

# AN ACT

To amend sections 956.01, 956.03, 956.04, 956.12, 956.13, 956.14, 956.15, 956.18, 959.15, 959.99, 1717.06, 4111.02, 4939.01, 4939.02, 4939.03, and 4939.08; to enact sections 956.051, 956.181, 956.19, 956.20, 956.21, 956.22, 956.23, 956.99, 959.21, 4113.85, 4939.031, 4939.032, 4939.033, 4939.035, 4939.037, 4939.038, 4939.039, 4939.0311, 4939.0313, 4939.0315, 4939.0317, 4939.0319, 4939.0321, 4939.0325, and 4939.0327 of the Revised Code; and to amend Section 211.10 of Am. Sub. H.B. 64 of the 131st General Assembly to regulate the sale of dogs from pet stores and dog retailers, to require the Director of Agriculture to license pet stores, and to revise the civil penalties applicable to dog breeders and other specified entities; to govern construction and attachment activities related to micro wireless facilities in the public way; to prohibit political subdivisions from establishing minimum wage rates different from the rate required by state law; to generally grant private employers exclusive authority to establish policies concerning hours and location of work, scheduling, and fringe benefits, unless an exception applies; to prohibit a person from engaging in sexual conduct with an animal and related acts, to provide for the seizure and impoundment of an animal that is the subject of a violation, and to authorize a sentencing court to require an offender to undergo psychological evaluation or counseling; to prohibit and establish an increased penalty for knowingly engaging in activities associated with cockfighting, bearbaiting, or pitting an animal against another; to remove the residency requirement for the appointment of an agent to a county humane society; and to make an appropriation.

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

SECTION 1. That sections 956.01, 956.03, 956.04, 956.12, 956.13, 956.14, 956.15, 956.18, 959.15, 959.99, 1717.06, 4111.02, 4939.01, 4939.02, 4939.03, and 4939.08 be amended and sections 956.051, 956.181, 956.19, 956.20, 956.21, 956.22, 956.23, 956.99, 959.21, 4113.85, 4939.031, 4939.032, 4939.033, 4939.035, 4939.037, 4939.038, 4939.039, 4939.0311, 4939.0313, 4939.0315, 4939.0317, 4939.0319, 4939.0321, 4939.0325, and 4939.0327 of the Revised Code be enacted to read as follows:

Sec. 956.01. As used in this chapter:

~~(A) "Accredited veterinarian" means a veterinarian accredited by the United States~~  
department of agriculture.

"Adult dog" means a dog that is twelve months of age or older.

~~(B)~~-"Animal rescue for dogs" means an individual or organization recognized by the director of agriculture that keeps, houses, and maintains dogs and that is dedicated to the welfare, health, safety, and protection of dogs, provided that the individual or organization does not operate for profit, does not sell dogs for a profit, does not breed dogs, and does not purchase more than nine dogs in any given calendar year unless the dogs are purchased from a dog warden appointed under Chapter 955. of the Revised Code, a humane society, or another animal rescue for dogs. "Animal rescue for dogs" includes an individual or organization that offers spayed or neutered dogs for adoption and charges reasonable adoption fees to cover the costs of the individual or organization, including, but not limited to, costs related to spaying or neutering dogs.

~~(C)~~-"Animal shelter for dogs" means a facility that keeps, houses, and maintains dogs such as a dog pound operated by a municipal corporation, or by a county under Chapter 955. of the Revised Code, or that is operated by a humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization that is devoted to the welfare, protection, and humane treatment of dogs and other animals.

~~(D)~~-"Boarding kennel" means an establishment operating for profit that keeps, houses, and maintains dogs solely for the purpose of providing shelter, care, and feeding of the dogs in return for a fee or other consideration.

~~(E)~~-"Breeding dog" means an unneutered, unspayed dog that is primarily harbored or housed on property that is the dog's primary residence.

~~(F)~~-"High volume breeder" means an establishment that keeps, houses, and maintains adult breeding dogs that produce at least nine litters of puppies in any given calendar year and, in return for a fee or other consideration, sells sixty or more adult dogs or puppies per calendar year.

~~(G)~~-"Humane society" means an organization that is organized under section 1717.05 of the Revised Code.

~~(H)~~-"Dog retailer" means a person who buys, sells, or offers to sell dogs at wholesale for resale to another or who sells or gives one or more dogs to a pet store annually. "Dog retailer" does not include an animal rescue for dogs, an animal shelter for dogs, a humane society, a medical kennel for dogs, a research kennel for dogs, a pet store, or a veterinarian.

~~(I)~~-"Environmental division of the Franklin county municipal court" means the environmental division of the Franklin county municipal court created in section 1901.011 of the Revised Code.

~~(J)~~-"Medical kennel for dogs" means a facility that is maintained by a veterinarian and operated primarily for the treatment of sick or injured dogs.

~~(K)~~-"Pet store" means a-an individual retail store that to which both of the following apply: the store sells dogs to the public; and with regard to the sale of a dog from the store, the sales person, the buyer of a dog, and the dog for sale are physically present during the sales transaction so that the buyer may personally observe the dog and help ensure its health prior to taking custody. "Pet store" does not include an animal rescue for dogs, an animal shelter for dogs, a humane society, a medical kennel for dogs, or a research kennel for dogs.

~~(L)~~-"Puppy" means a dog that is under twelve months of age.

~~(M)~~-"Research kennel for dogs" means a facility housing dogs that is maintained exclusively for research purposes.

~~(N)~~ "Veterinarian" means either a veterinarian licensed in this state under Chapter 4741. of the Revised Code or a veterinarian licensed out of this state by an applicable state entity.

Sec. 956.03. ~~(A)~~ The director of agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code establishing all of the following:

~~(A)~~ ~~(1)~~ Requirements and procedures governing high volume breeders, including the licensing and inspection of and record keeping by high volume breeders, in addition to the requirements and procedures established in this chapter;

~~(B)~~ ~~(2)~~ Requirements and procedures for conducting background investigations of each applicant for a license issued under section 956.04 of the Revised Code in order to determine if the applicant has been convicted of or pleaded guilty to any of the violations specified in division ~~(A)~~(2) of section 956.15 of the Revised Code;

~~(C)~~ ~~(3)~~ Requirements and procedures governing dog retailers, including the licensing of and record keeping by dog retailers, in addition to the requirements and procedures established in this chapter;

~~(D)~~ ~~(4)~~ The form of applications for licenses issued under this chapter and the information that is required to be submitted in the applications and the form for registering as an animal rescue for dogs under this chapter and the information that is required to be provided with a registration, including the name and address of each foster home that an animal rescue for dogs utilizes;

~~(E)~~ ~~(5)~~ A requirement that each high volume breeder submit to the director, with an application for a high volume breeder license, evidence of insurance or, in the alternative, evidence of a surety bond payable to the state to ensure compliance with this chapter and rules adopted under it. The face value of the insurance coverage or bond shall be in the following amounts:

~~(1)~~ ~~(a)~~ Five thousand dollars for high volume breeders keeping, housing, and maintaining not more than twenty-five adult dogs;

~~(2)~~ ~~(b)~~ Ten thousand dollars for high volume breeders keeping, housing, and maintaining at least twenty-six adult dogs, but not more than fifty adult dogs;

~~(3)~~ ~~(c)~~ Fifty thousand dollars for high volume breeders keeping, housing, and maintaining more than fifty adult dogs.

The rules shall require that the insurance be payable to the state or that the surety bond be subject to redemption by the state, as applicable, upon a suspension or revocation of a high volume breeder license for the purpose of paying for the maintenance and care of dogs that are seized or otherwise impounded from the high volume breeder in accordance with this chapter.

~~(F)~~ ~~(1)~~ ~~(6)~~ ~~(a)~~ For high volume breeders, standards of care governing all of the following:

~~(a)~~ ~~(i)~~ Housing;

~~(b)~~ ~~(ii)~~ Nutrition;

~~(c)~~ ~~(iii)~~ Exercise;

~~(d)~~ ~~(iv)~~ Grooming;

~~(e)~~ ~~(v)~~ Biosecurity and disease control;

~~(f)~~ ~~(vi)~~ Waste management;

~~(g)~~ ~~(vii)~~ Whelping;

~~(h)~~ ~~(viii)~~ Any other general standards of care for dogs.

~~(2)~~ ~~(b)~~ In adopting rules under division ~~(F)~~ ~~(1)~~ ~~(A)~~ ~~(6)~~ ~~(a)~~ of this section, the director shall

consider the following factors, without limitation:

~~(a)~~~~(i)~~ Best management practices for the care and well-being of dogs;  
~~(b)~~~~(ii)~~ Biosecurity;  
~~(c)~~~~(iii)~~ The prevention of disease;  
~~(d)~~~~(iv)~~ Morbidity and mortality data;  
~~(e)~~~~(v)~~ Generally accepted veterinary medical standards and ethical standards established by the American veterinary medical association;

~~(f)~~~~(vi)~~ Standards established by the United States department of agriculture under the federal animal welfare act as defined in section 959.131 of the Revised Code.

