

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 156

Representatives Skindell, Kelly

**Cosponsors: Representatives Brown, Smith, K., Boggs, Russo, Howse, Sheehy,
Miller, J., Ingram, Lightbody, O'Brien, Lepore-Hagan, Sobecki**

A BILL

To amend sections 121.083 and 121.084 and to enact 1
sections 4119.01, 4119.02, 4119.03, 4119.04, 2
4119.05, 4119.06, 4119.07, 4119.08, 4119.09, 3
4119.10, 4119.11, 4119.12, 4119.13, 4119.14, 4
4119.15, 4119.16, 4119.17, and 4119.18 of the 5
Revised Code to regulate employment practices of 6
formula retail and food services establishment 7
employers and contractors and to require the 8
purchaser of a formula retail or food services 9
establishment to retain certain employees. 10

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

Section 1. That sections 121.083 and 121.084 be amended 11
and sections 4119.01, 4119.02, 4119.03, 4119.04, 4119.05, 12
4119.06, 4119.07, 4119.08, 4119.09, 4119.10, 4119.11, 4119.12, 13
4119.13, 4119.14, 4119.15, 4119.16, 4119.17, and 4119.18 of the 14
Revised Code be enacted to read as follows: 15

Sec. 121.083. (A) The superintendent of industrial 16
compliance in the department of commerce shall do all of the 17
following: 18

(1) Administer and enforce the general laws of this state 19
pertaining to buildings, pressure piping, boilers, bedding, 20
upholstered furniture, and stuffed toys, steam engineering, 21
elevators, plumbing, licensed occupations regulated by the 22
department, and travel agents, as they apply to plans review, 23
inspection, code enforcement, testing, licensing, registration, 24
and certification. 25

(2) Exercise the powers and perform the duties delegated 26
to the superintendent by the director of commerce under Chapters 27
4109., 4111., ~~and 4115.~~, and 4119. of the Revised Code. 28

(3) Collect and collate statistics as are necessary. 29

(4) Examine and license persons who desire to act as steam 30
engineers, to operate steam boilers, and to act as inspectors of 31
steam boilers, provide for the scope, conduct, and time of such 32
examinations, provide for, regulate, and enforce the renewal and 33
revocation of such licenses, inspect and examine steam boilers 34
and make, publish, and enforce rules and orders for the 35
construction, installation, inspection, and operation of steam 36
boilers, and do, require, and enforce all things necessary to 37
make such examination, inspection, and requirement efficient. 38

(5) Rent and furnish offices as needed in cities in this 39
state for the conduct of its affairs. 40

(6) Oversee a chief of construction and compliance, a 41
chief of operations and maintenance, a chief of licensing and 42
certification, a chief of worker protection, and other designees 43
appointed by the director to perform the duties described in 44
this section. 45

(7) Enforce the rules the board of building standards 46
adopts pursuant to division (A)(2) of section 4104.43 of the 47

Revised Code under the circumstances described in division (D) 48
of that section. 49

(8) Accept submissions, establish a fee for submissions, 50
and review submissions of certified welding and brazing 51
procedure specifications, procedure qualification records, and 52
performance qualification records for building services piping 53
as required by section 4104.44 of the Revised Code. 54

(B) The superintendent may enter into a contract with a 55
municipal corporation, township, or county building department 56
certified by the board of building standards pursuant to 57
division (E) of section 3781.10 of the Revised Code, or a 58
municipal or county health district, to do any of the following 59
on behalf of the building department or health district: 60

(1) Exercise enforcement authority pursuant to section 61
3781.03 of the Revised Code; 62

(2) Accept and approve plans and specifications, and make 63
inspections, pursuant to section 3791.04 of the Revised Code; 64

(3) Enforce the rules adopted pursuant to division (A) (2) 65
of section 4104.43 of the Revised Code. 66

