

As Introduced

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H. B. No. 649

Representatives Stoltzfus, Hood

**Cosponsors: Representatives Becker, Brinkman, Dean, Jones, Jordan, Keller,
Kick, Lang, Lipps, Powell, Riedel, Vitale, Wiggam, Zeltwanger**

A BILL

To amend sections 161.09, 3701.13, 3701.23, 1
3701.99, 3707.04, 3707.05, 3707.26, 3709.20, and 2
3709.21 and to enact section 3701.234 of the 3
Revised Code regarding the authority of the 4
Department of Health and local boards of health 5
to make certain orders and regarding the testing 6
of individuals for certain communicable 7
diseases. 8

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

Section 1. That sections 161.09, 3701.13, 3701.23, 9
3701.99, 3707.04, 3707.05, 3707.26, 3709.20, and 3709.21 be 10
amended and section 3701.234 of the Revised Code be enacted to 11
read as follows: 12

Sec. 161.09. In the event of an emergency resulting from 13
enemy attack, the ~~governor, his successor, or interim successor,~~ 14
~~shall, when in his judgment the public interest requires,~~ 15
general assembly may postpone any state or local election for a 16
period not exceeding ~~six months~~ninety days. When, because of 17
conditions resulting from an enemy attack, a scheduled election 18

is not held or scheduled appointments cannot be made, the 19
elected or appointed incumbents of affected offices, or their 20
emergency interim successors, shall continue to hold office 21
until their successors are elected or appointed and duly 22
qualified. Notwithstanding any contrary provision of the Revised 23
Code, in no other circumstance shall an election be postponed or 24
canceled or be conducted in any manner other than the manner 25
prescribed in the Revised Code. 26

Sec. 3701.13. (A) (1) The department of health shall have 27
supervision of ~~all~~ matters relating to the preservation of the 28
life and health of the people and, subject to division (A) (2) of 29
this section, shall have ultimate authority administrative 30
responsibility in matters of quarantine and isolation, which it 31
~~may declare and enforce, when neither exists, and modify, relax,~~ 32
~~or abolish, when either has been established. The~~ 33

(2) When exercising administrative responsibility in 34
matters of quarantine and isolation as described in division (A) 35
(1) of this section, in the event of an epidemic or pandemic of 36
a communicable, life-threatening disease, the department of 37
health may recommend to the general assembly a plan for 38
quarantine or isolation procedures for individuals directly 39
exposed to or diagnosed with the disease. The plan shall not 40
take effect unless it receives the approval of the general 41
assembly. To be approved, the plan must provide for cooperation 42
with boards of health of city and general health districts. Once 43
approved, the plan shall remain in effect for a period not to 44
exceed thirty days. 45

(3) The department may approve methods of immunization 46
against the diseases specified in section 3313.671 of the 47
Revised Code for the purpose of carrying out the provisions of 48

that section and take such actions as are necessary to encourage 49
vaccination against those diseases. 50

~~The (B) (1) Subject to division (B) (2) of this section, the 51
department may make special or standing orders or rules for 52
preventing the use of fluoroscopes for nonmedical purposes that 53
emit doses of radiation likely to be harmful to any person, for 54
preventing the spread of contagious or infectious diseases, for 55
governing. 56~~

(2) All of the following apply to a special or standing 57
order or rule for preventing the spread of contagious or 58
infectious diseases: 59

(a) The order or rule shall not be valid unless approved 60
by the general assembly. Within five calendar days of the 61
order's or rule's submission to the general assembly for 62
approval, the general assembly may approve, modify, or limit the 63
order or rule or deny the order's or rule's approval. 64

(b) If approved, the order or rule shall be valid for not 65
more than thirty days. 66

(c) The order shall not do any of the following: 67

(i) Prescribe the time, place, and manner for holding an 68
election; 69

(ii) Cause impairment of contracts without due process of 70
law; 71

(iii) Cause the seizure of property or a business closure 72
or prevent access to a business without due process of law; 73

