

As Introduced

133rd General Assembly

Regular Session

2019-2020

S. B. No. 311

Senators McColley, Roegner

**Cosponsors: Senators Brenner, Hoagland, Huffman, M., Huffman, S., Johnson,
Rulli, Schaffer**

A BILL

To amend sections 101.35 and 3701.13 and to enact 1
section 101.36 of the Revised Code to rescind 2
certain orders of the Director of Health 3
regarding COVID-19, to require the approval of 4
the Joint Committee on Agency Rule Review for 5
Department of Health orders to be effective for 6
more than fourteen days, to require statewide 7
Department of Health orders to include the 8
Governor's signature, to modify the Department's 9
rulemaking authority, to allow in-person high 10
school graduation ceremonies, and to declare an 11
emergency. 12

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

Section 1. (A) The portion of the Director of Health's 13
order under section 3701.13 of the Revised Code "Director's 14
Order that Reopens Businesses, with Exceptions, and Continues a 15
Stay Healthy and Safe at Home Order" issued on April 30, 2020, 16
requiring Ohioans to stay at home is rescinded. The portion of 17
the Director of Health's order under section 3701.13 of the 18

Revised Code "Director's Order that Reopens Businesses, with
Exceptions, and Continues a Stay Healthy and Safe at Home Order"
issued on April 30, 2020, requiring certain businesses to close
or remain closed is rescinded. All businesses, nonprofits, and
other organizations shall be permitted to open on the effective
date of this section. Nothing in this section requires a
business, nonprofit corporation, or other organization to open.

(B) The portions of the Director of Health's order under
section 3701.13 of the Revised Code "Director's Order that
Reopens Businesses, with Exceptions, and Continues a Stay
Healthy and Safe at Home Order" issued on April 30, 2020, not
addressed in division (A) of this section, and any other order
of the Director of Health issued under section 3701.13 of the
Revised Code on or after April 29, 2020, cease to be effective
fourteen days after the effective date of this section, unless
the Joint Committee on Agency Rule Review approves extensions of
the orders under section 101.36 of the Revised Code, as enacted
by this act.

(C) The Governor or any director, officer, or employee of
an executive agency shall not make any order doing any of the
following:

(1) Prohibiting in-person high school graduation
ceremonies;

(2) Restricting the number of high school graduates,
school faculty, or administrators who may attend;

(3) Limiting the number of attendees to less than four per
graduate;

(4) Limiting when or what time of the day the graduation
ceremonies must occur;

(5) Limiting the duration of the ceremonies;	48
(6) Limiting where or in what type of room or facility the graduation ceremony may be conducted;	49 50
(7) Requiring the graduates, attendees, school faculty, or administrators to exercise social distancing at a physical distance that exceeds the federal social distancing guidelines;	51 52 53
(8) Apply social distancing restrictions against members of the same household.	54 55
Nothing in this section shall require a school district to conduct an in-person graduation ceremony or prevent a school district from limiting the number of graduates, attendees, school faculty, or administrators who may attend.	56 57 58 59
Division (C) of this section applies during calendar year 2020.	60 61
(D) As used in this section, "executive agency" means the office of Governor, a department created under section 121.02 of the Revised Code, or any other state agency, department, board, or commission controlled or directed by the Governor or otherwise subject to the Governor's authority. "Executive agency" does not include any court.	62 63 64 65 66 67
Section 2. That sections 101.35 and 3701.13 be amended and section 101.36 of the Revised Code be enacted to read as follows:	68 69 70
Sec. 101.35. There is hereby created in the general assembly the joint committee on agency rule review. The committee shall consist of five members of the house of representatives and five members of the senate. Within fifteen days after the commencement of the first regular session of each	71 72 73 74 75

general assembly, the speaker of the house of representatives 76
shall appoint the members of the committee from the house of 77
representatives, and the president of the senate shall appoint 78
the members of the committee from the senate. Not more than 79
three of the members from each house shall be of the same 80
political party. In the first regular session of a general 81
assembly, the chairperson of the committee shall be appointed by 82
the speaker of the house from among the house members of the 83
committee, and the vice-chairperson shall be appointed by the 84
president of the senate from among the senate members of the 85
committee. In the second regular session of a general assembly, 86
the chairperson shall be appointed by the president of the 87
senate from among the senate members of the committee, and the 88
vice-chairperson shall be appointed by the speaker of the house 89
from among the house members of the committee. The chairperson, 90
vice-chairperson, and members of the committee shall serve until 91
their respective successors are appointed or until they are no 92
longer members of the general assembly. When a vacancy occurs 93
among the officers or members of the committee, it shall be 94
filled in the same manner as the original appointment. 95