~~(G)~~~~(7)~~ Procedures for inspections conducted under section 956.10 of the Revised Code in addition to the procedures established in that section, and procedures for making records of the inspections;

~~(H)~~~~(1)~~~~(8)~~~~(a)~~ A requirement that an in-state retailer of a puppy or adult dog provide to the purchaser the complete name, address, and telephone number of all high volume breeders, dog retailers, and private owners that kept, housed, or maintained the puppy or adult dog prior to its coming into the possession of the retailer or proof that the puppy or adult dog was acquired through an animal rescue for dogs, animal shelter for dogs, or humane society, or a valid health certificate from the state of origin pertaining to the puppy or adult dog;

~~(2)~~~~(b)~~ A requirement that an out-of-state retailer of a puppy or adult dog that is conducting business in this state provide to the purchaser a valid health certificate from the state of origin pertaining to the puppy or adult dog and the complete name, address, and telephone number of all breeders, retailers, and private owners that kept, housed, or maintained the puppy or adult dog prior to its coming into the possession of the retailer or proof that the puppy or adult dog was acquired through an animal rescue for dogs, animal shelter for dogs, or humane society in this state or another state.

~~(I)~~~~(9)~~ A requirement that a high volume breeder or a dog retailer who advertises the sale of a puppy or adult dog include with the advertisement the vendor number assigned by the tax commissioner to the high volume breeder or to the dog retailer if the sale of the puppy or dog is subject to the tax levied under Chapter 5739. of the Revised Code;

~~(J)~~~~(10)~~ A requirement that a licensed high volume breeder and a licensed dog retailer comply with Chapter 5739. of the Revised Code. The rules shall authorize the director to suspend or revoke a license for failure to comply with that chapter. The director shall work in conjunction with the tax commissioner for the purposes of rules adopted under this division.

~~(K)~~~~(11)~~ Requirements and procedures governing pet stores, including requirements and procedures governing the initial licensing of pet stores and the renewal of pet store licenses;

(12) The application form for a license issued under division (A) of section 956.21 of the Revised Code and the information that is required to be submitted in the application;

(13) Requirements governing permanent implanted identification microchips for dogs to be sold at a pet store and by a dog retailer;

(14) Any other requirements and procedures that are determined by the director to be necessary for the administration and enforcement of this chapter and rules adopted under it. However, rules adopted under this division shall not establish additional requirements and procedures

governing animal rescues for dogs other than those adopted under division ~~(D)~~~~(A)(4)~~ of this section.

(B) The director of agriculture may adopt rules in accordance with Chapter 119. of the Revised Code establishing disease testing protocols and vaccination requirements for dogs to be sold at a pet store.

Sec. 956.04. (A)(1) No person shall operate a high volume breeder in this state without a high volume breeder license issued by the director of agriculture in accordance with this section and rules adopted under section 956.03 of the Revised Code.

(2) The director shall not issue a license under this section unless the director determines that the applicant will operate or will continue to operate the high volume breeder in accordance with this chapter and rules adopted under it.

(B) In determining whether an establishment is a high volume breeder requiring a license under this chapter, the director shall determine if, in any given year, the establishment is a high volume breeder as defined in section 956.01 of the Revised Code. All facilities that are located at an individual postal address shall be licensed as one high volume breeder. Not more than one license shall be issued under this section for any given postal address.

(C) A person who is proposing to operate a new high volume breeder shall submit an application for a license to the director at least ninety days before commencing operation of the high volume breeder. The application shall be submitted in the form and with the information required by rules adopted under section 956.03 of the Revised Code and shall include with it at least all of the following:

(1) An affidavit signed under oath or solemn affirmation of the number of adult dogs that are kept, housed, and maintained by the applicant at the location that is the subject of the application;

(2) An estimate of the number of puppies to be kept, housed, and maintained and of the number of litters of puppies or total number of puppies to be produced during the term of the license;

(3) Photographic evidence documenting the facilities where dogs will be kept, housed, and maintained by the applicant. The director may conduct an inspection of the facilities that are the subject of an application in addition to reviewing photographic evidence submitted by an applicant for a license.

(4) A signed release permitting the performance of a background investigation regarding the applicant in accordance with rules adopted under section 956.03 of the Revised Code;

(5) Proof that the applicant has established a veterinary-client-patient relationship as described in section 4741.04 of the Revised Code.

(D) During the month of December, but before the first day of January of the next year, a person who is proposing to continue the operation of a high volume breeder shall obtain a license for the high volume breeder from the director for the following year. The person shall apply for the license in the same manner as for an initial license, except that the person does not need to include with the application the photographic evidence required under division (C)(3) of this section.

(E) The owner or operator of a high volume breeder that is in operation on ~~the effective date of this section~~ March 13, 2013, shall submit to the director an application for a high volume breeder license not later than three months after ~~the effective date of this section~~ March 13, 2013. The director shall issue or deny the application for a license within ninety days after the receipt of the completed application.

(F) A person who has received a license under this section, upon sale or other disposition of the high volume breeder, may have the license transferred to another person with the consent of the director, provided that the transferee otherwise qualifies to be licensed as a high volume breeder under this chapter and rules adopted under it and does not have a certified unpaid debt to the state.

(G) An applicant for a license issued under this section shall demonstrate that the high volume breeder that is the subject of the application complies with standards established in rules adopted under section 956.03 of the Revised Code.

Sec. 956.051. (A) No dog retailer shall negligently sell, deliver, barter, auction, broker, give away, or transfer a live dog to a pet store in this state unless the dog was obtained from one of the following sources:

(1) An animal rescue for dogs;

(2) An animal shelter for dogs;

(3) A humane society;

(4) A qualified breeder as defined in section 956.19 of the Revised Code.

(B) No dog retailer shall negligently sell, deliver, barter, auction, broker, give away, or transfer to a pet store in this state any of the following:

(1) A dog that is less than eight weeks old;

(2) A dog without a certificate of veterinarian inspection signed by an accredited veterinarian;

(3) A dog that does not have a permanent implanted identification microchip that is approved for use by the director of agriculture under rules adopted under section 956.03 of the Revised Code;

(4) A dog to a person who is younger than eighteen years of age as verified by valid photo identification;

(5) A dog acquired from a qualified breeder as defined in section 956.19 of the Revised Code unless the dog retailer provides to the person acquiring the dog, at a time prior to the transaction for the acquisition of the dog, a written certification that includes all of the following information:

(a) The name of the breeder that bred the dog;

(b) The address, if available, of the breeder that bred the dog;

(c) The United States department of agriculture license number of the breeder that bred the dog, if applicable, and a copy of the most current United States department of agriculture inspection report for the breeder;

(d) The dog's birth date, if known;

(e) The date that the pet store took possession of the dog;

(f) The breed, gender, color, and any identifying marks of the dog;

(g) A document signed by an accredited veterinarian that describes any known disease, illness, or congenital or hereditary condition that adversely affects the health of the dog at the time of examination;

(h) A document signed by the dog retailer certifying that all information required to be provided to the person acquiring the dog under this section is accurate. A dog retailer shall keep a copy of the certification for a period of at least two years from the date of the acquisition. The dog retailer shall make the copy of the certification available for inspection or duplication by the department of agriculture.

(C) No dog retailer shall recklessly alter or provide false information on a certification

provided in accordance with division (B)(5) of this section.

(D) This section does not apply to any dog that is being sold, delivered, bartered, auctioned, given away, brokered, or transferred from the premises where the dog was bred and reared.

Sec. 956.12. If the director of agriculture or the director's authorized representative determines that a person has violated or is violating this chapter or rules adopted under it, the director may issue and cause to be served by certified mail or personal service a citation of violation and ~~an order~~ a notice requiring the person to cease the acts or practices that constitute a violation of this chapter or rules adopted under it or requiring the person to take corrective actions to eliminate the conditions that constitute a violation of this chapter and rules adopted under it. The ~~order~~ notice shall state specifically the provision or provisions of this chapter or the rule or rules adopted under this chapter that have been violated and the facts constituting the violation, the actions that the person must take to correct the deficiencies, and the time period within which the person must correct the violations.

Sec. 956.13. (A) The director of agriculture may assess a civil penalty against a person violating ~~this chapter sections 956.01 to 956.18 of the Revised Code~~ or rules adopted under it if all of the following occur:

(1) The person has received ~~an order~~ a notice and been notified of the violation by certified mail or personal service as required in section 956.12 of the Revised Code.

