

As Reported by the House Commerce and Labor Committee

136th General Assembly

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H. B. No. 94

Representatives Mathews, A., Hall, T.

A BILL

To amend sections 4109.08, 4111.09, 4112.07, 1
4115.07, 4123.54, 4123.83, and 4167.11 of the 2
Revised Code to allow employers to post certain 3
labor law notices on the internet. 4

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

Section 1. That sections 4109.08, 4111.09, 4112.07, 5
4115.07, 4123.54, 4123.83, and 4167.11 of the Revised Code be 6
amended to read as follows: 7

Sec. 4109.08. (A) No minor shall be employed unless the 8
employer ~~keeps on the premises posts~~ a complete list of all 9
minors employed by the employer at a particular establishment 10
and ~~a printed an~~ abstract to be furnished by the director of 11
commerce summarizing the provisions of this chapter. 12

The list and abstract shall be posted in one of the 13
following ways: 14

(1) On the premises in plain view in a conspicuous place 15
which is frequented by the largest number of minor employees, 16
and to which all minor employees have access; 17

(2) On the internet in a manner that is accessible to the 18

employer's employees. 19

(B) An enforcement official may require any employer, in 20
or about whose establishment an employee apparently under 21
eighteen years of age is employed and whose age and schooling 22
certificate is not on file with the director of commerce as 23
required by section 3331.01 of the Revised Code, to furnish the 24
enforcement official satisfactory evidence that the employee is 25
in fact eighteen years of age or older. The enforcement official 26
shall require from the employer the same evidence of age of the 27
employee as is required by section 3331.02 of the Revised Code 28
upon the issuance of an age and schooling certificate. No 29
employer shall fail to produce the evidence. 30

(C) Any employee apparently under eighteen years of age, 31
working in any occupation or establishment with respect to which 32
there are restrictions by rule or law governing the employment 33
of minors, with respect to whom the employer has not furnished 34
satisfactory evidence that the person is at or above the age 35
required for performance of employment with the employer after 36
being requested to do so, and who refuses to give to an 37
enforcement official the employee's name, age, and place of 38
residence may be taken into custody and charged with being an 39
unruly child or other appropriate charge under Chapter 2151. or 40
2152. of the Revised Code. 41

(D) No person shall, with the intent to assist a minor to 42
procure employment, make a false statement by any means, 43
including by submitting falsified forms electronically, to any 44
employer or to any person authorized to issue an age and 45
schooling certificate. 46

Sec. 4111.09. (A) Every employer subject to sections 47
4111.01 to 4111.17 of the Revised Code, or to any rules issued 48

thereunder, shall keep a summary of the sections, approved by 49
the director of commerce, and copies of any applicable rules 50
issued thereunder, or a summary of the rules, posted in one of 51
the following ways: 52

(1) In a conspicuous and accessible place in or about the 53
premises wherein any person subject thereto is employed; 54

(2) On the internet in a manner that is accessible to the 55
employer's employees. 56

(B) The director of commerce shall make the summary 57
described in this section available on the web site of the 58
department of commerce. The director shall update this summary 59
as necessary, but not less than annually, in order to reflect 60
changes in the minimum wage rate as required under Section 34a 61
of Article II, Ohio Constitution. Employees and employers shall 62
be furnished copies of the summaries and rules by the state, on 63
request, without charge. 64

Sec. 4112.07. Every person subject to division (A), (B), 65
(C), (D), or (E) of section 4112.02 of the Revised Code shall 66
post in a conspicuous place or places on his the person's 67
premises, or on the internet in a manner that is accessible to 68
the public, a notice to be prepared or approved by the 69
commission that shall set forth excerpts of this chapter and 70
other relevant information that the commission deems necessary 71
to explain this chapter. 72

Sec. 4115.07. All contractors and subcontractors required 73
by sections 4115.03 to 4115.16 of the Revised Code, and the 74
action of any public authority to pay not less than the 75
prevailing rate of wages shall make full payment of such wages 76
in legal tender, without any deduction for food, sleeping 77

accommodations, transportation, use of small tools, or any other 78
thing of any kind or description. This section does not apply 79
where the employer and employee enter into an agreement in 80
writing at the beginning of any term of employment covering 81
deductions for food, sleeping accommodations, or other similar 82
item, provided such agreement is submitted by the employer to 83
the public authority fixing the rate of wages and is approved by 84
such public authority as fair and reasonable. 85

