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Bill Analysis

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SUMMARY

- Creates the Universal Regulatory Sandbox Program.
- Establishes the Universal Regulatory Sandbox Program Advisory Committee and a regulatory relief office to administer the sandbox program.
- Provides guidelines and required materials for the sandbox program application.
- Describes the evaluation process of applicants to the Universal Regulatory Sandbox Program.
- Establishes guidelines on the limits of an approved participant’s demonstration and offering.
- Requires participants in the sandbox program to make certain disclosures to consumers before engaging in transactions.
- Establishes recordkeeping requirements for sandbox program participants.
- Permits a participant to request an extension of the demonstration period of up to 12 months.
- Implements reporting requirements for sandbox program participants, state agencies, and the regulatory relief office.
- Requires the regulatory relief office to collect public suggestions to reform state laws and regulations to reduce regulatory burdens.

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DETAILED ANALYSIS

Universal Regulatory Sandbox Program

The bill creates a Universal Regulatory Sandbox Program under the Department of Commerce. Unlike the existing regulatory sandbox program found in Chapter 1355 of the Revised Code, which only pertains to novel financial products or services, this universal regulatory sandbox program (referred to, hereafter, as the “sandbox program”) applies to any innovative product or service across all industries. Businesses may apply to offer a new product or service through the sandbox program which would otherwise be prohibited by certain state laws or regulations, or without the business needing to obtain a license or authorization that might otherwise be required. If the application is approved, certain laws or regulations may be temporarily waived or suspended with respect to that product or service, permitting the business to demonstrate the value of relaxing certain statutory or regulatory restrictions on businesses and industries.¹

¹ R.C. 1357.02(A); R.C. 1355.02, not in the bill.

Regulatory relief office

The bill requires the Director of Commerce to establish a regulatory relief office within the Department of Commerce, which is responsible for administering the sandbox program and applications for participation. The regulatory relief office will also act as the liaison between private businesses and state agencies to identify state laws or regulations that could be waived or suspended under the sandbox program.²

The bill permits the regulatory relief office to do all of the following:

- Identify state laws and regulations which it believes unnecessarily inhibit the creation and success of new companies or industries in Ohio;
- Make recommendations to the Governor and the General Assembly regarding modifying those laws and regulations;
- Create a framework through which to analyze the risk to health, safety, and well-being of consumers as a result of permanently removing or temporarily waiving state laws and regulations that inhibit the creation or success of new and existing companies or industries in Ohio;
- Propose reciprocity agreements between states that use, or are proposing to use, similar regulatory sandbox programs to the sandbox program proposed by the bill, or to the existing sandbox program under Chapter 1355 of the Revised Code.³

The regulatory relief office is permitted to adopt rules as necessary to administer the sandbox program, including rules that establish application and reporting requirements, and that allow for cooperation and consultation with the Superintendent of Financial Institutions to ensure cooperation with the existing regulatory sandbox program under Chapter 1355 of the Revised Code.⁴

Universal Regulatory Sandbox Program Advisory Committee

The bill creates the Universal Regulatory Sandbox Program Advisory Committee (referred to, hereafter, as the “Advisory Committee”) within the Department of Commerce, comprised of 11 members who will advise and make recommendations to the regulatory relief office. The bill requires the Advisory Committee to review applications for participation in the sandbox program and to make recommendations to the regulatory relief office as to whether an application should be approved.⁵

The bill establishes the initial Advisory Committee members as follows:

² R.C. 1357.02(B).

³ R.C. 1357.02(C).

⁴ R.C. 1357.02(C)(4).

⁵ R.C. 1357.04(A).

- Three members, appointed by the Director of Commerce, representing business interests from a variety of industry clusters, who will serve a term ending January 1, 2027;
- Three members, appointed by the Director of Commerce, representing business interests from a variety of industry clusters, who will serve a term ending January 1, 2029;
- Two members, appointed by the Director of Commerce, representing state agencies which regulate business, who will serve a term ending January 1, 2027;
- One member, appointed by the Director of Commerce, representing state agencies which regulate business, who will serve a term ending January 1, 2029;
- One member of the Senate, appointed by the President of the Senate, who will serve a term ending January 1, 2029;
- One member of the House of Representatives, appointed by the Speaker of the House of Representatives, who will serve a term ending January 1, 2029.

