

As Passed by the Senate

134th General Assembly

Regular Session

2021-2022

Sub. S. B. No. 338

Senator Lang

**Cosponsors: Senators Cirino, Hackett, Rulli, Reineke, Blessing, Brenner, Antani,
Craig, Dolan, Gavarone, Johnson, McColley, Peterson, Romanchuk, Schaffer,
Wilson**

A BILL

To amend sections 3717.33 and 3717.52 of the 1
Revised Code to require the Director of 2
Agriculture and the Director of Health to adopt 3
rules governing the assessment of registered 4
environmental health specialists and 5
environmental health specialists in training who 6
conduct inspections of retail food 7
establishments and food service operations. 8

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

Section 1. That sections 3717.33 and 3717.52 of the 9
Revised Code be amended to read as follows: 10

Sec. 3717.33. Pursuant to section 3717.04 of the Revised 11
Code, the director of agriculture shall adopt rules regarding 12
the following: 13

(A) Licensing categories for retail food establishments 14
and licensing requirements for each category, including 15
appropriate practices for the activities performed by a retail 16

food establishment;	17
(B) Standards for collection of food samples from retail food establishments for purposes of identifying adulteration and misbranding;	18 19 20
(C) Records to be generated and maintained by licensed retail food establishments;	21 22
(D) Appeals of proposed suspensions and revocations of retail food establishment licenses and appeals of suspensions of licenses issued for violations presenting a clear and present danger to the public health;	23 24 25 26
(E) Standards and procedures, including a schedule of frequency, for conducting inspections of retail food establishments;	27 28 29
(F) Standards and procedures for determining during an inspection whether articles should be removed from use because of a clear and present danger to the public health;	30 31 32
(G) Standards and procedures for conducting investigations of complaints pertaining to retail food establishments;	33 34
(H) <u>(H) (1) Surveys conducted by the director to determine whether boards of health are qualified and have the capacity to administer and enforce the provisions of this chapter and the rules adopted under it applicable to retail food establishments and to abide by the Ohio uniform food safety code+. The rules shall require, as part of a survey, both of the following:</u>	35 36 37 38 39 40
<u>(a) The director to evaluate whether an individual registered as an environmental health specialist or an environmental health specialist in training under Chapter 4736. of the Revised Code who is employed by or has contracted with a</u>	41 42 43 44

board of health to enforce this chapter as it relates to retail 45
food establishments has sufficient knowledge of the provisions 46
of this chapter, rules adopted under it, and of the Ohio uniform 47
food safety code to conduct such enforcement; 48

(b) The director to evaluate an individual under division 49
(H) (1) (a) of this section solely through the use of an objective 50
written or electronic assessment that complies with all of the 51
following: 52

(i) It is developed by the director in consultation with 53
representatives from the Ohio environmental health association 54
and the association of Ohio health commissioners. 55

(ii) It does not exceed fifty questions in length. 56

(iii) In order to pass the assessment, the individual must 57
correctly answer eighty per cent or more of the questions in the 58
assessment. Questions on the exam shall be derived from the most 59
common violations cited during the previous inspection year. 60

(iv) The individual is allowed to review the Ohio uniform 61
food safety code during the assessment. 62

(2) The director, in consultation with representatives 63
from the Ohio environmental health association and the 64
association of Ohio health commissioners, shall review and 65
update the assessment described in division (H) (1) (b) of this 66
section on at least a biennial basis. 67

(3) For purposes of any field review portion of the 68
survey, the director may require a registered environmental 69
health specialist or environmental health specialist in training 70
to participate in the field review for training and educational 71
purposes. However, the director shall not use such participation 72
to evaluate whether the registered environmental health 73

specialist or environmental health specialist in training has 74
sufficient knowledge of this chapter, rules adopted under it, 75
and of the Ohio uniform food safety code. 76

(I) Reinstatement of a board of health as a licensor after 77
the director has revoked the approval of the board; 78

(J) Procedures for resolving disputes between licensors 79
and the holders of licenses for retail food establishments; 80

(K) Procedures for providing enforcement support to a 81
board of health requesting assistance in the prosecution of a 82
person for a violation of the provisions of this chapter 83
applicable to retail food establishments; 84

(L) Any other matter the director considers relevant to 85
the administration and enforcement of the provisions of this 86
chapter applicable to retail food establishments. 87

Sec. 3717.52. Pursuant to section 3717.04 of the Revised 88
Code, the director of health shall adopt rules establishing 89
procedures for the following: 90

(A) Appeals of proposed suspension or revocation of food 91
service operation licenses and appeals of suspension of licenses 92
issued for violations presenting immediate danger to the public 93
health; 94

~~(B)~~ (B) (1) Surveys conducted by the director to determine 95
whether boards of health are qualified and have the capacity to 96
administer and enforce the provisions of this chapter and the 97
rules adopted under it applicable to food service operations and 98
to abide by the Ohio uniform food safety code~~†~~. The rules shall 99
require, as part of a survey, both of the following: 100

(a) The director to evaluate whether an individual 101

registered as an environmental health specialist or an 102
environmental health specialist in training under Chapter 4736. 103
of the Revised Code who is employed by or has contracted with a 104
board of health to enforce this chapter as it relates to food 105
service operations has sufficient knowledge of the provisions of 106
this chapter, rules adopted under it, and of the Ohio uniform 107
food safety code to conduct such enforcement; 108

(b) The director to evaluate an individual under division 109
(B) (1) (a) of this section solely through the use of an objective 110
written or electronic assessment that complies with all of the 111
following: 112

(i) It is developed by the director in consultation with 113
representatives from the Ohio environmental health association 114
and the association of Ohio health commissioners. 115

(ii) It does not exceed fifty questions in length. 116

(iii) In order to pass the assessment, the individual must 117
correctly answer eighty per cent or more of the questions in the 118
assessment. Questions on the exam shall be derived from the most 119
common violations cited during the previous inspection year. 120

(iv) The individual is allowed to review the Ohio uniform 121
food safety code during the assessment. 122

(2) The director, in consultation with representatives 123
from the Ohio environmental health association and the 124
association of Ohio health commissioners, shall review and 125
update the assessment described in division (B) (1) (b) of this 126
section on at least a biennial basis. 127

(3) For purposes of any field review portion of the 128
survey, the director may require a registered environmental 129
health specialist or environmental health specialist in training 130

to participate in the field review for training and educational 131
purposes. However, the director shall not use such participation 132
to evaluate whether the registered environmental health 133
specialist or environmental health specialist in training has 134
sufficient knowledge of this chapter, rules adopted under it, 135
and of the Ohio uniform food safety code. 136

(C) Reinstatement of a board of health as a licenser after 137
the director has revoked the approval of the board; 138

(D) Procedures for providing enforcement support to a 139
board of health requesting assistance in the prosecution of a 140
person for a violation of the provisions of this chapter 141
applicable to food service operations; 142

(E) Procedures for resolving disputes between licensers 143
and the holders of licenses for food service operations. 144

Section 2. That existing sections 3717.33 and 3717.52 of 145
the Revised Code are hereby repealed. 146

Section 3. (A) The Director of Agriculture shall complete 147
the initial development and implementation of the assessment 148
described in division (H) (1) of section 3717.33 of the Revised 149
Code within one hundred eighty days after the effective date of 150
this section. 151

(B) The Director of Health shall complete the initial 152
development and implementation of the assessment described in 153
division (B) (1) of section 3717.52 of the Revised Code within 154
one hundred eighty days after the effective date of this 155
section. 156