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Am. Sub. S. B. No. 164

Senators Hottinger, Yuko

Cosponsors: Senators Romanchuk, Craig, Huffman, S., Hackett, Antonio, Brenner, Cirino, Dolan, Johnson, Kunze, Lang, Rulli, Schaffer, Schuring, Sykes, Thomas Representatives Koehler, Miller, J., O'Brien, Rogers, Sheehy, Abrams, Carruthers, Fraizer, Hoops, Humphrey, Leland, Ray, Smith, K., West, Young, T.

A BILL

To amend sections 923.41, 923.48, 923.51, 959.06, 1
959.131, 959.99, 2901.01, 3381.17, 5743.01, 2
5743.021, 5743.025, 5743.03, 5743.05, 5743.33, 3
5743.52, 5743.54, 5743.55, 5743.56, 5743.57, 4
5743.59, 5743.60, 5743.62, 5743.63, and 5743.64 5
and to enact sections 5743.511, 5743.521, 6
5743.621, and 5743.631 of the Revised Code to 7
revise the law and penalties associated with 8
companion animal cruelty, to generally prohibit 9
an animal shelter from destroying a domestic 10
animal by the use of a gas chamber, and to 11
authorize Cuyahoga County to convert its 12
existing cigarette tax to a wholesale tax and 13
levy a new wholesale tax on vapor products. 14

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

Section 1. That sections 923.41, 923.48, 923.51, 959.06, 15
959.131, 959.99, 2901.01, 3381.17, 5743.01, 5743.021, 5743.025, 16
5743.03, 5743.05, 5743.33, 5743.52, 5743.54, 5743.55, 5743.56, 17

5743.57, 5743.59, 5743.60, 5743.62, 5743.63, and 5743.64 be 18
amended and sections 5743.511, 5743.521, 5743.621, and 5743.631 19
of the Revised Code be enacted to read as follows: 20

Sec. 923.41. As used in sections 923.41 to 923.55 of the 21
Revised Code: 22

(A) "Animal" means any animate being, other than a human. 23

(B) "Commercial feed" or "feed" means all materials, 24
except unmixed whole seeds or physically altered entire unmixed 25
seeds, that are not adulterated and that are distributed for use 26
as feed or for mixing in feed for animals. "Commercial feed" or 27
"feed" does not include drugs that are not incorporated into 28
feed and that are not distributed to be mixed in feed. 29
"Commercial feed" and "feed" also does not include negligible 30
amounts of feed ingredients added to a drug solely for the 31
purpose of facilitating administration of the drug to an animal. 32

(C) "Feed ingredient" means each of the constituent 33
materials used to make a commercial feed. 34

(D) "Customer-formula feed" means a commercial feed that 35
consists of a mixture of commercial feeds, feed ingredients, or 36
both, each batch of which is manufactured according to the 37
specific instructions of the final purchaser. 38

(E) "Mineral feed" means a commercial feed intended to 39
supply primarily mineral elements or inorganic nutrients. 40

(F) "Drug" means any article intended for use in the 41
diagnosis, cure, mitigation, treatment, or prevention of 42
infectious disease in animals or any article other than feed 43
intended to affect the structure or any function of the animal's 44
body. 45

(G) "Brand name" means any word, name, symbol, or device, 46
or any combination thereof identifying the commercial feed of a 47
distributor and distinguishing it from that of others. 48

(H) "Product name" means the name of the commercial feed 49
which identifies it as to kind, class, or specific use. 50

(I) "Federal act" means the "Federal Food, Drug and 51
Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C. 301, as amended. 52

(J) "Official sample" means a sample of commercial feed 53
taken by the director of agriculture or the director's agent in 54
accordance with section 923.47 of the Revised Code and rules 55
adopted under that section. 56

(K) "Ton" means a net weight of two thousand pounds 57
avoirdupois. 58

(L) "Per cent" or "percentage" means the percentage by 59
weight. 60

(M) "Manufacture" means to grind, mix, blend, or further 61
process a commercial feed for distribution. "Manufacturer" means 62
any person who manufactures. 63

(N) "Person" includes an individual, partnership, 64
association, firm, or corporation. 65

(O) "Distribute" means to offer for sale, sell, exchange, 66
or barter commercial feed or to supply, furnish, or otherwise 67
provide commercial feed for animals. 68

(P) "Distributor" means any person who distributes. 69

(Q) "Label" means a display of written, printed, or 70
graphic matter on or affixed to the container in which a 71
commercial feed is distributed or on the invoice, delivery slip, 72

or other shipping document with which a commercial feed is 73
distributed. 74

(R) "Labeling" means all labels or any other written, 75
printed, or graphic matter that accompanies commercial feed. 76

(S) "Exempt buyer" means a person to whom commercial feed 77
is distributed who is required by rule under division (A) (2) of 78
section 923.44 of the Revised Code to pay the semiannual 79
inspection fee required under that section. 80

(T) "Misbranded" has the same meaning as in section 923.49 81
of the Revised Code. 82

(U) "Adulterated" has the same meaning as in section 83
923.48 of the Revised Code. 84

(V) "Pet" means any domestic animal normally maintained in 85
or near a household. 86

(W) "Pet food" means any commercial feed prepared and 87
distributed for consumption by pets. 88

Sec. 923.48. (A) A commercial feed, or an agricultural 89
commodity such as whole seed, hay, straw, stover, silage, cobs, 90
husks, or hulls, is adulterated if any of the following occur: 91

~~(A)~~ (1) It bears or contains any poisonous or deleterious 92
substance that may render it injurious to animal or human 93
health, except that when the substance is not an added 94
substance, the feed or agricultural commodity is not adulterated 95
if the quantity of the substance in the feed or commodity does 96
not ordinarily render it injurious to animal or human health; 97

~~(B)~~ (2) It bears or contains any added poisonous, 98
deleterious, or nonnutritive substance that is unsafe within the 99
meaning of section 406 of the federal act, 21 U.S.C. 346, except 100

such a substance that is either a food additive or a pesticide 101
chemical in or on a raw agricultural commodity; 102

~~(C)~~ (3) It is, or it bears or contains any food additive 103
that is unsafe within the meaning of section 409 of the federal 104
act, 21 U.S.C. 348; 105

~~(D)~~ (4) It is a raw agricultural commodity and bears or 106
contains a pesticide chemical that is unsafe within the meaning 107
of section 408(a) of the federal act, 21 U.S.C. 346a, except 108
when a pesticide chemical is used in or on a raw agricultural 109
commodity in conformity with an exemption granted or a tolerance 110
prescribed under section 408(a) of the federal act and the 111
commodity is subjected to processing, which includes canning, 112
cooking, freezing, dehydrating, or milling, the pesticide 113
residue remaining is not unsafe if it is removed to the extent 114
possible in good manufacturing practice as defined by the 115
director in rules adopted under division ~~(I)~~ (A) (9) of this 116
section and the concentration of the residue in the processed 117
feed is not greater than the tolerance prescribed for the raw 118
agricultural commodity, unless the feeding of the processed feed 119
will result, or is likely to result, in a pesticide residue in 120
the edible product of the animal that is unsafe within the 121
meaning of section 408(a) of the federal act; 122

~~(E)~~ (5) It bears or contains any color additive that is 123
unsafe within the meaning of section 706 of the federal act, 21 124
U.S.C. 376; 125

~~(F)~~ (6) It is, or bears or contains any new animal drug 126
that is unsafe within the meaning of section 512 of the federal 127
act, 21 U.S.C. 360b; 128

~~(G)~~ (7) A valuable component is omitted or abstracted from 129

it in whole or in part or a less valuable component is	130
substituted for a valuable component;	131
(H) <u>(8)</u> Its composition or quality falls below or differs	132
from what it is purported or represented to possess by its	133
labeling;	134
(I) <u>(9)</u> It contains a drug and the methods used in or the	135
facilities or controls used for its manufacture, processing, or	136
packaging do not conform to current good manufacturing practices	137
as determined by the director in rules adopted under this	138
division to assure that the drug meets the requirements of this	139
chapter for safety and has the identity and strength and meets	140
the quality and purity characteristics that it purports or is	141
represented to possess. The director shall adopt good	142
manufacturing practices rules for drug-containing feeds. In	143
doing so, he <u>the director</u> shall adopt the regulations for type A	144
medicated articles and for type B and type C medicated feeds	145
established under the authority of the federal act.	146
(J) <u>(10)</u> It contains viable weed seeds in amounts	147
exceeding limits for weed seeds established by the director by	148
rule.	149
<u>(B) Pet food is adulterated if any of the following</u>	150
<u>applies:</u>	151
<u>(1) Any provision of divisions (A) (1) to (10) of this</u>	152
<u>section apply to it.</u>	153
<u>(2) It contains any animal remains from an animal that has</u>	154
<u>been euthanized by the use of any drug injected intravenously or</u>	155
<u>any drug injected through another nonvascular route.</u>	156
<u>(3) It contains any dog or cat remains, regardless of how</u>	157
<u>the dog or cat died or was killed.</u>	158

Sec. 923.51. No person shall commit any of the following	159
acts or cause to be committed any of the following acts:	160
(A) Adulterate commercial feed or distribute adulterated	161
commercial feed;	162
(B) <u>Adulterate pet food or distribute adulterated pet</u>	163
<u>food;</u>	164
(C) <u>Misbrand commercial feed or distribute misbranded</u>	165
commercial feed;	166
(C) -(D) Adulterate any agricultural commodity such as	167
whole seed, hay, straw, stover, silage, cobs, husks, or hulls	168
and feed it to animals or distribute any such commodity that is	169
adulterated;	170
(D) -(E) Remove or dispose of a commercial feed in	171
violation of a withdrawal from distribution order or a	172
condemnation and confiscation order issued under section 923.52	173
or 923.53 of the Revised Code or any rules adopted under those	174
sections;	175
(E) -(F) Use for <u>his the person's</u> own advantage, or reveal	176
except to the director of agriculture or <u>his the director's</u>	177
agent or to the courts when relevant in any judicial proceeding	178
under sections 923.41 to 923.55 of the Revised Code or any rules	179
adopted under those sections, any information acquired under the	180
authority of those sections of the Revised Code or rules adopted	181
under those sections that as a trade secret is entitled to	182
protection;	183
(F) -(G) Fail or refuse to register as required under	184
section 923.42 of the Revised Code or any rule adopted under	185
that section;	186

~~(G)~~ (H) Fail to pay inspection fees or file semiannual 187
reports as required under section 923.44 of the Revised Code or 188
any rule adopted under that section. 189

Sec. 959.06. (A) As used in this section, "animal shelter" 190
means a facility operated by a humane society or any society 191
organized under Chapter 1717. of the Revised Code, a dog pound 192
operated pursuant to Chapter 955. of the Revised Code, or a 193
local animal shelter that is operated by any entity of local 194
government. 195

(B) No person shall destroy any domestic animal by the use 196
of ~~a~~ either of the following: 197

(1) A high altitude decompression chamber; 198

or ~~by any~~ 199

(2) Any method other than a method that immediately and 200
painlessly renders the domestic animal initially unconscious and 201
subsequently dead. 202

~~(B)~~ (C) (1) Except as provided in division (C) (2) of this 203
section, no animal shelter shall destroy a domestic animal by 204
the use of a carbon monoxide gas chamber, carbon dioxide gas 205
chamber, or any other nonanesthetic inhalant. 206