All contractors or subcontractors falling within or 86
affected by sections 4115.03 to 4115.16 of the Revised Code, 87
shall keep full and accurate payroll records with respect to 88
wages paid each employee and the number of hours worked by each 89
employee, covering all disbursements of wages to their employees 90
to whom they are required to pay not less than the prevailing 91
rate of wages. Such payroll records shall be open to inspection 92
by any authorized representative of the contracting public 93
authority, including the prevailing wage coordinator or the 94
director of commerce at any reasonable time and as often as may 95
be necessary, and such records shall not be destroyed or removed 96
from the state for the period of one year following the 97
completion of the public improvement in connection with which 98
the records are made. There shall be posted in a prominent and 99
accessible place on the site of the work, or on the internet in 100
a manner that is accessible to the contractor's or 101
subcontractor's employees, a legible statement of the schedule 102
of wage rates specified in the contract to the various 103
classifications of laborers, workers, and mechanics employed, 104
said statement to remain posted during the life of each 105
contract. 106

Each contractor or subcontractor shall file with the 107
contracting public authority upon completion of the public 108

improvement and prior to final payment therefor an affidavit 109
stating that the contractor or subcontractor has fully complied 110
with sections 4115.03 to 4115.16 of the Revised Code. 111

Sec. 4123.54. (A) Except as otherwise provided in this 112
division or divisions (I) and (K) of this section, every 113
employee, who is injured or who contracts an occupational 114
disease, and the dependents of each employee who is killed, or 115
dies as the result of an occupational disease contracted in the 116
course of employment, wherever the injury has occurred or 117
occupational disease has been contracted, is entitled to receive 118
the compensation for loss sustained on account of the injury, 119
occupational disease, or death, and the medical, nurse, and 120
hospital services and medicines, and the amount of funeral 121
expenses in case of death, as are provided by this chapter. The 122
compensation and benefits shall be provided, as applicable, 123
directly from the employee's self-insuring employer as provided 124
in section 4123.35 of the Revised Code or from the state 125
insurance fund. An employee or dependent is not entitled to 126
receive compensation or benefits under this division if the 127
employee's injury or occupational disease is either of the 128
following: 129

(1) Purposely self-inflicted; 130

(2) Caused by the employee being intoxicated, under the 131
influence of a controlled substance not prescribed by a 132
physician, or under the influence of marihuana if being 133
intoxicated, under the influence of a controlled substance not 134
prescribed by a physician, or under the influence of marihuana 135
was the proximate cause of the injury. 136

(B) For the purpose of this section, provided that an 137
employer has posted written notice to employees that the results 138

of, or the employee's refusal to submit to, any chemical test 139
described under this division may affect the employee's 140
eligibility for compensation and benefits pursuant to this 141
chapter and Chapter 4121. of the Revised Code, there is a 142
rebuttable presumption that an employee is intoxicated, under 143
the influence of a controlled substance not prescribed by the 144
employee's physician, or under the influence of marihuana and 145
that being intoxicated, under the influence of a controlled 146
substance not prescribed by the employee's physician, or under 147
the influence of marihuana is the proximate cause of an injury 148
under either of the following conditions: 149

(1) When any one or more of the following is true: 150

(a) The employee, through a qualifying chemical test 151
administered within eight hours of an injury, is determined to 152
have an alcohol concentration level equal to or in excess of the 153
levels established in divisions (A) (1) (b) to (i) of section 154
4511.19 of the Revised Code. 155

(b) The employee, through a qualifying chemical test 156
administered within thirty-two hours of an injury, is determined 157
to have a controlled substance not prescribed by the employee's 158
physician or marihuana in the employee's system at a level equal 159
to or in excess of the cutoff concentration level for the 160
particular substance as provided in section 40.87 of Title 49 of 161
the Code of Federal Regulations, 49 C.F.R. 40.87, as amended. 162

(c) The employee, through a qualifying chemical test 163
administered within thirty-two hours of an injury, is determined 164
to have barbiturates, benzodiazepines, or methadone in the 165
employee's system that tests above levels established by 166
laboratories certified by the United States department of health 167
and human services. 168

(2) When the employee refuses to submit to a requested chemical test, on the condition that that employee is or was given notice that the refusal to submit to any chemical test described in division (B) (1) of this section may affect the employee's eligibility for compensation and benefits under this chapter and Chapter 4121. of the Revised Code.

