiation, sale, lease, exchange, or assignment of any interest in real estate;

(g) As a person who engages in the sale of commercial real estate pursuant to the requirements of section 4735.022 of the Revised Code.

(2) A person, partnership, association, limited liability company, limited liability partnership, or corporation exempt under division (I)(1)(a) of this section shall be limited by the legal interest in the real estate held by that person or entity to performing any of the acts or transactions specified in or comprehended by division (A) of this section.

(J) "Disabled licensee" means a person licensed pursuant to this chapter who is under a severe disability which is of such a nature as to prevent the person from being able to attend any instruction lasting at least three hours in duration.

(K) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and

professional licensing."

(L) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.

(M) "Inactive license" means the license status in which a salesperson's license is in the possession of the division, renewed as required under this chapter or rules adopted under this chapter, and not associated with a real estate broker.

(N) "Broker's license on deposit" means the license status in which a broker's license is in the possession of the division of real estate and professional licensing and renewed as required under this chapter or rules adopted under this chapter.

(O) "Suspended license" means the license status that prohibits a licensee from providing services that require a license under this chapter for a specified interval of time.

(P) "Reactivate" means the process prescribed by the superintendent of real estate and professional licensing to remove a license from an inactive, ~~voluntary held~~, suspended, or broker's license on deposit status to allow a licensee to provide services that require a license under this chapter.

(Q) "Revoked" means the license status in which the license is void and not eligible for reactivation.

(R) "Commercial real estate" means any parcel of real estate in this state other than real estate containing one to four residential units. "Commercial real estate" does not include single-family residential units such as condominiums, townhouses, manufactured homes, or homes in a subdivision when sold, leased, or otherwise conveyed on a unit-by-unit basis, even when those units are a part of a larger building or parcel of real estate containing more than four residential units.

(S) "Out-of-state commercial broker" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation that is licensed to do business as a real estate broker in a jurisdiction other than Ohio.

(T) "Out-of-state commercial salesperson" includes any person affiliated with an out-of-state commercial broker who is not licensed as a real estate salesperson in Ohio.

(U) "Exclusive right to sell or lease listing agreement" means an agency agreement between a seller and broker that meets the requirements of

section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the seller in the sale or lease of the seller's property;

(2) Provides the broker will be compensated if the broker, the seller, or any other person or entity produces a purchaser or tenant in accordance with the terms specified in the listing agreement or if the property is sold or leased during the term of the listing agreement to anyone other than to specifically exempted persons or entities.

(V) "Exclusive agency agreement" means an agency agreement between a seller and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the seller in the sale or lease of the seller's property;

(2) Provides the broker will be compensated if the broker or any other person or entity produces a purchaser or tenant in accordance with the terms specified in the listing agreement or if the property is sold or leased during the term of the listing agreement, unless the property is sold or leased solely through the efforts of the seller or to the specifically exempted persons or entities.

(W) "Exclusive purchaser agency agreement" means an agency agreement between a purchaser and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the purchaser in the purchase or lease of property;

(2) Provides the broker will be compensated in accordance with the terms specified in the exclusive agency agreement or if a property is purchased or leased by the purchaser during the term of the agency agreement unless the property is specifically exempted in the agency agreement.

The agreement may authorize the broker to receive compensation from the seller or the seller's agent and may provide that the purchaser is not obligated to compensate the broker if the property is purchased or leased solely through the efforts of the purchaser.

(X) "Seller" means a party in a real estate transaction who is the potential transferor of property. "Seller" includes an owner of property who is seeking to sell the property and a landlord who is seeking to rent or lease property to another person.

~~(Y) "Voluntary hold" means the license status in which a license is in the possession of the division of real estate and professional licensing for a period of not more than twelve months pursuant to section 4735.142 of the~~

~~Revised Code, is not renewed in accordance with the requirements specified in this chapter or the rules adopted pursuant to it, and is not associated with a real estate broker.~~

~~(Z)~~ "Resigned" means the license status in which a license has been voluntarily and permanently surrendered to or is otherwise in the possession of the division of real estate and professional licensing, is may not be renewed or reactivated in accordance with the requirements specified in this chapter or the rules adopted pursuant to it, and is not associated with a real estate broker.

~~(AA)~~~~(Z)~~ "Bona fide" means made in good faith or without purpose of circumventing license law.

Sec. 4735.02. (A) Except as provided in section 4735.022 of the Revised Code, no person, partnership, association, limited liability company, limited liability partnership, or corporation shall act as a real estate broker or real estate salesperson, or advertise or assume to act as such, without first being licensed as provided in this chapter. No person, partnership, association, limited liability company, limited liability partnership, or corporation shall provide services that require a license under this chapter if the licensee's license is inactive, suspended, ~~placed on voluntary hold~~, resigned, or a broker's license on deposit, or if the license has been revoked. Nothing contained in this chapter shall be construed as authorizing a real estate broker or salesperson to perform any service constituting the practice of law.

(B) No partnership, association, limited liability company, limited liability partnership, or corporation holding a real estate license shall employ as an officer, director, manager, or principal employee any person previously holding a license as a real estate broker, real estate salesperson, foreign real estate dealer, or foreign real estate salesperson, whose license has been placed in inactive, ~~voluntary hold~~, or resigned status, or is suspended, or revoked and who has not thereafter reactivated the license or received a new license.

Sec. 4735.052. (A) Upon receipt of a written complaint or upon the superintendent's own motion, the superintendent may investigate any person that has allegedly violated section 4735.02 or 4735.25 of the Revised Code, except that the superintendent shall not initiate an investigation, pursuant to this section, of any person who held a ~~license on voluntary hold or a~~ suspended or inactive license under this chapter on the date of the alleged violation.

(B) If, after investigation, the superintendent determines there exists reasonable evidence of a violation of section 4735.02 or 4735.25 of the

Revised Code, within fourteen business days after that determination, the superintendent shall send the party who is the subject of the investigation, a written notice, by regular mail, that includes all of the following information:

(1) A description of the activity in which the party allegedly is engaging or has engaged that is a violation of section 4735.02 or 4735.25 of the Revised Code;

(2) The applicable law allegedly violated;

(3) A statement informing the party that a hearing concerning the alleged violation will be held, upon the party's request, before a hearing examiner pursuant to Chapter 119. of the Revised Code.

(C)(1) If a hearing is requested, the hearing examiner shall hear the testimony of all parties present at the hearing and consider any written testimony submitted pursuant to this section, and determine if there has been a violation of section 4735.02 or 4735.25 of the Revised Code.

(2) After the conclusion of formal hearings, the hearing examiner shall file a report of findings of fact and conclusions of law with the superintendent, the commission, the complainant, and the parties. Within twenty days of receipt of such copy of the written report of findings of fact and conclusions of law, the parties and the division may file with the commission written objections to the report, which shall be considered by the commission before approving, modifying, or disapproving the report.

(3) The commission shall review the hearing examiner's report at the next regularly scheduled commission meeting held at least twenty business days after receipt of the hearing examiner's report. The commission shall hear the testimony of the complainant or the parties upon request.

(4) The commission shall decide whether to impose disciplinary sanctions upon a party for a violation of section 4735.02 of the Revised Code. If the commission finds that a violation has occurred, the commission may assess a civil penalty, in an amount it determines, not to exceed one thousand dollars per violation. Each day a violation occurs or continues is a separate violation. The commission shall determine the terms of payment. The commission shall maintain a record of the proceedings of the hearing and issue a written opinion to all parties, citing its findings and grounds for any action taken.

(D) Civil penalties collected under this section shall be deposited in the real estate operating fund, which is created in the state treasury under section 4735.211 of the Revised Code.

(E) If a party fails to pay a civil penalty assessed pursuant to this section within the time prescribed by the commission, the superintendent shall

forward to the attorney general the name of the party and the amount of the civil penalty, for the purpose of collecting that civil penalty. In addition to the civil penalty assessed pursuant to this section, the party also shall pay any fee assessed by the attorney general for collection of the civil penalty.

(F) The superintendent may reserve the right to bring a civil action against a party that fails to pay a civil penalty for breach of contract in a court of competent jurisdiction.

Sec. 4735.10. (A)(1) The Ohio real estate commission may adopt reasonable rules in accordance with Chapter 119. of the Revised Code, necessary for implementing the provisions of this chapter relating, but not limited to, the following:

- (a) The form and manner of filing applications for licensure;
- (b) Times and form of examination for license;
- (c) Placing an existing broker's license on deposit or a salesperson's license on an inactive status for an indefinite period;
- (d) Specifying the process by which a licensee may ~~place~~ resign the licensee's license ~~on voluntary hold or resigned status~~;
- (e) Defining any additional license status that the commission determines is necessary and that is not otherwise defined in this chapter and establishing the process by which a licensee places the licensee's license in a status defined by the commission in the rules the commission adopts;

(f) Clarification of the activities that require a license under this chapter.

(2) The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code, for implementing the provisions of this chapter relating to the following:

(a) The issuance, renewal, suspension, and revocation of licenses, other sanctions that may be imposed for violations of this chapter, the conduct of hearings related to these actions, and the process of reactivating a license;

(b) A three-year license and a three-year license renewal system;

(c) Standards for the approval of the ten-hour postlicensure courses as required by division ~~(H)~~(G) of section 4735.07 and division (H) of section 4735.09 of the Revised Code, courses of study required for licenses, courses offered in preparation for license examinations, or courses required as continuing education for licenses.

(d) Guidelines to ensure that continuing education classes are open to all persons licensed under this chapter. The rules shall specify that an organization that sponsors a continuing education class may offer its members a reasonable reduction in the fees charged for the class.

(e) Requirements for trust accounts and property management accounts. The rules shall specify that:

(i) Brokerages engaged in the management of property for another may, pursuant to a written contract with the property owner, exercise signatory authority for withdrawals from property management accounts maintained in the name of the property owner. The exercise of authority for withdrawals does not constitute a violation of any provision of division (A) of section 4735.18 of the Revised Code.

(ii) The interest earned on property management trust accounts maintained in the name of the property owner or the broker shall be payable to the property owner unless otherwise specified in a written contract.

(f) Notice of renewal forms and filing deadlines;

(g) Special assessments under division (A) of section 4735.12 of the Revised Code.

(B) The commission may adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and guidelines with which the superintendent of real estate shall comply in the exercise of the following powers:

(1) Appointment and recommendation of ancillary trustees under section 4735.05 of the Revised Code;

(2) Rejection of names proposed to be used by partnerships, associations, limited liability companies, limited liability partnerships, and corporations, under division (A) of section 4735.06 of the Revised Code;

(3) Acceptance and rejection of applications to take the broker and salesperson examinations and licensure, with appropriate waivers pursuant to division (E) of section 4735.07 and section 4735.09 of the Revised Code;

(4) Approval of applications of brokers to place their licenses in an inactive status and to become salespersons under section 4735.13 of the Revised Code;

(5) Appointment of hearing examiners under section 119.09 of the Revised Code;

(6) Acceptance and rejection of applications to take the foreign real estate dealer and salesperson examinations and licensure, with waiver of examination, under sections 4735.27 and 4735.28 of the Revised Code;

(7) Qualification of foreign real estate under section 4735.25 of the Revised Code.

