

AN ACT

To amend sections 901.23, 921.12, 940.02, 941.01, 941.03, 941.04, 941.06, 941.07, 941.09, 941.10, 941.11, 941.14, 943.02, 943.14, 1327.46, 1327.48, 1327.50, 1327.501, 1327.61, 1327.99, and 4707.02 and to enact section 1327.502 of the Revised Code to include diseases of concern within the scope of the Animal Diseases Law, and to make changes to the laws governing weights and measures, livestock dealers, auctioneers, the membership of the Farmland Preservation Advisory Board, the duties of the Ohio Soil and Water Conservation Commission, and the pesticide licensing renewal process.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 901.23, 921.12, 940.02, 941.01, 941.03, 941.04, 941.06, 941.07, 941.09, 941.10, 941.11, 941.14, 943.02, 943.14, 1327.46, 1327.48, 1327.50, 1327.501, 1327.61, 1327.99, and 4707.02 be amended and section 1327.502 of the Revised Code be enacted to read as follows:

Sec. 901.23. (A) There is hereby created the farmland preservation advisory board consisting of twelve voting members appointed by the director of agriculture as follows:

- (1) One member who is a county commissioner or a representative of a statewide organization that represents county commissioners;
- (2) One member who is a township trustee or a representative of a statewide organization that represents township trustees;
- (3) One representative of ~~the an~~ Ohio state university;
- (4) One representative of a nonprofit organization dedicated to the preservation of farmland;
- (5) One representative each of development, environmental, planning, and soil and water conservation interests;
- (6) One farmer from each of the state's four quadrants.

Terms of office shall be staggered and shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed, except that the term of any member who is a county commissioner or township trustee shall end when the member ceases to serve as a county commissioner or township trustee.

Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member was appointed shall serve for the remainder of that term. A member shall continue to serve subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. Members

shall serve at the pleasure of the director.

The executive director of the office of farmland preservation in the department of agriculture or another employee of the department who is designated by the director shall serve as the nonvoting chairperson of the board. The director annually shall designate one member of the board to serve as its vice-chairperson. The board may adopt bylaws governing its operation and shall meet at a time when the director, or the director's designee, considers it appropriate in order for the board to provide advice as required under division (B) of this section.

(B) The board shall provide advice to the director regarding all of the following:

(1) The design and implementation of an agricultural easement purchase program;

(2) The selection of applications that will be awarded matching grants under division (D) of section 901.22 of the Revised Code for the purchase of agricultural easements;

(3) The design and implementation of any other statewide farmland protection measures that the director considers appropriate.

(C) Serving as a member of the board does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment.

(D) A board member shall be reimbursed for actual and necessary expenses incurred in the discharge of duties as a board member.

Sec. 921.12. (A) The director of agriculture shall require each applicant for a license under section 921.06 or 921.11 of the Revised Code to be examined on the applicant's knowledge and competency in each of the following:

(1) This chapter and rules adopted under it;

(2) The proper use, handling, and application of pesticides and, if the applicant is applying for a license under section 921.06 of the Revised Code, in the conducting of diagnostic inspections in the pesticide-use categories for which the applicant has applied.

(B) Each application for renewal of a license provided for in section 921.06 of the Revised Code shall be filed prior to the deadline established by rule. If filed after the deadline, a penalty of fifty per cent shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license is issued. However, if a license issued under section 921.06 or 921.11 of the Revised Code is not renewed within one ~~year of~~ hundred eighty days after the date of expiration, the licensee shall be required to take another examination on this chapter and rules adopted under it and on the proper use, handling, and application of pesticides and, if applicable, the proper conducting of diagnostic inspections in the pesticide-use categories for which the licensee has been licensed.

(C) A person who fails to pass an examination under division (A) or (B) of this section is not entitled to an adjudication under Chapter 119. of the Revised Code for that failure.

(D) The holder of a commercial applicator license may renew the license within one ~~year of~~ hundred eighty days after the date of expiration without re-examination unless the director determines that a new examination is necessary to insure that the holder continues to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

(E) The ~~director shall determine when~~ holder of a private applicator license may renew the license within one hundred eighty days after the date of expiration without re-examination for unless

~~the renewal of licenses for private applicators~~ director determines that a new examination is required necessary to insure that ~~private applicators continue~~ the holder continues to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

(F) Instead of requiring a commercial applicator or private applicator to complete re-examination successfully under division (D) or (E) of this section, the director may require, in accordance with criteria established by rule, the commercial applicator or private applicator to participate in training programs that are designed to foster knowledge of new technology and to ensure a continuing level of competence and ability to use pesticides safely and properly. The director or the director's representative may provide the training or may authorize a third party to do so. In order for such authorization to occur, the third party and its training program shall comply with standards and requirements established by rule.

