

As Introduced

134th General Assembly

Regular Session

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S. B. No. 22

Senators Johnson, McColley

**Cosponsors: Senators Antani, Brenner, Cirino, Gavarone, Hoagland, Huffman, S.,
Lang, Peterson, Reineke, Roegner, Romanchuk, Rulli, Schaffer**

A BILL

To amend sections 3701.13, 3715.74, and 4935.03 and 1
to enact sections 103.65, 103.651, 107.42, and 2
107.43 of the Revised Code to establish 3
legislative oversight of the Governor's 4
executive orders and certain public health 5
orders, including by establishing the Ohio 6
Health Oversight and Advisory Committee. 7

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

Section 1. That sections 3701.13, 3715.74, and 4935.03 be 8
amended and sections 103.65, 103.651, 107.42, and 107.43 of the 9
Revised Code be enacted to read as follows: 10

Sec. 103.65. (A) There is hereby created the Ohio health 11
oversight and advisory committee. The committee shall consist of 12
the following members: 13

(1) Five members of the senate appointed by the president 14
of the senate, three of whom are members of the majority party 15
and two of whom are members of the minority party; 16

(2) Five members of the house of representatives appointed 17

by the speaker of the house of representatives, three of whom 18
are members of the majority party and two of whom are members of 19
the minority party. 20

(B) The president and speaker shall make the initial 21
appointments to the committee not later than fifteen days after 22
the effective date of this section. The president and speaker 23
shall make subsequent appointments not later than fifteen days 24
after the commencement of the first regular session of each 25
general assembly. Committee members may be reappointed. Members 26
of the committee shall serve on the committee until appointments 27
are made in the first regular session of the following general 28
assembly, unless a member is removed by the speaker or 29
president, respectively. A vacancy on the committee shall be 30
filled in the same manner as the original appointment. 31

(C) In odd-numbered years, the president shall designate 32
one committee member from the senate who is a member of the 33
majority party as the committee chairperson, and the speaker 34
shall designate one committee member from the house who is a 35
member of the minority party as the committee ranking minority 36
member. In even-numbered years, the speaker shall designate one 37
committee member from the house who is a member of the majority 38
party as the committee chairperson, and the president shall 39
designate one committee member from the senate who is a member 40
of the minority party as the committee ranking minority member. 41

(D) In appointing members from the minority party, and in 42
designating ranking minority members, the president and speaker 43
shall consult with the minority leader of their respective 44
houses. 45

(E) The Ohio health oversight and advisory committee shall 46
meet at the call of the chairperson. 47

(F) The executive director and other employees of the 48
joint medicaid oversight committee shall serve the Ohio health 49
oversight and advisory committee to enable the committee to 50
successfully and efficiently perform its duties. 51

Sec. 103.651. (A) As used in this section, "public health 52
state of emergency" has the same meaning as in section 107.42 of 53
the Revised Code. 54

(B) (1) The Ohio health oversight and advisory committee 55
has the power to do all of the following: 56

(a) Oversee actions taken by the governor or the 57
department of health during a public health state of emergency; 58

(b) Oversee actions taken by the department for preventing 59
the spread of contagious or infectious diseases under section 60
3701.13 of the Revised Code; 61

(c) Consult with and provide advice to the governor and 62
the department regarding necessary and appropriate action during 63
a public health state of emergency. 64

(2) The committee chairperson, when authorized by the 65
committee, the president of the senate, and the speaker of the 66
house of representatives, may issue subpoenas and subpoenas 67
duces tecum to assist the committee in performing its duties. A 68
subpoena or subpoena duces tecum shall be issued, served, and 69
returned, and has consequences, as specified in sections 101.41 70
to 101.45 of the Revised Code. 71