Notwithstanding section 101.26 of the Revised Code, the 96
members, when engaged in their duties as members of the 97
committee on days when there is not a voting session of the 98
member's house of the general assembly, shall be paid at the per 99
diem rate of one hundred fifty dollars, and their necessary 100
traveling expenses, which shall be paid from the funds 101
appropriated for the payment of expenses of legislative 102
committees. 103

~~The~~ Except as otherwise provided in section 101.36 of the 104
Revised Code, the committee has the same powers as other 105
standing or select committees of the general assembly. Six 106

members constitute a quorum. The concurrence of six members is 107
required for the recommendation of a concurrent resolution 108
invalidating a proposed rule under section 106.021 of the 109
Revised Code. The concurrence of seven members is required for 110
the recommendation of a concurrent resolution invalidating an 111
existing rule under section 106.031 of the Revised Code. 112

When a member of the committee is absent, the president or 113
speaker, as the case may be, may designate a substitute from the 114
same house and political party as the absent member. The 115
substitute shall serve on the committee in the member's absence, 116
and is entitled to perform the duties of a member of the 117
committee. For serving on the committee, the substitute shall be 118
paid the same per diem and necessary traveling expenses as the 119
substitute would be entitled to receive if the substitute were a 120
member of the committee. 121

The president or speaker shall inform the executive 122
director of the committee of a substitution. If the executive 123
director learns of a substitution sufficiently in advance of the 124
meeting of the committee the substitute is to attend, the 125
executive director shall publish notice of the substitution on 126
the internet, make reasonable effort to inform of the 127
substitution persons who are known to the executive director to 128
be interested in rules that are scheduled for review at the 129
meeting, and inform of the substitution persons who inquire of 130
the executive director concerning the meeting. 131

The committee may meet during periods in which the general 132
assembly has adjourned. 133

At meetings of the committee, the committee may request an 134
agency, as defined in section 106.01 of the Revised Code, to 135
provide information relative to the agency's implementation of 136

its statutory authority. 137

A member of the committee, and the executive director and 138
staff of the committee, are entitled in their official 139
capacities to attend, but not in their official capacities to 140
participate in, a public hearing conducted by an agency on a 141
proposed rule. 142

The executive director serves at the pleasure of the 143
president and speaker by mutual consensus. The executive 144
director may employ such technical, professional, and clerical 145
employees as are necessary to carry out the powers and 146
administrative duties of the committee. 147

Sec. 101.36. (A) The director of health may apply to the 148
joint committee on agency rule review to approve the extension 149
of an order beyond the fourteen-day period described in section 150
3701.13 of the Revised Code. 151

(B) Notwithstanding any contrary provision of section 152
101.35 of the Revised Code, a majority vote of the joint 153
committee, including the affirmative vote of at least three 154
members of the house of representatives and at least three 155
members of the senate, is required to approve the extension of 156
an order under this section. The joint committee shall determine 157
the period of the extension, if any. In making its 158
determination, the joint committee shall consider information 159
submitted to the joint committee by a board of health regarding 160
the impact of an extension on the board of health's 161
jurisdiction. 162

(C) Any citizen of this state shall have standing to seek 163
a court order that the director of health comply with division 164
(C) of section 3701.13 of the Revised Code. Such a citizen shall 165

not be required to prove that irreparable harm will result if 166
the court does not issue the order. 167

(D) As used in this section, "board of health" means the 168
board of health of a city or general health district or the 169
authority having the duties of a board of health under section 170
3709.05 of the Revised Code. 171

Sec. 3701.13. ~~The~~ (A) (1) Subject to division (C) of this 172
section, the department of health shall have supervision of all 173
matters relating to the preservation of the life and health of 174
the people and have ultimate authority in matters of quarantine 175
and isolation, which it may declare and enforce, when neither 176
exists, and modify, relax, or abolish, when either has been 177
established. ~~The~~ 178

