

# AN ACT

To amend sections 106.021, 106.03, 106.031, 111.15, 119.03, 121.95, 4301.171, 4301.245, 4301.58, and 4305.14 and to enact sections 101.354, 101.355, 107.57, 121.031, 121.951, 121.952, 121.953, and 121.954 of the Revised Code to limit regulatory restrictions in administrative rules, to make various technical and corrective changes to the liquor laws, to amend the version of section 111.15 of the Revised Code that is scheduled to take effect September 30, 2024, to continue the limitations on and after that date, and to make an appropriation.

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

SECTION 1. That sections 106.021, 106.03, 106.031, 111.15, 119.03, 121.95, 4301.171, 4301.245, 4301.58, and 4305.14 be amended and sections 101.354, 101.355, 107.57, 121.031, 121.951, 121.952, 121.953, and 121.954 of the Revised Code be enacted to read as follows:

Sec. 101.354. (A) The joint committee on agency rule review shall advise and assist state agencies in preparing revised inventories of regulatory restrictions and shall advise and assist state agencies in achieving specified percentage reductions in regulatory restrictions in the Administrative Code in accordance with sections 121.95, 121.951, 121.952, 121.953, and 121.954 of the Revised Code.

(B)(1) Not later than June 15, 2022, the executive director of the joint committee shall prepare a report aggregating the base inventories received from state agencies under section 121.95 of the Revised Code.

(2) Beginning in 2023, not later than the fifteenth day of December each year, the executive director of the joint committee shall prepare an historical report aggregating the reports received from state agencies for the preceding fiscal year. In the report, the executive director also shall describe the work of the joint committee over the preceding fiscal year with respect to reduction of regulatory restrictions and shall indicate, out of the total number of regulatory restrictions inventoried by state agencies, the percentage by which state agencies have reduced those regulatory restrictions. The report also shall provide recommendations for statutory changes, where appropriate, brought to the attention of the joint committee as contributing to the adoption of regulatory restrictions.

(3) The executive director shall submit the report required under divisions (B)(1) and (2) of this section to the members of the joint committee, which shall publish the report on its web site and transmit copies of the report electronically to the speaker of the house of representatives and the president of the senate.

Sec. 101.355. The joint committee on agency rule review, in consultation with legislative information systems, shall do both of the following:

(A) Create and maintain a system that state agencies shall use to enter regulatory restriction

data, create required inventories, and transmit copies of inventories, reports, and any other documents to the joint committee and the speaker of the house of representatives and the president of the senate under sections 121.95, 121.951, and 121.953 of the Revised Code, and that will assist the joint committee in aggregating reports and performing other prescribed duties under sections 101.354, 121.95, 121.951, 121.952, and 121.953 of the Revised Code;

(B) Establish, maintain, and improve the cut red tape system, which shall include a web site and shall allow members of the public to request information about regulatory restrictions and to communicate with the joint committee about regulatory restrictions.

Sec. 106.021. If, upon reviewing a proposed rule or revised proposed rule, the joint committee on agency rule review makes any of the following findings with regard to the proposed rule or revised proposed rule, the joint committee may recommend to the senate and house of representatives the adoption of a concurrent resolution to invalidate the proposed rule or revised proposed rule or a part thereof:

(A) The proposed rule or revised proposed rule exceeds the scope of its statutory authority.

(B) The proposed rule or revised proposed rule conflicts with the legislative intent of the statute under which it was proposed.

(C) The proposed rule or revised proposed rule conflicts with another proposed or existing rule.

(D) The proposed rule or revised proposed rule incorporates a text or other material by reference and:

(1) The accompanying citation is not such as reasonably would enable a reasonable person to whom the proposed rule or revised proposed rule applies readily and without charge to find and inspect the incorporated text or other material;

(2) The accompanying citation is not such as reasonably would enable the joint committee readily and without charge to find and inspect the incorporated text or other material, and the agency did not file or otherwise make the incorporated text or other material available without charge to the joint committee; or

(3) The agency has treated the proposed rule or revised proposed rule in whole or in part as exempt from sections 121.71 to 121.74 of the Revised Code on grounds the incorporated text or other material has one or more of the characteristics described in division (B) of section 121.75 of the Revised Code, but the incorporated text or other material actually does not have any of those characteristics.

(E) The agency has failed to prepare a complete and accurate rule summary and fiscal analysis of the proposed rule or revised proposed rule as required by section 106.024 of the Revised Code.

(F) The agency has failed to demonstrate through the business impact analysis, recommendations from the common sense initiative office, and the memorandum of response that the regulatory intent of the proposed rule or revised proposed rule justifies its adverse impact on businesses in this state.

(G) If the state agency is subject to sections 121.95, 121.951, 121.952, and 121.953 of the Revised Code, the agency has failed to justify the proposed adoption, amendment, or rescission of a rule containing a regulatory restriction.

(H) The proposed rule or revised proposed rule implements a federal law or rule in a manner that is more stringent or burdensome than the federal law or rule requires.

Sec. 106.03. Prior to the review date of an existing rule, the agency that adopted the rule shall do both of the following:

(A) Review the rule to determine ~~all~~ whether the rule should be amended or rescinded, including for the purpose of accomplishing the reductions in regulatory restrictions required by section 121.951 of the Revised Code, because it does any of the following, or otherwise for the purpose of reducing regulatory restrictions:

(1) ~~Whether the rule should be continued without amendment, be amended, or be rescinded, taking into consideration~~ Exceeds or conflicts with the purpose, scope, and or intent of the statute under which the rule was adopted;

(2) ~~Whether the rule needs amendment or rescission to give more~~ Provides inadequate flexibility at the local level;

(3) ~~Whether the rule needs amendment or rescission to eliminate unnecessary paperwork~~ Creates a compliance or oversight burden for the state agency, or for any person or entity, that is greater than the burden that would be created if the agency accomplished the intended purpose of the restriction by other means;

(4) ~~Whether the rule incorporates~~ Is no longer useful or beneficial;

(5) Incorporates a text or other material by reference and, if so:

(a) ~~Whether the~~ The citation accompanying the incorporation by reference is such as ~~reasonably~~ would not reasonably enable a reasonable person to whom the rule applies readily and without charge to find and inspect the incorporated text or other material;

(b) ~~Whether the~~ The citation accompanying the incorporation by reference is such as ~~reasonably~~ would not reasonably enable the joint committee on agency rule review readily and without charge to find and inspect the incorporated text or other material; ~~and or~~

(c) If the rule has been exempted in whole or in part from sections 121.71 to 121.74 of the Revised Code on grounds the incorporated text or other material has one or more of the characteristics described in division (B) of section 121.75 of the Revised Code, ~~whether~~ the incorporated text or other material does not actually ~~has~~ have any of those characteristics.

(5) ~~Whether the rule duplicates~~

(6) Duplicates, overlaps with, or conflicts with other rules;

(6) ~~Whether the rule has~~ a federal law or rule or another law or rule of this state. A rule duplicates, overlaps with, or conflicts with another law or rule if it imposes a duty or liability on a person or entity that the other law or rule also imposes on that person or entity, in whole or in part, or imposes a duty or liability that may require a person or entity to violate the other law or rule in whole or in part. If the rule duplicates, overlaps with, or conflicts with a rule adopted by another state agency, the two agencies shall determine which agency shall amend or rescind its rule and shall develop and execute a plan to work together to achieve the required oversight.

(7) Has an adverse impact on businesses, as determined under section 107.52 of the Revised Code;

(7) ~~Whether the rule contains~~ (8) Has an adverse impact on any other person or entity;

(9) Contains words or phrases having meanings that in contemporary usage are understood as

being derogatory or offensive; ~~and~~

~~(8) Whether the rule requires~~ (10) Requires liability insurance, a bond, or any other financial responsibility instrument as a condition of licensure;

(11) Imposes a more severe duty or liability than restrictions in neighboring states in order to accomplish the same goal;

(12) Implements a federal law or rule in a manner that is more stringent or burdensome than the federal law or rule requires.

In making its review, the agency shall consider the continued need for the rule, the nature of any complaints or comments received concerning the rule, and any relevant factors that have changed in the subject matter area affected by the rule.

(B) On the basis of its review of the existing rule, the agency shall determine whether the existing rule needs to be amended or rescinded.

(1) If the existing rule needs to be amended or rescinded, the agency, on or before the review date of the existing rule, shall commence the process of amending or rescinding the existing rule in accordance with its review of the rule.

(2) If the existing rule does not need to be amended or rescinded, proceedings shall be had under section 106.031 of the Revised Code.

