

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 216**

**Representatives Skindell, Kelly**

**Cosponsors: Representatives Boggs, Crossman, Crawley, Kent**

---

**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 employment practices of 6  
formula retail and food services establishment 7  
employers and contractors and to require the 8  
purchaser of a formula retail or food services 9  
establishment to retain certain employees. 10

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

**Section 1.** That sections 121.083 and 121.084 be amended 11  
and sections 4119.01, 4119.02, 4119.03, 4119.04, 4119.05, 12  
4119.06, 4119.07, 4119.08, 4119.09, 4119.10, 4119.11, 4119.12, 13  
4119.13, 4119.14, 4119.15, 4119.16, 4119.17, and 4119.18 of the 14  
Revised Code be enacted to read as follows: 15

**Sec. 121.083.** The superintendent of industrial compliance 16  
in the department of commerce shall do all of the following: 17

(A) Administer and enforce the general laws of this state 18

pertaining to buildings, pressure piping, boilers, bedding, 19  
upholstered furniture, and stuffed toys, steam engineering, 20  
elevators, plumbing, licensed occupations regulated by the 21  
department, and travel agents, as they apply to plans review, 22  
inspection, code enforcement, testing, licensing, registration, 23  
and certification. 24

(B) Exercise the powers and perform the duties delegated 25  
to the superintendent by the director of commerce under Chapters 26  
4109., 4111., ~~and 4115.~~, and 4119. of the Revised Code. 27

(C) Collect and collate statistics as are necessary. 28

(D) Examine and license persons who desire to act as steam 29  
engineers, to operate steam boilers, and to act as inspectors of 30  
steam boilers, provide for the scope, conduct, and time of such 31  
examinations, provide for, regulate, and enforce the renewal and 32  
revocation of such licenses, inspect and examine steam boilers 33  
and make, publish, and enforce rules and orders for the 34  
construction, installation, inspection, and operation of steam 35  
boilers, and do, require, and enforce all things necessary to 36  
make such examination, inspection, and requirement efficient. 37

(E) Rent and furnish offices as needed in cities in this 38  
state for the conduct of its affairs. 39

(F) Oversee a chief of construction and compliance, a 40  
chief of operations and maintenance, a chief of licensing and 41  
certification, a chief of worker protection, and other designees 42  
appointed by the director to perform the duties described in 43  
this section. 44

(G) Enforce the rules the board of building standards 45  
adopts pursuant to division (A) (2) of section 4104.43 of the 46  
Revised Code under the circumstances described in division (D) 47

of that section. 48

(H) Accept submissions, establish a fee for submissions, 49  
and review submissions of certified welding and brazing 50  
procedure specifications, procedure qualification records, and 51  
performance qualification records for building services piping 52  
as required by section 4104.44 of the Revised Code. 53

**Sec. 121.084.** (A) All moneys collected under sections 54  
3783.05, 3791.07, 4104.07, 4104.18, 4104.44, 4105.17, 4105.20, 55  
4119.13, 4119.15, 4169.03, and 5104.051 of the Revised Code, and 56  
any other moneys collected by the division of industrial 57  
compliance shall be paid into the state treasury to the credit 58  
of the industrial compliance operating fund, which is hereby 59  
created. The department of commerce shall use the moneys in the 60  
fund for paying the operating expenses of the division, the cost 61  
of enforcing Chapter 4119. of the Revised Code, and the 62  
administrative assessment described in division (B) of this 63  
section. 64

(B) The director of commerce, with the approval of the 65  
director of budget and management, shall prescribe procedures 66  
for assessing the industrial compliance operating fund a 67  
proportionate share of the administrative costs of the 68  
department of commerce. The assessment shall be made in 69  
accordance with those procedures and be paid from the industrial 70  
compliance operating fund to the division of administration fund 71  
created in section 121.08 of the Revised Code. 72

**Sec. 4119.01.** As used in this chapter: 73

(A) "Confidential employee" means an employee who acts in 74  
a confidential capacity to formulate, determine, and effectuate 75  
management policies with regard to labor relations or who 76

regularly substitutes for an employee who has these duties. 77

(B) "Disposition" means the sale, assignment, transfer, 78  
contribution, consolidation, merger, or reorganization that 79  
causes a change in control of all or the majority of the assets 80  
of, or the controlling interests in, a business. 81