Sec. 940.02. There is hereby established in the department of agriculture the Ohio soil and water conservation commission. The commission shall consist of seven members of equal status and authority, six of whom shall be appointed by the governor with the advice and consent of the senate, and one of whom shall be designated by resolution of the board of directors of the Ohio federation of soil and water conservation districts. The directors of agriculture, environmental protection, and natural resources, the vice-president for agricultural administration of the Ohio state university, and an officer of the Ohio federation of soil and water conservation districts, or their designees, may serve as ex officio members of the commission, but without the power to vote. A vacancy in the office of an appointed member shall be filled by the governor, with the advice and consent of the senate. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Of the appointed members, four shall be persons who have a knowledge of or interest in agricultural production and the natural resources of the state. One member shall represent rural interests and one member shall represent urban interests. Not more than three of the appointed members shall be members of the same political party.

Terms of office of the member designated by the board of directors of the federation and the members appointed by the governor shall be for four years, commencing on the first day of July and ending on the thirtieth day of June.

Each appointed member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any appointed member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

The commission shall organize by selecting from its members a chairperson and a vice-chairperson. The commission shall hold at least one regular meeting in each quarter of each calendar year and shall keep a record of its proceedings, which shall be open to the public for inspection. Special meetings may be called by the chairperson and shall be called by the chairperson upon receipt of a written request signed by two or more members of the commission. Written notice of the time and place of each meeting shall be sent to each member of the commission. A majority of the commission shall constitute a quorum.

The commission may adopt rules as necessary to carry out the purposes of this chapter,

subject to Chapter 119. of the Revised Code.

The governor may remove any appointed member of the commission at any time for inefficiency, neglect of duty, or malfeasance in office, after giving to the member a copy of the charges against the member and an opportunity to be heard publicly in person or by counsel in the member's defense. Any such act of removal by the governor is final. A statement of the findings of the governor, the reason for the governor's action, and the answer, if any, of the member shall be filed by the governor with the secretary of state and shall be open to public inspection.

All members of the commission shall be reimbursed for the necessary expenses incurred by them in the performance of their duties as members.

Upon recommendation by the commission, the director of agriculture shall designate an executive secretary and provide staff necessary to carry out the powers and duties of the commission.

The commission shall do all of the following:

(A) Determine distribution of funds under section 940.15 of the Revised Code, recommend to the director and other agencies the levels of appropriations to special funds established to assist soil and water conservation districts, and recommend the amount of federal funds to be requested and policies for the use of such funds in support of soil and water conservation district programs;

(B) Assist in keeping the supervisors of soil and water conservation districts informed of their powers and duties, program opportunities, and the activities and experience of all other districts, and facilitate the interchange of advice, experience, and cooperation between the districts;

(C) Seek the cooperation and assistance of the federal government or any of its agencies, and of agencies of this state, in the work of the districts;

(D) Adopt appropriate rules governing the conduct of elections provided for in this chapter, subject to Chapter 119. of the Revised Code, provided that only owners and occupiers of lands situated within the boundaries of the districts or proposed districts to which the elections apply shall be eligible to vote in the elections;

(E) Recommend to the director priorities for planning and construction of small watershed projects, and make recommendations to the director concerning coordination of programs as proposed and implemented in agreements with soil and water conservation districts;

(F) Recommend to the director, the governor, and the general assembly programs and legislation with respect to the operations of soil and water conservation districts that will encourage proper soil, water, and other natural resource management and promote the economic and social development of the state;

(G) Recommend to the director of agriculture a procedure for coordination of a program of agricultural pollution abatement. Implementation of such a program shall be based on ~~air and water~~ quality standards adopted pursuant to ~~sections 3704.03 and section 6111.041~~ of the Revised Code, respectively. ~~The director of agriculture, through the division of soil and water conservation, shall coordinate the efforts of state and local governmental agencies to meet the minimum state air and water quality standards relating to agricultural pollutants. The director of environmental protection shall utilize~~ may coordinate with the division of soil and water conservation in the department of agriculture and soil and water conservation districts ~~in encouraging landowner for the~~ abatement of agricultural pollution.

Sec. 941.01. As used in this chapter:

(A) "Dangerously contagious or infectious disease" means any disease, including any foreign animal disease, or vector, that the director of agriculture, in ~~his~~ the director's sound discretion, determines to be of harmful effect on the animal or poultry industry or the public health and to be capable of transmission by any means from a carrier animal to a human or to another animal.

(B) "Disease of concern" means any disease, including any foreign animal disease, or vector, that the director determines may have an adverse impact on the animal or poultry industry or to the public health in this state, but that is not a disease that is reportable to the United States department of agriculture.

(C) "Geographic area" means any county or counties within this state or parts thereof as may be designated by the director.

~~(C)-(D)~~ "(D) "Animal" means any animal that is a bird, reptile, amphibian, fish, or mammal, other than humans.

~~(D)-(E)~~ "(E) "Domestic animal" includes livestock; other animals that through long association with humans have been bred to a degree resulting in genetic changes affecting the temperament, color, conformation, or other attributes of the species to an extent that makes them different from nondomestic animals of their kind; and other animals as defined by rule by the director.

~~(E)-(F)~~ "(F) "Foreign animal disease" means a contagious or infectious disease that is not present in United States domestic or nondomestic species populations and is listed by the United States department of agriculture as a "foreign animal disease."

~~(F)-(G)~~ "(G) "Nondomestic animal" means any animal that is not domestic, including at least nonindigenous animals and animals usually not in captivity.

