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Representative Pelanda

Cosponsors: Representatives Hill, Buchy, Patmon, Anielski, Antonio, Brown, Grossman, Hackett, Hall, Hambley, Hayes, Johnson, T., Kraus, LaTourette, McClain, Patterson, Scherer, Smith, R., Sprague, Speaker Rosenberger

Senator Hite

A BILL

To amend sections 901.23, 921.12, 940.02, 941.01, 1
941.03, 941.04, 941.06, 941.07, 941.09, 941.10, 2
941.11, 941.14, 943.02, 943.14, 1327.46, 3
1327.48, 1327.50, 1327.501, 1327.61, 1327.99, 4
and 4707.02 and to enact section 1327.502 of the 5
Revised Code to include diseases of concern 6
within the scope of the Animal Diseases Law, and 7
to make changes to the laws governing weights 8
and measures, livestock dealers, auctioneers, 9
the membership of the Farmland Preservation 10
Advisory Board, the duties of the Ohio Soil and 11
Water Conservation Commission, and the pesticide 12
licensing renewal process. 13

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

Section 1. That sections 901.23, 921.12, 940.02, 941.01, 14
941.03, 941.04, 941.06, 941.07, 941.09, 941.10, 941.11, 941.14, 15
943.02, 943.14, 1327.46, 1327.48, 1327.50, 1327.501, 1327.61, 16

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 45
for the remainder of that term. A member shall continue to serve 46
subsequent to the expiration date of the member's term until the 47
member's successor takes office or until a period of sixty days 48
has elapsed, whichever occurs first. Members shall serve at the 49
pleasure of the director. 50

The executive director of the office of farmland 51
preservation in the department of agriculture or another 52
employee of the department who is designated by the director 53
shall serve as the nonvoting chairperson of the board. The 54
director annually shall designate one member of the board to 55
serve as its vice-chairperson. The board may adopt bylaws 56
governing its operation and shall meet at a time when the 57
director, or the director's designee, considers it appropriate 58
in order for the board to provide advice as required under 59
division (B) of this section. 60

(B) The board shall provide advice to the director 61
regarding all of the following: 62

(1) The design and implementation of an agricultural 63
easement purchase program; 64

(2) The selection of applications that will be awarded 65
matching grants under division (D) of section 901.22 of the 66
Revised Code for the purchase of agricultural easements; 67

(3) The design and implementation of any other statewide 68
farmland protection measures that the director considers 69
appropriate. 70

(C) Serving as a member of the board does not constitute 71
holding a public office or position of employment under the laws 72
of this state and does not constitute grounds for removal of 73

public officers or employees from their offices or positions of 74
employment. 75

(D) A board member shall be reimbursed for actual and 76
necessary expenses incurred in the discharge of duties as a 77
board member. 78

Sec. 921.12. (A) The director of agriculture shall require 79
each applicant for a license under section 921.06 or 921.11 of 80
the Revised Code to be examined on the applicant's knowledge and 81
competency in each of the following: 82

(1) This chapter and rules adopted under it; 83

(2) The proper use, handling, and application of 84
pesticides and, if the applicant is applying for a license under 85
section 921.06 of the Revised Code, in the conducting of 86
diagnostic inspections in the pesticide-use categories for which 87
the applicant has applied. 88

(B) Each application for renewal of a license provided for 89
in section 921.06 of the Revised Code shall be filed prior to 90
the deadline established by rule. If filed after the deadline, a 91
penalty of fifty per cent shall be assessed and added to the 92
original fee and shall be paid by the applicant before the 93
renewal license is issued. However, if a license issued under 94
section 921.06 or 921.11 of the Revised Code is not renewed 95
within one ~~year of~~ hundred eighty days after the date of 96
expiration, the licensee shall be required to take another 97
examination on this chapter and rules adopted under it and on 98
the proper use, handling, and application of pesticides and, if 99
applicable, the proper conducting of diagnostic inspections in 100
the pesticide-use categories for which the licensee has been 101
licensed. 102

(C) A person who fails to pass an examination under 103
division (A) or (B) of this section is not entitled to an 104
adjudication under Chapter 119. of the Revised Code for that 105
failure. 106

(D) The holder of a commercial applicator license may 107
renew the license within one ~~year of~~ hundred eighty days after 108
the date of expiration without re-examination unless the 109
director determines that a new examination is necessary to 110
insure that the holder continues to meet the requirements of 111
changing technology and to assure a continuing level of 112
competence and ability to use pesticides safely and properly. 113

(E) ~~The director shall determine when holder of a private~~ 114
~~applicator license may renew the license within one hundred~~ 115
~~eighty days after the date of expiration without re-examination~~ 116
~~for unless the renewal of licenses for private applicators~~ 117
~~director determines that a new examination is required necessary~~ 118
to insure that ~~private applicators continue~~ the holder continues 119
to meet the requirements of changing technology and to assure a 120
continuing level of competence and ability to use pesticides 121
safely and properly. 122

(F) Instead of requiring a commercial applicator or 123
private applicator to complete re-examination successfully under 124
division (D) or (E) of this section, the director may require, 125
in accordance with criteria established by rule, the commercial 126
applicator or private applicator to participate in training 127
programs that are designed to foster knowledge of new technology 128
and to ensure a continuing level of competence and ability to 129
use pesticides safely and properly. The director or the 130
director's representative may provide the training or may 131
authorize a third party to do so. In order for such 132

authorization to occur, the third party and its training program 133
shall comply with standards and requirements established by 134
rule. 135