(C) "Employee" means an individual who is entitled to 82  
payment of a minimum wage from an employer or property services 83  
contractor under Section 34a of Article II, Ohio Constitution. 84

(D) (1) "Employer" means a person who owns or operates 85  
either of the following: 86

(a) A formula retail establishment with twenty or more 87  
employees in this state; 88

(b) A food services establishment. 89

(2) "Employer" includes a corporate officer or executive 90  
who, directly or indirectly, exercises control over the wages, 91  
hours, or working conditions of an individual, including through 92  
the services of a temporary agency or a professional employer 93  
organization. 94

(3) "Employer" does not include any of the following: 95

(a) A nonprofit corporation that is exempt from federal 96  
income taxation under subsection 501(c)(3) of the Internal 97  
Revenue Code; 98

(b) The state or any agency or instrumentality of the 99  
state; 100

(c) Any municipal corporation, county, township, school 101  
district, or other political subdivision or any agency or 102  
instrumentality of a municipal corporation, county, township, 103

<u>school district, or other political subdivision.</u>	104
<u>(E) "Formula retail establishment" means a retail sales</u>	105
<u>establishment doing business in this state that has at least</u>	106
<u>twenty other retail sales establishments in operation worldwide</u>	107
<u>that maintain two or more of the following features:</u>	108
<u>(1) Fifty per cent or more of merchandise stocked by the</u>	109
<u>business comes from a single distributor and bears uniform</u>	110
<u>markings;</u>	111
<u>(2) A standardized facade;</u>	112
<u>(3) A standardized style of interior furnishings, which</u>	113
<u>may include the style of furniture, wall coverings, or permanent</u>	114
<u>fixtures;</u>	115
<u>(4) A standardized selection of colors used throughout the</u>	116
<u>business, such as on the furnishings, permanent fixtures, wall</u>	117
<u>coverings, and the facade;</u>	118
<u>(5) Standardized items of clothing worn by employees,</u>	119
<u>including standardized aprons, pants, shirts, smocks, dresses,</u>	120
<u>hats, and pins, and standardized colors of clothing worn by</u>	121
<u>employees;</u>	122
<u>(6) Standardized business signs;</u>	123
<u>(7) A trademark or service mark.</u>	124
<u>(F) "Food services establishment" means a food services</u>	125
<u>establishment doing business in this state that employs five</u>	126
<u>hundred or more employees worldwide, including a chain or</u>	127
<u>franchise associated with a franchisor or network of franchises</u>	128
<u>that employs five hundred or more employees in the aggregate.</u>	129
<u>(G) "Professional employer organization" has the same</u>	130

meaning as in section 4125.01 of the Revised Code. 131

(H) "Property services contractor" means any contractor or 132  
subcontractor who enters into a contract with an employer to 133  
provide janitorial or security services to the employer at a 134  
formula retail establishment or food services establishment. 135

(I) "Successor employer" means an employer who owns, 136  
controls, or operates a formula retail establishment or food 137  
services establishment after a disposition of all or a majority 138  
of the assets of the establishment. 139

(J) "Workweek" means a fixed, regularly recurring period 140  
of one hundred sixty-eight hours, that an employer or property 141  
services contractor expressly adopts for purposes of complying 142  
with this chapter and the "Fair Labor Standards Act of 1938," 29 143  
U.S.C. 207. 144

(K) "Normal hourly wage rate" means the following: 145

(1) For an employee who is paid on an hourly basis, the 146  
hourly wage rate at which the employee is customarily paid when 147  
working for the employer or property services contractor; 148

(2) For an employee who is not paid on an hourly basis, 149  
one fortieth of the weekly wage rate at which the employee is 150  
customarily paid when working for the employer or property 151  
services contractor. 152

(L) "On-call shift" includes a shift where an employee is 153  
not required to report to or remain at the employee's site of 154  
work, but is required to be available to work the shift if 155  
called upon to do so by the employer or property services 156  
contractor who employs the employee. 157

**Sec. 4119.02.** No employer or property services contractor 158

shall fail to comply with sections 4119.03, 4119.04, 4119.05, 159  
4119.06, 4119.08, 4119.11, and 4119.17 of the Revised Code. 160

No employer shall fail to comply with sections 4119.09 and 161  
4119.10 of the Revised Code. 162