Upon the request of the agency that adopted an existing rule, the joint committee on agency rule review may extend the review date of the rule to a date that is not later than one hundred eighty days after the review date assigned to the rule by the agency. Not more than two such extensions may be allowed.

Sec. 106.031. If an agency, on the basis of its review of a rule under section 106.03 of the Revised Code, determines that the rule does not need to be amended or rescinded, proceedings shall be had as follows:

(A)(1) If, considering only the standard of review specified in division (A)~~(6)-(7)~~ of section 106.03 of the Revised Code, the rule has an adverse impact on businesses, the agency shall prepare a business impact analysis that describes its review of the rule under that division and that explains why the regulatory intent of the rule justifies its adverse impact on businesses. If the rule does not have an adverse impact on businesses, the agency may proceed under division (B) of this section.

(2) The agency shall transmit a copy of the full text of the rule and the business impact analysis electronically to the common sense initiative office. The office shall make the rule and analysis available to the public on its web site under section 107.62 of the Revised Code.

(3) The agency shall consider any recommendations made by the office.

(4) Not earlier than the sixteenth business day after transmitting the rule and analysis to the office, the agency shall either (a) proceed under divisions (A)(5) and (B) of this section or (b) commence, under division (B)(1) of section 106.03 of the Revised Code, the process of rescinding the rule or of amending the rule to incorporate into the rule features the recommendations suggest will eliminate or reduce the adverse impact the rule has on businesses. If the agency determines to amend or rescind the rule, the agency is not subject to the time limit specified in division (B)(1) of section 106.03 of the Revised Code.

(5) If the agency receives recommendations from the office, and determines not to amend or rescind the rule, the agency shall prepare a memorandum of response that explains why the rule is

not being rescinded or why the recommendations are not being incorporated into the rule.

(B) The agency shall assign a new review date to the rule. The review date assigned shall be not later than five years after the immediately preceding review date pertaining to the rule. If the agency assigns a review date that exceeds the five-year maximum, the review date is five years after the immediately preceding review date. The immediately preceding review date includes the date of the review of a rule under section 106.032 of the Revised Code.

(C)(1) The agency shall file all the following, in electronic form, with the joint committee on agency rule review, the secretary of state, and the director of the legislative service commission: a copy of the rule specifying its new review date, a complete and accurate rule summary and fiscal analysis, and, if relevant, a business impact analysis of the rule, any recommendations received from the common sense initiative office, and any memorandum of response.

(2) Subject to section 106.05 of the Revised Code, the joint committee does not have jurisdiction to review, and shall reject, the filing of a rule under division (C)(1) of this section if, at any time while the rule is in its possession, it discovers that the rule has an adverse impact on businesses and the agency has not complied with division (A) of this section. The joint committee shall electronically return a rule that is rejected to the agency, together with any documents that were part of the filing. Such a rejection does not preclude the agency from refiling the rule under division (C)(1) of this section after complying with division (A) of this section. When the filing of a rule is rejected under this division, it is as if the filing had not been made.

(D) The joint committee shall publish notice of the agency's determination not to amend or rescind the rule in the register of Ohio for four consecutive weeks after the rule is filed under division (C) of this section.

(E) During the ninety-day period after a rule is filed under division (C) of this section, but after the four-week notice period required by division (D) of this section has ended, the joint committee may recommend to the senate and house of representatives the adoption of a concurrent resolution invalidating the rule if the joint committee finds any of the following:

(1) The agency improperly applied the standards in division (A) of section 106.03 of the Revised Code in reviewing the rule and in determining that the rule did not need amendment or rescission.

(2) The rule has an adverse impact on businesses, and the agency has failed to demonstrate through a business impact analysis, recommendations from the common sense initiative office, and a memorandum of response that the regulatory intent of the rule justifies its adverse impact on businesses.

(3) If the rule incorporates a text or other material by reference, any of the following applies:

(a) The citation accompanying the incorporation by reference is not such as reasonably would enable a reasonable person to whom the rule applies readily and without charge to find and inspect the incorporated text or other material;

(b) The citation accompanying the incorporation by reference is not such as reasonably would enable the joint committee readily and without charge to find and inspect the incorporated text or other material; or

(c) The rule has been exempted in whole or in part from sections 121.71 to 121.74 of the Revised Code on grounds the incorporated text or other material has one or more of the

characteristics described in division (B) of section 121.75 of the Revised Code, but the incorporated text or other material actually does not have any of those characteristics.

(4) If the agency is subject to sections 121.95, 121.951, 121.952, and 121.953 of the Revised Code, the agency has failed to justify the retention of a rule containing a regulatory restriction.

(5) The rule implements a federal law or rule in a manner that is more stringent or burdensome than the federal law or rule requires.

If the agency fails to comply with section 106.03 or 106.031 of the Revised Code, the joint committee shall afford the agency an opportunity to appear before the joint committee to show cause why the agency has not complied with either or both of those sections. If the agency appears before the joint committee at the time scheduled for the agency to show cause, and fails to do so, the joint committee, by vote of a majority of its members present, may recommend the adoption of a concurrent resolution invalidating the rule for the agency's failure to show cause. Or if the agency fails to appear before the joint committee at the time scheduled for the agency to show cause, the joint committee, by vote of a majority of its members present, may recommend adoption of a concurrent resolution invalidating the rule for the agency's default.

When the joint committee recommends that a rule be invalidated, the recommendation does not suspend operation of the rule, and the rule remains operational pending action by the senate and house of representatives on the concurrent resolution embodying the recommendation. If the senate and house of representatives adopt the concurrent resolution, the rule is invalid. If, however, the senate and house of representatives do not adopt the resolution, the rule continues in effect, and shall next be reviewed according to the new review date assigned to the rule.

Sec. 107.57. (A) In the course of evaluating draft rules and business impact analyses under sections 107.51 to 107.55 of the Revised Code, or at any other time, the common sense initiative office may review any rules containing regulatory restrictions that a state agency is required to include in its inventory of regulatory restrictions under section 121.95 of the Revised Code. If the common sense initiative office determines, based on the criteria described in division (A) of section 106.03 of the Revised Code, that a state agency should eliminate a regulatory restriction, the common sense initiative office shall notify the state agency that it is required to eliminate that regulatory restriction, and the state agency shall eliminate it.

(B) If a state agency objects to the elimination of a regulatory restriction that the common sense initiative office has determined should be eliminated under division (A) of this section, the state agency may appeal that decision to the joint committee on agency rule review. If the joint committee also determines, based on the criteria described in division (A) of section 106.03 of the Revised Code, that the state agency should eliminate the regulatory restriction, the state agency shall eliminate it.

(C) As used in this section, "state agency" has the same meaning as in section 121.95 of the Revised Code.

Sec. 111.15. (A) As used in this section:

(1) "Rule" includes any rule, regulation, bylaw, or standard having a general and uniform operation adopted by an agency under the authority of the laws governing the agency; any appendix to a rule; and any internal management rule. "Rule" does not include any guideline adopted pursuant to section 3301.0714 of the Revised Code, any order respecting the duties of employees, any finding,

any determination of a question of law or fact in a matter presented to an agency, or any rule promulgated pursuant to Chapter 119. or division (C)(1) or (2) of section 5117.02 of the Revised Code. "Rule" includes any amendment or rescission of a rule.

(2) "Agency" means any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.

(3) "Internal management rule" means any rule, regulation, bylaw, or standard governing the day-to-day staff procedures and operations within an agency.

(B)(1) Any rule, other than a rule of an emergency nature, adopted by any agency pursuant to this section shall be effective on the tenth day after the day on which the rule in final form and in compliance with division (B)(3) of this section is filed as follows:

(a) The rule shall be filed in electronic form with both the secretary of state and the director of the legislative service commission;

(b) The rule shall be filed in electronic form with the joint committee on agency rule review. Division (B)(1)(b) of this section does not apply to any rule to which division (D) of this section does not apply.

An agency that adopts or amends a rule that is subject to division (D) of this section shall assign a review date to the rule that is not later than five years after its effective date. If a review date assigned to a rule exceeds the five-year maximum, the review date for the rule is five years after its effective date. A rule with a review date is subject to review under section 106.03 of the Revised Code. This paragraph does not apply to a rule of a state college or university, community college district, technical college district, or state community college.

If an agency in adopting a rule designates an effective date that is later than the effective date provided for by division (B)(1) of this section, the rule if filed as required by such division shall become effective on the later date designated by the agency.

Any rule that is required to be filed under division (B)(1) of this section is also subject to division (D) of this section if not exempted by that division.

If a rule incorporates a text or other material by reference, the agency shall comply with sections 121.71 to 121.75 of the Revised Code.