Sec. 121.084. (A) All moneys collected under sections 67
3783.05, 3791.07, 4104.07, 4104.18, 4104.44, 4105.17, 4105.20, 68
4119.13, 4119.15, 4169.03, and 5104.051 of the Revised Code, and 69
any other moneys collected by the division of industrial 70
compliance shall be paid into the state treasury to the credit 71
of the industrial compliance operating fund, which is hereby 72
created. The department of commerce shall use the moneys in the 73
fund for paying the operating expenses of the division, the cost 74
of enforcing Chapter 4119. of the Revised Code, and the 75
administrative assessment described in division (B) of this 76

section. 77

(B) The director of commerce, with the approval of the 78
director of budget and management, shall prescribe procedures 79
for assessing the industrial compliance operating fund a 80
proportionate share of the administrative costs of the 81
department of commerce. The assessment shall be made in 82
accordance with those procedures and be paid from the industrial 83
compliance operating fund to the division of administration fund 84
created in section 121.08 of the Revised Code. 85

Sec. 4119.01. As used in this chapter: 86

(A) "Alternate employer organization" has the same meaning 87
as in section 4133.01 of the Revised Code. 88

(B) "Confidential employee" means an employee who acts in 89
a confidential capacity to formulate, determine, and effectuate 90
management policies with regard to labor relations or who 91
regularly substitutes for an employee who has these duties. 92

(C) "Disposition" means the sale, assignment, transfer, 93
contribution, consolidation, merger, or reorganization that 94
causes a change in control of all or the majority of the assets 95
of, or the controlling interests in, a business. 96

(D) "Employee" means an individual who is entitled to 97
payment of a minimum wage from an employer or property services 98
contractor under Section 34a of Article II, Ohio Constitution. 99

(E) (1) "Employer" means a person who owns or operates 100
either of the following: 101

(a) A formula retail establishment with twenty or more 102
employees in this state; 103

(b) A food services establishment. 104

(2) "Employer" includes a corporate officer or executive 105
who, directly or indirectly, exercises control over the wages, 106
hours, or working conditions of an individual, including through 107
the services of a temporary agency, a professional employer 108
organization, or an alternate employer organization. 109

(3) "Employer" does not include any of the following: 110

(a) A nonprofit corporation that is exempt from federal 111
income taxation under subsection 501(c)(3) of the Internal 112
Revenue Code; 113

(b) The state or any agency or instrumentality of the 114
state; 115

(c) Any municipal corporation, county, township, school 116
district, or other political subdivision or any agency or 117
instrumentality of a municipal corporation, county, township, 118
school district, or other political subdivision. 119

(F) "Formula retail establishment" means a retail sales 120
establishment doing business in this state that has at least 121
twenty other retail sales establishments in operation worldwide 122
that maintain two or more of the following features: 123

(1) Fifty per cent or more of merchandise stocked by the 124
business comes from a single distributor and bears uniform 125
markings; 126

(2) A standardized facade; 127

(3) A standardized style of interior furnishings, which 128
may include the style of furniture, wall coverings, or permanent 129
fixtures; 130

(4) A standardized selection of colors used throughout the 131
business, such as on the furnishings, permanent fixtures, wall 132

<u>coverings, and the facade;</u>	133
<u>(5) Standardized items of clothing worn by employees,</u>	134
<u>including standardized aprons, pants, shirts, smocks, dresses,</u>	135
<u>hats, and pins, and standardized colors of clothing worn by</u>	136
<u>employees;</u>	137
<u>(6) Standardized business signs;</u>	138
<u>(7) A trademark or service mark.</u>	139
<u>(G) "Food services establishment" means a food services</u>	140
<u>establishment doing business in this state that employs five</u>	141
<u>hundred or more employees worldwide, including a chain or</u>	142
<u>franchise associated with a franchisor or network of franchises</u>	143
<u>that employs five hundred or more employees in the aggregate.</u>	144
<u>(H) "Professional employer organization" has the same</u>	145
<u>meaning as in section 4125.01 of the Revised Code.</u>	146
<u>(I) "Property services contractor" means any contractor or</u>	147
<u>subcontractor who enters into a contract with an employer to</u>	148
<u>provide janitorial or security services to the employer at a</u>	149
<u>formula retail establishment or food services establishment.</u>	150
<u>(J) "Successor employer" means an employer who owns,</u>	151
<u>controls, or operates a formula retail establishment or food</u>	152
<u>services establishment after a disposition of all or a majority</u>	153
<u>of the assets of the establishment.</u>	154
<u>(K) "Workweek" means a fixed, regularly recurring period</u>	155
<u>of one hundred sixty-eight hours, that an employer or property</u>	156
<u>services contractor expressly adopts for purposes of complying</u>	157
<u>with this chapter and the "Fair Labor Standards Act of 1938," 29</u>	158
<u>U.S.C. 207.</u>	159
<u>(L) "Normal hourly wage rate" means the following:</u>	160