**Sec. 4119.03.** (A) (1) Except as otherwise provided in 163  
division (B) of this section, an employer or property services 164  
contractor shall not hire a new employee, coemploy an employee 165  
with a professional employer organization, engage an independent 166  
contractor, or lease an employee from a temporary agency to 167  
perform work in a formula retail establishment or food services 168  
establishment unless the employer or property services 169  
contractor first offers that work to any employee of the 170  
employer or property services contractor who is available to 171  
perform the additional work as described in division (A) (2) of 172  
this section. 173

(2) An employee is available to perform additional work 174  
for an employer or property services contractor if all of the 175  
following apply to the employee: 176

(a) The employee is scheduled to work fewer than thirty- 177  
five hours in a workweek. 178

(b) The employee is qualified to do the additional work as 179  
reasonably determined by the employer or property services 180  
contractor. 181

(c) The employee has performed work for the employer or 182  
property services contractor that is the same as or similar to 183  
the additional work to be performed. 184

(d) In a particular week, the employee performs at least 185  
two hours of work for an employer or property services 186  
contractor within this state or is scheduled to work at least 187

<u>one on-call shift for the employer or property services</u>	188
<u>contractor within this state.</u>	189
<u>(B) An employer or property services contractor is not</u>	190
<u>required to offer more hours of work to an employee than is</u>	191
<u>necessary for that employee's total hours of work for that</u>	192
<u>workweek to reach thirty-five hours.</u>	193
<u>(C) An employer or property services contractor may divide</u>	194
<u>the additional hours of work offered under this section among</u>	195
<u>the employer's or property services contractor's available</u>	196
<u>employees.</u>	197
<u>(D) An employee who is offered additional hours of work</u>	198
<u>under this section is not required to accept the additional</u>	199
<u>hours.</u>	200
<u>(E) When an employer or property services contractor</u>	201
<u>offers additional work hours to an employee, the employer or</u>	202
<u>property services contractor shall make the offer in writing.</u>	203
<b>Sec. 4119.04.</b> <u>(A) Except as otherwise provided in division</u>	204
<u>(B) of this section, an employer or property services contractor</u>	205
<u>shall provide an employee of the employer or property services</u>	206
<u>contractor with a written work schedule at least fourteen</u>	207
<u>calendar days before the first day of the schedule. The employer</u>	208
<u>or property services contractor shall include in the written</u>	209
<u>schedule all regular and on-call shifts for a fourteen day</u>	210
<u>period. The employer or property services contractor shall post</u>	211
<u>the written schedule in a conspicuous and accessible location at</u>	212
<u>the work site.</u>	213
<u>(B) An employer or property services contractor may</u>	214
<u>provide a newly hired employee or employee who returns to work</u>	215
<u>after a leave of absence with a written work schedule that runs</u>	216

through the last day of the work schedule in effect at the time 217  
employee is hired or returns to work. The employer or property 218  
services contractor shall include the employee on the next 219  
schedule posted in compliance with division (A) of this section 220  
and otherwise comply with division (A) of this section with 221  
respect to the employee at that time. 222

**Sec. 4119.05.** (A) As used in this section, "shift" 223  
includes an on-call shift. 224

(B) Except as provided in section 4119.07 of the Revised 225  
Code, an employer or property services contractor shall pay an 226  
employee of the employer or property services contractor for 227  
each scheduled shift that the employer or property services 228  
contractor changes or cancels or for each previously unscheduled 229  
shift that the employer or property services contractor requires 230  
the employee to work or be on call as follows: 231

(1) If the employer or property services contractor gives 232  
the employee less than fourteen days' notice, but more than 233  
twenty-four hours' notice, an amount equal to one hour of the 234  
employee's normal hourly wage rate; 235

(2) If the employer or property services contractor gives 236  
the employee less than twenty-four hours' notice and the 237  
changed, canceled, or required shift is four hours or less, an 238  
amount equal to two hours of the employee's normal hourly wage 239  
rate; 240

(3) If the employer or property services contractor gives 241  
the employee less than twenty-four hours' notice and the 242  
changed, canceled, or required shift is more than four hours, an 243  
amount equal to four hours of the employee's normal hourly wage 244  
rate. 245

(C) An employer shall pay any amount required to be paid 246  
to an employee under division (B) of this section in addition 247  
to, and shall not consider that amount to be part of, any wage 248  
or salary paid to the employee for time worked. 249