(2) A rule of an emergency nature necessary for the immediate preservation of the public peace, health, or safety shall state the reasons for the necessity. The emergency rule, in final form and in compliance with division (B)(3) of this section, shall be filed in electronic form with the secretary of state, the director of the legislative service commission, and the joint committee on agency rule review. The emergency rule is effective immediately upon completion of the latest filing, except that if the agency in adopting the emergency rule designates an effective date, or date and time of day, that is later than the effective date and time provided for by division (B)(2) of this section, the emergency rule if filed as required by such division shall become effective at the later date, or later date and time of day, designated by the agency.

Except as provided in section 107.43 of the Revised Code, an emergency rule becomes invalid at the end of the one hundred twentieth day it is in effect. Prior to that date, the agency may

file the emergency rule as a nonemergency rule in compliance with division (B)(1) of this section. The agency may not refile the emergency rule in compliance with division (B)(2) of this section so that, upon the emergency rule becoming invalid under such division, the emergency rule will continue in effect without interruption for another one hundred twenty-day period.

The adoption of an emergency rule under division (B)(2) of this section in response to a state of emergency, as defined under section 107.42 of the Revised Code, may be invalidated by the general assembly, in whole or in part, by adopting a concurrent resolution in accordance with section 107.43 of the Revised Code.

(3) An agency shall file a rule under division (B)(1) or (2) of this section in compliance with the following standards and procedures:

(a) The rule shall be numbered in accordance with the numbering system devised by the director for the Ohio administrative code.

(b) The rule shall be prepared and submitted in compliance with the rules of the legislative service commission.

(c) The rule shall clearly state the date on which it is to be effective and the date on which it will expire, if known.

(d) Each rule that amends or rescinds another rule shall clearly refer to the rule that is amended or rescinded. Each amendment shall fully restate the rule as amended.

If the director of the legislative service commission or the director's designee gives an agency notice pursuant to section 103.05 of the Revised Code that a rule filed by the agency is not in compliance with the rules of the legislative service commission, the agency shall within thirty days after receipt of the notice conform the rule to the rules of the commission as directed in the notice.

(C) All rules filed pursuant to divisions (B)(1)(a) and (2) of this section shall be recorded by the secretary of state and the director under the title of the agency adopting the rule and shall be numbered according to the numbering system devised by the director. The secretary of state and the director shall preserve the rules in an accessible manner. Each such rule shall be a public record open to public inspection and may be transmitted to any law publishing company that wishes to reproduce it.

(D) At least sixty-five days before a board, commission, department, division, or bureau of the government of the state files a rule under division (B)(1) of this section, it shall file the full text of the proposed rule in electronic form with the joint committee on agency rule review, and the proposed rule is subject to legislative review and invalidation under section 106.021 of the Revised Code. If a state board, commission, department, division, or bureau makes a revision in a proposed rule after it is filed with the joint committee, the state board, commission, department, division, or bureau shall promptly file the full text of the proposed rule in its revised form in electronic form with the joint committee. A state board, commission, department, division, or bureau shall also file the rule summary and fiscal analysis prepared under section 106.024 of the Revised Code in electronic form along with a proposed rule, and along with a proposed rule in revised form, that is filed under this division. If a proposed rule has an adverse impact on businesses, the state board, commission, department, division, or bureau also shall file the business impact analysis, any recommendations received from the common sense initiative office, and the associated memorandum of response, if any, in electronic form along with the proposed rule, or the proposed rule in revised form, that is filed



under this division.

A proposed rule that is subject to legislative review under this division may not be adopted and filed in final form under division (B)(1) of this section unless the proposed rule has been filed with the joint committee on agency rule review under this division and the time for the joint committee to review the proposed rule has expired without recommendation of a concurrent resolution to invalidate the proposed rule.

If a proposed rule that is subject to legislative review under this division implements a federal law or rule, the agency shall provide to the joint committee a citation to the federal law or rule the proposed rule implements and a statement as to whether the proposed rule implements the federal law or rule in a manner that is more or less stringent or burdensome than the federal law or rule requires.

As used in this division, "commission" includes the public utilities commission when adopting rules under a federal or state statute.

This division does not apply to any of the following:

- (1) A proposed rule of an emergency nature;
- (2) A rule proposed under section 1121.05, 1121.06, 1349.33, 1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised Code;
- (3) A rule proposed by an agency other than a board, commission, department, division, or bureau of the government of the state;
- (4) A proposed internal management rule of a board, commission, department, division, or bureau of the government of the state;
- (5) Any proposed rule that must be adopted verbatim by an agency pursuant to federal law or rule, to become effective within sixty days of adoption, in order to continue the operation of a federally reimbursed program in this state, so long as the proposed rule contains both of the following:
  - (a) A statement that it is proposed for the purpose of complying with a federal law or rule;
  - (b) A citation to the federal law or rule that requires verbatim compliance.
- (6) An initial rule proposed by the director of health to impose safety standards and quality-of-care standards with respect to a health service specified in section 3702.11 of the Revised Code, or an initial rule proposed by the director to impose quality standards on a health care facility as defined in section 3702.30 of the Revised Code, if section 3702.12 of the Revised Code requires that the rule be adopted under this section;
- (7) A rule of the state lottery commission pertaining to instant game rules.

If a rule is exempt from legislative review under division (D)(5) of this section, and if the federal law or rule pursuant to which the rule was adopted expires, is repealed or rescinded, or otherwise terminates, the rule is thereafter subject to legislative review under division (D) of this section.

Whenever a state board, commission, department, division, or bureau files a proposed rule or a proposed rule in revised form under division (D) of this section, it shall also file the full text of the same proposed rule or proposed rule in revised form in electronic form with the secretary of state and the director of the legislative service commission. A state board, commission, department, division, or bureau shall file the rule summary and fiscal analysis prepared under section 106.024 of the

Revised Code in electronic form along with a proposed rule or proposed rule in revised form that is filed with the secretary of state or the director of the legislative service commission.

Sec. 119.03. In the adoption, amendment, or rescission of any rule, an agency shall comply with the following procedure:

(A) Reasonable public notice shall be given in the register of Ohio at least thirty days prior to the date set for a hearing, in the form the agency determines. The agency shall file copies of the public notice under division (B) of this section. (The agency gives public notice in the register of Ohio when the public notice is published in the register under that division.)

The public notice shall include:

- (1) A statement of the agency's intention to consider adopting, amending, or rescinding a rule;
- (2) A synopsis of the proposed rule, amendment, or rule to be rescinded or a general statement of the subject matter to which the proposed rule, amendment, or rescission relates;
- (3) A statement of the reason or purpose for adopting, amending, or rescinding the rule;
- (4) The date, time, and place of a hearing on the proposed action, which shall be not earlier than the thirty-first nor later than the fortieth day after the proposed rule, amendment, or rescission is filed under division (B) of this section.

In addition to public notice given in the register of Ohio, the agency may give whatever other notice it reasonably considers necessary to ensure notice constructively is given to all persons who are subject to or affected by the proposed rule, amendment, or rescission.

The agency shall provide a copy of the public notice required under division (A) of this section to any person who requests it and pays a reasonable fee, not to exceed the cost of copying and mailing.

(B) The full text of the proposed rule, amendment, or rule to be rescinded, accompanied by the public notice required under division (A) of this section, shall be filed in electronic form with the secretary of state and with the director of the legislative service commission. (If in compliance with this division an agency files more than one proposed rule, amendment, or rescission at the same time, and has prepared a public notice under division (A) of this section that applies to more than one of the proposed rules, amendments, or rescissions, the agency shall file only one notice with the secretary of state and with the director for all of the proposed rules, amendments, or rescissions to which the notice applies.) The proposed rule, amendment, or rescission and public notice shall be filed as required by this division at least sixty-five days prior to the date on which the agency, in accordance with division (E) of this section, issues an order adopting the proposed rule, amendment, or rescission.

If the proposed rule, amendment, or rescission incorporates a text or other material by reference, the agency shall comply with sections 121.71 to 121.75 of the Revised Code.

The proposed rule, amendment, or rescission shall be available for at least thirty days prior to the date of the hearing at the office of the agency in printed or other legible form without charge to any person affected by the proposal. Failure to furnish such text to any person requesting it shall not invalidate any action of the agency in connection therewith.

If the agency files a revision in the text of the proposed rule, amendment, or rescission, it shall also promptly file the full text of the proposed rule, amendment, or rescission in its revised form in electronic form with the secretary of state and with the director of the legislative service

commission.

The agency shall file the rule summary and fiscal analysis prepared under section 106.024 of the Revised Code in electronic form along with a proposed rule, amendment, or rescission or proposed rule, amendment, or rescission in revised form that is filed with the secretary of state or the director of the legislative service commission.