Sec. 940.02. There is hereby established in the department 136
of agriculture the Ohio soil and water conservation commission. 137
The commission shall consist of seven members of equal status 138
and authority, six of whom shall be appointed by the governor 139
with the advice and consent of the senate, and one of whom shall 140
be designated by resolution of the board of directors of the 141
Ohio federation of soil and water conservation districts. The 142
directors of agriculture, environmental protection, and natural 143
resources, the vice-president for agricultural administration of 144
the Ohio state university, and an officer of the Ohio federation 145
of soil and water conservation districts, or their designees, 146
may serve as ex officio members of the commission, but without 147
the power to vote. A vacancy in the office of an appointed 148
member shall be filled by the governor, with the advice and 149
consent of the senate. Any member appointed to fill a vacancy 150
occurring prior to the expiration of the term for which the 151
member's predecessor was appointed shall hold office for the 152
remainder of that term. Of the appointed members, four shall be 153
persons who have a knowledge of or interest in agricultural 154
production and the natural resources of the state. One member 155
shall represent rural interests and one member shall represent 156
urban interests. Not more than three of the appointed members 157
shall be members of the same political party. 158

Terms of office of the member designated by the board of 159
directors of the federation and the members appointed by the 160
governor shall be for four years, commencing on the first day of 161
July and ending on the thirtieth day of June. 162

Each appointed member shall hold office from the date of 163
appointment until the end of the term for which the member was 164
appointed. Any appointed member shall continue in office 165
subsequent to the expiration date of the member's term until the 166
member's successor takes office, or until a period of sixty days 167
has elapsed, whichever occurs first. 168

The commission shall organize by selecting from its 169
members a chairperson and a vice-chairperson. The commission 170
shall hold at least one regular meeting in each quarter of each 171
calendar year and shall keep a record of its proceedings, which 172
shall be open to the public for inspection. Special meetings may 173
be called by the chairperson and shall be called by the 174
chairperson upon receipt of a written request signed by two or 175
more members of the commission. Written notice of the time and 176
place of each meeting shall be sent to each member of the 177
commission. A majority of the commission shall constitute a 178
quorum. 179

The commission may adopt rules as necessary to carry out 180
the purposes of this chapter, subject to Chapter 119. of the 181
Revised Code. 182

The governor may remove any appointed member of the 183
commission at any time for inefficiency, neglect of duty, or 184
malfeasance in office, after giving to the member a copy of the 185
charges against the member and an opportunity to be heard 186
publicly in person or by counsel in the member's defense. Any 187
such act of removal by the governor is final. A statement of the 188
findings of the governor, the reason for the governor's action, 189
and the answer, if any, of the member shall be filed by the 190
governor with the secretary of state and shall be open to public 191
inspection. 192

All members of the commission shall be reimbursed for the 193
necessary expenses incurred by them in the performance of their 194
duties as members. 195

Upon recommendation by the commission, the director of 196
agriculture shall designate an executive secretary and provide 197
staff necessary to carry out the powers and duties of the 198
commission. 199

The commission shall do all of the following: 200

(A) Determine distribution of funds under section 940.15 201
of the Revised Code, recommend to the director and other 202
agencies the levels of appropriations to special funds 203
established to assist soil and water conservation districts, and 204
recommend the amount of federal funds to be requested and 205
policies for the use of such funds in support of soil and water 206
conservation district programs; 207

(B) Assist in keeping the supervisors of soil and water 208
conservation districts informed of their powers and duties, 209
program opportunities, and the activities and experience of all 210
other districts, and facilitate the interchange of advice, 211
experience, and cooperation between the districts; 212

(C) Seek the cooperation and assistance of the federal 213
government or any of its agencies, and of agencies of this 214
state, in the work of the districts; 215

(D) Adopt appropriate rules governing the conduct of 216
elections provided for in this chapter, subject to Chapter 119. 217
of the Revised Code, provided that only owners and occupiers of 218
lands situated within the boundaries of the districts or 219
proposed districts to which the elections apply shall be 220
eligible to vote in the elections; 221

(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 252
transmission by any means from a carrier animal to a human or to 253
another animal. 254

(B) "Disease of concern" means any disease, including any 255
foreign animal disease, or vector, that the director determines 256
may have an adverse impact on the animal or poultry industry or 257
to the public health in this state, but that is not a disease 258
that is reportable to the United States department of 259
agriculture. 260

(C) "Geographic area" means any county or counties within 261
this state or parts thereof as may be designated by the 262
director. 263

~~(C)~~ (D) "Animal" means any animal that is a bird, reptile, 264
amphibian, fish, or mammal, other than humans. 265

~~(D)~~ (E) "Domestic animal" includes livestock; other 266
animals that through long association with humans have been bred 267
to a degree resulting in genetic changes affecting the 268
temperament, color, conformation, or other attributes of the 269
species to an extent that makes them different from nondomestic 270
animals of their kind; and other animals as defined by rule by 271
the director. 272

~~(E)~~ (F) "Foreign animal disease" means a contagious or 273
infectious disease that is not present in United States domestic 274
or nondomestic species populations and is listed by the United 275
States department of agriculture as a "foreign animal disease." 276

~~(F)~~ (G) "Nondomestic animal" means any animal that is not 277
domestic, including at least nonindigenous animals and animals 278
usually not in captivity. 279

~~(G)~~ (H) "Poultry" means any domesticated fowl kept in 280

confinement, except for doves and pigeons, that are bred for the 281
primary purpose of producing eggs or meat for human consumption. 282
"Poultry" includes chickens, turkeys, waterfowl, and game birds. 283