(2) An animal shelter may destroy a domestic animal by the 207
use of a carbon monoxide gas chamber, carbon dioxide gas 208
chamber, or any other nonanesthetic inhalant if the state 209
veterinary medical licensing board, in consultation with the 210
state board of pharmacy, declares that there is a shortage of 211
approved lethal injection substances. 212

(D) This section does not apply to or prohibit the 213
destruction of an animal under Chapter 941. of the Revised Code, 214

the slaughtering of livestock under Chapter 945. of the Revised 215
Code, or the taking of any wild animal, as defined in section 216
1531.01 of the Revised Code, when taken in accordance with 217
Chapter 1533. of the Revised Code. 218

(E) This section does not apply to either of the 219
following: 220

(1) The lawful practice of veterinary medicine by a person 221
who has been issued a license, temporary permit, or registration 222
certificate under Chapter 4741. of the Revised Code; 223

(2) An animal used in scientific research conducted by a 224
research facility in accordance with the federal animal welfare 225
act and related regulations. As used in division (E)(2) of this 226
section, "federal animal welfare act" has the same meaning as in 227
section 959.131 of the Revised Code. 228

(F) The offenses established under this section are strict 229
liability offenses and section 2901.20 of the Revised Code does 230
not apply. The designation of these offenses as strict liability 231
offenses shall not be construed to imply that any other offense, 232
for which there is no specified degree of culpability, is not a 233
strict liability offense. 234

Sec. 959.131. (A) As used in this section: 235

(1) "Companion animal" means any animal that is kept 236
inside a residential dwelling and any dog or cat regardless of 237
where it is kept, including a pet store as defined in section 238
956.01 of the Revised Code. "Companion animal" does not include 239
livestock or any wild animal. 240

(2) "Cruelty," "torment," and "torture" have the same 241
meanings as in section 1717.01 of the Revised Code. 242

(3) "Residential dwelling" means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.	243 244 245
(4) "Practice of veterinary medicine" has the same meaning as in section 4741.01 of the Revised Code.	246 247
(5) "Wild animal" has the same meaning as in section 1531.01 of the Revised Code.	248 249
(6) "Federal animal welfare act" means the "Laboratory Animal Act of 1966," Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970," Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976," Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985," Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.	250 251 252 253 254 255 256 257
(7) "Dog kennel" means an animal rescue for dogs that is registered under section 956.06 of the Revised Code , a boarding kennel, or a training kennel.	258 259 260
(8) "Boarding kennel" has and <u>"animal rescue for dogs"</u> have the same meaning meanings as in section 956.01 of the Revised Code.	261 262 263
(9) "Training kennel" means an establishment operating for profit that keeps, houses, and maintains dogs for the purpose of training the dogs in return for a fee or other consideration.	264 265 266
(10) "Livestock" means horses, mules, and other equidae; cattle, sheep, goats, and other bovidae; swine and other suidae; poultry; alpacas; llamas; captive white-tailed deer; and any other animal that is raised or maintained domestically for food or fiber.	267 268 269 270 271

(11) "Captive white-tailed deer" has the same meaning as	272
in section 1531.01 of the Revised Code.	273
(12) "Serious physical harm" means any of the following:	274
(a) Physical harm that carries an unnecessary or	275
unjustifiable substantial risk of death;	276
(b) Physical harm that involves either partial or total	277
permanent incapacity;	278
(c) Physical harm that involves acute pain of a duration	279
that results in substantial suffering or that involves any	280
degree of prolonged or intractable pain;	281
(d) Physical harm that results from a person who confines	282
or who is the custodian or caretaker of a companion animal	283
depriving the companion animal of good, wholesome food and water	284
that proximately causes the death of the companion animal.	285
(B) No person shall knowingly torture, torment, needlessly	286
mutilate or maim, cruelly beat, poison, needlessly kill, or	287
commit an act of cruelty against a companion animal.	288
(C) No person shall knowingly cause serious physical harm	289
to a companion animal.	290
(D) No person who confines or who is the custodian or	291
caretaker of a companion animal shall negligently do any of the	292
following:	293
(1) Torture, torment, or commit an act of cruelty against	294
the companion animal;	295
(2) Deprive the companion animal of necessary sustenance	296
or confine the companion animal without supplying it during the	297
confinement with sufficient quantities of good, wholesome food	298

and water if it can reasonably be expected that the companion 299
animal would become sick or suffer in any other way as a result 300
of or due to the deprivation or confinement; 301

(3) Impound or confine the companion animal without 302
affording it, during the impoundment or confinement, with access 303
to shelter from heat, cold, wind, rain, snow, or excessive 304
direct sunlight if it can reasonably be expected that the 305
companion animal would become sick or suffer in any other way as 306
a result of or due to the lack of adequate shelter. 307

(E) No person who confines or who is the custodian or 308
caretaker of a companion animal shall recklessly deprive the 309
companion animal of necessary sustenance or confine the 310
companion animal without supplying it during the confinement 311
with sufficient quantities of good, wholesome food and water. 312

(F) No owner, manager, or employee of a dog kennel who 313
confines or is the custodian or caretaker of a companion animal 314
shall knowingly do any of the following: 315

(1) Torture, torment, needlessly mutilate or maim, cruelly 316
beat, poison, needlessly kill, or commit an act of cruelty 317
against the companion animal; 318

(2) Deprive the companion animal of necessary sustenance 319
or confine the companion animal without supplying it during the 320
confinement with sufficient quantities of good, wholesome food 321
and water if it is reasonably expected that the companion animal 322
would die or experience unnecessary or unjustifiable pain or 323
suffering as a result of the deprivation or confinement; 324

(3) Impound or confine the companion animal without 325
affording it, during the impoundment or confinement, with access 326
to shelter from heat, cold, wind, rain, snow, or excessive 327

direct sunlight if it is reasonably expected that the companion 328
animal would die or experience unnecessary or unjustifiable pain 329
or suffering as a result of or due to the lack of adequate 330
shelter. 331

~~(F)~~ (G) No owner, manager, or employee of a dog kennel who 332
confines or is the custodian or caretaker of a companion animal 333
shall negligently do any of the following: 334

(1) Torture, torment, or commit an act of cruelty against 335
the companion animal; 336

(2) Deprive the companion animal of necessary sustenance 337
or confine the companion animal without supplying it during the 338
confinement with sufficient quantities of good, wholesome food 339
and water if it can reasonably be expected that the companion 340
animal would become sick or suffer in any other way as a result 341
of or due to the deprivation or confinement; 342

(3) Impound or confine the companion animal without 343
affording it, during the impoundment or confinement, with access 344
to shelter from heat, cold, wind, rain, snow, or excessive 345
direct sunlight if it can reasonably be expected that the 346
companion animal would become sick or suffer in any other way as 347
a result of or due to the lack of adequate shelter. 348

~~(G)~~ (H) Divisions (B), (C), (D), (E), ~~and (F)~~, and (G) of 349
this section do not apply to any of the following: 350

(1) A companion animal used in scientific research 351
conducted by an institution in accordance with the federal 352
animal welfare act and related regulations; 353

(2) The lawful practice of veterinary medicine by a person 354
who has been issued a license, temporary permit, or registration 355
certificate to do so under Chapter 4741. of the Revised Code; 356

(3) Dogs being used or intended for use for hunting or 357
field trial purposes, provided that the dogs are being treated 358
in accordance with usual and commonly accepted practices for the 359
care of hunting dogs; 360

(4) The use of common training devices, if the companion 361
animal is being treated in accordance with usual and commonly 362
accepted practices for the training of animals; 363

(5) The administering of medicine to a companion animal 364
that was properly prescribed by a person who has been issued a 365
license, temporary permit, or registration certificate under 366
Chapter 4741. of the Revised Code. 367

~~(H)~~ (I) Notwithstanding any section of the Revised Code 368
that otherwise provides for the distribution of fine moneys, the 369
clerk of court shall forward all fines the clerk collects that 370
are so imposed for any violation of this section to the 371
treasurer of the political subdivision or the state, whose 372
county humane society or law enforcement agency is to be paid 373
the fine money as determined under this division. The treasurer 374
to whom the fines are forwarded shall pay the fine moneys to the 375
county humane society or the county, township, municipal 376
corporation, or state law enforcement agency in this state that 377
primarily was responsible for or involved in the investigation 378
and prosecution of the violation. If a county humane society 379
receives any fine moneys under this division, the county humane 380
society shall use the fine moneys either to provide the training 381
that is required for humane society agents under section 382
1717.061 of the Revised Code or to provide additional training 383
for humane society agents. 384

Sec. 959.99. (A) Whoever violates section 959.18 or 959.19 385
of the Revised Code is guilty of a minor misdemeanor. 386

(B) Except as otherwise provided in this division, whoever 387
violates section 959.02 of the Revised Code is guilty of a 388
misdemeanor of the second degree. If the value of the animal 389
killed or the injury done amounts to three hundred dollars or 390
more, whoever violates section 959.02 of the Revised Code is 391
guilty of a misdemeanor of the first degree. 392

(C) Whoever violates section 959.03, 959.06, division (C) 393
of section 959.09, 959.12, or 959.17 or division (A) of section 394
959.15 of the Revised Code is guilty of a misdemeanor of the 395
fourth degree. 396

(D) Whoever violates division (A) of section 959.13 or 397
section 959.21 of the Revised Code is guilty of a misdemeanor of 398
the second degree. In addition, the court may order the offender 399
to forfeit the animal or livestock and may provide for its 400
disposition, including, but not limited to, the sale of the 401
animal or livestock. If an animal or livestock is forfeited and 402
sold pursuant to this division, the proceeds from the sale first 403
shall be applied to pay the expenses incurred with regard to the 404
care of the animal from the time it was taken from the custody 405
of the former owner. The balance of the proceeds from the sale, 406
if any, shall be paid to the former owner of the animal. 407

(E) (1) Whoever violates division (B) or (E) of section 408
959.131 of the Revised Code is guilty of a misdemeanor of the 409
first degree on a first offense and a felony of the fifth degree 410
on each subsequent offense. 411

(2) Whoever violates division (C) of section 959.131 of 412
the Revised Code is guilty of a felony of the fifth degree. 413

(3) Whoever violates section 959.01 of the Revised Code or 414
division (D) of section 959.131 of the Revised Code is guilty of 415

a misdemeanor of the second degree on a first offense and a 416
misdemeanor of the first degree on each subsequent offense. 417

(4) Whoever violates division ~~(E)~~(F) of section 959.131 418
of the Revised Code is guilty of a felony of the fifth degree. 419

(5) Whoever violates division ~~(F)~~(G) of section 959.131 420
of the Revised Code is guilty of a misdemeanor of the first 421
degree. 422

(6) (a) A court may order a person who is convicted of or 423
pleads guilty to a violation of section 959.131 of the Revised 424
Code to forfeit to an impounding agency, as defined in section 425
959.132 of the Revised Code, any or all of the companion animals 426
in that person's ownership or care. The court also may prohibit 427
or place limitations on the person's ability to own or care for 428
any companion animals for a specified or indefinite period of 429
time. 430

(b) A court may order a person who is convicted of or 431
pleads guilty to a violation of division (A) of section 959.13 432
or section 959.131 of the Revised Code to reimburse an 433
impounding agency for the reasonable and necessary costs 434
incurred by the agency for the care of an animal or livestock 435
that the agency impounded as a result of the investigation or 436
prosecution of the violation, provided that the costs were not 437
otherwise paid under section 959.132 of the Revised Code. 438