(2) After the time period for correcting the violation specified in the ~~order~~ notice has elapsed, the director or the director's authorized representative has ~~inspected the premises where the violation has occurred and~~ determined that the violation has not been corrected, and the director has issued a notice of an adjudication hearing pursuant to division (A)(3) of this section.

(3) The director affords the person an opportunity for an adjudication hearing under Chapter 119. of the Revised Code to challenge the director's determination that the person is not in compliance with this chapter or rules adopted under it, the imposition of the civil penalty, or both. A person may waive the opportunity for an adjudication hearing.

(B) If the opportunity for an adjudication hearing is waived or if, after an adjudication hearing, the director determines that a violation of this chapter or a rule adopted under it has occurred or is occurring, the director may assess a civil penalty. The civil penalty may be appealed in accordance with section 119.12 of the Revised Code, except that the civil penalty may be appealed only to the environmental division of the Franklin county municipal court.

~~(C) Civil penalties shall be assessed in the following amounts:~~

~~(1) A person who has violated division (A)(1) of section 956.04 or division (A)(1) of section 956.05 of the Revised Code shall pay a civil penalty in an amount that is established in rules adopted under section 956.03 of the Revised Code.~~

~~(2) A person who has violated any other provision of this chapter or rules adopted under it shall pay a civil penalty of one hundred dollars. A person who is assessed a civil penalty under this section is liable for a civil penalty of not more than five hundred dollars for a first violation, not more than two thousand five hundred dollars for a second violation, and not more than ten thousand dollars for a third or subsequent violation.~~

Each day that a violation continues constitutes a separate violation.

(D) Any person assessed a civil penalty under this section shall pay the amount prescribed to

the department of agriculture. The department shall remit all money collected under this section to the treasurer of state for deposit in the high volume breeder kennel control license fund created under section 956.18 of the Revised Code.

Sec. 956.14. The attorney general, upon the request of the director of agriculture, may bring an action for injunction against a person who has violated or is violating this chapter, rules adopted under it, or ~~an order~~ a notice issued under section 956.12 of the Revised Code. An action for injunction shall be filed in the appropriate court in the county in which the violation is alleged to have occurred. The court shall grant such injunctive relief upon a showing that the person against whom the action is brought has violated or is violating this chapter, rules adopted under it, or ~~an order~~ a notice issued under it. The court shall give precedence to such an action over all other cases.

Sec. 956.15. (A) The director of agriculture shall deny an application for a license that is submitted under section 956.04 or 956.05 of the Revised Code for either of the following reasons:

(1) The applicant for the license has violated any provision of this chapter or a rule adopted under it if the violation materially threatens the health or welfare of a dog.

(2) The applicant, in the past twenty years, has been convicted of or pleaded guilty to violating section 959.01, 959.02, 959.03, 959.13, 959.131, 959.15, or 959.16 of the Revised Code or an equivalent municipal ordinance, ~~law of another state, or law of the federal government~~ or, in the past twenty years, has been convicted of or pleaded guilty to violating more than once section 2919.25 of the Revised Code or an equivalent municipal ordinance, ~~law of another state, or law of the federal government~~.

(B) The director may suspend or revoke a license issued under this chapter for violation of any provision of this chapter or a rule adopted or order issued under it if the violation materially threatens the health and welfare of a dog.

(C) An application or a license shall not be denied, suspended, or revoked under this section without a written order of the director stating the findings on which the denial, suspension, or revocation is based. A copy of the order shall be sent to the applicant or license holder by certified mail or may be provided to the applicant or license holder by personal service. In addition, the person to whom a denial, suspension, or revocation applies may request an adjudication hearing under Chapter 119. of the Revised Code. The director shall comply with such a request. The determination of the director at an adjudication hearing may be appealed in accordance with section 119.12 of the Revised Code, except that the determination may be appealed only to the environmental division of the Franklin county municipal court.

Sec. 956.18. (A) All money collected by the director of agriculture from license fees under section 956.07 and civil penalties assessed under section 956.13 of the Revised Code shall be deposited in the state treasury to the credit of the high volume breeder kennel control license fund, which is hereby created. The fund shall also consist of money appropriated to it.

~~(B) No money may be released from the fund without controlling board approval. The director shall request the controlling board to release money in an amount not to exceed two million five hundred thousand dollars per biennium.~~

~~(C) The director shall use the money in the fund for the purpose of administering this chapter sections 956.01 to 956.18 of the Revised Code and rules adopted under it.~~

Sec. 956.181. (A) All money collected by the director of agriculture from license fees under



section 956.21 and civil penalties assessed under section 956.22 of the Revised Code shall be deposited in the state treasury to the credit of the pet store license fund, which is hereby created. The fund shall also consist of money appropriated to it.

(B) The director shall use the money in the fund for the purpose of administering sections 956.19 to 956.23 of the Revised Code and rules adopted under it.

Sec. 956.19. As used in section 956.20 of the Revised Code, a "qualified breeder" means either of the following:

(A) A breeder that keeps, houses, and maintains female adult dogs that is not a high volume breeder as defined in section 956.01 of the Revised Code.

(B) A high volume breeder located in or out of this state that meets all of the following requirements:

(1) The breeder is licensed by the United States department of agriculture under 7 U.S.C. 2133 and, if applicable, a state agency.

(2) The breeder has not been issued a report of a direct noncompliance violation by the United States department of agriculture under the federal animal welfare act, as defined in section 959.131 of the Revised Code, for a period of three years prior to offering for sale, delivering, bartering, auctioning, brokering, giving away, transferring, or selling a dog.

(3) The breeder has not had three or more noncompliance violations documented in any report issued by the United States department of agriculture under the federal animal welfare act, as defined in section 959.131 of the Revised Code, for a period of twelve months prior to offering for sale, delivering, bartering, auctioning, brokering, giving away, transferring, or selling a dog.

(4) The breeder has been issued a dog retailer license under section 956.05 of the Revised Code.

Sec. 956.20. (A) No owner, manager, or employee of a pet store shall negligently display, offer for sale, deliver, barter, auction, broker, give away, transfer, or sell any live dog from a pet store to a person unless the dog was obtained from one of the following sources:

(1) An animal rescue for dogs;

(2) An animal shelter for dogs;

(3) A humane society;

(4) A dog retailer, provided that, if the dog retailer originally obtained the dog from a breeder, the breeder is a qualified breeder;

(5) A qualified breeder.

(B) No owner, manager, or employee of a pet store shall negligently sell, deliver, barter, auction, broker, give away, or transfer any of the following:

(1) A dog that is less than eight weeks old;

(2) A dog without a certificate of veterinarian inspection signed by an accredited veterinarian;

(3) A dog that does not have a permanent implanted identification microchip that is approved for use by the director of agriculture under rules adopted under section 956.03 of the Revised Code;

(4) A dog to a person who is younger than eighteen years of age as verified by valid photo identification;

(5) A dog acquired from a qualified breeder or a dog retailer unless the owner, manager, or employee provides to the person acquiring the dog, at a time prior to the transaction for the

acquisition of the dog, a written certification that includes all of the following information:

- (a) The name of the breeder that bred the dog;
- (b) The address, if available, of the breeder that bred the dog;
- (c) The United States department of agriculture license number of the breeder that bred the dog, if applicable, and a copy of the most current United States department of agriculture inspection report for the breeder;
- (d) The dog's birth date, if known;
- (e) The date that the pet store took possession of the dog;
- (f) The breed, gender, color, and any identifying marks of the dog;
- (g) A document signed by an accredited veterinarian that describes any known disease, illness, or congenital or hereditary condition that adversely affects the health of the dog at the time of examination;
- (h) A document signed by the owner, manager, or employee of the pet store certifying that all information required to be provided to the person acquiring the dog under division (B)(5) of this section is accurate. A pet store shall keep a copy of the certification for a period of at least two years from the date of the acquisition. The owner, manager, or an employee of the pet store shall make the copy of the certification available for inspection or duplication by the department of agriculture.

(6) A dog acquired from a qualified breeder or a dog retailer unless all of the following information regarding the dog is available to the general public at the pet store:

- (a) The name of the breeder that bred the dog;
- (b) The address, if available, of the breeder that bred the dog;
- (c) The United States department of agriculture license number of the breeder that bred the dog, if applicable;
- (d) The dog's birth date, if known;
- (e) The breed of the dog.

(C) No owner, manager, or employee of a pet store shall recklessly alter or provide false information on a certification provided in accordance with division (B)(5) of this section.

(D) This section does not apply to any dog that is being sold, delivered, bartered, auctioned, given away, brokered, or transferred from the premises where the dog was bred and reared.

Sec. 956.21. (A) The director of agriculture may issue a pet store license to an owner or operator of a pet store when the owner or operator does all of the following:

- (1) Applies for a license in accordance with this section and rules adopted under it;
- (2) Affirms in writing that the owner or operator will maintain compliance with the applicable requirements established under section 959.20 of the Revised Code;
- (3) Submits with the application for a pet store license a fee of five hundred dollars.