~~(H)~~(I) "Vector" means a disease carrier, usually from, 284
but not limited to, the arthropod class, ~~which~~that transfers an 285
infectious agent that may transmit a dangerously contagious or 286
infectious disease from one host to another. 287

~~(I)~~(J) "Residue" means any poisonous or deleterious 288
pesticide governed by 40 C.F.R. 180, any poisonous or 289
deleterious substance governed by 21 C.F.R. 109.6, or any other 290
substance governed by 21 C.F.R. 556. 291

~~(J)~~(K) "Seal" means any band or object made of metal, 292
plastic, or other material placed on a vehicle or other means of 293
conveyance so that when the vehicle or conveyance is opened, the 294
band or object is affected, altered, or broken. 295

Sec. 941.03. (A) The director of agriculture, under 296
Chapter 119. of the Revised Code, may adopt and enforce rules to 297
carry out this chapter, including designating a disease or 298
vector as a dangerously contagious or infectious disease or as a 299
disease of concern. 300

(B) No person shall fail to comply with the rules adopted 301
by the director under division (A) of this section. 302

Sec. 941.04. (A) Whenever the director of agriculture or 303
~~his~~the director's authorized representative reasonably suspects 304
that any premises or means of conveyance contains an animal that 305
is infected with or has been exposed to a dangerously contagious 306
or infectious disease or a disease of concern or is adulterated 307
with a residue, ~~he~~the director or the director's authorized 308
representative shall have free access to those premises or that 309

means of conveyance at any reasonable time. 310

(B) Whenever the director of agriculture or ~~his~~ the 311
director's authorized representative reasonably suspects that 312
any vehicle or means of conveyance traveling into or through the 313
state contains an animal, ~~he~~ the director or the director's 314
authorized representative shall have free access to the vehicle 315
or means of conveyance, including the right to stop ~~such~~ the 316
vehicle or conveyance transporting animals into or through the 317
state. The director or ~~his~~ the director's authorized 318
representative may examine any certificate of veterinary 319
inspection, animal health certificate, waybill, yarding ~~receipt~~ 320
receipt, sale ticket, or other document required by this chapter 321
or rules adopted under it. The director or ~~his~~ the director's 322
authorized representative also may inspect the vehicle or 323
conveyance for the purposes of verifying the presence or 324
existence of any animal for which a document is required by this 325
chapter or rules adopted under it and verifying lawful 326
possession or ownership of the animal. This division does not 327
apply to animals transported intrastate. 328

Within the parameters of the United States and Ohio 329
constitutions, any person who operates a vehicle or means of 330
conveyance upon a roadway in this state is deemed to have 331
consented to the inspection of the vehicle or conveyance and the 332
documents as described in this section. 333

(C) In the event the owner of the animal or the operator 334
of the vehicle or conveyance fails to present any document 335
required by this chapter and rules adopted under it, or if the 336
documents indicate or the director or ~~his~~ the director's 337
authorized representative reasonably suspects that an animal is 338
infected with or has been exposed to a dangerously contagious or 339

infectious disease or a disease of concern or is adulterated 340
with a residue, the director or ~~his~~ the director's authorized 341
representative shall seal the vehicle or conveyance. A seal 342
shall not be broken or removed from a vehicle or conveyance 343
within this state or any other state except by the director or 344
~~his~~ the director's authorized representative or by a person 345
holding a similar position in another state, territory, or 346
country. 347

Once the vehicle or conveyance is sealed, its operator 348
shall choose a course of action to be taken under division (D) 349
of section 941.10 of the Revised Code. If the operator fails to 350
choose and the owner of the animal can be contacted, the owner 351
shall make the choice. If the owner cannot be contacted, the 352
director or ~~his~~ the director's authorized representative shall 353
make the choice. Any time that the director or ~~his~~ the 354
director's authorized representative determines that a course of 355
action under division (D) of section 941.10 of the Revised Code 356
is inappropriate, ~~he~~ the director or the director's authorized 357
representative may refuse to allow that course of action to be 358
taken or may limit it. The director or ~~his~~ the director's 359
authorized representative shall issue a permit designating and 360
requiring compliance with the course of action chosen under this 361
division. 362

If the director or ~~his~~ the director's authorized 363
representative reasonably suspects that an animal is stolen or 364
that the operator of the vehicle or conveyance is not in lawful 365
possession of the animal, or while waiting for a search warrant 366
to be issued under section 941.042 of the Revised Code, ~~he~~ the 367
director or the director's authorized representative may detain 368
or impound the vehicle or conveyance or detain the animal. If 369
the director or ~~his~~ the director's authorized representative 370

determines, during any detention or impoundment, that disposal 371
of the animal is necessary, ~~he~~ the director or the director's 372
authorized representative may provide for its disposal in 373
accordance with section 941.043 of the Revised Code. 374

(D) The director or ~~his~~ the director's authorized 375
representative, in performing ~~his~~ official duties under this 376
section, may call on such law enforcement personnel and 377
government officials as are necessary to ~~assist him~~ provide 378
assistance. The director or ~~his~~ the director's authorized 379
representative may detain or follow any vehicle or conveyance 380
until those persons arrive. 381

(E) At the direction of the director and in ~~his~~ the 382
director's discretion, an employee of the animal and plant 383
health inspection service-veterinary services in the United 384
States department of agriculture may be an authorized 385
representative of the director for purposes of this chapter. 386

Sec. 941.06. (A) If any person has reason to suspect the 387
existence of a dangerously contagious or infectious disease, a 388
disease of concern, or a residue, ~~he~~ the person immediately 389
shall give notice of that fact to the director of agriculture or 390
to a licensed veterinarian. 391