**Sec. 4119.06.** (A) Except as provided in division (B) of 250  
this section or in section 4119.07 of the Revised Code, an 251  
employer or property services contractor shall pay an employee 252  
of the employer or property services contractor for each on-call 253  
shift that the employee is not called in to work as follows: 254

(1) If the on-call shift is four hours or less, an amount 255  
equal to two hours of the employee's normal hourly wage rate; 256

(2) If the on-call shift is more than four hours, an 257  
amount equal to four hours of the employee's normal hourly wage 258  
rate. 259

(B) An employer or property services contractor is not 260  
required to pay the amount required by division (A) of this 261  
section if the employee is paid the employee's normal hourly 262  
wage rate for the on-call shift. 263

**Sec. 4119.07.** Sections 4119.05 and 4119.06 of the Revised 264  
Code do not apply in any of the following circumstances: 265

(A) Operations of an employer or property services 266  
contractor cannot begin or continue for any of the following 267  
reasons: 268

(1) A threat to the safety of the employer or property 269  
services contractor's employees or property exists. 270

(2) A government authority recommends that the operations 271  
of an employer or property services contractor should not begin 272  
or continue. 273

(3) An act of God or another cause outside of the control 274  
of the employer or property services contractor prevents the 275  
operations of the employer or property services contractor from 276  
beginning or continuing. 277

(B) An employer or property services contractor requires 278  
the employee to work a shift or be on call under any of the 279  
following circumstances: 280

(1) Another employee does not report to work the shift on 281  
time. 282

(2) Another employee is unable to work the shift due to 283  
illness or the use of any paid or unpaid leave if the employee 284  
did not give the employer or property services contractor at 285  
least seven days' notice of the absence. 286

(3) Another employee is unable to work the shift because 287  
the employee's employment was terminated or the employee was 288  
prohibited from working the shift as a disciplinary action. 289

(C) An employee who would otherwise be entitled to receive 290  
an amount under section 4119.05 or 4119.06 of the Revised Code 291  
requested the schedule change or on-call shift or such a change 292  
or shift is the result of a shift trade between the employee and 293  
another employee of the employer or property services 294  
contractor. 295

**Sec. 4119.08.** (A) (1) An employer or property services 296  
contractor shall not consider the status of an employee as full- 297  
time or part-time in determining the starting normal hourly wage 298  
rate of an employee. 299

(2) Division (A) (1) of this section does not prohibit an 300  
employer or property services contractor from considering either 301  
of the following: 302

(a) Reasons other than part-time or full-time status in 303  
determining starting normal hourly wage rates of employees, 304  
including the use of a seniority system, merit system, or other 305  
system that determines earnings by quantity or quality of 306  
production, performance, or responsibility; 307

(b) Full-time or part-time status in determining 308  
requirements for the receipt of employee benefits, including 309  
health care benefits. 310

(B) An employer or property services contractor shall 311  
provide part-time and full-time employees in the same job 312  
classification with access to the same types of paid and unpaid 313  
leave. An employer or property services contractor may prorate 314  
the amount of any time off an employee may receive based on 315  
hours worked by the employee. 316

(C) (1) An employer or property services contractor shall 317  
not consider the status of an employee as full-time or part-time 318  
in determining eligibility for a promotion. 319

(2) Division (C) (1) of this section does not prohibit an 320  
employer or property services contractor from doing either of 321  
the following: 322

(a) Conditioning eligibility for a promotion on an 323  
employee's availability for full-time employment in the new 324  
position; 325

(b) Considering reasons other than full-time status in 326  
determining eligibility for a promotion, including the nature 327  
and amount of work experience. 328

**Sec. 4119.09.** (A) On the day an employer executes 329  
documents to transfer ownership of a formula retail 330  
establishment or food services establishment to a successor 331

employer, the employer shall provide to the successor employer a 332  
list that includes all of the following information for each 333  
employee who is eligible to be retained for employment by the 334  
successor employer as determined under division (E) of this 335  
section: 336

(1) The employee's name; 337

(2) The employee's contact information; 338

(3) The employee's date of hire and rate of pay at the 339  
time of transfer; 340

(4) The average number of hours worked by the employee 341  
each week during the six months immediately before the transfer 342  
of ownership; 343

