

As Reported by the Senate General Government Committee

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Sub. S. B. No. 86

Senators Huffman, Wilkin

To amend sections 131.02, 715.013, 928.01, 928.03,
4506.01, 5502.01, 5502.13, 5502.14, 5703.052,
5703.053, 5703.19, 5703.263, 5703.50, 5703.70,
and 5703.77 and to enact sections 3779.01,
3779.02, 3779.03, 3779.04, 3779.05, 3779.06,
3779.21, 3779.22, 3779.23, 3779.24, 3779.25,
3779.26, 3779.27, 3779.28, 3779.29, 3779.40,
3779.41, 3779.42, 3779.43, 3779.431, 3779.44,
3779.45, 3779.451, 3779.46, 3779.47, 3779.48,
and 3779.99 of the Revised Code to generally
prohibit the sale of intoxicating hemp products,
except for sales at licensed dispensaries; to
regulate drinkable cannabinoid products, and to
levy taxes on drinkable cannabinoid products and
other intoxicating hemp products that may be
sold.

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

Section 1. That sections 131.02, 715.013, 928.01, 928.03,
4506.01, 5502.01, 5502.13, 5502.14, 5703.052, 5703.053, 5703.19,
5703.263, 5703.50, 5703.70, and 5703.77 be amended and sections
3779.01, 3779.02, 3779.03, 3779.04, 3779.05, 3779.06, 3779.21,
3779.22, 3779.23, 3779.24, 3779.25, 3779.26, 3779.27, 3779.28,

3779.29, 3779.40, 3779.41, 3779.42, 3779.43, 3779.431, 3779.44, 22
3779.45, 3779.451, 3779.46, 3779.47, 3779.48, and 3779.99 of the 23
Revised Code be enacted to read as follows: 24

Sec. 131.02. (A) Except as otherwise provided in section 25
4123.37, section 5703.061, and division (K) of section 4123.511 26
of the Revised Code, whenever any amount is payable to the 27
state, the officer, employee, or agent responsible for 28
administering the law under which the amount is payable shall 29
immediately proceed to collect the amount or cause the amount to 30
be collected and shall pay the amount into the state treasury or 31
into the appropriate custodial fund in the manner set forth 32
pursuant to section 113.08 of the Revised Code. Except as 33
otherwise provided in this division, if the amount is not paid 34
within forty-five days after payment is due, the officer, 35
employee, or agent shall certify the amount due to the attorney 36
general, in the form and manner prescribed by the attorney 37
general. In the case of an amount payable by a student enrolled 38
in a state institution of higher education, the amount shall be 39
certified within the later of forty-five days after the amount 40
is due or the tenth day after the beginning of the next academic 41
semester, quarter, or other session following the session for 42
which the payment is payable. The attorney general may assess 43
the collection cost to the amount certified in such manner and 44
amount as prescribed by the attorney general. If an amount 45
payable to a political subdivision is past due, the political 46
subdivision may, with the approval of the attorney general, 47
certify the amount to the attorney general pursuant to this 48
section. 49

For the purposes of this section, the attorney general and 50
the officer, employee, or agent responsible for administering 51
the law under which the amount is payable shall agree on the 52

time a payment is due, and that agreed upon time shall be one of 53
the following times: 54

(1) If a law, including an administrative rule, of this 55
state prescribes the time a payment is required to be made or 56
reported, when the payment is required by that law to be paid or 57
reported. 58

(2) If the payment is for services rendered, when the 59
rendering of the services is completed. 60

(3) If the payment is reimbursement for a loss, when the 61
loss is incurred. 62

(4) In the case of a fine or penalty for which a law or 63
administrative rule does not prescribe a time for payment, when 64
the fine or penalty is first assessed. 65

(5) If the payment arises from a legal finding, judgment, 66
or adjudication order, when the finding, judgment, or order is 67
rendered or issued. 68

(6) If the payment arises from an overpayment of money by 69
the state to another person, when the overpayment is discovered. 70

(7) The date on which the amount for which an individual 71
is personally liable under section 5735.35, section 5739.33, or 72
division (G) of section 5747.07 of the Revised Code is 73
determined. 74

(8) Upon proof of claim being filed in a bankruptcy case. 75

(9) Any other appropriate time determined by the attorney 76
general and the officer, employee, or agent responsible for 77
administering the law under which the amount is payable on the 78
basis of statutory requirements or ordinary business processes 79
of the agency, institution, or political subdivision to which 80

the payment is owed. 81

(B) (1) The attorney general shall give immediate notice by 82
mail or otherwise to the party indebted of the nature and amount 83
of the indebtedness. 84

(2) If the amount payable to this state arises from a tax 85
levied under Chapter 3779., 5733., 5739., 5741., 5747., or 5751. 86
of the Revised Code, the notice also shall specify all of the 87
following: 88

(a) The assessment or case number; 89

(b) The tax pursuant to which the assessment is made; 90

(c) The reason for the liability, including, if 91
applicable, that a penalty or interest is due; 92

(d) An explanation of how and when interest will be added 93
to the amount assessed; 94

(e) That the attorney general and tax commissioner, acting 95
together, have the authority, but are not required, to 96
compromise the claim and accept payment over a reasonable time, 97
if such actions are in the best interest of the state. 98

(C) The attorney general shall collect the claim or secure 99
a judgment and issue an execution for its collection. 100

(D) Each claim shall bear interest, from the day on which 101
the claim became due, at the rate per annum required by section 102
5703.47 of the Revised Code. 103

(E) The attorney general and the chief officer of the 104
agency reporting a claim, acting together, may do any of the 105
following if such action is in the best interests of the state: 106

(1) Compromise the claim; 107

(2) Extend for a reasonable period the time for payment of 108
the claim by agreeing to accept monthly or other periodic 109
payments. The agreement may require security for payment of the 110
claim. 111

(3) Add fees to recover the cost of processing checks or 112
other draft instruments returned for insufficient funds and the 113
cost of providing electronic payment options. 114

(F) (1) Except as provided in division (F) (2) of this 115
section, if the attorney general finds, after investigation, 116
that any claim due and owing to the state is uncollectible, the 117
attorney general, with the consent of the chief officer of the 118
agency reporting the claim, may do the following: 119

(a) Sell, convey, or otherwise transfer the claim to one 120
or more private entities for collection; 121

(b) Cancel the claim or cause it to be canceled. 122

(2) The attorney general shall cancel or cause to be 123
canceled an unsatisfied claim on the date that is forty years 124
after the date the claim is certified, unless the attorney 125
general has adopted a rule under division (F) (5) of this section 126
shortening this time frame with respect to a subset of claims. 127

(3) No initial action shall be commenced to collect any 128
tax payable to the state that is administered by the tax 129
commissioner, whether or not such tax is subject to division (B) 130
of this section, or any penalty, interest, or additional charge 131
on such tax, after the expiration of the period ending on the 132
later of the dates specified in divisions (F) (3) (a) and (b) of 133
this section, provided that such period shall be extended by the 134
period of any stay to such collection or by any other period to 135
which the parties mutually agree. If the initial action in aid 136

of execution is commenced before the later of the dates 137
specified in divisions (F)(3)(a) and (b) of this section, any 138
and all subsequent actions may be pursued in aid of execution of 139
judgment for as long as the debt exists. 140

(a) Seven years after the assessment of the tax, penalty, 141
interest, or additional charge is issued. 142

(b) Four years after the assessment of the tax, penalty, 143
interest, or additional charge becomes final. For the purposes 144
of division (F)(3)(b) of this section, the assessment becomes 145
final at the latest of the following: upon expiration of the 146
period to petition for reassessment, or if applicable, to appeal 147
a final determination of the commissioner or decision of the 148
board of tax appeals or a court, or, if applicable, upon 149
decision of the United States supreme court. 150

For the purposes of division (F)(3) of this section, an 151
initial action to collect a tax debt is commenced at the time 152
when a certified copy of the tax commissioner's entry making an 153
assessment final has been filed in the office of the clerk of 154
court of common pleas in the county in which the taxpayer 155
resides or has its principal place of business in this state, or 156
in the office of the clerk of court of common pleas of Franklin 157
county, as provided in section 3779.44, 5739.13, 5741.14, 158
5747.13, or 5751.09 of the Revised Code or in any other 159
applicable law requiring such a filing. If an assessment has not 160
been issued and there is no time limitation on the issuance of 161
an assessment under applicable law, an action to collect a tax 162
debt commences when the action is filed in the courts of this 163
state to collect the liability. 164

(4) If information contained in a claim that is sold, 165
conveyed, or transferred to a private entity pursuant to this 166

section is confidential pursuant to federal law or a section of 167
the Revised Code that implements a federal law governing 168
confidentiality, such information remains subject to that law 169
during and following the sale, conveyance, or transfer. 170

(5) The attorney general may adopt rules to aid in the 171
implementation of this section. 172

Sec. 715.013. (A) Except as otherwise expressly authorized 173
by the Revised Code, no municipal corporation shall levy a tax 174
that is the same as or similar to a tax levied under Chapter 175
322., 3734., 3769., 3779., 4123., 4141., 4301., 4303., 4305., 176
4307., 4309., 5707., 5725., 5726., 5727., 5728., 5729., 5731., 177
5735., 5736., 5737., 5739., 5741., 5743., 5747., 5749., or 5751. 178
of the Revised Code. 179

(B) No municipal corporation may impose any tax, fee, 180
assessment, or other charge on auxiliary containers, on the 181
sale, use, or consumption of such containers, or on the basis of 182
receipts received from the sale of such containers. As used in 183
this division, "auxiliary container" has the same meaning as in 184
section 3767.32 of the Revised Code. 185

(C) This section does not prohibit a municipal corporation 186
from levying an income tax or withholding tax in accordance with 187
Chapter 718. of the Revised Code, or a tax on any of the 188
following: 189

(1) Amounts received for admission to any place; 190

(2) The income of an electric company or combined company, 191
as defined in section 5727.01 of the Revised Code; 192

(3) On and after January 1, 2004, the income of a 193
telephone company, as defined in section 5727.01 of the Revised 194
Code. 195

Sec. 928.01. As used in this chapter:	196
(A) "Cannabidiol" means the cannabidiol compound,	197
containing a delta-9 tetrahydrocannabinol concentration of not	198
more than three-tenths per cent, derived from hemp.	199
(B) "Cultivate" or "cultivating" means to plant, water,	200
grow, fertilize, till, or harvest a plant or crop. "Cultivating"	201
includes possessing or storing a plant or crop on a premises	202
where the plant or crop was cultivated until transported to the	203
first point of sale.	204
(C) "Hemp" means the plant Cannabis sativa L. and any part	205
of that plant, including the seeds thereof and all derivatives,	206
extracts, cannabinoids, isomers, acids, salts, and salts of	207
isomers, whether growing or not, with a delta-9	208
tetrahydrocannabinol concentration of not more than three-tenths	209
per cent on a dry weight basis.	210
(D) "Hemp cultivation license" means a license to	211
cultivate hemp issued under section 928.02 of the Revised Code.	212
(E) "Hemp processing license" means a license to process	213
hemp issued under section 928.02 of the Revised Code.	214
(F) "Hemp product" means any product, containing a delta-9	215
tetrahydrocannabinol concentration of not more than three-tenths	216
per cent, that is made with hemp. "Hemp product" includes	217
cosmetics, personal care products, dietary supplements or food	218
intended for animal or human consumption, cloth, cordage, fiber,	219
fuel, paint, paper, particleboard, <u>vapor products, processed</u>	220
<u>hemp flowers,</u> and any other product containing one or more	221
cannabinoids derived from hemp, including cannabidiol. "Hemp	222
<u>product" includes any hemp not in the possession of a licensed</u>	223
<u>hemp cultivator or hemp processor. "Hemp product" does not</u>	224

include a non-cannabinoid hemp product. 225

(G) "Marihuana" has the same meaning as in section 3719.01 226
of the Revised Code. 227

(H) "Medical marijuana" has the same meaning as in section 228
3796.01 of the Revised Code. 229

(I) "Non-cannabinoid hemp product" means any product that 230
is made from hemp that does not include cannabinoids. "Non- 231
cannabinoid hemp product" includes cloth, cordage, fiber, fuel, 232
paint, paper, particleboard, and foods that have been approved 233
by the United States food and drug administration as generally 234
recognized as safe. 235

(J) "Process" or "processing" means converting hemp into a 236
hemp product. 237

~~(J)~~ (K) "Delta-9 tetrahydrocannabinol" means the sum of 238
the percentage by weight of tetrahydrocannabinolic acid 239
multiplied by 0.877 plus the percentage by weight of delta-9 240
tetrahydrocannabinol. 241

~~(K)~~ (L) "Tetrahydrocannabinol" means naturally occurring 242
or synthetic equivalents, regardless of whether artificially or 243
naturally derived, of the substances contained in the plant, or 244
in the resinous extractives of cannabis, sp. or derivatives, and 245
their isomers with similar chemical structure to delta-1-cis or 246
trans tetrahydrocannabinol, and their optical isomers, salts and 247
salts of isomers. "Tetrahydrocannabinol" includes, but is not 248
limited to, delta-8 tetrahydrocannabinol, delta-10 249
tetrahydrocannabinol, tetrahydrocannabinol-o acetate, 250
tetrahydrocannabiphorol, tetrahydrocannabivarin, 251
hexahydrocannabinol, delta-6-cis or trans tetrahydrocannabinol, 252
delta-3,4-cis or trans tetrahydrocannabinol, 9- 253

hexahydrocannabinol, and delta-9-tetrahydrocannabinol acetate. 254
Since nomenclature of these substances is not internationally 255
standardized, compounds of these structures, regardless of 256
designation of atomic positions, are included. 257

"Tetrahydrocannabinol" does not include the following: 258

(1) Tetrahydrocannabinols approved by the United States 259
food and drug administration for marketing as a medication or 260
recognized by the United States food and drug administration as 261
generally recognized as safe. 262

(2) Cannabichromene (CBC); 263

(3) Cannabicyclol (CBL); 264

(4) Cannabidiol (CBD), 265

(5) Cannabidivanol (CBDV); 266

(6) Cannabielsoin (CBE); 267

(7) Cannabigerol (CBG); 268

(8) Cannabigerovarin (CBGV); 269

(9) Cannabinol (CBN); 270

(10) Cannabivarin (CBV). 271

(M) "University" means an institution of higher education 272
as defined in section 3345.12 of the Revised Code and a private 273
nonprofit institution with a certificate of authorization issued 274
pursuant to Chapter 1713. of the Revised Code. 275