(1) For an employee who is paid on an hourly basis, the 161
hourly wage rate at which the employee is customarily paid when 162
working for the employer or property services contractor; 163

(2) For an employee who is not paid on an hourly basis, 164
one fortieth of the weekly wage rate at which the employee is 165
customarily paid when working for the employer or property 166
services contractor. 167

(M) "On-call shift" includes a shift where an employee is 168
not required to report to or remain at the employee's site of 169
work, but is required to be available to work the shift if 170
called upon to do so by the employer or property services 171
contractor who employs the employee. 172

Sec. 4119.02. No employer or property services contractor 173
shall fail to comply with sections 4119.03, 4119.04, 4119.05, 174
4119.06, 4119.08, 4119.11, and 4119.17 of the Revised Code. 175

No employer shall fail to comply with sections 4119.09 and 176
4119.10 of the Revised Code. 177

Sec. 4119.03. (A) (1) Except as otherwise provided in 178
division (B) of this section, an employer or property services 179
contractor shall not hire a new employee, coemploy an employee 180
with a professional employer organization or alternate employer 181
organization, engage an independent contractor, or lease an 182
employee from a temporary agency to perform work in a formula 183
retail establishment or food services establishment unless the 184
employer or property services contractor first offers that work 185
to any employee of the employer or property services contractor 186
who is available to perform the additional work as described in 187
division (A) (2) of this section. 188

(2) An employee is available to perform additional work 189

for an employer or property services contractor if all of the 190
following apply to the employee: 191

(a) The employee is scheduled to work fewer than thirty- 192
five hours in a workweek. 193

(b) The employee is qualified to do the additional work as 194
reasonably determined by the employer or property services 195
contractor. 196

(c) The employee has performed work for the employer or 197
property services contractor that is the same as or similar to 198
the additional work to be performed. 199

(d) In a particular week, the employee performs at least 200
two hours of work for an employer or property services 201
contractor within this state or is scheduled to work at least 202
one on-call shift for the employer or property services 203
contractor within this state. 204

(B) An employer or property services contractor is not 205
required to offer more hours of work to an employee than is 206
necessary for that employee's total hours of work for that 207
workweek to reach thirty-five hours. 208

(C) An employer or property services contractor may divide 209
the additional hours of work offered under this section among 210
the employer's or property services contractor's available 211
employees. 212

(D) An employee who is offered additional hours of work 213
under this section is not required to accept the additional 214
hours. 215

(E) When an employer or property services contractor 216
offers additional work hours to an employee, the employer or 217

property services contractor shall make the offer in writing. 218

Sec. 4119.04. (A) Except as otherwise provided in division 219
(B) of this section, an employer or property services contractor 220
shall provide an employee of the employer or property services 221
contractor with a written work schedule at least fourteen 222
calendar days before the first day of the schedule. The employer 223
or property services contractor shall include in the written 224
schedule all regular and on-call shifts for a fourteen day 225
period. The employer or property services contractor shall post 226
the written schedule in a conspicuous and accessible location at 227
the work site. 228

(B) An employer or property services contractor may 229
provide a newly hired employee or employee who returns to work 230
after a leave of absence with a written work schedule that runs 231
through the last day of the work schedule in effect at the time 232
employee is hired or returns to work. The employer or property 233
services contractor shall include the employee on the next 234
schedule posted in compliance with division (A) of this section 235
and otherwise comply with division (A) of this section with 236
respect to the employee at that time. 237

Sec. 4119.05. (A) As used in this section, "shift" 238
includes an on-call shift. 239

(B) Except as provided in section 4119.07 of the Revised 240
Code, an employer or property services contractor shall pay an 241
employee of the employer or property services contractor for 242
each scheduled shift that the employer or property services 243
contractor changes or cancels or for each previously unscheduled 244
shift that the employer or property services contractor requires 245
the employee to work or be on call as follows: 246