(B) The director of agriculture may deny, suspend, or revoke a license issued under this section for a violation of division (A), (B), or (C) of section 956.20 of the Revised Code or rules adopted under that section. The denial, suspension, or revocation of a license is not effective until the licensee is given written notice of the violation, a reasonable amount of time to correct the violation, if possible, and an opportunity for a hearing.

The director also may refuse to issue a license under division (B) of this section if the applicant has violated division (A), (B), or (C) of section 956.20 of the Revised Code or the rules

adopted under this section during the thirty-six-month period prior to submitting an application for the license.

(C) Any license issued under this section is valid for a period of one year from the date of issuance. A pet store license must be renewed annually in the manner provided in rules adopted under this section.

(D) Money collected by the director of agriculture from each application fee submitted under this section shall be deposited in the state treasury to the credit of the pet store license fund created in section 956.181 of the Revised Code.

(E) No owner, operator, or manager of a pet store shall negligently display, offer for sale, deliver, barter, auction, broker, give away, transfer, or sell any live dog from a pet store in this state unless a license has been issued for the pet store by the director of agriculture in accordance with this section and rules adopted under it.

Sec. 956.22. (A) The director of agriculture may assess a civil penalty against a person that violates division (A), (B), or (C) of section 956.20 of the Revised Code or division (E) of section 956.21 of the Revised Code if all of the following occur:

(1) The person has received a notice and been notified of the violation by certified mail or personal service under section 956.12 of the Revised Code.

(2) After the time period for correcting the violation specified in the notice has elapsed, the director or the director's authorized representative has determined that the violation has not been corrected, and the director has issued a notice of an adjudication hearing pursuant to division (A)(3) of this section.

(3) The director affords the person an opportunity for an adjudication hearing under Chapter 119. of the Revised Code to challenge the director's determination that the person is not in compliance with this chapter or rules adopted under it, the imposition of the civil penalty, or both. A person may waive the opportunity for an adjudication hearing.

(B) If the opportunity for an adjudication hearing is waived or if, after an adjudication hearing, the director determines that a violation of this chapter or a rule adopted under it has occurred or is occurring, the director may assess a civil penalty. The civil penalty may be appealed in accordance with section 119.12 of the Revised Code, except that the civil penalty may be appealed only to the environmental division of the Franklin county municipal court.

(C) The person who is assessed a civil penalty under this section is liable for a civil penalty of not more than five hundred dollars for a first violation, not more than two thousand five hundred dollars for a second violation, and not more than ten thousand dollars for a third or subsequent violation.

(D) Any person assessed a civil penalty under this section shall pay the amount prescribed to the department of agriculture. The department shall remit all money collected under this section to the treasurer of state for deposit in the pet store license fund created under section 956.181 of the Revised Code.

Sec. 956.23. The regulation of pet stores is a matter of general statewide interest that requires statewide regulation. Sections 956.181 to 956.23 of the Revised Code and section 956.99 of the Revised Code constitute a comprehensive plan with respect to all aspects of the regulation of pet stores. Accordingly, it is the intent of the general assembly to preempt any local ordinance,

resolution, or other law adopted to regulate the sale, delivery, barter, auction, broker, or transfer of a dog to a person from a pet store.

Sec. 956.99. Whoever violates division (A), (B), or (C) of section 956.051 of the Revised Code, division (A), (B), or (C) of section 956.20 of the Revised Code, or division (E) of section 956.21 of the Revised Code is guilty of a misdemeanor of the fourth degree.

Sec. 959.15. (A) No person shall knowingly engage do either of the following:

(1) Engage in or be employed at cockfighting, bearbaiting, or pitting an animal against another; no person shall receive money for the admission of another to a place kept for such purpose; no person shall use

(2) Use, train, or possess any animal for seizing, detaining, or mistreating a domestic animal. Any person who knowingly purchases a ticket of admission to such place, or is present thereat, or witnesses such spectacle, is an aider and abettor.

(B) No person shall knowingly do either of the following:

(1) Be employed at cockfighting, bearbaiting, or pitting an animal against another;

(2) Do any of the following regarding an event involving cockfighting, bearbaiting, or pitting an animal against another:

(a) Wager money or anything else of value on the results of the event;

(b) Pay money or give anything else of value in exchange for admission to or being present at the event;

(c) Receive money or anything else of value in exchange for the admission of another person to the event or for another person to be present at the event;

(d) Use, possess, or permit or cause to be present at the event any device or substance intended to enhance an animal's ability to fight or to inflict injury on another animal;

(e) Permit or cause a minor to be present at the event if any person present at or involved with the event is conducting any of the activities described in division (B)(1) or (B)(2)(a), (b), (c), or (d) of this section.

(C) A person who knowingly witnesses cockfighting, bearbaiting, or an event in which one animal is pitted against another when a violation of division (B) of this section is occurring at the cockfighting, bearbaiting, or event is an aider and abettor and has committed a violation of this division.

Sec. 959.21. (A) As used in this section:

(1) "Animal" means a nonhuman mammal, bird, reptile, or amphibian, either dead or alive.

(2) "Offense" means a violation of this section or an attempt, in violation of section 2923.02 of the Revised Code, to violate this section.

(3) "Officer" has the same meaning as in section 959.132 of the Revised Code.

(4) "Sexual conduct" means either of the following committed for the purpose of sexual gratification:

(a) Any act done between a person and animal that involves contact of the penis of one and the vulva of the other, the penis of one and the penis of the other, the penis of one and the anus of the other, the mouth of one and the penis of the other, the mouth of one and the anus of the other, the vulva of one and the vulva of the other, the mouth of one and the vulva of the other, any other contact between a reproductive organ of one and a reproductive organ of the other, or any other insertion of a

reproductive organ of one into an orifice of the other;

(b) Without a bona fide veterinary or animal husbandry purpose to do so, the insertion, however slight, of any part of a person's body or any instrument, apparatus, or other object into the vaginal, anal, or reproductive opening of an animal.

(B) No person shall knowingly engage in sexual conduct with an animal or knowingly possess, sell, or purchase an animal with the intent that it be subjected to sexual conduct.

(C) No person shall knowingly organize, promote, aid, or abet in the conduct of an act involving any sexual conduct with an animal.

(D) An officer may seize and cause to be impounded at an impounding agency an animal that the officer has probable cause to believe is the subject of an offense. With respect to an animal so seized and impounded, all procedures and requirements that are established in section 959.132 of the Revised Code, and all other provisions of that section, apply to the seizure, impoundment, and disposition of the animal. References in section 959.132 of the Revised Code to "section 959.131 of the Revised Code," "companion animal," and "offense" shall be construed, respectively, as being references to "section 959.21 of the Revised Code" and to "animal" and "offense" as defined in this section, for purposes of application under this section only.

Sec. 959.99. (A) Whoever violates section 959.18 or 959.19 of the Revised Code is guilty of a minor misdemeanor.

(B) Except as otherwise provided in this division, whoever violates section 959.02 of the Revised Code is guilty of a misdemeanor of the second degree. If the value of the animal killed or the injury done amounts to three hundred dollars or more, whoever violates section 959.02 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates section 959.03, 959.06, 959.12, ~~959.15,~~ or 959.17 or division (A) of section 959.15 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(D) Whoever violates division (A) of section 959.13 or section 959.21 of the Revised Code is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition, including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this division, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.

(E)(1) Whoever violates division (B) of section 959.131 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense.

(2) Whoever violates section 959.01 of the Revised Code or division (C) of section 959.131 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(3) Whoever violates division (D) of section 959.131 of the Revised Code is guilty of a felony of the fifth degree.

(4) Whoever violates division (E) of section 959.131 of the Revised Code is guilty of a misdemeanor of the first degree.

(5)(a) A court may order a person who is convicted of or pleads guilty to a violation of

section 959.131 of the Revised Code to forfeit to an impounding agency, as defined in section 959.132 of the Revised Code, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.

(b) A court may order a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under section 959.132 of the Revised Code.

(6) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of section 959.131 or 959.21 of the Revised Code suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

(F) Whoever violates section 959.14 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(G) Whoever violates section 959.05 or 959.20 of the Revised Code is guilty of a misdemeanor of the first degree.

(H) Whoever violates section 959.16 of the Revised Code is guilty of a felony of the fourth degree for a first offense and a felony of the third degree on each subsequent offense.

(I) Whoever violates division (B) or (C) of section 959.15 of the Revised Code is guilty of a felony and shall be fined not more than ten thousand dollars.