The agency shall file the hearing report relating to a proposed rule, amendment, or rescission in electronic form with the secretary of state and the director of the legislative service commission at the same time the agency files the hearing report with the joint committee on agency rule review.

The director of the legislative service commission shall publish in the register of Ohio the full text of the original and each revised version of a proposed rule, amendment, or rescission; the full text of a public notice; the full text of a rule summary and fiscal analysis; and the full text of a hearing report that is filed with the director under this division.

(C) When an agency files a proposed rule, amendment, or rescission under division (B) of this section, it also shall file in electronic form with the joint committee on agency rule review the full text of the proposed rule, amendment, or rule to be rescinded in the same form and the public notice required under division (A) of this section. (If in compliance with this division an agency files more than one proposed rule, amendment, or rescission at the same time, and has given a public notice under division (A) of this section that applies to more than one of the proposed rules, amendments, or rescissions, the agency shall file only one notice with the joint committee for all of the proposed rules, amendments, or rescissions to which the notice applies.) The proposed rule, amendment, or rescission is subject to legislative review and invalidation under sections 106.02, 106.021, and 106.022 of the Revised Code. If the agency makes a revision in a proposed rule, amendment, or rescission after it is filed with the joint committee, the agency promptly shall file the full text of the proposed rule, amendment, or rescission in its revised form in electronic form with the joint committee.

An agency shall file the rule summary and fiscal analysis prepared under section 106.024 of the Revised Code in electronic form along with a proposed rule, amendment, or rescission, and along with a proposed rule, amendment, or rescission in revised form, that is filed under this division.

If a proposed rule, amendment, or rescission has an adverse impact on businesses, the agency also shall file the business impact analysis, any recommendations received from the common sense initiative office, and the agency's memorandum of response, if any, in electronic form along with the proposed rule, amendment, or rescission, or along with the proposed rule, amendment, or rescission in revised form, that is filed under this division.

The agency shall file the hearing report in electronic form with the joint committee before the joint committee holds its public hearing on the proposed rule, amendment, or rescission. The filing of a hearing report does not constitute a revision of the proposed rule, amendment, or rescission to which the hearing report relates.

If the proposed rule, amendment, or rescission requires liability insurance, a bond, or any other financial responsibility instrument as a condition of licensure, the agency shall conduct a diligent search to determine if the liability insurance, bond, or other financial responsibility instrument is readily available in the amounts required as a condition of licensure, and shall certify to the joint committee that the search was conducted.

If the proposed rule, amendment, or rescission implements a federal law or rule, the agency shall provide to the joint committee a citation to the federal law or rule the proposed rule, amendment, or rescission implements and a statement as to whether the proposed rule implements the federal law or rule in a manner that is more or less stringent or burdensome than the federal law or rule requires.

A proposed rule, amendment, or rescission that is subject to legislative review under this division may not be adopted under division (E) of this section or filed in final form under section 119.04 of the Revised Code unless the proposed rule, amendment, or rescission has been filed with the joint committee on agency rule review under this division and the time for legislative review of the proposed rule, amendment, or rescission has expired without adoption of a concurrent resolution to invalidate the proposed rule, amendment, or rescission.

This division does not apply to:

(1) An emergency rule, amendment, or rescission;

(2) A proposed rule, amendment, or rescission that must be adopted verbatim by an agency pursuant to federal law or rule, to become effective within sixty days of adoption, in order to continue the operation of a federally reimbursed program in this state, so long as the proposed rule contains both of the following:

- (a) A statement that it is proposed for the purpose of complying with a federal law or rule;
- (b) A citation to the federal law or rule that requires verbatim compliance.

(3) A proposed rule, amendment, or rescission that, as set forth in section 3719.41 of the Revised Code, must be adopted by the state board of pharmacy pursuant to federal law or rule, to become effective within sixty days of adoption, so long as the proposed rule contains a statement that it is proposed for the purpose of complying with federal law or rule.

If a rule or amendment is exempt from legislative review under division (C)(2) of this section, and if the federal law or rule pursuant to which the rule or amendment was adopted expires, is repealed or rescinded, or otherwise terminates, the rule or amendment, or its rescission, is thereafter subject to legislative review under division (C) of this section.

(D) On the date and at the time and place designated in the notice, the agency shall conduct a public hearing at which any person affected by the proposed action of the agency may appear and be heard in person, by the person's attorney, or both, may present the person's position, arguments, or contentions, orally or in writing, offer and examine witnesses, and present evidence tending to show that the proposed rule, amendment, or rescission, if adopted or effectuated, will be unreasonable or unlawful. An agency may permit persons affected by the proposed rule, amendment, or rescission to present their positions, arguments, or contentions in writing, not only at the hearing, but also for a reasonable period before, after, or both before and after the hearing. A person who presents a position or arguments or contentions in writing before or after the hearing is not required to appear at the hearing.

At the hearing, the testimony shall be recorded. Such record shall be made at the expense of the agency. The agency is required to transcribe a record that is not sight readable only if a person requests transcription of all or part of the record and agrees to reimburse the agency for the costs of the transcription. An agency may require the person to pay in advance all or part of the cost of the transcription.

In any hearing under this section the agency may administer oaths or affirmations.

The agency shall consider the positions, arguments, or contentions presented at, or before or after, the hearing. The agency shall prepare a hearing summary of the positions, arguments, or contentions, and of the issues raised by the positions, arguments, or contentions. The agency then shall prepare a hearing report explaining, with regard to each issue, how it is reflected in the rule, amendment, or rescission. If an issue is not reflected in the rule, amendment, or rescission, the hearing report shall explain why the issue is not reflected. The agency shall include the hearing summary in the hearing report as an appendix thereto. And, in the hearing report, the agency shall identify the proposed rule, amendment, or rescission to which the hearing report relates.

(E) After divisions (A), (B), (C), and (D) of this section have been complied with, and when the time for legislative review under sections 106.02, 106.022, and 106.023 of the Revised Code has expired without adoption of a concurrent resolution to invalidate the proposed rule, amendment, or rescission, the agency may issue an order adopting the proposed rule or the proposed amendment or rescission of the rule, consistent with the synopsis or general statement included in the public notice. At that time the agency shall designate the effective date of the rule, amendment, or rescission, which shall not be earlier than the tenth day after the rule, amendment, or rescission has been filed in its final form as provided in section 119.04 of the Revised Code.

(F) Prior to the effective date of a rule, amendment, or rescission, the agency shall make a reasonable effort to inform those affected by the rule, amendment, or rescission and to have available for distribution to those requesting it the full text of the rule as adopted or as amended.

(G)(1) If the governor, upon the request of an agency, determines that an emergency requires the immediate adoption, amendment, or rescission of a rule, the governor shall issue an order, the text of which shall be filed in electronic form with the agency, the secretary of state, the director of the legislative service commission, and the joint committee on agency rule review, that the procedure prescribed by this section with respect to the adoption, amendment, or rescission of a specified rule is suspended. The agency may then adopt immediately the emergency rule, amendment, or rescission and it becomes effective on the date the rule, amendment, or rescission, in final form and in compliance with division (A)(2) of section 119.04 of the Revised Code, is filed in electronic form with the secretary of state, the director of the legislative service commission, and the joint committee on agency rule review. The director shall publish the full text of the emergency rule, amendment, or rescission in the register of Ohio.

Except as provided in division (G)(2) of this section, or section 107.43 of the Revised Code, the emergency rule, amendment, or rescission shall become invalid at the end of the one hundred twentieth day it is in effect. Prior to that date the agency may adopt the emergency rule, amendment, or rescission as a nonemergency rule, amendment, or rescission by complying with the procedure prescribed by this section for the adoption, amendment, and rescission of nonemergency rules. The agency shall not use the procedure of division (G)(1) of this section to readopt the emergency rule, amendment, or rescission so that, upon the emergency rule, amendment, or rescission becoming invalid under division (G)(1) of this section, the emergency rule, amendment, or rescission will continue in effect without interruption for another one-hundred-twenty-day period, except when section 106.02 of the Revised Code prevents the agency from adopting the emergency rule, amendment, or rescission as a nonemergency rule, amendment, or rescission within the one-hundred-

twenty-day period.

Division (G)(1) of this section does not apply to the adoption of any emergency rule, amendment, or rescission by the tax commissioner under division (C)(2) of section 5117.02 of the Revised Code.