If at any time there is no rule in effect establishing a guideline or standard required by this division, the superintendent may adopt a rule in accordance with Chapter 119. of the Revised Code for such purpose.

(C) The commission or superintendent may hear testimony in matters relating to the duties imposed upon them, and the president of the commission and superintendent may administer oaths. The commission or

superintendent may require other proof of the honesty, truthfulness, and good reputation of any person named in an application for a real estate broker's or real estate salesperson's license before admitting the applicant to the examination or issuing a license.

Sec. 4735.13. (A) Every real estate broker licensed under this chapter shall have and maintain a definite place of business in this state. A post office box address is not a definite place of business for purposes of this section. The license of a real estate broker shall be prominently displayed in the office or place of business of the broker, and no license shall authorize the licensee to do business except from the location specified in it. If the broker maintains more than one place of business within the state, the broker shall apply for and procure a duplicate license for each branch office maintained by the broker. Each branch office shall be in the charge of a licensed broker or salesperson. The branch office license shall be prominently displayed at the branch office location.

(B) The license of each real estate salesperson shall be mailed to and remain in the possession of the licensed broker with whom the salesperson is or is to be associated until the licensee places the license on inactive, ~~voluntary hold~~, or resigned status or until the salesperson leaves the brokerage or is terminated. The broker shall keep each salesperson's license in a way that it can, and shall on request, be made immediately available for public inspection at the office or place of business of the broker. Except as provided in divisions (G) and (H) of this section, immediately upon the salesperson's leaving the association or termination of the association of a real estate salesperson with the broker, the broker shall return the salesperson's license to the superintendent of real estate.

The failure of a broker to return the license of a real estate salesperson or broker who leaves or who is terminated, via certified mail return receipt requested, within three business days of the receipt of a written request from the superintendent for the return of the license, is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(C) ~~Any~~ A licensee shall notify the superintendent in writing within fifteen days of any of the following occurrences:

- (1) The licensee is convicted of a felony.
- (2) The licensee is convicted of a crime involving moral turpitude.
- (3) The licensee is found to have violated any federal, state, or municipal civil rights law pertaining to discrimination in housing.
- (4) The licensee is found to have engaged in a discriminatory practice pertaining to housing accommodations described in division (H) of section 4112.02 of the Revised Code.

~~(5) The licensee is found to have violated any municipal civil rights law pertaining to housing discrimination.~~

~~(6)~~ The licensee is the subject of an order by the department of commerce, the department of insurance, or the department of agriculture revoking or permanently surrendering any professional license, certificate, or registration.

~~(7)~~~~(6)~~ The licensee is the subject of an order by any government agency concerning real estate, financial matters, or the performance of fiduciary duties with respect to any license, certificate, or registration.

If a licensee fails to notify the superintendent within the required time, the superintendent immediately may suspend the license of the licensee.

Any court that convicts a licensee of a violation of any municipal civil rights law pertaining to housing discrimination also shall notify the Ohio civil rights commission within fifteen days of the conviction.

(D) In case of any change of business location, a broker shall give notice to the superintendent, on a form prescribed by the superintendent, within thirty days after the change of location, whereupon the superintendent shall issue new licenses for the unexpired period without charge. If a broker changes a business location without giving the required notice and without receiving new licenses that action is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(E) If a real estate broker desires to associate with another real estate broker in the capacity of a real estate salesperson, the broker shall apply to the superintendent to deposit the broker's real estate broker's license with the superintendent and for the issuance of a real estate salesperson's license. The application shall be made on a form prescribed by the superintendent and shall be accompanied by the recommendation of the real estate broker with whom the applicant intends to become associated and a fee of twenty-five dollars for the real estate salesperson's license. One dollar of the fee shall be credited to the real estate education and research fund. If the superintendent is satisfied that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, and that the association of the real estate broker and the applicant will be in the public interest, the superintendent shall grant the application and issue a real estate salesperson's license to the applicant. Any license so deposited with the superintendent shall be subject to this chapter. A broker who intends to deposit the broker's license with the superintendent, as

provided in this section, shall give written notice of this fact in a format prescribed by the superintendent to all salespersons associated with the broker when applying to place the broker's license on deposit.

(F) If a real estate broker desires to become a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation that is or intends to become a licensed real estate broker, the broker shall notify the superintendent of the broker's intentions. The notice of intention shall be on a form prescribed by the superintendent and shall be accompanied by a fee of twenty-five dollars. One dollar of the fee shall be credited to the real estate education and research fund.

A licensed real estate broker who is a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation shall only act as a real estate broker for such partnership, association, limited liability company, limited liability partnership, or corporation.

(G) If a real estate broker or salesperson enters the armed forces, the broker or salesperson may place the broker's or salesperson's license on deposit with the Ohio real estate commission. The licensee shall not be required to renew the license until the renewal date that follows the date of discharge from the armed forces. Any license deposited with the commission shall be subject to this chapter. Any licensee whose license is on deposit under this division and who fails to meet the continuing education requirements of section 4735.141 of the Revised Code because the licensee is in the armed forces shall satisfy the commission that the licensee has complied with the continuing education requirements within twelve months of the licensee's first birthday after discharge. The superintendent shall notify the licensee of the licensee's obligations under section 4735.141 of the Revised Code at the time the licensee applies for reactivation of the licensee's license.

(H) If a licensed real estate salesperson submits an application to the superintendent to leave the association of one broker to associate with a different broker, the broker possessing the licensee's license need not return the salesperson's license to the superintendent. The superintendent may process the application regardless of whether the licensee's license is returned to the superintendent.

Sec. 4735.14. (A) Each license issued under this chapter, shall be valid without further recommendation or examination until it is placed in an inactive, ~~voluntary hold~~, or resigned status, is revoked or suspended, or such license expires by operation of law.

(B) Except for a licensee who has placed the licensee's license on

~~voluntary hold or in~~ resigned status pursuant to section 4735.142 of the Revised Code, each licensed broker, brokerage, or salesperson shall file, on or before the date the Ohio real estate commission has adopted by rule for that licensee in accordance with division (A)(2)(f) of section 4735.10 of the Revised Code, a notice of renewal on a form prescribed by the superintendent of real estate. The notice of renewal shall be mailed by the superintendent two months prior to the filing deadline to the personal residence address of each broker or salesperson that is on file with the division. If the licensee is a partnership, association, limited liability company, limited liability partnership, or corporation, the notice of renewal shall be mailed by the superintendent two months prior to the filing deadline to the brokerage's business address on file with the division. A licensee shall not renew the licensee's license any earlier than two months prior to the filing deadline.

(C) Except as otherwise provided in division (B) of this section, the license of any real estate broker, brokerage, or salesperson that fails to file a notice of renewal on or before the filing deadline of each ensuing year shall be suspended automatically without the taking of any action by the superintendent. A suspended license may be reactivated within twelve months of the date of suspension, provided that the renewal fee plus a penalty fee of fifty per cent of the renewal fee is paid to the superintendent. Failure to reactivate the license as provided in this division shall result in automatic revocation of the license without the taking of any action by the superintendent. No person, partnership, association, corporation, limited liability company, or limited partnership shall engage in any act or acts for which a real estate license is required while that entity's license is placed in an inactive, ~~voluntary hold~~, or resigned status, or is suspended, or revoked. The commission shall adopt rules in accordance with Chapter 119. of the Revised Code to provide to licensees notice of suspension or revocation or both.

(D) Each licensee shall notify the ~~commission~~ superintendent of a change in personal residence address. A licensee's failure to notify the ~~commission~~ superintendent of a change in personal residence address does not negate the requirement to file the license renewal by the required deadline established by the commission by rule under division (A)(2)(f) of section 4735.10 of the Revised Code.

(E) The superintendent shall not renew a license if the licensee fails to comply with section 4735.141 of the Revised Code or is otherwise not in compliance with this chapter.

(F) The superintendent shall make notice of successful renewal

available electronically to licensees as soon as practicable, but not later than thirty days after receipt by the division of a complete application and renewal fee. This notice shall serve as a notice of renewal for purposes of section 4745.02 of the Revised Code.

Sec. 4735.141. (A) Except as otherwise provided in this division and except for a licensee who has placed the licensee's license ~~on voluntary hold or in~~ resigned status pursuant to section 4735.142 of the Revised Code, each person licensed under section 4735.07 or 4735.09 of the Revised Code shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed thirty hours of continuing education, as prescribed by the Ohio real estate commission pursuant to section 4735.10 of the Revised Code, on or before the licensee's birthday occurring three years after the licensee's date of initial licensure, and on or before the licensee's birthday every three years thereafter.

Persons licensed as real estate salespersons who subsequently become licensed real estate brokers shall continue to submit proof of continuing education in accordance with the time period established in this section.

The requirements of this section shall not apply to any disabled licensee as provided in division (E) of this section.

Each licensee who is seventy years of age or older, within a continuing education reporting period, shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed a total of nine classroom hours of continuing education, including instruction in Ohio real estate law; recently enacted state and federal laws affecting the real estate industry; municipal, state, and federal civil rights law; and canons of ethics for the real estate industry as adopted by the commission. The required proof of completion shall be submitted on or before the licensee's birthday that falls in the third year of that continuing education reporting period. A licensee who is seventy years of age or older whose license is in an inactive status is exempt from the continuing education requirements specified in this section. The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this paragraph.

(B) The continuing education requirements of this section shall be completed in schools, seminars, and educational institutions approved by the commission. Such approval shall be given according to rules established by the commission under the procedures of Chapter 119. of the Revised Code, and shall not be limited to institutions providing two-year or four-year degrees. Each school, seminar, or educational institution approved under this division shall be open to all licensees on an equal basis.

(C) If the requirements of this section are not met by a licensee within the period specified, the licensee's license shall be suspended automatically without the taking of any action by the superintendent. The superintendent shall notify the licensee of the license suspension, and such notification shall be sent by regular mail to the personal residence address of the licensee that is on file with the division. Any license so suspended shall remain suspended until it is reactivated by the superintendent. No such license shall be reactivated until it is established, to the satisfaction of the superintendent, that the requirements of this section have been met. If the requirements of this section are not met within twelve months from the date the license was suspended, the license shall be revoked automatically without the taking of any action by the superintendent.

(D) If the license of a real estate broker is suspended pursuant to division (C) of this section, the license of a real estate salesperson associated with that broker correspondingly is suspended pursuant to division (H) of section 4735.20 of the Revised Code. A sole broker shall notify affiliated salespersons of the suspension in writing within three days of receiving the notice required by division (C) of this section.

(1) The suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation if that broker subsequently submits proof to the superintendent that the broker has complied with the requirements of this section and requests that the broker's license as a real estate broker be reactivated, and the superintendent then reactivates the broker's license as a real estate broker.

(2) If the real estate salesperson submits an application to leave the association of the suspended broker in order to associate with a different broker, the suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation. The superintendent may process the application regardless of whether the licensee's license is returned to the superintendent.

Any person whose license is reactivated pursuant to this division shall comply with the requirements of this section and otherwise be in compliance with this chapter.