~~(I)~~ (N) "USDA" means the United States department of 276
agriculture. 277

(O) "Adult use cannabis" has the same meaning as in 278
section 3780.01 of the Revised Code. 279

(P) "Electronic smoking device" means any device that can 280
be used to deliver aerosolized or vaporized hemp or any other 281
substance to the person inhaling from the device, including an 282
electronic cigarette, electronic cigar, electronic hookah, 283
vaping pen, or electronic pipe. "Electronic smoking device" 284
includes any component, part, or accessory of such a device, 285
whether or not sold separately, and includes any substance 286
intended to be aerosolized or vaporized during the use of the 287
device. 288

(Q) "Vapor product" means a product that contains or is 289
made or derived from hemp and that is intended and marketed for 290
human consumption, including by smoking, inhaling, snorting, or 291
sniffing. "Vapor product" includes any component, part, or 292
additive that is intended for use in an electronic smoking 293
device, a mechanical heating element, battery, or electronic 294
circuit and is used to deliver the product. 295

(R) "Processed hemp flower" means the flower of a hemp 296
plant that has been dried or cured. 297

Sec. 928.03. The director of agriculture, in consultation 298
with the governor and attorney general, shall adopt rules in 299
accordance with Chapter 119. of the Revised Code establishing 300
standards and procedures for the regulation of hemp cultivation 301
and processing. The rules shall include all of the following: 302

(A) The form of an application for a hemp cultivation 303
license and hemp processing license and the information required 304
to be included in each license application; 305

(B) The amount of an initial application fee that an 306
applicant shall submit along with an application for a hemp 307
cultivation license or a hemp processing license, and the amount 308

of an annual license fee that a licensee shall submit for a hemp 309
cultivation license or a hemp processing license. In adopting 310
rules under division (B) of this section, the director shall 311
ensure both of the following: 312

(1) That the amount of the application fee and annual 313
license fee does not exceed an amount sufficient to cover the 314
costs incurred by the department of agriculture to administer 315
and enforce this chapter; 316

(2) That there is one uniform application fee and one 317
uniform annual license fee that applies to all applicants for a 318
hemp cultivation license. 319

(C) Requirements and procedures concerning background 320
investigations of each applicant for a hemp cultivation license 321
and each applicant for a hemp processing license. The director 322
shall include both of the following in the rules adopted under 323
this division: 324

(1) A requirement that each applicant comply with sections 325
4776.01 to 4776.04 of the Revised Code; 326

(2) Provisions that prohibit the director from issuing a 327
hemp cultivation license or hemp processing license to an 328
applicant that has not complied with those sections. 329

(D) Requirements regarding the experience, equipment, 330
facilities, or land necessary to obtain a hemp cultivation 331
license; 332

(E) Requirements and procedures regarding standards of 333
financial responsibility for each applicant for a hemp 334
processing license; 335

(F) Procedures and requirements for the issuance, renewal, 336

denial, suspension, and revocation of a hemp cultivation license 337
and hemp processing license, including providing for a hearing 338
under Chapter 119. of the Revised Code with regard to such a 339
denial, suspension, or revocation; 340

(G) Grounds for the denial, suspension, and revocation of 341
a hemp cultivation license and of a hemp processing license, 342
including a requirement that the director revoke a hemp 343
cultivation license or hemp processing license, for a period of 344
ten years, of any person who pleads guilty to or is convicted of 345
a felony relating to a controlled substance; 346

(H) A requirement that the director shall not issue a hemp 347
cultivation license or hemp processing license to any person who 348
has pleaded guilty to or been convicted of a felony relating to 349
a controlled substance in the ten years immediately prior to the 350
submission of the application for a license; 351

(I) A requirement that any person that materially 352
falsifies information in an application for a hemp cultivation 353
license or hemp processing license is ineligible to receive 354
either license; 355

(J) A practice for maintaining relevant information 356
regarding land on which hemp is cultivated by hemp cultivation 357
licensees, including a legal description of the land, in 358
accordance with applicable federal law; 359

(K) Requirements prohibiting a hemp cultivation licensee 360
and a hemp processing licensee from cultivating or processing 361
marihuana; 362

(L) A procedure for testing, using post-decarboxylation or 363
other similarly reliable methods, delta-9 tetrahydrocannabinol 364
concentration levels of plants and products for purposes of 365

determining compliance with this chapter and rules adopted under it; 366
367

(M) Requirements and procedures for the issuance, 368
administration, and enforcement of corrective action plans 369
issued under this chapter; 370

(N) A procedure for conducting annual inspections of, at a 371
minimum, a random sample of hemp cultivation license holders to 372
verify that plants are not being cultivated in violation of this 373
chapter or rules adopted under it; 374

(O) A procedure for conducting annual inspections of, at a 375
minimum, a random sample of hemp processing license holders to 376
verify that such license holders are not operating in violation 377
of this chapter or rules adopted under it; 378

(P) A procedure for complying with enforcement procedures 379
required under federal law; 380

(Q) A procedure for the effective disposal of all of the 381
following: 382

(1) Plants, whether growing or not, cultivated in 383
violation of this chapter or rules adopted under it; 384

(2) Products derived from plants cultivated in violation 385
of this chapter or rules adopted under it; 386

(3) Products produced in violation of this chapter or 387
rules adopted under it. 388

(R) Requirements and procedures governing the production, 389
storage, and disposal of hemp byproducts. 390

For the purposes of this chapter and notwithstanding any 391
provision of law to the contrary, "hemp product" includes a 392

byproduct, produced as a result of processing hemp, that 393
contains a delta-9 tetrahydrocannabinol concentration of more 394
than three-tenths per cent, provided that the byproduct is 395
produced, stored, and disposed of in accordance with rules 396
adopted under division (R) of this section. 397

(S) Procedures for sharing information regarding hemp 398
cultivation license holders with the secretary of the USDA; 399

(T) A setback distance requirement that specifies the 400
distance that a hemp cultivation license holder shall locate 401
hemp plants from a location where medical marijuana or -adult 402
use cannabis is being cultivated. The requirement does not apply 403
to a hemp cultivation license holder with regard to a ~~medical-~~ 404
marijuana cultivator that locates medical marijuana or -adult 405
use cannabis within the established setback distance requirement 406
after the hemp cultivation license holder begins operation. 407

(U) Annual reporting requirements and procedures for hemp 408
cultivation license holders and hemp processing license holders; 409

(V) Recordkeeping and documentation maintenance 410
requirements and procedures for hemp cultivation license holders 411
and hemp processing license holders; 412

(W) Fees for the laboratory testing of plants and 413
products; 414

(X) Standards for the testing and labeling of hemp and 415
hemp products; 416

(Y) Requirements prohibiting the processing of hemp in a 417
building used as a personal residence or on land that is zoned 418
for residential use; 419

(Z) Production standards and manufacturing practices for 420

processing hemp; 421

(AA) Procedures and requirements for the transportation 422
and storage of both hemp and hemp products; 423

(BB) Any other requirements or procedures necessary to 424
administer and enforce this chapter. 425

Sec. 3779.01. As used in sections 3779.01 to 3779.06 and 426
3779.40 to 3779.48 of the Revised Code: 427

(A) "At retail" means for use or consumption by the 428
ultimate consumer and not for resale. 429

(B) "Delta-9 tetrahydrocannabinol," "hemp product," and 430
"tetrahydrocannabinol" have the same meanings as in section 431
928.01 of the Revised Code. 432

(C) "Identification card" means a driver's or commercial 433
driver's license, an identification card issued under sections 434
4507.50 to 4507.52 of the Revised Code or an equivalent 435
identification card issued by another state, a military 436
identification card issued by the United States department of 437
defense, or a United States or foreign passport that displays a 438
picture of the individual for whom the license, card, or 439
passport is issued and shows that the person buying is then at 440
least twenty-one years of age. 441

(D) "Intoxicating hemp product" means a hemp product 442
containing any amount of synthetic tetrahydrocannabinol, more 443
than five-tenths of a milligram of delta-9 tetrahydrocannabinol 444
per serving, two milligrams of delta-9 tetrahydrocannabinol per 445
package, or five-tenths of a milligram of total non-delta-9 446
tetrahydrocannabinol per package. "Intoxicating hemp product" 447
does not include either of the following: 448

(1) A hemp product that cannot be ingested, inhaled, 449
snorted, sniffed, or used sublingually; 450

(2) A drinkable cannabinoid product as defined in section 451
3779.21 of the Revised Code. 452

(E) "Ohio investigative unit" means the investigative unit 453
maintained by the department of public safety under section 454
5502.13 of the Revised Code. 455

(F) "Sell" means the exchange, barter, gift, offer for 456
sale, and sale of an intoxicating hemp product. 457

(G) "Total non-delta-9 tetrahydrocannabinol" means the 458
sum, after the application of any necessary conversion factor, 459
of the percentage by weight of tetrahydrocannabinol, other than 460
delta-9 tetrahydrocannabinol, and the percentage by weight of 461
tetrahydrocannabinolic acid. 462

Sec. 3779.02. (A) (1) No person shall sell an intoxicating 463
hemp product at retail in this state. 464

(2) Division (A) (1) of this section does not apply to the 465
sale of an intoxicating hemp product at retail in this state by 466
a person to which both of the following apply: 467

(a) The person is licensed as an adult use dispensary 468
under Chapter 3780. of the Revised Code or is licensed as a 469
dispensary under Chapter 3796. of the Revised Code. 470

(b) The person sells the intoxicating hemp product to an 471
individual who is twenty-one years of age or older as verified 472
by examining the individual's identification card. 473

(B) No person that is licensed as an adult use dispensary 474
under Chapter 3780. of the Revised Code or that is licensed as a 475
dispensary under Chapter 3796. of the Revised Code shall do any 476

of the following: 477

(1) Subject to division (D) of section 3779.05 of the 478
Revised Code, sell an intoxicating hemp product that has not 479
been tested in compliance with rules adopted under section 480
3780.03 of the Revised Code that otherwise apply to adult use 481
cannabis; 482

(2) Sell an intoxicating hemp product that does not comply 483
with the standards and procedures for packaging, labeling, and 484
advertising set forth in rules adopted under section 3780.03 of 485
the Revised Code that otherwise apply to adult use cannabis; 486

(3) Violate any applicable rules adopted under division 487
(B) of section 3779.05 of the Revised Code. 488

(C) (1) No person shall sell at retail in this state a hemp 489
product and market it as adult use cannabis as defined in 490
section 3780.01 of the Revised Code or as medical marijuana as 491
defined in section 3796.01 of the Revised Code. 492

(2) No person shall use any terms associated with the sale 493
at retail in this state of a hemp product that would cause a 494
consumer to infer that the hemp product is medical marijuana or 495
adult use cannabis. 496

(3) No person shall use any terms associated with the sale 497
at retail in this state of a hemp product that would cause a 498
consumer to infer that the person selling the hemp product is a 499
medical marijuana or adult use cannabis dispensary licensed 500
under Chapter 3780. or 3796. of the Revised Code. 501

(4) Division (C) (3) of this section does not apply to an 502
adult use dispensary licensed under Chapter 3780. of the Revised 503
Code or a dispensary licensed under Chapter 3796. of the Revised 504
Code. 505

(D) Notwithstanding any other provision of law to the 506
contrary, a person who violates division (A) (1) of this section 507
shall not be prosecuted under any other criminal statute that 508
otherwise would apply to the person because the person engaged 509
in the activities prohibited in division (A) (1) of this section. 510

Sec. 3779.03. The Ohio investigative unit shall enforce 511
this chapter or cause it to be enforced. If the unit has 512
information that this chapter has been violated, it may 513
investigate the matter and take any action as it considers 514
appropriate. The authority of the Ohio investigative unit is 515
concurrent to the jurisdiction of any law enforcement officer to 516
enforce this chapter. Nothing in this chapter shall be construed 517
to limit or supersede the authority of any law enforcement 518
officer or agency. 519

Sec. 3779.04. (A) The director of commerce may impose an 520
administrative penalty or take other enforcement actions against 521
a person who violates division (A) (1), (B), (C) (1), (C) (2), or 522
(C) (3) of section 3779.02 of the Revised Code or any rules 523
adopted under section 3779.05 of the Revised Code. 524
Administrative penalties shall be set forth in rules adopted 525
under section 3779.05 of the Revised Code. 526

(B) The director shall afford a person an opportunity for 527
an adjudication hearing under Chapter 119. of the Revised Code 528
to challenge the director's determination to impose an 529
administrative penalty or taking other enforcement action under 530
this section, the director's imposition of an administrative 531
penalty under this section, or both. The director's 532
determination, the imposition of the administrative penalty, and 533
taking other enforcement action may be appealed in accordance 534
with section 119.12 of the Revised Code. 535

Sec. 3779.05. (A) The director of commerce shall adopt 536
rules in accordance with Chapter 119. of the Revised Code that 537
establish the amount of administrative penalties to be imposed 538
by the director under section 3779.04 of the Revised Code. 539

(B) Subject to division (C) of this section, to ensure the 540
integrity of intoxicating hemp product sales at retail and 541
operations in this state, the director has jurisdiction over all 542
persons participating in the distribution and sale of 543
intoxicating hemp products in this state and, in consultation 544
and cooperation with the department of agriculture, the 545
cultivation and processing of intoxicating hemp products for 546
sale at retail in this state. Such jurisdiction includes the 547
authority to complete regulating, investigating, and penalizing 548
those persons in a manner that is consistent with the director's 549
authority with respect to adult use cannabis. To carry out this 550
division, the director may adopt rules under Chapter 119. of the 551
Revised Code. 552

(C) Notwithstanding Chapters 3780. and 3796. of the 553
Revised Code and rules adopted under those chapters to the 554
contrary, the director shall not require hemp that is processed 555
into an intoxicating hemp product to be cultivated or processed 556
in this state. 557

(D) Notwithstanding Chapters 3780. and 3796. of the 558
Revised Code and rules adopted under those chapters to the 559
contrary, an intoxicating hemp product that is sold at retail in 560
this state shall be tested in a facility licensed in accordance 561
with Chapter 3780. of the Revised Code and rules adopted under 562
it or, as approved by the director, in a facility in another 563
state that meets requirements that are substantially similar to 564
applicable requirements established under Chapter 3780. of the 565