(2) An emergency rule or amendment adding a substance to a controlled substance schedule shall become invalid at the end of the one hundred eightieth day it is in effect. Prior to that date, the state board of pharmacy may adopt the emergency rule or amendment as a nonemergency rule or amendment by complying with the procedure prescribed by this section for adoption and amendment of nonemergency rules. The board shall not use the procedure of division (G)(1) of this section to readopt the emergency rule or amendment so that, upon the emergency rule or amendment becoming invalid under division (G)(2) of this section, the emergency rule or amendment will continue in effect beyond the one-hundred-eighty-day period.

(3) The general assembly, by adopting a concurrent resolution, and in accordance with section 107.43 of the Revised Code, may do either of the following:

(a) Invalidate, in whole or in part, an emergency rule adopted or amended by an agency in response to a state of emergency, as defined under section 107.42 of the Revised Code, under division (G)(1) of this section;

(b) Authorize an agency to readopt, in whole or in part, a rule that was rescinded in response to a state of emergency under division (G)(1) of this section.

(H) Rules adopted by an authority within the department of job and family services for the administration or enforcement of Chapter 4141. of the Revised Code or of the department of taxation shall be effective without a hearing as provided by this section if the statutes pertaining to such agency specifically give a right of appeal to the board of tax appeals or to a higher authority within the agency or to a court, and also give the appellant a right to a hearing on such appeal. This division does not apply to the adoption of any rule, amendment, or rescission by the tax commissioner under division (C)(1) or (2) of section 5117.02 of the Revised Code, or deny the right to file an action for declaratory judgment as provided in Chapter 2721. of the Revised Code from the decision of the board of tax appeals or of the higher authority within such agency.

Sec. 121.031. The administrative department head of an administrative department created under section 121.02 of the Revised Code or an administrative department head appointed under section 121.03 of the Revised Code may direct an otherwise independent official or state agency that is organized under the administrative department or administrative department head as necessary to achieve reductions in regulatory restrictions in rules in compliance with sections 121.95, 121.951, 121.952, 121.953, and 121.954 of the Revised Code.

Sec. 121.95. (A) As used in ~~this section~~ sections 121.95, 121.951, 121.952, 121.953, and 121.954 of the Revised Code, "state agency" means an administrative department created under section 121.02 of the Revised Code, an administrative department head appointed under section 121.03 of the Revised Code, and a state agency organized under an administrative department or administrative department head. "State agency" also includes the department of education, the state lottery commission, the Ohio casino control commission, the state racing commission, and the public utilities commission of Ohio. Rules adopted by an otherwise independent official or entity organized under a state agency shall be attributed to the agency under which the official or entity is organized

for the purposes of ~~this section~~sections 121.95, 121.951, 121.952, 121.953, and 121.954 of the Revised Code.

(B) Not later than December 31, 2019, a state agency shall review its existing rules to identify rules having one or more regulatory restrictions that require or prohibit an action and prepare a base inventory of the regulatory restrictions in its existing rules. Rules that include the words "shall," "must," "require," "shall not," "may not," and "prohibit" shall be considered to contain regulatory restrictions.

(C) In the base inventory, the state agency shall indicate all of the following concerning each regulatory restriction:

- (1) A description of the regulatory restriction;
- (2) The rule number of the rule in which the regulatory restriction appears;
- (3) The statute under which the regulatory restriction was adopted;
- (4) Whether state or federal law expressly and specifically requires the agency to adopt the regulatory restriction or the agency adopted the regulatory restriction under the agency's general authority;

(5) Whether removing the regulatory restriction would require a change to state or federal law, provided that removing a regulatory restriction adopted under a law granting the agency general authority shall be presumed not to require a change to state or federal law;

(6) Any other information the joint committee on agency rule review considers necessary.

(D) The state agency shall compute and state the total number of regulatory restrictions indicated in the base inventory, shall post the base inventory on its web site, and shall electronically transmit a copy of the inventory to the joint committee. The joint committee shall review the base inventory, then transmit it electronically to the speaker of the house of representatives and the president of the senate.

(E) The following types of rules or regulatory restrictions are not required to be included in a state agency's inventory of regulatory restrictions:

- (1) An internal management rule;
- (2) An emergency rule;
- (3) A rule that state or federal law requires the state agency to adopt verbatim;
- (4) A regulatory restriction contained in materials or documents incorporated by reference into a rule pursuant to sections 121.71 to 121.75 of the Revised Code;
- (5) A rule adopted pursuant to section 1347.15 of the Revised Code;
- (6) A rule concerning instant lottery games;
- (7) Any other rule that is not subject to review under Chapter 106. of the Revised Code.

(F) Beginning on the effective date of this section and ending on June 30, ~~2023~~2025, a state agency may not adopt a new regulatory restriction unless it simultaneously removes two or more other existing regulatory restrictions. The state agency may not satisfy this section by merging two or more existing regulatory restrictions into a single surviving regulatory restriction.

Sec. 121.951. (A)(1) Using the criteria listed in division (A) of section 106.03 of the Revised Code, a state agency shall amend or rescind rules identified in its base inventory of regulatory restrictions prepared under section 121.95 of the Revised Code as necessary to reduce the total number of regulatory restrictions by thirty per cent, according to the following schedule:

- (a) A ten per cent reduction not later than June 30, 2023;
- (b) A twenty per cent reduction not later than June 30, 2024; and
- (c) The thirty per cent reduction not later than June 30, 2025.

When a state agency has achieved a reduction of any percentage in regulatory restrictions, whether or not as specified in this section, the state agency may not adopt or maintain regulatory restrictions that would negate the reduction.

(2) Beginning July 1, 2025, a state agency that has not achieved the specified thirty per cent reduction may not adopt a new regulatory restriction unless it simultaneously removes two or more other existing regulatory restrictions, until the specified thirty per cent reduction has been achieved. The state agency may not fulfill this requirement by merging two or more existing regulatory restrictions into a single surviving regulatory restriction.

(3) A state agency is encouraged to continue to reduce regulatory restrictions after it has achieved the specified thirty per cent reduction.

(B)(1) Not later than September 15, 2022, a state agency shall prepare an historical report of its progress in reducing regulatory restrictions over the period of time beginning when the agency prepared its base inventory under section 121.95 of the Revised Code and ending on June 30, 2022. Annually thereafter, a state agency shall prepare an historical report of its progress in reducing regulatory restrictions over the preceding fiscal year. The state agency shall explain in the report how it applied the criteria described in division (A) of section 106.03 of the Revised Code to its determinations as to which regulatory restrictions to amend or rescind. The state agency shall include a revised inventory of regulatory restrictions with the report.

(2) In the revised inventory, in addition to the information required by section 121.95 of the Revised Code, the state agency shall compute the percentage net reduction in regulatory restrictions by subtracting the current number of regulatory restrictions from the number of regulatory restrictions identified in the base inventory and then dividing the resulting number by the number of regulatory restrictions in the base inventory.

(3) The state agency shall transmit the report electronically to the joint committee on agency rule review. The joint committee shall review the report and shall transmit it electronically to the speaker of the house of representatives and the president of the senate. The state agency shall continue preparing and transmitting annual reports until it has reported that it has achieved the required reduction in regulatory restrictions.

Sec. 121.952. (A) If a state agency fails to reduce regulatory restrictions by a required percentage within one hundred twenty days after a reduction deadline in section 121.951 of the Revised Code, the joint committee on agency rule review shall afford the state agency an opportunity to appear before the joint committee to show cause why the agency's required reduction in regulatory restrictions should be lessened. If the joint committee determines that the state agency has shown cause, the joint committee shall determine a lessened required reduction in regulatory restrictions for that agency and shall submit a written report to the speaker of the house of representatives and the president of the senate, indicating the lessened required reduction in regulatory restrictions for that agency and the reason the joint committee determined that lessened required reduction.

(B)(1) If a state agency fails to reduce regulatory restrictions by a required percentage as described in division (A) of this section because the agency's base inventory contains regulatory



restrictions that adopt or implement a federal law or rule, the agency may submit both of the following to the joint committee:

(a) A modified inventory of the agency's regulatory restrictions consisting of the agency's base inventory prepared under section 121.95 of the Revised Code minus any rule that the agency identifies as implementing a federal law or rule in a manner that is not more stringent or burdensome than the federal law or rule requires;

(b) A written analysis explaining how each rule identified by the agency implements a federal law or rule in a manner that is not more stringent or burdensome than the federal law or rule requires.

(2) At the appearance before the joint committee described in division (A) of this section, the joint committee may lessen the agency's required reduction in regulatory restrictions based on the modified inventory submitted by the agency.