(1) If the employer or property services contractor gives the employee less than fourteen days' notice, but more than twenty-four hours' notice, an amount equal to one hour of the employee's normal hourly wage rate; 247
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(2) If the employer or property services contractor gives the employee less than twenty-four hours' notice and the changed, canceled, or required shift is four hours or less, an amount equal to two hours of the employee's normal hourly wage rate; 251
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(3) If the employer or property services contractor gives the employee less than twenty-four hours' notice and the changed, canceled, or required shift is more than four hours, an amount equal to four hours of the employee's normal hourly wage rate. 256
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(C) An employer shall pay any amount required to be paid to an employee under division (B) of this section in addition to, and shall not consider that amount to be part of, any wage or salary paid to the employee for time worked. 261
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Sec. 4119.06. (A) Except as provided in division (B) of this section or in section 4119.07 of the Revised Code, an employer or property services contractor shall pay an employee of the employer or property services contractor for each on-call shift that the employee is not called in to work as follows: 265
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(1) If the on-call shift is four hours or less, an amount equal to two hours of the employee's normal hourly wage rate; 270
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(2) If the on-call shift is more than four hours, an amount equal to four hours of the employee's normal hourly wage rate. 272
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(B) An employer or property services contractor is not 275

required to pay the amount required by division (A) of this 276
section if the employee is paid the employee's normal hourly 277
wage rate for the on-call shift. 278

Sec. 4119.07. Sections 4119.05 and 4119.06 of the Revised 279
Code do not apply in any of the following circumstances: 280

(A) Operations of an employer or property services 281
contractor cannot begin or continue for any of the following 282
reasons: 283

(1) A threat to the safety of the employer or property 284
services contractor's employees or property exists. 285

(2) A government authority recommends that the operations 286
of an employer or property services contractor should not begin 287
or continue. 288

(3) An act of God or another cause outside of the control 289
of the employer or property services contractor prevents the 290
operations of the employer or property services contractor from 291
beginning or continuing. 292

(B) An employer or property services contractor requires 293
the employee to work a shift or be on call under any of the 294
following circumstances: 295

(1) Another employee does not report to work the shift on 296
time. 297

(2) Another employee is unable to work the shift due to 298
illness or the use of any paid or unpaid leave if the employee 299
did not give the employer or property services contractor at 300
least seven days' notice of the absence. 301

(3) Another employee is unable to work the shift because 302
the employee's employment was terminated or the employee was 303

prohibited from working the shift as a disciplinary action. 304

(C) An employee who would otherwise be entitled to receive 305
an amount under section 4119.05 or 4119.06 of the Revised Code 306
requested the schedule change or on-call shift or such a change 307
or shift is the result of a shift trade between the employee and 308
another employee of the employer or property services 309
contractor. 310

Sec. 4119.08. (A) (1) An employer or property services 311
contractor shall not consider the status of an employee as full- 312
time or part-time in determining the starting normal hourly wage 313
rate of an employee. 314

(2) Division (A) (1) of this section does not prohibit an 315
employer or property services contractor from considering either 316
of the following: 317

(a) Reasons other than part-time or full-time status in 318
determining starting normal hourly wage rates of employees, 319
including the use of a seniority system, merit system, or other 320
system that determines earnings by quantity or quality of 321
production, performance, or responsibility; 322

(b) Full-time or part-time status in determining 323
requirements for the receipt of employee benefits, including 324
health care benefits. 325

(B) An employer or property services contractor shall 326
provide part-time and full-time employees in the same job 327
classification with access to the same types of paid and unpaid 328
leave. An employer or property services contractor may prorate 329
the amount of any time off an employee may receive based on 330
hours worked by the employee. 331

(C) (1) An employer or property services contractor shall 332

not consider the status of an employee as full-time or part-time 333
in determining eligibility for a promotion. 334

(2) Division (C) (1) of this section does not prohibit an 335
employer or property services contractor from doing either of 336
the following: 337

(a) Conditioning eligibility for a promotion on an 338
employee's availability for full-time employment in the new 339
position; 340

(b) Considering reasons other than full-time status in 341
determining eligibility for a promotion, including the nature 342
and amount of work experience. 343

Sec. 4119.09. (A) On the day an employer executes 344
documents to transfer ownership of a formula retail 345
establishment or food services establishment to a successor 346
employer, the employer shall provide to the successor employer a 347
list that includes all of the following information for each 348
employee who is eligible to be retained for employment by the 349
successor employer as determined under division (E) of this 350
section: 351