Revised Code and rules adopted under it. 566

Sec. 3779.06. (A) As used in this section: 567

(1) "Chauffeured limousine" means a vehicle registered 568
under section 4503.24 of the Revised Code. 569

(2) "Street," "highway," and "motor vehicle" have the same 570
meanings as in section 4511.01 of the Revised Code. 571

(B) A person may have in the person's possession an opened 572
container of an intoxicating hemp product that is a beverage in 573
either of the following locations: 574

(1) On the premises of a private residence; 575

(2) In a chauffeured limousine that is located on any 576
street, highway, or other public or private property open to the 577
public for purposes of vehicular travel or parking if all the 578
following apply: 579

(a) The person, or the guest of the person, pays all or a 580
portion of the fee imposed for the use of a chauffeured 581
limousine pursuant to a prearranged contract; 582

(b) The person or guest is a passenger in the limousine; 583

(c) The person or guest is located in the limousine but is 584
not occupying a seat in the front compartment of the limousine 585
where the operator of the limousine is located. 586

(C) Except as provided in division (B) of this section, no 587
person shall have in the person's possession an opened container 588
of an intoxicating hemp product that is a beverage in any of the 589
following circumstances: 590

(1) In any public place; 591

(2) While operating or being a passenger in or on a motor 592

vehicle on any street, highway, or other public or private 593
property open to the public for purposes of vehicular travel or 594
parking; 595

(3) While being in or on a stationary motor vehicle on any 596
street, highway, or other public or private property open to the 597
public for purposes of vehicular travel or parking. 598

Sec. 3779.21. As used in sections 3779.21 to 3779.48 of 599
the Revised Code, except as provided in section 3779.40 of the 600
Revised Code: 601

(A) "At retail" and "identification card" have the same 602
meanings as in section 3779.01 of the Revised Code. 603

(B) "Distributor" means a class B permit holder under 604
Chapter 4303. of the Revised Code or the holder of an equivalent 605
permit or other authorization issued by another state that 606
sells, offers for sale, arranges for sale, or delivers a 607
drinkable cannabinoid product to a retailer located in this 608
state. "Distributor" does not include either of the following: 609

(1) A manufacturer; 610

(2) A person that is a common carrier and that is used to 611
complete delivery of a drinkable cannabinoid product to a 612
retailer. 613

(C) "Drinkable cannabinoid product" means a liquid hemp 614
product to which all the following apply: 615

(1) The product contains cannabinoids. 616

(2) The cannabinoids in the product are solely derived 617
from hemp. 618

(3) The product is intended to be consumed as a beverage 619

by humans. 620

(4) The product does not include a drug as defined in 621
section 4729.01 of the Revised Code. 622

(5) The product does not contain more than three-tenths 623
per cent of any tetrahydrocannabinol. 624

(6) The product does not contain more than forty-two one- 625
hundredths of a milligram of tetrahydrocannabinol per fluid 626
ounce. 627

(7) The product does not contain more than five-tenths of 628
a milligram of delta-9 tetrahydrocannabinol per serving. 629

(8) A serving of the product does not contain more than 630
twelve fluid ounces. 631

(9) The product does not contain more than two milligrams 632
of delta-9 tetrahydrocannabinol per container. 633

(10) The product contains not more than forty-eight total 634
fluid ounces in all containers included in a package. 635

(11) A container included in a package does not contain 636
more than four servings. 637

(12) The product does not contain any amount of synthetic 638
tetrahydrocannabinol. 639

"Drinkable cannabinoid product" is not an intoxicating 640
hemp product. 641

(D) "Delta-9 tetrahydrocannabinol," "hemp," "hemp 642
product," and "tetrahydrocannabinol" have the same meanings as 643
in section 928.01 of the Revised Code. 644

(E) "Manufacturer" means a person, whether located in this 645
state or outside of this state, that manufactures a drinkable 646

cannabinoid product for sale in this state.

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(F) "Retailer" means an A-1-A, class C, or class D permit holder under Chapter 4303. of the Revised Code or a dispensary issued a license under Chapter 3780. or 3796. of the Revised Code that sells drinkable cannabinoid products from the permit or license premises, as applicable.

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(G) "Sale" and "sell" include exchange, barter, gift, offer for sale, sale, distribution and delivery of any kind, and the transfer of title or possession of a drinkable cannabinoid product either by constructive or actual delivery by any means or devices.

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Sec. 3779.22. No person shall do any of the following:

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(A) Sell at retail a drinkable cannabinoid product unless the person is a retailer;

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(B) If the person is a manufacturer, sell a drinkable cannabinoid product unless the manufacturer is registered under section 3779.24 of the Revised Code;

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(C) If the person is a manufacturer, sell a drinkable cannabinoid product to any person other than a distributor or retailer;

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(D) Sell for distribution a drinkable cannabinoid product unless the person is a distributor;

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(E) If the person is a distributor, sell a drinkable cannabinoid product to any person other than a retailer;

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(F) Sell at retail a drinkable cannabinoid product to an individual who is under twenty-one years of age;

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(G) Fail to verify that an individual who attempts to

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purchase or purchases a drinkable cannabinoid product at retail 674
is at least twenty-one years of age by examining the 675
individual's identification card; 676

(H) Sell a drinkable cannabinoid product that contains 677
alcohol; 678

(I) Fail to store a drinkable cannabinoid product for sale 679
at retail in a display case that is solely used for the sale of 680
drinkable cannabinoid products and that clearly states that the 681
product is a drinkable cannabinoid product; 682

(J) If the person is a manufacturer or distributor, pay to 683
a retailer any payment, credit, or any other consideration to 684
induce the retailer to advertise or display a drinkable 685
cannabinoid product in a certain manner in the retailer's 686
permitted or licensed premises; 687

(K) If the person is a retailer, accept any payment, 688
credit, or any other consideration to advertise or display a 689
drinkable cannabinoid product in a certain manner at the 690
retailer's licensed premises; 691

(L) If the person is a retailer, sell a drinkable 692
cannabinoid product for consumption on the premises where sold; 693

(M) If the person is a retailer, allow an individual who 694
purchases a drinkable cannabinoid product from the retailer to 695
consume the drinkable cannabinoid product on the retailer's 696
premises; 697

(N) If the person is a retailer, sell a drinkable 698
cannabinoid product at a price less than the price paid by the 699
retailer to purchase the product from a distributor; 700

(O) If the person is a distributor, charge a different 701

price to a retailer for drinkable cannabinoid products based 702
upon the quantity of drinkable cannabinoid products sold to the 703
retailer; 704

(P) Violate any rule adopted under section 3779.23 of the 705
Revised Code. 706

Sec. 3779.23. The director of commerce shall adopt rules 707
in accordance with Chapter 119. of the Revised Code for the 708
administration and enforcement of sections 3779.21 to 3779.29 of 709
the Revised Code, including rules governing all the following: 710

(A) Registration of manufacturers under section 3779.24 of 711
the Revised Code; 712

(B) The testing of drinkable cannabinoid products under 713
section 3779.25 of the Revised Code; 714

(C) The labeling of drinkable cannabinoid products under 715
section 3779.26 of the Revised Code; 716

(D) Establishment and maintenance of a list of approved 717
tetrahydrocannabinols that may be included for use in drinkable 718
cannabinoid products. 719

Sec. 3779.24. (A) No person shall manufacture a drinkable 720
cannabinoid product for sale in this state without registering 721
with the director of commerce in accordance with rules adopted 722
under section 3779.23 of the Revised Code. The director shall 723
issue a registration under this section if the applicant submits 724
to the director an application and is in compliance with those 725
rules. 726

(B) A registration issued under this section is valid for 727
one year after issuance and shall be renewed in the same manner 728
as an initial registration. 729

Sec. 3779.25. (A) (1) A manufacturer of a drinkable 730
cannabinoid product shall test the product in accordance with 731
rules adopted under section 3779.23 of the Revised Code prior to 732
selling the product or offering the product for sale to a 733
distributor. 734

(2) No manufacturer, distributor, or retailer shall sell 735
or offer to sell a drinkable cannabinoid product that is not 736
tested in accordance with this section and rules adopted under 737
section 3779.23 of the Revised Code or that exceeds the maximum 738
allowable level for a substance or organism specified in those 739
rules. 740

(B) A manufacturer shall contract with a testing 741
laboratory to provide the testing required under this section. 742

(C) Notwithstanding Chapters 3780. and 3796. of the 743
Revised Code and rules adopted under those chapters to the 744
contrary, a drinkable cannabinoid product that is sold in this 745
state shall be tested in a facility licensed in accordance with 746
Chapter 3780. of the Revised Code and rules adopted under it or, 747
as approved by the director of commerce, in a facility in 748
another state that meets requirements that are substantially 749
similar to applicable requirements established under Chapter 750
3780. of the Revised Code and rules adopted under it. 751

(D) No distributor or retailer shall be held liable for 752
any violations or causes of action if a drinkable cannabinoid 753
product distributed or sold by the distributor or retailer is 754
not consistent with testing as represented. 755

(E) No manufacturer or testing laboratory shall fail to 756
comply with this section. 757

Sec. 3779.26. (A) In accordance with rules adopted under 758

section 3779.23 of the Revised Code, a manufacturer shall 759
include a label on each drinkable cannabinoid product container 760
that it sells or offers for sale in this state that includes the 761
following information in legible print: 762

(1) The product name or common name on the front of the 763
label; 764

(2) The brand name on the front of the label; 765

(3) The size of the container or net count of individual 766
items included in the container on the front of the label; 767

(4) The net weight or volume of the items included in the 768
container; 769

(5) The number of servings per container; 770

(6) A list of ingredients; 771

(7) The amount of any tetrahydrocannabinol, in milligrams, 772
as identified in the certificate of analysis as required under 773
section 3779.25 of the Revised Code; 774

(8) The number of calories per container; 775

(9) The words "This Product is a Drinkable Cannabinoid 776
Product." 777

(B) In addition to printing the information required under 778
division (A) of this section on the label, a manufacturer may 779
provide the information specified in divisions (A)(6) and (7) of 780
this section via a quick response code. 781

(C) No manufacturer shall fail to comply with this 782
section. 783

Sec. 3779.27. (A) As used in this section, "sales area or 784
territory" means an exclusive geographic area or territory that 785

is assigned to a particular distributor and that either has one 786
or more political subdivisions as its boundaries or consists of 787
an area of land with readily identifiable geographic boundaries. 788

(B) Each manufacturer shall assign to each of the 789
manufacturer's distributors a sales area or territory within 790
which each distributor shall be the distributor of the brand or 791
brands of the manufacturer, provided that, if the manufacturer 792
manufactures more than one brand of drinkable cannabinoid 793
product, the manufacturer may assign sales areas or territories 794
to additional distributors for the distribution and sale of the 795
additional brand or brands, so long as not more than one 796
distributor distributes the same brand or brands within the same 797
sales area or territory. No distributor shall distribute a 798
specific brand of drinkable cannabinoid product in any area or 799
territory other than the area or territory assigned to the 800
distributor. 801

(C) This section does not prohibit a manufacturer from 802
selling a drinkable cannabinoid product directly to a retailer. 803

Sec. 3779.28. (A) No manufacturer shall aid or assist a 804
distributor, and no manufacturer or distributor shall aid or 805
assist a retailer, by gift or loan of any money or property of 806
any description or other valuable thing, or by giving premiums 807
or rebates. No distributor or retailer shall accept the same. 808

(B) No manufacturer shall have any financial interest, 809
directly or indirectly, by stock ownership, or through 810
interlocking directors in a corporation, or otherwise, in the 811
establishment, maintenance, or promotion in the business of any 812
distributor. No retailer shall have any interest, directly or 813
indirectly, in the operation of, or any ownership in, the 814
business of any distributor or manufacturer. 815

(C) No manufacturer shall have any financial interest, 816
directly or indirectly, by stock ownership, or through 817
interlocking directors in a corporation, or otherwise, in the 818
establishment, maintenance, or promotion of the business of any 819
retailer. No distributor or employee of a distributor shall have 820
any financial interest, directly or indirectly, by stock 821
ownership, interlocking directors in a corporation, or 822
otherwise, in the establishment, maintenance, or promotion of 823
the business of any retailer. No manufacturer or distributor or 824
any stockholder of a manufacturer or distributor shall acquire, 825
by ownership in fee, leasehold, mortgage, or otherwise, directly 826
or indirectly, any interest in the premises on which the 827
business of any other person engaged in the business of selling 828
drinkable cannabinoid products at retail is occurring. 829

(D) No manufacturer shall sell or offer to sell to any 830
distributor or retailer, no distributor shall sell or offer to 831
sell to any retailer, and no distributor or retailer shall 832
purchase or receive from any manufacturer or distributor any 833
drinkable cannabinoid product in the United States except for 834
cash. No right of action exists to collect any claims for credit 835
extended contrary to this section. 836

(E) Divisions (B) and (C) of this section do not apply to 837
a person licensed under Chapter 3780. or 3796. of the Revised 838
Code, if both the manufacturer and the retailer are licensed 839
under either of those chapters. 840

Sec. 3779.29. (A) As used in this section: 841

(1) "Chauffeured limousine" means a vehicle registered 842
under section 4503.24 of the Revised Code. 843

(2) "Street," "highway," and "motor vehicle" have the same 844

meanings as in section 4511.01 of the Revised Code. 845

(B) A person may have in the person's possession an opened 846
container of a drinkable cannabinoid product in either of the 847
following locations: 848

(1) On the premises of a private residence; 849

(2) In a chauffeured limousine that is located on any 850
street, highway, or other public or private property open to the 851
public for purposes of vehicular travel or parking if all the 852
following apply: 853

(a) The person, or the guest of the person, pays all or a 854
portion of the fee imposed for the use of a chauffeured 855
limousine pursuant to a prearranged contract. 856

(b) The person or guest is a passenger in the limousine. 857

(c) The person or guest is located in the limousine but is 858
not occupying a seat in the front compartment of the limousine 859
where the operator of the limousine is located. 860

(C) Except as provided in division (B) of this section, no 861
person shall have in the person's possession an opened container 862
of a drinkable cannabinoid product in any of the following 863
circumstances: 864

(1) In any public place; 865

(2) While operating or being a passenger in or on a motor 866
vehicle on any street, highway, or other public or private 867
property open to the public for purposes of vehicular travel or 868
parking; 869

