

As Introduced

132nd General Assembly

Regular Session

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S. B. No. 101

Senator Skindell

Cosponsors: Senators Thomas, Yuko, Schiavoni, Brown, Williams, Tavares

A BILL

To amend sections 121.083 and 121.084 and to enact 1
sections 4119.01, 4119.02, 4119.03, 4119.04, 2
4119.05, 4119.06, 4119.07, 4119.08, 4119.09, 3
4119.10, 4119.11, 4119.12, 4119.13, 4119.14, 4
4119.15, 4119.16, 4119.17, and 4119.18 of the 5
Revised Code to regulate certain employment 6
practices of formula retail establishment 7
employers, food services establishment 8
employers, and contractors and to require the 9
purchaser of a formula retail establishment or 10
food services establishment to retain certain 11
employees of the establishment on transfer of 12
ownership. 13

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

Section 1. That sections 121.083 and 121.084 be amended 14
and sections 4119.01, 4119.02, 4119.03, 4119.04, 4119.05, 15
4119.06, 4119.07, 4119.08, 4119.09, 4119.10, 4119.11, 4119.12, 16
4119.13, 4119.14, 4119.15, 4119.16, 4119.17, and 4119.18 of the 17
Revised Code be enacted to read as follows: 18

Sec. 121.083. The superintendent of industrial compliance 19
in the department of commerce shall do all of the following: 20

(A) Administer and enforce the general laws of this state 21
pertaining to buildings, pressure piping, boilers, bedding, 22
upholstered furniture, and stuffed toys, steam engineering, 23
elevators, plumbing, licensed occupations regulated by the 24
department, and travel agents, as they apply to plans review, 25
inspection, code enforcement, testing, licensing, registration, 26
and certification. 27

(B) Exercise the powers and perform the duties delegated 28
to the superintendent by the director of commerce under Chapters 29
4109., 4111., ~~and 4115.~~, and 4119. of the Revised Code. 30

(C) Collect and collate statistics as are necessary. 31

(D) Examine and license persons who desire to act as steam 32
engineers, to operate steam boilers, and to act as inspectors of 33
steam boilers, provide for the scope, conduct, and time of such 34
examinations, provide for, regulate, and enforce the renewal and 35
revocation of such licenses, inspect and examine steam boilers 36
and make, publish, and enforce rules and orders for the 37
construction, installation, inspection, and operation of steam 38
boilers, and do, require, and enforce all things necessary to 39
make such examination, inspection, and requirement efficient. 40

(E) Rent and furnish offices as needed in cities in this 41
state for the conduct of its affairs. 42

(F) Oversee a chief of construction and compliance, a 43
chief of operations and maintenance, a chief of licensing and 44
certification, a chief of worker protection, and other designees 45
appointed by the director to perform the duties described in 46
this section. 47

(G) Enforce the rules the board of building standards 48
adopts pursuant to division (A)(2) of section 4104.43 of the 49
Revised Code under the circumstances described in division (D) 50
of that section. 51

(H) Accept submissions, establish a fee for submissions, 52
and review submissions of certified welding and brazing 53
procedure specifications, procedure qualification records, and 54
performance qualification records for building services piping 55
as required by section 4104.44 of the Revised Code. 56

Sec. 121.084. (A) All moneys collected under sections 57
3783.05, 3791.07, 4104.07, 4104.18, 4104.44, 4105.17, 4105.20, 58
4119.13, 4119.15, 4169.03, and 5104.051 of the Revised Code, and 59
any other moneys collected by the division of industrial 60
compliance shall be paid into the state treasury to the credit 61
of the industrial compliance operating fund, which is hereby 62
created. The department of commerce shall use the moneys in the 63
fund for paying the operating expenses of the division, the cost 64
of enforcing Chapter 4119. of the Revised Code, and the 65
administrative assessment described in division (B) of this 66
section. 67

(B) The director of commerce, with the approval of the 68
director of budget and management, shall prescribe procedures 69
for assessing the industrial compliance operating fund a 70
proportionate share of the administrative costs of the 71
department of commerce. The assessment shall be made in 72
accordance with those procedures and be paid from the industrial 73
compliance operating fund to the division of administration fund 74
created in section 121.08 of the Revised Code. 75