Sec. 121.953. (A) Effective July 1, 2025, the number of regulatory restrictions in this state shall not exceed a number of regulatory restrictions determined by the joint committee on agency rule review in accordance with this section. The joint committee shall determine that number by calculating, for each agency, the number of regulatory restrictions identified by the agency in the base inventory prepared under section 121.95 of the Revised Code, minus the number of regulatory restrictions that represents the percentage reduction the state agency is required to achieve, and then totaling the resulting numbers for all state agencies. The joint committee shall consider any lessened required reductions under section 121.952 of the Revised Code.

(B) A state agency shall contact the joint committee before submitting a proposed rule containing a regulatory restriction, and the joint committee shall determine whether adopting the regulatory restriction would cause the state to exceed the number of regulatory restrictions permitted under this section. A state agency may not adopt a rule if by adopting the rule the state agency would cause the number of regulatory restrictions to exceed the state limit as determined by the joint committee.

Sec. 121.954. Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, sections 121.95, 121.951, 121.952, and 121.953 of the Revised Code do not apply to rules adopted by the Ohio casino control commission under Chapter 3775. of the Revised Code.

Sec. 4301.171. (A) As used in this section:

(1) "Broker" and "solicitor" have the same meanings as in rules adopted by the superintendent of liquor control under section 4303.25 of the Revised Code.

(2) "Tasting sample" means a small amount of spirituous liquor that is provided in a serving of not more than a quarter ounce of spirituous liquor and, if provided, not more than one ounce of nonalcoholic mixer to an authorized purchaser and that allows the purchaser to determine, by tasting only, the quality and character of the beverage.

(3) "Trade marketing company" means a company that solicits the purchase of beer and intoxicating liquor and educates the public about beer and intoxicating liquor.

(4) "Trade marketing professional" means an individual who is an employee of, or is under contract with, a trade marketing company and who has successfully completed a training program described in section 4301.253 of the Revised Code.

(B) Notwithstanding section 4301.24 of the Revised Code, an agency store to which a D-8 permit has been issued may allow a trade marketing professional, broker, or solicitor to offer for sale

tasting samples of spirituous liquor when conducted in accordance with this section. A tasting sample shall not be sold for the purpose of general consumption.

(C) Tasting samples of spirituous liquor may be offered for sale at an agency store by a trade marketing professional, broker, or solicitor if all of the following apply:

(1) The tasting samples are sold only in the area of the agency store in which spirituous liquor is sold and that area is open to the public.

(2) The tasting samples are sold only by the trade marketing professional, broker, or solicitor.

(3) The spirituous liquor is registered under division (A)(8) of section 4301.10 of the Revised Code.

(4) Not less than ten business days prior to the sale, the trade marketing professional, broker, or solicitor has provided written notice to the division of liquor control of the date and time of the sampling, and of the type and brand of spirituous liquor to be sampled at the agency store.

(D) A sale of tasting samples of spirituous liquor is subject to rules adopted by the superintendent of liquor control or the liquor control commission.

(E) An offering for sale of tasting samples of spirituous liquor shall be limited to a period of not more than two hours.

(F) For purposes of offering for sale tasting samples of spirituous liquor, a trade marketing professional, broker, or solicitor shall purchase the spirituous liquor from the agency store at the current retail price. An authorized purchaser shall be charged not less than fifty cents for each tasting sample of spirituous liquor. When the sale of tasting samples of spirituous liquor at an agency store is completed, any bottles of spirituous liquor used to provide tasting samples that are not empty shall be marked as "sample" and removed from the agency store by the trade marketing professional, broker, or solicitor, as applicable.

(G) No trade marketing professional, broker, or solicitor shall do any of the following:

(1) Advertise the offering for sale of tasting samples of spirituous liquor other than at the agency store where the tasting samples will be offered or as provided in section 4301.245 of the Revised Code;

(2) Solicit orders or make sales of tasting samples of spirituous liquor for quantities greater than those specified in division (G)(3) of this section;

(3) Allow any authorized purchaser to consume more than four tasting samples of spirituous liquor per day.

(H) The purchase of a tasting sample of spirituous liquor shall not be contingent upon the purchase of any other product from an agency store.

(I) No employee of an agency store that allows the sale of tasting samples of spirituous liquor shall purchase or consume a tasting sample while on duty.

(J) If an employee of an agency store that allows the sale of tasting samples of spirituous liquor consumes a tasting sample of spirituous liquor, the employee shall not perform the employee's duties and responsibilities at the agency store on the day the tasting sample is consumed.

(K) No person under twenty-one years of age shall consume a tasting sample of spirituous liquor.

(L) Not more than ten events at which the sale of tasting samples of spirituous liquor are offered shall occur at an agency store in a calendar month provided that:

(1) Not more than two events shall occur in the same day; and  
(2) There is not less than one hour between the end of one event and the beginning of the next event.

(M) No trade marketing professional, trade marketing company, broker, solicitor, owner or operator of an agency store, or an agent or employee of the owner or operator shall violate this section or any rules adopted by the superintendent or the commission for the purposes of this section.

Sec. 4301.245. (A) As used in this section:

(1) "Broker" and "solicitor" have the same meanings as in rules adopted by the superintendent of liquor control under section 4303.25 of the Revised Code.

(2) "On-premises brand promotion" means a promotion of a brand of beer or intoxicating liquor by a distributor, manufacturer, trade marketing professional, solicitor, or broker of that brand at a retail permit premises.

(3) "Product location communication" means a listing or program that allows an individual to determine the availability of a specific brand of beer or intoxicating liquor at retail permit holders or agency stores in a certain geographic area.

(4) "Social media" means a service, platform, or web site where users communicate with one another free of charge and share media such as pictures, videos, music, and blogs. "Social media" includes the web site of a distributor, manufacturer, trade marketing professional, solicitor, or broker.

(5) "Trade marketing professional" has the same meaning as in section 4301.171 of the Revised Code.

(B) Notwithstanding section 4301.24 of the Revised Code and except as provided in division (C) of this section, a distributor, manufacturer, trade marketing professional, solicitor, or broker may use free services provided by social media to advertise any of the following:

(1) An on-premises brand promotion;

(2) Beer, wine, or spirituous liquor ~~tastings~~ tasting samples sold in accordance with this chapter or Chapter 4303. of the Revised Code;

(3) A product location communication.

(C) No distributor, manufacturer, trade marketing professional, solicitor, or broker shall use free services provided by social media to advertise to persons under twenty-one years of age.

Sec. 4301.58. (A) As used in this section:

(1) "Charitable organization" is an organization described under section 501(c)(3) of the Internal Revenue Code and exempt from federal income taxation under section 501(a) of the Internal Revenue Code.

(2) "Fundraiser" means a raffle, silent auction, or event where a door prize is awarded.

(3) "Political organization" means a political organization defined under section 527 of the Internal Revenue Code.

(4) "Raffle" means a raffle conducted in accordance with Chapter 2915. of the Revised Code.

(5) "Silent auction" means a method of submitting bids in writing by one or more persons and, after a review of all the bids received, personal property is awarded to the highest and most responsive bidder.

(B) No person, personally or by the person's clerk, agent, or employee, who is not the holder of an A permit issued by the division of liquor control, in force at the time, and authorizing the

manufacture of beer or intoxicating liquor, or who is not an agent or employee of the division authorized to manufacture such beer or intoxicating liquor, shall manufacture any beer or intoxicating liquor for sale, or shall manufacture spirituous liquor.

(C) No person, personally or by the person's clerk, agent, or employee, who is not the holder of an A, B, C, D, E, F, G, I, or S permit issued by the division, in force at the time, and authorizing the sale of beer, intoxicating liquor, or alcohol, or who is not an agent or employee of the division or the tax commissioner authorized to sell such beer, intoxicating liquor, or alcohol, shall sell, keep, or possess beer, intoxicating liquor, or alcohol for sale to any persons other than those authorized by Chapters 4301. and 4303. of the Revised Code to purchase any beer or intoxicating liquor, or sell any alcohol at retail.

(D) No person, personally or by the person's clerk, agent, or employee, who is the holder of a permit issued by the division, shall sell, keep, or possess for sale any intoxicating liquor not purchased from the division or from the holder of a permit issued by the division authorizing the sale of such intoxicating liquor unless the same has been purchased with the special consent of the division. The division shall revoke the permit of any person convicted of a violation of division (C) of this section.

(E) Division ~~(B)~~(C) of this section does not apply to either of the following:

(1) The sale or possession for sale of any low-alcohol beverage;

(2) Beer and intoxicating liquor that is given away if all of the following apply:

(a) The beer or intoxicating liquor is given away by a charitable or political organization to a participant in a fundraiser.

(b) Any beer, wine, or mixed beverages given away via the fundraiser is purchased from a person issued a permit under Chapter 4303. of the Revised Code.