The Committee members, who serve without compensation, must be appointed within 30 days after the bill's effective date, and any subsequent vacancies on the Advisory Committee must be filled in the same manner by the same appointing authority. After the initial term for each member appointed by the Director of Commerce, each subsequent member will serve a term lasting four years. Committee members appointed from the Senate or the House of Representatives will serve a term of two years or for the remainder of their legislative term, whichever is less.⁶

The Director of Commerce will select a chairperson for the Advisory Committee each year, and the Committee will meet at the call of the chairperson. The initial meeting must occur within 30 days after the last member's appointment. A majority of members constitutes a quorum for the Advisory Committee to conduct business. If needed, the regulatory relief office will provide technical and administrative support to the Committee. The Advisory Committee is not a public body required to conduct public meetings.⁷

Universal Regulatory Sandbox Program application

Required materials

The bill requires any person seeking to participate in the sandbox program to submit an application to the regulatory relief office. If requested, the office must assist a person interested in participating in the sandbox program with preparing an application. The form and manner of the application are set by the regulatory relief office, but the bill requires it to include, at a minimum, all of the following:

⁶ R.C. 1357.03(B), (C), and (D).

⁷ R.C. 1357.03(E), (F), and (G).

- Confirmation that the applicant is subject to the jurisdiction of the Department of Commerce;
- Confirmation that the applicant has established a physical or virtual location in the state, from which it will demonstrate an innovative offering and where all required records, documents, and data will be maintained;
- The applicant's relevant personal and contact information, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the regulatory relief office;
- Disclosure of any criminal convictions of the applicant or other participating individuals;
- A list of the state agencies that regulate the applicant's business;
- Other information required by the regulatory relief office.⁸

The application must also include a description of the applicant's innovative offering. The applicant must describe how the offering is subject to licensing, legal prohibition, or other authorization requirements outside of the sandbox, and each law or regulation which the applicant seeks to waive or suspend while participating. Alongside this, the applicant must describe the proposed demonstration plan, including its estimated duration and how the regulatory sandbox would enable the applicant to successfully demonstrate the offering. Lastly, the application must describe each of the following:

- The offering's benefits to consumers;
- How the offering differs from others available in Ohio;
- The risks that may exist for consumers who use or purchase the offering;
- How the applicant will end the demonstration and protect consumers if the offering fails;
- Acknowledgement that the applicant is subject to all laws and regulations regarding the offering after the demonstration concludes.⁹

If an applicant seeks to demonstrate more than one offering through the sandbox program, the applicant must file a separate application for each offering.¹⁰

Fees

The Director of Commerce may impose an application fee to offset the costs of the regulatory relief office and the costs of administering the sandbox program. The bill creates the Universal Regulatory Sandbox Program Fund within the state treasury, into which the

⁸ R.C. 1357.06(A) and (B).

⁹ R.C. 1357.06(A)(5).

¹⁰ R.C. 1357.06(D).

regulatory relief office will deposit the fees. Money in the fund will be used for the purposes of the bill.¹¹

Regulatory relief office review

The bill requires the regulatory relief office to process and review applications for participation in the sandbox program. The office must consult with applicable government agencies which regulate the applicant's business and, if more information is required from the applicant, must seek out that information. The contents of each application and any related information provided by the applicant are considered confidential, and the application is not a public record.¹²

The regulatory relief office must review an application and refer it to the appropriate agency within five business days after receipt. In addition, it must provide the applicant with acknowledgement of receipt as well as the name and contact information for each state agency reviewing the application.¹³

Agency review

Within 30 days after receiving a complete application, the bill requires a state agency to review the application and provide a report to the regulatory relief office which recommends that the applicant be admitted, or denied entrance, into the sandbox program. The report must describe any identifiable, likely, and significant harm addressed by the law or regulation the application seeks or waive or suspend. The bill permits an agency to extend the general, 30-day deadline by five business days by providing written notice to the regulatory relief office. Only one extension is allowed for each application. If an agency fails to deliver a report by the deadline, the regulatory relief office is required to proceed as though the agency does not object to temporarily waiving or suspending the relevant laws or regulations.¹⁴

Preliminary application denial

If an agency recommends that an applicant be denied entrance into the sandbox program, the report submitted to the regulatory relief office must include the reasons for recommending the denial. The reasons must include the agency's reasoning why a temporary waiver or suspension of the relevant laws or regulations would potentially cause significant harm to the health, safety, or financial well-being of consumers or the public, why it may create unreasonable expenses for the state's taxpayers, and the likelihood of the harm or expenses. If the agency determines that consumers or the public can be protected through less restrictive

¹¹ R.C. 1357.06(C).

¹² R.C. 1357.06(E) and (G).

¹³ R.C. 1357.06(F).