(5) The employee's position or title. 344

(B)(1) The employer shall post public notice of the 345  
transfer of ownership in a conspicuous place at the formula 346  
retail establishment or food services establishment within 347  
twenty-four hours after the transfer document is fully executed. 348  
The successor employer shall ensure that the notice remains 349  
posted for at least thirty days after the transfer. 350

(2) The employer shall include all of the following 351  
information in the notice required under division (B)(1) of this 352  
section: 353

(a) The name and contact information of the employer; 354

(b) The name and contact information of the successor 355  
employer; 356

(c) The postal address and electronic mail address that an 357  
employee may use to update the employee's contact information; 358

(d) The effective date of the transfer from the employer 359  
to the successor employer. 360

(C) For the transition period specified in division (H) of 361  
this section, a successor employer shall employ each employee 362  
identified on a list required under division (A) of this section 363  
under the same terms of employment with respect to position or 364  
title, compensation, and number of work hours that applied to 365  
the employee immediately before the date of the transfer. During 366  
the transition period, no successor employer shall discharge an 367  
employee identified on the list without just cause. 368

(D) (1) A successor employer offering employment to an 369  
employee included on the list required under division (A) of 370  
this section shall make the offer in writing. 371

(2) If an employee declines to accept an offer of 372  
employment made pursuant to division (D) (1) of this section, the 373  
successor employer who offered employment is deemed to have 374  
complied with division (C) of this section with respect to that 375  
employee. 376

(E) Except as provided in division (F) of this section, an 377  
employee is eligible to be retained for employment if the 378  
employee has been employed by the employer for at least ninety 379  
days before the date the employer executes documents to transfer 380  
ownership of the formula retail establishment or food services 381  
establishment. 382

(F) No managerial employee, supervisory employee, or 383  
confidential employee is eligible for retention under this 384  
section. 385

(G) The first time a successor employer pays wages to an 386  
employee retained under this section, the successor employer 387

shall provide with that employee's paycheck a notice of the 388  
rights of retained employees under this chapter. 389

(H) (1) This section applies to a transfer of ownership of 390  
a formula retail establishment or food services establishment 391  
until the earlier of three years after the date that the 392  
employer executes documents to transfer ownership to the 393  
successor employer or ninety days after the successor employer 394  
takes control of the establishment. 395

(2) The ninety-day period described in division (H) (1) of 396  
this section shall not run for any period of time during which 397  
the formula retail establishment or food services establishment 398  
is not open to the public during regular business hours. 399

(3) This section applies regardless of whether the 400  
successor employer elects to operate the formula retail 401  
establishment or food services establishment in the same 402  
location or elects to relocate to another location in the state. 403

(I) Notwithstanding any provision of this section to the 404  
contrary, a successor employer may retain fewer employees than 405  
those included in the list created pursuant to division (A) of 406  
this section if the successor employer determines that the 407  
successor employer requires fewer employees than the former 408  
employer to operate the establishment. 409

(J) If a successor employer chooses to retain fewer 410  
employees as provided in division (I) of this section, the 411  
successor employer shall retain employees by seniority, based on 412  
the date of hire by the former employer or, if an applicable 413  
collective bargaining agreement exists, pursuant to that 414  
agreement. 415

(K) For the transition period specified in division (H) of 416

this section, no successor employer shall employ an individual 417  
who is not included on the list created pursuant to division (A) 418  
of this section in a position at the formula retail 419  
establishment or food services establishment held by an 420  
individual included on that list whom the successor employer 421  
does not retain pursuant to division (J) of this section. 422

**Sec. 4119.10.** (A) Not later than ninety days after the 423  
effective date of this section, the director of commerce shall 424  
publish and make available to all employers a notice suitable 425  
for posting by employers in the workplace informing employees of 426  
their rights under this chapter. The director shall publish the 427  
notice in English and Spanish. 428

(B) Every employer shall post the notice prepared by the 429  
director under division (A) of this section in a conspicuous 430  
place at any workplace or job site at which any of the 431  
employer's employees work. 432

**Sec. 4119.11.** (A) An employer or property services 433  
contractor who offers additional work hours to an employee in 434  
accordance with section 4119.03 of the Revised Code shall retain 435  
a copy of the written offer for at least three years after the 436  
date the offer is made. 437

(B) A successor employer shall keep a record of a list 438  
provided by an employer under section 4119.09 of the Revised 439  
Code until the transition period described in division (H) of 440  
section 4119.09 of the Revised Code has elapsed. 441