(3) While being in or on a stationary motor vehicle on any 870
street, highway, or other public or private property open to the 871

public for purposes of vehicular travel or parking. 872

Sec. 3779.40. (A) As used in sections 3779.40 to 3779.48 873
of the Revised Code: 874

(1) "Dispensary" means an adult use dispensary, as defined 875
in section 3780.01 of the Revised Code, or a retail dispensary 876
licensed under Chapter 3796. of the Revised Code. 877

(2) "Intoxicating hemp product receipts" means the total 878
amount received by a dispensary, without deduction for the cost 879
of goods, taxes paid, or other expenses incurred, from the sale 880
or other disposition of intoxicating hemp products to any other 881
person. 882

(3) "Received" has the same meaning as in section 5751.01 883
of the Revised Code. 884

(4) "Sale" includes exchange, barter, gift, offer for 885
sale, and distribution, and includes transactions in interstate 886
or foreign commerce. 887

(5) "Taxpayer" means any person liable for a tax imposed 888
under this section. 889

(6) "Gallon" means one hundred twenty-eight fluid ounces. 890

(B) For the purpose of providing for the needs of this 891
state, a tax is levied on the intoxicating hemp product receipts 892
received by a dispensary each month at the rate of ten per cent 893
of such receipts. All revenue from the tax shall be credited to 894
the general revenue fund. The tax is part of the price for 895
purposes of sales and use taxes levied under Chapters 5739. and 896
5741. of the Revised Code. 897

(C) For the purpose of providing for the needs of this 898
state, an excise tax is levied on sales by a manufacturer to a 899

distributor or retailer of drinkable cannabinoid products at the 900
rate of three dollars and fifty cents per gallon of such 901
products sold. All revenue from the tax shall be credited to the 902
general revenue fund. 903

(D) Not later than thirty days after first receiving 904
intoxicating hemp product receipts, a dispensary shall register 905
with the tax commissioner by submitting all of the following: 906

(1) A copy of the license or licenses issued to the 907
registrant under Chapter 3780. or 3796. of the Revised Code; 908

(2) The registrant's federal employer identification 909
number or social security number or equivalent, as applicable; 910

(3) All other information that the commissioner requires 911
to administer and enforce the tax levied under division (B) of 912
this section. 913

(E) Not later than thirty days after first selling a 914
drinkable cannabinoid product to a distributor or retailer, a 915
manufacturer shall register with the tax commissioner by 916
submitting all of the following: 917

(1) The registrant's federal employer identification 918
number or social security number or equivalent, as applicable; 919

(2) All other information that the commissioner requires 920
to administer and enforce the tax levied under division (C) of 921
this section. 922

(F) If the commissioner notifies a dispensary or 923
manufacturer required to register under this section of such 924
requirement and of the requirement to remit the tax due under 925
section 3779.41 of the Revised Code, and the dispensary or 926
manufacturer fails to so register and remit the tax within sixty 927

days after the notice, the commissioner may impose an additional 928
penalty of up to thirty-five per cent of the tax due. 929

(G) A dispensary that is registered with the tax 930
commissioner under division (D) of this section shall notify the 931
commissioner if any of the following occur with respect to a 932
license issued to the registrant under Chapter 3780. or 3796. of 933
the Revised Code: 934

(1) The license expires or is revoked; 935

(2) A change to the activities in which the registrant is 936
permitted to engage; 937

(3) A change in the location or facilities in which the 938
registrant is permitted to engage in such activities. 939

Sec. 3779.41. (A) Not later than the twentieth day of the 940
month, every taxpayer shall file with the tax commissioner a 941
return for the preceding calendar month reporting any 942
information the commissioner finds necessary for the proper 943
administration of sections 3779.40 to 3779.48 of the Revised 944
Code, together with remittance of the tax due. In the case of 945
the tax levied under division (B) of section 3779.40 of the 946
Revised Code, the tax shall be calculated on the basis of the 947
taxpayer's intoxicating hemp product receipts received during 948
the preceding month. In the case of the tax levied under 949
division (C) of section 3779.40 of the Revised Code, the tax 950
shall be calculated on the basis of the gallons of drinkable 951
cannabinoid products sold by the taxpayer to a distributor or 952
retailer during the preceding month. 953

(B) Any taxpayer that fails to file a return or pay the 954
full amount of the tax due within the period prescribed under 955
this section shall pay a penalty in an amount not exceeding the 956

greater of fifty dollars or ten per cent of the tax required to 957
be paid for the month. 958

(C) (1) If any additional tax is found to be due, the tax 959
commissioner may impose an additional penalty of up to fifteen 960
per cent of the additional tax found to be due. 961

(2) Any delinquent payments made after a taxpayer is 962
notified of an audit or a tax discrepancy by the commissioner 963
are subject to the penalty imposed by division (C) (1) of this 964
section. If an assessment is issued under section 3779.44 of the 965
Revised Code in connection with such delinquent payments, the 966
payments shall be credited to the assessment. 967

(D) The commissioner may collect any penalty or interest 968
imposed by this section or section 3779.40 of the Revised Code 969
in the same manner as the applicable tax imposed under that 970
section. Penalties and interest so collected shall be considered 971
as revenue arising from that tax. 972

(E) The commissioner may abate all or a portion of any 973
penalties imposed under this section or section 3779.40 of the 974
Revised Code and may adopt rules governing such abatements. 975

(F) If any tax due is not timely paid within the period 976
prescribed under this section, the taxpayer shall pay interest, 977
calculated at the rate per annum prescribed by section 5703.47 978
of the Revised Code, from the date the tax payment was due to 979
the date of payment or to the date an assessment was issued, 980
whichever occurs first. 981

(G) The commissioner may impose a penalty of up to ten per 982
cent for any additional tax that is due from a taxpayer that 983
reports incorrect information. 984

Sec. 3779.42. (A) Any taxpayer required to file returns 985

under section 3779.41 of the Revised Code shall remit each tax 986
payment, and, if required by the tax commissioner, file the tax 987
return or the annual report, electronically. The commissioner 988
may require taxpayers to use the Ohio business gateway as 989
defined in section 718.01 of the Revised Code to file returns 990
and remit the taxes, or may provide another means for taxpayers 991
to file and remit the taxes electronically. 992

(B) A taxpayer required to remit taxes or file returns 993
electronically under division (A) of this section may apply to 994
the commissioner, on a form prescribed by the commissioner, to 995
be excused from that requirement. The commissioner may excuse a 996
taxpayer from the requirements of this section for good cause. 997

(C) (1) If a taxpayer required to remit tax or file a 998
return electronically under division (A) of this section fails 999
to do so, the commissioner may impose a penalty not to exceed 1000
the following: 1001

(a) For either of the first two months the taxpayer so 1002
fails, the greater of twenty-five dollars or five per cent of 1003
the amount of the payment that was required to be remitted; 1004

(b) For the third and any subsequent months the taxpayer 1005
so fails, the greater of fifty dollars or ten per cent of the 1006
amount of the payment that was required to be remitted. 1007

(2) The penalty imposed under division (C) (1) of this 1008
section shall be considered as revenue arising from the tax 1009
imposed under division (B) or (C) of section 3779.40 of the 1010
Revised Code, as applicable. A penalty may be collected by 1011
assessment in the manner prescribed by section 3779.44 of the 1012
Revised Code. The commissioner may abate all or a portion of 1013
such a penalty. 1014

(D) The commissioner may adopt rules necessary to 1015
administer this section. 1016

Sec. 3779.43. (A) An application for refund to the 1017
taxpayer of amounts imposed under sections 3779.40 to 3779.48 of 1018
the Revised Code that are overpaid, paid illegally or 1019
erroneously, or paid on any illegal or erroneous assessment 1020
shall be filed by the taxpayer with the tax commissioner, on a 1021
form prescribed by the commissioner, within four years after the 1022
date of the illegal or erroneous payment, or within any 1023
additional period allowed under division (F) of section 3779.44 1024
of the Revised Code. The applicant shall provide the amount of 1025
the requested refund along with the claimed reasons for, and 1026
documentation to support, the issuance of a refund. 1027

(B) On the filing of the refund application, the 1028
commissioner shall determine the amount of refund to which the 1029
applicant is entitled. If the amount is not less than that 1030
claimed, the commissioner shall certify the amount to the 1031
director of budget and management and treasurer of state for 1032
payment from the tax refund fund created under section 5703.052 1033
of the Revised Code. If the amount is less than that claimed, 1034
the commissioner shall proceed in accordance with section 1035
5703.70 of the Revised Code. 1036

(C) Interest on a refund applied for under this section, 1037
computed at the rate provided for in section 5703.47 of the 1038
Revised Code, shall be allowed from the later of the date the 1039
amount was paid or when the payment was due. 1040

(D) Except as provided in section 3779.431 of the Revised 1041
Code, the commissioner may, with the consent of the taxpayer, 1042
provide for the crediting, against tax due for any month, of the 1043
amount of any refund due to the taxpayer under this section for 1044

a preceding month. 1045

Sec. 3779.431. As used in this section, "debt to this 1046
state" means unpaid taxes due the state, unpaid workers' 1047
compensation premiums due under section 4123.35 of the Revised 1048
Code, unpaid unemployment compensation contributions due under 1049
section 4141.25 of the Revised Code, unpaid unemployment 1050
compensation payment in lieu of contribution under section 1051
4141.241 of the Revised Code, unpaid fees payable to the state 1052
or to the clerk of courts pursuant to section 4505.06 of the 1053
Revised Code, incorrect payments for medicaid services under the 1054
medicaid program, or any unpaid charge, penalty, or interest 1055
arising from any of the foregoing. 1056

If a taxpayer entitled to a refund under section 3779.43 1057
of the Revised Code owes any debt to this state, the amount 1058
refundable may be applied in satisfaction of the debt. If the 1059
amount refundable is less than the amount of the debt, it may be 1060
applied in partial satisfaction of the debt. If the amount 1061
refundable is greater than the amount of the debt, the amount 1062
remaining after satisfaction of the debt shall be refunded. This 1063
section applies only to debts that have become final. For the 1064
purposes of this section, a debt becomes final when, under the 1065
applicable law, any time provided for petition for reassessment, 1066
request for reconsideration, or other appeal of the legality or 1067
validity of the amount giving rise to the debt expires without 1068
an appeal having been filed in the manner provided by law. 1069

Sec. 3779.44. (A) The tax commissioner may make an 1070
assessment, based on any information in the commissioner's 1071
possession, against any person that fails to file a return or 1072
pay tax as required under section 3779.41 of the Revised Code. 1073
The commissioner shall give the person assessed written notice 1074

of the assessment as provided in section 5703.37 of the Revised 1075
Code. With the notice, the commissioner shall provide 1076
instructions on the manner in which to petition for reassessment 1077
and request a hearing with respect to the petition. 1078

(B) Unless the person assessed, within sixty days after 1079
service of the notice of assessment, files with the 1080
commissioner, either personally or by certified mail, a written 1081
petition signed by the person or the person's authorized agent 1082
having knowledge of the facts, the assessment becomes final, and 1083
the amount of the assessment is due and payable from the person 1084
assessed to the treasurer of state. The petition shall indicate 1085
the objections of the person assessed, but additional objections 1086
may be raised in writing if received by the commissioner before 1087
the date shown on the final determination. 1088

If a petition for reassessment has been properly filed, 1089
the commissioner shall proceed under section 5703.60 of the 1090
Revised Code. 1091

(C) (1) After an assessment becomes final, if any portion 1092
of the assessment, including accrued interest, remains unpaid, a 1093
certified copy of the commissioner's entry making the assessment 1094
final may be filed in the office of the clerk of the court of 1095
common pleas in the county in which the person resides or has 1096
its principal place of business in this state, or in the office 1097
of the clerk of the court of common pleas of Franklin county. 1098

(2) Immediately upon the filing of the entry, the clerk 1099
shall enter judgment for the state against the person assessed 1100
in the amount shown on the entry. The judgment may be filed by 1101
the clerk in a loose-leaf book entitled "special judgments for 1102
the intoxicating hemp product receipts tax" or "special 1103
judgments for the drinkable cannabinoid product tax," as 1104

applicable, and shall have the same effect as other judgments. 1105
Execution shall issue upon the judgment at the request of the 1106
commissioner, and all laws applicable to sales on execution 1107
shall apply to sales made under the judgment. 1108

(3) If the assessment is not paid in its entirety within 1109
sixty days after the day the assessment was issued, the portion 1110
of the assessment consisting of tax due shall bear interest at 1111
the rate per annum prescribed by section 5703.47 of the Revised 1112
Code from the day the commissioner issues the assessment until 1113
it is paid or until it is certified to the attorney general for 1114
collection under section 131.02 of the Revised Code, whichever 1115
comes first. If the unpaid portion of the assessment is 1116
certified to the attorney general for collection, the entire 1117
unpaid portion of the assessment shall bear interest at the rate 1118
per annum prescribed by section 5703.47 of the Revised Code from 1119
the date of certification until the date it is paid in its 1120
entirety. Interest shall be paid in the same manner as the tax 1121
imposed by division (B) or (C) of section 3779.40 of the Revised 1122
Code, as applicable, and may be collected by the issuance of an 1123
assessment under this section. 1124

(D) If the commissioner believes that collection of a tax 1125
imposed by this chapter will be jeopardized unless proceedings 1126
to collect or secure collection of the tax is instituted without 1127
delay, the commissioner may issue a jeopardy assessment against 1128
the person liable for the tax. Immediately upon the issuance of 1129
the jeopardy assessment, the commissioner shall file an entry 1130
with the clerk of the court of common pleas in the manner 1131
prescribed by division (C) of this section. Notice of the 1132
jeopardy assessment shall be served on the person assessed or 1133
the person's authorized agent in the manner provided in section 1134
5703.37 of the Revised Code within five days of the filing of 1135

the entry with the clerk. The total amount assessed is 1136
immediately due and payable unless the person assessed files a 1137
petition for reassessment in accordance with division (B) of 1138
this section and provides security in a form satisfactory to the 1139
commissioner and in an amount sufficient to satisfy the unpaid 1140
balance of the assessment. Full or partial payment of the 1141
assessment does not prejudice the commissioner's consideration 1142
of the petition for reassessment. 1143

(E) The commissioner shall immediately forward to the 1144
treasurer of state all amounts the commissioner receives under 1145
this section, and such amounts shall be considered as revenue 1146
arising from the tax imposed under division (B) or (C) of 1147
section 3779.40 of the Revised Code, as applicable. 1148