Sec. 4119.01. As used in this chapter: 76

(A) "Confidential employee" means an employee who acts in a confidential capacity to formulate, determine, and effectuate management policies with regard to labor relations or who regularly substitutes for an employee who has these duties. 77
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(B) "Disposition" means the sale, assignment, transfer, contribution, consolidation, merger, or reorganization that causes a change in control of all or the majority of the assets of, or the controlling interests in, a business. 81
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(C) "Employee" means an individual who is entitled to payment of a minimum wage from an employer or property services contractor under Section 34a of Article II, Ohio Constitution. 85
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(D) (1) "Employer" means a person who owns or operates either of the following: 88
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(a) A formula retail establishment with twenty or more employees in this state; 90
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(b) A food services establishment. 92

(2) "Employer" includes a corporate officer or executive who, directly or indirectly, exercises control over the wages, hours, or working conditions of an individual, including through the services of a temporary agency or a professional employer organization. 93
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(3) "Employer" does not include any of the following: 98

(a) A nonprofit corporation that is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code; 99
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(b) The state or any agency or instrumentality of the state; 102
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(c) Any municipal corporation, county, township, school district, or other political subdivision or any agency or instrumentality of a municipal corporation, county, township, school district, or other political subdivision. 104
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(E) "Formula retail establishment" means a retail sales establishment doing business in this state that has at least twenty other retail sales establishments in operation worldwide that maintain two or more of the following features: 108
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(1) Fifty per cent or more of merchandise stocked by the business comes from a single distributor and bears uniform markings; 112
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(2) A standardized facade; 115

(3) A standardized style of interior furnishings, which may include the style of furniture, wall coverings, or permanent fixtures; 116
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(4) A standardized selection of colors used throughout the business, such as on the furnishings, permanent fixtures, wall coverings, and the facade; 119
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(5) Standardized items of clothing worn by employees, including standardized aprons, pants, shirts, smocks, dresses, hats, and pins, and standardized colors of clothing worn by employees; 122
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(6) Standardized business signs; 126

(7) A trademark or service mark. 127

(F) "Food services establishment" means a food services establishment doing business in this state that employs five hundred or more employees worldwide, including a chain or franchise associated with a franchisor or network of franchises 128
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that employs five hundred or more employees in the aggregate. 132

(G) "Professional employer organization" has the same 133
meaning as in section 4125.01 of the Revised Code. 134

(H) "Property services contractor" means any contractor or 135
subcontractor who enters into a contract with an employer to 136
provide janitorial or security services to the employer at a 137
formula retail establishment or food services establishment. 138

(I) "Successor employer" means an employer who owns, 139
controls, or operates a formula retail establishment or food 140
services establishment after a disposition of all or a majority 141
of the assets of the establishment. 142

(J) "Workweek" means a fixed, regularly recurring period 143
of one hundred sixty-eight hours, that an employer or property 144
services contractor expressly adopts for purposes of complying 145
with this chapter and the "Fair Labor Standards Act of 1938," 29 146
U.S.C. 207, as amended. 147

(K) "Normal hourly wage rate" means the following: 148

(1) For an employee who is paid on an hourly basis, the 149
hourly wage rate at which the employee is customarily paid when 150
working for the employer or property services contractor; 151

(2) For an employee who is not paid on an hourly basis, 152
one fortieth of the weekly wage rate at which the employee is 153
customarily paid when working for the employer or property 154
services contractor. 155

(L) "On-call shift" includes a shift where an employee is 156
not required to report to or remain at the employee's site of 157
work, but is required to be available to work the shift if 158
called upon to do so by the employer or property services 159

contractor who employs the employee. 160

Sec. 4119.02. No employer or property services contractor 161
shall fail to comply with sections 4119.03, 4119.04, 4119.05, 162
4119.06, 4119.08, 4119.11, and 4119.17 of the Revised Code. 163

No employer shall fail to comply with sections 4119.09 and 164
4119.10 of the Revised Code. 165