(C) A successor employer shall keep a record of a written 442  
retention offer made pursuant to section 4119.09 of the Revised 443  
Code for at least three years after the date the offer is made. 444

**Sec. 4119.12.** (A) An individual who believes that a 445

violation of section 4119.02 of the Revised Code has occurred 446  
may file a complaint with the director of commerce. If the 447  
director has reason to believe that a violation of that section 448  
has occurred, the director shall proceed with an investigation 449  
under section 4119.13 of the Revised Code. 450

(B) The director shall keep confidential, to the maximum 451  
extent possible, any information that identifies an individual 452  
who files a complaint pursuant to division (A) of this section 453  
unless the individual has consented to disclosure of that 454  
information as necessary for the enforcement of section 4119.02 455  
of the Revised Code or for other appropriate purposes. 456

**Sec. 4119.13.** (A) The director of commerce shall take 457  
appropriate steps to enforce and coordinate enforcement of this 458  
chapter, including investigation of possible violations of this 459  
chapter. 460

(B) If the director has reason to believe that a violation 461  
of section 4119.02 of the Revised Code has occurred, the 462  
director shall order any appropriate temporary or interim relief 463  
to mitigate the alleged violation or to maintain the status quo 464  
pending completion of a full investigation. 465

(C) If, after investigating an alleged violation of 466  
section 4119.02 of the Revised Code, the director determines 467  
that a violation has occurred, the director shall issue a 468  
determination. The determination shall identify the violation 469  
and the factual basis for the determination and shall order any 470  
appropriate relief, including any of the following: 471

(1) Requiring an employer or property services contractor 472  
to offer additional hours of work to an employee as required 473  
under section 4119.03 of the Revised Code; 474

(2) Requiring an employer or property services contractor to pay an amount required to be paid to an employee under section 4119.05 or 4119.06 of the Revised Code; 475  
476  
477

(3) Reinstatement; 478

(4) Payment of lost wages; 479

(5) Assessment of an administrative penalty not to exceed the amount of lost wages included in the determination; 480  
481

(6) Requiring the violator to pay to the department of commerce any costs of the enforcement action. 482  
483

(D) The director shall deposit all moneys received from administrative penalties and costs paid under this section into the industrial compliance operating fund created in section 121.084 of the Revised Code. 484  
485  
486  
487

(E) A property services contractor and an employer who contracts with the property services contractor shall be jointly and severally liable for any determination against a property services contractor under this section. 488  
489  
490  
491

**Sec. 4119.14.** (A) The director of commerce shall serve a determination made under section 4119.13 of the Revised Code on the employer or property services contractor by regular mail. 492  
493  
494

(B) An employer or property services contractor may appeal that determination within fifteen days after the date the determination is mailed to the employer or property services contractor. The employer or property services contractor shall file the appeal in writing with the director. If a party fails to submit a timely written appeal, the determination is considered final on expiration of the fifteen-day period. 495  
496  
497  
498  
499  
500  
501

(C) The director shall, within thirty days after an appeal 502

is filed under division (B) of this section, make an effort to 503  
meet and confer in good faith with the employer or property 504  
services contractor regarding possible resolution of the 505  
determination in advance of further proceedings under this 506  
section. 507

(D) Beginning on the thirty-first day after an appeal is 508  
filed pursuant to division (B) of this section, the employer or 509  
property services contractor may request the attorney general to 510  
appoint a hearing officer to hear and decide the appeal. If the 511  
employer or property services contractor does not request a 512  
hearing officer, the determination is considered final on 513  
expiration of the sixtieth day following the date the appeal was 514  
filed. 515

(E) Within fifteen days after the attorney general 516  
receives a request for the appointment of a hearing officer, the 517  
attorney general shall appoint an impartial hearing officer who 518  
is not part of the department of commerce and shall immediately 519  
notify the director and the employer or property services 520  
contractor of the appointment. The appointed hearing officer 521  
shall be an administrative law judge or attorney with at least 522  
five years of experience in labor and employment law or wage and 523  
hour matters. 524

(F) Upon appointment, the hearing officer shall promptly 525  
set a date for a hearing that is not later than forty-five days 526  
after the date the attorney general provides the notice of the 527  
appointment under division (E) of this section. The hearing 528  
shall conclude within seventy-five days after the date that 529  
notice is provided. The hearing officer shall conduct a fair and 530  
impartial hearing in accordance with the time limitations set 531  
forth in this division, except that the hearing officer shall 532

have the discretion to extend the time limitations upon a 533  
determination of good cause. 534