(C) Beginning on the eleventh day of a public health state 72
of emergency, the Ohio health oversight and advisory committee 73
may, by a vote of the majority of its members, rescind an 74
executive order issued by the governor in response to the public 75
health state of emergency, including the executive order to 76

declare an emergency. 77

(D) The committee may, at any time, by a vote of the 78
majority of its members, rescind a special or standing order or 79
rule for preventing the spread of a contagious or infectious 80
disease issued by the department of health under section 3701.13 81
of the Revised Code. 82

(E) (1) If the committee rescinds an executive order or a 83
special or standing order or rule, the governor or the 84
department shall not reissue that executive order or special or 85
standing order or rule, or a substantially similar executive 86
order or special or standing order or rule, for a period of 87
ninety days following the committee's vote to rescind. 88

(2) An executive order issued by the governor, or a 89
special or standing order or rule issued by the department, in 90
violation of division (E) (1) of this section is invalid and has 91
no legal effect. 92

Sec. 107.42. (A) As used in this section, "public health 93
state of emergency" means an emergency for which the governor 94
has declared an emergency in response to a threat to the 95
preservation of the life and health of the people of this state, 96
including an air pollution emergency under section 3704.032 of 97
the Revised Code, an energy shortage emergency under section 98
4935.03 of the Revised Code, and an adulterated consumer product 99
emergency under section 3715.74 of the Revised Code. 100

(B) A public health state of emergency shall exist for not 101
more than thirty days unless extended by a concurrent resolution 102
adopted by both houses of the general assembly. An amendment to 103
a public health state of emergency declaration shall not be 104
considered a new declaration. 105

(C) Beginning the day the governor declares a public health state of emergency, the governor shall report to the president of the senate and the speaker of the house of representatives every action the governor takes in response to the public health state of emergency. 106
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Sec. 107.43. The general assembly may rescind, by adopting a concurrent resolution, any executive order issued by the governor or any emergency declaration issued by the governor, whether issued via executive order or otherwise. If the general assembly rescinds an executive order or emergency declaration, the governor shall not reissue that order or declaration, or a substantially similar order or declaration, for a period of ninety days following the adoption of the concurrent resolution by the general assembly. 111
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An executive order issued by the governor, or any emergency declaration issued by the governor, whether issued via executive order or otherwise, in violation of this section is invalid and has no legal effect. 120
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Sec. 3701.13. (A) As used in this section: 124

(1) "Isolation" means the separation of one or more individuals who has been medically diagnosed with a communicable or contagious disease from other individuals who have not been medically diagnosed with the disease. 125
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(2) "Quarantine" means the separation or restriction of movement of one or more individuals who have come into direct contact with someone who has been medically diagnosed with a communicable or contagious disease. 129
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(B) (1) The department of health shall have supervision of all matters relating to the preservation of the life and health 133
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of the people and have ~~ultimate~~ authority in matters of 135
quarantine and isolation, which it may declare and enforce, when 136
neither exists, and modify, relax, or abolish, when either has 137
been established. ~~The~~ 138

(2) The department may approve methods of immunization 139
against the diseases specified in section 3313.671 of the 140
Revised Code for the purpose of carrying out the provisions of 141
that section and take such actions as are necessary to encourage 142
vaccination against those diseases. 143

~~The (C) (1) Subject to section 103.651 of the Revised Code 144~~
~~and divisions (C) (2) and (3) of this section, the department may 145~~
~~make special or standing orders or rules for preventing the use 146~~
~~of fluoroscopes for nonmedical purposes that emit doses of 147~~
~~radiation likely to be harmful to any person, for preventing the 148~~
~~spread of contagious or infectious diseases, for governing the 149~~
~~receipt and conveyance of remains of deceased persons, and for 150~~
~~such other sanitary matters as are best controlled by a general 151~~
~~rule. 152~~

(2) The general assembly may rescind a special or standing 153
order or rule issued under division (C) (1) of this section by 154
adopting a concurrent resolution. 155

(3) If a special or standing order or rule issued under 156
division (C) (1) of this section is rescinded by the general 157
assembly under division (C) (2) of this section, the department 158
shall not reissue that order or rule, or a substantially similar 159
order or rule, for a period of ninety days following the 160
adoption of the concurrent resolution by the general assembly. 161