Sec. 4119.03. (A)(1) Except as otherwise provided in 166
division (B) of this section, an employer or property services 167
contractor shall not hire a new employee, coemploy an employee 168
with a professional employer organization, engage an independent 169
contractor, or lease an employee from a temporary agency to 170
perform work in a formula retail establishment or food services 171
establishment unless the employer or property services 172
contractor first offers that work to any employee of the 173
employer or property services contractor who is available to 174
perform the additional work as described in division (A)(2) of 175
this section. 176

(2) An employee is available to perform additional work 177
for an employer or property services contractor if all of the 178
following apply to the employee: 179

(a) The employee is scheduled to work fewer than thirty- 180
five hours in a workweek. 181

(b) The employee is qualified to do the additional work as 182
reasonably determined by the employer or property services 183
contractor. 184

(c) The employee has performed work for the employer or 185
property services contractor that is the same as or similar to 186
the additional work to be performed. 187

(d) In a particular week, the employee performs at least 188
two hours of work for an employer or property services 189
contractor within this state or is scheduled to work at least 190
one on-call shift for the employer or property services 191
contractor within this state. 192

(B) An employer or property services contractor is not 193
required to offer more hours of work to an employee than is 194
necessary for that employee's total hours of work for that 195
workweek to reach thirty-five hours. 196

(C) An employer or property services contractor may divide 197
the additional hours of work offered under this section among 198
the employer's or property services contractor's available 199
employees. 200

(D) An employee who is offered additional hours of work 201
under this section is not required to accept the additional 202
hours. 203

(E) When an employer or property services contractor 204
offers additional work hours to an employee, the employer or 205
property services contractor shall make the offer in writing. 206

Sec. 4119.04. (A) Except as otherwise provided in division 207
(B) of this section, an employer or property services contractor 208
shall provide an employee of the employer or property services 209
contractor with a written work schedule at least fourteen 210
calendar days before the first day of the schedule. The employer 211
or property services contractor shall include in the written 212
schedule all regular and on-call shifts for a fourteen day 213
period. The employer or property services contractor shall post 214
the written schedule in a conspicuous and accessible location at 215
the work site. 216

(B) An employer or property services contractor may 217
provide a newly hired employee or employee who returns to work 218
after a leave of absence with a written work schedule that runs 219
through the last day of the work schedule in effect at the time 220
employee is hired or returns to work. The employer or property 221
services contractor shall include the employee on the next 222
schedule posted in compliance with division (A) of this section 223
and otherwise comply with division (A) of this section with 224
respect to the employee at that time. 225

Sec. 4119.05. (A) As used in this section, "shift" 226
includes an on-call shift. 227

(B) Except as provided in section 4119.07 of the Revised 228
Code, an employer or property services contractor shall pay an 229
employee of the employer or property services contractor for 230
each scheduled shift that the employer or property services 231
contractor changes or cancels or for each previously unscheduled 232
shift that the employer or property services contractor requires 233
the employee to work or be on call as follows: 234

(1) If the employer or property services contractor gives 235
the employee less than fourteen days' notice, but more than 236
twenty-four hours' notice, an amount equal to one hour of the 237
employee's normal hourly wage rate; 238

(2) If the employer or property services contractor gives 239
the employee less than twenty-four hours' notice and the 240
changed, canceled, or required shift is four hours or less, an 241
amount equal to two hours of the employee's normal hourly wage 242
rate; 243

(3) If the employer or property services contractor gives 244
the employee less than twenty-four hours' notice and the 245

changed, canceled, or required shift is more than four hours, an 246
amount equal to four hours of the employee's normal hourly wage 247
rate. 248

(C) An employer shall pay any amount required to be paid 249
to an employee under division (B) of this section in addition 250
to, and shall not consider that amount to be part of, any wage 251
or salary paid to the employee for time worked. 252

Sec. 4119.06. (A) Except as provided in division (B) of 253
this section or in section 4119.07 of the Revised Code, an 254
employer or property services contractor shall pay an employee 255
of the employer or property services contractor for each on-call 256
shift that the employee is not called in to work as follows: 257

(1) If the on-call shift is four hours or less, an amount 258
equal to two hours of the employee's normal hourly wage rate; 259