(B) If a veterinarian receives notice of the existence or 392
suspected existence of a dangerously contagious or infectious 393
disease, a disease of concern, or a residue as provided in 394
division (A) of this section, ~~he~~ the veterinarian immediately 395
shall communicate that notice to the director. 396

(C) No person shall sell, attempt to sell, keep with 397
intent to sell, or otherwise transfer to another person an 398
animal that ~~he~~ the person knows, or has reason to know, is 399

infected with or exposed to any dangerously contagious or 400
infectious disease or a disease of concern or is adulterated 401
with a residue, except as otherwise provided in this chapter or 402
rules adopted under it. 403

(D) The offense established under division (C) of this 404
section is a strict liability offense and section 2901.20 of the 405
Revised Code does not apply. The designation of this offense as 406
a strict liability offense shall not be construed to imply that 407
any other offense, for which there is no specified degree of 408
culpability, is not a strict liability offense. 409

Sec. 941.07. (A) When the director of agriculture is 410
notified by any person of the possibility of the existence of a 411
dangerously contagious or infectious disease, a disease of 412
concern, or a residue, the director immediately shall order an 413
investigation to be made, ~~in~~. In order to conduct an 414
investigation, the director or ~~his~~ the director's designee may 415
quarantine the animal and, if ~~he~~ the director or the director's 416
designee considers it necessary, the geographic area in which 417
the animal was located immediately, so that ~~he~~ the director or 418
the director's designee is able to inspect, examine, and test 419
the animal and other animals within the geographic area. 420

(B) Except as otherwise provided in this chapter, if, as 421
the result of the investigation, an animal is found to be 422
infected with or exposed to a dangerously contagious or 423
infectious disease or a disease of concern or adulterated with a 424
residue, the director or ~~his~~ the director's authorized 425
representative may issue quarantine orders, without a prior 426
hearing, pursuant to this section in order to prevent 427
dangerously contagious or infectious diseases, diseases of 428
concern, or residues from affecting other animals in the state 429

or the public health. No person shall fail to comply with the 430
terms and conditions of the quarantine order. 431

(C) No animal or its means of conveyance shall be brought 432
to or removed from the premises or geographic area disclosed in 433
a quarantine order without written permission from the director 434
or ~~his~~ the director's authorized representative. 435

(D) The director, if possible, shall notify any person 436
owning or having custody of a quarantined animal either in 437
person or by certified mail, return receipt requested. Evidence 438
of the notification of a quarantine order shall be proved by 439
affidavit or by the certified mail return receipt. The director 440
also may post the quarantine order at two conspicuous places on 441
the quarantined premises. 442

(E) A quarantine order shall contain all of the following 443
information: 444

(1) The name and address of the person owning and having 445
custody of the quarantined animal, if known; 446

(2) A description of the quarantined animal; 447

(3) A description of the premises and means of conveyance 448
affected by the quarantine; 449

(4) The reason for the quarantine; 450

(5) The terms and conditions applicable to the quarantine; 451

(6) A notice to the effect that persons adversely affected 452
by the quarantine order may request a hearing to review the 453
order. 454

(F) A person adversely affected by a quarantine order, 455
within thirty days after the order is issued, may request in 456

writing a hearing in accordance with Chapter 119. of the Revised 457
Code. A request for a hearing does not stay a quarantine order. 458

(G) A quarantine order shall remain in effect until a 459
written notice of release is issued by the department of 460
agriculture, or until ordered to be removed after a hearing 461
under division (F) of this section. 462

(H) All necessary and proper expenses incurred by the 463
director in the quarantine of an animal shall be paid by the 464
state. However, such expenses shall not include the maintenance, 465
feeding, and quartering of the animal while in quarantine. 466

(I) A copy of the results of any tests or method of 467
detection for a dangerously contagious or infectious disease or 468
a disease of concern, conducted by a person authorized by the 469
department of agriculture, shall be admitted in any court as 470
prima-facie proof of ~~such those~~ results when ~~such the~~ results 471
are certified by the department or authorized person. 472

Sec. 941.09. (A) The director of agriculture may adopt and 473
enforce rules in accordance with Chapter 119. of the Revised 474
Code governing the identification of an animal tested for, 475
vaccinated against, or infected with a dangerously contagious or 476
infectious disease or a disease of concern or adulterated with a 477
residue and the importation, use, dispensation, and reporting of 478
the use of vaccines for mitigating dangerously contagious or 479
infectious diseases or diseases of concern or other treatments 480
for residues. 481

(B) No person shall remove, alter, or replace an 482
identification that is required by federal or state law and is 483
placed upon an animal by a person authorized by the director. 484

Sec. 941.10. (A) The director of agriculture may adopt and 485

enforce rules to govern the importation and movement of animals. 486

(B) Whenever the governor upon receipt of information from 487
the director believes that any condition or disease, including a 488
dangerously contagious or infectious disease or a disease of 489
concern present in any other state, territory, or country, may 490
endanger the health of livestock, animals, or persons of this 491
state, ~~he the governor~~ may prohibit or regulate by proclamation, 492
the importation from ~~such that~~ other state, territory, or 493
country, of animals of a kind that could carry that disease or 494
condition into this state. 495

(C) No person shall import, move, sell, or dispose of any 496
animal contrary to a proclamation issued by the governor under 497
division (B) of this section, without first obtaining written 498
permission from the director. 499