~~(G)-(H)~~ "(H) "Poultry" means any domesticated fowl kept in confinement, except for doves and pigeons, that are bred for the primary purpose of producing eggs or meat for human consumption. "Poultry" includes chickens, turkeys, waterfowl, and game birds.

~~(H)-(I)~~ "(I) "Vector" means a disease carrier, usually from, but not limited to, the arthropod class, ~~which~~ that transfers an infectious agent that may transmit a dangerously contagious or infectious disease from one host to another.

~~(I)-(J)~~ "(J) "Residue" means any poisonous or deleterious pesticide governed by 40 C.F.R. 180, any poisonous or deleterious substance governed by 21 C.F.R. 109.6, or any other substance governed by 21 C.F.R. 556.

~~(J)-(K)~~ "(K) "Seal" means any band or object made of metal, plastic, or other material placed on a vehicle or other means of conveyance so that when the vehicle or conveyance is opened, the band or object is affected, altered, or broken.

Sec. 941.03. (A) The director of agriculture, under Chapter 119. of the Revised Code, may adopt and enforce rules to carry out this chapter, including designating a disease or vector as a dangerously contagious or infectious disease or as a disease of concern.

(B) No person shall fail to comply with the rules adopted by the director under division (A) of this section.

Sec. 941.04. (A) Whenever the director of agriculture or ~~his~~ the director's authorized representative reasonably suspects that any premises or means of conveyance contains an animal that is infected with or has been exposed to a dangerously contagious or infectious disease or a disease of concern or is adulterated with a residue, ~~he~~ the director or the director's authorized representative

shall have free access to those premises or that means of conveyance at any reasonable time.

(B) Whenever the director of agriculture or ~~his~~ the director's authorized representative reasonably suspects that any vehicle or means of conveyance traveling into or through the state contains an animal, ~~he~~ the director or the director's authorized representative shall have free access to the vehicle or means of conveyance, including the right to stop ~~such~~ the vehicle or conveyance transporting animals into or through the state. The director or ~~his~~ the director's authorized representative may examine any certificate of veterinary inspection, animal health certificate, waybill, yarding ~~receipt~~ receipt, sale ticket, or other document required by this chapter or rules adopted under it. The director or ~~his~~ the director's authorized representative also may inspect the vehicle or conveyance for the purposes of verifying the presence or existence of any animal for which a document is required by this chapter or rules adopted under it and verifying lawful possession or ownership of the animal. This division does not apply to animals transported intrastate.

Within the parameters of the United States and Ohio constitutions, any person who operates a vehicle or means of conveyance upon a roadway in this state is deemed to have consented to the inspection of the vehicle or conveyance and the documents as described in this section.

(C) In the event the owner of the animal or the operator of the vehicle or conveyance fails to present any document required by this chapter and rules adopted under it, or if the documents indicate or the director or ~~his~~ the director's authorized representative reasonably suspects that an animal is infected with or has been exposed to a dangerously contagious or infectious disease or a disease of concern or is adulterated with a residue, the director or ~~his~~ the director's authorized representative shall seal the vehicle or conveyance. A seal shall not be broken or removed from a vehicle or conveyance within this state or any other state except by the director or ~~his~~ the director's authorized representative or by a person holding a similar position in another state, territory, or country.

Once the vehicle or conveyance is sealed, its operator shall choose a course of action to be taken under division (D) of section 941.10 of the Revised Code. If the operator fails to choose and the owner of the animal can be contacted, the owner shall make the choice. If the owner cannot be contacted, the director or ~~his~~ the director's authorized representative shall make the choice. Any time that the director or ~~his~~ the director's authorized representative determines that a course of action under division (D) of section 941.10 of the Revised Code is inappropriate, ~~he~~ the director or the director's authorized representative may refuse to allow that course of action to be taken or may limit it. The director or ~~his~~ the director's authorized representative shall issue a permit designating and requiring compliance with the course of action chosen under this division.

If the director or ~~his~~ the director's authorized representative reasonably suspects that an animal is stolen or that the operator of the vehicle or conveyance is not in lawful possession of the animal, or while waiting for a search warrant to be issued under section 941.042 of the Revised Code, ~~he~~ the director or the director's authorized representative may detain or impound the vehicle or conveyance or detain the animal. If the director or ~~his~~ the director's authorized representative determines, during any detention or impoundment, that disposal of the animal is necessary, ~~he~~ the director or the director's authorized representative may provide for its disposal in accordance with section 941.043 of the Revised Code.

(D) The director or ~~his~~ the director's authorized representative, in performing ~~his~~ official

duties under this section, may call on such law enforcement personnel and government officials as are necessary to ~~assist him~~ provide assistance. The director or ~~his~~ the director's authorized representative may detain or follow any vehicle or conveyance until those persons arrive.

(E) At the direction of the director and in ~~his~~ the director's discretion, an employee of the animal and plant health inspection service-veterinary services in the United States department of agriculture may be an authorized representative of the director for purposes of this chapter.

Sec. 941.06. (A) If any person has reason to suspect the existence of a dangerously contagious or infectious disease, a disease of concern, or a residue, ~~he~~ the person immediately shall give notice of that fact to the director of agriculture or to a licensed veterinarian.