(2) The department may approve methods of immunization 179
against the diseases specified in section 3313.671 of the 180
Revised Code for the purpose of carrying out the provisions of 181
that section and take such actions as are necessary to encourage 182
vaccination against those diseases. 183

~~The~~ (B) (1) Subject to division (C) of this section, the 184
department may make special or standing orders or rules for 185
~~preventing any of the following:~~ 186

(a) For preventing the use of fluoroscopes for nonmedical 187
purposes that emit doses of radiation likely to be harmful to 188
any person, ~~for;~~ 189

(b) For preventing the spread of contagious or infectious 190
diseases, ~~for;~~ 191

(c) For governing the receipt and conveyance of remains of 192
deceased persons, ~~and for;~~ 193

(d) For such other sanitary matters as are best controlled 194
by a general rule. ~~Whenever~~ 195

(2) Whenever possible, the department shall work in 196
cooperation with the health commissioner of a general or city 197
health district. ~~The~~ Subject to division (C) of this section, 198
the department may make and enforce orders in local matters or 199
reassign substantive authority for mandatory programs from a 200
general or city health district to another general or city 201
health district when an emergency exists, or when the board of 202
health of a general or city health district has neglected or 203
refused to act with sufficient promptness or efficiency, or when 204
such board has not been established as provided by sections 205
3709.02, 3709.03, 3709.05, 3709.06, 3709.11, 3709.12, and 206
3709.14 of the Revised Code. In such cases, the necessary 207
expense incurred shall be paid by the general health district or 208
city for which the services are rendered. 209

(C) (1) No order of the department shall be effective for a 210
period exceeding fourteen days, except with the approval of the 211
joint committee on agency rule review, as described in section 212
101.36 of the Revised Code. For purposes of this division, an 213
order is considered to be effective for a period exceeding 214
fourteen days if the order includes an effective period that 215
exceeds fourteen days or if the substance of the order is 216
contained in multiple subsequently issued orders whose combined 217
effective period exceeds fourteen days. 218

(2) The department may adopt rules under this section only 219
in accordance with Chapter 119. of the Revised Code, and the 220
department shall not adopt an emergency rule, make an emergency 221
amendment to a rule, or rescind a rule on an emergency basis 222
under this section, as described in that chapter. 223

(3) An order of the department that applies statewide is 224
not effective unless signed by the governor. 225

(4) Neither this division nor section 101.36 of the 226
Revised Code confer upon the department or the governor any 227
authority beyond the authority of the department or governor 228
under the Ohio Constitution or another provision of the Revised 229
Code. 230

(D) The department of health may require general or city 231
health districts to enter into agreements for shared services 232
under section 9.482 of the Revised Code. The department shall 233
prepare and offer to boards of health a model contract and 234
memorandum of understanding that are easily adaptable for use by 235
boards of health when entering into shared services agreements. 236
The department also may offer financial and other technical 237
assistance to boards of health to encourage the sharing of 238
services. 239

(E) As a condition precedent to receiving funding from the 240
department of health, the director of health may require general 241
or city health districts to apply for accreditation by July 1, 242
2018, and be accredited by July 1, 2020, by an accreditation 243
body approved by the director. The director of health, by July 244
1, 2016, shall conduct an evaluation of general and city health 245
district preparation for accreditation, including an evaluation 246
of each district's reported public health quality indicators as 247
provided for in section 3701.98 of the Revised Code. 248

(F) The department may make evaluative studies of the 249
nutritional status of Ohio residents, and of the food and 250
nutrition-related programs operating within the state. Every 251
agency of the state, at the request of the department, shall 252
provide information and otherwise assist in the execution of 253

such studies.	254
Section 3. That existing sections 101.35 and 3701.13 of	255
the Revised Code are hereby repealed.	256
Section 4. This act is hereby declared to be an emergency	257
measure necessary for the immediate preservation of the public	258
peace, health, and safety. The reason for such necessity is that	259
an order to prevent the spread of contagious or infectious	260
diseases in effect for a prolonged time period harms the	261
economic well-being of Ohio's citizens and businesses.	262
Therefore, this act shall go into immediate effect.	263