(G) An employer or property services contractor who 535  
appeals has the burden of proving, by a preponderance of the 536  
evidence, that the basis for a determination, or any calculation 537  
of lost wages, interest, or penalty payments at issue in the 538  
appeal, is incorrect. 539

(H) Within thirty days after the hearing, the hearing 540  
officer shall issue a written decision affirming, modifying, or 541  
dismissing the determination. The decision of the hearing 542  
officer shall consist of findings and a determination and shall 543  
constitute the final administrative determination. 544

(I) An employer or property services contractor may appeal 545  
a decision issued under division (H) of this section to the 546  
court of common pleas of the county in which the violation is 547  
alleged to have occurred. 548

(J) Failure to appeal a determination as provided in this 549  
section shall constitute a failure to exhaust administrative 550  
remedies, which shall serve as a complete defense to any 551  
petition or claim brought by an employer or property services 552  
contractor against the state regarding the determination. 553

(K) If an employer or property services contractor fails 554  
to comply with a final order of the director or hearing officer, 555  
the director shall petition the court of common pleas of the 556  
county in which the underlying violation occurred for 557  
enforcement of the order. 558

**Sec. 4119.15.** (A) The director of commerce, in accordance 559  
with Chapter 119. of the Revised Code, shall impose an 560  
administrative fine on an employer or property services 561

contractor as follows: 562

(1) For a violation of section 4119.02 of the Revised Code 563  
due to an employer's failure to comply with section 4119.10 or 564  
division (A) of section 4119.11 of the Revised Code, up to five 565  
hundred dollars for each offense; 566

(2) For a violation of section 4119.02 of the Revised Code 567  
due to an employer's or property services contractor's failure 568  
to comply with division (B) or (C) of section 4119.11 of the 569  
Revised Code, up to five hundred dollars for each employee who 570  
was eligible for retention under section 4119.09 of the Revised 571  
Code. 572

(B) The director shall deposit all moneys received from 573  
finances paid under this section into the industrial compliance 574  
operating fund created in section 121.084 of the Revised Code. 575

**Sec. 4119.16.** The director of commerce may bring a civil 576  
action in any court of competent jurisdiction on behalf of an 577  
employee against an employer or property services contractor for 578  
violating section 4119.02 of the Revised Code. If the court 579  
determines that a violation has occurred, the court shall make 580  
the following awards: 581

(A) To the employee on behalf of whom the action was 582  
brought, any legal or equitable relief as may be appropriate to 583  
remedy the violation, including the payment of lost wages, the 584  
payment of a civil penalty not to exceed the amount awarded for 585  
lost wages, and reinstatement of employment or other injunctive 586  
relief; 587

(B) To the director, reasonable attorney's fees and costs. 588

**Sec. 4119.17.** (A) No employer or property services 589  
contractor shall take adverse action against an individual in 590

retaliation for exercising rights protected under this chapter. 591

(B) The protections provided by this section shall apply 592  
to any individual who mistakenly, but in good faith, alleges 593  
noncompliance with this chapter. 594

(C) If an employer or property services contractor takes 595  
an adverse action against an individual within ninety days after 596  
the individual exercises a right protected under this chapter, a 597  
rebuttable presumption exists that the action was taken by the 598  
employer or property services contractor in retaliation because 599  
the individual exercised those rights. 600

**Sec. 4119.18.** The director of commerce may adopt rules in 601  
accordance with Chapter 119. of the Revised Code to implement 602  
this chapter. The director may establish in those rules 603  
procedures for ensuring fair, efficient, and cost-effective 604  
implementation and enforcement of this chapter, including 605  
supplementary procedures for notifying employees of their rights 606  
under this chapter and for monitoring compliance. 607

Nothing in this chapter shall be construed to limit the 608  
rights and remedies otherwise available to an employee, 609  
including any right the employee may have to remedies for an 610  
unlawful discriminatory practice or unlawful discharge. 611

**Section 2.** That existing sections 121.083 and 121.084 of 612  
the Revised Code are hereby repealed. 613

**Section 3.** Sections 1 and 2 of this act take effect six 614  
months after the effective date of this act. 615