



Department of
Agriculture

John R. Kasich | Governor

David T. Daniels | Director

House State and Local Government Committee

Testimony on House Bill 65

Director David Daniels

March 21, 2017

Good morning, Chairman Anielski, Vice-chair Hambley, Ranking Minority member Bishoff and members of the House State and Local Government Committee. I'm David Daniels, Director of the Ohio Department of Agriculture (ODA). Thank you for allowing me to provide testimony on House Bill 65. The Department of Agriculture and our colleagues at the Department of Health (ODH) are encouraged by any and all efforts to improve operations and create a business-friendly climate for Ohio companies. We are also eager to discuss any way in which the food code can be best enforced in order to ensure Ohioans can eat a meal at their favorite local restaurant or shop at their local grocery store, without a fear of getting sick. However, this proposed legislation does not help accomplish either of those goals.

It's our mission at the Department of Agriculture to protect consumers, a task we have diligently worked to uphold for 171 years. A critical component of protecting Ohioans is ensuring a safe food supply. As Americans dining habits have changed, proper health inspections of grocery stores and restaurants are more critical than ever to keeping food safe and Ohioans healthy. With advances in foodborne pathogen surveillance and more public scrutiny, outbreaks are becoming a regular occurrence, and a growing concern to consumers, food processors, grocery stores and restaurants. The CDC estimates each year roughly 48 million people get sick from foodborne illness, 128,000 are hospitalized and 3,000 die. In 2012, 2013 and 2014, Ohio ranked 1st, 2nd and 3rd consecutively for the most foodborne illness outbreaks. And do you know the most at-risk populations of Ohioans during these outbreaks - infants, children and the elderly.

It's widely acknowledged by experts from science, academia, government and the industry that the Ohio Uniform Food Safety Code, and following the rules and regulations laid out in it, is the best way to prepare or process food in a manner that reduces the risk of illness. ODA has two goals:

- 1) Work to protect consumers, and prevent foodborne illnesses
- 2) Ensure the food code is enforced the same, in all counties and cities, across the state

ODA and ODH are required by law to evaluate local boards of health. Our agencies determine local health districts' proficiency in enforcing the food code. One part of this evaluation, and the subject of this legislation, is the evaluation of a local sanitarian's ability to inspect restaurants and grocery stores. In addition to our evaluations, the agencies provided group and one-on-one trainings to local health districts (LHDs) at their request. For example, ODA provided 84 training sessions in 2016 – a mix of large group trainings at conferences and smaller sessions at 40 different local health departments. A total of 707 sanitarians attended ODA trainings in 2016. Opportunities for improvement exist and are abundant.

The industry is asking for inspections to be consistent throughout the state. The public has an expectation that regulators charged with holding food businesses accountable are performing rigorous inspections and not just giving a passing grade for being okay enough. Proponents of this legislation have argued our evaluations take too long and negatively impact businesses. I submit our evaluations take as long as necessary to properly inspect a facility and keep people safe. If an evaluation takes longer than a regular inspection, who should be questioned – the evaluator or the inspector?

The answer in this case is the inspector. Many of our local health districts are not meeting the requirements of the food code, putting consumers at risk. It also exposes processors, stores and restaurants to potential hazards, while providing a false sense of security that inspections are identifying major problems. ODA and ODH conducted 340 reviews of LHD sanitarians in 2016. The proposed legislation requires the state to prepare an annual report of our evaluations for the legislature. We've submitted a copy of what this report would look like. Here is a summary of some of our findings:

- LHD sanitarians were able to identify only **63%** of the critical violations identified by the surveyor.
- Only **34%** of LHD evaluations met the passing standards of 80%.
- **11%** of LHD evaluations did not identify any critical violations, when they were present. **At least one surveyor identified 10 critical violations, none of which were observed by the sanitarian.**
- Some of the most missed critical violations include improperly storing chemicals and raw meat near ready-to-eat food or equipment.

The findings show more must be done to protect consumers. Serious, critical violations are being missed all across the state, putting anyone who obtains food from one of these establishments at risk. A large majority of sanitarians failed their minimum inspection requirements. Ohioans deserve better and this legislation won't improve the knowledge and skills of local sanitarians; it would only weaken the efforts to determine if they are doing their jobs and keeping people safe.

Additionally, portions of this bill are unclear and ambiguous. Proponents of HB 65 claim the bill would raise the bar for health surveys by requiring sanitarians to identify 90% of critical violations. The current language in HB 65 can easily be interpreted to allow sanitarians to observe as low as 20% of all critical violations. Attorneys and staff in both of our departments believe, as written, the benchmark is only 20%, which is a far cry from the 90% touted by the proponents.

ODA and ODH believe that food safety through inspections can only be accomplished by making sure local health departments understand the importance of identifying all violations. It's true, risk-based inspections focus on critical violations; that's why Ohio requires facilities to document all critical violations and address them with the facility. However, the FDA notes that enforcement of all aspects of the food code is the best way to ensure food safety. While non-critical violations pose a lesser threat to food safety, they negatively affect the overall sanitation of the facility, and left unaddressed, could easily become critical violations. Cracked floors are a prime example. Cracks are perfect petri dishes for the growth of bacteria and pathogens. It's hard to clean a crack, and over time these little cracks can lead to a big outbreak of something dangerous to the public.



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Allow me to close with these final comments. ODA and ODH have worked tirelessly and diligently to meet with all interested parties, including sanitarians, restaurants and grocery stores. We have worked in good faith and made changes to the way evaluations are conducted and what's expected. What's being asked of us in this legislation is a step too far and, frankly, it's a threat to food safety. Additionally, any professional in today's marketplace is subject to some sort of evaluation. Our agencies are not asking local sanitarians to be held to a different standard; in fact, state sanitarians and reviewers are evaluated and standardized by the FDA at a level GREATER than what is currently expected of locals. Evaluations are a part of doing business; it's expected by consumers, and considering we're talking about the safety of food people are going to eat, it's a reasonable expectation.

Ensuring health districts are providing thorough inspections and trainings helps ensure a level playing field for business during the inspection process, and ultimately allows everyone to work together to protect Ohioans from foodborne illness. Thank you for your time and I look forward to answering any questions you might have.