Sec. 1717.06. A county humane society organized under section 1717.05 of the Revised Code may appoint agents, ~~who are residents of the county or municipal corporation for which the appointment is made,~~ for the purpose of prosecuting any person guilty of an act of cruelty to persons or animals. Such agents may arrest any person found violating this chapter or any other law for protecting persons or animals or preventing acts of cruelty thereto. Upon making an arrest the agent forthwith shall convey the person arrested before some court or magistrate having jurisdiction of the offense, and there make complaint against the person on oath or affirmation of the offense.

All appointments of agents under this section shall be approved by the mayor of the municipal corporation for which they are made. If the society exists outside a municipal corporation, such appointments shall be approved by the probate judge of the county for which they are made. The mayor or probate judge shall keep a record of such appointments.

In order to qualify for appointment as a humane agent under this section, a person first shall successfully complete a minimum of twenty hours of training on issues relating to the investigation and prosecution of cruelty to and neglect of animals. The training shall comply with rules recommended by the peace officer training commission under section 109.73 of the Revised Code and shall include, without limitation, instruction regarding animal husbandry practices as described in division (A)(12) of that section. A person who has been appointed as a humane agent under this section prior to ~~the effective date of this amendment April 9, 2003,~~ may continue to act as a humane agent for a period of time on and after ~~the effective date of this amendment April 9, 2003,~~ without completing the training. However, on or before December 31, 2004, a person who has been appointed

as a humane agent under this section prior to ~~the effective date of this amendment~~ April 9, 2003, shall successfully complete the training described in this paragraph and submit proof of its successful completion to the appropriate appointing mayor or probate judge in order to continue to act as a humane agent after December 31, 2004.

An agent of a county humane society only has the specific authority granted to the agent under this section and section 1717.08 of the Revised Code.

Sec. 4111.02. Every employer, as defined in Section 34a of Article II, Ohio Constitution, shall pay each of the employer's employees at a wage rate of not less than the wage rate specified in Section 34a of Article II, Ohio Constitution.

The director of commerce annually shall adjust the wage rate as specified in Section 34a of Article II, Ohio Constitution.

No political subdivision shall establish a minimum wage rate different from the wage rate required under this section.

As used in this section, "employee" has the same meaning as in section 4111.14 of the Revised Code.

Sec. 4113.85. (A)(1) As used in this section:

(a) "Employee" means any individual employed by an employer.

(b) "Employer" means any individual, partnership, association, corporation, business trust, or any person or group of persons, acting in the interest of an employer in relation to an employee, but does not include the state, its instrumentalities, a political subdivision of the state, or an instrumentality of a political subdivision.

(c) "Fringe benefit" means any benefit for which the employer would incur an expense, including health, welfare, or retirement benefits, whether paid for entirely by the employee or on the basis of a joint employer-employee contribution; leaves of absence; or vacation, separation, sick, or holiday pay.

(2) In construing the meaning of the terms "reporting time," "on call," and "split shift" in this section, the court shall give due consideration and great weight to the United States department of labor's and federal courts' interpretations of those terms under the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C. 201 as amended, and the regulations adopted pursuant to it.

(B) Except as otherwise expressly provided in state or federal law, the following matters are exclusively the result of an employer's policy, an agreement between an employer and the employer's employees, a contract between an employer and the employer's employees, or a collective bargaining agreement between an employer and the employer's employees:

(1) The number of hours an employee is required to work or be on call for work;

(2) The time when an employee is required to work or be on call for work;

(3) The location where an employee is required to work;

(4) The amount of notification an employee receives of work schedule assignments or changes to work schedule assignments, including any addition or reduction of hours, cancellation of a shift, or change in the date or time of a work shift;

(5) Minimizing fluctuations in the number of hours an employee is scheduled to work on a daily, weekly, or monthly basis;

(6) Additional payment for reporting time when work is or becomes unavailable, for being on

call for work, or for working a split shift:

(7) Whether an employer will provide advance notice of an employee's initial work or shift schedule, notice of new schedules, or notice of changed schedules, including whether an employer will provide employees with predictive schedules;

(8) Whether an employer will provide additional hours of work to employees the employer currently employs before employing additional workers;

(9) Whether an employer will provide employees with fringe benefits and the type and amount of those benefits.

(C) Nothing in this section requires an employer to adopt a policy concerning any of the matters described in division (B) of this section.

(D) Nothing in this section affects the authority provided by case law, the Revised Code, or Section 3 of Article XVIII, Ohio Constitution, for a political subdivision to adopt a resolution or ordinance to limit the hours an employer operates.

Sec. 4939.01. As used in sections 4939.01 to 4939.08 of the Revised Code:

(A) "Accessory equipment" means any equipment used in conjunction with a wireless facility or wireless support structure. "Accessory equipment" includes utility or transmission equipment, power storage, generation or control equipment, cables, wiring, and equipment cabinets.

(B) "Antenna" means communications equipment that transmits or receives radio frequency signals in the provision of wireless service, including associated accessory equipment.

(C) "Cable operator," "cable service," and "franchise" have the same meanings as in the "Cable Communications Policy Act of 1984," 98 Stat. 2779, 47 U.S.C.A. 522.

~~(B)~~-(D) "Distributed antenna system" means a network or facility to which all of the following apply:

(1) It distributes radio frequency signals to provide wireless service.

(2) It meets the height and size characteristics of a small cell facility.

(3) It consists of all of the following:

(a) Remote antenna nodes deployed throughout a desired coverage area;

(b) A high-capacity signal transport medium connected to a central hub site;

(c) Equipment located at the hub site to process or control the radio frequency signals through the antennas.

(4) It conforms to the size limitations specified in division (N) of this section.

(E) "Eligible facilities request" has the same meaning as in 47 U.S.C. 1455(a)(2).

(F) "Micro wireless facility" includes both a distributed antenna system and a small cell facility, and the related wireless facilities.

(G) "Micro wireless facility operator" means a public utility or cable operator that operates a micro wireless facility.

(H) "Municipal electric utility" has the same meaning as in section 4928.01 of the Revised Code.

(I) "Occupy or use" means, with respect to a public way, to place a tangible thing in a public way for any purpose, including, but not limited to, constructing, repairing, positioning, maintaining, or operating lines, poles, pipes, conduits, ducts, equipment, or other structures, appurtenances, or facilities necessary for the delivery of public utility services or any services provided by a cable



operator.

~~(C)-(J)~~ "Person" means any natural person, corporation, or partnership and also includes any governmental entity.

~~(D)-(K)~~ "Public utility" means any company described in section 4905.03 of the Revised Code except in divisions (B) and (I) of that section, which company also is a public utility as defined in section 4905.02 of the Revised Code; and includes any electric supplier as defined in section 4933.81 of the Revised Code.

~~(E)-(L)~~ "Public way" means the surface of, and the space within, through, on, across, above, or below, any public street, public road, public highway, public freeway, public lane, public path, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, and any other land dedicated or otherwise designated for a compatible public use, which, on or after July 2, 2002, is owned or controlled by a municipal corporation. "Public way" excludes a private easement.

~~(F)-(M)~~ "Public way fee" means a fee levied to recover the costs incurred by a municipal corporation and associated with the occupancy or use of a public way.

(N) "Small cell facility" means a wireless facility that meets the requirements of division (N)(1) of this section and also division (N)(2) of this section:

(1)(a) Each antenna is located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of not more than six cubic feet in volume.

(b) All other wireless equipment associated with the facility is cumulatively not more than twenty-eight cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

(2) If the wireless facility were placed on a wireless support structure, the increased height would be not more than ten feet or the overall resulting height would be not more than fifty feet.

(O) "Utility pole" means a structure that is designed for, or used for the purpose of, carrying lines, cables, or wires for electric or telecommunications service.

(P) "Wireless facility" means an antenna, accessory equipment, or other wireless device or equipment used to provide wireless service.

(Q) "Wireless service" means any services using licensed or unlicensed wireless spectrum, whether at a fixed location or mobile, provided using wireless facilities.

(R) "Wireless support structure" means a pole, such as a monopole, either guyed or self-supporting, light pole, traffic signal, sign pole, or utility pole capable of supporting wireless facilities. As used in section 4939.031 of the Revised Code, "wireless support structure" excludes a utility pole or other facility owned or operated by a municipal electric utility.