(iv) Result in a general mandatory statewide quarantine or 74
isolation that applies to individuals neither directly exposed 75
to nor medically diagnosed with the disease that is the subject 76

of the epidemic or pandemic; 77

(v) Require testing of any kind or the use of masks, gloves, or any other covering without an individual's consent. 78
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(C) In addition to the authority granted by division (B) (1) of this section, the department may make special or standing orders or rules for any of the following purposes: 80
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(1) To prevent the use of fluoroscopes for nonmedical purposes that emit doses of radiation likely to be harmful to any person; 83
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(2) To govern the receipt and conveyance of remains of deceased persons,~~and for such;~~ 86
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(3) To address such other sanitary matters as are best controlled by a general rule. ~~Whenever~~ 88
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(D) Whenever possible, the department shall work in cooperation with the health commissioner of a general or city health district. ~~The~~ 90
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In any of the following circumstances, the department may make and enforce orders in local matters or reassign substantive authority for mandatory programs from a general or city health district to another general or city health district: when an emergency exists, ~~or~~ when the board of health of a general or city health district has neglected or refused to act with sufficient promptness or efficiency, or when such board has not been established as provided by sections 3709.02, 3709.03, 3709.05, 3709.06, 3709.11, 3709.12, and 3709.14 of the Revised Code. In such cases, the necessary expense incurred shall be paid by the general health district or city for which the services are rendered. 93
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The department of health may require general or city health districts to enter into agreements for shared services under section 9.482 of the Revised Code. The department shall prepare and offer to boards of health a model contract and memorandum of understanding that are easily adaptable for use by boards of health when entering into shared services agreements. The department also may offer financial and other technical assistance to boards of health to encourage the sharing of services.

As a condition precedent to receiving funding from the department of health, the director of health may require general or city health districts to apply for accreditation by July 1, 2018, and be accredited by July 1, 2020, by an accreditation body approved by the director. The director of health, by July 1, 2016, shall conduct an evaluation of general and city health district preparation for accreditation, including an evaluation of each district's reported public health quality indicators as provided for in section 3701.98 of the Revised Code.

(E) The department may make evaluative studies of the nutritional status of Ohio residents, and of the food and nutrition-related programs operating within the state. Every agency of the state, at the request of the department, shall provide information and otherwise assist in the execution of such studies.

Sec. 3701.23. (A) As used in this section, "health care provider" means any person or government entity that provides health care services to individuals. "Health care provider" includes, but is not limited to, hospitals, medical clinics and offices, special care facilities, medical laboratories, physicians, pharmacists, dentists, physician assistants,

registered and licensed practical nurses, laboratory 135
technicians, emergency medical service organization personnel, 136
and ambulance service organization personnel. 137

(B) Boards of health, health authorities or officials, 138
health care providers in localities in which there are no health 139
authorities or officials, and coroners or medical examiners 140
shall report promptly to the department of health the existence 141
of any of the following: 142

(1) Asiatic cholera; 143

(2) Yellow fever; 144

(3) Diphtheria; 145

(4) Typhus or typhoid fever; 146

(5) As specified by the director of health, other 147
contagious or infectious diseases, illnesses, health conditions, 148
or unusual infectious agents or biological toxins posing a risk 149
of human fatality or disability. 150

(C) No person shall fail to comply with the reporting 151
requirements established under division (B) of this section. 152

(D) The reports required by this section shall be 153
submitted on forms, as required by statute or rule, and in the 154
manner the director of health prescribes. 155

(E) Information reported under this section that is 156
protected health information pursuant to section 3701.17 of the 157
Revised Code shall be released only in accordance with that 158
section. Information that does not identify an individual may be 159
released, but only in summary, statistical, or aggregate form. 160

Sec. 3701.234. (A) Before administering to an individual a 161

test for the presence or absence of a communicable, life- 162
threatening disease or infection or an immune response to such a 163
disease or infection that is the subject of an epidemic or 164
pandemic, a health care provider shall obtain the individual's 165
informed consent. In the case of a minor individual, the health 166
care provider shall obtain the informed consent of the minor 167
individual's parent or legal guardian. In either circumstance, 168
the consent shall be in writing. 169

(B) The physical results of an individual's test, 170
including any partial or complete biometric record of the 171
individual's DNA sequence, shall be the property of the 172
individual and shall be transmitted only to the individual 173
tested, or in the case of a minor individual, the minor 174
individual's parent or legal guardian. 175

(C) In the event the individual or minor individual's 176
parent or legal guardian does not take possession of the 177
physical results of a test, the laboratory responsible for 178
conducting the test shall destroy those results when they are no 179
longer needed for the limited purpose of diagnosing the 180
individual or determining the presence of an immune response to 181
the disease or infection identified in the individual's written 182
consent. 183