(E) Any licensee who is a disabled licensee at any time during the last three months of the third year of the licensee's continuing education reporting period may receive an extension of time as deemed appropriate by the superintendent to submit proof to the superintendent that the licensee has satisfactorily completed the required thirty hours of continuing education. To receive an extension of time, the licensee shall submit a request to the division of real estate for the extension and proof satisfactory to the

commission that the licensee was a disabled licensee at some time during the last three months of the three-year reporting period. The proof shall include, but is not limited to, a signed statement by the licensee's attending physician describing the disability, certifying that the licensee's disability is of such a nature as to prevent the licensee from attending any instruction lasting at least three hours in duration, and stating the expected duration of the disability. The licensee shall request the extension and provide the physician's statement to the division no later than one month prior to the end of the licensee's three-year continuing education reporting period, unless the disability did not arise until the last month of the three-year reporting period, in which event the licensee shall request the extension and provide the physician's statement as soon as practical after the occurrence of the disability. A licensee granted an extension pursuant to this division who is no longer a disabled licensee and who submits proof of completion of the continuing education during the extension period, shall submit, for future continuing education reporting periods, proof of completion of the continuing education requirements according to the schedule established in division (A) of this section.

(F) The superintendent shall not renew a license if the licensee fails to comply with this section, and the licensee shall be required to pay the penalty fee provided in section 4735.14 of the Revised Code.

(G) A licensee shall submit proof of completion of the required continuing education with the licensee's notice of renewal. The proof shall be submitted in the manner provided by the superintendent.

Sec. 4735.142. (A) Any person licensed under section 4735.07 or 4735.09 of the Revised Code, at any time prior to the date the licensee is required to file a notice of renewal pursuant to division (B) of section 4735.14 of the Revised Code may apply to the superintendent of real estate and professional licensing to place the licensee's license ~~on voluntary hold~~ or in a permanently resigned status.

~~(B) If the superintendent has placed a license on voluntary hold pursuant to a request made under division (A) of this section, the licensee who requested that the licensee's license be placed on voluntary hold may apply to the superintendent to reactivate that license within twelve months after the date the license is placed on voluntary hold. The superintendent shall reactivate that license if the licensee complies with the requirements for such reactivation that are specified in rules adopted by the Ohio real estate commission pursuant to division (A) of section 4735.10 of the Revised Code and satisfies all of the following requirements:~~

~~(1) The licensee complies with the postlicensure education requirements~~

~~specified in section 4735.07 or 4735.09 of the Revised Code, as applicable;~~

~~(2) The licensee complies with the continuing education requirements specified in section 4735.141 of the Revised Code;~~

~~(3) The licensee renews the licensee's license in accordance with section 4735.14 of the Revised Code and, if applicable, pays the annual brokerage assessment fee in accordance with the requirements specified in rules adopted by the commission.~~

~~(C) If a licensee does not apply to reactivate a license on voluntary hold pursuant to division (B) of this section during the twelve month time period specified in that division or does not satisfy the requirements specified in that division during that twelve month period, the superintendent shall consider that license to be in a resigned status. The superintendent shall not reactivate a resigned license. The resignation of a license is considered to be final without the taking of any action by the superintendent. If a person whose license is in a resigned status pursuant to this division wishes to obtain an active license, the person shall apply for an active license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable.~~

~~(D)~~ A licensee, at any time during which a license has been suspended pursuant to division (G) of section 4735.07, division (H) of section 4735.09, division (E) of section 4735.12, division (C) of section 4735.14, division (C) of section 4735.141, or section 4735.182 of the Revised Code, may apply to the superintendent on a form prescribed by the superintendent to ~~voluntarily~~ permanently resign the licensee's license voluntarily. The resignation of a license is considered to be final without the taking of any action by the superintendent. If

(C) If a person whose license is in a permanently resigned status pursuant to a request made under this ~~division~~ section wishes to obtain an active or inactive license, the person shall apply for such a license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable, or in the rules adopted by the commission pursuant to division (A) of section 4735.10 of the Revised Code.

~~(E)(D)~~ If placing a broker's license ~~on voluntary hold or in a~~ permanently resigned status will result in the closure of the broker's brokerage, the broker, within three days after applying to the superintendent to place the license ~~on voluntary hold or in a~~ permanently resigned status, shall provide to each salesperson associated with that broker a written notice stating that fact.

~~(F)(E)~~ This section does not apply to any licensee whose license has been suspended pursuant to division (F) of section 4735.181 of the Revised

Code or due to disciplinary action ordered by the commission pursuant to section 4735.051 of the Revised Code.

Sec. 4735.74. Unless otherwise agreed in writing, a licensee owes no further duty to a client after performance of all duties or after any contract has terminated or expired, except for both of the following:

(A) Providing the client with an accounting of all moneys and property relating to the transaction;

(B) Keeping confidential all information received during the course of the transaction unless:

(1) The client permits disclosure;

(2) Disclosure is required by law or by court order;

(3) The information becomes public from a source other than the licensee;

(4) The information is necessary to prevent a crime the client intends to commit;

(5) Disclosure is necessary to defend the brokerage or its licensees against an accusation of wrongful conduct or to establish or defend a claim that a commission is owed on a transaction;

(6) Disclosure is regarding sales information requested by a ~~registered~~ real estate appraiser assistant registered under Chapter 4763. of the Revised Code or a ~~licensed or certified~~ real estate appraiser licensed or certified under Chapter 4763. of the Revised Code for the purposes of performing an appraisal. No cause of action shall arise on behalf of any person against a licensee for releasing information pursuant to this division.

Sec. 4736.01. As used in this chapter:

(A) "Environmental health science" means the aspect of public health science that includes, but is not limited to, the following bodies of knowledge: air quality, food quality and protection, hazardous and toxic substances, consumer product safety, housing, institutional health and safety, community noise control, radiation protection, recreational facilities, solid and liquid waste management, vector control, drinking water quality, milk sanitation, and rabies control.

(B) "Sanitarian" means a person who performs for compensation educational, investigational, technical, or administrative duties requiring specialized knowledge and skills in the field of environmental health science.

(C) "Registered sanitarian" means a person who is registered as a sanitarian in accordance with this chapter.

(D) "Sanitarian-in-training" means a person who is registered as a sanitarian-in-training in accordance with this chapter.

(E) "Practice of environmental health" means consultation, instruction, investigation, inspection, or evaluation by an employee of a city health district, a general health district, the environmental protection agency, the department of health, or the department of agriculture requiring specialized knowledge, training, and experience in the field of environmental health science, with the primary purpose of improving or conducting administration or enforcement under any of the following:

(1) Chapter 911., 913., 917., 3717., 3718., 3721., 3729., or 3733. of the Revised Code;

(2) Chapter 3734. of the Revised Code as it pertains to solid waste;

(3) Section 955.26, 3701.344, 3707.01, or 3707.03, sections 3707.38 to 3707.99, or section 3715.21 of the Revised Code;

(4) Rules adopted under former section 3701.34 of the Revised Code pertaining to rabies control or swimming pools;

(5) Rules adopted under section 3701.935 of the Revised Code for school health and safety network inspections and rules adopted under section 3707.26 of the Revised Code for sanitary inspections.

"Practice of environmental health" does not include sampling, testing, controlling of vectors, reporting of observations, or other duties that do not require application of specialized knowledge and skills in environmental health science performed under the supervision of a registered sanitarian.

The state board of sanitarian registration may further define environmental health science in relation to specific functions in the practice of environmental health through rules adopted by the board under Chapter 119. of the Revised Code.

Sec. 4740.03. (A) The administrative section of the Ohio construction industry licensing board annually shall elect from among its members a chairperson and other officers as the board, by rule, designates. The chairperson shall preside over meetings of the administrative section or designate another member to preside in the chairperson's absence. The administrative section shall hold at least two regular meetings each year, but may meet at additional times as specified by rule, at the call of the chairperson, or upon the request of two or more members. A majority of the members of the administrative section constitutes a quorum for the transaction of all business. The administrative section may not take any action without the concurrence of at least three of its members.

(B)(1) The administrative section shall employ a secretary, who is not a member of the board, to serve at the pleasure of the administrative section, and shall fix the compensation of the secretary. The secretary shall be in the unclassified civil service of the state.

(2) The secretary shall do all of the following:

(a) Keep or set standards for and delegate to another person the keeping of the minutes, books, and other records and files of the board and each section of the board;

(b) Issue all licenses in the name of the board;

(c) Send out all notices, including advance notices of meetings of the board and each section of the board, and attend to all correspondence of the board and each section of the board, under the direction of the administrative section;

(d) Receive and deposit all fees payable pursuant to this chapter into the ~~labor~~ industrial compliance operating fund created pursuant to section 121.084 of the Revised Code;

(e) Perform all other duties incidental to the office of the secretary or properly assigned to the secretary by the administrative section of the board.

(3) Before entering upon the discharge of the duties of the secretary, the secretary shall file with the treasurer of state a bond in the sum of five thousand dollars, payable to the state, to ensure the faithful performance of the secretary's duties. The board shall pay the premium of the bond in the same manner as it pays other expenditures of the board.

(C) Upon the request of the administrative section of the board, the director of commerce shall supply the board and its sections with personnel, office space, and supplies, as the director determines appropriate. The administrative section of the board shall employ any additional staff it considers necessary and appropriate.

(D) The chairperson of the board or the secretary, or both, as authorized by the board, shall approve all vouchers of the board.

Sec. 4740.11. The Ohio construction industry licensing board and its sections shall deposit all receipts and fines collected under this chapter into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

Sec. 4740.14. (A) There is hereby created within the department of commerce the residential construction advisory committee consisting of nine persons the director of commerce appoints. The advisory committee shall be made up of the following members:

(1) Three shall be general contractors who have recognized ability and experience in the construction of residential buildings.

(2) Two shall be building officials who have experience administering and enforcing a residential building code.

(3) One, chosen from a list of three names the Ohio fire chief's association submits, shall be from the fire service certified as a fire safety

inspector who has at least ten years of experience enforcing fire or building codes.

(4) One shall be a residential contractor who has recognized ability and experience in the remodeling and construction of residential buildings.

(5) One shall be an architect registered pursuant to Chapter 4703. of the Revised Code, with recognized ability and experience in the architecture of residential buildings.

(6) One, chosen from a list of three names the Ohio municipal league submits to the director, shall be a mayor of a municipal corporation in which the Ohio residential building code is being enforced in the municipal corporation by a certified building department.

(B) Terms of office shall be for three years, with each term ending on the date three years after the date of appointment. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the manner provided for initial appointments. Any member appointed to fill a vacancy in an unexpired term shall hold office for the remainder of that term.

(C) The advisory committee shall do all of the following:

(1) Recommend to the board of building standards a building code for residential buildings. The committee shall recommend a code that it may model on a residential building code a national model code organization issues, with adaptations necessary to implement the code in this state. If the board of building standards decides not to adopt a code the committee recommends, the committee shall revise the code and resubmit it until the board adopts a code the committee recommends as the state residential building code;

(2) Advise the board regarding the establishment of standards for certification of building officials who enforce the state residential building code;

(3) Assist the board in providing information and guidance to residential contractors and building officials who enforce the state residential building code;

(4) Advise the board regarding the interpretation of the state residential building code;

(5) Provide other assistance the committee considers necessary;

(6) Provide the board with a written report of the committee's findings for each consideration required by division (D) of this section.