(C) (1) For purposes of division (B) of this section, a chemical test is a qualifying chemical test if it is administered to an employee after an injury under at least one of the following conditions:

(a) When the employee's employer had reasonable cause to suspect that the employee may be intoxicated, under the influence of a controlled substance not prescribed by the employee's physician, or under the influence of marihuana;

(b) At the request of a police officer pursuant to section 4511.191 of the Revised Code, and not at the request of the employee's employer;

(c) At the request of a licensed physician who is not employed by the employee's employer, and not at the request of the employee's employer.

(2) As used in division (C) (1) (a) of this section, "reasonable cause" means, but is not limited to, evidence that an employee is or was using alcohol, a controlled substance, or marihuana drawn from specific, objective facts and reasonable inferences drawn from these facts in light of experience and training. These facts and inferences may be based on, but are not limited to, any of the following:

(a) Observable phenomena, such as direct observation of use, possession, or distribution of alcohol, a controlled

substance, or marihuana, or of the physical symptoms of being 198
under the influence of alcohol, a controlled substance, or 199
marihuana, such as but not limited to slurred speech; dilated 200
pupils; odor of alcohol, a controlled substance, or marihuana; 201
changes in affect; or dynamic mood swings; 202

(b) A pattern of abnormal conduct, erratic or aberrant 203
behavior, or deteriorating work performance such as frequent 204
absenteeism, excessive tardiness, or recurrent accidents, that 205
appears to be related to the use of alcohol, a controlled 206
substance, or marihuana, and does not appear to be attributable 207
to other factors; 208

(c) The identification of an employee as the focus of a 209
criminal investigation into unauthorized possession, use, or 210
trafficking of a controlled substance or marihuana; 211

(d) A report of use of alcohol, a controlled substance, or 212
marihuana provided by a reliable and credible source; 213

(e) Repeated or flagrant violations of the safety or work 214
rules of the employee's employer, that are determined by the 215
employee's supervisor to pose a substantial risk of physical 216
injury or property damage and that appear to be related to the 217
use of alcohol, a controlled substance, or marihuana and that do 218
not appear attributable to other factors. 219

(D) Nothing in this section shall be construed to affect 220
the rights of an employer to test employees for alcohol or 221
controlled substance abuse. 222

(E) For the purpose of this section, laboratories 223
certified by the United States department of health and human 224
services or laboratories that meet or exceed the standards of 225
that department for laboratory certification shall be used for 226

processing the test results of a qualifying chemical test.	227
(F) The written notice required by division (B) of this	228
section shall be the same size or larger than the proof of	229
workers' compensation coverage furnished by the bureau of	230
workers' compensation and shall be posted by the employer in the	231
same location as the proof of workers' compensation coverage or	232
the certificate of self-insurance. <u>An employer may post the</u>	233
<u>written notice required by division (B) of this section on the</u>	234
<u>internet in a manner that is accessible to the employer's</u>	235
<u>employees.</u>	236
(G) If a condition that pre-existed an injury is	237
substantially aggravated by the injury, and that substantial	238
aggravation is documented by objective diagnostic findings,	239
objective clinical findings, or objective test results, no	240
compensation or benefits are payable because of the pre-existing	241
condition once that condition has returned to a level that would	242
have existed without the injury.	243
(H) (1) Whenever, with respect to an employee of an	244
employer who is subject to and has complied with this chapter,	245
there is possibility of conflict with respect to the application	246
of workers' compensation laws because the contract of employment	247
is entered into and all or some portion of the work is or is to	248
be performed in a state or states other than Ohio, the employer	249
and the employee may agree to be bound by the laws of this state	250
or by the laws of some other state in which all or some portion	251
of the work of the employee is to be performed. The agreement	252
shall be in writing and shall be filed with the bureau of	253
workers' compensation within ten days after it is executed and	254
shall remain in force until terminated or modified by agreement	255
of the parties similarly filed. If the agreement is to be bound	256