(2) If the on-call shift is more than four hours, an 260
amount equal to four hours of the employee's normal hourly wage 261
rate. 262

(B) An employer or property services contractor is not 263
required to pay the amount required by division (A) of this 264
section if the employee is paid the employee's normal hourly 265
wage rate for the on-call shift. 266

Sec. 4119.07. Sections 4119.05 and 4119.06 of the Revised 267
Code do not apply in any of the following circumstances: 268

(A) Operations of an employer or property services 269
contractor cannot begin or continue for any of the following 270
reasons: 271

(1) A threat to the safety of the employer or property 272
services contractor's employees or property exists. 273

(2) A government authority recommends that the operations of an employer or property services contractor should not begin or continue. 274
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(3) An act of God or another cause outside of the control of the employer or property services contractor prevents the operations of the employer or property services contractor from beginning or continuing. 277
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(B) An employer or property services contractor requires the employee to work a shift or be on call under any of the following circumstances: 281
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(1) Another employee does not report to work the shift on time. 284
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(2) Another employee is unable to work the shift due to illness or the use of any paid or unpaid leave if the employee did not give the employer or property services contractor at least seven days' notice of the absence. 286
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(3) Another employee is unable to work the shift because the employee's employment was terminated or the employee was prohibited from working the shift as a disciplinary action. 290
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(C) An employee who would otherwise be entitled to receive an amount under section 4119.05 or 4119.06 of the Revised Code requested the schedule change or on-call shift or such a change or shift is the result of a shift trade between the employee and another employee of the employer or property services contractor. 293
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Sec. 4119.08. (A) (1) An employer or property services contractor shall not consider the status of an employee as full-time or part-time in determining the starting normal hourly wage rate of an employee. 299
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(2) Division (A) (1) of this section does not prohibit an 303
employer or property services contractor from considering either 304
of the following: 305

(a) Reasons other than part-time or full-time status in 306
determining starting normal hourly wage rates of employees, 307
including the use of a seniority system, merit system, or other 308
system that determines earnings by quantity or quality of 309
production, performance, or responsibility; 310

(b) Full-time or part-time status in determining 311
requirements for the receipt of employee benefits, including 312
health care benefits. 313

(B) An employer or property services contractor shall 314
provide part-time and full-time employees in the same job 315
classification with access to the same types of paid and unpaid 316
leave. An employer or property services contractor may prorate 317
the amount of any time off an employee may receive based on 318
hours worked by the employee. 319

(C) (1) An employer or property services contractor shall 320
not consider the status of an employee as full-time or part-time 321
in determining eligibility for a promotion. 322

(2) Division (C) (1) of this section does not prohibit an 323
employer or property services contractor from doing either of 324
the following: 325

(a) Conditioning eligibility for a promotion on an 326
employee's availability for full-time employment in the new 327
position; 328

(b) Considering reasons other than full-time status in 329
determining eligibility for a promotion, including the nature 330
and amount of work experience. 331

Sec. 4119.09. (A) On the day an employer executes 332
documents to transfer ownership of a formula retail 333
establishment or food services establishment to a successor 334
employer, the employer shall provide to the successor employer a 335
list that includes all of the following information for each 336
employee who is eligible to be retained for employment by the 337
successor employer as determined under division (E) of this 338
section: 339

(1) The employee's name; 340

(2) The employee's contact information; 341

(3) The employee's date of hire and rate of pay at the 342
time of transfer; 343

(4) The average number of hours worked by the employee 344
each week during the six months immediately before the transfer 345
of ownership; 346

(5) The employee's position or title. 347

(B) (1) The employer shall post public notice of the 348
transfer of ownership in a conspicuous place at the formula 349
retail establishment or food services establishment within 350
twenty-four hours after the transfer document is fully executed. 351
The successor employer shall ensure that the notice remains 352
posted for at least thirty days after the transfer. 353

(2) The employer shall include all of the following 354
information in the notice required under division (B) (1) of this 355
section: 356

(a) The name and contact information of the employer; 357

(b) The name and contact information of the successor 358
employer; 359

(c) The postal address and electronic mail address that an 360
employee may use to update the employee's contact information; 361