(D) When an animal is moved into the state in violation of 500
any applicable federal or state law, the director or ~~his~~ the 501
director's authorized representative, without prior hearing, may 502
take whichever of the following courses of action regarding the 503
animal as ~~he the director or the director's authorized~~ 504
representative determines is most appropriate: 505

(1) Quarantine the animal until it is brought into 506
compliance; 507

(2) Order the animal returned to the point of origin; 508

(3) Order the animal moved to slaughter. 509

Sec. 941.11. (A) Except as otherwise provided in this 510
chapter, the director of agriculture, without prior hearing, may 511
order the destruction of any domestic or nondomestic animal 512
found to be adulterated with residues, infected with or exposed 513
to a dangerously contagious or infectious disease, infected with 514

or exposed to a disease of concern, or determined to endanger 515
the health or well-being of animal populations or public health 516
in the state. If the director determines that seizure and 517
destruction of a nondomestic animal is necessary, ~~he~~ the 518
director shall coordinate the seizure and destruction of that 519
animal with the department of natural resources. 520

(B) (1) No person shall fail to comply with the director's 521
order to destroy an animal found to be infected with or exposed 522
to a dangerously contagious or infectious disease or a disease 523
of concern or adulterated with residues. 524

(2) The offense established under division (B) (1) of this 525
section is a strict liability offense and section 2901.20 of the 526
Revised Code does not apply. The designation of this offense as 527
a strict liability offense shall not be construed to imply that 528
any other offense, for which there is no specified degree of 529
culpability, is not a strict liability offense. 530

(C) The director, if possible, shall notify any person 531
owning or having custody of an animal ordered destroyed, either 532
in person or by certified mail, return receipt requested, prior 533
to destruction. Evidence of the notification of a destruction 534
order shall be proved by an affidavit or by the certified mail 535
return receipt. 536

(D) A destruction order shall contain all of the following 537
information: 538

(1) The name and address of the person owning and having 539
custody of the animal, if known; 540

(2) A description of the animal affected by the order; 541

(3) The reason for the order; 542

(4) A reasonable deadline for compliance with the order;	543
(5) A notice to the effect that any person adversely affected by the destruction order may request a hearing to review the order.	544 545 546
(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.	547 548 549
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.	550 551 552 553 554 555 556 557 558
(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.	559 560 561 562 563 564 565 566 567
(C) <u>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</u>	568 569 570 571

disease of concern. 572

(D) Notwithstanding division (A) or (B) of this section or 573
rules adopted under division (C) of this section, the director 574
~~of agriculture,~~ in written notice sent to the owner of a dead 575
animal, may require the owner to employ a specific method of 576
disposition of the body, including burning, burying, rendering, 577
composting, or alkaline hydrolysis, when that method does not 578
conflict with any law or rule governing the disposal of 579
infectious wastes and, in the director's judgment, is necessary 580
for purposes of animal disease control. No person shall fail to 581
employ the method of disposition required under this division. 582

~~(D)~~(E) The director, in written notice sent to the owner 583
of a dead animal, may prohibit the owner from transporting the 584
body of the dead animal on any street or highway if that 585
prohibition does not conflict with any law or rule governing the 586
transportation of infectious wastes and, in the director's 587
judgment, is necessary for purposes of animal disease control. 588
No person shall fail to comply with a prohibition issued under 589
this division. 590

~~(E)~~(F) As used in this section, "infectious wastes" has 591
the same meaning as in section 3734.01 of the Revised Code, and 592
"street" or "highway" has the same meaning as in section 4511.01 593
of the Revised Code. 594

Sec. 943.02. (A) No person shall act as a small dealer, 595
dealer, or broker without first being licensed. No person shall 596
be an employee of more than one small dealer, dealer, or broker. 597
Except as provided in division (B) of this section, no person 598
holding a license as a small dealer, dealer, or broker shall be 599
an employee. No employee shall act for any small dealer, dealer, 600
or broker unless the small dealer, dealer, or broker is 601

licensed, and has designated the employee to act in the small 602
dealer's, dealer's, or broker's behalf and has notified the 603
department of agriculture in the application for license or has 604
given official notice in writing of the appointment of the 605
employee. The small dealer, dealer, or broker shall be 606
accountable and responsible for all contracts pertaining to the 607
purchase, exchange, or sale of livestock made by the employee. 608
The small dealer, dealer, or broker who terminates the services 609
of an employee shall notify the department in writing of the 610
employee's termination. No person who is a licensed small 611
dealer, dealer, or broker shall have livestock exempted pursuant 612
to divisions (B) (1) to (6) of section 943.01 of the Revised 613
Code. 614

(B) (1) No person who has been convicted of or pleaded 615
guilty to a violation of this chapter or rules adopted under it 616
shall act as an owner, supervisor, employee, contractor, 617
volunteer, or agent of a person licensed under this chapter 618
unless specifically authorized to do so by the director of 619
agriculture. 620

(2) The offense established under division (B) (1) of this 621
section is a strict liability offense and section 2901.20 of the 622
Revised Code does not apply. The designation of this offense as 623
a strict liability offense shall not be construed to imply that 624
any other offense, for which there is no specified degree of 625
culpability, is not a strict liability offense. 626

~~(B)~~ (C) A small dealer, dealer, or broker may be an 627
employee of other small dealers, dealers, or brokers only when 628
the small dealer, dealer, or broker so employed is a soliciting 629
agent for a video auction. 630