(4) A special or standing order or rule issued by the 162
department in violation of division (C) (3) of this section is 163

invalid and has no legal effect. 164

(5) Beginning the day the governor declares a public health state of emergency as defined under section 107.42 of the Revised Code, the department shall report to the president of the senate and the speaker of the house of representatives every action the department takes under this section in response to the public health state of emergency. 165
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(D) In addition to the authority granted by division (C) (1) of this section, the department may make special or standing orders or rules for any of the following purposes: 171
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(1) To prevent the use of fluoroscopes for nonmedical purposes that emit doses of radiation likely to be harmful to any person; 174
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(2) To govern the receipt and conveyance of remains of deceased persons; 177
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(3) To address such other sanitary matters as are best controlled by a general rule. 179
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(E) Whenever possible, the department shall work in cooperation with the health commissioner of a general or city health district. ~~The~~ 181
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In any of the following circumstances, the department may make and enforce orders in local matters or reassign substantive authority for mandatory programs from a general or city health district to another general or city health district: when an emergency exists, ~~or~~ when the board of health of a general or city health district has neglected or refused to act with sufficient promptness or efficiency, or when such board has not been established as provided by sections 3709.02, 3709.03, 3709.05, 3709.06, 3709.11, 3709.12, and 3709.14 of the Revised 184
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Code. In such cases, the necessary expense incurred shall be 193
paid by the general health district or city for which the 194
services are rendered. 195

The department of health may require general or city 196
health districts to enter into agreements for shared services 197
under section 9.482 of the Revised Code. The department shall 198
prepare and offer to boards of health a model contract and 199
memorandum of understanding that are easily adaptable for use by 200
boards of health when entering into shared services agreements. 201
The department also may offer financial and other technical 202
assistance to boards of health to encourage the sharing of 203
services. 204

As a condition precedent to receiving funding from the 205
department of health, the director of health may require general 206
or city health districts to apply for accreditation by July 1, 207
2018, and be accredited by July 1, 2020, by an accreditation 208
body approved by the director. The director of health, by July 209
1, 2016, shall conduct an evaluation of general and city health 210
district preparation for accreditation, including an evaluation 211
of each district's reported public health quality indicators as 212
provided for in section 3701.98 of the Revised Code. 213

(F) The department may make evaluative studies of the 214
nutritional status of Ohio residents, and of the food and 215
nutrition-related programs operating within the state. Every 216
agency of the state, at the request of the department, shall 217
provide information and otherwise assist in the execution of 218
such studies. 219

Sec. 3715.74. (A) As used in this section: 220

(1) "Adulterated" means adulterated as determined under 221

section 3715.59 or 3715.63 of the Revised Code.	222
(2) "Consumer product" means any food or drink that is	223
consumed by humans and any medicine, including a prescription	224
drug, that is consumed or used by humans.	225
(3) "Retailer" means a place of business that offers	226
consumer products for sale to the general public.	227
(B) (1) Except as provided in division (C) of this section,	228
if the governor has a reasonable basis to believe that one or	229
more units of a consumer product have been adulterated and that	230
further sale or use of the consumer product presents a threat to	231
the public health and safety, the governor may declare a public	232
health state of an adulterated consumer product emergency and	233
make any of the following executive public health state of	234
adulterated consumer product emergency orders:	235
(a) That all units of the consumer product be removed from	236
public display by all retailers;	237
(b) That no units of the consumer product be sold or	238
offered for sale during the public health state of <u>adulterated</u>	239
<u>consumer product</u> emergency;	240
(c) That any retailer possessing units of the consumer	241
product segregate these units from other merchandise and hold	242
them or a portion of them for disposition by designated law	243
enforcement officers or officials of the department of	244
agriculture, the department of health, or the state board of	245
pharmacy;	246
(d) Any other limitations, controls, or prohibitions that	247
the governor considers necessary regarding the manufacture,	248
importation, sale, or transportation of the consumer product.	249