Any DNA collected for the limited purpose of this test 184
shall not be maintained by the laboratory conducting the test or 185
any other public or private entity. Such biological material or 186
related record of such material shall not be stored, held, or 187
transmitted in any format, including an electronic, digital, or 188
paper format, by the laboratory conducting the test or any other 189
public or private entity. The laboratory conducting the test 190
shall certify in writing to the individual tested that any 191

biometric record has been destroyed and that no related record 192
has been stored, held, or transmitted to a third party. 193

(D) A health care provider, laboratory, or public or 194
private entity shall be liable in damages to any person in a 195
civil action for injury or loss to person or property that 196
allegedly arises from the provider's, laboratory's, or entity's 197
failure to comply with the requirements of this section. 198

Sec. 3701.99. (A) Whoever violates division (C) of section 199
3701.23, division (C) of section 3701.232, division (C) of 200
section 3701.24, division (D) (2) of section 3701.262, or 201
sections 3701.46 to 3701.55 of the Revised Code is guilty of a 202
minor misdemeanor on a first offense; on each subsequent 203
offense, the person is guilty of a misdemeanor of the fourth 204
degree. 205

(B) Whoever violates section 3701.82 of the Revised Code 206
is guilty of a misdemeanor of the first degree. 207

(C) Whoever violates section 3701.352 or 3701.81 of the 208
Revised Code is guilty of a misdemeanor of the second degree. 209

(D) Whoever violates section 3701.234 shall be fined not 210
less than one hundred thousand dollars per incident. 211

Sec. 3707.04. ~~In~~ Subject to division (C) of section 212
3709.20 of the Revised Code, in time of epidemic or threatened 213
epidemic, or when a dangerous communicable disease is unusually 214
prevalent, the board of health of a city or general health 215
district, after a personal investigation by its members or 216
executive officer to establish the facts in the case, and not 217
otherwise, may impose a quarantine on vessels, railroads, or 218
other public or private vehicles conveying persons, baggage, or 219
freight, or used for such purpose. The board may make and 220

enforce such rules and regulations as are wise and necessary for 221
the protection of the health of the people of the community or 222
state, but the running of any train or car on any steam or 223
electric railroad, or of steamboats, vessels, or other public 224
conveyances shall not be prohibited. 225

A true copy of such quarantine rules and regulations shall 226
be immediately furnished by such board to the department of 227
health, and thereafter no change shall be made except by the 228
order of the department or the board to meet a new and sudden 229
emergency. 230

Sec. 3707.05. ~~The~~ Subject to division (C) of section 231
3709.20 of the Revised Code, the board of health of a city or 232
general health district shall not close public highways or 233
prohibit travel thereon, interfere with public officers not 234
afflicted with or directly exposed to a contagious or infectious 235
disease, in the discharge of their official duties, or establish 236
a quarantine of one municipal corporation or township against 237
another municipal corporation or township, as such, without 238
permission first obtained from the department of health and 239
under regulations established by the department. 240

Sec. 3707.26. Semiannually, and more often, if in its 241
judgment necessary, the board of health of a city or general 242
health district shall inspect the sanitary condition of all 243
schools and school buildings within its jurisdiction, and may 244
disinfect any school building. ~~During~~ Subject to division (C) of 245
section 3709.20 of the Revised Code, during an epidemic or 246
threatened epidemic, or when a dangerous communicable disease is 247
unusually prevalent, the board may close any school and prohibit 248
public gatherings for such time as is necessary. 249

Sec. 3709.20. (A) ~~The~~ Subject to division (C) of this 250

section, the board of health of a city health district may make 251
such orders and regulations as are necessary for its own 252
government, for the public health, the prevention ~~of or~~ 253
restriction of disease, and the prevention, abatement, or 254
suppression of nuisances. Orders and regulations not for the 255
government of the board, but intended for the general public, 256
shall be adopted, advertised, recorded, and certified as are 257
ordinances of municipal corporations and the record thereof 258
shall be given in all courts the same effect as is given such 259
ordinances. ~~In~~ 260