Sec. 4939.02. (A) It is the public policy of this state to do all of the following:

(1) Promote the public health, safety, and welfare regarding access to and the occupancy or use of public ways, to protect public and private property, and to promote economic development in this state;

(2) Promote the availability of a wide range of utility, communication, and other services to residents of this state at reasonable costs, including the rapid implementation of new technologies

and innovative services;

(3) Ensure that access to and occupancy or use of public ways advances the state policies specified in sections 4927.02, 4928.02, and 4929.02 of the Revised Code;

(4) Recognize the authority of a municipal corporation to manage access to and the occupancy or use of public ways to the extent necessary with regard to matters of local concern, and to receive cost recovery for the occupancy or use of public ways in accordance with law;

(5) Ensure in accordance with law the recovery by a public utility of public way fees and related costs;

(6) Promote coordination and standardization of municipal management of the occupancy or use of public ways, to enable efficient placement and operation of structures, appurtenances, or facilities necessary for the delivery of public utility or cable services;

(7) Encourage agreement among parties regarding public way fees and regarding terms and conditions pertaining to access to and the occupancy or use of public ways, and to facilitate the resolution of disputes regarding public way fees;

(8) Expedite the installation and operation of micro, and smaller, wireless facilities in order to facilitate the deployment of advanced wireless service throughout the state.

(B) This policy establishes fair terms and conditions for the use of public ways and does not unduly burden persons occupying or using public ways or persons that benefit from the services provided by such occupants or users.

Sec. 4939.03. (A) No person shall occupy or use a public way except in accordance with law.

(B) In occupying or using a public way, no person shall unreasonably compromise the public health, safety, and welfare.

(C)(1) No person shall occupy or use a public way without first obtaining under this section or section 1332.24 or 4939.031 of the Revised Code, any requisite consent of the municipal corporation owning or controlling the public way.

(2) Except as otherwise provided in division (C)(5) of this section and sections 4939.031 and 4939.035 of the Revised Code, a municipal corporation, not later than sixty days after the date of filing by a person of a completed request for consent, shall grant or deny its consent.

(3) A municipal corporation shall not unreasonably withhold or deny consent.

(4) If a request by a person for consent is denied, the municipal corporation shall provide to the person in writing its reasons for denying the request and such information as the person may reasonably request to obtain consent. If a request for consent is denied for an activity described in section 4939.031 of the Revised Code, the reasons required under this division shall be supported by substantial, competent evidence and the denial of consent shall not unreasonably discriminate against the entity requesting the consent.

(5) Except in the case of a public utility subject to the jurisdiction and recognized on the rolls of the public utilities commission or of a cable operator possessing a valid franchise awarded pursuant to the "Cable Communications Policy Act of 1984," 98 Stat. 2779, 47 U.S.C.A. 541, a municipal corporation, for good cause shown, may withhold, deny, or delay its consent to any person based upon the person's failure to possess the financial, technical, and managerial resources necessary to protect the public health, safety, and welfare.

(6) Initial consent for occupancy or use of a public way shall be conclusively presumed for

all lines, poles, pipes, conduits, ducts, equipment, or other appurtenances, structures, or facilities of a public utility or cable operator that, ~~on the effective date of this section July 2, 2002,~~ lawfully so occupy or use a public way. However, such presumed consent does not relieve the public utility or cable operator of compliance with any law related to the ongoing occupancy or use of a public way.

Sec. 4939.031. (A) A municipal corporation, not later than ninety days after the date of filing by an entity of a completed request for consent for any of the following, to be done in a public way, shall, subject to sections 4939.03, 4939.033 to 4939.037, and 4939.0313 to 4939.0319 of the Revised Code, grant or deny its consent:

- (1) Attaching micro wireless facilities to a wireless support structure;
- (2) Locating two or more wireless service providers' micro wireless facilities on the same wireless support structure;
- (3) Replacing or modifying a micro wireless facility on a wireless support structure;
- (4) Constructing, modifying, or replacing a wireless support structure associated with a micro wireless facility.

(B) Except as provided in this chapter as well as any franchise, pole attachment, or other agreements between a municipal corporation and a cable operator or public utility, a municipal corporation shall not require any zoning or other approval, consent, permit, certificate, or condition for the construction, replacement, location, attachment, or operation of a micro wireless facility, or otherwise prohibit or restrain the activities as described in this section.

Sec. 4939.032. A micro wireless facility operator may construct and operate the facility in a public way, subject to this chapter.

Sec. 4939.033. A request for consent under section 4939.031 of the Revised Code shall be deemed a permitted use and shall be exempt from local zoning review.

Sec. 4939.035. (A) The ninety-day time period required in section 4939.031 of the Revised Code may be tolled only:

- (1) By mutual agreement between the entity requesting consent and the municipal corporation;
- (2) In cases where the municipal corporation determines that the application is incomplete; or
- (3) By the municipal corporation in the event it has an extraordinary number of wireless facilities contained in pending requests, in which case the municipal corporation may toll the ninety-day period for a reasonable amount of days not exceeding an additional ninety days.

(B) To toll the time period for incompleteness, the municipal corporation shall provide written notice to the entity requesting consent not later than thirty days after receiving the request, clearly and specifically delineating all missing documents or information. The missing documents or information shall be reasonably related to determining whether the request meets the requirements of applicable federal and state law. Any notice of incompleteness requiring other information or documentation, including information of the type described in section 4939.0315 of the Revised Code or documentation intended to illustrate the need for the request or to justify the business decision for the request, does not toll the time period.

(C) The time period begins running again when the entity makes a supplemental submission in response to the municipal corporation's notice of incompleteness.

(D) If a supplemental submission is inadequate, the municipal corporation shall notify the

entity not later than ten days after receiving the supplemental submission that the supplemental submission did not provide the information identified in the original notice delineating missing documents or information. The time period may be tolled in the case of second or subsequent notices under the procedures identified in divisions (A) to (C) of this section. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

Sec. 4939.037. If a municipal corporation fails to approve a request for consent under section 4939.031 of the Revised Code or a request for a relevant construction permit within the required time period, provided the time period is not tolled under section 4939.035 of the Revised Code, the request shall be deemed granted upon the requesting entity providing notice to the municipal corporation that the time period for acting on the request has lapsed.

Sec. 4939.038. Nothing in this chapter precludes a municipal corporation from applying its generally applicable health, safety, and welfare regulations when granting consent for a micro wireless facility.

Sec. 4939.039. Notwithstanding sections 4939.031 to 4939.037 of the Revised Code, a municipal corporation shall approve within sixty days, and may not deny, an eligible facilities request under 47 C.F.R. 1.40001.

Sec. 4939.0311. (A) Consent shall not be required for either of the following activities conducted in the public way:

(1) Routine maintenance of wireless facilities;

(2) The replacement of wireless facilities with wireless facilities that are either of the following:

(a) Substantially similar to the existing wireless facilities;

(b) The same size or smaller than the existing wireless facilities.

(B) A municipal corporation may require a work permit for an activity described in division (A) of this section. Any such permit shall be subject to any applicable law in this chapter.

Sec. 4939.0313. (A) An entity seeking to construct, modify, or replace more than one micro wireless facility within the jurisdiction of a single municipal corporation may file, at the entity's discretion, a consolidated request for consent under division (A)(4) of section 4939.031 of the Revised Code and receive a single permit for the construction, modification, or replacement of the micro wireless facilities or associated wireless support structures.

(B) In the case of a consolidated request, the fees provided for in section 4927.0319 of the Revised Code may be cumulative.

Sec. 4939.0315. With respect to the provision of any micro wireless facility, a municipal corporation shall not do any of the following:

(A) Require the requestor to submit information about, or evaluate a requestor's business decisions with respect to, the requestor's service, customer demand, or quality of service to or from a particular area or site;

(B) Require the requestor to submit information about the need for the micro wireless facility or the associated wireless support structure, including additional wireless coverage, capacity, or increased speeds;

(C) Require the requestor to justify the need for the new micro wireless facility or associated

wireless support structure, or to submit business information, including strategy documents, propagation maps, or telecommunications traffic studies;

(D) Evaluate the request based on the availability of other potential locations for the placement of the micro wireless facility or associated wireless support structure, including the options to submit a request under division (A)(1) or (2) of section 4939.031 of the Revised Code or under division (A)(4) of that section to modify an existing micro wireless facility or associated wireless support structure except that a municipal corporation may propose an alternate location within fifty feet of the proposed location, which the requestor shall use if it has the right to use the alternate structure on reasonable terms and conditions and the alternate location does not impose technical limits or additional costs;

(E) Require the removal of existing wireless support structures or wireless facilities, wherever located, as a condition for approval of the request. This division shall not preclude a municipal corporation from adopting reasonable rules intended to ensure the public health, safety, and welfare with respect to the removal of an abandoned wireless support structure or abandoned wireless facilities.