(d) The effective date of the transfer from the employer 362
to the successor employer. 363

(C) For the transition period specified in division (H) of 364
this section, a successor employer shall employ each employee 365
identified on a list required under division (A) of this section 366
under the same terms of employment with respect to position or 367
title, compensation, and number of work hours that applied to 368
the employee immediately before the date of the transfer. During 369
the transition period, no successor employer shall discharge an 370
employee identified on the list without just cause. 371

(D) (1) A successor employer offering employment to an 372
employee included on the list required under division (A) of 373
this section shall make the offer in writing. 374

(2) If an employee declines to accept an offer of 375
employment made pursuant to division (D) (1) of this section, the 376
successor employer who offered employment is deemed to have 377
complied with division (B) of this section with respect to that 378
employee. 379

(E) Except as provided in division (F) of this section, an 380
employee is eligible to be retained for employment if the 381
employee has been employed by the employer for at least ninety 382
days before the date the employer executes documents to transfer 383
ownership of the formula retail establishment or food services 384
establishment. 385

(F) No managerial employee, supervisory employee, or 386
confidential employee is eligible for retention under this 387
section. 388

(G) The first time a successor employer pays wages to an 389
employee retained under this section, the successor employer 390
shall provide with that employee's paycheck a notice of the 391
rights of retained employees under this chapter. 392

(H) (1) This section applies to a transfer of ownership of 393
a formula retail establishment or food services establishment 394
until the earlier of three years after the date that the 395
employer executes documents to transfer ownership to the 396
successor employer or ninety days after the successor employer 397
takes control of the establishment. 398

(2) The ninety-day period described in division (H) (1) of 399
this section shall not run for any period of time during which 400
the formula retail establishment or food services establishment 401
is not open to the public during regular business hours. 402

(3) This section applies regardless of whether the 403
successor employer elects to operate the formula retail 404
establishment or food services establishment in the same 405
location or elects to relocate to another location in the state. 406

(I) Notwithstanding any provision of this section to the 407
contrary, a successor employer may retain fewer employees than 408
those included in the list created pursuant to division (A) of 409
this section if the successor employer determines that the 410
successor employer requires fewer employees than the former 411
employer to operate the establishment. 412

(J) If a successor employer chooses to retain fewer 413
employees as provided in division (I) of this section, the 414
successor employer shall retain employees by seniority, based on 415
the date of hire by the former employer or, if an applicable 416
collective bargaining agreement exists, pursuant to that 417

agreement. 418

(K) For the transition period specified in division (H) of 419
this section, no successor employer shall employ an individual 420
who is not included on the list created pursuant to division (A) 421
of this section in a position at the formula retail 422
establishment or food services establishment held by an 423
individual included on that list whom the successor employer 424
does not retain pursuant to division (J) of this section. 425

Sec. 4119.10. (A) Not later than ninety days after the 426
effective date of this section, the director of commerce shall 427
publish and make available to all employers a notice suitable 428
for posting by employers in the workplace informing employees of 429
their rights under this chapter. The director shall publish the 430
notice in English and Spanish. 431

(B) Every employer shall post the notice prepared by the 432
director under division (A) of this section in a conspicuous 433
place at any workplace or job site at which any of the 434
employer's employees work. 435

Sec. 4119.11. (A) An employer or property services 436
contractor who offers additional work hours to an employee in 437
accordance with section 4119.03 of the Revised Code shall retain 438
a copy of the written offer for at least three years after the 439
date the offer is made. 440

(B) A successor employer shall keep a record of a list 441
provided by an employer under section 4119.09 of the Revised 442
Code until the transition period described in division (H) of 443
section 4119.09 of the Revised Code has elapsed. 444

(C) A successor employer shall keep a record of a written 445
retention offer made pursuant to section 4119.09 of the Revised 446

Code for at least three years after the date the offer is made. 447

Sec. 4119.12. (A) An individual who believes that a 448
violation of section 4119.02 of the Revised Code has occurred 449
may file a complaint with the director of commerce. If the 450
director has reason to believe that a violation of that section 451
has occurred, the director shall proceed with an investigation 452
under section 4119.13 of the Revised Code. 453