(B) If a veterinarian receives notice of the existence or suspected existence of a dangerously contagious or infectious disease, a disease of concern, or a residue as provided in division (A) of this section, ~~he~~ the veterinarian immediately shall communicate that notice to the director.

(C) No person shall sell, attempt to sell, keep with intent to sell, or otherwise transfer to another person an animal that ~~he~~ the person knows, or has reason to know, is infected with or exposed to any dangerously contagious or infectious disease or a disease of concern or is adulterated with a residue, except as otherwise provided in this chapter or rules adopted under it.

(D) The offense established under division (C) of this section is a strict liability offense and section 2901.20 of the Revised Code does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

Sec. 941.07. (A) When the director of agriculture is notified by any person of the possibility of the existence of a dangerously contagious or infectious disease, a disease of concern, or a residue, the director immediately shall order an investigation to be made, ~~in~~ In order to conduct an investigation, the director or ~~his~~ the director's designee may quarantine the animal and, if ~~he~~ the director or the director's designee considers it necessary, the geographic area in which the animal was located immediately, so that ~~he~~ the director or the director's designee is able to inspect, examine, and test the animal and other animals within the geographic area.

(B) Except as otherwise provided in this chapter, if, as the result of the investigation, an animal is found to be infected with or exposed to a dangerously contagious or infectious disease or a disease of concern or adulterated with a residue, the director or ~~his~~ the director's authorized representative may issue quarantine orders, without a prior hearing, pursuant to this section in order to prevent dangerously contagious or infectious diseases, diseases of concern, or residues from affecting other animals in the state or the public health. No person shall fail to comply with the terms and conditions of the quarantine order.

(C) No animal or its means of conveyance shall be brought to or removed from the premises or geographic area disclosed in a quarantine order without written permission from the director or ~~his~~ the director's authorized representative.

(D) The director, if possible, shall notify any person owning or having custody of a quarantined animal either in person or by certified mail, return receipt requested. Evidence of the notification of a quarantine order shall be proved by affidavit or by the certified mail return receipt. The director also may post the quarantine order at two conspicuous places on the quarantined premises.

(E) A quarantine order shall contain all of the following information:

(1) The name and address of the person owning and having custody of the quarantined animal, if known;

(2) A description of the quarantined animal;

(3) A description of the premises and means of conveyance affected by the quarantine;

(4) The reason for the quarantine;

(5) The terms and conditions applicable to the quarantine;

(6) A notice to the effect that persons adversely affected by the quarantine order may request a hearing to review the order.

(F) A person adversely affected by a quarantine order, within thirty days after the order is issued, may request in writing a hearing in accordance with Chapter 119. of the Revised Code. A request for a hearing does not stay a quarantine order.

(G) A quarantine order shall remain in effect until a written notice of release is issued by the department of agriculture, or until ordered to be removed after a hearing under division (F) of this section.

(H) All necessary and proper expenses incurred by the director in the quarantine of an animal shall be paid by the state. However, such expenses shall not include the maintenance, feeding, and quartering of the animal while in quarantine.

(I) A copy of the results of any tests or method of detection for a dangerously contagious or infectious disease or a disease of concern, conducted by a person authorized by the department of agriculture, shall be admitted in any court as prima-facie proof of ~~such~~ those results when ~~such~~ the results are certified by the department or authorized person.

Sec. 941.09. (A) The director of agriculture may adopt and enforce rules in accordance with Chapter 119. of the Revised Code governing the identification of an animal tested for, vaccinated against, or infected with a dangerously contagious or infectious disease or a disease of concern or adulterated with a residue and the importation, use, dispensation, and reporting of the use of vaccines for mitigating dangerously contagious or infectious diseases or diseases of concern or other treatments for residues.

(B) No person shall remove, alter, or replace an identification that is required by federal or state law and is placed upon an animal by a person authorized by the director.

Sec. 941.10. (A) The director of agriculture may adopt and enforce rules to govern the importation and movement of animals.

(B) Whenever the governor upon receipt of information from the director believes that any condition or disease, including a dangerously contagious or infectious disease or a disease of concern present in any other state, territory, or country, may endanger the health of livestock, animals, or persons of this state, ~~he~~ the governor may prohibit or regulate by proclamation, the importation from ~~such~~ that other state, territory, or country, of animals of a kind that could carry that disease or condition into this state.

(C) No person shall import, move, sell, or dispose of any animal contrary to a proclamation issued by the governor under division (B) of this section, without first obtaining written permission from the director.

(D) When an animal is moved into the state in violation of any applicable federal or state law,

the director or ~~his~~ the director's authorized representative, without prior hearing, may take whichever of the following courses of action regarding the animal as ~~he~~ the director or the director's authorized representative determines is most appropriate:

- (1) Quarantine the animal until it is brought into compliance;
- (2) Order the animal returned to the point of origin;
- (3) Order the animal moved to slaughter.

Sec. 941.11. (A) Except as otherwise provided in this chapter, the director of agriculture, without prior hearing, may order the destruction of any domestic or nondomestic animal found to be adulterated with residues, infected with or exposed to a dangerously contagious or infectious disease, infected with or exposed to a disease of concern, or determined to endanger the health or well-being of animal populations or public health in the state. If the director determines that seizure and destruction of a nondomestic animal is necessary, ~~he~~ the director shall coordinate the seizure and destruction of that animal with the department of natural resources.