(D) The committee shall not make its recommendation to the board pursuant to divisions (C)(1), (2), and (4) of this section until the advisory committee has considered all of the following:

(1) The impact that the state residential building code may have upon the health, safety, and welfare of the public;

(2) The economic reasonableness of the residential building code;

(3) The technical feasibility of the residential building code;

(4) The financial impact that the residential building code may have on the public's ability to purchase affordable housing.

(E) The advisory committee may provide the board with any rule the committee recommends to update or amend the state residential building code or any rule that the committee recommends to update or amend the state residential building code after receiving a petition described in division (A)(2) of section 3781.12 of the Revised Code.

(F) Members of the advisory committee shall receive no salary for the performance of their duties as members, but shall receive their actual and necessary expenses incurred in the performance of their duties as members of the advisory committee and shall receive a per diem for each day in attendance at an official meeting of the committee, to be paid from the ~~labor~~ industrial compliance operating fund in the state treasury, using fees collected in connection with residential buildings pursuant to division (F)(2) of section 3781.102 of the Revised Code and deposited in that fund.

(G) The advisory committee is not subject to divisions (A) and (B) of section 101.84 of the Revised Code.

Sec. 4743.05. Except as otherwise provided in sections 4701.20, 4723.062, 4723.082, ~~and 4729.65, 4781.121, and 4781.28~~ of the Revised Code, all money collected under Chapters 3773., 4701., 4703., 4709., 4713., 4715., 4717., 4723., 4725., 4729., 4732., 4733., 4734., 4736., 4741., 4753., 4755., 4757., 4758., 4759., 4761., 4766., 4771., 4775., 4779., and 4781. of the Revised Code shall be paid into the state treasury to the credit of the occupational licensing and regulatory fund, which is hereby created for use in administering such chapters.

At the end of each quarter, the director of budget and management shall transfer from the occupational licensing and regulatory fund to the nurse education assistance fund created in section 3333.28 of the Revised Code the amount certified to the director under division (B) of section 4723.08 of the Revised Code.

At the end of each quarter, the director shall transfer from the occupational licensing and regulatory fund to the certified public accountant education assistance fund created in section 4701.26 of the Revised Code the amount certified to the director under division (H)(2) of section 4701.10 of the Revised Code.

Sec. 4763.05. (A)(1)(a) A person shall make application for an initial

state-certified general real estate appraiser certificate, an initial state-certified residential real estate appraiser certificate, an initial state-licensed residential real estate appraiser license, or an initial state-registered real estate appraiser assistant registration in writing to the superintendent of real estate on a form the superintendent prescribes. The application shall include the address of the applicant's principal place of business and all other addresses at which the applicant currently engages in the business of preparing real estate appraisals and the address of the applicant's current residence. The superintendent shall retain the applicant's current residence address in a separate record which ~~shall~~ does not constitute a public record for purposes of section ~~149.03~~ 149.43 of the Revised Code. The application shall indicate whether the applicant seeks certification as a general real estate appraiser or as a residential real estate appraiser, licensure as a residential real estate appraiser, or registration as a real estate appraiser assistant and be accompanied by the prescribed examination and certification, registration, or licensure fees set forth in section 4763.09 of the Revised Code. The application also shall include a pledge, signed by the applicant, that the applicant will comply with the standards set forth in this chapter; and a statement that the applicant understands the types of misconduct for which disciplinary proceedings may be initiated against the applicant pursuant to this chapter.

(b) Upon the filing of an application and payment of any examination and certification, registration, or licensure fees, the superintendent of real estate shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints in accordance with ~~division (A)(11)~~ of section 109.572 of the Revised Code. Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent of real estate shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the applicant.

(2) For purposes of providing funding for the real estate appraiser recovery fund established by section 4763.16 of the Revised Code, the real estate appraiser board shall levy an assessment against each person issued an initial certificate, registration, or license and against current licensees, registrants, and certificate holders, as required by board rule. The assessment is in addition to the application and examination fees for initial applicants required by division (A)(1) of this section and the renewal fees required for current certificate holders, registrants, and licensees. The

superintendent of real estate shall deposit the assessment into the state treasury to the credit of the real estate appraiser recovery fund. The assessment for initial certificate holders, registrants, and licensees shall be paid prior to the issuance of a certificate, registration, or license, and for current certificate holders, registrants, and licensees, at the time of renewal.

(B) An applicant for an initial general real estate appraiser certificate, residential real estate appraiser certificate, or residential real estate appraiser license shall possess experience in real estate appraisal as the board prescribes by rule. In addition to any other information required by the board, the applicant shall furnish, under oath, a detailed listing of the appraisal reports or file memoranda for each year for which experience is claimed and, upon request of the superintendent or the board, shall make available for examination a sample of the appraisal reports prepared by the applicant in the course of the applicant's practice.

(C) An applicant for an initial certificate, registration, or license shall be at least eighteen years of age, honest, truthful, and of good reputation and shall present satisfactory evidence to the superintendent that the applicant has successfully completed any education requirements the board prescribes by rule.

(D) An applicant for an initial general real estate appraiser or residential real estate appraiser certificate or residential real estate appraiser license shall take and successfully complete a written examination in order to qualify for the certificate or license.

The board shall prescribe the examination requirements by rule.

(E)(1) A nonresident, natural person of this state who has complied with this section may obtain a certificate, registration, or license. The board shall adopt rules relating to the certification, registration, and licensure of a nonresident applicant whose state of residence the board determines to have certification, registration, or licensure requirements that are substantially similar to those set forth in this chapter and the rules adopted thereunder.

(2) The board shall recognize on a temporary basis a certification or license issued in another state and shall register on a temporary basis an appraiser who is certified or licensed in another state if all of the following apply:

(a) The temporary registration is to perform an appraisal assignment that is part of a federally related transaction.

(b) The appraiser's business in this state is of a temporary nature.

(c) The appraiser registers with the board pursuant to this division.

An appraiser who is certified or licensed in another state shall register with the board for temporary practice before performing an appraisal

assignment in this state in connection with a federally related transaction.

The board shall adopt rules relating to registration for the temporary recognition of certification and licensure of appraisers from another state. The registration for temporary recognition of certified or licensed appraisers from another state shall not authorize completion of more than one appraisal assignment in this state. The board shall not issue more than two registrations for temporary practice to any one applicant in any calendar year.

(3) In addition to any other information required to be submitted with the nonresident applicant's or appraiser's application for a certificate, registration, license, or temporary recognition of a certificate or license, each nonresident applicant or appraiser shall submit a statement consenting to the service of process upon the nonresident applicant or appraiser by means of delivering that process to the secretary of state if, in an action against the applicant, certificate holder, registrant, or licensee arising from the applicant's, certificate holder's, registrant's, or licensee's activities as a certificate holder, registrant, or licensee, the plaintiff, in the exercise of due diligence, cannot effect personal service upon the applicant, certificate holder, registrant, or licensee.

(F) The superintendent shall not issue a certificate, registration, or license to, or recognize on a temporary basis an appraiser from another state that is a corporation, partnership, or association. This prohibition shall not be construed to prevent a certificate holder or licensee from signing an appraisal report on behalf of a corporation, partnership, or association.

(G) Every person licensed, registered, or certified under this chapter shall notify the superintendent, on a form provided by the superintendent, of a change in the address of the licensee's, registrant's, or certificate holder's principal place of business or residence within thirty days of the change. If a licensee's, registrant's, or certificate holder's license, registration, or certificate is revoked or not renewed, the licensee, registrant, or certificate holder immediately shall return the annual and any renewal certificate, registration, or license to the superintendent.

(H)(1) The superintendent shall not issue a certificate, registration, or license to any person, or recognize on a temporary basis an appraiser from another state, who does not meet applicable minimum criteria for state certification, registration, or licensure prescribed by federal law or rule.

(2) The superintendent shall not issue a general real estate appraiser certificate, residential real estate appraiser certificate, residential real estate appraiser license, or real estate appraiser assistant registration to any person who has been convicted of or pleaded guilty to any criminal offense

involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities, including a violation of an existing or former law of this state, any other state, or the United States that substantially is equivalent to such an offense. However, if the applicant has pleaded guilty to or been convicted of such an offense, the superintendent shall not consider the offense if the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again.

Sec. 4765.07. (A) The state board of emergency medical services shall adopt rules under section 4765.11 of the Revised Code to establish and administer a grant program under which grants are distributed according to the following priorities:

(1) First priority shall be given to emergency medical service organizations for the training of personnel, for the purchase of equipment and vehicles, and to improve the availability, accessibility, and quality of emergency medical services in this state. In this category, the board shall give priority to grants that fund training and equipping of emergency medical service personnel.

(2) Second priority shall be given to entities that research, test, and evaluate medical procedures and systems related to adult and pediatric trauma care.

(3) Third priority shall be given to entities that research the causes, nature, and effects of traumatic injuries, educate the public about injury prevention, and implement, test, and evaluate injury prevention strategies.

(4) Fourth priority shall be given to entities that research, test, and evaluate procedures that promote the rehabilitation, retraining, and reemployment of adult or pediatric trauma victims and social service support mechanisms for adult or pediatric trauma victims and their families.

(5) Fifth priority shall be given to entities that conduct research on, test, or evaluate one or more of the following:

(a) Procedures governing the performance of emergency medical services in this state;

(b) The training of emergency medical service personnel;

(c) The staffing of emergency medical service organizations.

(6) For grants distributed for the grant award years occurring not later than the award year ending June 30, 2017, sixth priority shall be given to entities that operate paramedic training programs and are seeking national

accreditation of the programs.

(B) To be eligible for a grant distributed pursuant to division (A)(6) of this section, an applicant for the grant shall meet all of the following conditions:

(1) Hold a certificate of accreditation issued by the board under section 4765.17 of the Revised Code to operate a paramedic training program;

(2) Be seeking initial national accreditation of the program from an accrediting organization approved by the board;

(3) Apply for the national accreditation on or after February 25, 2010.

(C) The grant program shall be funded from the trauma and emergency medical services ~~grants~~ fund created by section 4513.263 of the Revised Code.

Sec. 4773.08. The ~~public director of health council~~ shall adopt rules to implement and administer this chapter. In adopting the rules, the ~~council~~ director shall consider any recommendations made by the radiation advisory council created under section 3701.93 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and shall not be less stringent than any applicable standards specified in 42 C.F.R. 75. The rules shall establish all of the following:

(A) Standards for licensing general x-ray machine operators, radiographers, radiation therapy technologists, and nuclear medicine technologists;

(B) Application and renewal fees for licenses issued under this chapter that do not exceed the cost incurred in issuing and renewing the licenses;

(C) Standards for accreditation of educational programs and approval of continuing education programs in general x-ray machine operation, radiography, radiation therapy technology, and nuclear medicine technology;

(D) Fees for accrediting educational programs and approving continuing education programs in general x-ray machine operation, radiography, radiation therapy technology, and nuclear medicine technology that do not exceed the cost incurred in accrediting the educational programs;

(E) Fees for issuing conditional licenses under section 4773.05 of the Revised Code that do not exceed the cost incurred in issuing the licenses;

(F) Continuing education requirements that must be met to have a license renewed under section 4773.03 of the Revised Code;

(G) Continuing education requirements that the holder of a conditional license must meet to receive a license issued under section 4773.03 of the Revised Code;

(H) Any other rules necessary for the implementation or administration

of this chapter.