(B) The director shall keep confidential, to the maximum 454
extent possible, any information that identifies an individual 455
who files a complaint pursuant to division (A) of this section 456
unless the individual has consented to disclosure of that 457
information as necessary for the enforcement of section 4119.02 458
of the Revised Code or for other appropriate purposes. 459

Sec. 4119.13. (A) The director of commerce shall take 460
appropriate steps to enforce and coordinate enforcement of this 461
chapter, including investigation of possible violations of this 462
chapter. 463

(B) If the director has reason to believe that a violation 464
of section 4119.02 of the Revised Code has occurred, the 465
director shall order any appropriate temporary or interim relief 466
to mitigate the alleged violation or to maintain the status quo 467
pending completion of a full investigation. 468

(C) If, after investigating an alleged violation of 469
section 4119.02 of the Revised Code, the director determines 470
that a violation has occurred, the director shall issue a 471
determination. The determination shall identify the violation 472
and the factual basis for the determination and shall order any 473
appropriate relief, including any of the following: 474

(1) Requiring an employer or property services contractor 475

<u>to offer additional hours of work to an employee as required</u>	476
<u>under section 4119.03 of the Revised Code;</u>	477
<u>(2) Requiring an employer or property services contractor</u>	478
<u>to pay an amount required to be paid to an employee under</u>	479
<u>section 4119.05 or 4119.06 of the Revised Code;</u>	480
<u>(3) Reinstatement;</u>	481
<u>(4) Payment of lost wages;</u>	482
<u>(5) Assessment of an administrative penalty not to exceed</u>	483
<u>the amount of lost wages included in the determination;</u>	484
<u>(6) Requiring the violator to pay to the department of</u>	485
<u>commerce any costs of the enforcement action.</u>	486
<u>(D) The director shall deposit all moneys received from</u>	487
<u>administrative penalties and costs paid under this section into</u>	488
<u>the industrial compliance operating fund created in section</u>	489
<u>121.084 of the Revised Code.</u>	490
<u>(E) A property services contractor and an employer who</u>	491
<u>contracts with the property services contractor shall be jointly</u>	492
<u>and severally liable for any determination against a property</u>	493
<u>services contractor under this section.</u>	494
<u>Sec. 4119.14.</u> (A) <u>The director shall serve a determination</u>	495
<u>made under section 4119.13 of the Revised Code on the employer</u>	496
<u>or property services contractor by regular mail.</u>	497
<u>(B) An employer or property services contractor may appeal</u>	498
<u>that determination within fifteen days after the date the</u>	499
<u>determination is mailed to the employer or property services</u>	500
<u>contractor. The employer or property services contractor shall</u>	501
<u>file the appeal in writing with the director of commerce. If a</u>	502
<u>party fails to submit a timely written appeal, the determination</u>	503

is considered final upon expiration of the fifteen-day period. 504

(C) The director shall, within thirty days after an appeal 505
is filed under division (B) of this section, make an effort to 506
meet and confer in good faith with the employer or property 507
services contractor regarding possible resolution of the 508
determination in advance of further proceedings under this 509
section. 510

(D) Beginning on the thirty-first day after an appeal is 511
filed pursuant to division (B) of this section, the employer or 512
property services contractor may request the attorney general to 513
appoint a hearing officer to hear and decide the appeal. If the 514
employer or property services contractor does not request a 515
hearing officer, the determination is considered final upon 516
expiration of the sixtieth day following the date the appeal was 517
filed. 518

(E) Within fifteen days after the attorney general 519
receives a request for the appointment of a hearing officer, the 520
attorney general shall appoint an impartial hearing officer who 521
is not part of the department of commerce and shall immediately 522
notify the director and the employer or property services 523
contractor of the appointment. The appointed hearing officer 524
shall be an administrative law judge or attorney with at least 525
five years of experience in labor and employment law or wage and 526
hour matters. 527