(2) The governor may amend or rescind any order issued 250
under division (B) (1) of this section. 251

(C) If the particular type of consumer product referred to 252
in division (B) (1) of this section is one that falls within the 253
jurisdiction of the department of agriculture, the department of 254
health, or the state board of pharmacy, the governor shall not 255
declare ~~a public health state of an adulterated consumer product~~ 256
emergency pursuant to that division unless requested to do so by 257
the department or board that regulates the consumer product. If 258
the governor grants the request, the department or board that 259
made the request shall enforce the provisions of this section. 260

~~(D) A public health state of emergency declared under this~~ 261
~~section shall exist for not more than sixty days unless extended~~ 262
~~by the governor for an additional thirty day period, at which~~ 263
~~time the public health state of emergency shall end unless it is~~ 264
~~extended by a concurrent resolution adopted by both houses of~~ 265
~~the general assembly. An amendment to an executive public health~~ 266
~~state of emergency order shall not be considered a new order.~~ 267

~~(E) Any executive public health state of adulterated~~ 268
~~consumer product emergency order or amended executive public~~ 269
~~health state of adulterated consumer product emergency order~~ 270
issued under this section shall be disseminated promptly by 271
means that bring the order to the attention of the general 272
public. The governor promptly shall file the order with the 273
secretary of state, the department of agriculture, the 274
department of health, and the state board of pharmacy. 275

~~(F) (E)~~ The state is not liable for removal, or for the 276
costs of removal, of consumer products from public display in 277
connection with an executive ~~public health state of adulterated~~ 278
~~consumer product emergency order issued under division (B) (1) (a)~~ 279

of this section. Neither the state nor an agent of the state 280
acting pursuant to a ~~public health state of an adulterated~~ 281
~~consumer product~~ emergency is liable for any damages or loss 282
incurred because of any action pursuant to an executive ~~public~~ 283
~~health state of adulterated consumer product~~ emergency order of 284
that type. 285

~~(G)~~ (F) No person shall knowingly violate an executive 286
~~public health state of adulterated consumer product~~ emergency 287
order issued by the governor under this section. Whoever 288
violates an executive ~~public health state of adulterated~~ 289
~~consumer product~~ emergency order is subject to a fine of not 290
less than five hundred dollars. Each day a violation continues 291
is a separate offense. 292

~~(H)~~ (G) The attorney general, at the direction of the 293
governor or upon request of the director of agriculture, the 294
director of health, the state board of pharmacy, or a 295
prosecuting attorney may commence an action in a court of common 296
pleas to enjoin a violation of an executive ~~public health state~~ 297
~~of adulterated consumer product~~ emergency order issued pursuant 298
to this section or to compel a person to perform a duty imposed 299
by an executive ~~public health state of adulterated consumer~~ 300
~~product~~ emergency order. 301

Sec. 4935.03. (A) The public utilities commission shall 302
adopt, and may amend or rescind, rules in accordance with 303
section 111.15 of the Revised Code, with the approval of the 304
governor, defining various foreseen types and levels of energy 305
emergency conditions for critical shortages or interruptions in 306
the supply of electric power, natural gas, coal, or individual 307
petroleum fuels and specifying appropriate measures to be taken 308
at each level or for each type of energy emergency as necessary 309

to protect the public health or safety or prevent unnecessary or avoidable damage to property. The rules may prescribe different measures for each different type or level of declared energy emergency, and for any type or level shall empower the governor to:

(1) Restrict the energy consumption of state and local government offices and industrial and commercial establishments;

(2) Restrict or curtail public or private transportation or require or encourage the use of car pools or mass transit systems;

(3) Order, during a declared energy emergency, any electric light, natural gas or gas, or pipeline company; any supplier subject to certification under section 4928.08 or 4929.20 of the Revised Code; electric power or gas utility that is owned by a municipal corporation or not for profit; coal producer or supplier; electric power producer or marketer; or petroleum fuel producer, refiner, wholesale distributor, or retail dealer to sell electricity, gas, coal, or petroleum fuel in order to alleviate hardship, or if possible to acquire or produce emergency supplies to meet emergency needs;

(4) Order, during a declared energy emergency, other energy conservation or emergency energy production or distribution measures to be taken in order to alleviate hardship;

(5) Mobilize emergency management, national guard, law enforcement, or emergency medical services.