(B)(1) No person shall fail to comply with the director's order to destroy an animal found to be infected with or exposed to a dangerously contagious or infectious disease or a disease of concern or adulterated with residues.

(2) The offense established under division (B)(1) of this section is a strict liability offense and section 2901.20 of the Revised Code does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(C) The director, if possible, shall notify any person owning or having custody of an animal ordered destroyed, either in person or by certified mail, return receipt requested, prior to destruction. Evidence of the notification of a destruction order shall be proved by an affidavit or by the certified mail return receipt.

(D) A destruction order shall contain all of the following information:

- (1) The name and address of the person owning and having custody of the animal, if known;
- (2) A description of the animal affected by the order;
- (3) The reason for the order;
- (4) A reasonable deadline for compliance with the order;
- (5) A notice to the effect that any person adversely affected by the destruction order may request a hearing to review the order.

(E) A person adversely affected by an order may request in writing, within thirty days after receiving the order, a hearing in accordance with Chapter 119. of the Revised Code.

Sec. 941.14. (A) The owner shall burn the body of an animal that has died of, or been destroyed because of, a dangerously infectious or contagious disease, bury it not less than four feet under the surface of the ground, dissolve it by alkaline hydrolysis, remove it in a watertight tank to a rendering establishment, or otherwise dispose of it in accordance with section 953.26 or 1511.022 of the Revised Code within twenty-four hours after knowledge thereof or after notice in writing from the department of agriculture.

(B) The owner of premises that contain a dead animal shall burn the body of the animal, bury it not less than four feet beneath the surface of the ground, dissolve it by alkaline hydrolysis, remove it in a watertight tank to a rendering establishment, or otherwise dispose of it in accordance with

section 953.26 or 1511.022 of the Revised Code within a reasonable time after knowledge thereof or after notice in writing from the department or from the township trustees of the township in which the owner's premises are located.

(C) The director of agriculture may adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements and procedures governing the disposal of the body of an animal that has died of, or been destroyed because of, a disease of concern.

(D) Notwithstanding division (A) or (B) of this section or rules adopted under division (C) of this section, the director of agriculture, in written notice sent to the owner of a dead animal, may require the owner to employ a specific method of disposition of the body, including burning, burying, rendering, composting, or alkaline hydrolysis, when that method does not conflict with any law or rule governing the disposal of infectious wastes and, in the director's judgment, is necessary for purposes of animal disease control. No person shall fail to employ the method of disposition required under this division.

~~(D)~~(E) The director, in written notice sent to the owner of a dead animal, may prohibit the owner from transporting the body of the dead animal on any street or highway if that prohibition does not conflict with any law or rule governing the transportation of infectious wastes and, in the director's judgment, is necessary for purposes of animal disease control. No person shall fail to comply with a prohibition issued under this division.

~~(E)~~(F) As used in this section, "infectious wastes" has the same meaning as in section 3734.01 of the Revised Code, and "street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

Sec. 943.02. (A) No person shall act as a small dealer, dealer, or broker without first being licensed. No person shall be an employee of more than one small dealer, dealer, or broker. Except as provided in division (B) of this section, no person holding a license as a small dealer, dealer, or broker shall be an employee. No employee shall act for any small dealer, dealer, or broker unless the small dealer, dealer, or broker is licensed, and has designated the employee to act in the small dealer's, dealer's, or broker's behalf and has notified the department of agriculture in the application for license or has given official notice in writing of the appointment of the employee. The small dealer, dealer, or broker shall be accountable and responsible for all contracts pertaining to the purchase, exchange, or sale of livestock made by the employee. The small dealer, dealer, or broker who terminates the services of an employee shall notify the department in writing of the employee's termination. No person who is a licensed small dealer, dealer, or broker shall have livestock exempted pursuant to divisions (B)(1) to (6) of section 943.01 of the Revised Code.

(B)(1) No person who has been convicted of or pleaded guilty to a violation of this chapter or rules adopted under it shall act as an owner, supervisor, employee, contractor, volunteer, or agent of a person licensed under this chapter unless specifically authorized to do so by the director of agriculture.

(2) The offense established under division (B)(1) of this section is a strict liability offense and section 2901.20 of the Revised Code does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

~~(B)~~(C) A small dealer, dealer, or broker may be an employee of other small dealers, dealers,

or brokers only when the small dealer, dealer, or broker so employed is a soliciting agent for a video auction.

~~(C)~~(D) The director of agriculture shall define by rule "soliciting agent" and "video auction" for the purposes of this section.

Sec. 943.14. (A) The department of agriculture or any of its authorized agents may inspect the records of any licensee or employee at any time to determine the origin and destination of any livestock handled by the licensee and to determine if sections 943.01 to 943.18 of the Revised Code, or the rules adopted thereunder, have been violated.