(1) The employee's name; 352

(2) The employee's contact information; 353

(3) The employee's date of hire and rate of pay at the 354
time of transfer; 355

(4) The average number of hours worked by the employee 356
each week during the six months immediately before the transfer 357
of ownership; 358

(5) The employee's position or title. 359

(B) (1) The employer shall post public notice of the 360
transfer of ownership in a conspicuous place at the formula 361
retail establishment or food services establishment within 362
twenty-four hours after the transfer document is fully executed. 363
The successor employer shall ensure that the notice remains 364
posted for at least thirty days after the transfer. 365

(2) The employer shall include all of the following 366
information in the notice required under division (B) (1) of this 367
section: 368

(a) The name and contact information of the employer; 369

(b) The name and contact information of the successor 370
employer; 371

(c) The postal address and electronic mail address that an 372
employee may use to update the employee's contact information; 373

(d) The effective date of the transfer from the employer 374
to the successor employer. 375

(C) For the transition period specified in division (H) of 376
this section, a successor employer shall employ each employee 377
identified on a list required under division (A) of this section 378
under the same terms of employment with respect to position or 379
title, compensation, and number of work hours that applied to 380
the employee immediately before the date of the transfer. During 381
the transition period, no successor employer shall discharge an 382
employee identified on the list without just cause. 383

(D) (1) A successor employer offering employment to an 384
employee included on the list required under division (A) of 385
this section shall make the offer in writing. 386

(2) If an employee declines to accept an offer of 387

employment made pursuant to division (D)(1) of this section, the 388
successor employer who offered employment is deemed to have 389
complied with division (C) of this section with respect to that 390
employee. 391

(E) Except as provided in division (F) of this section, an 392
employee is eligible to be retained for employment if the 393
employee has been employed by the employer for at least ninety 394
days before the date the employer executes documents to transfer 395
ownership of the formula retail establishment or food services 396
establishment. 397

(F) No managerial employee, supervisory employee, or 398
confidential employee is eligible for retention under this 399
section. 400

(G) The first time a successor employer pays wages to an 401
employee retained under this section, the successor employer 402
shall provide with that employee's paycheck a notice of the 403
rights of retained employees under this chapter. 404

(H)(1) This section applies to a transfer of ownership of 405
a formula retail establishment or food services establishment 406
until the earlier of three years after the date that the 407
employer executes documents to transfer ownership to the 408
successor employer or ninety days after the successor employer 409
takes control of the establishment. 410

(2) The ninety-day period described in division (H)(1) of 411
this section shall not run for any period of time during which 412
the formula retail establishment or food services establishment 413
is not open to the public during regular business hours. 414

(3) This section applies regardless of whether the 415
successor employer elects to operate the formula retail 416

establishment or food services establishment in the same 417
location or elects to relocate to another location in the state. 418

(I) Notwithstanding any provision of this section to the 419
contrary, a successor employer may retain fewer employees than 420
those included in the list created pursuant to division (A) of 421
this section if the successor employer determines that the 422
successor employer requires fewer employees than the former 423
employer to operate the establishment. 424

(J) If a successor employer chooses to retain fewer 425
employees as provided in division (I) of this section, the 426
successor employer shall retain employees by seniority, based on 427
the date of hire by the former employer or, if an applicable 428
collective bargaining agreement exists, pursuant to that 429
agreement. 430

(K) For the transition period specified in division (H) of 431
this section, no successor employer shall employ an individual 432
who is not included on the list created pursuant to division (A) 433
of this section in a position at the formula retail 434
establishment or food services establishment held by an 435
individual included on that list whom the successor employer 436
does not retain pursuant to division (J) of this section. 437

Sec. 4119.10. (A) Not later than ninety days after the 438
effective date of this section, the director of commerce shall 439
publish and make available to all employers a notice suitable 440
for posting by employers in the workplace informing employees of 441
their rights under this chapter. The director shall publish the 442
notice in English and Spanish. 443

(B) Every employer shall post the notice prepared by the 444
director under division (A) of this section in a conspicuous 445

place at any workplace or job site at which any of the 446
employer's employees work. 447