(F) Impose restrictions with respect to objects in navigable airspace that are stricter than or in conflict with any restrictions imposed by the federal aviation administration;

(G) Impose requirements for bonds, escrow deposits, letters of credit, or any other type of financial surety to ensure removal of abandoned or unused wireless facilities, unless the municipal corporation imposes similar requirements on other permits for occupancy of the public way;

(H) Unreasonably discriminate among providers of functionally equivalent services;

(I) Impose unreasonable requirements regarding the maintenance or appearance of the micro wireless facility or associated wireless support structure and accessory equipment, including the types of materials to be used and the screening or landscaping of wireless facilities;

(J) Require that the requestor purchase, lease, or use facilities, networks, or services owned or operated by the municipal corporation, in whole or in part, or owned or operated, in whole or in part, by any entity in which the municipal corporation has an economic governance interest;

(K) Condition the grant of consent on the requestor's agreement to permit other wireless facilities to be placed at, attached to, or located on the associated wireless support structure;

(L) Limit the duration of any permit that is granted, except that a municipal corporation may require that construction commence within two years;

(M) Impose setback or fall-zone requirements for the associated wireless support structure that are different from requirements imposed on other types of structures in the public way;

(N) Impose environmental testing, sampling, or monitoring requirements that exceed federal law or that are not imposed on other types of construction or elements of the construction;

(O) Impose any regulations pertaining to radio frequency emissions or exposure to such emissions that are contrary to or exceed rules of the federal communications commission;

(P) Impose separation requirements that require any space to be maintained between wireless facilities or wireless support structures;

(Q) Prevent the requestor from locating the micro wireless facility or wireless support structure in a residential area or within a specific distance from a residence or other structure.

Sec. 4939.0317. No municipal corporation may institute a moratorium on the filing,

acceptance of filings, consideration, or approval of requests for consent described in section 4939.031 of the Revised Code.

Sec. 4939.0319. Any fee charged by a municipal corporation for a request for consent under section 4939.031 of the Revised Code shall not exceed the lesser of two hundred fifty dollars per micro wireless facility or the amount charged by the municipal corporation for a building permit for any other type of commercial development or land use development.

Sec. 4939.0321. No municipal corporation shall have or exercise any jurisdiction, authority, or control over the design, engineering, construction, installation, or operation of any micro wireless facility located in an interior structure not owned or controlled by the municipal corporation.

Sec. 4939.0325. (A) A municipal corporation shall permit, for the purpose of providing wireless service, an attachment by a micro wireless facility operator to a wireless support structure owned or operated by the municipal corporation and located in the public way.

(B)(1) The total annual charges and fees for the attachment and any activities related to the attachment shall be the lesser of the actual, direct, and reasonable costs related to the use of the wireless support structure by the operator or two hundred dollars per attachment.

(2) In any controversy concerning the appropriateness of a charge or fee under this section, the municipal corporation shall have the burden of proving that the charge or fee is reasonably related to its actual, direct, and reasonable costs.

(C) The charges, fees, terms, and conditions for attachments under this section, including the processes and time for approval of applications and permits for the attachments, shall be nondiscriminatory as to all attaching operators regardless of the types of services provided by the operators.

(D) Nothing in this chapter affects the need for an entity seeking to place a micro wireless facility on a public-utility owned utility pole to obtain from the public utility any necessary authority to place the facility.

Sec. 4939.0327. A municipal corporation shall not enter into an exclusive arrangement with any entity for the right to attach to the municipal corporation's wireless support structures.

Sec. 4939.08. (A) Nothing in sections 4939.01 to 4939.07 of the Revised Code applies to a franchise or to any agreement with a public utility ~~or~~, cable operator, or micro wireless facility operator, for the balance of its term, if the franchise or agreement meets all of the following, as applicable:

(1) ~~The~~ (a) With respect to a public utility or cable operator, the franchise was granted, or the agreement was authorized by ordinance or otherwise and was entered into, by a municipal corporation prior to the effective date of this section July 2, 2002.

(b) With respect to a micro wireless facility operator, the agreement was authorized by ordinance or otherwise and was entered into by a municipal corporation and the micro wireless facility operator prior to the effective date of the amendments to this section by S.B. 331 of the 131st general assembly.

(2) The franchise or agreement authorizes the occupation or use of public ways.

(3) The public utility or micro wireless facility operator agrees with the applicable public way fees, or nonmonetary compensation, if any, or the cable operator pays the applicable fee or utilizes the credit, offset, or deduction specified in division (B)(4) of section 4939.05 of the Revised Code.

(B)(1) Except as otherwise provided in division (A) of section 4939.06 of the Revised Code, nothing in sections 4939.01 to 4939.07 of the Revised Code applies to an ordinance both governing public ways and enacted by a municipal corporation prior to September 29, 1999, unless, on or after that date, the ordinance is materially modified.

(2) Division (B)(1) of this section does not apply to micro wireless facility operators and their facilities.

(C) Nothing in sections 4939.01 to 4939.07 of the Revised Code authorizes a municipal corporation to levy a fee, other than a public way fee authorized by section 4939.05 of the Revised Code, on a pipeline company or an operator of a pipeline facility regulated under the "Accountable Pipeline Safety and Partnership Act of 1996," 110 Stat. 3793, 49 U.S.C.A. 60101, or on an operating partner or affiliated business unit operating under guidelines of the federal energy regulatory commission as they relate to the construction and operation of a pipeline.

(D) Nothing in sections 4939.01 to 4939.07 and this section of the Revised Code prohibits a municipal corporation from doing either of the following:

(1) Charging a cable operator a franchise fee in accordance with the "Cable Communications Policy Act of 1984," 98 Stat. 2779, 47 U.S.C.A. 542;

(2) Allowing a credit, offset, or deduction against the payment of a construction permit fee for any franchise fee a cable operator pays to the municipal corporation.

SECTION 2. That existing sections 956.01, 956.03, 956.04, 956.12, 956.13, 956.14, 956.15, 956.18, 959.15, 959.99, 1717.06, 4111.02, 4939.01, 4939.02, 4939.03, and 4939.08 of the Revised Code are hereby repealed.

SECTION 3. That Section 211.10 of Am. Sub. H.B. 64 of the 131st General Assembly be amended to read as follows:

Sec. 211.10. AGR DEPARTMENT OF AGRICULTURE  
General Revenue Fund

|     |        |                        |              |              |
|-----|--------|------------------------|--------------|--------------|
| GRF | 700401 | Animal Health Programs | \$ 3,686,687 | \$ 3,686,687 |
| GRF | 700403 | Dairy Division         | \$ 1,163,115 | \$ 1,163,115 |
| GRF | 700404 | Ohio Proud             | \$ 50,000    | \$ 50,000    |
| GRF | 700406 | Consumer Protection    | \$ 1,287,556 | \$ 1,287,556 |
|     |        | Lab                    |              |              |
| GRF | 700407 | Food Safety            | \$ 1,287,556 | \$ 1,287,556 |
| GRF | 700409 | Farmland Preservation  | \$ 72,750    | \$ 72,750    |
| GRF | 700410 | Plant Industry         | \$ 150,000   | \$ 150,000   |
| GRF | 700412 | Weights and Measures   | \$ 600,000   | \$ 600,000   |
| GRF | 700415 | Poultry Inspection     | \$ 592,978   | \$ 592,978   |

|           |                      |  |               |   |
|-----------|----------------------|--|---------------|---|
| GRF       | 700418               | Livestock Regulation<br>Program          | \$ 1,108,071  | \$ 1,108,071                                  |
| GRF       | 700424               | Livestock Testing and<br>Inspections     | \$ 92,493     | \$ 92,493                                     |
| GRF       | 700426               | Dangerous and<br>Restricted Animals      | \$ 800,000    | \$ 800,000                                    |
| GRF       | 700427               | High Volume Breeder<br>Kennel Control    | \$ 350,000    | \$ <del>350,000</del><br><u>1,364,700</u>     |
| GRF       | 700428               | Soil and Water<br>Division               | \$ 1,807,700  | \$ 3,619,000                                  |
| GRF       | 700499               | Meat Inspection<br>Program - State Share | \$ 4,425,097  | \$ 4,425,097                                  |
| GRF       | 700501               | County Agricultural<br>Societies         | \$ 391,415    | \$ 391,415                                    |
| GRF       | 700509               | Soil and Water<br>District Support       | \$ 0          | \$ 3,250,000                                  |
| TOTAL GRF | General Revenue Fund |  | \$ 17,865,418 | \$ <del>22,926,718</del><br><u>23,941,418</u> |

