

As Introduced

**136th General Assembly
Regular Session
2025-2026**

S. B. No. 445

Senator Brenner

To amend sections 121.95 and 121.951 of the Revised Code to revise the definition of "regulatory restriction" for purposes of administrative rulemaking and to specify that certain rule changes alone do not eliminate a restriction.

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

Section 1. That sections 121.95 and 121.951 of the Revised Code be amended to read as follows:

Sec. 121.95. (A) As used in sections 121.95, 121.951, 121.952, 121.953, and 121.954 of the Revised Code, ~~"state~~ state:

(1) "State agency" means an administrative department created under section 121.02 of the Revised Code, an administrative department head appointed under section 121.03 of the Revised Code, and a state agency organized under an administrative department or administrative department head. "State agency" also includes the department of education and workforce, the state lottery commission, the Ohio casino control commission, the state racing commission, and the public utilities commission of Ohio. Rules adopted by an otherwise independent official or entity organized under a state agency shall be attributed to the agency under which the official or

entity is organized for the purposes of sections 121.95, 21
121.951, 121.952, 121.953, and 121.954 of the Revised Code. 22

(2) "Regulatory restriction" means any part of a rule that 23
requires or prohibits an action. 24

(B) Not later than December 31, 2019, a state agency shall 25
review its existing rules to identify rules having one or more 26
regulatory restrictions ~~that require or prohibit an action and~~ 27
prepare a base inventory of the regulatory restrictions in its 28
existing rules. ~~Rules that include the words "shall," "must,"~~ 29
~~"require," "shall not," "may not," and "prohibit" shall be~~ 30
~~considered to contain regulatory restrictions. 31~~

(C) In the base inventory, the state agency shall indicate 32
all of the following concerning each regulatory restriction: 33

(1) A description of the regulatory restriction; 34

(2) The rule number of the rule in which the regulatory 35
restriction appears; 36

(3) The statute under which the regulatory restriction was 37
adopted; 38

(4) Whether state or federal law expressly and 39
specifically requires the agency to adopt the regulatory 40
restriction or the agency adopted the regulatory restriction 41
under the agency's general authority; 42

(5) Whether removing the regulatory restriction would 43
require a change to state or federal law, provided that removing 44
a regulatory restriction adopted under a law granting the agency 45
general authority shall be presumed not to require a change to 46
state or federal law; 47

(6) Any other information the joint committee on agency 48

rule review considers necessary. 49

(D) The state agency shall compute and state the total 50
number of regulatory restrictions indicated in the base 51
inventory, shall post the base inventory on its web site, and 52
shall electronically transmit a copy of the inventory to the 53
joint committee. The joint committee shall review the base 54
inventory, then transmit it electronically to the speaker of the 55
house of representatives and the president of the senate. 56

(E) The following types of rules or regulatory 57
restrictions are not required to be included in a state agency's 58
inventory of regulatory restrictions: 59

(1) An internal management rule; 60

(2) An emergency rule; 61

(3) A rule that state or federal law requires the state 62
agency to adopt verbatim; 63

(4) A regulatory restriction contained in materials or 64
documents incorporated by reference into a rule pursuant to 65
sections 121.71 to 121.75 of the Revised Code; 66

(5) A rule adopted pursuant to section 1347.15 of the 67
Revised Code; 68

(6) A rule concerning instant lottery games; 69

(7) A rule adopted by the Ohio casino control commission 70
or the state lottery commission concerning sports gaming; 71

(8) Any other rule that is not subject to review under 72
Chapter 106. of the Revised Code; 73

(9) Any rule that is adopted as a requirement for the 74
state agency to obtain or maintain accreditation or 75

certification from a multistate organization consisting of at 76
least forty-five participating states. 77

(F) Beginning on October 17, 2019, and ending on June 30, 78
2025, a state agency may not adopt a new regulatory restriction 79
unless it simultaneously removes two or more other existing 80
regulatory restrictions. The state agency may not satisfy this 81
section by merging two or more existing regulatory restrictions 82
into a single surviving regulatory restriction. 83

Sec. 121.951. (A) (1) Using the criteria listed in division 84
(A) of section 106.03 of the Revised Code, a state agency shall 85
amend or rescind rules identified in its base inventory of 86
regulatory restrictions prepared under section 121.95 of the 87
Revised Code as necessary to reduce the total number of 88
regulatory restrictions by thirty per cent, according to the 89
following schedule: 90

(a) A ten per cent reduction not later than June 30, 2023; 91

(b) A twenty per cent reduction not later than June 30, 92
2024; and 93

(c) The thirty per cent reduction not later than June 30, 94
2025. 95

When a state agency has achieved a reduction of any 96
percentage in regulatory restrictions, whether or not as 97
specified in this section, the state agency may not adopt or 98
maintain regulatory restrictions that would negate the 99
reduction. 100

(2) Beginning July 1, 2025, a state agency that has not 101
achieved the specified thirty per cent reduction may not adopt a 102
new regulatory restriction unless it simultaneously removes two 103
or more other existing regulatory restrictions, until the 104

specified thirty per cent reduction has been achieved. The state 105
agency may not fulfill this requirement by merging two or more 106
existing regulatory restrictions into a single surviving 107
regulatory restriction. Removing or replacing "shall," "must," 108
"require," "shall not," "may not," "prohibit," or similar words 109
in a portion of a rule does not remove a regulatory restriction 110
from a rule unless the removal eliminates a requirement or 111
prohibition from the rule. 112

(3) A state agency is encouraged to continue to reduce 113
regulatory restrictions after it has achieved the specified 114
thirty per cent reduction. 115

(B) (1) Not later than September 15, 2022, a state agency 116
shall prepare an historical report of its progress in reducing 117
regulatory restrictions over the period of time beginning when 118
the agency prepared its base inventory under section 121.95 of 119
the Revised Code and ending on June 30, 2022. Annually 120
thereafter, a state agency shall prepare an historical report of 121
its progress in reducing regulatory restrictions over the 122
preceding fiscal year. The state agency shall explain in the 123
report how it applied the criteria described in division (A) of 124
section 106.03 of the Revised Code to its determinations as to 125
which regulatory restrictions to amend or rescind. The state 126
agency shall include a revised inventory of regulatory 127
restrictions with the report. 128

(2) In the revised inventory, in addition to the 129
information required by section 121.95 of the Revised Code, the 130
state agency shall compute the percentage net reduction in 131
regulatory restrictions by subtracting the current number of 132
regulatory restrictions from the number of regulatory 133
restrictions identified in the base inventory and then dividing 134

the resulting number by the number of regulatory restrictions in 135
the base inventory. 136

(3) The state agency shall transmit the report 137
electronically to the joint committee on agency rule review. The 138
joint committee shall review the report and shall transmit it 139
electronically to the speaker of the house of representatives 140
and the president of the senate. The state agency shall continue 141
preparing and transmitting annual reports until it has reported 142
that it has achieved the required reduction in regulatory 143
restrictions. 144

Section 2. That existing sections 121.95 and 121.951 of 145
the Revised Code are hereby repealed. 146