Sec. 4119.11. (A) An employer or property services 448
contractor who offers additional work hours to an employee in 449
accordance with section 4119.03 of the Revised Code shall retain 450
a copy of the written offer for at least three years after the 451
date the offer is made. 452

(B) A successor employer shall keep a record of a list 453
provided by an employer under section 4119.09 of the Revised 454
Code until the transition period described in division (H) of 455
section 4119.09 of the Revised Code has elapsed. 456

(C) A successor employer shall keep a record of a written 457
retention offer made pursuant to section 4119.09 of the Revised 458
Code for at least three years after the date the offer is made. 459

Sec. 4119.12. (A) An individual who believes that a 460
violation of section 4119.02 of the Revised Code has occurred 461
may file a complaint with the director of commerce. If the 462
director has reason to believe that a violation of that section 463
has occurred, the director shall proceed with an investigation 464
under section 4119.13 of the Revised Code. 465

(B) The director shall keep confidential, to the maximum 466
extent possible, any information that identifies an individual 467
who files a complaint pursuant to division (A) of this section 468
unless the individual has consented to disclosure of that 469
information as necessary for the enforcement of section 4119.02 470
of the Revised Code or for other appropriate purposes. 471

Sec. 4119.13. (A) The director of commerce shall take 472
appropriate steps to enforce and coordinate enforcement of this 473
chapter, including investigation of possible violations of this 474

chapter. 475

(B) If the director has reason to believe that a violation of section 4119.02 of the Revised Code has occurred, the director shall order any appropriate temporary or interim relief to mitigate the alleged violation or to maintain the status quo pending completion of a full investigation. 476
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(C) If, after investigating an alleged violation of section 4119.02 of the Revised Code, the director determines that a violation has occurred, the director shall issue a determination. The determination shall identify the violation and the factual basis for the determination and shall order any appropriate relief, including any of the following: 481
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(1) Requiring an employer or property services contractor to offer additional hours of work to an employee as required under section 4119.03 of the Revised Code; 487
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(2) Requiring an employer or property services contractor to pay an amount required to be paid to an employee under section 4119.05 or 4119.06 of the Revised Code; 490
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(3) Reinstatement; 493

(4) Payment of lost wages; 494

(5) Assessment of an administrative penalty not to exceed the amount of lost wages included in the determination; 495
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(6) Requiring the violator to pay to the department of commerce any costs of the enforcement action. 497
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(D) The director shall deposit all moneys received from administrative penalties and costs paid under this section into the industrial compliance operating fund created in section 121.084 of the Revised Code. 499
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(E) A property services contractor and an employer who 503
contracts with the property services contractor shall be jointly 504
and severally liable for any determination against a property 505
services contractor under this section. 506

Sec. 4119.14. (A) The director of commerce shall serve a 507
determination made under section 4119.13 of the Revised Code on 508
the employer or property services contractor by regular mail. 509

(B) An employer or property services contractor may appeal 510
that determination within fifteen days after the date the 511
determination is mailed to the employer or property services 512
contractor. The employer or property services contractor shall 513
file the appeal in writing with the director. If a party fails 514
to submit a timely written appeal, the determination is 515
considered final on expiration of the fifteen-day period. 516

(C) The director shall, within thirty days after an appeal 517
is filed under division (B) of this section, make an effort to 518
meet and confer in good faith with the employer or property 519
services contractor regarding possible resolution of the 520
determination in advance of further proceedings under this 521
section. 522

(D) Beginning on the thirty-first day after an appeal is 523
filed pursuant to division (B) of this section, the employer or 524
property services contractor may request the attorney general to 525
appoint a hearing officer to hear and decide the appeal. If the 526
employer or property services contractor does not request a 527
hearing officer, the determination is considered final on 528
expiration of the sixtieth day following the date the appeal was 529
filed. 530

(E) Within fifteen days after the attorney general 531

receives a request for the appointment of a hearing officer, the 532
attorney general shall appoint an impartial hearing officer who 533
is not part of the department of commerce and shall immediately 534
notify the director and the employer or property services 535
contractor of the appointment. The appointed hearing officer 536
shall be an administrative law judge or attorney with at least 537
five years of experience in labor and employment law or wage and 538
hour matters. 539