Sec. 4781.01. As used in this chapter:

(A) "Industrialized unit" has the same meaning as in division (C)(3) of section 3781.06 of the Revised Code.

(B) "Installation" means any of the following:

(1) The temporary or permanent construction of stabilization, support, and anchoring systems for manufactured housing;

(2) The placement and erection of a manufactured housing unit or components of a unit on a structural support system;

(3) The supporting, blocking, leveling, securing, anchoring, underpinning, or adjusting of any section or component of a manufactured housing unit;

(4) The joining or connecting of all sections or components of a manufactured housing unit.

(C) "Manufactured home" has the same meaning as in division (C)(4) of section 3781.06 of the Revised Code.

(D) ~~"Manufactured home park" has the same meaning as in division (A) of section 3733.01 of the Revised Code~~ means any tract of land upon which three or more manufactured or mobile homes used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of the park. "Manufactured home park" does not include any of the following:

(1) A tract of land used solely for the storage or display for sale of manufactured or mobile homes or solely as a temporary park-camp as defined in section 3729.01 of the Revised Code;

(2) A tract of land that is subdivided and the individual lots are for sale or sold for the purpose of installation of manufactured or mobile homes used for habitation and the roadways are dedicated to the local government authority;

(3) A tract of land within an area that is subject to local zoning authority and subdivision requirements and is subdivided, and the individual lots are for sale or sold for the purpose of installation of manufactured or mobile homes for habitation.

(E) "Manufactured housing" means manufactured homes and mobile homes.

(F) "Manufactured housing installer" means an individual who installs manufactured housing.

(G) "Mobile home" has the same meaning as in division (O) of section 4501.01 of the Revised Code.

(H) "Model standards" means the federal manufactured home installation standards established pursuant to 42 U.S.C. 5404.

(I) "Permanent foundation" has the same meaning as in division (C)(5) of section 3781.06 of the Revised Code.

(J) "Business" includes any activities engaged in by any person for the object of gain, benefit, or advantage either direct or indirect.

(K) "Casual sale" means any transfer of a manufactured home or mobile home by a person other than a manufactured housing dealer, manufactured housing salesperson, or manufacturer to an ultimate consumer or a person who purchases the home for use as a residence.

(L) "Engaging in business" means commencing, conducting, or continuing in business, or liquidating a business when the liquidator thereof holds self out to be conducting such business; making a casual sale or otherwise making transfers in the ordinary course of business when the transfers are made in connection with the disposition of all or substantially all of the transferor's assets is not engaging in business.

(M) "Manufactured home park operator" ~~has the same meaning as "operator" in section 3733.01 of the Revised Code or~~ "park operator" means the person who has responsible charge of a manufactured home park and who is licensed under sections 4781.26 to 4781.35 of the Revised Code.

(N) "Manufactured housing broker" means any person acting as a selling agent on behalf of an owner of a manufactured home or mobile home that is subject to taxation under section 4503.06 of the Revised Code.

(O) "Manufactured housing dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in manufactured homes or mobile homes.

(P) "Manufacturer" means a person who manufactures, assembles, or imports manufactured homes or mobile homes.

(Q) "Retail sale" or "sale at retail" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a manufactured home or mobile home to an ultimate purchaser for use as a residence.

(R) "Salesperson" means any individual employed by a manufactured housing dealer or manufactured housing broker to sell, display, and offer for sale, or deal in manufactured homes or mobile homes for a commission, compensation, or other valuable consideration, but does not mean any public officer performing official duties.

(S) "Ultimate purchaser" means, with respect to any new manufactured home, the first person, other than a manufactured housing dealer purchasing in the capacity of a manufactured housing dealer, who purchases such new manufactured home for purposes other than resale.

(T) "Tenant" means a person who is entitled under a rental agreement with a manufactured home park operator to occupy a manufactured home park lot and who does not own the home occupying the lot.

(U) "Owner" means a person who is entitled under a rental agreement with a manufactured home park operator to occupy a manufactured home park lot and who owns the home occupying the lot.

(V) "Resident" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others. "Resident" includes both tenants and owners.

(W) "Residential premises" means a lot located within a manufactured home park and the grounds, areas, and facilities contained within the manufactured home park for the use of residents generally or the use of which is promised to a resident.

(X) "Rental agreement" means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one of the parties.

(Y) "Security deposit" means any deposit of money or property to secure performance by the resident under a rental agreement.

(Z) "Development" means any artificial change to improved or unimproved real estate, including, without limitation, buildings or structures, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, and the construction, expansion, or substantial alteration of a manufactured home park, for which plan review is required under division (A) of section 4781.31 of the Revised Code. "Development" does not include the building, construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable.

(AA) "Flood" or "flooding" means either of the following:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from any of the following:

(a) The overflow of inland or tidal waters;

(b) The unusual and rapid accumulation or runoff of surface waters from any source;

(c) Mudslides that are proximately caused by flooding as defined in division (AA)(1)(b) of this section and that are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining that is caused by waves

or currents of water exceeding anticipated cyclical levels or that is suddenly caused by an unusually high water level in a natural body of water, and that is accompanied by a severe storm, by an unanticipated force of nature, such as a flash flood, by an abnormal tidal surge, or by some similarly unusual and unforeseeable event, that results in flooding as defined in division (AA)(1)(a) of this section.

(BB) "Flood plain" means the area adjoining any river, stream, watercourse, or lake that has been or may be covered by flood water.

(CC) "One-hundred-year flood" means a flood having a one per cent chance of being equaled or exceeded in any given year.

(DD) "One-hundred-year flood plain" means that portion of a flood plain inundated by a one-hundred-year flood.

(EE) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes this state, any political subdivision of this state, and any other state or local body of this state.

(FF) "Substantial damage" means damage of any origin sustained by a manufactured or mobile home that is situated in a manufactured home park located in a flood plain when the cost of restoring the home to its condition before the damage occurred will equal or exceed fifty per cent of the market value of the home before the damage occurred.

(GG) "Substantially alter" means a change in the layout or design of a manufactured home park, including, without limitation, the movement of utilities or changes in established streets, lots, or sites or in other facilities. In the case of manufactured home parks located within a one-hundred-year flood plain, "substantially alter" also includes changes in elevation resulting from the addition of fill, grading, or excavation that may affect flood plain management.

(HH) "Tract" means a contiguous area of land that consists of one or more parcels, lots, or sites that have been separately surveyed regardless of whether the individual parcels, lots, or sites have been recorded and regardless of whether the one or more parcels, lots, or sites are under common or different ownership.

Sec. 4781.02. (A) There is hereby created the manufactured homes commission which consists of nine members, with three members appointed by the governor, three members appointed by the president of the senate, and three members appointed by the speaker of the house of representatives.

(B)(1) Commission members shall be residents of this state, except for members appointed pursuant to divisions (B)(3)(b) and (B)(4)(a) of this section. Members shall be selected from a list of persons the Ohio manufactured homes association, or any successor entity, recommends,

except for appointments made pursuant to division (B)(2) of this section.

(2) The governor shall appoint the following members:

(a) One member to represent the board of building standards, who may be a member of the board or a board employee not in the classified civil service, with an initial term ending December 31, 2007;

(b) One member ~~to represent the department of health, who may be a department employee not in the classified civil service, with an initial term ending December 31, 2005~~ who is registered as a sanitarian in accordance with Chapter 4736. of the Revised Code, has experience with the regulation of manufactured homes, and is an employee of a health district described in section 3709.01 of the Revised Code;

(c) One member whose primary residence is a manufactured home, with an initial term ending December 31, 2006.

(3) The president of the senate shall appoint the following members:

(a) Two members who are manufactured housing installers who have been actively engaged in the installation of manufactured housing for the five years immediately prior to appointment, with the initial term of one installer ending December 31, 2007, and the initial term of the other installer ending December 31, 2005.

(b) One member who manufactures manufactured homes in this state or who manufactures manufactured homes in another state and ships homes into this state, to represent manufactured home manufacturers, with an initial term ending December 31, 2006.

(4) The speaker of the house of representatives shall appoint the following members:

(a) One member who operates a manufactured or mobile home retail business in this state to represent manufactured housing dealers, with an initial term ending December 31, 2007;

(b) One member who is a manufactured home park operator or is employed by an operator, with an initial term ending December 31, 2005;

(c) One member to represent the Ohio manufactured home association, or any successor entity, who may be the president or executive director of the association or the successor entity, with an initial term ending December 31, 2006.

(C)(1) After the initial term, each term of office is for four years ending on the thirty-first day of December. A member holds office from the date of appointment until the end of the term. No member may serve more than two consecutive four-year terms.

(2) Any member appointed to fill a vacancy that occurs prior to the expiration of a term continues in office for the remainder of that term. Any

member continues in office subsequent to the expiration date of the term until the member's successor takes office or until sixty days have elapsed, whichever ever occurs first.

(3) A vacancy on the commission does not impair the authority of the remaining members to exercise all of the commission's powers.

(D)(1) The governor may remove any member from office for incompetence, neglect of duty, misfeasance, nonfeasance, malfeasance, or unprofessional conduct in office.

(2) Vacancies shall be filled in the manner of the original appointment.

Sec. 4781.04. (A) The manufactured homes commission shall adopt rules pursuant to Chapter 119. of the Revised Code to do all of the following:

(1) Establish uniform standards that govern the installation of manufactured housing. Not later than one hundred eighty days after the secretary of the United States department of housing and urban development adopts model standards for the installation of manufactured housing or amends those standards, the commission shall amend its standards as necessary to be consistent with, and not less stringent than, the model standards for the design and installation of manufactured housing the secretary adopts or any manufacturers' standards that the secretary determines are equal to or not less stringent than the model standards.

(2) Govern the inspection of the installation of manufactured housing. The rules shall specify that the commission, any building department or personnel of any department, ~~any licenser or personnel of any licenser~~, or any private third party, certified pursuant to section 4781.07 of the Revised Code shall conduct all inspections of the installation of manufactured housing located in manufactured home parks to determine compliance with the uniform installation standards the commission establishes pursuant to this section.

~~As used in division (A)(2) of this section, "licensor" has the same meaning as in section 3733.01 of the Revised Code.~~

(3) Govern the design, construction, installation, approval, and inspection of foundations and the base support systems for manufactured housing. The rules shall specify that the commission, any building department or personnel of any department, ~~any licenser or personnel of any licenser~~, or any private third party, certified pursuant to section 4781.07 of the Revised Code shall conduct all inspections of the installation, foundations, and base support systems of manufactured housing located in manufactured home parks to determine compliance with the uniform installation standards and foundation and base support system design the

commission establishes pursuant to this section.