(B) A small dealer, dealer, or broker, employee, or person described in division (B)(4) of section 943.01 of the Revised Code, who acquires or disposes of an animal by any means, shall make a record of the name and address of the person from whom the animal was acquired and to whom disposed. The record also shall show the individual identification of each animal at the time of acquisition or disposal. These records shall be maintained for a period of sixty months or longer from the date of acquisition or disposal.

(C) The individual identification in division (B) of this section shall be in a manner or form approved by the department.

(D) A person who is a soliciting agent for a video auction pursuant to division ~~(B)~~(C) of section 943.02 of the Revised Code shall maintain records in a manner or form approved by the department.

Sec. 1327.46. As used in sections 1327.46 to 1327.61 of the Revised Code:

(A) "Weights and measures" means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any such instruments and devices, except that "weights and measures" shall not be construed to include meters for the measurement of electricity, gas, whether natural or manufactured, or water when the same are operated in a public utility system. Such electricity, gas, and water meters, and appliances or accessories associated therewith, are specifically excluded from the purview of the weights and measures laws.

(B) "Intrastate commerce" means all commerce or trade that is begun, carried on, and completed wholly within the limits of this state, and "introduced into intrastate commerce" defines the time and place in which the first sale and delivery of a commodity is made within the state, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.

(C) "Package" means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.

(D) "Consumer package" means a package that is customarily produced or distributed for sale through a retail sales agency for consumption by an individual or use by an individual.

(E) "Weight" as used in connection with any commodity means net weight.

(F) "Correct" as used in connection with weights and measures means conformity with all applicable requirements of sections 1327.46 to 1327.61 of the Revised Code and rules adopted pursuant to those sections.

(G) "~~Primary Reference~~ standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived.

(H) "~~Secondary Working~~ standards" means the physical standards that are traceable to the ~~primary-reference~~ standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and rules.

(I) "Sale from bulk" means the sale of commodities when the quantity is determined at the time of sale.

(J) "Net weight" means the weight of a commodity, excluding any materials, substances, or items not considered to be a part of the commodity. Materials, substances, or items not considered to be part of the commodity include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons.

(K) "Random weight package" means a package that is one of a lot, shipment, or delivery of packages of the same commodity with no fixed pattern of weights.

(L) "Sold" includes keeping, offering, or exposing for sale.

(M) "Commercially used weighing and measuring device" means a device described in the national institute of standards and technology handbook 44 or its supplements and revisions and any other weighing and measuring device designated by rules adopted under division (C) of section 1327.50 of the Revised Code. "Commercially used weighing and measuring device" includes, but is not limited to, a livestock scale, vehicle scale, railway scale, vehicle tank meter, bulk rack meter, and LPG meter.

(N) "Livestock scale" means a scale equipped with stock racks and gates that is adapted to weighing livestock standing on the scale platform.

(O) "Vehicle scale" means a scale that is adapted to weighing highway, farm, or other large industrial vehicles other than railroad cars.

(P) "Railway scale" means a rail scale that is designed to weigh railroad cars.

(Q) "Vehicle tank meter" means a vehicle mounted device that is designed for the measurement and delivery of liquid products from a tank.

(R) "Bulk rack meter" means a wholesale device, usually mounted on a rack, that is designed for the measurement and delivery of liquid products.

(S) "LPG meter" means a system, including a mechanism or machine of the meter type, that is designed to measure and deliver liquefied petroleum gas in the liquid state by a definite quantity whether installed in a permanent location or mounted on a vehicle.

(T) "Service person" means an individual who installs, services, repairs, reconditions, or places into service a commercially used weighing and measuring device for any type of compensation.

Sec. 1327.48. Weights and measures that are traceable to the United States prototype standards supplied by the federal government, or approved as being satisfactory by the national institute of standards and technology, shall be the state ~~primary-reference~~ standards of weights and measures, and shall be maintained in such calibration as is prescribed by the national institute of standards and technology. All ~~secondary-working~~ standards may be prescribed by the director of agriculture and shall be verified upon their initial receipt, and as often as found necessary by the director.

Sec. 1327.50. The director of agriculture shall:

(A) Maintain traceability of the state standards to those of the ~~national institute of standards~~

~~and technology~~ international system of units;