~~(C)~~ (D) The director ~~of agriculture~~ shall define by rule 631

"soliciting agent" and "video auction" for the purposes of this section. 632
633

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. 634
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(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. 640
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(C) The individual identification in division (B) of this section shall be in a manner or form approved by the department. 649
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(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. 651
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Sec. 1327.46. As used in sections 1327.46 to 1327.61 of the Revised Code: 655
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(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 657
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measures" shall not be construed to include meters for the 661
measurement of electricity, gas, whether natural or 662
manufactured, or water when the same are operated in a public 663
utility system. Such electricity, gas, and water meters, and 664
appliances or accessories associated therewith, are specifically 665
excluded from the purview of the weights and measures laws. 666

(B) "Intrastate commerce" means all commerce or trade that 667
is begun, carried on, and completed wholly within the limits of 668
this state, and "introduced into intrastate commerce" defines 669
the time and place in which the first sale and delivery of a 670
commodity is made within the state, the delivery being made 671
either directly to the purchaser or to a common carrier for 672
shipment to the purchaser. 673

(C) "Package" means any commodity put up or packaged in 674
any manner in advance of sale in units suitable for either 675
wholesale or retail sale. 676

(D) "Consumer package" means a package that is customarily 677
produced or distributed for sale through a retail sales agency 678
for consumption by an individual or use by an individual. 679

(E) "Weight" as used in connection with any commodity 680
means net weight. 681

(F) "Correct" as used in connection with weights and 682
measures means conformity with all applicable requirements of 683
sections 1327.46 to 1327.61 of the Revised Code and rules 684
adopted pursuant to those sections. 685

(G) "~~Primary Reference~~ standards" means the physical 686
standards of the state that serve as the legal reference from 687
which all other standards and weights and measures are derived. 688

(H) "~~Secondary Working~~ standards" means the physical 689

standards that are traceable to the ~~primary reference~~ standards 690
through comparisons, using acceptable laboratory procedures, and 691
used in the enforcement of weights and measures laws and rules. 692

(I) "Sale from bulk" means the sale of commodities when 693
the quantity is determined at the time of sale. 694

(J) "Net weight" means the weight of a commodity, 695
excluding any materials, substances, or items not considered to 696
be a part of the commodity. Materials, substances, or items not 697
considered to be part of the commodity include, but are not 698
limited to, containers, conveyances, bags, wrappers, packaging 699
materials, labels, individual piece coverings, decorative 700
accompaniments, and coupons. 701

(K) "Random weight package" means a package that is one of 702
a lot, shipment, or delivery of packages of the same commodity 703
with no fixed pattern of weights. 704

(L) "Sold" includes keeping, offering, or exposing for 705
sale. 706

(M) "Commercially used weighing and measuring device" 707
means a device described in the national institute of standards 708
and technology handbook 44 or its supplements and revisions and 709
any other weighing and measuring device designated by rules 710
adopted under division (C) of section 1327.50 of the Revised 711
Code. "Commercially used weighing and measuring device" 712
includes, but is not limited to, a livestock scale, vehicle 713
scale, railway scale, vehicle tank meter, bulk rack meter, and 714
LPG meter. 715

(N) "Livestock scale" means a scale equipped with stock 716
racks and gates that is adapted to weighing livestock standing 717
on the scale platform. 718

(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. 748

Sec. 1327.50. The director of agriculture shall: 749

(A) Maintain traceability of the state standards to those 750
of the ~~national institute of standards and technology~~ 751
international system of units; 752

(B) Enforce sections 1327.46 to 1327.61 of the Revised 753
Code; 754

(C) Issue reasonable rules for the uniform enforcement of 755
sections 1327.46 to 1327.61 of the Revised Code, which rules 756
shall have the force and effect of law; 757

(D) Establish standards of weight, measure, or count, 758
reasonable standards of fill, and standards for the voluntary 759
presentation of cost per unit information for any package; 760

(E) Grant any exemptions from sections 1327.46 to 1327.61 761
of the Revised Code, or any rules adopted under those sections, 762
when appropriate to the maintenance of good commercial practices 763
in the state; 764

(F) Conduct investigations to ensure compliance with 765
sections 1327.46 to 1327.61 of the Revised Code; 766

(G) Delegate to appropriate personnel any of these 767
responsibilities for the proper administration of the director's 768
office; 769

(H) Test as often as is prescribed by rule the standards 770
of weight and measure used by any municipal corporation or 771
county within the state, and approve the same when found to be 772
correct; 773

(I) Inspect and test weights and measures that are sold; 774

(J) Inspect and test to ascertain if they are correct,	775
weights and measures commercially used either:	776
(1) In determining the weight, measure, or count of	777
commodities or things sold on the basis of weight, measure, or	778
count;	779
(2) In computing the basic charge or payment for goods or	780
services rendered on the basis of weight, measure, or count.	781
(K) Test all weights and measures used in checking the	782
receipt or disbursement of supplies in every institution, for	783
the maintenance of which funds are appropriated by the general	784
assembly;	785
(L) Approve for use, and may mark, such weights and	786
measures as the director finds to be correct, and shall reject	787
and mark as rejected such weights and measures as the director	788
finds to be incorrect. Weights and measures that have been	789
rejected may be seized if not corrected within the time	790
specified or if used or disposed of in a manner not specifically	791
authorized, and may be condemned and seized if found to be	792
incorrect and not capable of being made correct.	793
(M) Weigh, measure, or inspect packaged commodities that	794
are sold or in the process of delivery to determine whether they	795
contain the amounts represented and whether they are sold in	796
accordance with sections 1327.46 to 1327.61 of the Revised Code	797
or rules adopted under those sections. In carrying out this	798
section, the director shall employ recognized sampling	799
procedures, such as those designated in the national institute	800
of standards and technology handbook 133 "checking the net	801
contents of packaged goods."	802
(N) Prescribe by rule the appropriate term or unit of	803

weight or measure to be used, whenever the director determines 804
in the case of a specific commodity that an existing practice of 805
declaring the quantity by weight, measure, numerical count, or 806
combination thereof, does not facilitate value comparisons by 807
consumers, or offers an opportunity for consumer confusion; 808