(7) If a court has reason to believe that a person who is 439
convicted of or pleads guilty to a violation of section 959.131 440
or 959.21 of the Revised Code suffers from a mental or emotional 441
disorder that contributed to the violation, the court may impose 442
as a community control sanction or as a condition of probation a 443
requirement that the offender undergo psychological evaluation 444

or counseling. The court shall order the offender to pay the 445
costs of the evaluation or counseling. 446

(F) Whoever violates section 959.14 of the Revised Code is 447
guilty of a misdemeanor of the second degree on a first offense 448
and a misdemeanor of the first degree on each subsequent 449
offense. 450

(G) Whoever violates section 959.05 or 959.20 of the 451
Revised Code is guilty of a misdemeanor of the first degree. 452

(H) Whoever violates section 959.16 of the Revised Code is 453
guilty of a felony of the fourth degree for a first offense and 454
a felony of the third degree on each subsequent offense. 455

(I) Whoever violates division (B) or (C) of section 959.15 456
of the Revised Code is guilty of a felony and shall be fined not 457
more than ten thousand dollars. 458

Sec. 2901.01. (A) As used in the Revised Code: 459

(1) "Force" means any violence, compulsion, or constraint 460
physically exerted by any means upon or against a person or 461
thing. 462

(2) "Deadly force" means any force that carries a 463
substantial risk that it will proximately result in the death of 464
any person. 465

(3) "Physical harm to persons" means any injury, illness, 466
or other physiological impairment, regardless of its gravity or 467
duration. 468

(4) "Physical harm to property" means any tangible or 469
intangible damage to property that, in any degree, results in 470
loss to its value or interferes with its use or enjoyment. 471

"Physical harm to property" does not include wear and tear 472

occasioned by normal use.	473
(5) "Serious physical harm to persons" means any of the following:	474
	475
(a) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;	476
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(b) Any physical harm that carries a substantial risk of death;	479
	480
(c) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;	481
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	483
(d) Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement;	484
	485
	486
(e) Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.	487
	488
	489
(6) "Serious physical harm to property" means any physical harm to property that does either of the following:	490
	491
(a) Results in substantial loss to the value of the property or requires a substantial amount of time, effort, or money to repair or replace;	492
	493
	494
(b) Temporarily prevents the use or enjoyment of the property or substantially interferes with its use or enjoyment for an extended period of time.	495
	496
	497
(7) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or	498
	499

that certain circumstances may exist. 500

(8) "Substantial risk" means a strong possibility, as 501
contrasted with a remote or significant possibility, that a 502
certain result may occur or that certain circumstances may 503
exist. 504

(9) "Offense of violence" means any of the following: 505

(a) A violation of section 2903.01, 2903.02, 2903.03, 506
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 507
2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 508
2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 509
2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 510
2921.34, or 2923.161, of division (A) (1) of section 2903.34, of 511
division (A) (1), (2), or (3) of section 2911.12, or of division 512
(B) (1), (2), (3), or (4) of section 2919.22 of the Revised Code 513
or felonious sexual penetration in violation of former section 514
2907.12 of the Revised Code; 515

(b) A violation of an existing or former municipal 516
ordinance or law of this or any other state or the United 517
States, substantially equivalent to any section, division, or 518
offense listed in division (A) (9) (a) of this section; 519

(c) An offense, other than a traffic offense, under an 520
existing or former municipal ordinance or law of this or any 521
other state or the United States, committed purposely or 522
knowingly, and involving physical harm to persons or a risk of 523
serious physical harm to persons; 524

(d) A conspiracy or attempt to commit, or complicity in 525
committing, any offense under division (A) (9) (a), (b), or (c) of 526
this section; 527

(e) A violation of division (C) of section 959.131 of the 528

<u>Revised Code.</u>	529
(10) (a) "Property" means any property, real or personal,	530
tangible or intangible, and any interest or license in that	531
property. "Property" includes, but is not limited to, cable	532
television service, other telecommunications service,	533
telecommunications devices, information service, computers,	534
data, computer software, financial instruments associated with	535
computers, other documents associated with computers, or copies	536
of the documents, whether in machine or human readable form,	537
trade secrets, trademarks, copyrights, patents, and property	538
protected by a trademark, copyright, or patent. "Financial	539
instruments associated with computers" include, but are not	540
limited to, checks, drafts, warrants, money orders, notes of	541
indebtedness, certificates of deposit, letters of credit, bills	542
of credit or debit cards, financial transaction authorization	543
mechanisms, marketable securities, or any computer system	544
representations of any of them.	545
(b) As used in division (A) (10) of this section, "trade	546
secret" has the same meaning as in section 1333.61 of the	547
Revised Code, and "telecommunications service" and "information	548
service" have the same meanings as in section 2913.01 of the	549
Revised Code.	550
(c) As used in divisions (A) (10) and (13) of this section,	551
"cable television service," "computer," "computer software,"	552
"computer system," "computer network," "data," and	553
"telecommunications device" have the same meanings as in section	554
2913.01 of the Revised Code.	555
(11) "Law enforcement officer" means any of the following:	556
(a) A sheriff, deputy sheriff, constable, police officer	557

of a township or joint police district, marshal, deputy marshal, 558
municipal police officer, member of a police force employed by a 559
metropolitan housing authority under division (D) of section 560
3735.31 of the Revised Code, or state highway patrol trooper; 561

(b) An officer, agent, or employee of the state or any of 562
its agencies, instrumentalities, or political subdivisions, upon 563
whom, by statute, a duty to conserve the peace or to enforce all 564
or certain laws is imposed and the authority to arrest violators 565
is conferred, within the limits of that statutory duty and 566
authority; 567

(c) A mayor, in the mayor's capacity as chief conservator 568
of the peace within the mayor's municipal corporation; 569

(d) A member of an auxiliary police force organized by 570
county, township, or municipal law enforcement authorities, 571
within the scope of the member's appointment or commission; 572

(e) A person lawfully called pursuant to section 311.07 of 573
the Revised Code to aid a sheriff in keeping the peace, for the 574
purposes and during the time when the person is called; 575

(f) A person appointed by a mayor pursuant to section 576
~~737.01~~737.10 of the Revised Code as a special patrolling 577
officer during riot or emergency, for the purposes and during 578
the time when the person is appointed; 579

(g) A member of the organized militia of this state or the 580
armed forces of the United States, lawfully called to duty to 581
aid civil authorities in keeping the peace or protect against 582
domestic violence; 583

(h) A prosecuting attorney, assistant prosecuting 584
attorney, secret service officer, or municipal prosecutor; 585

(i) A veterans' home police officer appointed under section 5907.02 of the Revised Code;	586 587
(j) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code;	588 589 590
(k) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code;	591 592
(l) The house of representatives sergeant at arms if the house of representatives sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code and an assistant house of representatives sergeant at arms;	593 594 595 596
(m) The senate sergeant at arms and an assistant senate sergeant at arms;	597 598
(n) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended.	599 600 601 602 603 604 605 606 607 608
(12) "Privilege" means an immunity, license, or right conferred by law, bestowed by express or implied grant, arising out of status, position, office, or relationship, or growing out of necessity.	609 610 611 612
(13) "Contraband" means any property that is illegal for a person to acquire or possess under a statute, ordinance, or	613 614

rule, or that a trier of fact lawfully determines to be illegal 615
to possess by reason of the property's involvement in an 616
offense. "Contraband" includes, but is not limited to, all of 617
the following: 618

(a) Any controlled substance, as defined in section 619
3719.01 of the Revised Code, or any device or paraphernalia; 620

(b) Any unlawful gambling device or paraphernalia; 621

(c) Any dangerous ordnance or obscene material. 622

(14) A person is "not guilty by reason of insanity" 623
relative to a charge of an offense only if the person proves, in 624
the manner specified in section 2901.05 of the Revised Code, 625
that at the time of the commission of the offense, the person 626
did not know, as a result of a severe mental disease or defect, 627
the wrongfulness of the person's acts. 628

(B) (1) (a) Subject to division (B) (2) of this section, as 629
used in any section contained in Title XXIX of the Revised Code 630
that sets forth a criminal offense, "person" includes all of the 631
following: 632

(i) An individual, corporation, business trust, estate, 633
trust, partnership, and association; 634

(ii) An unborn human who is viable. 635

(b) As used in any section contained in Title XXIX of the 636
Revised Code that does not set forth a criminal offense, 637
"person" includes an individual, corporation, business trust, 638
estate, trust, partnership, and association. 639

(c) As used in division (B) (1) (a) of this section: 640

(i) "Unborn human" means an individual organism of the 641

species Homo sapiens from fertilization until live birth. 642

(ii) "Viable" means the stage of development of a human 643
fetus at which there is a realistic possibility of maintaining 644
and nourishing of a life outside the womb with or without 645
temporary artificial life-sustaining support. 646

(2) Notwithstanding division (B) (1) (a) of this section, in 647
no case shall the portion of the definition of the term "person" 648
that is set forth in division (B) (1) (a) (ii) of this section be 649
applied or construed in any section contained in Title XXIX of 650
the Revised Code that sets forth a criminal offense in any of 651
the following manners: 652

(a) Except as otherwise provided in division (B) (2) (a) of 653
this section, in a manner so that the offense prohibits or is 654
construed as prohibiting any pregnant woman or her physician 655
from performing an abortion with the consent of the pregnant 656
woman, with the consent of the pregnant woman implied by law in 657
a medical emergency, or with the approval of one otherwise 658
authorized by law to consent to medical treatment on behalf of 659
the pregnant woman. An abortion that violates the conditions 660
described in the immediately preceding sentence may be punished 661
as a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 662
2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 663
2903.21, or 2903.22 of the Revised Code, as applicable. An 664
abortion that does not violate the conditions described in the 665
second immediately preceding sentence, but that does violate 666
section 2919.12, division (B) of section 2919.13, or section 667
2919.15, 2919.151, 2919.17, or 2919.18 of the Revised Code, may 668
be punished as a violation of section 2919.12, division (B) of 669
section 2919.13, or section 2919.15, 2919.151, 2919.17, or 670
2919.18 of the Revised Code, as applicable. Consent is 671

sufficient under this division if it is of the type otherwise 672
adequate to permit medical treatment to the pregnant woman, even 673
if it does not comply with section 2919.12 of the Revised Code. 674

(b) In a manner so that the offense is applied or is 675
construed as applying to a woman based on an act or omission of 676
the woman that occurs while she is or was pregnant and that 677
results in any of the following: 678

(i) Her delivery of a stillborn baby; 679

(ii) Her causing, in any other manner, the death in utero 680
of a viable, unborn human that she is carrying; 681

(iii) Her causing the death of her child who is born alive 682
but who dies from one or more injuries that are sustained while 683
the child is a viable, unborn human; 684

(iv) Her causing her child who is born alive to sustain 685
one or more injuries while the child is a viable, unborn human; 686

(v) Her causing, threatening to cause, or attempting to 687
cause, in any other manner, an injury, illness, or other 688
physiological impairment, regardless of its duration or gravity, 689
or a mental illness or condition, regardless of its duration or 690
gravity, to a viable, unborn human that she is carrying. 691

(C) As used in Title XXIX of the Revised Code: 692

(1) "School safety zone" consists of a school, school 693
building, school premises, school activity, and school bus. 694

(2) "School," "school building," and "school premises" 695
have the same meanings as in section 2925.01 of the Revised 696
Code. 697