- (B) Enforce sections 1327.46 to 1327.61 of the Revised Code;
- (C) Issue reasonable rules for the uniform enforcement of sections 1327.46 to 1327.61 of the Revised Code, which rules shall have the force and effect of law;
- (D) Establish standards of weight, measure, or count, reasonable standards of fill, and standards for the voluntary presentation of cost per unit information for any package;
- (E) Grant any exemptions from sections 1327.46 to 1327.61 of the Revised Code, or any rules adopted under those sections, when appropriate to the maintenance of good commercial practices in the state;
- (F) Conduct investigations to ensure compliance with sections 1327.46 to 1327.61 of the Revised Code;
- (G) Delegate to appropriate personnel any of these responsibilities for the proper administration of the director's office;
- (H) Test as often as is prescribed by rule the standards of weight and measure used by any municipal corporation or county within the state, and approve the same when found to be correct;
- (I) Inspect and test weights and measures that are sold;
- (J) Inspect and test to ascertain if they are correct, weights and measures commercially used either:
 - (1) In determining the weight, measure, or count of commodities or things sold on the basis of weight, measure, or count;
 - (2) In computing the basic charge or payment for goods or services rendered on the basis of weight, measure, or count.
- (K) Test all weights and measures used in checking the receipt or disbursement of supplies in every institution, for the maintenance of which funds are appropriated by the general assembly;
- (L) Approve for use, and may mark, such weights and measures as the director finds to be correct, and shall reject and mark as rejected such weights and measures as the director finds to be incorrect. Weights and measures that have been rejected may be seized if not corrected within the time specified or if used or disposed of in a manner not specifically authorized, and may be condemned and seized if found to be incorrect and not capable of being made correct.
- (M) Weigh, measure, or inspect packaged commodities that are sold or in the process of delivery to determine whether they contain the amounts represented and whether they are sold in accordance with sections 1327.46 to 1327.61 of the Revised Code or rules adopted under those sections. In carrying out this section, the director shall employ recognized sampling procedures, such as those designated in the national institute of standards and technology handbook 133 "checking the net contents of packaged goods."
- (N) Prescribe by rule the appropriate term or unit of weight or measure to be used, whenever the director determines in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count, or combination thereof, does not facilitate value comparisons by consumers, or offers an opportunity for consumer confusion;
- (O) Allow reasonable variations from the stated quantity of contents, which shall include those caused by unavoidable deviations in good manufacturing practice and by loss or gain of moisture during the course of good distribution practice, only after the commodity has entered

intrastate commerce;

(P) Provide for the weights and measures training of inspector personnel and establish minimum training requirements, which shall be met by all inspector personnel, whether county, municipal, or state;

(Q) Prescribe the methods of tests and inspections to be employed in the enforcement of sections 1327.46 to 1327.61 of the Revised Code. The director may prescribe the official test and inspection forms to be used.

(R) Provide by rule for ~~voluntary~~ registration with the director of ~~private-service persons who are employed by commercially used weighing and measuring device servicing agencies, and~~ personnel;

(S) In conjunction with the national institute of standards and technology, operate a type evaluation program for certification of weighing and measuring devices as part of the national type evaluation program. The director shall establish a schedule of fees for services rendered by the department of agriculture for type evaluation services. The director may require any weighing or measuring instrument or device to be traceable to a national type evaluation program certificate of conformance prior to use for commercial or law enforcement purposes.

(T) Verify advertised prices, price representations, and point-of-sale systems, as necessary, to determine both the accuracy of prices and computations and the correct use of the equipment and the accuracy of prices printed or recalled from a database if a system utilizes scanning or coding in lieu of manual entry. In order to implement this division, the director shall do all of the following:

(1) Employ recognized procedures such as those designated in the national institute of standards and technology handbook 130, uniform laws and regulations, "examination procedures for price verification":

(2) Adopt rules establishing requirements governing the accuracy of advertised prices and point-of-sale systems and establishing requirements and procedures for the enforcement of this division:

(3) Conduct necessary inspections.

Sec. 1327.501. (A) No person shall operate in this state a commercially used weighing and measuring device that provides the ~~final~~ quantity ~~and final~~ or cost of a final transaction and for which a fee is established in division (G) of this section unless the operator of the device obtains a permit issued by the director of agriculture or the director's designee.

(B) An application for a permit shall be submitted to the director on a form that the director prescribes and provides. The applicant shall include with the application any information that is specified on the application form as well as the application fee established in this section.

(C) Upon receipt of a completed application and the required fee from an applicant, the director or the director's designee shall issue or deny the permit to operate the commercially used weighing and measuring device that was the subject of the application.

(D) A permit issued under this section expires on the thirtieth day of June of the year following its issuance and may be renewed annually on or before the first day of July of that year upon payment of a permit renewal fee established in this section.

(E) If a permit renewal fee is more than sixty days past due, the director may assess a late penalty in an amount established under this section.

(F) The director shall do both of the following:

(1) Establish procedures and requirements governing the issuance or denial of permits under this section;

(2) Establish late penalties to be assessed for the late payment of a permit renewal fee and fees for the replacement of lost or destroyed permits.

(G) An applicant for a permit to operate under this section shall pay an application fee in the following applicable amount:

(1) Seventy-five dollars for a livestock scale;

(2) Seventy-five dollars for a vehicle scale;

(3) Seventy-five dollars for a railway scale;

(4) Seventy-five dollars for a vehicle tank meter;

(5) Seventy-five dollars for a bulk rack meter;

(6) Seventy-five dollars for a an LPG meter.

A person who is issued a permit under this section and who seeks to renew that permit shall pay an annual permit renewal fee. The amount of a permit renewal fee shall be equal to the application fee for that permit established in this division.

(H) All money collected through the payment of fees and the imposition of penalties under this section shall be credited to the metrology and scale certification and device permitting fund created in section 1327.511 of the Revised Code.

Sec. 1327.502. A service person who is employed by a commercially used weighing and measuring device servicing agency shall register with the director of agriculture in accordance with rules adopted under section 1327.50 of the Revised Code.