(O) Allow reasonable variations from the stated quantity 809
of contents, which shall include those caused by unavoidable 810
deviations in good manufacturing practice and by loss or gain of 811
moisture during the course of good distribution practice, only 812
after the commodity has entered intrastate commerce; 813

(P) Provide for the weights and measures training of 814
inspector personnel and establish minimum training requirements, 815
which shall be met by all inspector personnel, whether county, 816
municipal, or state; 817

(Q) Prescribe the methods of tests and inspections to be 818
employed in the enforcement of sections 1327.46 to 1327.61 of 819
the Revised Code. The director may prescribe the official test 820
and inspection forms to be used. 821

(R) Provide by rule for ~~voluntary~~ registration with the 822
director of private-service persons who are employed by 823
commercially used weighing and measuring device servicing 824
agencies, ~~and personnel~~; 825

(S) In conjunction with the national institute of 826
standards and technology, operate a type evaluation program for 827
certification of weighing and measuring devices as part of the 828
national type evaluation program. The director shall establish a 829
schedule of fees for services rendered by the department of 830
agriculture for type evaluation services. The director may 831
require any weighing or measuring instrument or device to be 832

traceable to a national type evaluation program certificate of 833
conformance prior to use for commercial or law enforcement 834
purposes. 835

(T) Verify advertised prices, price representations, and 836
point-of-sale systems, as necessary, to determine both the 837
accuracy of prices and computations and the correct use of the 838
equipment and the accuracy of prices printed or recalled from a 839
database if a system utilizes scanning or coding in lieu of 840
manual entry. In order to implement this division, the director 841
shall do all of the following: 842

(1) Employ recognized procedures such as those designated 843
in the national institute of standards and technology handbook 844
130, uniform laws and regulations, "examination procedures for 845
price verification"; 846

(2) Adopt rules establishing requirements governing the 847
accuracy of advertised prices and point-of-sale systems and 848
establishing requirements and procedures for the enforcement of 849
this division; 850

(3) Conduct necessary inspections. 851

Sec. 1327.501. (A) No person shall operate in this state a 852
commercially used weighing and measuring device that provides 853
the ~~final~~ quantity ~~and final or~~ cost of a final transaction and 854
for which a fee is established in division (G) of this section 855
unless the operator of the device obtains a permit issued by the 856
director of agriculture or the director's designee. 857

(B) An application for a permit shall be submitted to the 858
director on a form that the director prescribes and provides. 859
The applicant shall include with the application any information 860
that is specified on the application form as well as the 861

application fee established in this section. 862

(C) Upon receipt of a completed application and the 863
required fee from an applicant, the director or the director's 864
designee shall issue or deny the permit to operate the 865
commercially used weighing and measuring device that was the 866
subject of the application. 867

(D) A permit issued under this section expires on the 868
thirtieth day of June of the year following its issuance and may 869
be renewed annually on or before the first day of July of that 870
year upon payment of a permit renewal fee established in this 871
section. 872

(E) If a permit renewal fee is more than sixty days past 873
due, the director may assess a late penalty in an amount 874
established under this section. 875

(F) The director shall do both of the following: 876

(1) Establish procedures and requirements governing the 877
issuance or denial of permits under this section; 878

(2) Establish late penalties to be assessed for the late 879
payment of a permit renewal fee and fees for the replacement of 880
lost or destroyed permits. 881

(G) An applicant for a permit to operate under this 882
section shall pay an application fee in the following applicable 883
amount: 884

(1) Seventy-five dollars for a livestock scale; 885

(2) Seventy-five dollars for a vehicle scale; 886

(3) Seventy-five dollars for a railway scale; 887

(4) Seventy-five dollars for a vehicle tank meter; 888

(5) Seventy-five dollars for a bulk rack meter;	889
(6) Seventy-five dollars for a <u>an</u> LPG meter.	890
A person who is issued a permit under this section and who	891
seeks to renew that permit shall pay an annual permit renewal	892
fee. The amount of a permit renewal fee shall be equal to the	893
application fee for that permit established in this division.	894
(H) All money collected through the payment of fees and	895
the imposition of penalties under this section shall be credited	896
to the metrology and scale certification and device permitting	897
fund created in section 1327.511 of the Revised Code.	898
<u>Sec. 1327.502. A service person who is employed by a</u>	899
<u>commercially used weighing and measuring device servicing agency</u>	900
<u>shall register with the director of agriculture in accordance</u>	901
<u>with rules adopted under section 1327.50 of the Revised Code.</u>	902
Sec. 1327.61. No person shall do any of the following:	903
(A) Use or have in possession for use in commerce any	904
incorrect weight or measure;	905
(B) Wrap, package, label, or advertise any product or	906
service contrary to this chapter, or any rules adopted under it,	907
or sell, offer, hold, or expose for sale any service or product	908
wrapped, packaged, labeled, or offered for sale contrary to this	909
chapter or any rules adopted under it, or misrepresent the	910
quantity or price or service contrary to this chapter, or any	911
rules adopted under it;	912
(C) Remove any tag, seal, or mark from any weight or	913
measure without specific written authorization from the proper	914
authority;	915
(D) <u>Recklessly install for use, repair, service, or place</u>	916

into service a commercially used weighing and measuring device 917
unless the installation, repair, service, or placement is 918
performed by one of the following: 919