(3) "School activity" means any activity held under the 698

auspices of a board of education of a city, local, exempted 699
village, joint vocational, or cooperative education school 700
district; a governing authority of a community school 701
established under Chapter 3314. of the Revised Code; a governing 702
board of an educational service center, or the governing body of 703
a school for which the state board of education prescribes 704
minimum standards under section 3301.07 of the Revised Code. 705

(4) "School bus" has the same meaning as in section 706
4511.01 of the Revised Code. 707

Sec. 3381.17. From the funds available therefor from a tax 708
levy authorized under section 3381.16 or, if applicable, 709
sections 5743.021 ~~and~~, 5743.321, 5743.511, 5743.621, and 710
5743.631 of the Revised Code, a regional arts and cultural 711
district by action of its board of trustees shall make annual 712
grants to support the operating or capital expenses of such of 713
the arts or cultural organizations located within the territory 714
of the district as the board of trustees shall determine; 715
provided, however, that not more than ten per cent of the amount 716
granted in any calendar year shall be granted to arts and 717
cultural organizations that are not qualifying arts or cultural 718
organizations; and further provided that prior to making any 719
grants in any calendar year, the board of trustees shall afford 720
an opportunity for the presentation, either in person or in 721
writing, of the suggestions of any area arts council, as defined 722
in section 757.03 of the Revised Code, located within the 723
district. Any such grant to an arts or cultural organization 724
shall be on such terms and conditions as the board considers 725
advisable. 726

Sec. 5743.01. As used in this chapter: 727

(A) "Person" includes individuals, firms, partnerships, 728

associations, joint-stock companies, corporations, combinations 729
of individuals of any form, and the state and any of its 730
political subdivisions. 731

(B) "Wholesale dealer" includes only those persons: 732

(1) Who bring in or cause to be brought into this state 733
unstamped cigarettes purchased directly from the manufacturer, 734
producer, or importer of cigarettes for sale in this state but 735
does not include persons who bring in or cause to be brought 736
into this state cigarettes with respect to which no evidence of 737
tax payment is required thereon as provided in section 5743.04 738
of the Revised Code; or 739

(2) Who are engaged in the business of selling cigarettes, 740
tobacco products, or vapor products to others for the purpose of 741
resale. 742

"Wholesale dealer" does not include any cigarette 743
manufacturer, export warehouse proprietor, or importer with a 744
valid permit under 26 U.S.C. 5713 if that person sells 745
cigarettes in this state only to wholesale dealers holding valid 746
and current licenses under section 5743.15 of the Revised Code 747
or to an export warehouse proprietor or another manufacturer. 748

(C) "Retail dealer" includes: 749

(1) In reference to dealers in cigarettes, every person 750
other than a wholesale dealer engaged in the business of selling 751
cigarettes in this state, regardless of whether the person is 752
located in this state or elsewhere, and regardless of quantity, 753
amount, or number of sales; 754

(2) In reference to dealers in tobacco products, any 755
person in this state engaged in the business of selling tobacco 756
products to ultimate consumers in this state, regardless of 757

quantity, amount, or number of sales;	758
(3) In reference to dealers in vapor products, any person	759
in this state engaged in the business of selling vapor products	760
to ultimate consumers in this state, regardless of quantity,	761
amount, or number of sales.	762
(D) "Sale" includes exchange, barter, gift, offer for	763
sale, and distribution, and includes transactions in interstate	764
or foreign commerce.	765
(E) "Cigarettes" includes any roll for smoking made wholly	766
or in part of tobacco, irrespective of size or shape, and	767
whether or not such tobacco is flavored, adulterated, or mixed	768
with any other ingredient, the wrapper or cover of which is made	769
of paper, reconstituted cigarette tobacco, homogenized cigarette	770
tobacco, cigarette tobacco sheet, or any similar materials other	771
than cigar tobacco.	772
(F) "Package" means the individual package, box, or other	773
container in or from which retail sales of cigarettes are	774
normally made or intended to be made.	775
(G) "Storage" includes any keeping or retention of	776
cigarettes, tobacco products, or vapor products for use or	777
consumption in this state.	778
(H) "Use" includes the exercise of any right or power	779
incidental to the ownership of cigarettes, tobacco products, or	780
vapor products.	781
(I) "Tobacco product" or "other tobacco product" means any	782
product made from tobacco, other than cigarettes, that is made	783
for smoking or chewing, or both, and snuff.	784
(J) "Wholesale price" means the invoice price, including	785

all federal excise taxes, at which the manufacturer of the 786
tobacco product sells the tobacco product to unaffiliated 787
distributors, at which the manufacturer of the vapor product 788
sells the vapor product to vapor distributors, or at which the 789
manufacturer or importer of cigarettes sells the packages of 790
cigarettes to wholesale dealers, excluding any discounts based 791
on the method of payment of the invoice or on time of payment of 792
the invoice. If the taxpayer buys the tobacco products or vapor 793
products from a person other than a manufacturer or buys the 794
packages of cigarettes from a person other than a manufacturer 795
or importer, "wholesale price" means the invoice price, 796
including all federal excise taxes and excluding any discounts 797
based on the method of payment of the invoice or on time of 798
payment of the invoice. 799

(K) "Distributor" means: 800

(1) Any manufacturer who sells, barter, exchanges, or 801
distributes tobacco products to a retail dealer in the state, 802
except when selling to a retail dealer that has filed with the 803
manufacturer a signed statement agreeing to pay and be liable 804
for the tax imposed by section 5743.51 of the Revised Code; 805

(2) Any wholesale dealer located in the state who receives 806
tobacco products from a manufacturer, or who receives tobacco 807
products on which the tax imposed by this chapter has not been 808
paid; 809

(3) Any wholesale dealer located outside the state who 810
sells, barter, exchanges, or distributes tobacco products to a 811
wholesale or retail dealer in the state; or 812

(4) Any retail dealer who receives tobacco products on 813
which the tax has not or will not be paid by another 814

distributor, including a retail dealer that has filed a signed statement with a manufacturer in which the retail dealer agrees to pay and be liable for the tax that would otherwise be imposed on the manufacturer by section 5743.51 of the Revised Code.

(L) "Taxpayer" means any person liable for the tax imposed by section 5743.51, 5743.511, 5743.62, or 5743.63, or 5743.631 of the Revised Code.

(M) "Seller" means any person located outside this state engaged in the business of selling tobacco products or vapor products to consumers for storage, use, or other consumption in this state.

(N) "Manufacturer" means any person who manufactures and sells cigarettes, tobacco products, or vapor products.

(O) "Importer" means any person that is authorized, under a valid permit issued under Section 5713 of the Internal Revenue Code, to import finished cigarettes into the United States, either directly or indirectly.

(P) "Little cigar" means any roll for smoking, other than cigarettes, made wholly or in part of tobacco that uses an integrated cellulose acetate filter or other filter and is wrapped in any substance containing tobacco, other than natural leaf tobacco.

(Q) "Premium cigar" means any roll for smoking, other than cigarettes and little cigars, that is made wholly or in part of tobacco and that has all of the following characteristics:

(1) The binder and wrapper of the roll consist entirely of leaf tobacco.

(2) The roll contains no filter or tip, nor any mouthpiece

consisting of a material other than tobacco. 843

(3) The weight of one thousand such rolls is at least six 844
pounds. 845

(R) "Maximum tax amount" means fifty cents plus the tax 846
adjustment factor computed under this division. 847

In April of each year beginning in 2018, the tax 848
commissioner shall compute a tax adjustment factor by 849
multiplying fifty cents by the cumulative percentage increase in 850
the consumer price index (all items, all urban consumers) 851
prepared by the bureau of labor statistics of the United States 852
department of labor from January 1, 2017, to the last day of 853
December of the preceding year and rounding the resulting 854
product to the nearest one cent; provided, that the tax 855
adjustment factor for any year shall not be less than that for 856
the immediately preceding year. The maximum tax amount resulting 857
from the computation of the tax adjustment factor applies on and 858
after the ensuing first day of July through the thirtieth day of 859
June thereafter. 860

(S) "Secondary manufacturer" means any person in this 861
state engaged in the business of repackaging, reconstituting, 862
diluting, or reprocessing a vapor product for resale to 863
consumers. 864

(T) "Vapor product" means any liquid solution or other 865
substance that (1) contains nicotine and (2) is depleted as it 866
is used in an electronic smoking product. "Vapor product" does 867
not include any solution or substance regulated as a drug, 868
device, or combination product under Chapter V of the "Federal 869
Food, Drug, and Cosmetic Act," 21 U.S.C. 301, et seq. 870

(U) "Electronic smoking product" means any noncombustible 871

product, other than a cigarette or tobacco product, that (1) 872
contains or is designed to use vapor products and (2) employs a 873
heating element, power source, electronic circuit, or other 874
electronic, chemical, or mechanical means, regardless of shape 875
or size, that can be used to produce vapor from the vapor 876
product. "Electronic smoking product" includes, but is not 877
limited to, an electronic cigarette, electronic cigar, 878
electronic cigarillo, electronic pipe, electronic hookah, vape 879
pen, vaporizer, or similar product or device, but does not 880
include any product regulated as a drug, device, or combination 881
product under Chapter V of the "Federal Food, Drug, and Cosmetic 882
Act," 21 U.S.C. 301, et seq. 883

(V) "Vapor distributor" means any person that: 884

(1) Sells vapor products to a retail dealer; 885

(2) Is a retail dealer that receives vapor products with 886
respect to which the tax imposed by this chapter has not or will 887
not be paid by another person that is a vapor distributor; 888

(3) Is a secondary manufacturer; 889

(4) Is a wholesale dealer located in this state that 890
receives vapor products from a manufacturer, or receives vapor 891
products on which the tax imposed by this chapter has not been 892
paid; 893

(5) Is a wholesale dealer located outside this state that 894
sells vapor products to a wholesale dealer in this state. 895

(W) "Vapor volume" means one of the following, as 896
applicable: 897

(1) If a vapor product is sold in liquid form, one-tenth 898
of one milliliter of vapor product; 899

(2) If the vapor product is sold in a nonliquid form, one-tenth of one gram of vapor product. 900
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Sec. 5743.021. (A) As used in this section, "qualifying regional arts and cultural district" means a regional arts and cultural district created under section 3381.04 of the Revised Code in a county having a population of one million two hundred thousand or more according to the 2000 federal decennial census. 902
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(B) For one or more of the purposes for which a tax may be levied under section 3381.16 of the Revised Code and for the purposes of paying the expenses of administering the tax and the expenses charged by a board of elections to hold an election on a question submitted under this section, the board of county commissioners of a county that has within its territorial boundaries a qualifying regional arts and cultural district may levy a tax on the sale of cigarettes sold for resale at retail in the county composing the district. ~~The rate of the tax, when added to the rate of any other tax concurrently levied by the board under this section, shall not exceed fifteen mills per cigarette, and shall be computed on each cigarette sold. Only~~ 907
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as follows: 919

(1) If the tax begins to apply before the first day of the first month after the effective date of this amendment, the tax shall be computed on each cigarette sold, and the rate of the tax, when added to the rate of any other tax concurrently levied by the board under this section, shall not exceed fifteen mills per cigarette; 920
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(2) If the tax begins to apply on or after the first day of the first month after the effective date of this amendment, the tax shall be computed on packages of cigarettes, and the rate of the tax, when added to the rate of any other tax 926
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concurrently levied by the board under this section, shall not 930
exceed nine per cent of the wholesale price of the package of 931
cigarettes. 932