(F) Except as otherwise provided in this division, no 1149
assessment shall be made or issued against a taxpayer for a tax 1150
imposed under this chapter more than four years after the due 1151
date for the filing of the return for the tax period for which 1152
the tax was reported, or more than four years after the return 1153
for the tax period was filed, whichever is later. The time limit 1154
may be extended if both the taxpayer and the commissioner 1155
consent in writing to the extension or enter into an agreement 1156
waiving or extending the time limit. Any such extension shall 1157
extend the four-year time limit in division (A) of section 1158
3779.43 of the Revised Code for the same period of time. Nothing 1159
in this division bars an assessment against a taxpayer that 1160
fails to file a return required under section 3779.41 of the 1161
Revised Code or that files a fraudulent return. 1162

(G) If the commissioner possesses information that 1163
indicates that the amount of tax a taxpayer is required to pay 1164
under division (B) or (C) of section 3779.40 of the Revised Code 1165

exceeds the amount the taxpayer paid, the commissioner may audit 1166
a sample of the taxpayer's sales over a representative period of 1167
time to ascertain the amount of tax due, and may issue an 1168
assessment based on the audit. The commissioner shall make a 1169
good faith effort to reach agreement with the taxpayer in 1170
selecting a representative sample. The commissioner may apply a 1171
sampling method only if the commissioner has prescribed the 1172
method by rule. 1173

(H) If the whereabouts of a person subject to this chapter 1174
is not known to the tax commissioner, the commissioner shall 1175
follow the procedures under section 5703.37 of the Revised Code. 1176

Sec. 3779.45. If any person liable for a tax imposed under 1177
section 3779.40 of the Revised Code sells the trade or business, 1178
disposes in any manner other than in the regular course of 1179
business at least seventy-five per cent of assets of the trade 1180
or business, or quits the trade or business, any tax owed by 1181
such person shall become due and payable immediately, and the 1182
person shall pay the tax due under this chapter, including any 1183
applicable penalties and interest, within forty-five days after 1184
the date of selling or quitting the trade or business. The 1185
person's successor shall withhold a sufficient amount of the 1186
purchase money to cover the amount due and unpaid until the 1187
former owner produces a receipt from the tax commissioner 1188
showing that the amounts are paid or a certificate indicating 1189
that no tax is due. If a purchaser fails to withhold purchase 1190
money, that person is personally liable, up to the purchase 1191
money amount, for such amounts that are unpaid during the 1192
operation of the business by the former owner. 1193

The commissioner may adopt rules regarding the issuance of 1194
certificates under this section, including the waiver of the 1195

need for a certificate if certain criteria are met. 1196

Sec. 3779.451. If any person subject to the tax levied 1197
under division (B) of section 3779.40 of the Revised Code fails 1198
to report or pay the tax as required under section 3779.41 of 1199
the Revised Code, or fails to pay any penalty imposed under 1200
sections 3779.40 to 3779.48 of the Revised Code within ninety 1201
days after the time prescribed for payment of the penalty, the 1202
attorney general, on the request of the tax commissioner, shall 1203
commence an action in quo warranto in the court of appeals of 1204
the county in which the person resides or has its principal 1205
place of business to forfeit and annul the person's licenses 1206
issued under Chapter 3780. or 3796. of the Revised Code. If the 1207
court finds that the person is in default for the amount 1208
claimed, it shall render judgment revoking the person's 1209
registration and shall otherwise proceed as provided in Chapter 1210
2733. of the Revised Code. 1211

Sec. 3779.46. (A) The tax commissioner may prescribe 1212
requirements for the keeping of records and other pertinent 1213
documents, the filing of copies of federal income tax returns 1214
and determinations, and computations reconciling federal income 1215
tax returns with the returns required by section 3779.41 of the 1216
Revised Code. The commissioner may require any person, by rule 1217
or notice served on that person, to keep those records that the 1218
commissioner considers necessary to show whether, and the extent 1219
to which, a person is subject to a tax levied under section 1220
3779.40 of the Revised Code. 1221

(B) Each taxpayer shall maintain complete and accurate 1222
records of all sales and other dispositions of intoxicating hemp 1223
products or drinkable cannabinoid products, as applicable, and 1224
shall procure and retain all invoices, bills of lading, and 1225

other documents relating to the sales and other dispositions of 1226
such products. No person shall make a false entry upon any 1227
invoice or record upon which an entry is required by this 1228
section, and no person shall present any false entry for the 1229
inspection of the commissioner with the intent to evade a tax 1230
levied under section 3779.40 of the Revised Code. 1231

(C) The records described in divisions (A) and (B) of this 1232
section and other documents shall be open during business hours 1233
to the inspection of the commissioner, and shall be preserved 1234
for a period of four years, unless the commissioner, in writing, 1235
consents to their destruction within that period, or by order 1236
requires that they be kept for a longer period. If such records 1237
are normally kept by the person electronically, the person shall 1238
provide such records to the commissioner electronically at the 1239
commissioner's request. 1240

(D) Any information acquired by the commissioner under 1241
this chapter is confidential as provided for in section 5703.21 1242
of the Revised Code, except that the commissioner shall make 1243
public an electronic list of all actively registered persons 1244
required to remit a tax under section 3779.40 of the Revised 1245
Code, including legal names, trade names, addresses, and account 1246
numbers. In addition, the list shall include all persons that 1247
canceled their registrations at any time during the preceding 1248
four calendar years, including the effective date of the 1249
cancellation. 1250

Sec. 3779.47. (A) No person shall prepare for shipment, 1251
ship, transport, deliver, prepare for distribution, distribute, 1252
or sell intoxicating hemp products or drinkable cannabinoid 1253
products, or otherwise engage or participate in the business of 1254
selling intoxicating hemp products or drinkable cannabinoid 1255

products, with the intent to avoid payment of a tax levied by 1256
section 3779.40 of the Revised Code. 1257

(B) The tax commissioner or an agent of the commissioner 1258
may enter and inspect the facilities and records of a person 1259
selling intoxicating hemp products or drinkable cannabinoid 1260
products. Such entrance and inspection requires a properly 1261
issued search warrant if conducted outside the normal business 1262
hours of the person, but does not require a search warrant if 1263
conducted during the normal business hours of the person. No 1264
person shall prevent or hinder the commissioner or an agent of 1265
the commissioner from carrying out the authority granted under 1266
this division. 1267

(C) Whenever the commissioner discovers intoxicating hemp 1268
products or drinkable cannabinoid products that are subject to a 1269
tax levied by this chapter and upon which the tax has not been 1270
paid or the commissioner has reason to believe the tax is being 1271
avoided, the commissioner may seize and take possession of the 1272
products, which, upon seizure, shall be forfeited to the state. 1273
Within a reasonable time after seizure, the commissioner may 1274
sell the products. From the proceeds of this sale, the 1275
commissioner shall pay the costs incurred in the seizure and 1276
sale, and any proceeds remaining after the sale shall be 1277
considered as revenue arising from the tax. The seizure and sale 1278
do not relieve any person from the fine or imprisonment provided 1279
for a violation of this chapter. The commissioner shall make the 1280
sale where it is most convenient and economical, but may order 1281
the destruction of forfeited products if the quantity or quality 1282
is not sufficient to warrant its sale. 1283

Sec. 3779.48. (A) Any person that is not a taxpayer 1284
registered under section 3779.40 of the Revised Code is liable 1285

for any amounts, including tax, interest, and penalties, imposed 1286
by sections 3779.40 to 3779.48 of the Revised Code in the same 1287
manner as persons that do hold such a registration are liable, 1288
if the person does either of the following: 1289

(1) Receives intoxicating hemp product receipts from the 1290
retail sale of intoxicating hemp; 1291

(2) Sells drinkable cannabinoid products upon which the 1292
tax levied by those sections has not been paid. 1293

(B) The tax commissioner may issue an assessment against a 1294
person described in division (A) of this section for any amount 1295
due under this chapter in the same manner provided under section 1296
3779.44 of the Revised Code. 1297

Sec. 3779.99. (A) Except as provided in division (B) of 1298
this section, whoever recklessly violates division (A)(1) of 1299
section 3779.02 of the Revised Code is guilty of a misdemeanor 1300
of the first degree on a first offense and a felony of the fifth 1301
degree on a second or subsequent offense. 1302

(B) Whoever recklessly violates division (A)(1) of section 1303
3779.02 of the Revised Code is guilty of a felony of the fifth 1304
degree if the offense involves the sale of an intoxicating hemp 1305
product to a person under twenty-one years of age. 1306

(C) Whoever knowingly violates section 3779.06 of the 1307
Revised Code is guilty of a minor misdemeanor. 1308

(D)(1) As used in this section, "licensing authority" 1309
means the following: 1310

(a) For purposes of a license issued under section 3770.05 1311
of the Revised Code, the state lottery commission; 1312

(b) For purposes of sections 5743.15 and 5743.61 of the 1313

Revised Code, the tax commissioner; 1314

(c) For purposes of Chapter 4303. of the Revised Code, the 1315
division of liquor control. 1316

(2) A licensing authority shall adopt rules in accordance 1317
with Chapter 119. of the Revised Code to enforce violations of 1318
this chapter directly against a person who has been issued a 1319
license under section 3770.05, 5743.15, or 5743.61 or has been 1320
issued a permit under Chapter 4303. of the Revised Code, as 1321
applicable. 1322

(E) Whoever recklessly violates division (A) of section 1323
3779.22 of the Revised Code is guilty of a misdemeanor of the 1324
first degree on a first offense and a felony of the fifth degree 1325
on a second or subsequent offense. 1326

(F) Whoever recklessly violates division (F) of section 1327
3779.22 of the Revised Code is guilty of a felony of the fifth 1328
degree. 1329

(G) Whoever knowingly violates section 3779.29 of the 1330
Revised Code is guilty of a minor misdemeanor. 1331

(H) Whoever knowingly files a fraudulent refund claim 1332
under section 3779.43 of the Revised Code shall be fined the 1333
greater of one thousand dollars or the amount of the fraudulent 1334
refund requested, or imprisoned not more than sixty days, or 1335
both. 1336

(I) Except as otherwise provided in this section, whoever 1337
knowingly violates sections 3779.40 to 3779.48 of the Revised 1338
Code shall be fined not more than five hundred dollars, or 1339
imprisoned not more than thirty days, or both. 1340

(J) The penalties provided in divisions (H) and (I) of 1341

this section are in addition to any penalties imposed by the tax 1342
commissioner under sections 3779.40 to 3779.48 of the Revised 1343
Code. 1344

Sec. 4506.01. As used in this chapter: 1345

(A) "Alcohol concentration" means the concentration of 1346
alcohol in a person's blood, breath, or urine. When expressed as 1347
a percentage, it means grams of alcohol per the following: 1348

(1) One hundred milliliters of whole blood, blood serum, 1349
or blood plasma; 1350

(2) Two hundred ten liters of breath; 1351

(3) One hundred milliliters of urine. 1352

(B) (1) "Commercial driver's license" means a license 1353
issued in accordance with this chapter that authorizes an 1354
individual to drive a commercial motor vehicle. Except as 1355
otherwise specifically provided, "commercial driver's license" 1356
includes an "enhanced commercial driver's license." 1357

(2) "Enhanced commercial driver's license" means a 1358
commercial driver's license issued in accordance with sections— 1359
~~4507.021~~ 4506.072 and ~~4506.072~~ 4507.021 of the Revised Code that 1360
denotes citizenship and identity and is approved by the United 1361
States secretary of homeland security or other designated 1362
federal agency for purposes of entering the United States. 1363

(C) "Commercial driver's license information system" means 1364
the information system established pursuant to the requirements 1365
of the "Commercial Motor Vehicle Safety Act of 1986," 100 Stat. 1366
3207-171, 49 U.S.C.A. App. 2701. 1367

(D) Except when used in section 4506.25 of the Revised 1368
Code, "commercial motor vehicle" means any motor vehicle 1369

designed or used to transport persons or property that meets any 1370
of the following qualifications: 1371

(1) Any combination of vehicles with a gross vehicle 1372
weight or combined gross vehicle weight rating of twenty-six 1373
thousand one pounds or more, provided the gross vehicle weight 1374
or gross vehicle weight rating of the vehicle or vehicles being 1375
towed is in excess of ten thousand pounds; 1376

(2) Any single vehicle with a gross vehicle weight or 1377
gross vehicle weight rating of twenty-six thousand one pounds or 1378
more; 1379

(3) Any single vehicle or combination of vehicles that is 1380
not a class A or class B vehicle, but is designed to transport 1381
sixteen or more passengers including the driver; 1382

(4) Any school bus with a gross vehicle weight or gross 1383
vehicle weight rating of less than twenty-six thousand one 1384
pounds that is designed to transport fewer than sixteen 1385
passengers including the driver; 1386

(5) Is transporting hazardous materials for which 1387
placarding is required under subpart F of 49 C.F.R. part 172, as 1388
amended; 1389

(6) Any single vehicle or combination of vehicles that is 1390
designed to be operated and to travel on a public street or 1391
highway and is considered by the federal motor carrier safety 1392
administration to be a commercial motor vehicle, including, but 1393
not limited to, a motorized crane, a vehicle whose function is 1394
to pump cement, a rig for drilling wells, and a portable crane. 1395

(E) "Controlled substance" means all of the following: 1396

(1) Any substance classified as a controlled substance 1397

under the "Controlled Substances Act," 80 Stat. 1242 (1970), 21 1398
U.S.C.A. 802(6), as amended; 1399

(2) Any substance included in schedules I through V of 21 1400
C.F.R. part 1308, as amended; 1401

(3) Any drug of abuse. 1402

(F) "Conviction" means an unvacated adjudication of guilt 1403
or a determination that a person has violated or failed to 1404
comply with the law in a court of original jurisdiction or an 1405
authorized administrative tribunal, an unvacated forfeiture of 1406
bail or collateral deposited to secure the person's appearance 1407
in court, a plea of guilty or nolo contendere accepted by the 1408
court, the payment of a fine or court cost, or violation of a 1409
condition of release without bail, regardless of whether or not 1410
the penalty is rebated, suspended, or probated. 1411

(G) "Disqualification" means any of the following: 1412

(1) The suspension, revocation, or cancellation of a 1413
person's privileges to operate a commercial motor vehicle; 1414