(c) Any spirituous liquor given away via the fundraiser is purchased from an agency store located in this state.

(d) Regarding any spirituous liquor donated to the charitable or political organization for purposes of the fundraiser, the donor is not an agency store located in this state and submits to the charitable or political organization receipts showing that the donor purchased the spirituous liquor from an agency store located in this state.

(e) The charitable or political organization submits purchase receipts for the spirituous liquor given away via a fundraiser to the division of liquor control as proof that the spirituous liquor was purchased from an agency store located in this state. The charitable or political organization shall submit the receipts in accordance with procedures that the division shall establish.

Sec. 4305.14. (A) The following questions regarding the sale of beer by holders of C or D permits may be presented to the qualified electors of an election precinct:

(1) "Shall the sale of beer as defined in section 4305.08 of the Revised Code under permits which authorize sale for off-premises consumption only be permitted within this precinct?"

(2) "Shall the sale of beer as defined in section 4305.08 of the Revised Code under permits which authorize sale for on-premises consumption only, and under permits which authorize sale for both on-premises and off-premises consumption, be permitted in this precinct?"

The exact wording of the question as submitted and form of ballot as printed shall be determined by the board of elections in the county wherein the election is held, subject to approval of

the secretary of state.

Upon the request of an elector, a board of elections of a county that encompasses an election precinct shall furnish to the elector a copy of the instructions prepared by the secretary of state under division (P) of section 3501.05 of the Revised Code and, within fifteen days after the request, with a certificate indicating the number of valid signatures that will be required on a petition to hold a special election in that precinct on either or both of the questions specified in this section.

The board shall provide to a petitioner, at the time the petitioner takes out a petition, the names of the streets and, if appropriate, the address numbers of residences and business establishments within the precinct in which the election is sought, and a form prescribed by the secretary of state for notifying affected permit holders of the circulation of a petition for an election for the submission of one or more of the questions specified in division (A) of this section. The petitioner shall, not less than fifty-five days before the petition-filing deadline for an election provided for in this section, file with the division of liquor control the information regarding names of streets and, if appropriate, address numbers of residences and business establishments provided by the board of elections, and specify to the division the precinct that is concerned or that would be affected by the results of the election and the filing deadline. The division shall, within a reasonable period of time and not later than twenty-five days before the filing deadline, supply the petitioner with a list of the names and addresses of permit holders who would be affected by the election. The list shall contain a heading with the following words: "liquor permit holders who would be affected by the question(s) set forth on a petition for a local option election."

Within five days after receiving from the division the list of liquor permit holders who would be affected by the question or questions set forth on a petition for local option election, the petitioner shall, using the form provided by the board of elections, notify by certified mail each permit holder whose name appears on that list. The form for notifying affected permit holders shall require the petitioner to state the petitioner's name and street address and shall contain a statement that a petition is being circulated for an election for the submission of the question or questions specified in division (B) of this section. The form shall require the petitioner to state the question or questions to be submitted as they appear on the petition.

The petitioner shall attach a copy of the list provided by the division to each petition paper. A part petition paper circulated at any time without the list of affected permit holders attached to it is invalid.

At the time of filing the petition with the board of elections, the petitioner shall provide to the board of elections the list supplied by the division and an affidavit certifying that the petitioner notified all affected permit holders on the list in the manner and within the time required in this section and that, at the time each signer of the petition signed the petition, the petition paper contained a copy of the list of affected permit holders.

Within five days after receiving a petition calling for an election for the submission of the question or questions set forth in this section, the board of elections shall give notice by certified mail that it has received the petition to all liquor permit holders whose names appear on the list of affected permit holders filed by the petitioner. Failure of the petitioner to supply the affidavit required by this section and a complete and accurate list of liquor permit holders invalidates the entire petition. The board of elections shall provide to a permit holder who would be affected by a proposed local option

election, on the permit holder's request, the names of the streets, and, if appropriate, the address numbers of residences and business establishments within the precinct in which the election is sought and that would be affected by the results of the election. The board may charge a reasonable fee for this information when provided to the petitioner and the permit holder.

Upon presentation not later than four p.m. of the ninetieth day before the day of a general election or a special election held on a day on which a primary election may be held, of a petition to the board of elections of the county wherein such election is sought to be held, requesting the holding of such election on either or both of the questions specified in this section, signed by qualified electors of the precinct concerned equal in number to thirty-five per cent of the total number of votes cast in the precinct concerned for the office of governor at the preceding general election for that office, such board shall submit the question or questions specified in the petition to the electors of the precinct concerned, on the day of the next general election or the next special election held on a day on which a primary election may be held, whichever occurs first.

(B) The board shall proceed as follows:

(1) Such board shall, upon the filing of a petition under this section, but not later than the seventy-eighth day before the day of the election for which the question or questions on the petition would qualify for submission to the electors of the precinct, examine and determine the sufficiency of the signatures and review, examine, and determine the validity of such petition and, in case of overlapping precinct petitions presented within that period, determine which of the petitions shall govern the further proceedings of the board. In the case where the board determines that two or more overlapping petitions are valid, the earlier petition shall govern. The board shall certify the sufficiency of signatures contained in the petition as of the time of filing and the validity of the petition as of the time of certification as described in division (C)(1) of this section if the board finds the petition to be both sufficient and valid.

(2) If the petition contains sufficient signatures and is valid, and, in case of overlapping precinct petitions, after the board has determined the governing petition, the board shall order the holding of a special election in the precinct for the submission of the question or questions specified in the petition, on the day of the next general election or the next special election held on a day on which a primary election may be held, whichever occurs first.

(3) All petitions filed with a board of elections under this section shall be open to public inspection under rules adopted by the board.

(C) Protest against a local option petition may be filed by any qualified elector eligible to vote on the question or questions specified in the petition or by a permit holder in the precinct as described in the petition, not later than four p.m. of the seventy-fourth day before the day of such general or ~~primary~~ special election for which the petition qualified. Such protest shall be in writing and shall be filed with the election officials with whom the petition was filed. Upon filing of such protest the election officials with whom it is filed shall promptly fix the time for hearing it, and shall forthwith mail notice of the filing of the protest and the time for hearing it to the person who filed the petition which is protested and to the person who filed the protest. At the time and place fixed, the election officials shall hear the protest and determine the validity of the petition.

(D) If a majority of the electors voting on the question in the precinct vote "yes" on question (1) or (2) as set forth in division (A) of this section, the sale of beer as specified in that question shall

be permitted in the precinct and no subsequent election shall be held in the precinct under this section on the same question for a period of at least four years from the date of the most recent election.

If a majority of the electors voting on the question in the precinct vote "no" on question (1) or (2) as set forth in division (A) of this section, no C or D permit holder shall sell beer as specified in that question within the precinct during the period the election is in effect and no subsequent election shall be held in the precinct under this section on the same question for a period of at least four years from the date of the most recent election.

SECTION 2. That existing sections 106.021, 106.03, 106.031, 111.15, 119.03, 121.95, 4301.171, 4301.245, 4301.58, and 4305.14 of the Revised Code are hereby repealed.

SECTION 3. That the version of section 111.15 of the Revised Code that is scheduled to take effect September 30, 2024, be amended to read as follows:

Sec. 111.15. (A) As used in this section:

(1) "Rule" includes any rule, regulation, bylaw, or standard having a general and uniform operation adopted by an agency under the authority of the laws governing the agency; any appendix to a rule; and any internal management rule. "Rule" does not include any guideline adopted pursuant to section 3301.0714 of the Revised Code, any order respecting the duties of employees, any finding, any determination of a question of law or fact in a matter presented to an agency, or any rule promulgated pursuant to Chapter 119. or division (C)(1) or (2) of section 5117.02 of the Revised Code. "Rule" includes any amendment or rescission of a rule.

(2) "Agency" means any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.

(3) "Internal management rule" means any rule, regulation, bylaw, or standard governing the day-to-day staff procedures and operations within an agency.

(B)(1) Any rule, other than a rule of an emergency nature, adopted by any agency pursuant to this section shall be effective on the tenth day after the day on which the rule in final form and in compliance with division (B)(3) of this section is filed as follows:

(a) The rule shall be filed in electronic form with both the secretary of state and the director of the legislative service commission;

(b) The rule shall be filed in electronic form with the joint committee on agency rule review. Division (B)(1)(b) of this section does not apply to any rule to which division (D) of this section does not apply.

An agency that adopts or amends a rule that is subject to division (D) of this section shall assign a review date to the rule that is not later than five years after its effective date. If a review date assigned to a rule exceeds the five-year maximum, the review date for the rule is five years after its effective date. A rule with a review date is subject to review under section 106.03 of the Revised Code. This paragraph does not apply to a rule of a state college or university, community college

district, technical college district, or state community college.