by the laws of this state and the employer has complied with 257
this chapter, then the employee is entitled to compensation and 258
benefits regardless of where the injury occurs or the disease is 259
contracted and the rights of the employee and the employee's 260
dependents under the laws of this state are the exclusive remedy 261
against the employer on account of injury, disease, or death in 262
the course of and arising out of the employee's employment. If 263
the agreement is to be bound by the laws of another state and 264
the employer has complied with the laws of that state, the 265
rights of the employee and the employee's dependents under the 266
laws of that state are the exclusive remedy against the employer 267
on account of injury, disease, or death in the course of and 268
arising out of the employee's employment without regard to the 269
place where the injury was sustained or the disease contracted. 270
If an employer and an employee enter into an agreement under 271
this division, the fact that the employer and the employee 272
entered into that agreement shall not be construed to change the 273
status of an employee whose continued employment is subject to 274
the will of the employer or the employee, unless the agreement 275
contains a provision that expressly changes that status. 276

(2) If an employee or the employee's dependents receive an 277
award of compensation or benefits under this chapter or Chapter 278
4121., 4127., or 4131. of the Revised Code for the same injury, 279
occupational disease, or death for which the employee or the 280
employee's dependents previously pursued or otherwise elected to 281
accept workers' compensation benefits and received a decision on 282
the merits as defined in section 4123.542 of the Revised Code 283
under the laws of another state or recovered damages under the 284
laws of another state, the claim shall be disallowed and the 285
administrator or any self-insuring employer, by any lawful 286
means, may collect from the employee or the employee's 287

dependents any of the following:	288
(a) The amount of compensation or benefits paid to or on behalf of the employee or the employee's dependents by the administrator or a self-insuring employer pursuant to this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for that award;	289 290 291 292 293
(b) Any interest, attorney's fees, and costs the administrator or the self-insuring employer incurs in collecting that payment.	294 295 296
(3) If an employee or the employee's dependents receive an award of compensation or benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code and subsequently pursue or otherwise elect to accept workers' compensation benefits or damages under the laws of another state for the same injury, occupational disease, or death the claim under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code shall be disallowed. The administrator or a self-insuring employer, by any lawful means, may collect from the employee or the employee's dependents or other-states' insurer any of the following:	297 298 299 300 301 302 303 304 305 306 307
(a) The amount of compensation or benefits paid to or on behalf of the employee or the employee's dependents by the administrator or the self-insuring employer pursuant to this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for that award;	308 309 310 311 312
(b) Any interest, costs, and attorney's fees the administrator or the self-insuring employer incurs in collecting that payment;	313 314 315
(c) Any costs incurred by an employer in contesting or	316

responding to any claim filed by the employee or the employee's dependents for the same injury, occupational disease, or death that was filed after the original claim for which the employee or the employee's dependents received a decision on the merits as described in section 4123.542 of the Revised Code.

(4) If the employee's employer pays premiums into the state insurance fund, the administrator shall not charge the amount of compensation or benefits the administrator collects pursuant to division (H) (2) or (3) of this section to the employer's experience. If the administrator collects any costs incurred by an employer in contesting or responding to any claim pursuant to division (H) (2) or (3) of this section, the administrator shall forward the amount collected to that employer. If the employee's employer is a self-insuring employer, the self-insuring employer shall deduct the amount of compensation or benefits the self-insuring employer collects pursuant to this division from the paid compensation the self-insuring employer reports to the administrator under division (L) of section 4123.35 of the Revised Code.

(5) If an employee is a resident of a state other than this state and is insured under the workers' compensation law or similar laws of a state other than this state, the employee and the employee's dependents are not entitled to receive compensation or benefits under this chapter, on account of injury, disease, or death arising out of or in the course of employment while temporarily within this state, and the rights of the employee and the employee's dependents under the laws of the other state are the exclusive remedy against the employer on account of the injury, disease, or death.