**Dedicated Purpose Fund Group**

|      |        |   |              |              |
|------|--------|---|--------------|--------------|
| 4900 | 700651 | License Plates -<br>Sustainable Agriculture | \$ 7,000     | \$ 7,000     |
| 4940 | 700612 | Agricultural Commodity<br>Marketing Program | \$ 213,000   | \$ 213,000   |
| 4960 | 700626 | Ohio Grape Industries                       | \$ 970,000   | \$ 970,000   |
| 4970 | 700627 | Grain Warehouse<br>Program                  | \$ 332,672   | \$ 332,672   |
| 4C90 | 700605 | Commercial Feed and<br>Seed                 | \$ 1,760,000 | \$ 1,760,000 |
| 4D20 | 700609 | Auction Education                           | \$ 35,000    | \$ 35,000    |
| 4E40 | 700606 | Utility Radiological<br>Safety              | \$ 125,000   | \$ 125,000   |
| 4P70 | 700610 | Food Safety Inspection                      | \$ 957,328   | \$ 957,328   |



|                                      |        |  |               |               |
|--------------------------------------|--------|--|---------------|---------------|
| 4R00                                 | 700636 | Ohio Proud Marketing                                     | \$ 35,500     | \$ 35,500     |
| 4R20                                 | 700637 | Dairy Industry<br>Inspection                             | \$ 1,658,247  | \$ 1,658,247  |
| 4T60                                 | 700611 | Poultry and Meat<br>Inspection                           | \$ 120,000    | \$ 120,000    |
| 5780                                 | 700620 | Ride Inspection  | \$ 1,215,142  | \$ 1,215,142  |
| 5880                                 | 700633 | Brand Registration                                       | \$ 5,000      | \$ 5,000      |
| 5B80                                 | 700629 | Auctioneers  | \$ 340,000    | \$ 340,000    |
| 5BV0                                 | 700660 | Heidelberg Water<br>Quality Lab                          | \$ 125,000    | \$ 250,000    |
| 5BV0                                 | 700661 | Soil and Water<br>Districts                              | \$ 4,000,000  | \$ 8,000,000  |
| 5CP0                                 | 700652 | License Plate<br>Scholarships                            | \$ 10,000     | \$ 10,000     |
| 5FC0                                 | 700648 | Plant Pest Program                                       | \$ 1,190,000  | \$ 1,190,000  |
| 5H20                                 | 700608 | Metrology Lab and<br>Scale Certification                 | \$ 552,000    | \$ 552,000    |
| 5L80                                 | 700604 | Livestock Management<br>Program                          | \$ 135,000    | \$ 135,000    |
| 5MA0                                 | 700657 | Dangerous and<br>Restricted Animals                      | \$ 50,000     | \$ 50,000     |
| 5MR0                                 | 700658 | High Volume Breeders<br>and Kennels                      | \$ 174,000    | \$ 174,000    |
| 5QW0                                 | 700653 | Watershed Assistance                                     | \$ 557,500    | \$ 515,000    |
| 6520                                 | 700634 | Animal, Consumer,<br>and ATL Labs                        | \$ 4,966,383  | \$ 4,966,383  |
| 6690                                 | 700635 | Pesticide, Fertilizer,<br>and Lime Inspection<br>Program | \$ 4,418,041  | \$ 4,418,041  |
| TOTAL                                | DPF    | Dedicated Purpose  | \$ 23,951,813 | \$ 28,034,313 |
| Fund Group                           |        |  |               |               |
| Internal Service Activity Fund Group |        |  |               |               |

|                                    |        |                             |               |                          |
|------------------------------------|--------|-----------------------------|---------------|--------------------------|
| 5DA0                               | 700644 | Laboratory                  | \$ 1,164,000  | \$ 1,164,000             |
|                                    |        | Administration Support      |               |                          |
| 5GH0                               | 700655 | Administrative Support      | \$ 4,404,073  | \$ 4,404,073             |
| TOTAL ISA                          |        | Internal Service Activity   | \$ 5,568,073  | <u>\$ 5,568,073</u>      |
| Fund Group                         |        |                             |               |                          |
| <b>Capital Projects Fund Group</b> |        |                             |               |                          |
| 7057                               | 700632 | Clean Ohio                  | \$ 310,000    | \$ 310,000               |
|                                    |        | Agricultural                |               |                          |
|                                    |        | Easement Operating          |               |                          |
| TOTAL CPF                          |        | Capital Projects Fund Group | \$ 310,000    | \$ 310,000               |
| <b>Federal Fund Group</b>          |        |                             |               |                          |
| 3260                               | 700618 | Meat Inspection             | \$ 4,450,000  | \$ 4,450,000             |
|                                    |        | Program                     |               |                          |
|                                    |        | - Federal Share             |               |                          |
| 3360                               | 700617 | Ohio Farm Loan -            | \$ 101,000    | \$ 101,000               |
|                                    |        | Revolving                   |               |                          |
| 3820                               | 700601 | Federal Cooperative         | \$ 4,827,900  | \$ 5,131,500             |
|                                    |        | Contracts                   |               |                          |
| 3AB0                               | 700641 | Agricultural Easement       | \$ 150,000    | \$ 150,000               |
| 3J40                               | 700607 | Federal Administrative      | \$ 1,200,000  | \$ 1,200,000             |
|                                    |        | Programs                    |               |                          |
| 3R20                               | 700614 | Federal Plant Industry      | \$ 6,000,000  | \$ 6,000,000             |
| TOTAL FED                          |        | Federal Fund Group          | \$ 16,728,900 | \$ 17,032,500            |
| TOTAL ALL BUDGET FUND GROUPS       |        |                             | \$ 64,424,204 | \$ <del>73,871,604</del> |
|                                    |        |                             |               | <u>74,886,304</u>        |

**DANGEROUS AND RESTRICTED WILD ANIMALS**

The foregoing appropriation item 700426, Dangerous and Restricted Animals, shall be used to administer the Dangerous and Restricted Wild Animal Permitting Program.

**COUNTY AGRICULTURAL SOCIETIES**

The foregoing appropriation item 700501, County Agricultural Societies, shall be used to reimburse county and independent agricultural societies for expenses related to Junior Fair activities.

**SUPPORT FOR SOIL AND WATER DISTRICTS IN THE WESTERN LAKE ERIE BASIN**

Of the foregoing appropriation item 700509, Soil and Water District Support, \$350,000 in fiscal year 2017 shall be used by the Department of Agriculture for a program to support soil and water conservation districts in the Western Lake Erie Basin to comply with provisions of Sub. S.B. 1

of the 131st General Assembly. The Department shall approve a soil and water district's application for funding under the program if the application demonstrates that funding will be used for, but not limited to, providing technical assistance, developing applicable nutrient or manure management plans, hiring and training of soil and water conservation district staff on best conservation practices, or other activities the Director determines is appropriate to assist farmers in the Western Lake Erie Basin in complying with the provisions of Sub. S.B. 1 of the 131st General Assembly.

#### SOIL AND WATER DISTRICTS

In addition to state payments to soil and water conservation districts authorized by section 940.08 of the Revised Code, the Department of Agriculture may use appropriation item 700661, Soil and Water Districts, to pay any soil and water conservation district an annual amount not to exceed \$40,000 upon receipt of a request and justification from the district and approval by the Ohio Soil and Water Conservation Commission. The county auditor shall credit the payments to the special fund established under section 940.08 of the Revised Code for the local soil and water conservation district. Moneys received by each district shall be expended for the purposes of the district.

#### CLEAN OHIO AGRICULTURAL EASEMENT OPERATING EXPENSES

The foregoing appropriation item 700632, Clean Ohio Agricultural Easement Operating, shall be used by the Department of Agriculture in administering Ohio Agricultural Easement Fund (Fund 7057) projects pursuant to sections 901.21, 901.22, and 5301.67 to 5301.70 of the Revised Code.

SECTION 4. That existing Section 211.10 of Am. Sub. H.B. 64 of the 131st General Assembly is hereby repealed.

SECTION 5. Section 4113.85 of the Revised Code, as enacted by this act, is enacted pursuant to the General Assembly's exclusive authority under Section 34 of Article II, Ohio Constitution, to fix and regulate the hours of labor and provide for the comfort, health, safety, and general welfare of employees. The General Assembly finds that the regulation of the employment relationship between an employer and the employer's employees as it pertains to hours of labor and fringe benefits is a matter of statewide concern that requires uniform statewide regulation. Many employers in this state operate in multiple political subdivisions. Consequently, the General Assembly finds that permitting individual political subdivisions to enact their own requirements for private employers concerning hours of labor and fringe benefits creates additional and unnecessary costs on employers, diminishes employers' flexibility to respond to changing economic conditions, adversely affects employees' job flexibility, impairs economic growth, and impedes employers' ability to operate competitively both in Ohio and elsewhere. By enacting section 4113.85 of the Revised Code, it is the intent of the General Assembly to exclusively regulate the hours of labor and fringe benefits arising from the employer-employee relationship.

SECTION 6. If any item of law that constitutes the whole or part of a codified or uncodified section of law contained in this act, or if any application of any item of law that constitutes the whole or part of a codified or uncodified section of law contained in this act, is held invalid, the invalidity does not affect other items of law or applications of items of law that can be given effect without the

invalid item of law or application. To this end, the items of law of which the codified and uncoded sections of law contained in this act are composed, and their applications, are independent and severable.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. S. B. No. 331

131st G.A.

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

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*Director, Legislative Service Commission.*

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

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_