(2) Any withdrawal of a person's privileges to operate a 1415
commercial motor vehicle as the result of a violation of state 1416
or local law relating to motor vehicle traffic control other 1417
than parking, vehicle weight, or vehicle defect violations; 1418

(3) A determination by the federal motor carrier safety 1419
administration that a person is not qualified to operate a 1420
commercial motor vehicle under 49 C.F.R. 391. 1421

(H) "Domiciled" means having a true, fixed, principal, and 1422
permanent residence to which an individual intends to return. 1423

(I) "Downgrade" means any of the following, as applicable: 1424

(1) A change in the commercial driver's license, or 1425
commercial driver's license temporary instruction permit, 1426
holder's self-certified status as described in division (A) (1) 1427
of section 4506.10 of the Revised Code; 1428

(2) A change to a lesser class of vehicle; 1429

(3) Removal of commercial driver's license privileges from 1430
the individual's driver's license. 1431

(J) "Drive" means to drive, operate, or be in physical 1432
control of a motor vehicle. 1433

(K) "Driver" means any person who drives, operates, or is 1434
in physical control of a commercial motor vehicle or is required 1435
to have a commercial driver's license. 1436

(L) "Driver's license" means a license issued by the 1437
bureau of motor vehicles that authorizes an individual to drive. 1438

(M) "Drug of abuse" means any controlled substance, 1439
dangerous drug as defined in section 4729.01 of the Revised 1440
Code, harmful intoxicant as defined in section 2925.01 of the 1441
Revised Code, intoxicating hemp product as defined in section 1442
3779.01 of the Revised Code, drinkable cannabinoid product as 1443
defined in section 3779.21 of the Revised Code, or over-the- 1444
counter medication that, when taken in quantities exceeding the 1445
recommended dosage, can result in impairment of judgment or 1446
reflexes. 1447

(N) "Electronic device" includes a cellular telephone, a 1448
personal digital assistant, a pager, a computer, and any other 1449
device used to input, write, send, receive, or read text. 1450

(O) "Eligible unit of local government" means a village, 1451
township, or county that has a population of not more than three 1452

thousand persons according to the most recent federal census. 1453

(P) "Employer" means any person, including the federal 1454
government, any state, and a political subdivision of any state, 1455
that owns or leases a commercial motor vehicle or assigns a 1456
person to drive such a motor vehicle. 1457

(Q) "Endorsement" means an authorization on a person's 1458
commercial driver's license that is required to permit the 1459
person to operate a specified type of commercial motor vehicle. 1460

(R) "Farm truck" means a truck controlled and operated by 1461
a farmer for use in the transportation to or from a farm, for a 1462
distance of not more than one hundred fifty miles, of products 1463
of the farm, including livestock and its products, poultry and 1464
its products, floricultural and horticultural products, and in 1465
the transportation to the farm, from a distance of not more than 1466
one hundred fifty miles, of supplies for the farm, including 1467
tile, fence, and every other thing or commodity used in 1468
agricultural, floricultural, horticultural, livestock, and 1469
poultry production, and livestock, poultry, and other animals 1470
and things used for breeding, feeding, or other purposes 1471
connected with the operation of the farm, when the truck is 1472
operated in accordance with this division and is not used in the 1473
operations of a motor carrier, as defined in section 4923.01 of 1474
the Revised Code. 1475

(S) "Fatality" means the death of a person as the result 1476
of a motor vehicle accident occurring not more than three 1477
hundred sixty-five days prior to the date of death. 1478

(T) "Felony" means any offense under federal or state law 1479
that is punishable by death or specifically classified as a 1480
felony under the law of this state, regardless of the penalty 1481

that may be imposed. 1482

(U) "Foreign jurisdiction" means any jurisdiction other 1483
than a state. 1484

(V) "Gross vehicle weight rating" means the value 1485
specified by the manufacturer as the maximum loaded weight of a 1486
single or a combination vehicle. The gross vehicle weight rating 1487
of a combination vehicle is the gross vehicle weight rating of 1488
the power unit plus the gross vehicle weight rating of each 1489
towed unit. 1490

(W) "Hazardous materials" means any material that has been 1491
designated as hazardous under 49 U.S.C. 5103 and is required to 1492
be placarded under subpart F of 49 C.F.R. part 172 or any 1493
quantity of a material listed as a select agent or toxin in 42 1494
C.F.R. part 73, as amended. 1495

(X) "Imminent hazard" means the existence of a condition 1496
that presents a substantial likelihood that death, serious 1497
illness, severe personal injury, or a substantial endangerment 1498
to health, property, or the environment may occur before the 1499
reasonably foreseeable completion date of a formal proceeding 1500
begun to lessen the risk of that death, illness, injury, or 1501
endangerment. 1502

(Y) "Medical variance" means one of the following received 1503
by a driver from the federal motor carrier safety administration 1504
that allows the driver to be issued a medical certificate: 1505

(1) An exemption letter permitting operation of a 1506
commercial motor vehicle under 49 C.F.R. 381, subpart C or 49 1507
C.F.R. 391.64; 1508

(2) A skill performance evaluation certificate permitting 1509
operation of a commercial motor vehicle pursuant to 49 C.F.R. 1510

391.49. 1511

(Z) "Mobile telephone" means a mobile communication device 1512
that falls under or uses any commercial mobile radio service as 1513
defined in 47 C.F.R. 20, except that mobile telephone does not 1514
include two-way or citizens band radio services. 1515

(AA) "Motor vehicle" means a vehicle, machine, tractor, 1516
trailer, or semitrailer propelled or drawn by mechanical power 1517
used on highways, except that such term does not include a 1518
vehicle, machine, tractor, trailer, or semitrailer operated 1519
exclusively on a rail. 1520

(BB) "Out-of-service order" means a declaration by an 1521
authorized enforcement officer of a federal, state, local, 1522
Canadian, or Mexican jurisdiction declaring that a driver, 1523
commercial motor vehicle, or commercial motor carrier operation 1524
is out of service as defined in 49 C.F.R. 390.5. 1525

(CC) "Peace officer" has the same meaning as in section 1526
2935.01 of the Revised Code. 1527

(DD) "Portable tank" means a liquid or gaseous packaging 1528
designed primarily to be loaded onto or temporarily attached to 1529
a vehicle and equipped with skids, mountings, or accessories to 1530
facilitate handling of the tank by mechanical means. 1531

(EE) "Public safety vehicle" has the same meaning as in 1532
divisions (E) (1) and (3) of section 4511.01 of the Revised Code. 1533

(FF) "Recreational vehicle" includes every vehicle that is 1534
defined as a recreational vehicle in section 4501.01 of the 1535
Revised Code and is used exclusively for purposes other than 1536
engaging in business for profit. 1537

(GG) "Residence" means any person's residence determined 1538

in accordance with standards prescribed in rules adopted by the 1539
registrar. 1540

(HH) "School bus" has the same meaning as in section 1541
4511.01 of the Revised Code. 1542

(II) "Serious traffic violation" means any of the 1543
following: 1544

(1) A conviction arising from a single charge of operating 1545
a commercial motor vehicle in violation of any provision of 1546
section 4506.03 of the Revised Code; 1547

(2) (a) Except as provided in division (II) (2) (b) of this 1548
section, a violation while operating a commercial motor vehicle 1549
of a law of this state, or any municipal ordinance or county or 1550
township resolution, or any other substantially similar law of 1551
another state or political subdivision of another state 1552
prohibiting either of the following: 1553

(i) Texting while driving; 1554

(ii) Using a handheld mobile telephone. 1555

(b) It is not a serious traffic violation if the person 1556
was texting or using a handheld mobile telephone to contact law 1557
enforcement or other emergency services. 1558

(3) A conviction arising from the operation of any motor 1559
vehicle that involves any of the following: 1560

(a) A single charge of any speed in excess of the posted 1561
speed limit by fifteen miles per hour or more; 1562

(b) Violation of section 4511.20 or 4511.201 of the 1563
Revised Code or any similar ordinance or resolution, or of any 1564
similar law of another state or political subdivision of another 1565

state; 1566

(c) Violation of a law of this state or an ordinance or 1567
resolution relating to traffic control, other than a parking 1568
violation, or of any similar law of another state or political 1569
subdivision of another state, that results in a fatal accident; 1570

(d) Violation of section 4506.03 of the Revised Code or a 1571
substantially similar municipal ordinance or county or township 1572
resolution, or of any similar law of another state or political 1573
subdivision of another state, that involves the operation of a 1574
commercial motor vehicle without a valid commercial driver's 1575
license with the proper class or endorsement for the specific 1576
vehicle group being operated or for the passengers or type of 1577
cargo being transported; 1578

(e) Violation of section 4506.03 of the Revised Code or a 1579
substantially similar municipal ordinance or county or township 1580
resolution, or of any similar law of another state or political 1581
subdivision of another state, that involves the operation of a 1582
commercial motor vehicle without a valid commercial driver's 1583
license being in the person's possession; 1584

(f) Violation of section 4511.33 or 4511.34 of the Revised 1585
Code, or any municipal ordinance or county or township 1586
resolution substantially similar to either of those sections, or 1587
any substantially similar law of another state or political 1588
subdivision of another state; 1589

(g) Violation of any other law of this state, any law of 1590
another state, or any ordinance or resolution of a political 1591
subdivision of this state or another state that meets both of 1592
the following requirements: 1593

(i) It relates to traffic control, other than a parking 1594

violation; 1595

(ii) It is determined to be a serious traffic violation by 1596
the United States secretary of transportation and is designated 1597
by the director as such by rule. 1598

(JJ) "State" means a state of the United States and 1599
includes the District of Columbia. 1600

(KK) "Tank vehicle" means any commercial motor vehicle 1601
that is designed to transport any liquid or gaseous materials 1602
within a tank or tanks that are either permanently or 1603
temporarily attached to the vehicle or its chassis and have an 1604
individual rated capacity of more than one hundred nineteen 1605
gallons and an aggregate rated capacity of one thousand gallons 1606
or more. "Tank vehicle" does not include a commercial motor 1607
vehicle transporting an empty storage container tank that is not 1608
designed for transportation, has a rated capacity of one 1609
thousand gallons or more, and is temporarily attached to a 1610
flatbed trailer. 1611

(LL) "Tester" means a person or entity acting pursuant to 1612
a valid agreement entered into pursuant to division (B) of 1613
section 4506.09 of the Revised Code. 1614

(MM) "Texting" means manually entering alphanumeric text 1615
into, or reading text from, an electronic device. Texting 1616
includes short message service, e-mail, instant messaging, a 1617
command or request to access a world wide web page, pressing 1618
more than a single button to initiate or terminate a voice 1619
communication using a mobile telephone, or engaging in any other 1620
form of electronic text retrieval or entry, for present or 1621
future communication. Texting does not include the following: 1622

(1) Using voice commands to initiate, receive, or 1623

terminate a voice communication using a mobile telephone; 1624

(2) Inputting, selecting, or reading information on a 1625
global positioning system or navigation system; 1626

(3) Pressing a single button to initiate or terminate a 1627
voice communication using a mobile telephone; or 1628

(4) Using, for a purpose that is not otherwise prohibited 1629
by law, a device capable of performing multiple functions, such 1630
as a fleet management system, a dispatching device, a mobile 1631
telephone, a citizens band radio, or a music player. 1632

(NN) "Texting while driving" means texting while operating 1633
a commercial motor vehicle, with the motor running, including 1634
while temporarily stationary because of traffic, a traffic 1635
control device, or other momentary delays. Texting while driving 1636
does not include operating a commercial motor vehicle with or 1637
without the motor running when the driver has moved the vehicle 1638
to the side of, or off, a highway and is stopped in a location 1639
where the vehicle can safely remain stationary. 1640

(OO) "United States" means the fifty states and the 1641
District of Columbia. 1642

(PP) "Upgrade" means a change in the class of vehicles, 1643
endorsements, or self-certified status as described in division 1644
(A) (1) of section 4506.10 of the Revised Code, that expands the 1645
ability of a current commercial driver's license holder to 1646
operate commercial motor vehicles under this chapter; 1647

(QQ) "Use of a handheld mobile telephone" means: 1648

(1) Using at least one hand to hold a mobile telephone to 1649
conduct a voice communication; 1650

(2) Dialing or answering a mobile telephone by pressing 1651

more than a single button; or 1652

(3) Reaching for a mobile telephone in a manner that 1653
requires a driver to maneuver so that the driver is no longer in 1654
a seated driving position, or restrained by a seat belt that is 1655
installed in accordance with 49 C.F.R. 393.93 and adjusted in 1656
accordance with the vehicle manufacturer's instructions. 1657

(RR) "Vehicle" has the same meaning as in section 4511.01 1658
of the Revised Code. 1659

Sec. 5502.01. (A) The department of public safety shall 1660
administer and enforce the laws relating to the registration, 1661
licensing, sale, and operation of motor vehicles and the laws 1662
pertaining to the licensing of drivers of motor vehicles. 1663

The department shall compile, analyze, and publish 1664
statistics relative to motor vehicle accidents and the causes of 1665
them, prepare and conduct educational programs for the purpose 1666
of promoting safety in the operation of motor vehicles on the 1667
highways, and conduct research and studies for the purpose of 1668
promoting safety on the highways of this state. 1669

(B) The department shall administer the laws and rules 1670
relative to trauma and emergency medical services specified in 1671
Chapter 4765. of the Revised Code and any laws and rules 1672
relative to medical transportation services specified in Chapter 1673
4766. of the Revised Code. 1674

(C) The department shall administer and enforce the laws 1675
contained in Chapters 4301. and 4303. of the Revised Code and 1676
enforce the rules and orders of the liquor control commission 1677
pertaining to retail liquor permit holders. 1678

(D) The department shall administer the laws governing the 1679
state emergency management agency and shall enforce all 1680

additional duties and responsibilities as prescribed in the 1681
Revised Code related to emergency management services. 1682

(E) The department shall conduct investigations pursuant 1683
to Chapter 5101. of the Revised Code in support of the duty of 1684
the department of job and family services to administer the 1685
supplemental nutrition assistance program throughout this state. 1686
The department of public safety shall conduct investigations 1687
necessary to protect the state's property rights and interests 1688
in the supplemental nutrition assistance program. 1689

