

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**S. B. No. 338**

**Senator Lang**

**Cosponsors: Senators Cirino, Hackett, Rulli, Reineke, Blessing, Brenner, Antani**

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**A BILL**

To amend sections 3717.33 and 3717.52 of the 1  
Revised Code to require the Director of 2  
Agriculture and the Director of Health to adopt 3  
rules governing the assessment of registered 4  
environmental health specialists and 5  
environmental health specialists in training who 6  
conduct inspections of retail food 7  
establishments and food service operations. 8

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

**Section 1.** That sections 3717.33 and 3717.52 of the 9  
Revised Code be amended to read as follows: 10

**Sec. 3717.33.** Pursuant to section 3717.04 of the Revised 11  
Code, the director of agriculture shall adopt rules regarding 12  
the following: 13

(A) Licensing categories for retail food establishments 14  
and licensing requirements for each category, including 15  
appropriate practices for the activities performed by a retail 16  
food establishment; 17

(B) Standards for collection of food samples from retail 18

food establishments for purposes of identifying adulteration and misbranding;	19 20
(C) Records to be generated and maintained by licensed retail food establishments;	21 22
(D) Appeals of proposed suspensions and revocations of retail food establishment licenses and appeals of suspensions of licenses issued for violations presenting a clear and present danger to the public health;	23 24 25 26
(E) Standards and procedures, including a schedule of frequency, for conducting inspections of retail food establishments;	27 28 29
(F) Standards and procedures for determining during an inspection whether articles should be removed from use because of a clear and present danger to the public health;	30 31 32
(G) Standards and procedures for conducting investigations of complaints pertaining to retail food establishments;	33 34
(H) Surveys conducted by the director to determine whether boards of health are qualified and have the capacity to administer and enforce the provisions of this chapter and the rules adopted under it applicable to retail food establishments and to abide by the Ohio uniform food safety code <del>7</del> . <u>The rules</u> <u>shall require, as part of a survey, both of the following:</u>	35 36 37 38 39 40
<u>(1) The director to evaluate whether an individual</u> <u>registered as an environmental health specialist or an</u> <u>environmental health specialist in training under Chapter 4736.</u> <u>of the Revised Code who is employed by or has contracted with a</u> <u>board of health to enforce this chapter as it relates to retail</u> <u>food establishments has sufficient knowledge of the provisions</u> <u>of this chapter, rules adopted under it, and of the Ohio uniform</u>	41 42 43 44 45 46 47

food safety code to conduct such enforcement; 48

(2) The director to evaluate an individual under division 49  
(H)(1) of this section solely through the use of an objective 50  
written or electronic assessment that complies with all of the 51  
following: 52

(a) It is developed by the director in consultation with 53  
representatives from the Ohio environmental health association 54  
and the association of Ohio health commissioners. 55

(b) It does not exceed fifty questions in length. 56

(c) In order to pass the assessment, the individual must 57  
correctly answer eighty per cent or more of the questions in the 58  
assessment. Questions on the exam shall be derived from the most 59  
common violations cited during the previous inspection year. 60

(d) The individual is allowed to review the Ohio uniform 61  
food safety code during the assessment. 62

(3) The director, in consultation with representatives 63  
from the Ohio environmental health association and the 64  
association of Ohio health commissioners, shall review and 65  
update the assessment described in division (H)(2) of this 66  
section on at least a biennial basis. 67

(I) Reinstatement of a board of health as a licensor after 68  
the director has revoked the approval of the board; 69

(J) Procedures for resolving disputes between licensors 70  
and the holders of licenses for retail food establishments; 71

(K) Procedures for providing enforcement support to a 72  
board of health requesting assistance in the prosecution of a 73  
person for a violation of the provisions of this chapter 74  
applicable to retail food establishments; 75

(L) Any other matter the director considers relevant to 76  
the administration and enforcement of the provisions of this 77  
chapter applicable to retail food establishments. 78

**Sec. 3717.52.** Pursuant to section 3717.04 of the Revised 79  
Code, the director of health shall adopt rules establishing 80  
procedures for the following: 81