¹⁴ R.C. 1357.07(A)(1), (2), and (5).

means than existing laws or regulation, the bill requires the agency to recommend how that may be achieved.¹⁵

Under the bill, the regulatory relief office must reject an application under the following circumstances:

- An applicable state agency recommends that the applicant be denied entrance to the sandbox program;
- An applicable state agency determines that the applicant's offering fails to comply with standards or specifications required by federal law or regulations;
- The regulatory relief office determines that the applicant is better suited for the existing regulatory sandbox program under Chapter 1355 of the Revised Code;
- The applicant, or any person seeking to participate with the applicant in the sandbox program, has been convicted of any crime involving significant theft, fraud or dishonesty, or has entered a plea of guilty or no contest for the same crime.¹⁶

Advisory Committee review

The regulatory relief office must provide all applications not rejected for a reason described above, and their corresponding agency reports, to the Advisory Committee. The Committee must meet at least once per calendar quarter to review these applications and agency reports, unless there are no applications available to review.¹⁷ In reviewing an application, the Committee is required to consider the following factors:

- Whether the applicable agency previously issued a license or other authorization to the applicant;
- Whether the agency has previously investigated, sanctioned, or pursued legal action against the applicant;
- Whether a competitor to the applicant is or has been a participant in the sandbox program;
- Whether the applicant's plan adequately protects consumers from harm;
- The risk of harm to consumers compared to the potential benefits of the applicant's participation in the sandbox program.¹⁸

¹⁵ R.C. 1357.07(A)(3) and (4).

¹⁶ R.C. 1357.07(B).

¹⁷ R.C. 1357.07(C)(1) to (3).

¹⁸ R.C. 1357.07(D).

After reviewing an application and its corresponding agency reports, the Advisory Committee must provide a recommendation to the Director of Commerce as to whether the applicant should be admitted or denied entrance to the sandbox program.¹⁹

If the Committee recommends that an applicant be admitted to the sandbox program, the regulatory relief office may consult with the Director and enter into a written agreement with the applicant to admit the applicant to the sandbox program. This agreement must describe the specific laws or regulations that are waived or suspended as part of the applicant's participation in the sandbox program.²⁰

Application denial

The bill permits the regulatory relief office and the Director of Commerce to deny an application for any reason, such as an evidence-based determination that suspending or waiving a law or regulation would cause significant risk of harm to consumers or Ohio residents. As described above, the office of regulatory relief must provide to the applicant a written description of the reasons for the application's denial. However, any application denial by the office of regulatory relief or the Director is final.²¹

Participation in the Universal Regulatory Sandbox Program

General

The bill permits a participant in the sandbox program to demonstrate their offering for one year following the date the participant entered into the agreement with the regulatory relief office. During this period, the participant is not subject to enforcement of the laws or regulations waived or suspended by the written agreement with the regulatory relief office. The bill prohibits prosecutors from filing or pursuing charges against the participant related to those laws or regulations during this period. Similarly, state agencies may not pursue punitive action against a participant related to those laws or regulations. However, the participant does not have immunity related to any criminal offense committed during their participation in the sandbox program.²²

Additionally, an agreement admitting an applicant to the sandbox program may not waive or suspend any tax levied by the state or other authority within the state, or any law or regulation which allows consumers to seek restitution in the event they are harmed.

The agreement's provisions to waive or suspend a law or regulation only apply with respect to that participant and consumers who are residents of this state. They do not apply to businesses not participating in the sandbox program, nor to consumers who are not Ohio

¹⁹ R.C. 1357.07(C)(4).

²⁰ R.C. 1357.08(A)(1) and (2).

²¹ R.C. 1357.07(E).

²² R.C. 1357.08(D) and (E).

residents. However, participation in the sandbox program does not impact a participant's ability to conduct business for which it is licensed or authorized in another jurisdiction.²³

Required disclosures

Any participant in the sandbox program must disclose all of the following to a consumer before demonstrating the offering:

- The name and contact information of the sandbox participant;
- That the offering is authorized under the sandbox program;
- If applicable, that the participant does not have a license or other authorization to provide the offering under state law outside of the sandbox program;
- That the offering is undergoing testing, it may not function as intended, and it may expose the consumer to risks identified in the agency's report;
- That the participant is not immune from civil liability for losses or damages caused by the offering;
- That the participant is not immune from criminal prosecution if it violates state law or regulations not waived or suspended by the sandbox program;
- That the offering is a temporary demonstration;
- The expected end date of the demonstration;
- That the consumer may contact the regulatory relief office to file a complaint regarding the offering;
- The regulatory relief office's telephone number and website address where a complaint may be filed.