(F) Upon appointment, the hearing officer shall promptly 528
set a date for a hearing that is not later than forty-five days 529
after the date the attorney general provides the notice of the 530
appointment under division (E) of this section. The hearing 531
shall conclude within seventy-five days after the date that 532
notice is provided. The hearing officer shall conduct a fair and 533

impartial hearing in accordance with the time limitations set 534
forth in this division, except that the hearing officer shall 535
have the discretion to extend the time limitations upon a 536
determination of good cause. 537

(G) An employer or property services contractor who 538
appeals has the burden of proving, by a preponderance of the 539
evidence, that the basis for a determination, or any calculation 540
of lost wages, interest, or penalty payments at issue in the 541
appeal, is incorrect. 542

(H) Within thirty days after the hearing, the hearing 543
officer shall issue a written decision affirming, modifying, or 544
dismissing the determination. The decision of the hearing 545
officer shall consist of findings and a determination and shall 546
constitute the final administrative determination. 547

(I) An employer or property services contractor may appeal 548
a decision issued under division (H) of this section to the 549
court of common pleas of the county in which the violation is 550
alleged to have occurred. 551

(J) Failure to appeal a determination as provided in this 552
section shall constitute a failure to exhaust administrative 553
remedies, which shall serve as a complete defense to any 554
petition or claim brought by an employer or property services 555
contractor against the state regarding the determination. 556

(K) If an employer or property services contractor fails 557
to comply with a final order of the director or hearing officer, 558
the director shall petition the court of common pleas of the 559
county in which the underlying violation occurred for 560
enforcement of the order. 561

Sec. 4119.15. (A) The director of commerce, in accordance 562

with Chapter 119. of the Revised Code, shall impose an 563
administrative fine on an employer or property services 564
contractor as follows: 565

(1) For a violation of section 4119.02 of the Revised Code 566
due to an employer's failure to comply with section 4119.10 or 567
division (A) of section 4119.11 of the Revised Code, up to five 568
hundred dollars for each offense; 569

(2) For a violation of section 4119.02 of the Revised Code 570
due to an employer's or property services contractor's failure 571
to comply with division (B) or (C) of section 4119.11 of the 572
Revised Code, up to five hundred dollars for each employee who 573
was eligible for retention under section 4119.09 of the Revised 574
Code. 575

(B) The director shall deposit all moneys received from 576
finest paid under this section into the industrial compliance 577
operating fund created in section 121.084 of the Revised Code. 578

Sec. 4119.16. The director of commerce may bring a civil 579
action in any court of competent jurisdiction on behalf of an 580
employee against an employer or property services contractor for 581
violating section 4119.02 of the Revised Code. If the court 582
determines that a violation has occurred, the court shall make 583
the following awards: 584

(A) To the employee on behalf of whom the action was 585
brought, any legal or equitable relief as may be appropriate to 586
remedy the violation, including the payment of lost wages, the 587
payment of a civil penalty not to exceed the amount awarded for 588
lost wages, and reinstatement of employment or other injunctive 589
relief; 590

(B) To the director, reasonable attorney's fees and costs. 591

Sec. 4119.17. (A) No employer or property services contractor shall take adverse action against an individual in retaliation for exercising rights protected under this chapter. 592
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(B) The protections provided by this section shall apply to any individual who mistakenly, but in good faith, alleges noncompliance with this chapter. 595
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(C) If an employer or property services contractor takes an adverse action against an individual within ninety days after the individual exercises a right protected under this chapter, a rebuttable presumption exists that the action was taken by the employer or property services contractor in retaliation because the individual exercised those rights. 598
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Sec. 4119.18. The director of commerce may adopt rules in accordance with Chapter 119. of the Revised Code to implement this chapter. The director may establish in those rules procedures for ensuring fair, efficient, and cost-effective implementation and enforcement of this chapter, including supplementary procedures for notifying employees of their rights under this chapter and for monitoring compliance. 604
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Nothing in this chapter shall be construed to limit the rights and remedies otherwise available to an employee, including any right the employee may have to remedies for an unlawful discriminatory practice or unlawful discharge. 611
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Section 2. That existing sections 121.083 and 121.084 of the Revised Code are hereby repealed. 615
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Section 3. Sections 1 and 2 of this act take effect six months after the effective date of this act. 617
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