If an agency in adopting a rule designates an effective date that is later than the effective date provided for by division (B)(1) of this section, the rule if filed as required by such division shall become effective on the later date designated by the agency.

Any rule that is required to be filed under division (B)(1) of this section is also subject to division (D) of this section if not exempted by that division.

If a rule incorporates a text or other material by reference, the agency shall comply with sections 121.71 to 121.75 of the Revised Code.

(2) A rule of an emergency nature necessary for the immediate preservation of the public peace, health, or safety shall state the reasons for the necessity. The emergency rule, in final form and in compliance with division (B)(3) of this section, shall be filed in electronic form with the secretary of state, the director of the legislative service commission, and the joint committee on agency rule review. The emergency rule is effective immediately upon completion of the latest filing, except that if the agency in adopting the emergency rule designates an effective date, or date and time of day, that is later than the effective date and time provided for by division (B)(2) of this section, the emergency rule if filed as required by such division shall become effective at the later date, or later date and time of day, designated by the agency.

Except as provided in section 107.43 of the Revised Code, an emergency rule becomes invalid at the end of the one hundred twentieth day it is in effect. Prior to that date, the agency may file the emergency rule as a nonemergency rule in compliance with division (B)(1) of this section. The agency may not refile the emergency rule in compliance with division (B)(2) of this section so that, upon the emergency rule becoming invalid under such division, the emergency rule will continue in effect without interruption for another one hundred twenty-day period.

The adoption of an emergency rule under division (B)(2) of this section in response to a state of emergency, as defined under section 107.42 of the Revised Code, may be invalidated by the general assembly, in whole or in part, by adopting a concurrent resolution in accordance with section 107.43 of the Revised Code.

(3) An agency shall file a rule under division (B)(1) or (2) of this section in compliance with the following standards and procedures:

(a) The rule shall be numbered in accordance with the numbering system devised by the director for the Ohio administrative code.

(b) The rule shall be prepared and submitted in compliance with the rules of the legislative service commission.

(c) The rule shall clearly state the date on which it is to be effective and the date on which it will expire, if known.

(d) Each rule that amends or rescinds another rule shall clearly refer to the rule that is amended or rescinded. Each amendment shall fully restate the rule as amended.

If the director of the legislative service commission or the director's designee gives an agency notice pursuant to section 103.05 of the Revised Code that a rule filed by the agency is not in compliance with the rules of the legislative service commission, the agency shall within thirty days after receipt of the notice conform the rule to the rules of the commission as directed in the notice.

(C) All rules filed pursuant to divisions (B)(1)(a) and (2) of this section shall be recorded by



the secretary of state and the director under the title of the agency adopting the rule and shall be numbered according to the numbering system devised by the director. The secretary of state and the director shall preserve the rules in an accessible manner. Each such rule shall be a public record open to public inspection and may be transmitted to any law publishing company that wishes to reproduce it.

(D) At least sixty-five days before a board, commission, department, division, or bureau of the government of the state files a rule under division (B)(1) of this section, it shall file the full text of the proposed rule in electronic form with the joint committee on agency rule review, and the proposed rule is subject to legislative review and invalidation under section 106.021 of the Revised Code. If a state board, commission, department, division, or bureau makes a revision in a proposed rule after it is filed with the joint committee, the state board, commission, department, division, or bureau shall promptly file the full text of the proposed rule in its revised form in electronic form with the joint committee. A state board, commission, department, division, or bureau shall also file the rule summary and fiscal analysis prepared under section 106.024 of the Revised Code in electronic form along with a proposed rule, and along with a proposed rule in revised form, that is filed under this division. If a proposed rule has an adverse impact on businesses, the state board, commission, department, division, or bureau also shall file the business impact analysis, any recommendations received from the common sense initiative office, and the associated memorandum of response, if any, in electronic form along with the proposed rule, or the proposed rule in revised form, that is filed under this division.

A proposed rule that is subject to legislative review under this division may not be adopted and filed in final form under division (B)(1) of this section unless the proposed rule has been filed with the joint committee on agency rule review under this division and the time for the joint committee to review the proposed rule has expired without recommendation of a concurrent resolution to invalidate the proposed rule.

If a proposed rule that is subject to legislative review under this division implements a federal law or rule, the agency shall provide to the joint committee a citation to the federal law or rule the proposed rule implements and a statement as to whether the proposed rule implements the federal law or rule in a manner that is more or less stringent or burdensome than the federal law or rule requires.

As used in this division, "commission" includes the public utilities commission when adopting rules under a federal or state statute.

This division does not apply to any of the following:

- (1) A proposed rule of an emergency nature;
- (2) A rule proposed under section 1121.05, 1121.06, 1349.33, 1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised Code;
- (3) A rule proposed by an agency other than a board, commission, department, division, or bureau of the government of the state;
- (4) A proposed internal management rule of a board, commission, department, division, or bureau of the government of the state;
- (5) Any proposed rule that must be adopted verbatim by an agency pursuant to federal law or rule, to become effective within sixty days of adoption, in order to continue the operation of a

federally reimbursed program in this state, so long as the proposed rule contains both of the following:

(a) A statement that it is proposed for the purpose of complying with a federal law or rule;

(b) A citation to the federal law or rule that requires verbatim compliance.

(6) An initial rule proposed by the director of health to impose quality standards on a health care facility as defined in section 3702.30 of the Revised Code;

(7) A rule of the state lottery commission pertaining to instant game rules.

If a rule is exempt from legislative review under division (D)(5) of this section, and if the federal law or rule pursuant to which the rule was adopted expires, is repealed or rescinded, or otherwise terminates, the rule is thereafter subject to legislative review under division (D) of this section.

Whenever a state board, commission, department, division, or bureau files a proposed rule or a proposed rule in revised form under division (D) of this section, it shall also file the full text of the same proposed rule or proposed rule in revised form in electronic form with the secretary of state and the director of the legislative service commission. A state board, commission, department, division, or bureau shall file the rule summary and fiscal analysis prepared under section 106.024 of the Revised Code in electronic form along with a proposed rule or proposed rule in revised form that is filed with the secretary of state or the director of the legislative service commission.

SECTION 4. That the existing version of section 111.15 of the Revised Code that is scheduled to take effect September 30, 2024, is hereby repealed.

SECTION 5. Sections 3 and 4 of this act take effect September 30, 2024.

SECTION 6. All items in this act are hereby appropriated as designated out of any moneys in the state treasury to the credit of the designated fund. For all operating appropriations made in this act, those in the first column are for fiscal year 2022 and those in the second column are for fiscal year 2023. The operating appropriations made in this act are in addition to any other operating appropriations made for the FY 2022-FY 2023 biennium.

SECTION 7.

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A

SOS SECRETARY OF STATE

B Dedicated Purpose Fund Group

|   |  |        |                                 |             |     |
|---|--|--------|---------------------------------|-------------|-----|
| C | 5FG0                                   | 050620 | BOE Reimbursement and Education | \$9,000,000 | \$0 |
| D | TOTAL DPF Dedicated Purpose Fund Group |        |                                 | \$9,000,000 | \$0 |
| E | TOTAL ALL BUDGET FUND GROUPS           |        |                                 | \$9,000,000 | \$0 |

**BOE REIMBURSEMENT AND EDUCATION**

The foregoing appropriation item 050620, BOE Reimbursement and Education, shall be used to provide financial assistance to county boards of elections for the 2022 primary election. An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 050620, BOE Reimbursement and Education, at the end of fiscal year 2022 is hereby reappropriated to the Secretary of State for the same purpose in fiscal year 2023.

On the effective date of this section, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$9,000,000 cash from the General Revenue Fund to the BOE Reimbursement and Education Fund (Fund 5FG0).

On October 1, 2022, or as soon as possible thereafter, the Director of Budget and Management shall transfer cash in an amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 050620, BOE Reimbursement and Education, as of October 1, 2022, from the BOE Reimbursement and Education Fund (Fund 5FG0) to the General Revenue Fund.

**SECTION 8.** Within the limits set forth in this act, the Director of Budget and Management shall establish accounts indicating the source and amount of funds for each appropriation made in this act, and shall determine the form and manner in which appropriation accounts shall be maintained. Expenditures from operating appropriations contained in this act shall be accounted for as though made in H.B. 110 of the 134th General Assembly. The operating appropriations made in this act are subject to all provisions of H.B. 110 of the 134th General Assembly that are generally applicable to such appropriations.

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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.*

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 \_\_\_\_\_