Only one sale of the same article shall be used in 933
computing the amount of tax due. The tax may be levied for any 934
number of years not exceeding ten years. 935

The tax shall be levied pursuant to a resolution of the 936
board of county commissioners approved by a majority of the 937
electors in the county voting on the question of levying the 938
tax. The resolution shall specify the rate of the tax, the 939
number of years the tax will be levied, and the purposes for 940
which the tax is levied. The election may be held on the date of 941
a general, primary, or special election held not sooner than 942
ninety days after the date the board certifies its resolution to 943
the board of elections. If approved by the electors, the tax 944
shall take effect on the first day of the month specified in the 945
resolution but not sooner than the first day of the month that 946
is at least sixty days after the certification of the election 947
results by the board of elections. A copy of the resolution 948
levying the tax shall be certified to the tax commissioner at 949
least sixty days prior to the date on which the tax is to become 950
effective. 951

A board of county commissioners may adopt a resolution 952
under this division proposing to replace a tax levied under 953
division (B) (1) of this section with a tax levied under division 954
(B) (2) of this section. Such a resolution shall state, in 955
addition to other information required under this division, that 956
the existing levy or levies terminate upon the passage of the 957
replacement levy. The failure of the electors to approve a 958
replacement levy does not terminate the existing levy or levies. 959

A board of county commissioners that proposes to levy a tax under division (B) (2) of this section, including a tax that would replace a tax levied under division (B) (1) of this section, may combine that question with the question of a tax under section 5743.511 of the Revised Code. 960-964

~~(C)~~(C) (1) The form of the ballot in an election held to propose a tax under division (B) (1) of this section shall be as follows, or in any other form acceptable to the secretary of state: 965-968

"For the purpose of _____ (insert the purpose or purposes of the tax), shall an excise tax be levied throughout _____ County for the benefit of the _____ (name of the qualifying regional arts and cultural district) on the sale of cigarettes at wholesale at the rate of ____ mills per cigarette for ____ years? 969-974

	For the tax
	Against the tax

"

(2) The form of the ballot in an election held to propose a tax under division (B) (2) of this section shall be as follows, or in any other form acceptable to the secretary of state: 975-978

"For the purpose of _____ (insert the purpose or purposes of the tax), shall an excise tax be levied throughout _____ County for the benefit of the _____ (name of the qualifying regional arts and cultural district) on the sale of cigarettes at wholesale at the rate of ____ of the wholesale price of a package of cigarettes for _____ years? 979-984

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	<u>For the tax</u>	
	<u>Against the tax</u>	" —

If the resolution of the board of county commissioners 986
provides that an existing levy or levies will be terminated upon 987
the passage of a replacement levy, the ballot must, for each 988
levy that will be terminated, include a statement that: "An 989
existing tax of ___ mills (stating the millage of the existing 990
tax) per cigarette, having ___ years remaining, will be 991
terminated and replaced upon the passage of this tax." 992

If the resolution combines the question of a tax under 993
division (B) (2) of this section with the question of a tax under 994
section 5743.511 of the Revised Code, the ballot shall contain 995
both the language prescribed in this division and the language 996
prescribed in division (C) of section 5743.511 of the Revised 997
Code, and electors may cast a vote either "For both taxes" or 998
"Against both taxes." 999

(D) All money arising from taxes levied on behalf of each 1000
 district under this section and section 5743.321 of the Revised 1001
 Code shall be credited as follows: 1002

(1) To the tax refund fund created by section 5703.052 of 1003
 the Revised Code, amounts equal to the refunds from each tax 1004
 levied under this section and section 5743.321 of the Revised 1005
Code and certified by the tax commissioner pursuant to section 1006
 5743.05 of the Revised Code; 1007

(2) Following the crediting of amounts pursuant to 1008
 division (D) (1) of this section: 1009

(a) To the permissive tax distribution fund created under 1010

section 4301.423 of the Revised Code, an amount equal to ninety- 1011
eight per cent of the remainder collected; 1012

(b) To the local excise tax administrative fund, which is 1013
hereby created in the state treasury, an amount equal to two per 1014
cent of such remainder, for use by the tax commissioner in 1015
defraying costs incurred in administering the tax. 1016

On or before the tenth day of each month, the tax 1017
commissioner shall distribute the amount credited to the 1018
permissive tax distribution fund during the preceding month by 1019
providing for payment of the appropriate amount to the county 1020
treasurer of the county in which the tax is levied. 1021

Sec. 5743.025. In addition to the return required by 1022
section 5743.03 of the Revised Code, each retail dealer of 1023
cigarettes in a county in which a tax is levied under section 1024
5743.021, 5743.024, or 5743.026 of the Revised Code shall, 1025
within thirty days after the date on which the tax takes effect, 1026
make and file a return, on forms prescribed by the tax 1027
commissioner, showing the total number of cigarettes or, in the 1028
case of a tax described in division (B) (2) of section 5743.021 1029
of the Revised Code, the total number of packages of cigarettes 1030
and the wholesale price of each package which such retail dealer 1031
had on hand as of the beginning of business on the date on which 1032
the tax takes effect, and such other information as the 1033
commissioner deems necessary for the administration of section 1034
5743.021, 5743.024, or 5743.026 of the Revised Code. Each such 1035
retail dealer shall deliver the return together with a 1036
remittance of the additional amount of tax due on the cigarettes 1037
shown on such return to the commissioner. Any retail dealer of 1038
cigarettes who fails to file a return under this section shall, 1039
for each day the retail dealer so fails, forfeit and pay into 1040

the state treasury the sum of one dollar as revenue arising from 1041
the tax imposed by section 5743.021, 5743.024, or 5743.026 of 1042
the Revised Code, and such sum may be collected by assessment in 1043
the manner provided in section 5743.081 of the Revised Code. For 1044
thirty days after the effective date of a tax imposed by section 1045
5743.021, 5743.024, or 5743.026 of the Revised Code, a retail 1046
dealer may possess for sale or sell in the county in which the 1047
tax is levied cigarettes not bearing the stamp required by 1048
section 5743.03 of the Revised Code to evidence payment of the 1049
county tax but on which the tax has or will be paid. 1050

Sec. 5743.03. (A) Except as provided in section 5743.04 of 1051
the Revised Code, the taxes imposed under sections 5743.02, 1052
5743.021, 5743.024, and 5743.026 of the Revised Code shall be 1053
paid by the purchase of tax stamps. A tax stamp shall be affixed 1054
to each package of ~~an aggregate denomination not less than the~~ 1055
~~amount of the tax upon the contents thereof~~cigarettes. The tax 1056
stamp, so affixed, shall be prima-facie evidence of payment of 1057
the tax. 1058

Except as is provided in the rules prescribed by the tax 1059
commissioner under authority of sections 5743.01 to 5743.20 of 1060
the Revised Code, and unless tax stamps have been previously 1061
affixed, they shall be so affixed by each wholesale dealer, and 1062
canceled by writing or stamping across the face thereof the 1063
number assigned to such wholesale dealer by the tax commissioner 1064
for that purpose, prior to the delivery of any cigarettes to any 1065
person in this state, or in the case of a tax levied pursuant to 1066
section 5743.021, 5743.024, or 5743.026 of the Revised Code, 1067
prior to the delivery of cigarettes to any person in the county 1068
in which the tax is levied. 1069

(B) Except as provided in the rules prescribed by the 1070

commissioner under authority of sections 5743.01 to 5743.20 of 1071
the Revised Code, each retail dealer, within twenty-four hours 1072
after the receipt of any cigarettes at the retail dealer's place 1073
of business, shall inspect the cigarettes to ensure that tax 1074
stamps are affixed. The inspection shall be completed before the 1075
cigarettes are delivered to any person in this state, or, in the 1076
case of a tax levied pursuant to section 5743.021, 5743.024, or 1077
5743.026 of the Revised Code, before the cigarettes are 1078
delivered to any person in the county in which the tax is 1079
levied. 1080

(C) Whenever any cigarettes are found in the place of 1081
business of any retail dealer without proper tax stamps affixed 1082
thereto and canceled, it is presumed that such cigarettes are 1083
kept therein in violation of sections 5743.01 to 5743.20 of the 1084
Revised Code. 1085

(D) Each wholesale dealer who purchases cigarettes without 1086
proper tax stamps affixed thereto shall, on or before the last 1087
day of each month, make and file a return for the preceding 1088
calendar month, on such form as is prescribed by the tax 1089
commissioner, showing the dealer's entire purchases and sales of 1090
cigarettes, packages of cigarettes, including the wholesale 1091
price of each package, and stamps for such month and accurate 1092
inventories as of the beginning and end of each month of 1093
cigarettes, stamped or unstamped; cigarette tax stamps affixed 1094
or unaffixed; and such other information as the commissioner 1095
finds necessary to the proper administration of sections 5743.01 1096
to 5743.20 of the Revised Code. The commissioner may extend the 1097
time for making and filing returns and may remit all or any part 1098
of amounts of penalties that may become due under sections 1099
5743.01 to 5743.20 of the Revised Code. The wholesale dealer 1100
shall deliver the return together with a remittance of the tax 1101

deficiency reported thereon to the commissioner. 1102

(E) Any wholesale dealer who fails to file a return under 1103
this section and the rules of the commissioner, other than a 1104
report required pursuant to division (F) of this section, may be 1105
required, for each day the dealer so fails, to forfeit and pay 1106
into the state treasury the sum of one dollar as revenue arising 1107
from the tax imposed by sections 5743.01 to 5743.20 of the 1108
Revised Code and such sum may be collected by assessment in the 1109
manner provided in section 5743.081 of the Revised Code. If the 1110
commissioner finds it necessary in order to insure the payment 1111
of the tax imposed by sections 5743.01 to 5743.20 of the Revised 1112
Code, the commissioner may require returns and payments to be 1113
made other than monthly. The returns shall be signed by the 1114
wholesale dealer or an authorized agent thereof. 1115

(F) Except as otherwise provided in this division, each 1116
person required to file a tax return under section 5743.03, 1117
5743.52, or 5743.62 of the Revised Code shall report to the 1118
commissioner the quantity of all cigarettes, packages of 1119
cigarettes, and roll-your-own cigarette tobacco sold in Ohio for 1120
each brand not covered by the tobacco master settlement 1121
agreement for which the person is liable for the taxes levied 1122
under section 5743.02, 5743.51, or 5743.62 of the Revised Code. 1123
A vapor distributor licensed to engage solely in the 1124
distribution of vapor products under section 5743.61 of the 1125
Revised Code is not required to file the report. 1126

As used in this division, "tobacco master settlement 1127
agreement" has the same meaning as in section 183.01 of the 1128
Revised Code. 1129

(G) The report required by division (F) of this section 1130
shall be made on a form prescribed by the commissioner and shall 1131

be filed not later than the last day of each month for the 1132
previous month, except that if the commissioner determines that 1133
the quantity reported by a person does not warrant monthly 1134
reporting, the commissioner may authorize reporting at less 1135
frequent intervals. The commissioner may assess a penalty of not 1136
more than two hundred fifty dollars for each month or portion 1137
thereof that a person fails to timely file a required report, 1138
and such sum may be collected by assessment in the manner 1139
provided in section 5743.081 of the Revised Code. All money 1140
collected under this division shall be considered as revenue 1141
arising from the taxes imposed by sections 5743.01 to 5743.20 of 1142
the Revised Code. 1143