(F) Upon appointment, the hearing officer shall promptly 540
set a date for a hearing that is not later than forty-five days 541
after the date the attorney general provides the notice of the 542
appointment under division (E) of this section. The hearing 543
shall conclude within seventy-five days after the date that 544
notice is provided. The hearing officer shall conduct a fair and 545
impartial hearing in accordance with the time limitations set 546
forth in this division, except that the hearing officer shall 547
have the discretion to extend the time limitations upon a 548
determination of good cause. 549

(G) An employer or property services contractor who 550
appeals has the burden of proving, by a preponderance of the 551
evidence, that the basis for a determination, or any calculation 552
of lost wages, interest, or penalty payments at issue in the 553
appeal, is incorrect. 554

(H) Within thirty days after the hearing, the hearing 555
officer shall issue a written decision affirming, modifying, or 556
dismissing the determination. The decision of the hearing 557
officer shall consist of findings and a determination and shall 558
constitute the final administrative determination. 559

(I) An employer or property services contractor may appeal 560
a decision issued under division (H) of this section to the 561

court of common pleas of the county in which the violation is 562
alleged to have occurred. 563

(J) Failure to appeal a determination as provided in this 564
section shall constitute a failure to exhaust administrative 565
remedies, which shall serve as a complete defense to any 566
petition or claim brought by an employer or property services 567
contractor against the state regarding the determination. 568

(K) If an employer or property services contractor fails 569
to comply with a final order of the director or hearing officer, 570
the director shall petition the court of common pleas of the 571
county in which the underlying violation occurred for 572
enforcement of the order. 573

Sec. 4119.15. (A) The director of commerce, in accordance 574
with Chapter 119. of the Revised Code, shall impose an 575
administrative fine on an employer or property services 576
contractor as follows: 577

(1) For a violation of section 4119.02 of the Revised Code 578
due to an employer's failure to comply with section 4119.10 or 579
division (A) of section 4119.11 of the Revised Code, up to five 580
hundred dollars for each offense; 581

(2) For a violation of section 4119.02 of the Revised Code 582
due to an employer's or property services contractor's failure 583
to comply with division (B) or (C) of section 4119.11 of the 584
Revised Code, up to five hundred dollars for each employee who 585
was eligible for retention under section 4119.09 of the Revised 586
Code. 587

(B) The director shall deposit all moneys received from 588
finest paid under this section into the industrial compliance 589
operating fund created in section 121.084 of the Revised Code. 590

Sec. 4119.16. The director of commerce may bring a civil 591
action in any court of competent jurisdiction on behalf of an 592
employee against an employer or property services contractor for 593
violating section 4119.02 of the Revised Code. If the court 594
determines that a violation has occurred, the court shall make 595
the following awards: 596

(A) To the employee on behalf of whom the action was 597
brought, any legal or equitable relief as may be appropriate to 598
remedy the violation, including the payment of lost wages, the 599
payment of a civil penalty not to exceed the amount awarded for 600
lost wages, and reinstatement of employment or other injunctive 601
relief; 602

(B) To the director, reasonable attorney's fees and costs. 603

Sec. 4119.17. (A) No employer or property services 604
contractor shall take adverse action against an individual in 605
retaliation for exercising rights protected under this chapter. 606

(B) The protections provided by this section shall apply 607
to any individual who mistakenly, but in good faith, alleges 608
noncompliance with this chapter. 609

(C) If an employer or property services contractor takes 610
an adverse action against an individual within ninety days after 611
the individual exercises a right protected under this chapter, a 612
rebuttable presumption exists that the action was taken by the 613
employer or property services contractor in retaliation because 614
the individual exercised those rights. 615

Sec. 4119.18. The director of commerce may adopt rules in 616
accordance with Chapter 119. of the Revised Code to implement 617
this chapter. The director may establish in those rules 618
procedures for ensuring fair, efficient, and cost-effective 619

implementation and enforcement of this chapter, including 620
supplementary procedures for notifying employees of their rights 621
under this chapter and for monitoring compliance. 622

Nothing in this chapter shall be construed to limit the 623
rights and remedies otherwise available to an employee, 624
including any right the employee may have to remedies for an 625
unlawful discriminatory practice or unlawful discharge. 626

Section 2. That existing sections 121.083 and 121.084 of 627
the Revised Code are hereby repealed. 628

Section 3. Sections 1 and 2 of this act take effect six 629
months after the effective date of this section. 630