~~As used in division (A)(3) of this section, "licensor" has the same meaning as in section 3733.01 of the Revised Code.~~

(4) Govern the training, experience, and education requirements for manufactured housing installers, manufactured housing dealers, manufactured housing brokers, and manufactured housing salespersons;

(5) Establish a code of ethics for manufactured housing installers;

(6) Govern the issuance, revocation, and suspension of licenses to manufactured housing installers;

(7) Establish fees for the issuance and renewal of licenses, for conducting inspections to determine an applicant's compliance with this chapter and the rules adopted pursuant to it, and for the commission's expenses incurred in implementing this chapter;

(8) Establish conditions under which a licensee may enter into contracts to fulfill the licensee's responsibilities;

(9) Govern the investigation of complaints concerning any violation of this chapter or the rules adopted pursuant to it or complaints involving the conduct of any licensed manufactured housing installer or person installing manufactured housing without a license, licensed manufactured housing dealer, licensed manufactured housing broker, or manufactured housing salesperson;

(10) Establish a dispute resolution program for the timely resolution of warranty issues involving new manufactured homes, disputes regarding responsibility for the correction or repair of defects in manufactured housing, and the installation of manufactured housing. The rules shall provide for the timely resolution of disputes between manufacturers, manufactured housing dealers, and installers regarding the correction or repair of defects in manufactured housing that are reported by the purchaser of the home during the one-year period beginning on the date of installation of the home. The rules also shall provide that decisions made regarding the dispute under the program are not binding upon the purchaser of the home or the other parties involved in the dispute unless the purchaser so agrees in a written acknowledgement that the purchaser signs and delivers to the program within ten business days after the decision is issued.

(11) Establish the requirements and procedures for the certification of building departments and building department personnel pursuant to section 4781.07 of the Revised Code;

(12) Establish fees to be charged to building departments and building department personnel applying for certification and renewal of certification pursuant to section 4781.07 of the Revised Code;

(13) Develop a policy regarding the maintenance of records for any inspection authorized or conducted pursuant to this chapter. Any record maintained under division (A)(13) of this section shall be a public record under section 149.43 of the Revised Code.

(14) Carry out any other provision of this chapter.

(B) The manufactured homes commission shall do all of the following:

(1) Prepare and administer a licensure examination to determine an applicant's knowledge of manufactured housing installation and other aspects of installation the commission determines appropriate;

(2) Select, provide, or procure appropriate examination questions and answers for the licensure examination and establish the criteria for successful completion of the examination;

(3) Prepare and distribute any application form this chapter requires;

(4) Receive applications for licenses and renewal of licenses and issue licenses to qualified applicants;

(5) Establish procedures for processing, approving, and disapproving applications for licensure;

(6) Retain records of applications for licensure, including all application materials submitted and a written record of the action taken on each application;

(7) Review the design and plans for manufactured housing installations, foundations, and support systems;

(8) Inspect a sample of homes at a percentage the commission determines to evaluate the construction and installation of manufactured housing installations, foundations, and support systems to determine compliance with the standards the commission adopts;

(9) Investigate complaints concerning violations of this chapter or the rules adopted pursuant to it, or the conduct of any manufactured housing installer, manufactured housing dealer, manufactured housing broker, or manufactured housing salesperson;

(10) Determine appropriate disciplinary actions for violations of this chapter;

(11) Conduct audits and inquiries of manufactured housing installers, manufactured housing dealers, and manufactured housing brokers as appropriate for the enforcement of this chapter. The commission, or any person the commission employs for the purpose, may review and audit the business records of any manufactured housing installer, dealer, or broker during normal business hours.

(12) Approve an installation training course, which may be offered by the Ohio manufactured homes association or other entity;

(13) Perform any function or duty necessary to administer this chapter and the rules adopted pursuant to it.

(C) Nothing in this section shall be construed to limit the authority of a board of health to enforce section 3701.344 or Chapters 3703., 3718., and 3781. of the Revised Code.

Sec. 4781.07. (A) Pursuant to rules the manufactured homes commission adopts, the commission may certify municipal, township, and county building departments and the personnel of those departments, ~~licensors as defined in section 3733.01 of the Revised Code and the personnel of those licensors,~~ or any private third party, to exercise the commission's enforcement authority, accept and approve plans and specifications for foundations, support systems and installations, and inspect manufactured housing foundations, support systems, and manufactured housing installations. Any certification is effective for three years.

(B) Following an investigation and finding of facts that support its action, the commission may revoke or suspend certification. The commission may initiate an investigation on its own motion or the petition of a person affected by the enforcement or approval of plans.

Sec. 4781.09. (A) The manufactured homes commission may deny, suspend, revoke, or refuse to renew the license of any manufactured home installer for any of the following reasons:

(1) Failure to satisfy the requirements of section 4781.08 or 4781.10 of the Revised Code;

(2) Violation of this chapter or any rule adopted pursuant to it;

(3) Making a material misstatement in an application for a license;

(4) Installing manufactured housing without a license or without being under the supervision of a licensed manufactured housing installer;

(5) Failure to appear for a hearing before the commission or to comply with any final adjudication order of the commission issued pursuant to this chapter;

(6) Conviction of a felony or a crime involving moral turpitude;

(7) Having had a license revoked, suspended, or denied by the commission during the preceding two years;

(8) Having had a license revoked, suspended, or denied by another state or jurisdiction during the preceding two years;

(9) Engaging in conduct in another state or jurisdiction that would violate this chapter if committed in this state.

(10) Failing to provide written notification of an installation pursuant to division (D) of section 4781.11 of the Revised Code to a county treasurer or county auditor.

(B)(1) Any person whose license or license application is revoked, suspended, denied, or not renewed or upon whom a civil penalty is imposed pursuant to ~~division (C) of this section~~ may request an adjudication hearing on the matter within thirty days after receipt of the notice of the action. The hearing shall be held in accordance with Chapter 119. of the Revised Code.

(2) Any licensee or applicant may appeal an order made pursuant to an adjudication hearing in the manner provided in section 119.12 of the Revised Code.

~~(C) As an alternative to suspending, revoking, or refusing to renew a manufactured housing installer's license, the commission may impose a civil penalty of not less than one hundred dollars or more than five hundred dollars per violation of this chapter or any rule adopted pursuant to it. The commission shall deposit penalties in the occupational licensing and regulatory fund pursuant to section 4743.05 of the Revised Code.~~

~~(D)~~ A person whose license is suspended, revoked, or not renewed may apply for a new license two years after the date on which the license was suspended, revoked, or not renewed.

Sec. 4781.121. (A) The manufactured homes commission, pursuant to section 4781.04 of the Revised Code, may investigate any person who allegedly has committed a violation. If, after an investigation the commission determines that reasonable evidence exists that a person has committed a violation, within seven days after that determination, the commission shall send a written notice to that person in the same manner as prescribed in section 119.07 of the Revised Code for licensees, except that the notice shall specify that a hearing will be held and specify the date, time, and place of the hearing.

(B) The commission shall hold a hearing regarding the alleged violation in the same manner prescribed for an adjudication hearing under section 119.09 of the Revised Code. If the commission, after the hearing, determines that a violation has occurred, the commission, upon an affirmative vote of five of its members, may impose a fine not exceeding one thousand dollars per violation per day. The commission's determination is an order that the person may appeal in accordance with section 119.12 of the Revised Code.

(C) If the person who allegedly committed a violation fails to appear for a hearing, the commission may request the court of common pleas of the county where the alleged violation occurred to compel the person to appear before the commission for a hearing.

(D) If the commission assesses a person a civil penalty for a violation and the person fails to pay that civil penalty within the time period

prescribed by the commission pursuant to section 131.02 of the Revised Code, the commission shall forward to the attorney general the name of the person and the amount of the civil penalty for the purpose of collecting that civil penalty. In addition to the civil penalty assessed pursuant to this section, the person also shall pay any fee assessed by the attorney general for collection of the civil penalty.

(E) The authority provided to the commission pursuant to this section, and any fine imposed under this section, shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter. Any fines collected pursuant to this section shall be used solely to administer and enforce this chapter and rules adopted under it. Any fees collected pursuant to this section shall be transmitted to the treasurer of state and shall be credited to the manufactured homes commission regulatory fund created in section 4781.54 of the Revised Code and the rules adopted thereunder. The fees shall be used only for the purpose of administering and enforcing sections 4781.26 to 4781.35 of the Revised Code and the rules adopted thereunder.

(F) As used in this section, "violation" means a violation of section 4781.11, 4781.16, or 4781.27, or any rule adopted pursuant to section 4781.04, of the Revised Code.

~~Sec. 4781.14. (A) Except as provided in division (A)(3) of section 3733.02 of the Revised Code, the state, through the~~ The ~~manufactured homes commission, has exclusive authority to regulate manufactured home installers, the installation of manufactured housing, and manufactured housing foundations and support systems in the this state. By enacting this chapter, it is the intent of the general assembly to preempt municipal corporations and other political subdivisions from regulating and licensing manufactured housing installers and regulating and inspecting the installation of manufactured housing and manufactured housing foundations and support systems.~~

~~(B) Except as provided in division (A)(3) of section 3733.02 of the Revised Code, the~~ The ~~manufactured homes commission has exclusive power to adopt rules of uniform application throughout the state governing installation of manufactured housing, the inspection of manufactured housing foundations and support systems, the inspection of the installation of manufactured housing, the training and licensing of manufactured housing installers, and the investigation of complaints concerning manufactured housing installers.~~

~~(C) Except as provided in division (A)(3) of section 3733.02 of the Revised Code, the~~ The ~~rules the commission adopts pursuant to this chapter~~

are the exclusive rules governing the installation of manufactured housing, the design, construction, and approval of foundations for manufactured housing, the licensure of manufactured home installers, and the fees charged for licensure of manufactured home installers. No political subdivision of the state or any department or agency of the state may establish any other standards governing the installation of manufactured housing, manufactured housing foundations and support systems, the licensure of manufactured housing installers, or fees charged for the licensure of manufactured housing installers.

(D) Nothing in this section limits the authority of the attorney general to enforce Chapter 1345. of the Revised Code or to take any action permitted by the Revised Code against manufactured housing installers, retailers, or manufacturers.

Sec. 4781.15. The remedies provided in sections 4781.01 to 4781.14 of the Revised Code this chapter are in addition to remedies otherwise available for the same conduct under state or local law.

Sec. 4781.16. (A) Except as provided in division (E) of this section, no person shall do any of the following:

(1) Engage in the business of displaying or selling at retail manufactured homes or mobile homes or assume to engage in that business, unless the person is licensed as a manufactured housing dealer under this chapter, or is a salesperson licensed under this chapter and employed by a licensed manufactured housing dealer;

(2) Make more than five casual sales of manufactured homes or mobile homes in a twelve-month period without obtaining a license as a manufactured housing dealer under this chapter;

(3) Purchase a manufactured home directly from the manufacturer without obtaining a license as a manufactured housing dealer under this chapter;

(4) Engage in the business of brokering manufactured homes unless that person is licensed as a manufactured housing broker under this chapter or licensed as a real estate broker or salesperson pursuant to Chapter 4735. of the Revised Code.

