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H.B. 127
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Merrin

Alyssa Bethel, Attorney

SUMMARY

- Vacates violations or sanctions imposed against a business under certain COVID-related orders or rules.
- Returns to businesses any money collected by a state agency or board of health in civil or administrative penalties for a violation.
- Requires state agencies and boards of health to expunge any record of a violation.
- Requires state agencies and boards of health to treat any finding of a violation as a nullity.
- Requires state agencies and boards of health to restore rights and privileges of a business lost as a result of a violation.
- Requires state agencies and boards of health to cease any disciplinary action against a business for violations occurring before the bill's effective date, and prohibits disciplinary action for violations occurring from the bill's effective date to October 1, 2021.
- Allows a business to bring an action to enforce the bill's provisions in the county where the business is located.
- Makes an appropriation, in an amount to be determined by state agencies, that the Director of Budget and Management will use to reimburse businesses.

DETAILED ANALYSIS

COVID-related business violations

The bill contains various provisions applicable to businesses¹ that have violated any order, rule, or directive related to COVID-19 that is issued by an elected state officer, a state agency, or a board of health.²

Vacate violations

First, the bill vacates any violation (and any sanctions imposed in response to a violation) that occurred between March 14, 2020, and the bill's effective date.³ Any record of a violation must be expunged not later than 30 days after the bill takes effect.⁴ Elected state officers, state agencies, and boards of health must treat any finding of a violation as a nullity and take the steps within their power to restore (within 30 days) any rights or privileges lost as a result of a finding of violation; the bill specifically includes reinstatement of a revoked license and other right or privilege to do business.⁵

Cease disciplinary action

Second, the bill requires elected state officers, state agencies, and boards of health to cease any disciplinary action against a business for violations occurring before the bill's effective date. The bill also prohibits disciplinary action for violations occurring after the bill's effective date, but before October 1, 2021, so long as the business otherwise operates within compliance with applicable license and permits.⁶

Refund civil and administrative fines

Third, the bill requires elected state officers, state agencies, and local boards of health to refund any money collected in a civil or administrative penalty for a violation. Not later than 30 days after the bill takes effect, these amounts must be determined and refunded to businesses. A board of health refunds the money directly to each business. Elected state officers and state agencies must certify a list of businesses and amounts to the Director of

¹ Defined to mean a corporation, association, partnership, limited liability company, sole proprietorship, joint venture, or other business entity composed of one or more individuals, whether or not the entity is operated for profit.

² The bill specifically includes executive orders (or an order related to an executive order); state or local orders issued under Revised Code Chapter 3701; emergency rules under the Administrative Procedure Act (R.C. 119.03(G)), but also generally applies to any order, rule, or directive of elected state officers, state agencies, and boards of health. See definitions in Section 1(A).

³ Section 1(B)(1).

⁴ Section 1(B)(2)(c).

⁵ Section 1(B)(2)(d).

⁶ Section 1(B)(3) and (C).

Budget and Management, who then must issue the refunds to each business.⁷ The bill makes an appropriation for the certified amounts.⁸

Enforcement of bill

Finally, the bill allows a business to bring an action to enforce the bill's provisions in the county where the business is located.⁹

HISTORY

Action	Date
Introduced	02-16-21

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⁷ Section 1(B)(2)(a) and (b).

⁸ Section 2.

⁹ Section 3.