(H) The commissioner may sell tax stamps only to a 1144
licensed wholesale dealer, except as otherwise authorized by the 1145
commissioner. The commissioner may charge the costs associated 1146
with the shipment of tax stamps to the licensed wholesale 1147
dealer. Amounts collected from such charges shall be credited to 1148
the cigarette tax enforcement fund created under section 5743.15 1149
of the Revised Code. 1150

Sec. 5743.05. The tax commissioner shall sell all stamps 1151
provided for by section 5743.03 of the Revised Code. ~~The stamps—~~ 1152
Each stamp that is to be affixed to a package of cigarettes 1153
shall be sold ~~at their face value~~for the amount of tax due on 1154
that package, except the commissioner shall, by rule, authorize 1155
the sale of stamps to wholesale dealers in this state, or to 1156
wholesale dealers outside this state, at a discount of not less 1157
than one and eight-tenths per cent or more than ten per cent of 1158
~~their face values~~such tax due, as a commission for affixing and 1159
canceling the stamps. 1160

The commissioner, by rule, shall authorize the delivery of 1161

stamps to wholesale dealers in this state and to wholesale 1162
dealers outside this state on credit. If such a dealer has not 1163
been in good credit standing with this state for five 1164
consecutive years preceding the purchase, the commissioner shall 1165
require the dealer to file with the commissioner a bond to the 1166
state in the amount and in the form prescribed by the 1167
commissioner, with surety to the satisfaction of the 1168
commissioner, conditioned on payment to the treasurer of state 1169
or the commissioner within thirty days or the following twenty- 1170
third day of June, whichever comes first for stamps delivered 1171
within that time. If such a dealer has been in good credit 1172
standing with this state for five consecutive years preceding 1173
the purchase, the commissioner shall not require that the dealer 1174
file such a bond but shall require payment for the stamps within 1175
thirty days after purchase of the stamps or the following 1176
twenty-third day of June, whichever comes first. ~~Stamps-Each~~ 1177
stamp that is sold to a dealer not required to file a bond shall 1178
be sold at face value for the amount of tax due on that package 1179
of cigarettes. The maximum amount that may be sold on credit to 1180
a dealer not required to file a bond shall equal one hundred ten 1181
per cent of the dealer's average monthly purchases over the 1182
preceding calendar year. The maximum amount shall be adjusted to 1183
reflect any changes in the tax rate and may be adjusted, upon 1184
application to the commissioner by the dealer, to reflect 1185
changes in the business operations of the dealer. The maximum 1186
amount shall be applicable to the period between the first day 1187
of July to the following twenty-third day of June. Payment by a 1188
dealer not required to file a bond shall be remitted by 1189
electronic funds transfer as prescribed by section 5743.051 of 1190
the Revised Code. If a dealer not required to file a bond fails 1191
to make the payment in full within the required payment period, 1192
the commissioner shall not thereafter sell stamps to that dealer 1193

until the dealer pays the outstanding amount, including penalty 1194
and interest on that amount as prescribed in this chapter, and 1195
the commissioner thereafter may require the dealer to file a 1196
bond until the dealer is restored to good standing. The 1197
commissioner shall limit delivery of stamps on credit to the 1198
period running from the first day of July of the fiscal year 1199
until the twenty-third day of the following June. Any discount 1200
allowed as a commission for affixing and canceling stamps shall 1201
be allowed with respect to sales of stamps on credit. 1202

The commissioner shall redeem and pay for any destroyed, 1203
unused, or spoiled tax stamps at their net value, and shall 1204
refund to wholesale dealers the net amount of state and county 1205
taxes paid erroneously or paid on cigarettes that have been sold 1206
in interstate or foreign commerce or that have become unsalable, 1207
and the net amount of county taxes that were paid on cigarettes 1208
that have been sold at retail or for retail sale outside a 1209
taxing county. 1210

An application for a refund of tax shall be filed with the 1211
commissioner, on the form prescribed by the commissioner for 1212
that purpose, within three years from the date the tax stamps 1213
are destroyed or spoiled, from the date of the erroneous 1214
payment, or from the date that cigarettes on which taxes have 1215
been paid have been sold in interstate or foreign commerce or 1216
have become unsalable. 1217

On the filing of the application, the commissioner shall 1218
determine the amount of refund to which the applicant is 1219
entitled, payable from receipts of the state tax, and, if 1220
applicable, payable from receipts of a county tax. If the amount 1221
is not less than that claimed, the commissioner shall certify 1222
the amount to the director of budget and management and 1223

treasurer of state for payment from the tax refund fund created 1224
by section 5703.052 of the Revised Code. If the amount is less 1225
than that claimed, the commissioner shall proceed in accordance 1226
with section 5703.70 of the Revised Code. 1227

If a refund is granted for payment of an illegal or 1228
erroneous assessment issued by the department, the refund shall 1229
include interest on the amount of the refund from the date of 1230
the overpayment. The interest shall be computed at the rate per 1231
annum prescribed by section 5703.47 of the Revised Code. 1232

Sec. 5743.33. ~~Except as provided in section 5743.331 of~~ 1233
~~the Revised Code, every~~ Every person who has acquired cigarettes 1234
for use, storage, or other consumption subject to the tax levied 1235
under section 5743.32, 5743.321, 5743.323, or 5743.324 of the 1236
Revised Code, shall, on or before the fifteenth day of the month 1237
following receipt of such cigarettes, file with the tax 1238
commissioner a return ~~showing the amount of cigarettes acquired,~~ 1239
together with remittance of the tax thereon. The return shall 1240
include, in the case of a tax described in division (B) (2) of 1241
section 5743.021 of the Revised Code, the number and wholesale 1242
price of packages of cigarettes acquired or, in the case of any 1243
other tax, the number of cigarettes acquired. No such person 1244
shall transport within this state, cigarettes that have a 1245
wholesale value in excess of three hundred dollars, unless that 1246
person has obtained consent to transport the cigarettes from the 1247
department of taxation prior to such transportation. Such 1248
consent shall not be required if the applicable taxes levied 1249
under sections 5743.02, 5743.021, 5743.024, and 5743.026 of the 1250
Revised Code have been paid. Application for the consent shall 1251
be in the form prescribed by the tax commissioner. 1252

Every person transporting such cigarettes shall possess 1253

the consent while transporting or possessing the cigarettes 1254
within this state and shall produce the consent upon request of 1255
any law enforcement officer or authorized agent of the tax 1256
commissioner. 1257

Any person transporting such cigarettes without the 1258
consent required by this section, shall be subject to the 1259
provisions of this chapter, including the applicable taxes 1260
imposed under sections 5743.02, 5743.021, 5743.024, and 5743.026 1261
of the Revised Code. 1262

Sec. 5743.511. (A) As used in this section, "qualifying 1263
regional arts and cultural district" has the same meaning as in 1264
section 5743.021 of the Revised Code. 1265

(B) For one or more of the purposes for which a tax may be 1266
levied under section 3381.16 of the Revised Code and for the 1267
purposes of paying the expenses of administering the tax and the 1268
expenses charged by a board of elections to hold an election on 1269
a question submitted under this section, the board of county 1270
commissioners of a county that has within its territorial 1271
boundaries a qualifying regional arts and cultural district may, 1272
on or after the first day of the first month after the effective 1273
date of this amendment, levy a tax on the sale of vapor products 1274
sold for resale at retail in the county composing the district 1275
at the rate of up to nine per cent of the wholesale price of the 1276
vapor product. Only one sale of the same article shall be used 1277
in computing the amount of tax due. The tax may be levied for 1278
any number of years not exceeding ten years. 1279

The tax shall be levied pursuant to a resolution of the 1280
board of county commissioners approved by a majority of the 1281
electors in the county voting on the question of levying the 1282
tax. The resolution shall specify the rate of the tax, the 1283

number of years the tax will be levied, and the purposes for 1284
which the tax is levied. The election may be held on the date of 1285
a general, primary, or special election held not sooner than 1286
ninety days after the date the board of county commissioners 1287
certifies its resolution to the board of elections. If approved 1288
by the electors, the tax shall take effect on the first day of 1289
the month specified in the resolution but not sooner than the 1290
first day of the month that is at least sixty days after the 1291
certification of the election results by the board of elections. 1292
A copy of the resolution levying the tax shall be certified to 1293
the tax commissioner at least sixty days prior to the date on 1294
which the tax is to become effective. 1295

(C) The form of the ballot in an election held to propose 1296
a tax under this section shall be as follows, or in any other 1297
form acceptable to the secretary of state: 1298

"For the purpose of _____ (insert the purpose or 1299
purposes of the tax), shall an excise tax be levied throughout 1300
_____ County for the benefit of the _____ (name of 1301
the qualifying regional arts and cultural district) on the sale 1302
of vapor products at wholesale at the rate of _____ of the 1303
wholesale price of the vapor product for _____ years? 1304

1305

	<u>For the tax</u>	"
	<u>Against the tax</u>	

(D) All money arising from taxes levied under this section 1306
and sections 5743.621 and 5743.631 of the Revised Code shall be 1307
credited as follows: 1308

(1) To the tax refund fund created by section 5703.052 of 1309
the Revised Code, amounts equal to the refunds from each tax 1310
levied under this section, section 5743.621, and section 1311
5743.631 of the Revised Code and certified by the tax 1312
commissioner pursuant to section 5743.53 of the Revised Code; 1313

(2) Following the crediting of amounts pursuant to 1314
division (D) (1) of this section: 1315

(a) To the permissive tax distribution fund created under 1316
section 4301.423 of the Revised Code, an amount equal to ninety- 1317
eight per cent of the remainder collected; 1318

(b) To the local excise tax administrative fund, created 1319
under section 5743.021 of the Revised Code, an amount equal to 1320
two per cent of such remainder, for use by the tax commissioner 1321
in defraying costs incurred in administering the tax. 1322

On or before the tenth day of each month, the tax 1323
commissioner shall distribute the amount credited to the 1324
permissive tax distribution fund during the preceding month by 1325
providing for payment of the appropriate amount to the county 1326
treasurer of the county in which the tax is levied. 1327

Sec. 5743.52. (A) Each distributor of tobacco products or 1328
vapor distributor subject to the tax levied by section 5743.51 1329
or 5743.511 of the Revised Code, on or before the twenty-third 1330
day of each month, shall file with the tax commissioner a return 1331
for the preceding month showing any information the tax 1332
commissioner finds necessary for the proper administration of 1333
this chapter, together with remittance of the tax due. The 1334
return and payment of the tax required by this section shall be 1335
filed and made electronically on or before the twenty-third day 1336
of the month following the reporting period. If the return is 1337

filed and the amount of tax shown on the return to be due is 1338
paid on or before the date the return is required to be filed, 1339
the distributor or vapor distributor is entitled to a discount 1340
equal to two and five-tenths per cent of the amount shown on the 1341
return to be due. 1342

(B) Any person who fails to timely file the return and 1343
make payment of taxes as required under this section, section 1344
5743.62, or section 5743.63 of the Revised Code may be required 1345
to pay an additional charge not exceeding the greater of fifty 1346
dollars or ten per cent of the tax due. Any additional charge 1347
imposed under this section may be collected by assessment as 1348
provided in section 5743.56 of the Revised Code. 1349