(B)(1) Except as provided in this division, no manufactured housing dealer shall sell, display, offer for sale, or deal in manufactured homes or mobile homes at any place except an established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in manufactured homes or mobile homes.

(2) No manufactured housing broker shall engage in the business of brokering manufactured or mobile homes at any place except an established

place of business that is used exclusively for the purpose of brokering manufactured and mobile homes.

(3) A place of business used for the brokering or sale of manufactured homes or mobile homes is considered to be used exclusively for brokering, selling, displaying, offering for sale, or dealing in manufactured or mobile homes even though industrialized units, as defined by section 3781.06 of the Revised Code, are brokered, sold, displayed, offered for sale, or dealt at the same place of business.

(4) If the licensed manufactured housing dealer is a manufactured home park operator, then all of the following apply:

(a) An established place of business that is located in the operator's manufactured home park and that is used for selling, leasing, and renting manufactured homes and mobile homes in that manufactured home park is considered to be used exclusively for that purpose even though rent and other activities related to the operation of the manufactured home park take place at the same location or office.

(b) The dealer's established place of business in the manufactured home park shall be staffed by someone licensed and regulated under this chapter who could reasonably assist any retail customer with or without an appointment, but such established place of business need not satisfy office size, display lot size, and physical barrier requirements applicable to other used motor vehicle dealers.

(c) The manufactured and mobile homes being offered for sale, lease, or rental by the dealer may be located on individual rental lots inside the operator's manufactured home park.

(C) Nothing in this chapter shall be construed as prohibiting the sale of a new or used manufactured or mobile home located in a manufactured home park by a licensed manufactured housing dealer.

(D) Nothing in this section shall be construed to prohibit persons licensed under this chapter from making sales calls.

(E)(1) This chapter does not apply to mortgagees selling at retail only those manufactured homes or mobile homes that have come into their possession by a default in the terms of a mortgage contract.

(2) When a partnership licensed under this chapter is dissolved by death, the surviving partners may operate under the manufactured housing dealer license for a period of sixty days, and the heirs or representatives of deceased persons and receivers or trustees in bankruptcy appointed by any competent authority may operate under the license of the person succeeded in possession by that heir, representative, receiver, or trustee in bankruptcy.

Sec. ~~3733.02~~ 4781.26. (A)(1) The ~~public health council~~ manufactured

homes commission, subject to Chapter 119. of the Revised Code, shall adopt, and has the exclusive power to adopt, rules of uniform application throughout the state governing the review of plans, issuance of flood plain management permits, and issuance of licenses for manufactured home parks; the location, layout, density, construction, drainage, sanitation, safety, and operation of those parks; and notices of flood events concerning, and flood protection at, those parks. The rules pertaining to flood plain management shall be consistent with and not less stringent than the flood plain management criteria of the national flood insurance program adopted under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended. The rules shall not apply to the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable.

(2)(B) The rules pertaining to manufactured home parks constructed after June 30, 1971, shall specify that each home must be placed on its lot to provide not less than fifteen feet between the side of one home and the side of another home, ten feet between the end of one home and the side of another home, and five feet between the ends of two homes placed end to end.

(3)(C) The manufactured homes commission shall determine compliance with the installation, blocking, tiedown, foundation, and base support system standards for manufactured housing located in manufactured home parks adopted by the commission pursuant to section 4781.04 of the Revised Code. All inspections of the installation, blocking, tiedown, foundation, and base support systems of manufactured housing in a manufactured home park that the ~~department of health or a licenser~~ commission conducts shall be conducted by a person ~~who has completed an installation training course approved by~~ the manufactured homes commission certifies pursuant to ~~division (B)(12) of~~ section 4781.04 4781.07 of the Revised Code.

~~As used in division (A)(3) of this section, "manufactured housing" has the same meaning as in section 4781.01 of the Revised Code.~~

~~(B) The public health council, in accordance with Chapter 119. of the Revised Code, shall adopt rules of uniform application throughout the state establishing requirements and procedures in accordance with which the director of health may authorize licensers for the purposes of sections 3733.022 and 3733.025 of the Revised Code. The rules shall include at least provisions under which a licenser may enter into contracts for the purpose of fulfilling the licenser's responsibilities under either or both of those sections.~~

(D) The manufactured homes commission may enter into contracts for the purpose of fulfilling the commission's annual inspection responsibilities for manufactured home parks under this chapter. Boards of health of city or general health districts shall have the right of first refusal for those contracts.

Sec. ~~3733.03~~ 4781.27. (A)(1) On or after the first day of December, but before the first day of January of the next year, every person who intends to operate a manufactured home park shall procure a license to operate the park for the next year from the ~~licensor~~ manufactured homes commission. If the applicable license fee prescribed under section ~~3733.04~~ 4781.28 of the Revised Code is not received by the ~~licensor~~ commission by the close of business on the last day of December, the applicant for the license shall pay a penalty equal to twenty-five per cent of the applicable license fee. The penalty shall accompany the license fee. If the last day of December is not a business day, the penalty attaches upon the close of business on the next business day.

(2) No manufactured home park shall be maintained or operated in this state without a license.

(3) No person who has received a license, upon the sale or disposition of the manufactured home park, may have the license transferred to the new operator. A person shall obtain a separate license to operate each manufactured home park.

(B) Before a license is initially issued and annually thereafter, or more often if necessary, the ~~licensor~~ commission shall cause each manufactured home park to be inspected ~~relative to~~ for compliance with sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code and the rules adopted under those sections. A record shall be made of each inspection on a form prescribed by the ~~director of health~~ commission.

(C) Each person applying for an initial license to operate a manufactured home park shall provide acceptable proof to the ~~director~~ commission that adequate fire protection will be provided and that applicable fire codes will be adhered to in the construction and operation of the park.

Sec. ~~3733.04~~ 4781.28. The ~~licensor of a manufactured home park~~ manufactured homes commission may charge a fee for an annual license to operate ~~such a~~ manufactured home park. The fee for a license shall be determined in accordance with section ~~3709.09~~ 4781.26 of the Revised Code and shall include the cost of licensing and all inspections.

~~The fee also shall include any additional amount determined by rule of the public health council, which shall be collected and transmitted by the board of health to the director of health pursuant to section 3709.092 of the~~

~~Revised Code and used only for the purpose of administering and enforcing sections 3733.01 to 3733.08 of the Revised Code and the rules adopted under those sections. The portion of any fee retained by the board of health~~
Any fees collected shall be paid into a special fund transmitted to the treasurer of state and shall be credited to the manufactured homes commission regulatory fund created in section 4781.54 of the Revised Code and used only for the purpose of administering and enforcing sections 3733.01 4781.26 to 3733.08 4781.35 of the Revised Code and the rules adopted thereunder.

~~Sec. 3733.05 4781.29. The licenser of the health district in which a manufactured home park is or is to be located, in accordance with Chapter 119. of the Revised Code, manufactured homes commission may refuse to grant, may suspend, or may revoke any license granted to any person for failure to comply with sections 3733.01 4781.26 to 3733.08 4781.35 of the Revised Code or with any rule adopted by the public health council under section 3733.02 4781.26 of the Revised Code.~~

~~Sec. 3733.06 4781.30. (A) Upon a license being issued under sections 3733.03 4781.27 to 3733.05 4781.29 of the Revised Code, any operator shall have the right to rent or use each lot for the parking or placement of a manufactured home or mobile home to be used for human habitation without interruption for any period coextensive with any license or consecutive licenses issued under sections 3733.03 4781.27 to 3733.05 4781.29 of the Revised Code.~~

~~(B) No operator of a manufactured home park shall sell individual lots in a park for eight years following the issuance of the initial license for the park unless, at the time of sale, the park fulfills all platting and subdivision requirements established by the political subdivision in which the park is located, or the political subdivision has entered into an agreement with the operator regarding platting and subdivision requirements and the operator has fulfilled the terms of that agreement.~~

~~Sec. 3733.07 4781.301. Fees authorized or charged under sections 3733.021, 3733.022 4781.31, 4781.32, and 3733.04 4781.28 of the Revised Code are in lieu of all license and inspection fees on or with respect to the operation or ownership of manufactured home parks within this state, except that the licenser may charge additional reasonable fees for the collection and bacteriological examination of any necessary water samples taken from any such park.~~

~~Sec. 3733.021 4781.31. (A) No person shall cause development to occur within any portion of a manufactured home park until the plans for the development have been submitted to and reviewed and approved by the~~

~~director of health~~ manufactured homes commission. This division does not require that plans be submitted to the ~~director~~ commission for approval for the replacement of manufactured or mobile homes on previously approved lots in a manufactured home park when no development is to occur in connection with the replacement. Within thirty days after receipt of the plans, all supporting documents and materials required to complete the review, and the applicable plan review fee established under division (D) of this section, the ~~director~~ commission shall approve or disapprove the plans.

(B) Any person aggrieved by the ~~director's~~ commission's disapproval of a set of plans under division (A) of this section may request a hearing on the matter within thirty days after receipt of the ~~director's~~ commission's notice of the disapproval. The hearing shall be held in accordance with Chapter 119. of the Revised Code. Thereafter, the disapproval may be appealed in the manner provided in section 119.12 of the Revised Code.

(C) The ~~director~~ commission shall establish a system by which development occurring within a manufactured home park is inspected or verified in accordance with rules adopted under ~~division (A) of section 3733.02~~ 4781.26 of the Revised Code to ensure that the development complies with the plans approved under division (A) of this section.

(D) The ~~public health council~~ commission shall establish fees for reviewing plans under division (A) of this section and conducting inspections under division (C) of this section.

(E) The ~~director~~ commission shall charge the appropriate fees established under division (D) of this section for reviewing plans under division (A) of this section and conducting inspections under division (C) of this section. All such plan review and inspection fees received by the ~~director~~ commission shall be transmitted to the treasurer of state and shall be credited to the ~~general operations~~ occupational licensing and regulatory fund created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so credited to the fund shall be used only for the purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those sections.

(F) Plan approvals issued under this section do not constitute an exemption from the land use and building requirements of the political subdivision in which the manufactured home park is or is to be located.

~~Sec. 3733.022~~ 4781.32. (A) No person shall cause development to occur or cause the replacement of a mobile or manufactured home within any portion of a manufactured home park that is located within a one-hundred-year flood plain unless the person first obtains a permit from the ~~director of health or a licensor authorized by the director~~ manufactured

homes commission. If the development for which a permit is required under this division is to occur on a lot where a mobile or manufactured home is or is to be located, the owner of the home and the operator of the manufactured home park shall jointly obtain the permit. Each of the persons to whom a permit is jointly issued is responsible for compliance with the provisions of the approved permit that are applicable to that person.

The ~~director or a licensor authorized by the director~~ commission shall disapprove an application for a permit required under this division unless the ~~director or the licensor~~ commission finds that the proposed development or replacement of a mobile or manufactured home complies with the rules adopted under ~~division (A) of section 3733.02~~ 4781.26 of the Revised Code. No permit is required under this division for the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code applies.

The ~~director or a licensor authorized by the director~~ commission may suspend or revoke a permit issued under this division for failure to comply with the rules adopted under ~~division (A) of section 3733.02~~ 4781.26 of the Revised Code pertaining to flood plain management or for failure to comply with the approved permit.