The rules shall be designed to protect the public health and safety and prevent unnecessary or avoidable damage to property. They shall encourage the equitable distribution of

available electric power and fuel supplies among all geographic 339
regions in the state. 340

(B) The governor may, after consultation with the 341
chairperson of the commission, declare an energy emergency by 342
filing with the secretary of state a written declaration of an 343
energy emergency at any time the governor finds that the health, 344
safety, or welfare of the residents of this state or of one or 345
more counties of this state is so imminently and substantially 346
threatened by an energy shortage that immediate action of state 347
government is necessary to prevent loss of life, protect the 348
public health or safety, and prevent unnecessary or avoidable 349
damage to property. The declaration shall state the counties, 350
utility service areas, or fuel market areas affected, or its 351
statewide effect, and what fuels or forms of energy are in 352
critically short supply. An energy emergency declaration goes 353
into immediate effect upon filing ~~and continues in effect for~~ 354
~~the period prescribed in the declaration, but not more than~~ 355
~~thirty days. At the end of any thirty-day or shorter energy~~ 356
~~emergency, the governor may issue another declaration extending~~ 357
~~the emergency. The general assembly may by concurrent resolution~~ 358
~~terminate any declaration of an energy emergency. The emergency~~ 359
~~is terminated at the time of filing of the concurrent resolution~~ 360
~~with the secretary of state.~~ When an energy emergency is 361
declared, the commission shall implement the measures which it 362
determines are appropriate for the type and level of emergency 363
in effect. 364

(C) Energy emergency orders issued by the governor 365
pursuant to this section shall take effect immediately upon 366
issuance, and the person to whom the order is directed shall 367
initiate compliance measures immediately upon receiving the 368
order. During an energy emergency the attorney general or the 369

prosecuting attorney of the county where violation of a rule 370
adopted or order issued under this section occurs may bring an 371
action for immediate injunction or other appropriate relief to 372
secure prompt compliance. The court may issue an ex parte 373
temporary order without notice which shall enforce the 374
prohibitions, restrictions, or actions that are necessary to 375
secure compliance with the rule or order. Compliance with rules 376
or orders issued under this section is a matter of statewide 377
concern. 378

(D) During a declared energy emergency the governor may 379
use the services, equipment, supplies, and facilities of 380
existing departments, offices, and agencies of the state and of 381
the political subdivisions thereof to the maximum extent 382
practicable and necessary to meet the energy emergency, and the 383
officers and personnel of all such departments, offices, and 384
agencies shall cooperate with and extend such services and 385
facilities to the governor upon request. 386

(E) During an energy emergency declared under this 387
section, no person shall violate any rule adopted or order 388
issued under this section. Whoever violates this division is 389
guilty of a minor misdemeanor on a first offense, and a 390
misdemeanor of the first degree upon subsequent offenses or if 391
the violation was purposely committed. 392

Section 2. That existing sections 3701.13, 3715.74, and 393
4935.03 of the Revised Code are hereby repealed. 394

Section 3. Any executive order issued by the Governor or 395
any emergency declaration issued by the Governor, whether issued 396
via executive order or otherwise, and any special or standing 397
order or rule issued by the Department of Health under section 398
3701.13 of the Revised Code, that is in effect on the effective 399

date of this section is subject to review and rescission by the	400
Ohio Health Oversight and Advisory Committee under section	401
103.651 of the Revised Code and by the General Assembly under	402
sections 107.43 and 3701.13 of the Revised Code.	403