(C) If any tax due is not paid timely in accordance with 1350
~~sections 5743.52, this section or section 5743.62,~~ or 5743.63 of 1351
the Revised Code, the person liable for the tax shall pay 1352
interest, calculated at the rate per annum as prescribed by 1353
section 5703.47 of the Revised Code, from the date the tax 1354
payment was due to the date of payment or to the date an 1355
assessment is issued under section 5743.56 of the Revised Code, 1356
whichever occurs first. The commissioner may collect such 1357
interest by assessment pursuant to section 5743.56 of the 1358
Revised Code. 1359

(D) The commissioner may authorize the filing of returns 1360
and the payment of the tax required by this section, section 1361
5743.62, or section 5743.63 of the Revised Code for periods 1362
longer than a calendar month. 1363

(E) The commissioner may order any taxpayer to file with 1364
the commissioner security to the satisfaction of the 1365
commissioner conditioned upon filing the return and paying the 1366
taxes required under this section, section 5743.62, or section 1367

5743.63 of the Revised Code if the commissioner believes that 1368
the collection of the tax may be in jeopardy. 1369

Sec. 5743.521. In addition to the return required by 1370
section 5743.52 of the Revised Code, each retail dealer of vapor 1371
products in a county in which a tax is levied under section 1372
5743.511 of the Revised Code shall, within thirty days after the 1373
date on which the tax takes effect, make and file a return, on a 1374
form prescribed by the tax commissioner, showing the total 1375
number of vapor products which such retail dealer had on hand as 1376
of the beginning of business on the date on which the tax takes 1377
effect and such other information as the commissioner deems 1378
necessary for the administration of that section. Each such 1379
retail dealer shall deliver the return together with a 1380
remittance of the additional amount of tax due on the vapor 1381
products shown on such return to the commissioner. Any retail 1382
dealer of vapor products who fails to file a return under this 1383
section shall, for each day the retail dealer so fails, forfeit 1384
and pay into the state treasury the sum of one dollar as revenue 1385
arising from the tax imposed by section 5743.511 of the Revised 1386
Code, and such sum may be collected by assessment in the manner 1387
provided in section 5743.56 of the Revised Code. For thirty days 1388
after the effective date of a tax imposed by section 5743.511 of 1389
the Revised Code, a retail dealer may possess for sale or sell 1390
in the county in which the tax is levied vapor products if the 1391
tax has or will be paid. 1392

Sec. 5743.54. (A) Each distributor of tobacco products and 1393
each vapor distributor of vapor products shall maintain complete 1394
and accurate records of all purchases and sales of tobacco 1395
products or vapor products, and shall procure and retain all 1396
invoices, bills of lading, and other documents relating to the 1397
purchases and sales of those products. The distributor or vapor 1398

distributor shall keep open records and documents during 1399
business hours for the inspection of the tax commissioner, and 1400
shall preserve them for a period of three years from the date 1401
the return was due or was filed, whichever is later, unless the 1402
commissioner, in writing, consents to their destruction within 1403
that period, or orders that they be kept for a longer period of 1404
time. 1405

(B) (1) Each distributor of tobacco products and each vapor 1406
distributor of vapor products subject to the tax levied by 1407
section 5743.51 or 5743.511 of the Revised Code shall mark on 1408
the invoices of tobacco products or vapor products sold that the 1409
tax levied by that section has been paid and shall indicate the 1410
distributor's or vapor distributor's account number as assigned 1411
by the commissioner. 1412

(2) Each vapor distributor subject to the tax imposed by 1413
section 5743.51 of the Revised Code shall mark on all invoices 1414
the total weight of the vapor product, rounded to the nearest 1415
one-tenth of one gram, if the vapor product is not sold in 1416
liquid form. If the vapor product is sold in liquid form, the 1417
invoice shall instead indicate the total volume of the vapor 1418
product, rounded to the nearest one-tenth of one milliliter. 1419

(C) No person shall make a false entry upon any invoice or 1420
record upon which an entry is required by this section and no 1421
person shall present any false entry for the inspection of the 1422
commissioner with the intent to evade the tax levied under 1423
section 5743.51, 5743.511, 5743.62, ~~or 5743.621~~, 5743.63, or 1424
5743.631 of the Revised Code. 1425

Sec. 5743.55. Whenever the tax commissioner discovers any 1426
tobacco products or vapor products, subject to the tax levied 1427
under section 5743.51, 5743.511, 5743.62, ~~or 5743.621~~, 5743.63, 1428

or 5743.631 of the Revised Code upon which the tax has not been 1429
paid or the commissioner has reason to believe the tax is being 1430
avoided, the commissioner may seize and take possession of the 1431
tobacco products or vapor products, which, upon seizure, shall 1432
be forfeited to the state. Within a reasonable time after 1433
seizure, the commissioner may sell the forfeited products. From 1434
the proceeds of this sale, the commissioner shall pay the costs 1435
incurred in the seizure and sale, and any proceeds remaining 1436
after the sale shall be considered as revenue arising from the 1437
tax. The seizure and sale shall not relieve any person from the 1438
fine or imprisonment provided for violation of sections 5743.51 1439
to 5743.66 of the Revised Code. The commissioner shall make the 1440
sale where it is most convenient and economical, but may order 1441
the destruction of the forfeited products if the quantity or 1442
quality is not sufficient to warrant their sale. 1443

Sec. 5743.56. (A) Any person required to pay the tax 1444
imposed by section 5743.51, 5743.511, 5743.62, ~~or 5743.621~~, 1445
5743.63, or 5743.631 of the Revised Code is personally liable 1446
for the tax. The tax commissioner may make an assessment, based 1447
upon any information in the commissioner's possession, against 1448
any person who fails to file a return or pay any tax, interest, 1449
or additional charge as required by this chapter. The 1450
commissioner shall give the person assessed written notice of 1451
such assessment in the manner provided in section 5703.37 of the 1452
Revised Code. With the notice, the commissioner shall provide 1453
instructions on how to petition for reassessment and request a 1454
hearing on the petition. 1455

(B) When the information in the possession of the tax 1456
commissioner indicates that a person liable for the tax imposed 1457
by section 5743.51, 5743.511, 5743.62, ~~or 5743.621~~, 5743.63, or 1458
5743.631 of the Revised Code has not paid the full amount of tax 1459

due, the commissioner may audit a representative sample of the 1460
person's business and may issue an assessment based on such 1461
audit. 1462

(C) A penalty of up to fifteen per cent may be added to 1463
all amounts assessed under this section. The tax commissioner 1464
may adopt rules providing for the imposition and remission of 1465
such penalties. 1466

(D) Unless the person assessed files with the tax 1467
commissioner within sixty days after service of the notice of 1468
assessment, either personally or by certified mail, a written 1469
petition for reassessment signed by the person assessed or that 1470
person's authorized agent having knowledge of the facts, the 1471
assessment becomes final and the amount of the assessment is due 1472
and payable from the person assessed to the treasurer of state. 1473
A petition shall indicate the objections of the person assessed, 1474
but additional objections may be raised in writing if received 1475
by the commissioner prior to the date shown on the final 1476
determination. If the petition has been properly filed, the 1477
commissioner shall proceed under section 5703.60 of the Revised 1478
Code. 1479

(E) After an assessment becomes final, if any portion of 1480
the assessment, including accrued interest, remains unpaid, a 1481
certified copy of the tax commissioner's entry making the 1482
assessment final may be filed in the office of the clerk of the 1483
court of common pleas in the county in which the person assessed 1484
resides or in which the person assessed conducts business. If 1485
the person assessed maintains no place of business in this state 1486
and is not a resident of this state, the certified copy of the 1487
entry may be filed in the office of the clerk of the court of 1488
common pleas of Franklin county. 1489

Immediately upon the filing of the entry, the clerk shall 1490
enter a judgment for the state against the person assessed in 1491
the amount shown on the entry. The judgment may be filed by the 1492
clerk in a loose-leaf book entitled "special judgments for state 1493
tobacco products tax," and shall have the same effect as other 1494
judgments. Execution shall issue upon the judgment upon the 1495
request of the commissioner, and all laws applicable to sales on 1496
execution shall apply to sales made under the judgment. 1497

If the assessment is not paid in its entirety within sixty 1498
days after the day the assessment is issued, the portion of the 1499
assessment consisting of tax due shall bear interest at the rate 1500
per annum prescribed by section 5703.47 of the Revised Code from 1501
the day the commissioner issues the assessment until the 1502
assessment is paid or until it is certified to the attorney 1503
general for collection under section 131.02 of the Revised Code, 1504
whichever comes first. If the unpaid portion of the assessment 1505
is certified to the attorney general for collection, the entire 1506
unpaid portion of the assessment shall bear interest at the rate 1507
per annum prescribed by section 5703.47 of the Revised Code from 1508
the date of certification until the date it is paid in its 1509
entirety. Interest shall be paid in the same manner as the tax 1510
and may be collected by issuing an assessment under this 1511
section. 1512

(F) If the tax commissioner believes that collection of 1513
the tax will be jeopardized unless proceedings to collect or 1514
secure collection of the tax are instituted without delay, the 1515
commissioner may issue a jeopardy assessment against the person 1516
liable for the tax. Immediately upon the issuance of the 1517
jeopardy assessment, the commissioner shall file an entry with 1518
the clerk of the court of common pleas in the manner prescribed 1519
by division (E) of this section. Notice of the jeopardy 1520

assessment shall be served on the person assessed or the legal 1521
representative of the person assessed, as provided in section 1522
5703.37 of the Revised Code, within five days of the filing of 1523
the entry with the clerk. The total amount assessed is 1524
immediately due and payable, unless the person assessed files a 1525
petition for reassessment in accordance with division (D) of 1526
this section and provides security in a form satisfactory to the 1527
commissioner and in an amount sufficient to satisfy the unpaid 1528
balance of the assessment. Full or partial payment of the 1529
assessment does not prejudice the commissioner's consideration 1530
of the petition for reassessment. 1531

(G) All money collected by the tax commissioner under this 1532
section shall be paid to the treasurer of state as revenue 1533
arising from the tax imposed by sections 5743.51, 5743.511, 1534
5743.62, ~~and 5743.621,~~ 5743.63, and 5743.631 of the Revised 1535
Code. 1536

Sec. 5743.57. (A) If any corporation, limited liability 1537
company, or business trust required to file returns pursuant to 1538
section 5743.52, 5743.62, or 5743.63 of the Revised Code fails 1539
to remit to the state any tax due under section 5743.51, 1540
5743.511, 5743.62, ~~or 5743.621,~~ 5743.63, or 5743.631 of the 1541
Revised Code, any of its employees having control or supervision 1542
of or charged with the responsibility of filing returns and 1543
making payments, and any of its officers, members, managers, 1544
trustees, or other persons who are responsible for the execution 1545
of the corporation's, limited liability company's, or business 1546
trust's fiscal responsibilities, is personally liable for the 1547
failure to remit the tax. The dissolution, termination, or 1548
bankruptcy of the corporation, limited liability company, or 1549
business trust does not discharge a responsible person's 1550
liability for the corporation's, limited liability company's, or 1551

business trust's failure to remit the tax due. The tax 1552
commissioner may assess a responsible person under section 1553
5743.56 of the Revised Code. 1554