In cases of emergency caused by epidemics of contagious or 261
infectious diseases, or conditions or events endangering the 262
public health, the board may declare such orders and regulations 263
to be emergency measures, and such orders and regulations shall 264
become effective immediately ~~without such advertising,~~ 265
~~recording, and certifying after conducting at least one public~~ 266
hearing, which shall include an opportunity for public testimony 267
and shall not be conducted in accordance with division (B) of 268
this section. Such orders or rules shall be valid for not more 269
than thirty days. After thirty days have elapsed, the board may 270
declare new orders or rules as emergency measures, but only in 271
accordance with the requirements of division (A) of this 272
section. 273

(B) In any hearing conducted by the board of health of a 274
city health district, general health district, or combined 275
health district, the board may appoint a referee or examiner to 276
conduct the hearing. In a hearing conducted by a board of health 277
of a city health district, a combined health district, or a 278
general health district at least one member of the board shall 279
be present. 280

The referee or examiner appointed to conduct the hearing 281
shall have the same powers and authority in conducting the 282
hearing as is granted to the board. The referee or examiner 283
shall have been admitted to the practice of law in the state and 284
be possessed of such additional qualifications as the board may 285
require. The referee or examiner shall submit to the board a 286
written report setting forth ~~his~~ the referee's or examiner's 287
findings of fact and conclusions of law and a recommendation of 288
the action to be taken by the board. A copy of such written 289
report and recommendation of the referee or examiner shall, 290
within five days of the date of filing thereof, be served upon 291
the party or ~~his~~ the party's attorney or other representative of 292
record, by certified mail. The party may, within ten days of 293
receipt of the copy of the written report or recommendation, 294
file with the board written objections to the report and 295
recommendation, which objections shall be considered by the 296
board before approving, modifying, or disapproving the 297
recommendation. The board may grant extensions of time to the 298
party within which to file such objections. 299

No recommendation of the referee or examiner shall be 300
approved, modified, or disapproved by the board until ten days 301
after the service of the report and recommendation as provided 302
in this section. The board may order additional testimony to be 303
taken or permit the introduction of further documentary 304
evidence. No recommendation shall be final until approved by a 305
quorum of the entire board as indicated by an order on its 306
record of proceedings. 307

(C) The board of health of a city health district, general 308
health district, or combined health district shall not make any 309
order or regulation that does any of the following: 310

<u>(1) Prescribes the time, place, and manner for holding an election;</u>	311
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<u>(2) Causes an impairment of contracts without due process of law;</u>	313
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<u>(3) Causes the seizure of property or a business closure or prevents access to a business without due process of law;</u>	315
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<u>(4) Results in a general mandatory quarantine or isolation that applies to individuals neither directly exposed to nor medically diagnosed with the disease that is the subject of the epidemic or pandemic;</u>	317
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<u>(5) Require testing of any kind or the use of masks, gloves, or any other covering without an individual's consent.</u>	321
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Sec. 3709.21. <u>The Subject to division (C) of section 3709.20 of the Revised Code, the board of health of a general health district may make such orders and regulations as are necessary for its own government, for the public health, the prevention or restriction of disease, and the prevention, abatement, or suppression of nuisances. Such board may require that no human, animal, or household wastes from sanitary installations within the district be discharged into a storm sewer, open ditch, or watercourse without a permit therefor having been secured from the board under such terms as the board requires. All orders and regulations not for the government of the board, but intended for the general public, shall be adopted, recorded, and certified as are ordinances of municipal corporations and the record thereof shall be given in all courts the same effect as is given such ordinances, but the advertisements of such orders and regulations shall be by publication in a newspaper of general circulation within the</u>	323
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district. Publication shall be made once a week for two 340
consecutive weeks or as provided in section 7.16 of the Revised 341
Code, and such orders and regulations shall take effect and be 342
in force ten days from the date of the first publication. ~~In~~ 343

In cases of emergency caused by epidemics of contagious or 344
infectious diseases, or conditions or events endangering the 345
public health, the board may declare such orders and regulations 346
to be emergency measures, and such orders and regulations shall 347
become effective immediately ~~without such advertising,~~ 348
~~recording, and certifying~~ after conducting at least one public 349
hearing, which shall include an opportunity for public 350
testimony. Such orders or rules shall be valid for not more than 351
thirty days. After the thirty days have elapsed, the board may 352
declare new orders or rules as emergency measures, but only in 353
accordance with the requirements of this section. 354

Section 2. That existing sections 161.09, 3701.13, 355
3701.23, 3701.99, 3707.04, 3707.05, 3707.26, 3709.20, and 356
3709.21 of the Revised Code are hereby repealed. 357