(A) Appeals of proposed suspension or revocation of food 82  
service operation licenses and appeals of suspension of licenses 83  
issued for violations presenting immediate danger to the public 84  
health; 85

(B) Surveys conducted by the director to determine whether 86  
boards of health are qualified and have the capacity to 87  
administer and enforce the provisions of this chapter and the 88  
rules adopted under it applicable to food service operations and 89  
to abide by the Ohio uniform food safety code~~r~~. The rules shall 90  
require, as part of a survey, both of the following: 91

(1) The director to evaluate whether an individual 92  
registered as an environmental health specialist or an 93  
environmental health specialist in training under Chapter 4736. 94  
of the Revised Code who is employed by or has contracted with a 95  
board of health to enforce this chapter as it relates to food 96  
service operations has sufficient knowledge of the provisions of 97  
this chapter, rules adopted under it, and of the Ohio uniform 98  
food safety code to conduct such enforcement; 99

(2) The director to evaluate an individual under division 100  
(B)(1) of this section solely through the use of an objective 101  
written or electronic assessment that complies with all of the 102  
following: 103

(a) It is developed by the director in consultation with 104

representatives from the Ohio environmental health association 105  
and the association of Ohio health commissioners. 106

(b) It does not exceed fifty questions in length. 107

(c) In order to pass the assessment, the individual must 108  
correctly answer eighty per cent or more of the questions in the 109  
assessment. Questions on the exam shall be derived from the most 110  
common violations cited during the previous inspection year. 111

(d) The individual is allowed to review the Ohio uniform 112  
food safety code during the assessment. 113

(3) The director, in consultation with representatives 114  
from the Ohio environmental health association and the 115  
association of Ohio health commissioners, shall review and 116  
update the assessment described in division (B)(2) of this 117  
section on at least a biennial basis. 118

(C) Reinstatement of a board of health as a licensor after 119  
the director has revoked the approval of the board; 120

(D) Procedures for providing enforcement support to a 121  
board of health requesting assistance in the prosecution of a 122  
person for a violation of the provisions of this chapter 123  
applicable to food service operations; 124

(E) Procedures for resolving disputes between licensors 125  
and the holders of licenses for food service operations. 126

**Section 2.** That existing sections 3717.33 and 3717.52 of 127  
the Revised Code are hereby repealed. 128

**Section 3.** (A) The Department of Health shall study the 129  
cost methodology used by local health districts for food service 130  
operation licensing programs. As part of the study, the 131  
Department shall evaluate the impact that the COVID-19 pandemic 132

has had on those programs, including whether local health 133  
districts have shifted staff away from those programs to assist 134  
with COVID-19-related operations. Additionally, regarding the 135  
resumption of normal food service operation licensure programs 136  
post-pandemic, the Department shall evaluate whether local 137  
health districts have sufficient funds to implement such 138  
programs without increasing fees on the food and beverage 139  
industry. 140

(B) The Department shall produce a report of its study. 141  
The Department shall include in the report recommendations 142  
regarding grant funding from state sources for local health 143  
districts to offset the costs of food service licensure programs 144  
so that local health districts will not have to increase fees 145  
that will negatively impact the food and beverage industry. In 146  
producing the report, the Department shall consult with the 147  
following entities: 148

- (1) The Office of Budget and Management; 149
- (2) Ohio Environmental Health Association; 150
- (3) Association of Ohio Health Commissioners; 151
- (4) Ohio Restaurant Association. 152

(C) Not later than December 31, 2022, the Department shall 153  
provide the report prepared under division (B) of this section, 154  
along with its recommendations, to the Governor, the President 155  
of the Senate, and the Speaker of the House of Representatives. 156

**Section 4.** (A) The Director of Agriculture shall complete 157  
the initial development and implementation of the assessment 158  
described in division (H) (2) of section 3717.33 of the Revised 159  
Code within one hundred eighty days after the effective date of 160  
this section. 161

(B) The Director of Health shall complete the initial	162
development and implementation of the assessment described in	163
division (B) (2) of section 3717.52 of the Revised Code within	164
one hundred eighty days after the effective date of this	165
section.	166