(F) The department of public safety shall enforce 1690
compliance with orders and rules of the public utilities 1691
commission and applicable laws in accordance with Chapters 1692
4905., 4921., and 4923. of the Revised Code regarding commercial 1693
motor vehicle transportation safety, economic, and hazardous 1694
materials requirements. 1695

(G) Notwithstanding Chapter 4117. of the Revised Code, the 1696
department of public safety may establish requirements for its 1697
enforcement personnel, including its enforcement agents 1698
described in section 5502.14 of the Revised Code, that include 1699
standards of conduct, work rules and procedures, and criteria 1700
for eligibility as law enforcement personnel. 1701

(H) The department shall administer, maintain, and operate 1702
the Ohio criminal justice network. The Ohio criminal justice 1703
network shall be a computer network that supports state and 1704
local criminal justice activities. The network shall be an 1705
electronic repository for various data, which may include arrest 1706
warrants, notices of persons wanted by law enforcement agencies, 1707
criminal records, prison inmate records, stolen vehicle records, 1708
vehicle operator's licenses, and vehicle registrations and 1709
titles. 1710

(I) The department shall coordinate all homeland security 1711
activities of all state agencies and shall be a liaison between 1712
state agencies and local entities for those activities and 1713
related purposes. 1714

(J) The department shall administer and enforce the laws 1715
relative to private investigators and security service providers 1716
specified in Chapter 4749. of the Revised Code. 1717

(K) The department shall administer criminal justice 1718
services in accordance with sections 5502.61 to 5502.66 of the 1719
Revised Code. 1720

(L) The department shall administer the Ohio school safety 1721
and crisis center and the Ohio mobile training team in 1722
accordance with sections 5502.70 to 5502.703 of the Revised 1723
Code. 1724

(M) The department shall coordinate security measures and 1725
operations, and may direct the department of administrative 1726
services to implement any security measures and operations the 1727
department of public safety requires, at the Vern Riffe Center 1728
and the James A. Rhodes state office tower. 1729

Notwithstanding section 125.28 of the Revised Code, the 1730
director of public safety may recover the costs of directing 1731
security measures and operations under this division by either 1732
issuing intrastate transfer voucher billings to the department 1733
of administrative services, which the department shall process 1734
to pay for the costs, or, upon the request of the director of 1735
administrative services, the director of budget and management 1736
may transfer cash in the requested amount from the building 1737
management fund created under section 125.28 of the Revised 1738
Code. Payments received or cash transfers made under this 1739

division for the costs of directing security measures and 1740
operations shall be deposited into the state treasury to the 1741
credit of the security, investigations, and policing fund 1742
created under section 4501.11 of the Revised Code. 1743

(N) The department of public safety shall assist the 1744
department of commerce in enforcing Chapter 3779. of the Revised 1745
Code as provided in that chapter. 1746

Sec. 5502.13. The department of public safety shall 1747
maintain an investigative unit in order to conduct 1748
investigations and other enforcement activity authorized by 1749
Chapters 4301., 4303., 5101., 5107., and 5108. and sections 1750
2903.12, 2903.13, 2903.14, 2907.09, 2913.46, 2917.11, 2921.13, 1751
2921.31, 2921.32, 2921.33, 2923.12, 2923.121, 2925.11, 2925.13, 1752
2927.02, 3779.03, and 4507.30 of the Revised Code. The director 1753
of public safety shall appoint the employees of the unit who are 1754
necessary, designate the activities to be performed by those 1755
employees, and prescribe their titles and duties. 1756

Sec. 5502.14. (A) As used in this section, "felony" has 1757
the same meaning as in section 109.511 of the Revised Code. 1758

(B) (1) Any person who is employed by the department of 1759
public safety and designated by the director of public safety to 1760
enforce Title XLIII of the Revised Code, and the rules adopted 1761
under it, Chapter 3779. of the Revised Code and the rules 1762
adopted under that chapter, and the laws and rules regulating 1763
the use of supplemental nutrition assistance program benefits 1764
shall be known as an enforcement agent. The employment by the 1765
department of public safety and the designation by the director 1766
of public safety of a person as an enforcement agent shall be 1767
subject to division (D) of this section. An enforcement agent 1768
has the authority vested in peace officers pursuant to section 1769

2935.03 of the Revised Code to keep the peace, to enforce all 1770
applicable laws and rules on any retail liquor permit premises, 1771
or on any other premises of public or private property, where a 1772
violation of Title XLIII of the Revised Code or any rule adopted 1773
under it is occurring, and to enforce all laws and rules 1774
governing the use of supplemental nutrition assistance program 1775
benefits, women, infants, and children's coupons, electronically 1776
transferred benefits, or any other access device that is used 1777
alone or in conjunction with another access device to obtain 1778
payments, allotments, benefits, money, goods, or other things of 1779
value, or that can be used to initiate a transfer of funds, 1780
pursuant to the supplemental nutrition assistance program 1781
established under the Food and Nutrition Act of 2008 (7 U.S.C. 1782
2011 et seq.) or any supplemental food program administered by 1783
any department of this state pursuant to the "Child Nutrition 1784
Act of 1966," 80 Stat. 885, 42 U.S.C.A. 1786. Enforcement 1785
agents, in enforcing compliance with the laws and rules 1786
described in this division, may keep the peace and make arrests 1787
for violations of those laws and rules. 1788

(2) In addition to the authority conferred by division (B) 1789
(1) of this section, an enforcement agent also may execute 1790
search warrants and seize and take into custody any contraband, 1791
as defined in section 2901.01 of the Revised Code, or any 1792
property that is otherwise necessary for evidentiary purposes 1793
related to any violations of the laws or rules described in 1794
division (B)(1) of this section. An enforcement agent may enter 1795
public or private premises where activity alleged to violate the 1796
laws or rules described in division (B)(1) of this section is 1797
occurring. 1798

(3) Enforcement agents who are on, immediately adjacent 1799
to, or across from retail liquor permit premises and who are 1800

performing investigative duties relating to that premises, 1801
enforcement agents who are on premises that are not liquor 1802
permit premises but on which a violation of Title XLIII of the 1803
Revised Code or any rule adopted under it allegedly is 1804
occurring, and enforcement agents who view a suspected violation 1805
of Title XLIII of the Revised Code, of a rule adopted under it, 1806
or of another law or rule described in division (B)(1) of this 1807
section have the authority to enforce the laws and rules 1808
described in division (B)(1) of this section, authority to 1809
enforce any section in Title XXIX of the Revised Code or any 1810
other section of the Revised Code listed in section 5502.13 of 1811
the Revised Code if they witness a violation of the section 1812
under any of the circumstances described in this division, and 1813
authority to make arrests for violations of the laws and rules 1814
described in division (B)(1) of this section and violations of 1815
any of those sections. 1816

(4) The jurisdiction of an enforcement agent under 1817
division (B) of this section shall be concurrent with that of 1818
the peace officers of the county, township, or municipal 1819
corporation in which the violation occurs. 1820

(C) Enforcement agents of the department of public safety 1821
who are engaged in the enforcement of the laws and rules 1822
described in division (B)(1) of this section may carry concealed 1823
weapons when conducting undercover investigations pursuant to 1824
their authority as law enforcement officers and while acting 1825
within the scope of their authority pursuant to this chapter. 1826

(D)(1) The department of public safety shall not employ, 1827
and the director of public safety shall not designate, a person 1828
as an enforcement agent on a permanent basis, on a temporary 1829
basis, for a probationary term, or on other than a permanent 1830

basis if the person previously has been convicted of or has 1831
pleaded guilty to a felony. 1832

(2) (a) The department of public safety shall terminate the 1833
employment of a person who is designated as an enforcement agent 1834
and who does either of the following: 1835

(i) Pleads guilty to a felony; 1836

(ii) Pleads guilty to a misdemeanor pursuant to a 1837
negotiated plea agreement as provided in division (D) of section 1838
2929.43 of the Revised Code in which the enforcement agent 1839
agrees to surrender the certificate awarded to that agent under 1840
section 109.77 of the Revised Code. 1841

(b) The department shall suspend the employment of a 1842
person who is designated as an enforcement agent if the person 1843
is convicted, after trial, of a felony. If the enforcement agent 1844
files an appeal from that conviction and the conviction is 1845
upheld by the highest court to which the appeal is taken or if 1846
no timely appeal is filed, the department shall terminate the 1847
employment of that agent. If the enforcement agent files an 1848
appeal that results in that agent's acquittal of the felony or 1849
conviction of a misdemeanor, or in the dismissal of the felony 1850
charge against the agent, the department shall reinstate the 1851
agent. An enforcement agent who is reinstated under division (D) 1852
(2) (b) of this section shall not receive any back pay unless the 1853
conviction of that agent of the felony was reversed on appeal, 1854
or the felony charge was dismissed, because the court found 1855
insufficient evidence to convict the agent of the felony. 1856

(3) Division (D) of this section does not apply regarding 1857
an offense that was committed prior to January 1, 1997. 1858

(4) The suspension or termination of the employment of a 1859

person designated as an enforcement agent under division (D) (2) 1860
of this section shall be in accordance with Chapter 119. of the 1861
Revised Code. 1862

Sec. 5703.052. (A) There is hereby created in the state 1863
treasury the tax refund fund, from which refunds shall be paid 1864
for amounts illegally or erroneously assessed or collected, or 1865
for any other reason overpaid, with respect to taxes levied by 1866
Chapter 3779., 4301., 4305., 5726., 5728., 5729., 5731., 5733., 1867
5735., 5736., 5739., 5741., 5743., 5747., 5748., 5749., 5751., 1868
or 5753. and sections 3737.71, 3905.35, 3905.36, 4303.33, 1869
5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 of the 1870
Revised Code. Refunds for fees levied under sections 3734.90 to 1871
3734.9014 of the Revised Code, wireless 9-1-1 charges imposed 1872
under section 128.40 of the Revised Code, next generation 9-1-1 1873
access fees imposed under sections 128.41 and 128.42 of the 1874
Revised Code, or any penalties assessed with respect to such 1875
fees or charges, that are illegally or erroneously assessed or 1876
collected, or for any other reason overpaid, also shall be paid 1877
from the fund. Refunds for amounts illegally or erroneously 1878
assessed or collected by the tax commissioner, or for any other 1879
reason overpaid, that are due under section 1509.50 of the 1880
Revised Code shall be paid from the fund. Refunds for amounts 1881
illegally or erroneously assessed or collected by the 1882
commissioner, or for any other reason overpaid to the 1883
commissioner, under sections 718.80 to 718.95 of the Revised 1884
Code shall be paid from the fund. However, refunds for amounts 1885
illegally or erroneously assessed or collected by the 1886
commissioner, or for any other reason overpaid to the 1887
commissioner, with respect to taxes levied under section 1888
5739.101 of the Revised Code shall not be paid from the tax 1889
refund fund, but shall be paid as provided in section 5739.104 1890

of the Revised Code. 1891

(B) (1) Upon certification by the tax commissioner to the 1892
treasurer of state of a tax refund, a wireless 9-1-1 charge 1893
refund, a next generation 9-1-1 access fee refund, or another 1894
amount refunded, or by the superintendent of insurance of a 1895
domestic or foreign insurance tax refund, the treasurer of state 1896
shall place the amount certified to the credit of the fund. The 1897
certified amount transferred shall be derived from the receipts 1898
of the same tax, fee, wireless 9-1-1 charge, next generation 9- 1899
1-1 access fee, or other amount from which the refund arose. 1900

(2) When a refund is for a tax, fee, wireless 9-1-1 1901
charge, next generation 9-1-1 access fee, or other amount that 1902
is not levied by the state or that was illegally or erroneously 1903
distributed to a taxing jurisdiction, the tax commissioner shall 1904
recover the amount of that refund from the next distribution of 1905
that tax, fee, wireless 9-1-1 charge, next generation 9-1-1 1906
access fee, or other amount that otherwise would be made to the 1907
taxing jurisdiction. If the amount to be recovered would exceed 1908
twenty-five per cent of the next distribution of that tax, fee, 1909
wireless 9-1-1 charge, next generation 9-1-1 access fee, or 1910
other amount, the commissioner may spread the recovery over more 1911
than one future distribution, taking into account the amount to 1912
be recovered and the amount of the anticipated future 1913
distributions. In no event may the commissioner spread the 1914
recovery over a period to exceed thirty-six months. 1915

Sec. 5703.053. As used in this section, "postal service" 1916
means the United States postal service. 1917

An application to the tax commissioner for a tax refund 1918
under section 3779.43, 4307.05, 4307.07, 718.91, 5726.30, 1919
5727.28, 5727.91, 5728.061, 5735.122, 5735.13, 5735.14, 1920

5735.141, 5735.142, 5736.08, 5739.07, 5741.10, 5743.05, 5743.53, 1921
5745.11, 5749.08, or 5751.08 of the Revised Code or division (B) 1922
of section 5703.05 of the Revised Code, or a fee refunded under 1923
section 3734.905 of the Revised Code, that is received after the 1924
last day for filing under such section shall be considered to 1925
have been filed in a timely manner if: 1926

(A) The application is delivered by the postal service and 1927
the earliest postal service postmark on the cover in which the 1928
application is enclosed is not later than the last day for 1929
filing the application; 1930

(B) The application is delivered by the postal service, 1931
the only postmark on the cover in which the application is 1932
enclosed was affixed by a private postal meter, the date of that 1933
postmark is not later than the last day for filing the 1934
application, and the application is received within seven days 1935
of such last day; or 1936

(C) The application is delivered by the postal service, no 1937
postmark date was affixed to the cover in which the application 1938
is enclosed or the date of the postmark so affixed is not 1939
legible, and the application is received within seven days of 1940
the last day for making the application. 1941

Sec. 5703.19. (A) To carry out the purposes of the laws 1942
that the tax commissioner is required to administer, the 1943
commissioner or any person employed by the commissioner for that 1944
purpose, upon demand, may inspect books, accounts, records, and 1945
memoranda of any person or public utility subject to those laws, 1946
and may examine under oath any officer, agent, or employee of 1947
that person or public utility. Any person other than the 1948
commissioner who makes a demand pursuant to this section shall 1949
produce the person's authority to make the inspection. 1950

(B) If a person or public utility receives at least ten days' written notice of a demand made under division (A) of this section and refuses to comply with that demand, a penalty of five hundred dollars shall be imposed upon the person or public utility for each day the person or public utility refuses to comply with the demand. Penalties imposed under this division may be assessed and collected in the same manner as assessments made under Chapter 3769., 4305., 5727., 5728., 5733., 5735., 5736., 5739., 5743., 5745., 5747., 5749., 5751., or 5753., ~~or sections~~ section 718.90, or 3779.44, or sections 3734.90 to 3734.9014, of the Revised Code.