(B) Except for assessments against responsible persons 1555
under division (A) of this section, no assessment of the tax 1556
imposed by ~~sections~~ section 5743.51, 5743.511, 5743.62, or 1557
5743.621, 5743.63, or 5743.631 of the Revised Code shall be made 1558
by the tax commissioner more than three years after the date on 1559
which the return for the period assessed was due or was filed, 1560
whichever date is later. This section does not bar an assessment 1561
when any of the following occurs: 1562

(1) The person assessed failed to file a return required 1563
by section 5743.52, 5743.62, or 5743.63 of the Revised Code; 1564

(2) The person assessed knowingly filed a false or 1565
fraudulent return; 1566

(3) The person assessed and the tax commissioner have 1567
waived in writing the time limitation. 1568

Sec. 5743.59. (A) No retail dealer of tobacco products or 1569
vapor products shall have in the retail dealer's possession 1570
tobacco products or vapor products on which the tax imposed by 1571
section 5743.51 and, if applicable, section 5743.511 of the 1572
Revised Code has not been paid unless the retail dealer is 1573
licensed under section 5743.61 of the Revised Code. Payment may 1574
be evidenced by invoices from distributors or vapor distributors 1575
stating the tax has been paid. 1576

(B) The tax commissioner may inspect any place where 1577
tobacco products or vapor products subject to the tax levied 1578
under section 5743.51 or 5743.511 of the Revised Code are sold 1579
or stored. 1580

(C) No person shall prevent or hinder the commissioner 1581
from making a full inspection of any place where tobacco 1582
products or vapor products subject to the tax imposed by section 1583
5743.51 or 5743.511 of the Revised Code are sold or stored, or 1584
prevent or hinder the full inspection of invoices, books, or 1585
records required to be kept by section 5743.54 of the Revised 1586
Code. 1587

Sec. 5743.60. No person shall prepare for shipment, ship, 1588
transport, deliver, prepare for distribution, or distribute 1589
tobacco products or vapor products, or otherwise engage or 1590
participate in the business of distributing tobacco products or 1591
vapor products, with the intent to avoid payment of the tax 1592
levied by section 5743.51, 5743.511, 5743.62, ~~or 5743.621,~~ 1593
5743.63, or 5743.631 of the Revised Code, when the wholesale 1594
price of the tobacco products or, in the case of a tax levied 1595
under section 5743.511, 5743.621, or 5743.631 of the Revised 1596
Code, the vapor products exceeds three hundred dollars, or when 1597
the vapor volume of the vapor products exceeds five hundred 1598
milliliters or five hundred grams, as applicable, during any 1599
twelve-month period. 1600

Sec. 5743.62. (A) To provide revenue for the general 1601
revenue fund of the state, an excise tax is hereby levied on the 1602
seller of tobacco products or vapor products in this state at 1603
one of the following rates: 1604

(1) For tobacco products other than little cigars or 1605
premium cigars, seventeen per cent of the wholesale price of the 1606
tobacco product whenever the tobacco product is delivered to a 1607
consumer in this state for the storage, use, or other 1608
consumption of such tobacco products. 1609

(2) For little cigars, thirty-seven per cent of the 1610

wholesale price of the little cigars whenever the little cigars 1611
are delivered to a consumer in this state for the storage, use, 1612
or other consumption of the little cigars. 1613

(3) For premium cigars, whenever the premium cigars are 1614
delivered to a consumer in this state for the storage, use, or 1615
other consumption of the premium cigars, the lesser of seventeen 1616
per cent of the wholesale price of such premium cigars or the 1617
maximum tax amount per each such premium cigar. 1618

(4) For vapor products, one cent multiplied by the vapor 1619
volume of vapor products when the vapor products are delivered 1620
to a consumer in this state for the storage, use, or other 1621
consumption of the vapor products. 1622

The tax imposed by this section applies only to sellers 1623
having substantial nexus with this state, as defined in section 1624
5741.01 of the Revised Code. 1625

(B) A seller of tobacco products or vapor products who has 1626
substantial nexus with this state as defined in section 5741.01 1627
of the Revised Code shall register with the tax commissioner and 1628
supply any information concerning the seller's contacts with 1629
this state as may be required by the tax commissioner. A seller 1630
who does not have substantial nexus with this state may 1631
voluntarily register with the tax commissioner. A seller who 1632
voluntarily registers with the tax commissioner is entitled to 1633
the same benefits and is subject to the same duties and 1634
requirements as a seller required to be registered with the tax 1635
commissioner under this division. 1636

(C) Each seller of tobacco products or vapor products 1637
subject to the tax levied by this section or section 5743.621 of 1638
the Revised Code, on or before the twenty-third day of each 1639

month, shall file with the tax commissioner a return for the 1640
preceding month showing any information the tax commissioner 1641
finds necessary for the proper administration of sections 1642
5743.51 to 5743.66 of the Revised Code, together with remittance 1643
of the tax due, payable to the treasurer of state. The return 1644
and payment of the tax required by this section shall be filed 1645
in such a manner that it is received by the tax commissioner on 1646
or before the twenty-third day of the month following the 1647
reporting period. If the return is filed and the amount of the 1648
tax shown on the return to be due is paid on or before the date 1649
the return is required to be filed, the seller is entitled to a 1650
discount equal to two and five-tenths per cent of the amount 1651
shown on the return to be due. 1652

(D) The tax commissioner shall immediately forward to the 1653
treasurer of state all money received from the tax levied by 1654
this section, and the treasurer shall credit the amount to the 1655
general revenue fund. 1656

(E) Each seller of tobacco products or vapor products 1657
subject to the tax levied by this section or section 5743.621 of 1658
the Revised Code shall mark on the invoices of tobacco products 1659
or vapor products sold that the tax levied by that section has 1660
been paid and shall indicate the seller's account number as 1661
assigned by the tax commissioner. 1662

Sec. 5743.621. For the same purposes for which it levies a 1663
tax under section 5743.511 of the Revised Code, the board of 1664
county commissioners of a county that has within its territorial 1665
boundaries a qualifying regional arts and cultural district and 1666
that levies a tax under that section, by resolution adopted by a 1667
majority of the board, shall levy a tax at the same rate on the 1668
sellers of vapor products whenever the vapor product is 1669

delivered to a consumer in the county in which that tax is 1670
levied for the storage, use, or other consumption of such 1671
product. The tax shall take effect on the date that the tax 1672
levied under section 5743.511 of the Revised Code takes effect, 1673
and shall remain in effect as long as the tax levied under that 1674
section remains in effect. The tax imposed by this section 1675
applies only to sellers having substantial nexus with this 1676
state, as defined in section 5741.01 of the Revised Code. 1677

Sec. 5743.63. (A) To provide revenue for the general 1678
revenue fund of the state, an excise tax is hereby levied on the 1679
storage, use, or other consumption of tobacco products or vapor 1680
products at one of the following rates: 1681

(1) For tobacco products other than little cigars or 1682
premium cigars, seventeen per cent of the wholesale price of the 1683
tobacco product. 1684

(2) For little cigars, thirty-seven per cent of the 1685
wholesale price of the little cigars. 1686

(3) For premium cigars, the lesser of seventeen per cent 1687
of the wholesale price of the premium cigars or the maximum tax 1688
amount per each premium cigar. 1689

(4) For vapor products, one cent multiplied by the vapor 1690
volume of the vapor products. 1691

The tax levied under division (A) of this section is 1692
imposed only if the tax has not been paid by the seller as 1693
provided in section 5743.62 of the Revised Code, or by the 1694
distributor or vapor distributor as provided in section 5743.51 1695
of the Revised Code. 1696

(B) Each person subject to the tax levied by this section 1697
or section 5743.631 of the Revised Code, on or before the 1698

twenty-third day of each month, shall file with the tax 1699
commissioner a return for the preceding month showing any 1700
information the commissioner finds necessary for the proper 1701
administration of sections 5743.51 to 5743.66 of the Revised 1702
Code, together with remittance of the tax due, payable to the 1703
treasurer of state. The return and payment of the tax required 1704
by this section shall be filed in such a manner that it is 1705
received by the commissioner on or before the twenty-third day 1706
of the month following the reporting period. 1707

(C) The tax commissioner shall immediately forward to the 1708
treasurer of state all money received from the tax levied by 1709
this section, and the treasurer shall credit the amount to the 1710
general revenue fund. 1711

Sec. 5743.631. For the same purposes for which it levies a 1712
tax under section 5743.511 of the Revised Code, the board of 1713
county commissioners of a county that has within its territorial 1714
boundaries a qualifying regional arts and cultural district and 1715
that levies a tax under that section, by resolution adopted by a 1716
majority of the board, shall levy a tax at the same rate on the 1717
use, consumption, or storage for consumption of vapor products 1718
by consumers in the county in which that tax is levied. The tax 1719
shall take effect on the date that the tax levied under section 1720
5743.511 of the Revised Code takes effect, and shall remain in 1721
effect as long as the tax levied under that section remains 1722
effective. The tax levied under this section is imposed only if 1723
the tax has not been paid by the seller as provided in section 1724
5743.621 of the Revised Code, or by the vapor distributor as 1725
provided in section 5743.511 of the Revised Code. 1726

Sec. 5743.64. No person shall transport within this state 1727
tobacco products that have a wholesale value in excess of three 1728

hundred dollars, or vapor products with a vapor volume in excess 1729
of five hundred milliliters or five hundred grams, as 1730
applicable, unless the person has obtained consent to transport 1731
the tobacco products or vapor products from the tax commissioner 1732
prior to transportation. The consent is not required if the 1733
applicable tax levied under section 5743.51, 5743.511, 5743.62, 1734
~~or 5743.621~~, 5743.63, or 5743.631 of the Revised Code has been 1735
paid or will be paid by the distributor, vapor distributor, or 1736
seller. Application for the consent shall be in the form 1737
prescribed by the commissioner. 1738

Every person transporting tobacco products or vapor 1739
products with the department's consent shall have the consent 1740
with the person while transporting or possessing the tobacco 1741
products or vapor products within this state and shall produce 1742
the consent upon request of any law enforcement officer or 1743
authorized agent of the tax commissioner. 1744

Any person transporting tobacco products or vapor products 1745
without the consent required by this section shall be subject to 1746
the provisions of sections 5743.51 to 5743.66 of the Revised 1747
Code, including the tax imposed by section 5743.51, 5743.511, 1748
5743.62, ~~or 5743.621~~, 5743.63, or 5743.631 of the Revised Code. 1749

Section 2. That existing sections 923.41, 923.48, 923.51, 1750
959.06, 959.131, 959.99, 2901.01, 3381.17, 5743.01, 5743.021, 1751
5743.025, 5743.03, 5743.05, 5743.33, 5743.52, 5743.54, 5743.55, 1752
5743.56, 5743.57, 5743.59, 5743.60, 5743.62, 5743.63, and 1753
5743.64 of the Revised Code are hereby repealed. 1754

Section 3. The amendment by this act of division (A) of 1755
section 5743.021 and sections 5743.01, 5743.03, 5743.05, and 1756
5743.33 of the Revised Code applies on and after the first day 1757
of the first month after the effective date of this section. 1758

Section 4. Section 959.99 of the Revised Code is presented 1759
in this act as a composite of the section as amended by both 1760
H.B. 24 and H.B. 33 of the 133rd General Assembly. The General 1761
Assembly, applying the principle stated in division (B) of 1762
section 1.52 of the Revised Code that amendments are to be 1763
harmonized if reasonably capable of simultaneous operation, 1764
finds that the composite is the resulting version of the section 1765
in effect prior to the effective date of the section as 1766
presented in this act. 1767