(6) An employee, or the dependent of an employee, who

elects to receive compensation and benefits under this chapter 347
or Chapter 4121., 4127., or 4131. of the Revised Code for a 348
claim may not receive compensation and benefits under the 349
workers' compensation laws of any state other than this state 350
for that same claim. For each claim submitted by or on behalf of 351
an employee, the administrator or, if the employee is employed 352
by a self-insuring employer, the self-insuring employer, shall 353
request the employee or the employee's dependent to sign an 354
election that affirms the employee's or employee's dependent's 355
acceptance of electing to receive compensation and benefits 356
under this chapter or Chapter 4121., 4127., or 4131. of the 357
Revised Code for that claim that also affirmatively waives and 358
releases the employee's or the employee's dependent's right to 359
file for and receive compensation and benefits under the laws of 360
any state other than this state for that claim. The employee or 361
employee's dependent shall sign the election form within twenty- 362
eight days after the administrator or self-insuring employer 363
submits the request or the administrator or self-insuring 364
employer shall dismiss that claim. 365

In the event a workers' compensation claim has been filed 366
in another jurisdiction on behalf of an employee or the 367
dependents of an employee, and the employee or dependents 368
subsequently elect to receive compensation, benefits, or both 369
under this chapter or Chapter 4121., 4127., or 4131. of the 370
Revised Code, the employee or dependent shall withdraw or refuse 371
acceptance of the workers' compensation claim filed in the other 372
jurisdiction in order to pursue compensation or benefits under 373
the laws of this state. If the employee or dependents were 374
awarded workers' compensation benefits or had recovered damages 375
under the laws of the other state, any compensation and benefits 376
awarded under this chapter or Chapter 4121., 4127., or 4131. of 377

the Revised Code shall be paid only to the extent to which those 378
payments exceed the amounts paid under the laws of the other 379
state. If the employee or dependent fails to withdraw or to 380
refuse acceptance of the workers' compensation claim in the 381
other jurisdiction within twenty-eight days after a request made 382
by the administrator or a self-insuring employer, the 383
administrator or self-insuring employer shall dismiss the 384
employee's or employee's dependents' claim made in this state. 385

(I) If an employee who is covered under the federal 386
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 387
33 U.S.C. 901 et seq., is injured or contracts an occupational 388
disease or dies as a result of an injury or occupational 389
disease, and if that employee's or that employee's dependents' 390
claim for compensation or benefits for that injury, occupational 391
disease, or death is subject to the jurisdiction of that act, 392
the employee or the employee's dependents are not entitled to 393
apply for and shall not receive compensation or benefits under 394
this chapter and Chapter 4121. of the Revised Code. The rights 395
of such an employee and the employee's dependents under the 396
federal "Longshore and Harbor Workers' Compensation Act," 98 397
Stat. 1639, 33 U.S.C. 901 et seq., are the exclusive remedy 398
against the employer for that injury, occupational disease, or 399
death. 400

(J) Compensation or benefits are not payable to a claimant 401
or a dependent during the period of confinement of the claimant 402
or dependent in any state or federal correctional institution, 403
or in any county jail in lieu of incarceration in a state or 404
federal correctional institution, whether in this or any other 405
state for conviction of violation of any state or federal 406
criminal law. 407

(K) An employer, upon the approval of the administrator, 408
may provide for workers' compensation coverage for the 409
employer's employees who are professional athletes and coaches 410
by submitting to the administrator proof of coverage under a 411
league policy issued under the laws of another state under 412
either of the following circumstances: 413

(1) The employer administers the payroll and workers' 414
compensation insurance for a professional sports team subject to 415
a collective bargaining agreement, and the collective bargaining 416
agreement provides for the uniform administration of workers' 417
compensation benefits and compensation for professional 418
athletes. 419

(2) The employer is a professional sports league, or is a 420
member team of a professional sports league, and all of the 421
following apply: 422

(a) The professional sports league operates as a single 423
entity, whereby all of the players and coaches of the sports 424
league are employees of the sports league and not of the 425
individual member teams. 426

(b) The professional sports league at all times maintains 427
workers' compensation insurance that provides coverage for the 428
players and coaches of the sports league. 429

(c) Each individual member team of the professional sports 430
league, pursuant to the organizational or operating documents of 431
the sports league, is obligated to the sports league to pay to 432
the sports league any workers' compensation claims that are not 433
covered by the workers' compensation insurance maintained by the 434
sports league. 435