Sec. 5703.263. (A) (1) "Tax return preparer" means any person other than an accountant or an attorney that operates a business that prepares, or directly or indirectly employs another person to prepare, for a taxpayer a tax return or application for refund in exchange for compensation or remuneration from the taxpayer or the taxpayer's related member. The preparation of a substantial portion of a tax return or application for refund shall be considered to be the same as the preparation of the return or application for refund. "Tax return preparer" does not include an individual who performs only one or more of the following activities:

(a) Furnishes typing, reproducing, or other mechanical assistance;

(b) Prepares an application for refund or a return on behalf of an employer by whom the individual is regularly and continuously employed, or on behalf of an officer or employee of that employer;

(c) Prepares as a fiduciary an application for refund or a return;

(d) Prepares an application for refund or a return for a taxpayer in response to a notice of deficiency issued to the taxpayer or the taxpayer's related member, or in response to a waiver of restriction after the commencement of an audit of the taxpayer or the taxpayer's related member.

(2) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(3) "Accountant" means any of the following:

(a) An individual who holds both a CPA certificate and an Ohio permit or Ohio registration issued by the accountancy board under section 4701.10 of the Revised Code;

(b) An individual who holds a foreign certificate;

(c) An individual who is employed by a public accounting firm with respect to any return prepared under the supervision of an individual described in division (A)(3)(a) or (b) of this section, regardless of whether the public accounting firm is required to register with the accountancy board under section 4701.04 of the Revised Code.

(4) "CPA certificate" and "foreign certificate" have the same meanings as in section 4701.01 of the Revised Code.

(5) "Attorney" means an individual who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules, is permitted to practice as an attorney and counselor at law in this state under Chapter 4705. of the Revised Code, and is not currently suspended or removed from such practice under that chapter.

(6) A tax return preparer engages in "prohibited conduct" if the preparer does any of the following:

(a) Prepares any return or application for refund that	2009
includes an understatement of a taxpayer's tax liability due to	2010
an unreasonable position or due to willful or reckless conduct.	2011
For the purposes of this division, "unreasonable position" and	2012
"willful or reckless conduct" have the meanings as used in	2013
section 6694 of the Internal Revenue Code.	2014
(b) When required under any provision of Title LVII of the	2015
Revised Code, the preparer fails to do any of the following:	2016
(i) Provide copies of a return or application for refund;	2017
(ii) Provide the preparer's signature or federal preparer	2018
tax identification number on a return or application for refund;	2019
(iii) Retain copies of the preparer's records;	2020
(iv) Provide any information or documents requested by the	2021
tax commissioner;	2022
(v) Act diligently in determining a taxpayer's eligibility	2023
for tax credits, deductions, or exemptions.	2024
(c) Negotiates a check or other negotiable instrument	2025
issued to a taxpayer by the department of taxation without the	2026
permission of the taxpayer;	2027
(d) Engages in any conduct subject to criminal penalties	2028
under Title LVII of the Revised Code;	2029
(e) Misrepresents the preparer's eligibility to file	2030
returns or applications for refund on behalf of taxpayers, or	2031
otherwise misrepresents the preparer's experience or education;	2032
(f) Guarantees the payment of any tax refund or the	2033
allowance of any tax credit, deduction, or exemption;	2034
(g) Engages in any other fraudulent or deceptive conduct	2035

that substantially interferes with the proper administration of 2036
any provision of Title LVII of the Revised Code. 2037

(7) "State" means a state of the United States, the 2038
District of Columbia, the commonwealth of Puerto Rico, or any 2039
territory or possession of the United States. 2040

(B) When a tax return preparer engages in prohibited 2041
conduct, the commissioner, may do either or both of the 2042
following: 2043

(1) If the commissioner has previously warned the tax 2044
return preparer in writing of the consequences of continuing to 2045
engage in prohibited conduct, impose a penalty not exceeding one 2046
hundred dollars per instance of prohibited conduct; 2047

(2) Regardless of whether the commissioner has previously 2048
warned the tax return preparer, request that the attorney 2049
general apply to a court of competent jurisdiction for an 2050
injunction to restrain the preparer from further engaging in the 2051
prohibited conduct. The court may take either of the following 2052
actions: 2053

(a) If the court finds that injunctive relief is 2054
appropriate to prevent the recurrence of the prohibited conduct, 2055
the court shall issue an injunction against the preparer 2056
enjoining the preparer from engaging in such conduct. 2057

(b) If the court finds that the preparer has continually 2058
or repeatedly engaged in prohibited conduct, and that enjoining 2059
the preparer solely from engaging in such conduct would not be 2060
sufficient to prevent the preparer's interference with the 2061
proper administration of any provision of Title LVII of the 2062
Revised Code, the court may issue an injunction against the 2063
preparer enjoining the preparer from acting as a tax return 2064

preparer in this state. 2065

If a tax return preparer has been enjoined from preparing 2066
tax returns or applications for refunds by a federal court or by 2067
another state court in the five years preceding the date on 2068
which an injunction is requested under this section, that prior 2069
injunction shall be sufficient to establish a prima facie case 2070
for the issuance of an injunction under division (B) (2) of this 2071
section. 2072

(C) The commissioner may require a tax return preparer to 2073
include the preparer's name and federal preparer tax 2074
identification number when filing any return or application for 2075
refund. If a tax return preparer fails to include this 2076
information when required to do so by the commissioner, or if 2077
the information provided is false, inaccurate, or incomplete, 2078
the commissioner may impose a penalty of fifty dollars for each 2079
such failure, provided that the maximum penalty imposed on a 2080
preparer under this division in a calendar year shall not exceed 2081
twenty-five thousand dollars. 2082

(D) The penalties imposed under divisions (B) (1) and (C) 2083
of this section may be assessed and collected in the same manner 2084
as assessments made under Chapter 3769., 4305., 5727., 5728., 2085
5733., 5735., 5736., 5739., 5743., 5745., 5747., 5749., 5751., 2086
or 5753., section 718.90 or 3779.44, or sections 3734.90 to 2087
3734.9014 of the Revised Code. The commissioner may abate all or 2088
a portion of any penalty imposed under this section upon the 2089
showing of good cause by the tax return preparer. 2090

Sec. 5703.50. As used in sections 5703.50 to 5703.53 of 2091
the Revised Code: 2092

(A) "Tax" includes only those taxes imposed on tangible 2093

personal property listed in accordance with Chapter 5711. of the 2094
Revised Code, taxes imposed under Chapters 3779., 5733., 5736., 2095
5739., 5741., 5747., and 5751. of the Revised Code, and the tax 2096
administered under sections 718.80 to 718.95 of the Revised 2097
Code. 2098

(B) "Taxpayer" means a person subject to or potentially 2099
subject to a tax including an employer required to deduct and 2100
withhold any amount under section 5747.06 of the Revised Code. 2101

(C) "Audit" means the examination of a taxpayer or the 2102
inspection of the books, records, memoranda, or accounts of a 2103
taxpayer for the purpose of determining liability for a tax. 2104

(D) "Assessment" means a notice of underpayment or 2105
nonpayment of a tax issued pursuant to section 718.90, 3779.44, 2106
5711.26, 5711.32, 5733.11, 5736.09, 5739.13, 5741.11, 5741.13, 2107
5747.13, or 5751.09 of the Revised Code. 2108

(E) "County auditor" means the auditor of the county in 2109
which the tangible personal property subject to a tax is 2110
located. 2111

Sec. 5703.70. (A) On the filing of an application for 2112
refund under section 718.91, 3734.905, 3779.43, 4307.05, 2113
4307.07, 5726.30, 5727.28, 5727.91, 5728.061, 5733.12, 5735.122, 2114
5735.13, 5735.14, 5735.141, 5735.142, 5735.18, 5736.08, 5739.07, 2115
5739.071, 5739.104, 5741.10, 5743.05, 5743.53, 5747.11, 5749.08, 2116
5751.08, or 5753.06 of the Revised Code, or an application for 2117
compensation under section 5739.061 of the Revised Code, if the 2118
tax commissioner determines that the amount of the refund or 2119
compensation to which the applicant is entitled is less than the 2120
amount claimed in the application, the commissioner shall give 2121
the applicant written notice by ordinary mail of the amount. The 2122

notice shall be sent to the address shown on the application 2123
unless the applicant notifies the commissioner of a different 2124
address. The applicant shall have sixty days from the date the 2125
commissioner mails the notice to provide additional information 2126
to the commissioner or request a hearing, or both. 2127

(B) If the applicant neither requests a hearing nor 2128
provides additional information to the tax commissioner within 2129
the time prescribed by division (A) of this section, the 2130
commissioner shall take no further action, and the refund or 2131
compensation amount denied becomes final. 2132

(C) (1) If the applicant requests a hearing within the time 2133
prescribed by division (A) of this section, the tax commissioner 2134
shall assign a time and place for the hearing and notify the 2135
applicant of such time and place, but the commissioner may 2136
continue the hearing from time to time, as necessary. After the 2137
hearing, the commissioner may make such adjustments to the 2138
refund or compensation as the commissioner finds proper, and 2139
shall issue a final determination thereon. 2140

(2) If the applicant does not request a hearing, but 2141
provides additional information, within the time prescribed by 2142
division (A) of this section, the commissioner shall review the 2143
information, make such adjustments to the refund or compensation 2144
as the commissioner finds proper, and issue a final 2145
determination thereon. The commissioner may review such 2146
information and make such adjustments as many times as the 2147
commissioner finds proper before the issuance of a final 2148
determination. 2149

(3) If the applicant requests a hearing and provides 2150
additional information within the time prescribed by division 2151
(A) of this section, the commissioner may review the information 2152

and make such adjustments to the refund or compensation as the commissioner finds proper. The commissioner may review such information and make such adjustments as many times as the commissioner finds proper before the issuance of a final determination.

The commissioner shall assign a time and place for the hearing and notify the applicant of such time and place, but the commissioner may continue the hearing from time to time, as necessary. After the hearing, the commissioner may make any additional adjustments to the refund or compensation as the commissioner finds proper and shall issue a final determination thereon.

(4) The commissioner shall serve a copy of the final determination made under division (C)(1), (2), or (3) of this section on the applicant in the manner provided in section 5703.37 of the Revised Code, and the decision is final, subject to appeal under section 5717.02 of the Revised Code.

(D) The tax commissioner shall certify to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code, the amount of the refund to be refunded under division (B) or (C) of this section. The commissioner also shall certify to the director and treasurer of state for payment from the general revenue fund the amount of compensation to be paid under division (B) or (C) of this section.

Sec. 5703.77. (A) As used in this section:

(1) "Taxpayer" means a person subject to or previously subject to a tax or fee, a person that remits a tax or fee, or a person required to or previously required to withhold or collect

and remit a tax or fee on behalf of another person. 2182

(2) "Tax or fee" means a tax or fee administered by the 2183
tax commissioner. 2184

(3) "Credit account balance" means the amount that a 2185
taxpayer remits to the state in excess of the amount required to 2186
be remitted, after accounting for factors applicable to the 2187
taxpayer such as accelerated payments, estimated payments, tax 2188
credits, and tax credit balances that may be carried forward. 2189

(4) "Tax debt" means an unpaid tax or fee or any unpaid 2190
penalty, interest, or additional charge on such a tax or fee due 2191
the state. 2192

(B) As soon as practicable, but not later than sixty days 2193
before the expiration of the period of time during which a 2194
taxpayer may file a refund application for a tax or fee, the tax 2195
commissioner shall review the taxpayer's accounts for the tax or 2196
fee and notify the taxpayer of any credit account balance for 2197
which the commissioner is required to issue a refund if the 2198
taxpayer were to file a refund application for that balance, 2199
regardless of whether the taxpayer files a refund application or 2200
amended return with respect to that tax or fee. The notice shall 2201
be made using contact information for the taxpayer on file with 2202
the commissioner. 2203

(C) Notwithstanding sections 128.47, 718.91, 3734.905, 2204
3779.43, 4307.05, 5726.30, 5727.28, 5727.42, 5727.91, 5728.061, 2205
5735.122, 5736.08, 5739.07, 5739.104, 5741.10, 5743.05, 5743.53, 2206
5747.11, 5749.08, 5751.08, 5753.06, and any other section of the 2207
Revised Code governing refunds, the commissioner may apply the 2208
amount of any credit account balance for which the commissioner 2209
is required to issue a refund if the taxpayer were to file a 2210

refund application for that balance as a credit against the 2211
taxpayer's liability for the tax or fee in the taxpayer's next 2212
reporting period for that tax or fee or issue a refund of that 2213
credit account balance to the taxpayer, subject to division (D) 2214
of this section. 2215

(D) Before issuing a refund to a taxpayer under division 2216
(C) of this section, the tax commissioner shall withhold from 2217
that refund the amount of any of the taxpayer's tax debt 2218
certified to the attorney general under section 131.02 of the 2219
Revised Code and the amount of the taxpayer's liability, if any, 2220
for a tax debt. The commissioner shall apply any amount withheld 2221
first in satisfaction of the amount of the taxpayer's certified 2222
tax debt and then in satisfaction of the taxpayer's liability. 2223
If the credit account balance originates from the tax 2224
administered under sections 718.80 to 718.95 of the Revised 2225
Code, it may be applied only against the taxpayer's certified 2226
tax debt or tax liability due under those sections. 2227

(E) The tax commissioner may adopt rules to administer 2228
this section. 2229

Section 2. That existing sections 131.02, 715.013, 928.01, 2230
928.03, 4506.01, 5502.01, 5502.13, 5502.14, 5703.052, 5703.053, 2231
5703.19, 5703.263, 5703.50, 5703.70, and 5703.77 of the Revised 2232
Code are hereby repealed. 2233

Section 3. Until such time as rules are adopted and 2234
operable under section 3780.03 of the Revised Code, references 2235
in divisions (B)(1) and (2) of section 3779.02 of the Revised 2236
Code to rules adopted under section 3780.03 of the Revised Code 2237
are deemed to be references to applicable rules adopted under 2238
Chapter 3796. of the Revised Code. Until that time, references 2239
in those divisions to adult use cannabis are deemed to be 2240

references to medical marijuana.

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