



**State Representative Derek Merrin
District 47**

**House Bill 127 – Sponsor Testimony
House State & Local Committee
March 3, 2021**

Chairman Wiggam, Vice-Chair John, Ranking Member Kelly, and State and Local Government Committee Members, thank you for the opportunity to provide testimony on House Bill 127. The legislation provides relief and justice to businesses that have faced sanctions and fines for violating health orders related to Covid-19. The bill requires all violations and sanctions be vacated. Also, it requires the violations be expunged from state agencies and boards of health records. Furthermore, monetary penalties assessed would be returned to business owners along with all their rights and privileges restored.

Since March 2020, it is believed over three hundred businesses have been administratively cited and fined for violating health orders related to Covid-19. The enforcement has primarily been through the Ohio Investigative Unit with citations labeling the nebulous offenses as “disorderly activities.” The Ohio Liquor Control Commission then typically hears the cases. Unfortunately, it appears businesses targeted have two issues in common. First, they are small-businesses with limited resources to fight back. Secondly, they are in the restaurant and beverage industry. It has been rare to see, if at all, a large, national brand store cited for health order violations. This raises serious concerns related to the fairness of state enforcement efforts.

Businesses have reported being given an alternative – admit guilt and pay a fine or have your business closed for a week, and possibly have your license suspended. Given this untenable choice, many businesses have accepted the financial penalties to keep their businesses open. Let me be clear, this tactic by our own state government is a disgrace to the rule of law, justice, and fairness.

Many health orders have been revised, altered, and put into place without 24-48 hour notice. Additionally, state orders have conflicted with other state orders, even forcing orders to admit conflicts and having to state which order is controlling. Many business owners have been unable to interpret ambiguous orders, thus negating their ability to know what is required to comply.

Health orders have mandated businesses to take responsibility for actions of their customers. This is an impossible standard to require businesses to adhere, and certainly would not hold up in a court of law. How can a business control how 50 customers in their establishment properly wear masks? Should they have an employee at the entrance blocking people at the door? An employee at every table that monitors customer standing up to go the bathroom to ensure mask compliance? Should business owners be held accountable for a patron standing up and walking over to a table to greet family or friends thus violating social distances? Yes, according to inflexible state health orders.

Many businesses have made good faith efforts to abide by impractical standards and tried to control their customer actions. However, we all know businesses cannot control every action, but can only react to an issue once they see it. Unfortunately, the state health orders do not provide for this grace or understanding. If they did not see a customer not complying, the business is in violation and at risk for a fine and threatened business closure.

In the last decade, the legislature has approved several bills to allow Ohioans to have their criminal records expunged, including multiple felonies. The business owners addressed in this legislation have violated administrative orders, not actual criminal statutes. Their alleged offenses are far less severe than the standard the legislature has already put into place to expunge for actual criminals.

Lastly, please ask yourself this question: What does a business owner having a violation in the archives of a state agency truly accomplish? What does it accomplish for the state to hold onto \$1,000 in fine revenue from a business owner? I would contend virtually nothing. It is time for us to move on. Let us not live in the past and be vindictive. House Bill 127 will help restore our state's government relationship with many small businesses in Ohio that have lost faith in justice and fairness.