(1) A department of agriculture division of weights and 920
measures inspector; 921

(2) A service person registered with the department; 922

(3) A county or municipal weights and measures inspector. 923

(E) Hinder or obstruct any weights and measures official 924
in the performance of his official duties; 925

~~(E)~~ (F) Sell or offer for use in commerce any incorrect 926
weight or measure. 927

Sec. 1327.99. Whoever violates section 1327.501 or 1327.54 928
or division (A), (B), (C), ~~or (D)~~, or (E) of section 1327.61 of 929
the Revised Code or a rule adopted under sections 1327.46 to 930
1327.61 of the Revised Code is guilty of a misdemeanor of the 931
second degree on a first offense; on each subsequent offense 932
within seven years after the first offense, ~~such the~~ person is 933
guilty of a misdemeanor of the first degree. 934

Sec. 4707.02. (A) No person shall act as an auction firm, 935
auctioneer, apprentice auctioneer, or special auctioneer within 936
this state without a license issued by the department of 937
agriculture. No auction shall be conducted in this state except 938
by an auctioneer licensed by the department. 939

The department shall not issue or renew a license if the 940
applicant or licensee has been convicted of a felony or crime 941
involving fraud or theft in this or another state at any time 942
during the ten years immediately preceding application or 943
renewal. 944

(B) Division (A) of this section does not apply to any of	945
the following:	946
(1) Sales at auction that either are required by law to be	947
at auction, other than sales pursuant to a judicial order or	948
decree, or are conducted by or under the direction of a public	949
authority;	950
(2) The owner of any real or personal property desiring to	951
sell the property at auction, provided that the property was not	952
acquired for the purpose of resale;	953
(3) An auction mediation company;	954
(4) An auction that is conducted in a course of study for	955
auctioneers that is approved by the state auctioneers commission	956
created under section 4707.03 of the Revised Code for purposes	957
of student training and is supervised by a licensed auctioneer;	958
(5) (a) An auction that is sponsored by a nonprofit or	959
charitable organization that is registered in this state under	960
Chapter 1702. or Chapter 1716. of the Revised Code,	961
respectively, if the auction only involves the property of the	962
members of the organization and the auction is part of a fair	963
that is organized by an agricultural society under Chapter 1711.	964
of the Revised Code or by the Ohio expositions commission under	965
Chapter 991. of the Revised Code at which an auctioneer who is	966
licensed under this chapter physically conducts the auction; or	967
(b) Sales at an auction sponsored by a charitable,	968
religious, or civic organization that is tax exempt under	969
subsection 501(c) (3) of the Internal Revenue Code, or by a	970
public school, chartered nonpublic school, or community school,	971
if no person in the business of organizing, arranging, or	972
conducting an auction for compensation and no consignor of	973

consigned items sold at the auction, except such organization or 974
school, receives compensation from the proceeds of the auction. 975
As used in division (B) (5) (b) of this section, "compensation" 976
means money, a thing of value other than participation in a 977
charitable event, or a financial benefit. 978

(6) A person licensed as a livestock dealer under Chapter 979
943. of the Revised Code who exclusively sells livestock and 980
uses an auctioneer who is licensed under this chapter to conduct 981
the auction; 982

(7) A person licensed as a motor vehicle auction owner 983
under Chapter 4517. of the Revised Code who exclusively sells 984
motor vehicles to a person licensed under Chapter 4517. of the 985
Revised Code and who uses an auctioneer who is licensed under 986
this chapter to conduct the auction; 987

(8) ~~A person who sells~~ Sales of real or personal property 988
conducted by means of the internet, provided that they are not 989
conducted in conjunction with a live auction; 990

(9) A bid calling contest that is approved by the 991
commission and that is conducted for the purposes of the 992
advancement or promotion of the auction profession in this 993
state, provided that no compensation is paid to the sponsor of 994
or participants in the contest other than a prize or award for 995
winning the contest; 996

(10) An auction at which the champion of a national or 997
international bid calling contest appears, provided that both of 998
the following apply: 999

(a) The champion is not paid a commission. 1000

(b) The auction is conducted under the direct supervision 1001
of an auctioneer licensed under this chapter in order to ensure 1002

that the champion complies with this chapter and rules adopted 1003
under it. 1004

(C) (1) No person shall advertise or hold oneself out as an 1005
auction firm, auctioneer, apprentice auctioneer, or special 1006
auctioneer without a license issued by the department of 1007
agriculture. 1008

(2) Division (C) (1) of this section does not apply to an 1009
individual who is the subject of an advertisement regarding an 1010
auction conducted under division (B) (5) (b) of this section. 1011

Section 2. That existing sections 901.23, 921.12, 940.02, 1012
941.01, 941.03, 941.04, 941.06, 941.07, 941.09, 941.10, 941.11, 1013
941.14, 943.02, 943.14, 1327.46, 1327.48, 1327.50, 1327.501, 1014
1327.61, 1327.99, and 4707.02 of the Revised Code are hereby 1015
repealed. 1016

Section 3. The member who is serving on the Farmland 1017
Preservation Advisory Board on the effective date of this 1018
section who was appointed under division (A) (3) of section 1019
901.23 of the Revised Code as that section existed prior to its 1020
amendment by this act shall continue serving on the Board until 1021
the end of the term for which the member was appointed. The 1022
Director of Agriculture then shall appoint a member of the Board 1023
under division (A) (3) of that section as amended by this act. 1024