The disclosures must be clearly and conspicuously provided to a consumer. If the offering is internet or application-based, a consumer must acknowledge receipt of the disclosures before the transaction may be completed. Furthermore, the regulatory relief office may require a participant to make additional disclosures to a consumer.²⁴

Recordkeeping requirements

Under the bill, each sandbox program participant must retain any records, documents, or data produced in the ordinary course of business regarding the offering demonstrated through the sandbox program. If a participant ends its offering prior to the end of the demonstration period, it must notify the regulatory relief office and each applicable agency and report on actions taken to ensure that consumers have not been harmed. The regulatory relief

²³ R.C. 1357.08(A)(3), (A)(4), and (B).

²⁴ R.C. 1357.09.

office is required to establish quarterly reporting requirements for the participant, including information about consumer complaints.

The bill permits the regulatory relief office to request records, documents, or data from a participant and requires the participant to provide that information for inspection upon such a request.²⁵

Removal from the Universal Regulatory Sandbox Program

The regulatory relief office may remove a participant from the sandbox program at any time and for any reason by providing written notice. This includes situations where the Director of Commerce determines that the participant is not operating in good faith to bring an innovative offering to market.²⁶

The regulatory relief office may also remove a participant from the sandbox program if it determines that the participant has engaged in, is engaging in, or will imminently engage in any practice or transaction that violates the bill, or any other law or regulation not waived or suspended by the sandbox program.²⁷

If a participant's inclusion in the sandbox program is ended, neither the regulatory relief office nor its employees are liable for any business losses or application expenses incurred by the participant in relation to the sandbox program.²⁸

Demonstration period expiration and extensions

The bill requires participants in the sandbox program to notify the regulatory relief office no less than 30 days before the end of the 12-month demonstration period whether the participant is seeking an extension or plans to exit the sandbox program. If the office does not receive this notice by the required deadline, then the demonstration period will end on the date one year after the date on which the participant entered into the agreement with the office. However, if a demonstration includes an offering that requires ongoing duties, the bill requires the sandbox participant to continue to fulfill those duties after the sandbox program demonstration period ends.²⁹

If a participant properly requests an extension of the demonstration period prior to the deadline, the regulatory relief office must grant or deny the request before the end of the demonstration period. If approved, the office may grant an extension for no more than 12 months following the date on which the initial demonstration period ended.³⁰

²⁵ R.C. 1357.12(A), (B), and (C).

²⁶ R.C. 1357.08(F).

²⁷ R.C. 1357.12(G).

²⁸ R.C. 1357.08(G).

²⁹ R.C. 1357.10.

³⁰ R.C. 1357.11.

Reporting requirements

Regulatory relief office

Beginning October 1, of the year following the effective date of this bill, the Director of Commerce must submit a written report to the General Assembly regarding the activities of the regulatory relief office. This report must contain all of the following:

- Information regarding each participant in the sandbox program, including the industry that the participant represents and the anticipated or actual cost savings experienced by each participant;
- Information on the sandbox program's impact on consumer outcomes;
- Recommended changes to laws or regulations that the regulatory relief office determines unnecessarily inhibit the creation and success of new companies or industries;
- Recommended changes to the sandbox program or the regulatory relief office.³¹

Sandbox participants

A sandbox participant is required to notify the regulatory relief office and any applicable agency of any incident that results in harm to the health, safety, or financial well-being of a consumer. Failure to do so permits the regulatory relief office to immediately remove the participant from the sandbox program.³²

Within 30 days after exiting the sandbox program, the bill requires any participant to submit a written report to the regulatory relief office and each applicable agency detailing the demonstration, including any incidents of harm to consumers, any legal action filed against the participant as a result of the demonstration, and any complaints filed with an applicable agency as a result of the demonstration.³³

State agencies

Within 30 days after an applicable agency receives a quarterly report or written report from a sandbox participant, the bill requires the agency to provide a written report to the regulatory relief office describing any statutory or regulatory reform the agency recommends based on the demonstration.³⁴

³¹ R.C. 1357.05.

³² R.C. 1357.12(D).

³³ R.C. 1357.12(E).

³⁴ R.C. 1357.12(F).

Public suggestions and recommendations

The bill requires the regulatory relief office to create and maintain a public webpage on the Department of Commerce website through which Ohio residents and businesses can make suggestions regarding laws and regulations that could be modified or eliminated. On a quarterly basis, if not more frequently, the regulatory relief office is required to compile all suggestions submitted through the webpage and provide a written report to the Governor and the General Assembly which describes the most common suggestions. In compiling the report, the regulatory relief office and the Advisory Committee must ensure that private information of the residents and businesses remains private.

The regulatory relief office may evaluate the report and provide suggestions regarding which state laws or regulations could be modified or eliminated, with the purpose of reducing the regulatory burden on Ohio residents and businesses while still protecting consumers.³⁵

HISTORY

Action	Date
Introduced	04-08-24

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³⁵ R.C. 1357.13.