If the administrator approves the employer's proof of 436

coverage submitted under division (K) of this section, a 437
professional athlete or coach who is an employee of the employer 438
and the dependents of the professional athlete or coach are not 439
entitled to apply for and shall not receive compensation or 440
benefits under this chapter and Chapter 4121. of the Revised 441
Code. The rights of such an athlete or coach and the dependents 442
of such an athlete or coach under the laws of the state where 443
the policy was issued are the exclusive remedy against the 444
employer for the athlete or coach if the athlete or coach 445
suffers an injury or contracts an occupational disease in the 446
course of employment, or for the dependents of the athlete or 447
the coach if the athlete or coach is killed as a result of an 448
injury or dies as a result of an occupational disease, 449
regardless of the location where the injury was suffered or the 450
occupational disease was contracted. 451

Sec. 4123.83. Each employer paying premiums into the state 452
insurance fund or electing directly to pay compensation to the 453
employer's injured employees or the dependents of the employer's 454
killed employees as provided in section 4123.35 of the Revised 455
Code, shall post ~~conspicuously in the employer's place or places~~ 456
~~of employment~~ notices, which shall be furnished at least 457
annually by the bureau of workers' compensation. The employer 458
shall post the notice conspicuously in the employer's place or 459
places of employment or on the internet in a manner that is 460
accessible to the employer's employees. The notice shall state 461
that it is proof of workers' compensation coverage, or that the 462
employer has complied with section 4123.35 of the Revised Code 463
and has been authorized by the administrator of workers' 464
compensation directly to compensate employees or dependents, and 465
the date of the authorization. The notice shall indicate that 466
coverage is contingent on continued payment of premiums and 467

assessments due. The notice, when posted, constitutes sufficient 468
notice to the employer's employees of the fact that the employer 469
carries workers' compensation coverage or that the employer has 470
complied with the elective provisions of section 4123.35 of the 471
Revised Code. 472

Sec. 4167.11. (A) In order to further the purposes of this 473
chapter, the administrator of workers' compensation shall 474
develop and maintain, for public employers and public employees, 475
an effective program of collection, compilation, and analysis of 476
employment risk reduction statistics. 477

(B) To implement and maintain division (A) of this 478
section, the administrator, with the advice and consent of the 479
bureau of workers' compensation board of directors, shall adopt 480
rules in accordance with Chapter 119. of the Revised Code that 481
extend to all of the following: 482

(1) Requiring each public employer to make, keep, and 483
preserve, and make available to the administrator, reports and 484
records regarding the public employer's activities, as 485
determined by the rule that are necessary or appropriate for the 486
enforcement of this chapter or for developing information 487
regarding the causes and prevention of occupational accidents 488
and illnesses. The rule shall prescribe which of these reports 489
and records shall or may be furnished to public employees and 490
public employee representatives. 491

(2) Requiring every public employer, through posting of 492
notices or other appropriate means, to keep their public 493
employees informed of public employees' rights and obligations 494
under this chapter, including the provisions of applicable Ohio 495
employment risk reduction standards~~r~~. The rule shall allow any 496
required notice to be posted on the internet in a manner that is 497

accessible to the public employer's employees. 498

(3) Requiring public employers to maintain accurate 499
records of public employee exposure to potentially toxic 500
materials, carcinogenic materials, and harmful physical agents 501
that are required to be monitored or measured under rules 502
adopted under the guidelines of division (C) of section 4167.07 503
of the Revised Code. The rule shall provide public employees or 504
public employee representatives an opportunity to observe the 505
monitoring or measuring, and to have access on request to the 506
records thereof, and may provide public employees or public 507
employee representatives an opportunity to participate in and to 508
undertake their own monitoring or measuring. The rules also 509
shall permit each current or former public employee to have 510
access to the records that indicate their own exposure to toxic 511
materials, carcinogenic materials, or harmful agents. 512

(C) The administrator shall obtain any information under 513
division (B) of this section with a minimum burden upon the 514
public employer and shall, to the maximum extent feasible, 515
reduce unnecessary duplication of efforts in obtaining the 516
information. 517

Section 2. That existing sections 4109.08, 4111.09, 518
4112.07, 4115.07, 4123.54, 4123.83, and 4167.11 of the Revised 519
Code are hereby repealed. 520