Any person aggrieved by the disapproval, suspension, or revocation of a permit under this division by the ~~director or by a licensor authorized by the director~~ commission may request a hearing on the matter within thirty days after receipt of the notice of the disapproval, suspension, or revocation. The hearing shall be held in accordance with Chapter 119. of the Revised Code. Thereafter, an appeal of the disapproval, suspension, or revocation may be taken in the manner provided in section 119.12 of the Revised Code.

(B) The ~~public health council~~ commission shall establish fees for the issuance of permits under division (A) of this section and for necessary inspections conducted to determine compliance with those permits.

(C) The ~~director or a licensor authorized by the director~~ commission shall charge the appropriate fee established under division (B) of this section for the issuance of a permit under division (A) of this section or for conducting any necessary inspection to determine compliance with the permit. If the ~~director~~ commission issues such a permit or conducts such an inspection, the fee for the permit or inspection shall be transmitted to the treasurer of state and shall be credited to the ~~general operations~~ occupational licensing and regulatory fund created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so credited to the fund shall be used ~~by the director~~ only for the purpose of administering and enforcing sections ~~3733.04~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code and rules adopted under

those sections. If the licensor is a board of health, the permit or inspection fee shall be deposited to the credit of the special fund of the health district created in section 3733.04 of the Revised Code and shall be used only for the purpose set forth in that section.

Sec. 3733.024 4781.33. (A) When a flood event affects a manufactured home park, the operator of the manufactured home park, in accordance with rules adopted under ~~division (A) of section 3733.02~~ 4781.26 of the Revised Code, shall notify the ~~licensor having jurisdiction of the occurrence of manufactured homes commission and the board of health having jurisdiction where the flood event occurred~~ within forty-eight hours after the end of the flood event. The commission, after receiving notification, shall immediately notify the board of health.

No person shall fail to comply with this division.

(B) ~~The licensor having jurisdiction where a flood event occurred that affected a manufactured home park shall notify the director of health of the occurrence of the flood event within twenty-four hours after being notified of the flood event under division (A) of this section. Within forty-eight hours after~~ After being notified of such a flood event by a licensor, the ~~director~~ board of health shall cause an inspection to be made of the manufactured home park named in the notice. The board of health shall issue a report of the inspection to the commission within ten days after the inspection is completed.

Sec. 3733.025 4781.34. (A) If a mobile or manufactured home that is located in a flood plain is substantially damaged, the owner of the home shall make all alterations, repairs, or changes to the home, and the operator of the manufactured home park shall make all alterations, repairs, or changes to the lot on which the home is located, that are necessary to ensure compliance with the flood plain management rules adopted under ~~division (A) of section 3733.02~~ 4781.26 of the Revised Code. Such alterations, repairs, or changes may include, without limitation, removal of the home or other structures.

No person shall fail to comply with this division.

(B) No person shall cause to be performed any alteration, repair, or change required by division (A) of this section unless the person first obtains a permit from the ~~director of health or a licensor authorized by the director~~ manufactured homes commission. The owner of the home and the operator of the manufactured home park shall jointly obtain the permit required by this division. ~~Each of the persons to whom a permit is jointly issued is responsible for compliance with the provisions of the approved permit that are applicable to that person.~~

The ~~director or a licensor authorized by the director~~ commission shall disapprove an application for a permit required under this division unless the ~~director or the licensor~~ commission finds that the proposed alteration, repair, or change complies with the rules adopted under ~~division (A) of section 3733.02~~ 4781.26 of the Revised Code. No permit is required under this division for the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code applies.

The ~~director or a licensor authorized by the director~~ commission may suspend or revoke a permit issued under this division for failure to comply with the rules adopted under ~~division (A) of section 3733.02~~ 4781.26 of the Revised Code pertaining to flood plain management or for failure to comply with the approved permit for making alterations, repairs, or changes to the lot on which the manufactured home is located.

Any person aggrieved by the disapproval, suspension, or revocation of a permit under this division by the ~~director or by a licensor authorized by the director~~ commission may request a hearing on the matter within thirty days after receipt of the notice of the disapproval, suspension, or revocation. The hearing shall be held in accordance with Chapter 119. of the Revised Code. Thereafter, an appeal of the disapproval, suspension, or revocation may be taken in the manner provided in section 119.12 of the Revised Code and for necessary inspections conducted to determine compliance with those permits.

(C) The ~~public health council~~ commission shall establish fees for the issuance of permits under division (B) of this section and for necessary inspections conducted to determine compliance with those permits for making alterations, repairs, or changes to the lot on which the manufactured home is located.

(D) The ~~director or a licensor authorized by the director~~ commission shall charge the appropriate fee established under division (C) of this section for the issuance of a permit under division (B) of this section or for conducting any necessary inspection to determine compliance with the permit. If the ~~director~~ commission issues such a permit or conducts such an inspection, the fee for the permit or inspection shall be transmitted to the treasurer of state and shall be credited to the ~~general operations~~ occupational licensing and regulatory fund created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so credited to the fund shall be used ~~by the director~~ only for the purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those sections. ~~If the licensor is a board of health, the permit or inspection fee shall be deposited to the credit of the special fund of the health district~~

~~created in section 3733.04 of the Revised Code and shall be used only for the purpose set forth in that section.~~

Sec. ~~3733.08~~ 4781.35. (A) No person shall violate sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or the rules adopted thereunder.

(B) The prosecuting attorney of the county, the city director of law, or the attorney general, upon complaint of the ~~licensor or the director of health manufactured homes commission~~, shall prosecute to termination or bring an action for injunction against any person violating sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or the rules adopted thereunder.

Sec. ~~3733.09~~ 4781.36. (A) Subject to section ~~3733.091~~ 4781.37 of the Revised Code, a park operator shall not retaliate against a resident by increasing the resident's rent, decreasing services that are due to the resident, refusing to renew or threatening to refuse to renew the rental agreement with the resident, or bringing or threatening to bring an action for possession of the resident's premises because:

(1) The resident has complained to an appropriate governmental agency of a violation of a building, housing, health, or safety code that is applicable to the premises, and the violation materially affects health and safety;

(2) The resident has complained to the park operator of any violation of section ~~3733.10~~ 4781.38 of the Revised Code;

(3) The resident joined with other residents for the purpose of negotiating or dealing collectively with the park operator on any of the terms and conditions of a rental agreement.

(B) If a park operator acts in violation of division (A) of this section, the resident may:

(1) Use the retaliatory action of the park operator as a defense to an action by the park operator to recover possession of the premises;

(2) Recover possession of the premises;

(3) Terminate the rental agreement.

In addition, the resident may recover from the park operator any actual damages together with reasonable attorneys fees.

(C) Nothing in division (A) of this section prohibits a park operator from increasing the rent to reflect the cost of improvements installed by the park operator in or about the premises or to reflect an increase in other costs of operation of the premises.

Sec. ~~3733.091~~ 4781.37. (A) Notwithstanding section ~~3733.09~~ 4781.36 of the Revised Code, a park operator may bring an action under Chapter 1923. of the Revised Code for possession of the premises if any of the following applies:

(1) The resident is in default in the payment of rent.

(2) The violation of the applicable building, housing, health, or safety code that the resident complained of was primarily caused by any act or lack of reasonable care by the resident, by any other person in the resident's household, or by anyone on the premises with the consent of the resident.

(3) The resident is holding over the resident's term.

(4) The resident is in violation of rules of the ~~public health council~~ manufactured homes commission adopted pursuant to section ~~3733.02~~ 4781.26 of the Revised Code or rules of the manufactured home park adopted pursuant to the rules of the ~~public health council~~ commission.

(5) The resident has been absent from the manufactured home park for a period of thirty consecutive days prior to the commencement of the action, and the resident's manufactured home, mobile home, or recreational vehicle parked in the manufactured home park has been left unoccupied for that thirty-day period, without notice to the park operator and without payment of rent due under the rental agreement.

(B) The maintenance of an action by the park operator under this section does not prevent the resident from recovering damages for any violation by the park operator of the rental agreement or of section ~~3733.10~~ 4781.38 of the Revised Code.

Sec. ~~3733.10~~ 4781.38. (A) A park operator who is a party to a rental agreement shall:

(1) Comply with the requirements of all applicable building, housing, health, and safety codes which materially affect health and safety, and comply with rules of the ~~public health council~~ manufactured homes commission;

(2) Make all repairs and do whatever is reasonably necessary to put and keep the premises in a fit and habitable condition;

(3) Keep all common areas of the premises in a safe and sanitary condition;

(4) Maintain in good and safe working order and condition all electrical and plumbing fixtures and appliances, and septic systems, sanitary and storm sewers, refuse receptacles, and well and water systems that are supplied or required to be supplied by ~~him~~ the park operator;

(5) Not abuse the right of access conferred by division (B) of section ~~3733.101~~ 4781.39 of the Revised Code;

(6) Except in the case of emergency or if it is impracticable to do so, give the resident reasonable notice of ~~his~~ the park operator's intent to enter onto the residential premises and enter only at reasonable times. Twenty-four hours' notice shall be presumed to be a reasonable notice in the

absence of evidence to the contrary.

(B) If the park operator violates any provision of this section, makes a lawful entry onto the residential premises in an unreasonable manner, or makes repeated demands for entry otherwise lawful which demands have the effect of harassing the resident, the resident may recover actual damages resulting from the violation, entry, or demands and injunctive relief to prevent the recurrence of the conduct, and if ~~he~~ the resident obtains a judgment, reasonable attorneys' fees, or terminate the rental agreement.

Sec. ~~3733.101~~ 4781.39. (A) A resident who is a party to a rental agreement shall:

(1) Keep that part of the premises that the resident occupies and uses safe and sanitary;

(2) Dispose of all rubbish, garbage, and other waste in a clean, safe, and sanitary manner;

(3) Comply with the requirements imposed on residents by all applicable state and local housing, health, and safety codes, rules of the ~~public health council~~ manufactured homes commission, and rules of the manufactured home park;

(4) Personally refrain, and forbid any other person who is on the premises with the resident's permission, from intentionally or negligently destroying, defacing, damaging, or removing any fixture, appliance, or other part of the residential premises;

(5) Conduct self and require other persons on the premises with the resident's consent to conduct themselves in a manner that will not disturb the resident's neighbors' peaceful enjoyment of the manufactured home park.

(B) The resident shall not unreasonably withhold consent for the park operator to enter the home to inspect utility connections, or enter onto the premises in order to inspect the premises, make ordinary, necessary, or agreed repairs, decorations, alterations, or improvements, deliver parcels which are too large for the resident's mail facilities, or supply necessary or agreed services.

(C) If the resident violates any provision of this section, the park operator may recover any actual damages which result from the violation and reasonable attorneys' fees. This remedy is in addition to any right of the park operator to terminate the rental agreement, to maintain an action for the possession of the premises, or injunctive relief to compel access under division (B) of this section.

Sec. ~~3733.11~~ 4781.40. (A)(1) The park operator shall offer each home owner a written rental agreement for a manufactured home park lot for a term of one year or more that contains terms essentially the same as any