Sec. 1327.61. No person shall do any of the following:

(A) Use or have in possession for use in commerce any incorrect weight or measure;

(B) Wrap, package, label, or advertise any product or service contrary to this chapter, or any rules adopted under it, or sell, offer, hold, or expose for sale any service or product wrapped, packaged, labeled, or offered for sale contrary to this chapter or any rules adopted under it, or misrepresent the quantity or price or service contrary to this chapter, or any rules adopted under it;

(C) Remove any tag, seal, or mark from any weight or measure without specific written authorization from the proper authority;

(D) Recklessly install for use, repair, service, or place into service a commercially used weighing and measuring device unless the installation, repair, service, or placement is performed by one of the following:

(1) A department of agriculture division of weights and measures inspector;

(2) A service person registered with the department;

(3) A county or municipal weights and measures inspector.

(E) Hinder or obstruct any weights and measures official in the performance of ~~his~~ official duties;

~~(F)~~ Sell or offer for use in commerce any incorrect weight or measure.

Sec. 1327.99. Whoever violates section 1327.501 or 1327.54 or division (A), (B), (C), ~~or (D)~~, or (E) of section 1327.61 of the Revised Code or a rule adopted under sections 1327.46 to 1327.61 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense; on each

subsequent offense within seven years after the first offense, ~~such~~the person is guilty of a misdemeanor of the first degree.

Sec. 4707.02. (A) No person shall act as an auction firm, auctioneer, apprentice auctioneer, or special auctioneer within this state without a license issued by the department of agriculture. No auction shall be conducted in this state except by an auctioneer licensed by the department.

The department shall not issue or renew a license if the applicant or licensee has been convicted of a felony or crime involving fraud or theft in this or another state at any time during the ten years immediately preceding application or renewal.

(B) Division (A) of this section does not apply to any of the following:

(1) Sales at auction that either are required by law to be at auction, other than sales pursuant to a judicial order or decree, or are conducted by or under the direction of a public authority;

(2) The owner of any real or personal property desiring to sell the property at auction, provided that the property was not acquired for the purpose of resale;

(3) An auction mediation company;

(4) An auction that is conducted in a course of study for auctioneers that is approved by the state auctioneers commission created under section 4707.03 of the Revised Code for purposes of student training and is supervised by a licensed auctioneer;

(5)(a) An auction that is sponsored by a nonprofit or charitable organization that is registered in this state under Chapter 1702. or Chapter 1716. of the Revised Code, respectively, if the auction only involves the property of the members of the organization and the auction is part of a fair that is organized by an agricultural society under Chapter 1711. of the Revised Code or by the Ohio expositions commission under Chapter 991. of the Revised Code at which an auctioneer who is licensed under this chapter physically conducts the auction; or

(b) Sales at an auction sponsored by a charitable, religious, or civic organization that is tax exempt under subsection 501(c)(3) of the Internal Revenue Code, or by a public school, chartered nonpublic school, or community school, if no person in the business of organizing, arranging, or conducting an auction for compensation and no consignor of consigned items sold at the auction, except such organization or school, receives compensation from the proceeds of the auction. As used in division (B)(5)(b) of this section, "compensation" means money, a thing of value other than participation in a charitable event, or a financial benefit.

(6) A person licensed as a livestock dealer under Chapter 943. of the Revised Code who exclusively sells livestock and uses an auctioneer who is licensed under this chapter to conduct the auction;

(7) A person licensed as a motor vehicle auction owner under Chapter 4517. of the Revised Code who exclusively sells motor vehicles to a person licensed under Chapter 4517. of the Revised Code and who uses an auctioneer who is licensed under this chapter to conduct the auction;

(8) ~~A person who sells~~ Sales of real or personal property conducted by means of the internet, provided that they are not conducted in conjunction with a live auction;

(9) A bid calling contest that is approved by the commission and that is conducted for the purposes of the advancement or promotion of the auction profession in this state, provided that no compensation is paid to the sponsor of or participants in the contest other than a prize or award for winning the contest;

(10) An auction at which the champion of a national or international bid calling contest appears, provided that both of the following apply:

(a) The champion is not paid a commission.

(b) The auction is conducted under the direct supervision of an auctioneer licensed under this chapter in order to ensure that the champion complies with this chapter and rules adopted under it.

(C)(1) No person shall advertise or hold oneself out as an auction firm, auctioneer, apprentice auctioneer, or special auctioneer without a license issued by the department of agriculture.

(2) Division (C)(1) of this section does not apply to an individual who is the subject of an advertisement regarding an auction conducted under division (B)(5)(b) of this section.

SECTION 2. That existing sections 901.23, 921.12, 940.02, 941.01, 941.03, 941.04, 941.06, 941.07, 941.09, 941.10, 941.11, 941.14, 943.02, 943.14, 1327.46, 1327.48, 1327.50, 1327.501, 1327.61, 1327.99, and 4707.02 of the Revised Code are hereby repealed.

SECTION 3. The member who is serving on the Farmland Preservation Advisory Board on the effective date of this section who was appointed under division (A)(3) of section 901.23 of the Revised Code as that section existed prior to its amendment by this act shall continue serving on the Board until the end of the term for which the member was appointed. The Director of Agriculture then shall appoint a member of the Board under division (A)(3) of that section as amended by this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____